

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR**

**SERVICE APPEAL NO. 189/2018**

Date of institution ... 07.02.2018

Date of judgment ... 17.12.2018

Waseem Ullah, LHC No. 60 Police Lines District Police Department,  
Nowshera.

... (Appellant)

**VERSUS**

1. District Police Officer, Nowshera.
  2. Deputy Inspector General of Police Region-I, Mardan.
  3. Inspector General of Police Khyber Pakhtunkhwa, Peshawar.
- ... (Respondents)

**APPEAL UNDER SECTION-4 OF KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED**  
**ORDER DATED 08.01.2018 PASSED BY RESPONDENT NO. 3**  
**WHEREBY THE ORDER DATED 06.07.2017 PASSED BY**  
**RESPONDENT NO. 2 WAS MAINTAINED.**

Mr. Muhammad Arif Jan, Advocate

.. For appellant.

Mr. Ziaullah, Deputy District Attorney

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. HUSSAIN SHAH

.. MEMBER (EXECUTIVE)

**JUDGMENT**

**MUHAMMAD AMIN KHAN KUNDI, MEMBER: -** Counsel for the appellant present. Mr. Muhammad Fayaz, Head Constable alongwith Mr. Ziaullah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant was serving in Police Department. He was dismissed from service vide order dated 07.04.2017 on the allegation that he while posted at Pabbi Station Chowk,

*M. Amin*  
*17.12.2018*

he misbehaved and beaten an aged person which amount to grave misconduct. The appellant filed departmental appeal (undated) which was partially accepted and the penalty of dismissal from service was converted into major punishment of reduction in pay by one stage while the intervening period was treated as leave without pay vide order dated 06.07.2017. The appellant filed revision petition (undated) which was decided on 08.01.2018 being time barred for about five months hence, the present service appeal on 07.02.2018.

3. Respondents were summoned who contested the appeal by filing written reply/comments.

4. Learned counsel for the appellant contended that neither proper inquiry was conducted nor charge sheet and statement of allegation was served upon the appellant. It was further contended that neither the appellant was provided opportunity of personal hearing nor he was given opportunity of defence, therefore, the impugned order is illegal and liable to be set-aside.

5. On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant has beaten an aged person in Bazar therefore, he has committed misconduct and after fulfilling all the codal formalities the appellant was rightly imposed major penalty. It was further contended that the revision petition filed by the appellant is badly time barred therefore, prayed for dismissal of appeal.

6. Perusal of the record reveals that the departmental appeal of the appellant was partially accepted and the major penalty of dismissal from service was converted into major punishment of reduction in pay by one stage while the intervening period was treated as leave without pay vide order dated 06.07.2017 therefore, the appellant was required to file revision petition before the Inspector General of Police within one month but he has filed revision petition (undated) which was rejected by Inspector General of Police vide order dated

*W. Arora*

*17.12.2018*

08.01.2018 on the ground that the revision petition was time barred for about five months. As the revision petition filed by the appellant is badly time barred therefore, the present appeal is not maintainable hence, the same is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
17.12.2018

  
(HUSSAIN SHAH)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

Service Appeal No. 189/2018

17.12.2018

Counsel for the appellant present. Mr. Muhammad Fayaz, Head Constable alongwith Mr. Ziaullah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of three pages placed on file, the present appeal is not maintainable hence, the same is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

17.12.2018



(HUSSAIN SHAH)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
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DFA

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.. For appellant.

Mr. Ziaullah, Deputy District Attorney

.. For respondents.

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.. MEMBER (JUDICIAL)

MR. HUSSAIN SHAH

.. MEMBER (EXECUTIVE)

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(9)

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES  
TRIBUNAL PESHAWAR.**

In Ref. S.A \_\_\_\_\_/2017

**SIMAB ABBASI**

Versus

**GOVT: OF KP & OTHERS**

**MEMO OF ADDRESSES**

**APPELLANT:**

Simab Abbasi D/O Latif Ullah Abbasi  
R/O Shamshi Khel P/O Ghoriwala, District Bannu.

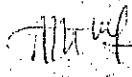
**RESPONDENTS:**

1. Govt: of Khyber Pakhtunkhwa Through Chief Secretary, Civil Secretariat Peshawar
2. Secretary Population Welfare Department, Khyber Pakhtunkhwa, Peshawar.
3. Director General, Population Welfare, Plot No.18, Sector E-8, Phase-VII, Hayatabad, Peshawar:
4. Accountant General, Khyber Pakhtunkhwa, Peshawar.
5. District Account Officer, Account Office, District ~~Khyber~~ Bannu
6. District Population Welfare officer ~~Khyber~~ Bannu

Dated:

**APPELLANT**

Through

  
**Muhammad Zia Ullah**  
**Athar Abbas**  
Advocates Peshawar High Court  
Peshawar.

he misbehaved and beaten an aged person which amount to grave misconduct. The appellant filed departmental appeal (undated) which was partially accepted and the penalty of dismissal from service was converted into major punishment of reduction in pay by one stage while the intervening period was treated as leave without pay vide order dated 06.07.2017. The appellant filed revision petition (undated) which was decided on 08.01.2018 being time barred for about five months hence, the present service appeal on 07.02.2018.

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6. Perusal of the record reveals that the departmental appeal of the appellant was partially accepted and the major penalty of dismissal from service was converted into major punishment of reduction in pay by one stage while the intervening period was treated as leave without pay vide order dated 06.07.2017 therefore, the appellant was required to file revision petition before the Inspector General of Police within one month but he has filed revision petition (undated) which was rejected by Inspector General of Police vide order dated

(51)

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CIVIL APPEAL NO. 232 OF 2013

Govt. of KPK thr. Secy Agriculture, Livestock, Peshawar and others Vs. Iqbalullah and others

CIVIL PETITION NO. 600-P OF 2013

Govt. of KPK thr. Chief Secy. and others Vs. Naiman Adil and others

CIVIL PETITION NO. 496-P OF 2014

Govt. of KPK thr. Chief Secretary Peshawar and others Vs. Muhammad Nadeem Jan and others

CIVIL PETITION NO. 34-P OF 2015

Dear, Pakistan Institute of Community Ophthalmology (PICO), PIMC and another Vs. Muhammad Imran and others

CIVIL PETITION NO. 526-P OF 2013

Govt. of KPK through Chief Secretary Peshawar and others Vs. Mst. Safia ✓

CIVIL PETITION NO. 527-P OF 2013

Govt. of KPK through Chief Secy. Peshawar and others Vs. Mst. Rehab Khattak

CIVIL PETITION NO. 528-P OF 2013

Govt. of KPK through Chief Secy. Peshawar and others Vs. Faisal Khan

CIVIL PETITION NO. 28-P OF 2014

Govt. of KPK through Chief Secy. Peshawar and others Vs. Raimullah and others

CIVIL PETITION NO. 214-P OF 2014

Govt. of KPK through Chief Secy. Peshawar and others Vs. Mst. Fauzia Aziz

CIVIL PETITION NO. 621-P OF 2015

Govt. of KPK through Chief Secy. Peshawar and others Vs. Mst. Malika Hijab Chishti

CIVIL PETITION NO. 368-P OF 2014

Govt. of KPK through Chief Secy. Peshawar and others Vs. Intiaz Khan

CIVIL PETITION NO. 369-P OF 2014

Govt. of KPK through Chief Secy. Peshawar and others Vs. Waqar Ahmed

CIVIL PETITION NO. 370-P OF 2014

Govt. of KPK through Chief Secy. Peshawar and others Vs. Mst. Nafesa Bibi

ATTESTED

Public Registrar  
Peshawar

*[Handwritten signature]*



08.01.2018 on the ground that the revision petition was time barred for about five months. As the revision petition filed by the appellant is badly time barred therefore, the present appeal is not maintainable hence, the same is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

17.12.2018

(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

(HUSSAIN SHAH)  
MEMBER

52

~~60~~

~~12~~

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Case 134-P/2014 Let

SPS 201-P/2014, 368-  
371-P/2014 and 612-  
P/2014 & 621-P/2015  
For the Petitioner(s)

Mr. Waqar Ahmed Khan, Addl. AG & Co.

For the Respondent(s)

Not represented.

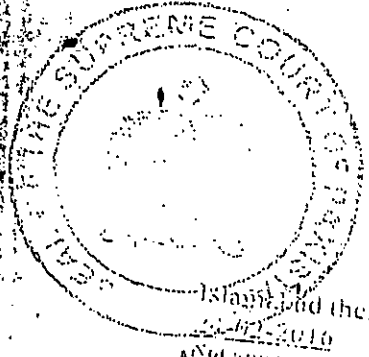
Date of hearing

24-02-2016

**ORDER**

ANWAR ZAHEER JAMALI CJ- Arguments heard for

the reasons to be recorded separately, these Appeals, except Civil Appeal  
No.665 of 2015, are dismissed. Judgment in Civil Appeal No.665 of 2015  
is reserved



Islamabad the  
24-02-2016  
Not approved for reporting.

- Sd/- Anwar Zaheer Jamali, HCJ
- Sd/- Mina Saqib Nisar, J
- Sd/- Amir Hani Muslim, J
- Sd/- Iqbal Hameedur Raza, J
- Sd/- Khilji Arif Hussain, J

Chief Justice of the Supreme Court

Chief Justice of the Supreme Court  
Islamabad

Date of Receipt  
of the  
order

Copy of  
Court Fee  
Date of Co-  
mpletion

**APPEALS**

**ATTESTED**

29.08.2018


Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned counsel for the appellant submitted rejoinder and seeks adjournment for arguments. Adjourned. To come up for arguments on 18.10.2018 before D.B.

  
(Ahmad Hassan)  
Member

  
(Muhammad Amin Khan Kundi)  
Member

18.10.2018


Junior to counsel for the appellant and Mr. Muhammad Jan learned DDA for the respondents present. Junior to counsel for the appellant seeks adjournment that his senior counsel is not in attendance. Adjourned. To come up for arguments on 03.12.2018 before D.B.


  
(Hussain Shah)  
Member

  
(Ahmed Hassan)  
Member

03.12.2018

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Muhammad Fayaz, Head Constable for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 17.12.2018 before D.B.

  
(Ahmad Hassan)  
Member

  
(Muhammad Amin Khan Kundi)  
Member

**05.04.2018**

Appellant in person present. Mr. Kabir Ullah Khattak, Additional AG for the respondents present, ~~hence~~ security and process has been deposited. Thereafter, notice be issued copies of memo appeal. To come up for written reply/comments on 29.05.2018 before S.B.



Member

**29.05.2018**

Appellant absent. Clerk of the counsel present on behalf of appellant. Mr. Kabir Ullah Khattak, learned Additional Advocate General for the respondents present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 4.7.2018 before S.B.



Member

**04.07.2018**

Appellant in person and Mr. Sardar Shaukat Hayat, Addl: AG alongwith Mr. Muhammad Fayaz Khan, H.C for the respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing on 29.08.2018.



Member

26.02.2018

Counsel for the appellant present. Preliminary arguments heard and case file perused. Learned counsel for the appellant argued that on the allegations of misconduct disciplinary proceedings were initiated against him and upon conclusion major penalty of dismissal from service was imposed vide impugned order dated 07.04.2017. Feeling aggrieved he preferred departmental appeal on which no date is mentioned and the same was accepted and penalty of dismissal from service being too harsh was converted into reduction in pay by one stage. The intervening period was treated as leave without pay. Thereafter he filed mercy petition before IGP, Khyber Pakhtunkhwa on which date is not mentioned, which was rejected on 08.01.2018, hence, the instant service appeal. Learned Counsel for the appellant when confronted on the point that successive departmental appeals were not permissible under the rules was unable to give a convincing reply. He contended that the appellant has not been treated according to law and rules. Prima-facie the appeal is time barred.

Points urged need consideration. Admit, subject to limitation. Appellant is directed to deposit of security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 22.03.2018 before S.B.



(AHMAD HASSAN)  
MEMBER

22.03.2018

Appellant absent. Learned counsel for the appellant is also absent. However, clerk of the counsel for appellant present and seeks adjournment. Security and process fee have not been deposited by the appellant. Clerk of the counsel for appellant is directed to deposit the security and process fee within seven days, thereafter, notice be issued to the respondents for written reply/comments for 05.04.2018 before S.B.



Appellant Deposited  
Security & Process Fee

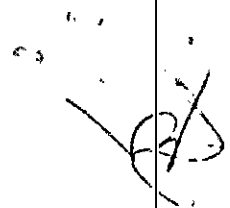


Member

Form-A  
FORM OF ORDERSHEET

Court of \_\_\_\_\_  
Case No. 189/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	09/02/2018	<p>The appeal of Mr. Waseem Ullah resubmitted today by Mr. Muhammad Arif Jan Advocate may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-	13/02/18	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>26/02/18</u>.</p> <p> CHAIRMAN</p>



The appeal of Mr. Waseem Ullah LHC No. 60 Police Lines Distt. Police Nowshera received today i.e. on 07.02.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- The law under which appeal is filed is not mentioned.
- 2- Annexure-B of the appeal is illegible which may be replaced by legible/better one.

No. 287 /S.T,

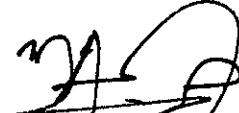
Dt. 08/02 /2018

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Muhammad Arif Jan Adv. Pesh.

Respected Sir,

Re submitted after removal  
of objection, hence may kindly  
be place before the Honble Bench.

  
8/2/18

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No.....189...../2018

Waseem Ullah .....Appellant

VERSUS

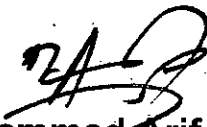
District Police Officer, Nowshera and others.....Respondents

INDEX

S.No.	Description of Documents	Annex	Pages
1.	Memo of Appeal and Affidavit		1 to 4
2.	Addresses of Parties		5
3.	Copy of show cause notice	A	6
4.	Copy of order dated 7-4-2017	B	7
5.	Copies of appeal and order dated 6-7-2017.	B & D	8 to 9
6.	Copies of mercy petition and order dated 1-8-2018.	E & F	10-11
7.	Copy of compromise deed	G	12
8.	Wakalat Nama		13

Appellant

Through

  
Muhammad Arif Jan  
Advocate, Peshawar

Dated: 07/02/2018

Office: Office No.210 Al-Mumtaz Hotel  
G.T. Road Peshawar.  
Cell: 0333-2212213



13  
15  
10-11  
748

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No.....189...../2018

Waseem Ullah LHC No-60 Police Lines District Police Department,  
Nowshera.....Appellant

VERSUS

Khyber Pakhtunkhwa

Case No. 180

Date 27-2-2018

1. District Police Officer, Nowshera.
2. Deputy Inspector General of Police Region-1, Mardan.
3. Inspector General of Police Khyber Pakhtunkhwa, Peshawar.

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 8-01-2018 PASSED BY  
RESPONDENTS NO-3 WHEREBY THE ORDERS DATED 6-7-2017 PASSED BY  
RESPONDENT NO-2 WAS MAINTAINED.

PRAYER IN APPEAL:

On acceptance of the instant appeal, the impugned orders dated 7-04-2017, 06-07-2017 and 8-01-2018 passed by respondents respectively may graciously be set-aside and the appellant may kindly be restored with its original position in his service with all back benefits.

Any other relief which deems fit and not specifically asked for may also be allowed in favor of appellant against respondents.

Respectfully Sheweth:

1. That the appellant was initially appointed as Constable in the Police Department Nowshera.
2. That the appellant was served with a show-cause notice undated brief mentioned therein and was properly answered. (Copy of show-cause notice is attached as ANNEX-A).
3. That without holding any inquiry in proper manner, the appellant was punished by awarding major penalty of Dismissal from service with

Filed today  
Registered to-day  
27/2/18

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR**

**SERVICE APPEAL NO. 189/2018**

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.. For appellant.

Mr. Ziaullah, Deputy District Attorney

.. For respondents.

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.. MEMBER (JUDICIAL)

MR. HUSSAIN SHAH

.. MEMBER (EXECUTIVE)

**JUDGMENT**

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5. On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant has beaten an aged person in Bazar therefore, he has committed misconduct and after fulfilling all the codal formalities the appellant was rightly imposed major penalty. It was further contended that the revision petition filed by the appellant is badly time barred therefore, prayed for dismissal of appeal.

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ANNOUNCED

17.12.2018

(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

(HUSSAIN SHAH)  
MEMBER

2

immediate effect on 7-4-2017 by respondent No-1. (Copy of order dated 7-4-2017 is attached as ANNEX-B).

4. That then the appellant filed departmental appeal before respondent No-2 brief mentioned therein where after the awarded penalty was converted into **“Redaction in pay by one stage and the intervening period was treated as leave without pay”** vide office order dated 6-7-2017. (Copies of departmental appeal and order dated 6-7-2017 is attached as ANNEX-C & D respectively).
5. That the appellant being aggrieved thus filed a mercy petition before respondent No-3 which was too dismissed vide order dated 8-1-2018. (Copies of mercy petition and order dated 1-8-2018 are attached as ANNEX-E & F respectively).
6. That being aggrieved and having no other efficacious remedy except to file the instant appeal on the following amongst other grounds.

**GROUND:**

- A. That the acts, commissions and omissions of the respondents and the orders dated 7-04-2017, 06-07-2017 and 8-01-2018 passed by respondents respectively (**hereinafter impugned**) are patently illegal, unlawful, without lawful authority, of no legal effect, having no value in the eyes of law thus be declared illegal and to be set-aside and withdrawn. Further the appellant may kindly be restored to his original position in his service with all back benefits.
- B. That in fact the appellant has been put to great financial losses which also amounts to financial murder of the appellant for no any reason and justification moreover the compliant in the case also pardoned the appellant through a compromise deed hence the impugned orders are not sustainable in the eyes of law thus be set aside. (Copy of compromise deed is attached as ANNEX-G).
- C. That the respondents are also badly failed to hold proper inquiry into proper manner which is not only against the fundamental rules but

also against the law, rules and regulation governing the subject matter.

- D. That the appellant was not given/provided the opportunity of personal hearing, show cause, charge sheet, statement of allegation and cross examination etc to meet the ends of justice, but the respondents by misusing the vested powers, punished the appellant by adopting the principle of **"Might is right"** hence needs consideration of this Hon'ble Tribunal.
- E. That no any inquiry has been conducted in proper manner to ascertained the ends of justice which is guaranteed in the Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973 and the appellant was not treated equally thus the rights of the appellant which are protected under Article-4 of the Constitution of Islamic Republic of Pakistan, 1973 are violated by the respondents while passing the impugned orders.
- F. That the respondents are/were duty bound to abide the Law and not to violate their own rules and policies but in the present case, they have badly failed to follow the procedure and rules which is evident from the impugned orders passed against the appellant.
- G. That any other ground which has not been specifically asked for and is fit in the circumstance may also be allowed in favor of the appellant against the respondents.

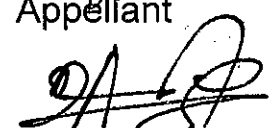
It is, therefore, most humbly prayed that on acceptance of the instant appeal, the impugned orders dated 7-04-2017, 06-07-2017 and 8-01-2018 passed by respondents respectively may graciously be set-aside / withdrawn and the appellant may kindly be restored with its original position in his service with all back benefits.

Any other relief which deems fit and not specifically asked for may also be allowed in favor of appellant against respondents.

Dated; 07-02-2018

Through

  
Appellant

  
Muhammad Arif Jan  
Advocate, Peshawar.





4

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No...../2018

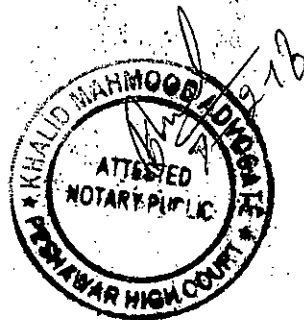
Waseem Ullah .....Appellant

VERSUS

District Police Officer, Nowshera and others.....Respondents

**AFFIDAVIT**

I Waseem Ullah LHC No-60 Police Lines District Police Department, Nowshera do hereby solemnly affirm and declare on oath that the contents of the **appeal** are true and correct to the best of my knowledge and belief and nothing have been concealed from this Hon'ble Tribunal.



*[Handwritten Signature]*  
DEPONENT

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No...../2018

Waseem Ullah .....Appellant

VERSUS

District Police Officer, Nowshera and others.....Respondents

**ADDRESSES OF PARTIES**

**APPELLANT:**

Waseem Ullah LHC No-60 Police Lines District Police Department,  
Nowshera

**RESPONDENTS**

1. District Police Officer, Nowshera.
2. Deputy Inspector General of Police Region-1, Mardan.
3. Inspector General of Police Khyber Pakhtunkhwa, Peshawar

  
Appellant

Through

Date: 07/02/2018

  
**Muhammad Arif Jan**  
Advocate, Peshawar.

**OFFICE OF THE DISTRICT POLICE OFFICER, NOWSHERA**

**SHOW CAUSE NOTICE**

**(Under Rule 5 (3) KPK Police Rules, 1975)**

1. That you LHC Waseem Sajjad No.60 while posted as TO, Traffic Nowshera have rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunkhwa Police Rules 1975 for following misconduct:-  
You were deputed for traffic duty at Pabbi Station Chowk, misbehaved and beaten an aged person, which amounts to grave misconduct on your part.
2. That by reasons of above, as sufficient material is placed before the undersigned; therefore it is decided to proceed against you in general Police proceeding without aid of enquiry officer
3. That the misconduct on your part is prejudicial to good order of discipline in the Police force;
4. That your retention in the Police force will amount to encourage inefficiency and unbecoming of good Police officers;
5. That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action against you by awarding one or more of the kind punishments as provided in the rules.
6. You are, therefore, called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 for the misconduct referred to above.
7. You should submit reply to this show cause notice within 07 days of the receipt of the notice failing which an ex-parte action shall be taken against you.
8. You are further directed to inform the undersigned that you wish to be heard in person or not.
9. Grounds of action are also enclosed with this notice.

Received by \_\_\_\_\_

Dated: \_\_\_\_\_ / \_\_\_\_\_ / 2017

(Wahid Mehmood)PSP  
District Police Officer,  
Nowshera.

*Attested*

*Wahid Mehmood*

10



*[Handwritten signature]*

(B)

(7)

POLICE DEPARTMENT

NOWSHERA DISTRICT

ORDER

1. LHC Waseem Sajjad No.60, while posted as TO Traffic; Nowshera was deputed on Traffic Rider duty to maintain smooth flow of traffic at Pabbi Station GT Road on 07.04.2017, where he misbehaved with a nearby passing person openly in response to that person's agitation/misconduct with him earlier due to sounding continuous sirens on road for road clearance as per SOP.

2. On account of which, he was issued Show Cause Notice, issued vide this office Endst: No. /PA, dated 07.04.2017, to which his reply received and found unsatisfactory.

3. He was heard in person in Orderly Room on 07.04.2017, but failed to satisfy the undersigned, therefore, he is hereby awarded Major punishment of dismissal from service with immediate effect, in exercise of the powers vested in me under Police Rules, 1975.

OB No. 582

Dated 07/04/2017.

(Wahid Mehmood)PSP,  
District Police Officer,  
Nowshera.

No. 3081-84 /PA, dated Nowshera, the 07.04 /2017.

Copy for information and necessary action to the:-

1. Pay Officer.
2. E.C.
3. OHC.
4. FMC with relevant papers.

*Alleged*  
*AB*

4,

②

17

Below Copy

Police Department

Nowshera District

Order

1. LHC Waseem Sajjad No.60, while posted as TO Traffic Nowshera was deputed on Traffic Rider duty to maintain smooth flow of traffic at Pabbi Station GT Road on 7-4-2017, where he misbehaved with a nearby passing person openly in response to that person's agitation/misconduct with him earlier due to sounding continuous sirens on road for road clearance as per SOP.
2. On account of which, he was issued show cause notice issued vide this office Endst; No-/PA dated 7-4-2017 to which his reply received and found unsatisfactory.
3. He was heard in person in Orderly room on 7-4-2017, but failed to satisfy the undersigned, therefore, he was hereby awarded Major Punishment of dismissal from service with immediate effect, in exercise of the powers vested in me under Police Rules, 1975.

OB No-681

Dated 7-4-2017

-Sd-

(Wahid Mehmood)PSP

District Police Officer,

Nowshera.

No- 38081/PA dated Nowshera, the 7-4-2017

Copy for information and necessary action.

1. Pay officer
2. E.C
3. OHC
4. FMC with relevant papers

MA

بھصوہر جناب DIG صاحب مردان ریجن - 1 مردان۔

ان :- اپیل برخلاف سزا برطابق OB NO. 561 بمورخہ 07.04.2017 نوشہرہ۔

ب عالی!

من اپیل کنندہ ذیل عرض گزار ہے۔

یہ کہ من اپیل کنندہ کو مورخہ 07.04.2017 کو بوجہ ایک شہری کیساتھ مبینہ بداخلاقی پر محکمہ پولیس سے برخاست کیا گیا ہے۔ یہ کہ من اپیل کنندہ نے مذکورہ شخص کے ساتھ کسی قسم کی بدتمیزی نہیں کی ہے بلکہ حقیقت یہ ہے کہ مورخہ 07.04.2017 کو میں ہمراہ ہد خان TO رائیڈ ٹریفک بسلسلہ صد سالہ اجتماع JUI-F ڈیوٹی پر موجود تھا کہ اسی دوران 5/6 کسان اسمائے نام معلوم جو کہ شدید ٹریفک م کا سبب بنے ہوئے تھے ٹریفک کلیئر کرنے کیلئے سائرن لگایا، آئے اور مجھے انتہائی غیر مہذبانہ الفاظ میں کہا کہ تم سائرن کیوں بجھاتے ہو۔ نے بجواب یہ بتلایا کہ ہم ٹریفک ڈیوٹی کیلئے آئے ہیں اور ٹریفک کنٹرول کیلئے سائرن بجانا نہایت ضروری ہے۔ مگر وہ لوگ کثیر تعداد ہونے فائدہ لیتے ہوئے باتوں باتوں میں گرم ہو کر یکدم مجھ پر گزرات شروع کر کے میرا شولڈر پھاڑ کر، عوام الناس کے سامنے قانون کو ہاتھ میں لیکر ری عزت النفس اور قانون کی بالادستی پامال کی۔ اور مزید ازیں کارسروکار میں رکاوٹ بنے رہے۔ جس پر میں نے مجبوراً حق حفاظت اختیار کیا۔ چونکہ میں نے یہ کام نیک نیتی سے سرانجام دیا جس کا متذکرہ کسان نے یکطرفہ ویڈیو بنائی۔ اس یکطرفہ ویڈیو میں بھی باقاعدہ طور پر میرا ایک وردی جالر پھاڑا ہوا اور شولڈر بھی موجود نہیں ہے، واقعے کا واضح ثبوت ہیں۔ مزید ازیں TO شاہد خان اور دیگر سولین واقعے کے چشم برگواہ ہیں۔ (ویڈیو تصاویر ہمراہ لف ہیں۔ "Annex A")

یہ کہ من اپیل کنندہ نے ہمیشہ اپنی ڈیوٹی انتہائی ایمانداری اور جانفشانی سے سرانجام دی ہے۔

یہ من اپیل کنندہ کا سروس ریکارڈ مکمل طور پر Red انٹری سے صاف ہے جس سے من اپیل کنندہ کا کردار و فرائض منصبی صاف طور پر باں ہے۔

یہ کہ من اپیل کنندہ کو اپنی صفائی پیش کرنے کا موقع نہیں دیا گیا اور یکطرفہ طور پر کارروائی عمل میں لائی گئی۔

یہ کہ من اپیل کنندہ کے خلاف بہ مطابق قواعد پولیس باقاعدہ طور پر انکوائری عمل میں نہیں لائی گئی جو کہ سراسر خلاف قانون ہے۔

یہ کہ میرے درج شدہ رپورٹ نمبر 10 روز نامچہ 07.04.2017 پر کارسروکار میں مداخلت کرنے، مارنے پینے، وردی پھاڑنے

ر شولڈر ساتھ لے جانے کے متعلق مذکورین کے خلاف کارروائی عمل میں نہیں لائی گئی۔

یہ کہ حقائق کو ریکارڈ پر نہیں لایا گیا بلکہ یکطرفہ کارروائی عمل میں لائی گئی بدیں بوجہ سزا مہنی برحق نہ ہے۔

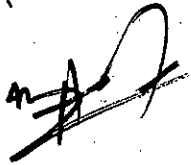
یہ جملہ حقائق من اپیل کنندہ کے حق میں ہیں جس کے مد نظر سراسر خلاف قانون ہے اور غیر ضروری مستعدی سے کام لیا گیا ہے۔

لہذا استدعا ہے کہ بمنظور اپیل ہذا من اپیل کنندہ کی سزا معاف فرمائی جائیں۔

العارض

آپکا تابعدار وسیم اللہ سابقہ TO نمبر 60 ضلع نوشہرہ

بسم اللہ





10

E

To: - The Inspector General of Police,  
Khyber Pakhtunkhwa Peshawar.

Through: Proper Channel.

Subject - **MERCY PETITION**

Respected Sir,

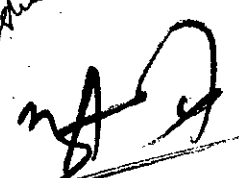
With profound respect and humble submission I beg to say that I was awarded a Major punishment of dismissal from service by the District Police Officer Nowshera vide OB No.562 dated 07/04/2017 for dereliction in duty (while posted as TO Traffic Nowshera, deputed for Traffic rider duty to maintain smooth flow of traffic at Pabbi station GT road on 07-04-2017, misbehaved with a passerby in response to his objection over continues sirens for road clearance).

I have prepared an Appeal before the DIG Police Mardan Region- I Mardan and the punishment was converted into Major punishment of Reduction in pay by 1 stage vide his office Endst. No.5472/ES, dated 08-07-2017 and the Intervening period was treated as leave without pay.

Therefore, I submit the present Mercy Petition on the following grounds/justifications for favorable and sympathetic consideration:-

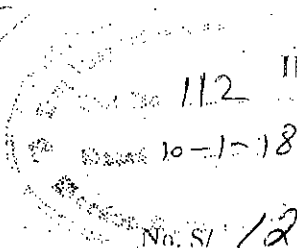
1. On 07-04-2017 I along with Shahid Khan TO Rider Traffic was present at Pabbi for road clearance during JUIF Ijima. In the mean time, 5/8 unknown persons who had jammed the traffic were directed through sirens for road clearance, in response to which they used unparliamentary language, torn over my shoulder and also given beating to me and I was compelled to take action against them.
2. I have performed my duty efficiently and there was no fault of any kind on my part.
3. I have been serving in the department for the last 6 years and always performed my duty up to the entire satisfaction of my superiors.
4. Neither any enquiry was conducted, nor I was given any opportunity of personal hearing.
5. I have been put to great financial loss and my service career has also been damaged.
6. The punishment awarded is so severe and harsh which has destroyed my service career and is a permanent financial loss.

Therefore, It is requested that my Mercy Petition may kindly be considered and the Major punishment of Reduction in pay by 1 stage may kindly be withdrawn for which I will pray your long life and prosperity.

*Waseem Ullah*  


  
Yours Obediently,

(Waseem Ullah)  
Constable No.60  
Police Lines Nowshera.



11

F

11

OFFICE OF THE  
INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
CENTRAL POLICE OFFICE,  
PESHAWAR.

No. SI/123 /18, dated Peshawar the 08/10/2018.

To : The Regional Police Officer,  
Mardan Region, Mardan.

Subject : APPEAL (FC WASEEM ULLAH NO. 60)

Memo :

Constable Waseem Ullah No. 60 of District Police Nowshera had submitted appeal to the Worthy Inspector General of Police, Khyber Pakhtunkhwa, Peshawar for restoration of pay by one stage. His appeal was processed / examined at Central Police Office, Peshawar and filed by the competent authority being time barred for about 05 months.

The applicant may please be informed accordingly.

107  
dt 12-1-2018  
Encls: \_\_\_\_\_

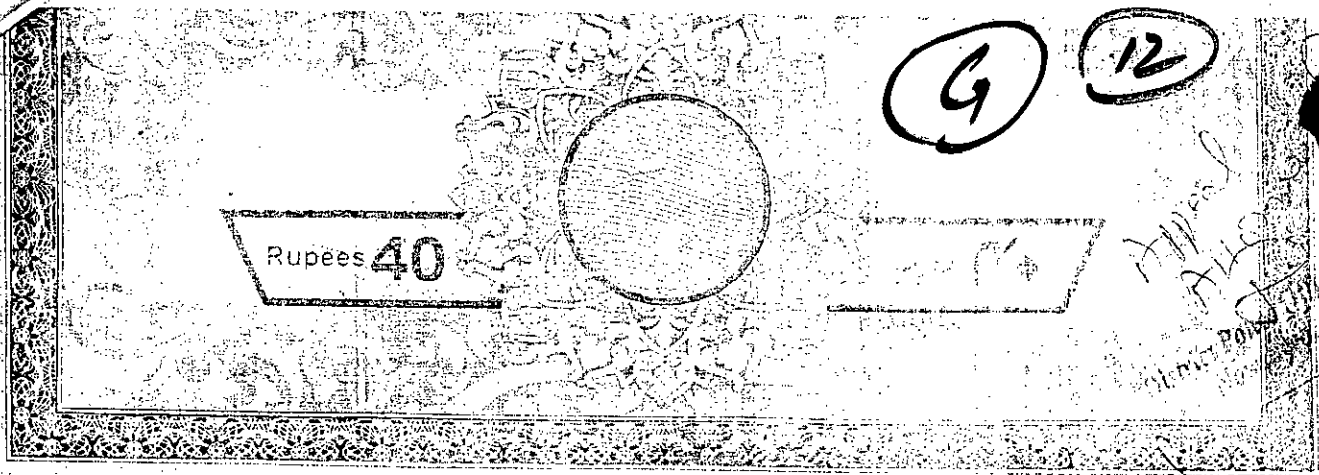
*(Signature)*  
(SYED ZIA ALI SHAH),  
Registrar,  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.

No. 197/ES  
Dt: 10-01-18  
EC/DPO Nowshera

For information please.

*(Signature)*  
Office Supdt:  
For Regional Police Officer  
Mardan

*Handwritten notes and signatures:*  
EC/116  
10-1-18  
11/11/18  
Alshar



بیان حلفی بابت رہی نام

Appeal  
17301-696279-7  
17201-8822334-9

میں مسی آغاں در ادکافان سے بڑھ بھر وہ ما حاصل ہو جو دلی خواہا  
تعمیر بلگر دے رہا ہوں اور 7/16 صد سالہ اجتماع مقام رضا ضل  
میرا اور کین و سیم اللہ کے بائیں ٹرنڈ جاگ لہر شہ کی وجہ سے وقتی طور پر تدارک موافقا  
صوبہ میں نے نہیں کی کہ وہ وقتی حادثہ تھا میں نے فی سبیل اللہ کین و سیم اللہ  
صاف لے کر میری وجہ سے مذکورہ بلگر کو کوئی دیکھ نہیںا ہو تو میں بلگر  
کے پھر ان کو امتداد ملے گا وہ تمہوہ لیں اس میں و صاف کر کے میں نے ان کے خلاف  
اسی قسم کی قانونی کارروائی نہ کر کے اور یہ آمیزہ لیں کر لیا ہے پھر بلگر کو تدارک  
مکورد گاتا ہے سندریہ کے اندر سے لکھ رہا ہے

17201-8822334-9

17301-696279-7

میں نے  
میں نے  
میں نے



فرصت آوری آغا جان در ادکافان سے  
اعلان

17301-6077125-3

17201-8296795-5

0315-2901486/030093276

میں نے

میں نے

میں نے

میں نے

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15

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*[Handwritten signature]*

WAKALATNAMA

IN The Khyber Pakhtoonkhwa Service Tribunal

Waseem ullah

(Petitioner)  
(Plaintiff)  
(Applicant)  
(Complainant)  
(Decree Holder)

**V E R S U S**

District Police Officer and  
Thurs

(Respondent)  
(Defendant)  
(Accused)  
(Judgment Debtor)

Case Appeal

I/We, Waseem ullah do hereby appoint and constitute **Muhammad Arif Jan Advocate** High Court, Peshawar, to appear. Plead, act, compromise, withdraw or refer to arbitration to me/ us as my/ our Counsel in the above noted matter, without any liability for their default and with the authority to engage/ appoint any other Advocate/ Counsel at my/ our matter.

Attested & Accepted

CLIENT/S



**Muhammad Arif Jan**  
Advocate, High Court, Peshawar.  
Office No. 6, 1<sup>st</sup> Floor  
Pabbi Medical Centre, G.T. Road  
Peshawar.  
Mobile: 0333-2212213





4.1.4

**ORDER**

(9)

(D)

This order will dispose-off the appeal preferred by Ex-Constable Ullah No. 60 of Nowshera District Police against the order of District Police Officer, Nowshera whereby he was awarded Major Punishment of dismissal from service vide District Police Officer, Nowshera OB: No. 562 dated 07.04.2017.

Brief facts of the case are that, the appellant while posted as TO Traffic, Nowshera and deputed for traffic Rider duty to maintain smooth flow of traffic at Pabbi Station OT Road on 07.04.2017, he misbehaved with a passerby in response to his objection over continues sirens for road clearance. Consequently he was issued Show Cause Notice to which his reply was received and found unsatisfactory. He was heard in person in the orderly room on 07.04.2017, but he failed to justify the District Police Officer, Nowshera, therefore he was awarded Major Punishment of dismissal from service vide OB: No. 562 dated 07.04.2017.

He was called in orderly room held in this office on 24.05.2017 and heard him in person. The penalty of dismissal from service is too harsh, therefore the penalty is converted into Major punishment of reduction in pay by one stage. The intervening period is treated as leave without pay.

ORDER - MARDAN

(Muhammad Alam Shinwari)PSP  
Regional Police Officer,  
Mardan

No. 5472 /ES, Dated Mardan the 06/07 /2017.

Copy to District Police Officer, Nowshera for information and necessary action w/r to his office Memo: No. 4094/PA dated 09.05.2017. The Service Roll is returned herewith.

(.....)

*Justice*

*[Signature]*

*OAC / OS*

BEFORE THE HONOURABLE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,  
PESHAWAR

Service Appeal No. 189/2018

Waseem Ullah LHC No. 60 Police Lines, Police Department,  
District Nowshera

.....Appellant

**V E R S U S**

1. District Police Officer, Nowshera.
2. Deputy Inspector General of Police, Mardan Region-I, Mardan.
3. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

.....Respondents

REPLY ON BEHALF OF RESPONDENTS No. 1,2&3

Respectfully Sheweth: -

PRELIMINARY OBJECTIONS

1. That the appellant has got no cause of action or locus standi.
2. That the appeal is badly time-barred.
3. That the appellant has been estopped by his own conduct to file the appeal.
4. That the appeal is not maintainable in its present form.
5. That the appellant has not come to the Honourable Tribunal with clean hands.

On Facts

1. Correct to the extent of appointment in Police Department as a Constable.
2. Incorrect. Proper Show Cause Notice alongwith statement of allegations which duly dated were issued to the appellant which were also duly replied by him. (Copy of Show Cause Notice and reply are Annexure "A" and "B").
3. Incorrect. That the appellant while posted as T.O Traffic Nowshera was deputed on traffic rider duty to maintain smooth flow of traffic at Pabbi station. Where he behaved with a nearby person openly in response to that person's agitation/misconduct with him earlier due to surrounding conditions siren on road for road clearness as per SOP which was exposed on media channels and on social media which is self explanatory. Therefore, no need of enquiry.
4. Correct to the extent of applying a departmental appeal and conversion of major penalty into reduction in pay by one stage and the intervening period was treated as leave without pay.

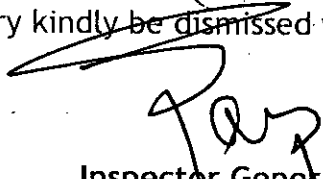


5. Correct to the extent of moving the mercy petition to the high-ups and which was too dismissed due to being time barred of 05 months.
6. That the appeal of the appellant is liable to be dismissed on the following grounds: -


**GROUNDS**

- A. Para is incorrect. That the orders of the competent authorities are legal and lawful.
- B. Incorrect. That the appellant himself brought financial losses through his misconduct.
- C. Incorrect. That the appellant behaviour regarding towards the old age person, which was viral on social media and media channels is self explanatory. Therefore, no need of any enquiry.
- D. Para is incorrect. That the appellant was served with Show Cause Notice and the appellant submitted the proper reply which was found unsatisfactory.
- E. Para already explained needs no comments.
- F. Incorrect. That the competent authorities followed the procedures and rules.
- G. The respondents also seek permission of this Honourable Tribunal to advance additional evidence at the time of hearing.

It is, therefore, most humbly prayed that on acceptance of above submissions the appeal of the appellant may very kindly be dismissed with cost.

  
Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar.  
Respondent No.3

  
Deputy Inspector General of Police,  
Mardan Region-I, Mardan.  
Respondent No. 02

  
District Police Officer,  
Nowshera.  
Respondent No.01

**BEFORE THE HONOURABLE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,  
PESHAWAR**

Service Appeal No. 189/2018

Waseem Ullah LHC No. 60 Police Lines, Police Department,  
District Nowshera

.....Appellant

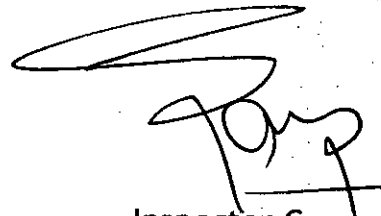
**V E R S U S**

1. District Police Officer, Nowshera.
2. Deputy Inspector General of Police, Mardan Region-I, Mardan.
3. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

.....Respondents

**AFFIDAVIT**

We the respondents No. 1,2 &3 do hereby solemnly affirm and declare on Oath that the contents of reply to the appeal are true and correct to the best of our knowledge and belief and nothing has been concealed from the Honourable Tribunal.



Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar.  
Respondent No.3



Deputy Inspector General of Police,  
Mardan Region-I, Mardan.  
Respondent No. 02



District Police Officer,  
Nowshera.  
Respondent No.01

**OFFICE OF THE DISTRICT POLICE OFFICER, NOWSHERA**

« A »

**SHOW CAUSE NOTICE**

**(Under Rule 5 (3) KPK Police Rules, 1975)**

1. That you LHC Waseem Sajjad No.60 while posted as TO, Traffic Nowshera have rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunkhwa Police Rules 1975 for following misconduct:-  
You were deputed for traffic duty at Pabbi Station Chowk, misbehaved and beaten an aged person, which amounts to grave misconduct on your part.
2. That by reasons of above, as sufficient material is placed before the undersigned; therefore it is decided to proceed against you in general Police proceeding without aid of enquiry officer
3. That the misconduct on your part is prejudicial to good order of discipline in the Police force;
4. That your retention in the Police force will amount to encourage inefficiency and unbecoming of good Police officers;
5. That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action against you by awarding one or more of the kind punishments as provided in the rules.
6. You are, therefore, called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 for the misconduct referred to above.
7. You should submit reply to this show cause notice within 07 days of the receipt of the notice failing which an ex-parte action shall be taken against you.
8. You are further directed to inform the undersigned that you wish to be heard in person or not.
9. Grounds of action are also enclosed with this notice.

Received by \_\_\_\_\_

Dated: \_\_\_\_\_ / \_\_\_\_\_ / 2017

  
**(Wahid Mehmood) PSP  
District Police Officer,  
Nowshera.**

**OFFICE OF THE DISTRICT POLICE OFFICER,**  
**NOWSHERA**  
**GROUND OF ACTION**

That you LHC Waseem Sajjad No.60 while posted as TO, Traffic  
Nowshera committed the following misconducts:-

You were deputed for traffic duty at Pabbi Station Chowk, misbehaved  
and beaten an aged person, which amounts to grave misconduct on your part.

By reasons of above you have rendered yourself liable to be proceeded under  
Khyber Pakhtunkhwa, Police Rules, 1975, hence these grounds of action.

No 158 /PA,

Dated 07.04/2017

  
**(Wahid Menmood)PSP**  
**District Police Officer,**  
**Nowshera.**



BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, PESHAWAR

S.A.No.189/2018

Waseem Ullah.....Appellant

VERSUS

District Police Officer, Nowshera and others

.....Respondents

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**REJOINDER ON BEHALF OF THE APPELLANT**

**Respectfully Sheweth**

The preliminary objections raised by answering respondents at S.No.1 to 5 are erroneous and frivolous, having no factual and legal backing, hence are not tenable in the eyes of law and the respondents will not absolve themselves by such unsatisfactory replies.

**FACTS:**


Para-1 to 6 of the comments are incorrect, while that of main appeal are correct. However, the appellant has been punished for no any cogent reason and justification, whereas, once reinstated in his service meaning thereby that no charges/allegations proved against him. However, by awarding reduction in pay, which his major punishment invites consideration of this Hon'ble Tribunal. The answering respondents are badly failed to reply to the annexure "G" of the main appeal. Moreover, the allegations leveled against the appellant is/ was of private nature and the other party has raised no objection on the acquittal from the charges leveled against the appellant and in that respect they have submitted the affidavit /compromise deed, which was ignored by the answering respondents, and this act of the respondents shows personal grudges with the appellant.

## GROUNDS

Grounds A to G are incorrect, misleading, misconceived against the facts and circumstances, the unsatisfactory reply of the respondents will not absolve them from the legal and lawful right on the promotion of the appellant. However, the appellant has been punished for no any cogent reason and justification, whereas, once reinstated in his service meaning thereby that no charges/allegations proved against him.

It is, therefore, humbly prayed that, on acceptance of this Rejoinder the comments filed by respondents may kindly be declared as illegal and against the facts & circumstances and the Appeal of the appellant may kindly be allowed as prayed for.

Appellant  
Through

  
**Muhammad Arif Jan**  
Advocate High Court  
Peshawar

## AFFIDAVIT

I, do hereby affirm and declare on oath that the contents of the accompanying **Rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



  
Deponent