

Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	02.12.2019	<p style="text-align: center;"><u>BEFORE THE YBER PAKHTUNKHWA SERVICE TRIBUNAL</u> <u>At Camp Court, Swat.</u> Service Appeal No. 1230/2018</p> <p style="text-align: right;">Date of Institution 26.09.2018 Date of Decision 02.12.2019</p> <p>Zahoor Iqbal son of Amir Bahadar Reesident of Timergara District Dir Lower.</p> <p style="text-align: right;">Appellant</p> <p style="text-align: center;">Versus</p> <ol style="list-style-type: none"> 1. Provincial Police Officer, Government of Khyber Pakhtunkhwa at Central Police Office (CPO), Peshawar. 2. Assistant Inspector General of Police (Establishment) Khyber Pakhtunkhwa at CPO Peshawar. 3. Deputy Inspector General of Police/Regional Police Officer (RPO), Malakand Region at Swat. 4. District Police Officer, Dir Lower at Timergara. <p style="text-align: right;">Respondents</p> <p>Mr. Muhammad Hamid Mughal -----Member(J) Mr. Ahmad Hassan-----Member(E)</p> <p style="text-align: center;"><u>JUDGMENT</u> <u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> Learned counsel for the appellant present. Mr. Riaz Paindakheil learned Assistant Advocate General present.</p> <p>2. The appellant (F.C) has filed the present service appeal against the order dated 08.05.2018 of the appellate/review board</p>

2.12.2019

whereby he appellant was reinstated in service and penalty of dismissal from service was converted into reduction in pay by two stages for two years and the intervening period was treated towards service but not on duty.

3. Learned counsel for the appellant argued that the appellant was charged in case FIR No.126 dated 28.02.2015 U/S 406/380/34 PPC read with 14 OAPO Police Station Timergara District Lower Dir and due to that reason, he was dismissed from service vide order dated 18.06.2005; that departmental appeal filed by the appellant was also rejected vide order dated 25.08.2015; that the appellant was acquitted from the charge by the trial court vide judgment/order dated 03.10.2017; that vide order dated 08.05.2018 the appellate/review board reinstated the appellant in service however converted the penalty of dismissal from service into reduction in pay by two stages for two years and the intervening period was counted towards service but not on duty. Further argued that since the complainant of the criminal case has not blamed the appellant during the inquiry proceeding moreover the appellant was acquitted by the trial court, hence the appellant was entitled to be reinstated without any punishment and with full back benefits.

4. As against that learned AAG argued that the appellant was charged in the criminal case (mentioned above); that the appellant committed heinous offence and action of the appellant brought stigma on the face of Police; that the appellant has no case on

2.12.2019

merits and it was due to factum of compromise that the complainant did not charge the appellant before the inquiry officer and before the trial court.

5. Arguments heard. File perused.

6. In the above mentioned criminal case, complainant Malang charged the accused for committing theft of Mobile/Cell Phones Galaxy-4 and Note-3 of worth Rs. 55000/-.

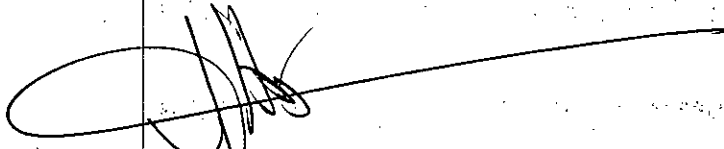
7. In his inquiry report, the inquiry officer mentioned that the complainant did not want to pursue his claim/proceeding against the appellant. The appellant was however dismissed vide order dated 18.06.2015 and the departmental appeal filed by the appellant there against was also rejected.

8. The trial court acquitted the accused on the basis of compromise vide judgment/order dated 03.10.2017, resultantly the appellate/review board took a lenient view while taking into account the period of service of the appellant and converted the punishment of dismissal from service into reduction in pay by two stages however the appellant was not found entitled for any kind of financial benefit for the intervening period.

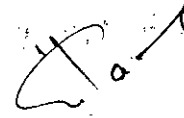
9. It is but common that usually private persons do not dare to charge police officials during the inquiry proceedings or before the trial court. This Tribunal is of the considered opinion that the order of the review board dated 08.05.2018 is though a balanced decision however in view of the fact that the complainant did not made any statement before the inquiry officer, similarly the

2.12.2018

appellant was also acquitted by the trial court though on the basis of compromise, the punishment of reduction in pay is liable to be struck down. Consequently the present service appeal is partially accepted only to the extent that the punishment of reduction in pay awarded to the appellant is set aside. Resultantly the appellant shall be deemed reinstated in service on 08.05.2018 without any financial back benefit. Parties are left to bear their own costs. File be consigned to the record room.



(Ahmad Hassan)
Member



(Muhammad Hamid Mughal)
Member
Camp Court, Swat.

ANNOUNCED
02.12.2019


03.09.2019

Appellant in person present. Written reply not submitted. Zohaib Ali ASI representative of the respondent department present and seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 09.10.2019 before S.B at Camp Court, Swat.


Member
Camp Court, Swat.

09.10.2019

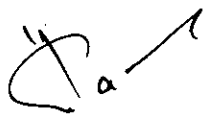
Clerk of counsel for the appellant and Mr. Zewar Khan, S.I (Legal) for the respondents present. Representative of respondents submitted para-wise comments on behalf of respondents No. 1 to 4 which is placed on record. Case to come up for rejoinder and arguments on 09.12.2019 before D.B at Camp Court Swat.


(Muhammad Amin Khan Kundi)
Member
Camp Court Swat

02.12.2019

Learned counsel for the appellant present. Mr. Riaz Paindakheil learned Assistant Advocate General present. Vide our separate judgment of today of this Tribunal placed on file, the present service appeal is partially accepted only to the extent that the punishment of reduction in pay awarded to the appellant is set aside. Resultantly the appellant shall be deemed reinstated in service on 08.05.2018 without any financial back benefit. Parties are left to bear their own costs. File be consigned to the record room.


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member
Camp Court, Swat

ANNOUNCED.
02.12.2019


08.05.2019

Learned counsel for the appellant present. Preliminary arguments heard.

The appellant (F.C) has filed the present service appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, being aggrieved against the punishment order dated 08.05.2018 whereby respondent No.1 (Review Board) modified the punishment of dismissal of the appellant from service and converted/reduced the same into reduction in pay by two stages for two years.


Points raised need consideration. The appeal is admitted for regular hearing subject to all the legal objections including the issue of limitation. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 01.07.2019 before S.B at Camp Court, Swat.

Appellant deposited
Security & Process Fee


Member
Camp Court, Swat

01.07.2019

No one present on behalf of appellant. Written reply not submitted. Muhammad Aman Assistant representative of the respondent department present and seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 03.09.2019 before S.B at Camp Court, Swat.


Member
Camp Court, Swat.

01.04.2019

Clerk to counsel for the appellant present and seeks adjournment as learned counsel for the appellant is not in attendance. Adjourn. To come up for preliminary hearing on 03.04.2019 before S.B at Camp Court Swat.

Member
Camp Court, Swat.

03.04.2019

Appellant in person present and seeks adjournment on the ground that his counsel is not available today. Adjourn. To come up for preliminary hearing 05.04.2019 before S.B at Camp Court Swat.

(M. Hamid Mughal)

Member
Camp Court Swat

05.04.2019

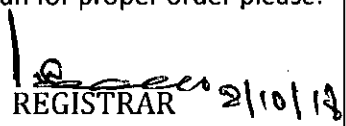


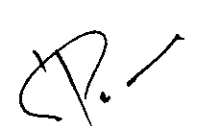
Appellant absent. Learned counsel for the appellant absent. Adjourn. To come up for preliminary hearing on 08.05.2019 before S.B at Camp Court, Swat.

Member
Camp Court, Swat

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1230/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	08/10/2018	<p>The appeal of Mr. Zahoor Iqbal resubmitted today by Mr. Muhammad Javed Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 2/10/18</p>
2-	10-10-2018	<p>This case is entrusted to touring S. Bench at Swat for preliminary hearing to be put up there on <u>7-12-2018</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3-	07.12.2018	<p>Appellant absent. Learned counsel for the appellant absent. Notice of appearance be issued to the appellant for 08.02.2019. Adjourn. To come up for personal attendance of appellant and preliminary hearing on the date fixed before S.B at camp court Swat.</p> <p style="text-align: right;"> Member Camp Court Swat.</p>
4-	08.02.2019	<p>Appellant in person present and seeks adjournment as his counsel is not in attendance. Adjourn. To come up for preliminary hearing on 01.04.2019 before S.B at Camp Court. Swat.</p> <p style="text-align: right;"> Member</p>


Member
Camp Court, Swat

The appeal of Mr. Zahoor Iqbal son of Amir Bahadar r/o Timergara Distt. Dir Lower received today i.e. on 26.09.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Copies of impugned dismissal order dated 18.06.2015 and revision petition mentioned in the memo of appeal are not attached with the appeal which may be placed on it.

No. 1939 /S.T,

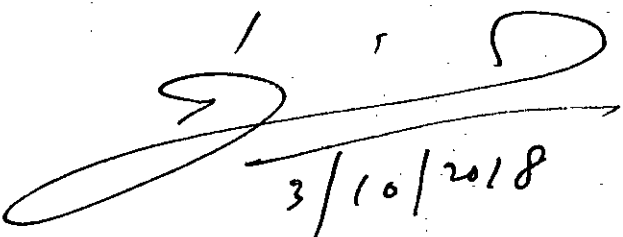
Dt. 27/9 /2018.


REGISTRAR 27/9/18
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Javed Khan Adv.
High Court Swat.

R/Sir,

The file is re-submitted, after doing the needfull, it is pertinent to mention, that dismissal order dated 18.6.2015, is in the shape of endorsement on 'Finding Reports' at page 13 of this file. There is no separate order available, elsewhere, please.


3/10/2018

M. Javed Khan
Advocate

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. 1230 /2018

Zahoor Iqbal Son of Amir Bahadar Resident of Timergara District Dir
Lower. (FC No. 294)Appellant


VERSUS

Provincial Police Officer Government of Khyber Pakhtunkhwa and
others Respondents

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Appellant
Through Counsel


Muhammad Javaid Khan
Advocate High Court
Office: Allah-o-Akbar Masjid,
College Colony, Saidu Sharif, swat
Cell: 0343-9607492

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BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 1230 /2018

Diary No. 1472

Dated 26/9/2018

Zahoor Iqbal Son of Amir Bahadar Resident of Timergara District Dir
Lower. (FC No. 294)Appellant

VERSUS

- 1) Provincial Police Officer Government of Khyber Pakhtunkhwa at Central Police Office (CPO) Peshawar
- 2) Assistant Inspector General of Police (Establishment) Khyber Pakhtunkhwa at CPO Peshawar
- 3) Deputy Inspector General of Police / Regional Police Officer (RPO) Malakand Region at Swat
- 4) District Police Officer Dir Lower at Timergara

.....Respondents

Filed to-day
[Signature]
Registrar
26/9/18

SERVICE APPEAL UNDER SECTION 4 OF SERVICE
TRIBUNAL ACT READ WITH OTHER RELEVANT
PROVISIONS AGAINST THE ORDER NO. 1747/18
DATED: 08/05/2018 OF THE DEPARTMENTAL
AUTHORITY RESPONDENT NO.1, WHEREBY THE
REVISION PETITION / APPEAL OF THE
APPELLANT WAS PARTIALLY ALLOWED ON

Re-submitted to -day
and filed.
[Signature]
Registrar
2/10/18

RECOMMENDATION OF THE APPELLATE BOARD AND THE APPELLANT WAS REINSTATED IN SERVICE AND PENALTY OF DISMISSAL FROM SERVICE WAS CONVERTED INTO REDUCTION IN PAY BY TWO STAGES FOR TWO YEARS, ALSO THE INTERVENING PERIOD WAS COUNTED TOWARDS SERVICE BUT NOT ON DUTY. THE APPELLANT WAS ALSO NOT GRANTED FINANCIAL BENEFITS INCLUDING MONTHLY SALARIES FOR THE SAID PERIOD.

PRAYER:

On acceptance of this service appeal the impugned order issued by Respondent No.1 Dated: 08/05/2018 may kindly be rectified / modified to the effect that the punishment awarded to the appellant may be declared illegal, unlawful and unconstitutional in Toto and all Service Benefits may be granted to the appellant.

Any other relief, deemed fit and necessary in the given circumstances of the case may also be awarded in favor of appellant against respondents.

Respectfully Sheweth:

The appellant submits as under;

1. That the appellant was appointed / enrolled as Constable in the Police Department.
2. That in the year 2015, the appellant was charged in a case Fir No. 126 Dated: 28/02/2015 under section 406/380/34 PPC read with 14 OAPO PS Timergara District Dir Lower and was later on dismissed from service by Respondent No.4 vide order Dated: 18/06/2015. (Copy of the order Dated: 18/06/2015 along with finding report is attached herewith as annexure "A").
3. That the appellant then filed an appeal before the Respondent No. 3 on 20/06/2015, which was dismissed vide order Dated: 25/08/2015. (Copy of the departmental appeal along with order Dated: 25/08/2015 is attached herewith as annexure "B").
4. That the appellant then filed a revision / second appeal before Respondent No.1, which was kept pending vide order Dated: 19/05/2016. (Copy of the order Dated: 19/05/2016 is attached herewith as annexure "C").

5. That contents of the above mentioned appeals and orders may be considered as an integral part of this Service Appeal.
6. That the appellant was then acquitted from the charges leveled against him in case FIR No. 126 Dated: 28/02/2015 under section 406/380/34 PPC read with 14 OAPO PS Timergara Dir Lower by the court of Judicial Magistrate / Illaqa Qazi Timergara vide order and judgment Dated: 03/10/2017. (Copy of the order and judgment Dated: 03/10/2017 is attached herewith as annexure "D").
7. That after acquittal from the charges the appellant requested for decision of his appeal vide application Dated: 04/12/2017. (Copy of application is attached herewith as annexure "E").
8. That the Respondent No.1, on recommendation of the appellate board reinstated the appellant in service vide order No. 1747/18 Dated:08/05/2018 and penalty of dismissal from service was converted into reduction in pay by two stages for two years, also the intervening period was counted towards service but not on duty. Moreover, the appellant was also not granted financial benefits including monthly salaries for the said period. (Copy of the order Dated: 08/05/2018 is attached herewith as annexure "F").

9. That the impugned order Dated: 08/05/2018 of Respondent No.1 to the extent of reduction in pay by two stages for two years, counting intervening period towards service but not on duty and not granting financial benefits including monthly salaries for the said period is illegal, unlawful and unconstitutional inter alia on the following grounds amongst others.

GROUND:

- i) That the impugned order Dated:08/05/2018 of Respondent No.1 to the extent of punishment of reduction of pay for two stages by two years etc is illegal, unlawful and unconstitutional.
- ii) That the impugned order of Respondent No.1 to the extent of punishment of reduction of pay for two stages by two years has been passed by ignoring the pivotal points i.e. that the appellant exonerated in the original enquiry as well now has been acquitted in the criminal trial.
- iii) That the impugned order has been passed in violation of Article 4, 10(A) and 25 of the Constitution of Islamic Republic of Pakistan, 1973.

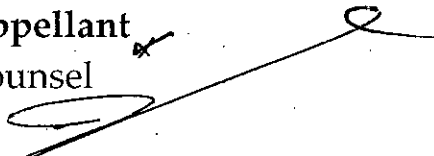
- iv) That the impugned order has been in gross violation of the decision of superior courts and decision of this Honorable Tribunal in respect of intervening period etc.
 - v) That other grounds not specifically raised will be argued with the permission of this Honorable Tribunal at the time of arguments.
10. That this appeal is being filed against the order dated: 08/05/2018, hence this Honorable Tribunal has got the jurisdiction and this appeal is well within time.

It is therefore humbly prayed that on acceptance of this service appeal the impugned order issued by Respondent No.1 Dated: 08/05/2018 may kindly be rectified / modified to the effect that the punishment awarded to the appellant may be declared illegal, unlawful and unconstitutional in Toto, and all Service Benefits including pay, seniority, promotion etc may be granted.

Any other remedy which is just, appropriate and efficacious may also be awarded in favor of the appellant please.



Appellant
Through Counsel



Muhammad Javaid Khan
Advocate High Court

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

Service Appeal No. _____/2018

Zahoor Iqbal Son of Amir Bahadar Resident of Timergara District Dir Lower. (FC No. 294)Appellant

VERSUS

Provincial Police Officer Government of Khyber Pakhtunkhwa and others Respondents

AFFIDAVIT

I, Zahoor Iqbal Son of Amir Bahadar Resident of Timergara District Dir Lower. (FC No. 294), do hereby solemnly affirm and declare on oath that all the contents of this Service Appeal are true and correct to the best of my knowledge and belief, and nothing has been concealed from this Honorable Court.

Attested by,

Amir Bahadar Khan
Court

DEPONENT


Zahoor Iqbal

ATTESTED

Amir Shah Khan Advocate
District Courts Swat
No. 118 Date 05/09/2018
OATH COMMISSIONER

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

Service Appeal No. _____/2018

Zahoor Iqbal Son of Amir Bahadar Resident of Timergara District Dir
Lower. (FC No. 294)Appellant

VERSUS

Provincial Police Officer Government of Khyber Pakhtunkhwa and
others Respondents

ADDRESSES OF THE PARTIES

ADDRESSES OF THE APPELLANT

Zahoor Iqbal Son of Amir Bahadar Resident of Timergara District Dir
Lower. (L)

CNIC: 15302-4101758-7

Cell: 0343-9996842

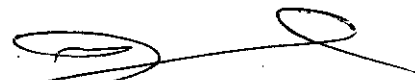
ADDRESS OF THE RESPONDENTS

- 1) Provincial Police Officer Government of Khyber Pakhtunkhwa at
Central Police Office (CPO) Peshawar
- 2) Assistant Inspector General of Police (Establishment) Khyber
Pakhtunkhwa at CPO Peshawar
- 3) Deputy Inspector General of Police / Regional Police Officer (RPO)
Malakand Region at Swat
- 4) District Police Officer Swat Dir Lower at Timergara



APPELLANT

Through Counsel



Muhammad Javaid Khan

Advocate High Court

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. _____/2018

Zahoor Iqbal Son of Amir Bahadar Resident of Timergara District Dir
Lower. (FC No. 294)Appellant

VERSUS

Provincial Police Officer Government of Khyber Pakhtunkhwa and
others Respondents

APPLICATION FOR CONDONATION OF DELAY OF FEW
DAYS IN FILING THE INSTANT SERVICE APPEAL.

Respectfully Sheweth:

The applicant / appellant submits as under:-

1. That the above Service appeal has been filed before this Hon'ble Tribunal, in which no date of hearing has yet been fixed.
2. That the contents of the above mentioned Service Appeal along with the contents of the annexures may be considered as an integral part of this application.
3. That there is a few days in filing the instant service appeal, which is not deliberate, but it occurred in collecting the record from different offices at Timergara, Saidu Sharif and Peshawar.

4. That valuable rights of the appellant are involved in the present service appeal.
5. That if the condonation prayed for is not granted, then there will be an irreparable loss to the applicant / Appellant.

It is therefore respectfully prayed that on acceptance of this application an order prayed for may be passed.

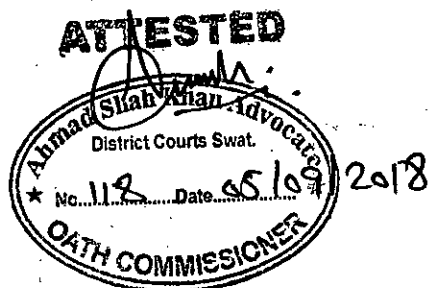
Any other remedy which is just, appropriate and efficacious may also be awarded in favor of Appellant please.

APPELLANT
Through Counsel


Muhammad Javaid Khan
Advocate High Court

Affidavit:

It is stated on oath that contents of this application are true and correct to the best of my knowledge and belief, and nothing has been concealed from this Hon'ble Court.




Deponent

From

The District Police Officer,
Dir Lower at Timergara.

To

The Regional Police Officer,
Malakand at Saidu Sharif, Swat

No. 13779

/EB, dated Timergara, the 1-7/2015

Subject

APPLICATION FOR RE-INSTANTMENT INTO SERVICE

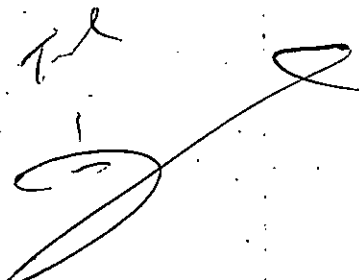
Memorandum

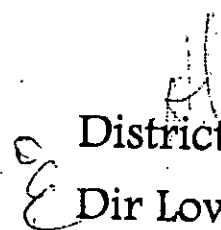
Kindly refer to Regional Police Officers, Malakand Swat En
No.5128/E, dated 23/06/2015.

It is submitted that Ex- Constable Zahoor Iqbal.294, who wh
posted at Police Station Timergara, having been involved vide in case FIR No. 1:
dated 28/02/2015 u/s 406/380/34 PPC / 14 OAPO PS Timergara, therefore he w
served charge sheet coupled with statement of allegation and Mr. Tahir
Ahman SDPO Timergara, was appointed as enquiry officer to conduct prop
partmental enquiry and submit his finding.

The enquiry officer during the course of enquiry recorded th
statement of all concerned, as well as the delinquent official. The Enquiry Offic
his finding report suggested that exonerate him from the charge an
transferred him to PS Lal Qilla for the period of 06 months.

On receipt of enquiry papers, relevant papers was perused and wa
d in orderly room held on 18/06/2015, but could not produce any cogel
reason in his self defence, therefore, in exercise of power vested to th
designed under (E & D) Rules 1975, with amendment 2014, awarded him
punishment of Dismissal from service vide this office OB No.569, date
28/06/2015.

Tahir



District Police Officer
Dir Lower at Timergara

316

A(12)

36
Better copy

BETTER COPY

From

The District Police Officer
Dir Lower at Timergara

To

The Regional Police Officer
Malakand at Saidu Sharif Swat

No.13779/EB

dated Timergara, the 1-7/2015

Subject

APPLICATION FOR RE-INSTATEMENT INTO SERVICE

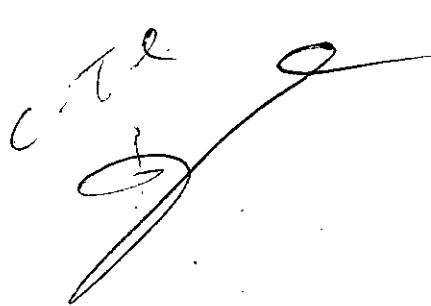
Memorandum

Kindly refer to Regional Police Officers, Malakand Swat Endst No. 5128/E, dated 23/06/2015.

It is submitted that Ex-Constable Zahoor Iqbal 294 who was posted at Police Station Timergara, having been involo0ved vide in case FIR No. 126 dated 28/02/2015 u/s 406/380/34 PPC /14 OAPO PS Timergara, therefore he was served charge sheet coupled with statement of allegation and Mr. Tahir Rahman SDPO Timergara, was appointed as enquiry officer to conduct proper departmental enquiry and submit his finding.

The enquiry officer during the course of enquiry recorded the statement of all concerned, as well as the delinquent official. The Enquiry Officer in his findings report suggested that exonerate him from the charge and transferred him to PS Lal Qilla for the period of 06 months.

On receipt of enquiry papers, relevant papers was perused and was heard in orderly room held on 18/06/2015, but could not produce any cogent reason in his self defense, therefore, in exercise of power vested to the undersigned under (E&D) Rules 1975, with amendment 2014, awarded him major punishment of Dismissal from service vide this office OB No. 569, dated 18/06/2015.

C.T.L


**District Police Officer
Dir Lower at Timergara**

ٹائیڈنگ رپورٹ

جناب عالی!

جنورال انکوائری نمبری 1614/EB مورخہ 17/03/2015 بتاریخ جناب DPO صاحب دیر لائیو معروض ہوں۔ کہ کنشیل ظہور اقبال نمبر 294 تھانہ تیرگرہ پر مقدمہ علت 126/28-02-2015 جرم 406/380/34PPC/14OAPO تھانہ تیرگرہ میں وارث ہونے کا الزام ہے۔

الزام کے پیش نظر مذکورہ کہ خلاف حسب احکم آنسران بالابا قاعدہ انکوائری شروع کی گئی۔ دوران انکوائری SHO روشن زادہ خان و محرم تھانہ تیرگرہ محبوب شاہ خان ASI، سسی سید علی ولد حیدر زمان ساکن شیبو بابا شمش خان، محمد رزاق ولد خان بازکنہ شمش خان، کنشیل ظہور اقبال نمبر 294 کہ بیانات قلمبند کر کے لف انکوائری کی گئی ہے۔ اس طرح مدعی مقدمہ سے اسٹامپ پیپر پر علیحدہ تحریر ہر ادنیٰ کرنے کا روانی برخلاف کنشیل ظہور اقبال نمبر 294 رو برو گواہان محمد رزاق، سید علی، بالائے کر لف انکوائری اور قابل ملاحظہ ہے۔
مدعی مقدمہ سسی ملک ولد خانہ گل سنگھ حاجی لوگ باجوڑ ایجنسی نے رو برو گواہان محمد رزاق ولد خان باز، سید علی ولد حیدر زمان، ساکنان شمش خان تلاش اسٹامپ پیپر مورخہ 06/04/2015 پر حلف بیان دے کر کہ اس نے سسی ظہور اقبال ولد امیر تھانہ کے خلاف مقدمہ علت 126 مورخہ 28/02/2015 جرم 406/380/34PPC/14CAPO تھانہ تیرگرہ میں دعویٰ کی تھی۔ بعدہ اس کو معلوم ہوا کہ ملزم ظہور اقبال مقدمہ بالا میں ملوث نہیں تھا۔ اور غلط فہمی کی بنیاد پر دعویٰ کی تھی۔ اب وہ یعنی مدعی ملزم مذکورہ بالا کے خلاف کسی قسم کی مقدمہ بازی اور انکوائری کروانے کا خواہاں نہیں ہے۔ اور عدالت یا محکمہ ملزم کو بے تصور ٹھہرانے پر مدعی کو کوئی اعتراض بھی نہیں ہے۔ اور مدعی خود ملزم ظہور اقبال نمبر 294 کے لئے گواہی کی تصدیق بھی کرتا ہے۔ اسٹامپ پیپر پر دستخط اردو ثبت کر کے لف انکوائری اور قابل ملاحظہ ہے۔ اسکے علاوہ انکوائری ہڈ ایس مشغیت ملک کا بیان بھی قلمبند کر کے لف انکوائری کی گئی ہے۔
SHO روشن زادہ خان اور محرم تھانہ محبوب شاہ خان نے بیانات پس واضح کیا ہے کہ سسی ملک ولد خانہ گل ساکن حاجی لوگ باجوڑ ایجنسی کے رپورٹ پر برخلاف ملزمان صادق رضاء ولد ثمر آئین ساکن بیرت بلاسٹ، اویس ولد رحید اللہ، پولیس ملازم ظہور اقبال مقدمہ علت 126 مورخہ 28-02-2015 جرم 406/380/34PPC/14OAPO تھانہ تیرگرہ درج رجسٹر کی گئی تھی جس میں چالان مکمل دیا گیا ہے۔

مقدمہ درج بالا میں تفتیشی آفیسر نے ملزم اویس اللہ ولد رحید اللہ ساکن کوزکے خال سے دو عدد موبائل سیٹ کی برآمدگی بطور مال سرودہ کی ہے نہ کہ کسی دوسرے ملزم سے برآمدگی کی ہے۔ نقل فرد مشغیت ملک لف انکوائری ہذا ہے۔
انکوائری ہو کر پایا گیا کہ مدعی مقدمہ ملک ولد خانہ گل ساکن حاجی لوگ باجوڑ ایجنسی نے SHO صاحب تھانہ تیرگرہ کو موبائل سیٹ Galaxy-4 اور دو سرائیٹ نوٹ تحریر کل مالیت 55000 روپے کی سرودہ ہونے کے نسبت دعویٰ کر کے، جس پر مقدمہ علت 126 مورخہ 28-02-2015 جرم 406-380/34 PPC 14OAPO تھانہ تیرگرہ، درج رجسٹر کی گئی تھی دوران تفتیش ملزم اویس اللہ ولد رحید اللہ ساکن خال کوزکے سے مال سرودہ برآمدگی گئی ہے مقدمہ میں چالان مکمل دیا گیا ہے۔ مشغیت ملک ولد خانہ گل انکوائری ہڈ ایس پیش ہو کر اسٹامپ پیپر پر حلفاً بیان دے کر کنشیل ظہور اقبال نمبر 294 کے خلاف کسی قسم کی مقدمہ بازی اور انکوائری کرنے کا خواہاں نہیں ہے اور بے تصور ٹھہرانے پر بھی مذکورہ کو کوئی اعتراض نہ ہے چونکہ مذکورہ کو FIR میں چارج کیا گیا تھا لہذا مذکورہ کو بحال کر کے احساس دلانے کے خاطر چھ ماہ کے پیریڈ کے لئے سزاوار ٹھانہ بعض قلعہ ٹرانسفر کرنے اور عدالت حکم آنے تک انکوائری باجوڑنگ کی خبر کی گزارش کی جاتی ہے۔

دی ایس۔ بی سرکل تیرگرہ فتح دیر کو
Call the above report
18/10

خدمت جناب ڈی ائی جی صاحب ملاکنڈ ڈویژن بمقام منگورہ ضلع سوات

درخواست نمبر 294 تھانہ تیرگرہ ضلع درلوئی

بلٹ نمبر 294 تھانہ تیرگرہ ضلع درلوئی

جناب عالی!

یہ کہ من ساکن ظہور احمد ولد امیر بہادر رکنہ شوہا شمشی خان تحصیل تیرگرہ ضلع درلوئی کا اصل سکونتی رہائشی باشندہ ہے۔
یہ کہ من ساکن محکمہ پولیس میں بحیثیت کنسٹیبل بلٹ نمبر 294 تھانہ تیرگرہ میں ڈپٹی سرانجام دے رہا تھا۔
یہ کہ من ساکن پر ملنگ ولد خاستہ گل سکنتہ باجوڑ مقدمہ نمبر 126 مورخہ: 28/02/2015 جرم: 406/380/34/PPC
14 MPC درج کیا ہے۔ اور اس میں ساکن سسپنڈ کیا ہے۔ اور مورخہ: 18/06/2015 ڈسبیس کیا ہے۔
یہ کہ من ساکن کو صرف شک کہ بنیاد پر ملوث کیا گیا تھا۔
یہ کہ من ساکن کے خلاف انکوائری تفتیش کر کے ساکن پر صرف محاذ شک کہ بنیاد پر مقدمہ درج کیا تھا۔
یہ کہ ساکن کے خلاف انکوائری تفتیش مکمل کر کے ساکن کو بے گناہ قرار دیا ہے۔
یہ کہ من ساکن بے گناہ اور بے قصور اور نا کردہ جرم ہے۔
یہ کہ من ساکن ایک غریب خاندان سے تعلق رکھتا ہے۔ اور ساکن انتہائی غریب ہے، اور قابل اعتماد ہے اور انتہائی ایماندار ہے۔
یہ کہ آپ صاحبان مہربانی کر کے ساکن کو بحال کرنے کے احکامات صادر فرمائیں۔
ساکن ہمیشہ آپ صاحبان کو دعاء گو اور شکر گزار رہے گا۔

مورخہ: 20/06/2015

(بجالات بالا استدعاء ہے کہ من ساکن کے درخواست ہذا کو منظور کرنے کے احکامات صادر فرمائیں)

بہ کرم کفن مسامح اور مہمانی کہ کفر اور
آب ہیں وہاں کو عم بھر دعاء گویا اور
شکر گزار رہے گا

العجبی

ظہور اقبال

سبامی

15302-4101758-7

بلٹ نمبر: 294

C. T. e
J

OFFICE OF THE REGIONAL POLICE OFFICER, MALAKAND REGION,
AT SAIDU SHARIF SWAT

ORDER:

This order will dispose off departmental appeal of Ex-Constable Zahoor Iqbal No. 294 of Dir Lower District for reinstatement in service.

Brief facts of the case are that Ex-Constable Zahoor Iqbal No. 294 while posted at Police Station Timergara, involved in criminal case vide FIR No. 126 dated 28/02/2015 u/s 406/38Q/34 PPC / 14 OAPO PS Timergara, therefore he was served charge sheet coupled with statement of allegation and Mr. Tahir Ur Rahman SDPO Timergara, was appointed as Enquiry Officer. The Enquiry Officers during the course of enquiry recorded the statement of all concerned, as well as the delinquent official. The enquiry officer in his finding report suggested that exonerate him from the charge and transferred him to PS Lal Qilla for the period of 06 months. On receipt of enquiry papers, relevant papers was perused and was heard in orderly room held on 18/06/2015, but he could not produce any cogent reason in his self defense, therefore, the District Police Officer, Dir Lower awarded him major punishment of dismissal from service vide his office OB No. 569, dated 18/06/2015.

He was called in Orderly Room on 21/08/2015 and heard him in person. The appellant did not produce any convincing reply in his defense. Therefore I uphold the order of District Police Officer, Dir Lower, whereby the appellant has been awarded punishment of dismissal from service. His appeal is rejected.

Order announced

(AZAD KHAN) Tst, PSP
Regional Police Officer,
Malakand, at Saidu Sharif Swat

No. 6630 /E,
Dated 25-8- /2015.

Copy to District Police Officer, Dir Lower for information and necessary action, with reference to his office Memo: No. 13779/EB, dated 01/07/2015.

Encl. S-Roll + F-Missal

FC Aness-ur-Rehman
Keep SR in Dismissal C

OB/Ee

[Handwritten signature]

D.O. / Dir Lower 28/8/2015

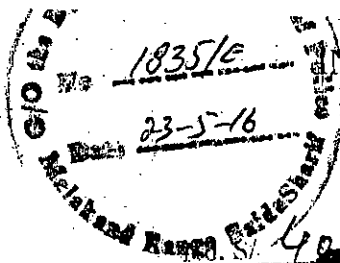
791
31/8/15

Establishment Clerk,
D.P.O. Office Dir, Lower

[Handwritten signature]
28/8
C.T.L
[Handwritten signature]

[Handwritten signature]
28-8-15

5462
28-8-2015



INSPECTOR GENERAL OF POLICE Ann 'C'
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE,
PESHAWAR.
/16, dated Peshawar the 19/05/2016.

To : The Regional Police Officer,
Malakand Region, Swat.

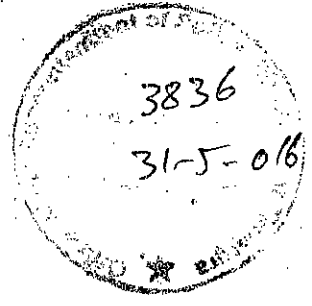
Subject: APPEAL (EX-FC ZAHOOR IQBAL NO. 294)

Memo : Meeting of Appeal Board was held on 14.04.2016 in CPO, wherein the appeal of Ex-Constable Zahoor Iqbal No. 294 of District Police Dir Lower was examined as the appellant was awarded punishment of dismissed from service by DPO, Dir Lower vide OB No. 569, dated 18.06.2015 on the charges that he was involved in case vide FIR No. 126, dated 28.02.2015 u/s 406/380/34 PPC/14 OAPO Police Station, Timergara.

The appellant appeared before the board and heard in person. The petitioner contended that he is on bail and his case is under trial.

The case of the petitioner is under trial in Court. Therefore the board recommended that his appeal is kept pending in CPO till the decision of the Court. The applicant may be informed accordingly.

This issues with approval by the Competent Authority



Najeeb
(NAJEEB-UR-RAHMAN)
AIG / Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

No. S/ 4074-76 /16.

Copy of above is forwarded for information and necessary action to the:-

1. District Police Officer, Dir Lower
2. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
3. Ex-Constable Zahoor Iqbal No. 294.

No 4557 /E.
Dt 23-5-16
Ect DPO/Dir Lower

E.C. / 051
Informed him accordingly.
C.T.C

Q. Amir
District Police Officer,
Dir Lower, Timergara.
3/5

For information & action

23/5
Regional Police Officer,
Malakand, at Saidu Sharif Swat.

117

Anx: "D"

FORM "A"

FORM OF ORDER SHEET

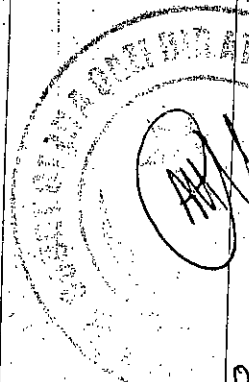
In the Court of Abdul Haleem JM-1/10/Dir Lower at Timergara.

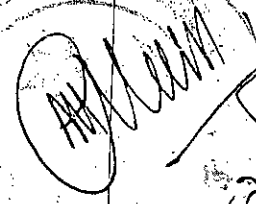
State Vs Awaisullah etc

402/2/10/3
2015
JK

Serial No. of Order of Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of Parties or Counsel where necessary.
1	2	3

Order No. 20	03-10-2017	<p>APP for the state present. Accused Awaisullah and Zahoor Iqbal on bail present. Accused Sadiq Raza is exempted from personal attendance. Complainant along with counsel present.</p> <p>Today was fixed for prosecution evidence. However, the complainant submitted compromise deed in case FIR No.126 dated 28-02-2015 u/s 406/380/34 PPC, 14 Islamic Law of PS Timergara, to the effect that he has effected compromise with the accused and forgiven them in the name of Almighty Allah. To this effect, statement of the complainant, after due identification, recorded. According to the compromise deed complainant has patched up the matter with the accused in light of compromise deed ExPA and has forgiven them in the name of Almighty Allah. The compromise seems to be genuine at the face of it. Compromise deed is ExPA while copy of CNIC of the complainant is ExPB.</p> <p>Although, the offenses for which the accused are charged are not compoundable yet the factum of above mentioned compromise has rendered the conviction of the accused improbable in due course of trial even if all the PWs are examined. Moreover, in the light of</p>
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 03-10-2017

 Civil Judge I / Judicial Magistrate

 Dir Lower at Timergara

C.T.C



 7-10-17



Serial No. of Order of Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of Parties or Counsel where necessary.
S.No: 1378 Date of Application: 7.10.17 Urgent Fee: / Revenue Fee: / No of Pages: 06 No of Words: / Copying Fee: / Total Fee: / Date of Preparation: 7.10.17 Date of Delivery: 7.10.17 Signature: <i>[Signature]</i>		<p>judgment of Honourable Peshawar High Court (PLD 2016 Peshawar 26) so, in the present case too the parties have decided to live in peace by forgetting their differences, then acquittal is the proper way despite the fact that the offenses are non compoundable.</p> <p>Therefore, on acceptance of the compromise, all the accused i.e. Awaisullah, Sadiq Raza and Zahoor Iqbal are hereby acquitted of the charges against them. The sureties, if any of the accused are discharged of their liability of bail bonds. Accused be released accordingly if not required in any other case. Case property i.e. recovered mobiles be handed over to the complainant as per law.</p> <p>Case file be consigned to record room after necessary completion and compilation.</p> <p><u>Announced</u> 03-10-2017</p> <p><i>[Signature]</i> (Abdul Haleem) Judicial Magistrate 1st Class Timergara</p> <p><i>[Circular Seal: COURT OF JUDICIAL MAGISTRATE 1st CLASS TIMERGARA]</i></p> <p><i>[Circular Seal: تيمرگارا ضلع عدالت]</i></p> <p><i>[Stamp: RECEIVED... 7.10.17]</i></p>

بکھنور جناب آئی جی پی صاحب بمقام پشاور

درخواست بمراد بحالی سائیل پولیس سپاہی
سائیل حسب ذیل عرض گزار ہے۔

جناب عالی:

(۱) سائیل آپ کے محکمہ پولیس سپاہی خدمات انجام دے کر یہ علت نمبر 126 مورخہ
28-02-2015 جرم 406/380/34 /14 OAPO میں برخاست کیا گیا تھا۔

(۲) یہ کہ مقدمہ عنوان بالا میں سائیل بری ہو چکا ہے۔ اور سائیل کے خلاف مزید کوئی مقدمہ زیر
سماعت نہ ہے۔ نقولت لف ہیں۔

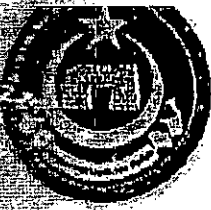
(۳) یہ کہ سائیل بوجہ بالا ملازمت پر پولیس سپاہی بحالی کا خواستگار ہے۔
استدعا ہے کہ بمنظوری درخواست سائیل کو پولیس سپاہی کہ حیثیت سے بحالی کے احکامات صادر فرمائیں
جائے۔

عریضہ مورخہ 04/12/2017

سائیل ظہور اقبال بیلٹ نمبر 294 ولد امیر بہادر سکنہ شوبابا شمشی خان تلاش تحصیل تیمر گره دیر پائین۔

ح

ط



(20)

Ann 4 F 11

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

4109

No. S/ 1747 /18, dated Peshawar the 08/08/2018

08/18

ORDER

This order is hereby passed to dispose of departmental appeal under *Ann-1-A* of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-FC Zahoor Iqbal No. 294. The *petitioner* was dismissed from service by DPO Dir Lower vide OB No. 569, dated 18.06.2015 on the charge *of involvement* in case No. FIR No. 126, dated 28.02.2015 u/s 406/380/34 PPC/14 OAPO Police Station Timergara.

His appeal was rejected by Regional Police Officer, Malakand at Swat *under* Endst: No. *5835E*, dated 25.08.2015.

Meeting of Appellate Board was held on 26.04.2018 wherein *petitioner was* heard in person. *During* hearing petitioner contended that he has been acquitted by the court from the charges.

In view of 04 years, 05 months and 14 days long service at credit of *petitioner*, the Board *decided* that the petitioner is hereby re-instated in service and penalty of dismissal from *service* is converted into *reduction* in pay by two stages for two years. The intervening period shall be counted *towards* service but *not* on duty. He will not be entitled for any kind of financial benefits including monthly *salary* for the said *period*.

This order is issued with the approval by the Competent Authority.

(IRFAN ULLAH K
AIG Establishmt
For Inspector General of Police,
Khyber Pakhtunkhwa
Peshawar.

S/ 1748-54 /18,

Copy of the above is forwarded to the:

1. Regional Police Officer, Malakand at Swat.
2. District Police Officer, Dir Lower.
1. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
1. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
1. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
1. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
1. Office Supdt: E-IV CPO Peshawar.

OB/OAS/EC

[Signature]
District Police Officer,
Dir Lower at Timergara

C-T-2
[Signature]

[Signature]

بجالت جناب سید علی محمد صاحب شریعتیہ مدرسہ اسلامیہ کراچی

مقدمہ طور پر اقبال بنام صوبائی لوٹس اور سٹیٹ بینک پاکستان کے لیے درخواست
مورخہ دعویٰ جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنے طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ آن مقام سید علی محمد صاحب شریعتیہ مدرسہ کراچی مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کابل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر حالات و فیصلہ بر حلف دینے جواب دہیا اور اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زر اور اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری ایک طرف اپیل کی برآمدگی اور منسوخ مذکور کے مکمل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اسکا ساختہ برواختہ منظور و قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ۔ مذکورہ بالا ادکالت نامہ لکھ دیا کہ سند رہے

20

ماہ

المرقوم

[Handwritten Signature]

العبد

گواہ شد

العبد

ظہیر اقبال سید علی محمد صاحب شریعتیہ مدرسہ کراچی

العبد

گواہ شد

العبد

کیلئے منظور ہے۔

[Large handwritten signature]

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بمقام

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No 1230/2018

Ex-Constable Ex- FC Zahoor Iqbal s/o Amir Bahadar resident of Timergara District Dir Lower.....Appellant.

VERSUS.

1. Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
2. Regional Police Officer Malakand at Saidu Sharif, Swat.
3. Assistant Inspector General of Police Establishment CPO Peshawar.
4. District Police Officer Dir Lower.Respondents.

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(ZEWAR KHAN)
Inspector Legal
Dir lower.

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- 3) Assistant Inspector General of Police Establishment CPO Peshawar.
- 4) District Police Officer Dir Lower.Respondents.

PARA WISE REPLY ON BEHALF OF RESPONDENTS.

Respectfully Sheweth:

PRELIMINARY OBJECTIONS.

- 1) That the present service appeal is not maintainable in its form.
- 2) That the appellant has not come to this honourable Service Tribunal with clean hands.
- 3) That the present Service appeal is badly time barred.
- 4) That this honorable Service Tribunal has got no jurisdiction to entertain the present service appeal.
- 5) That the appellant has suppressed the material facts from this honorable service tribunal.

ON FACTS:

1. Pertains to record, hence needs no comments.
2. Correct and needs no comments.
3. Correct and needs no comments.
4. Correct and needs no comments.
5. Pertains to record.
6. Incorrect, the petitioner was charged in the criminal case vide FIR No. 126 dated 28.02.2015 u/s 406/380/34 PPC/14 OAPO Police Station Timergara and he was acquitted only by effecting a compromise deed not by trial. Furthermore compromise in criminal cases admits guilt of the accused.

7. Pertains to record, hence needs no comments.
8. The first paragraph needs no comments; however the last Paragraph needs explanation i.e. The appellant was not given financial benefit regarding the intervening period for the reason that he was not in active service in the department.
9. Incorrect, the competent authority converted the harsh punishment into a milder one, hence did not commit any sort of illegality while dealing with the appellant.

GROUNDS

- i) Incorrect, the order of respondent No.1 is legal, lawful, and constitutional and no illegality have been committed by respondents.
 - ii) Incorrect, the appellant was properly charged in FIR by the complaint directly and being member of disciplined force, the action of the appellant bring stigma on the face of police. The competent authority is not bound to follow the recommendation of inquiry.
 - iii) Incorrect, no violation of the constitution of Pakistan has been committed by respondents.
 - iv) Incorrect, every case has its own facts and circumstances and the respondent even can't think to violate any precedent set by the August Superior Courts.
 - v) The respondents also seek leave of this honorable Tribunal to rely on additional grounds at the time of arguments/ hearing.
10. Incorrect, the appeal of the appellant is fit for dismissal as the appellant neither disclosed material facts before the Tribunal nor the appeal is filed within time.

PRAYER:

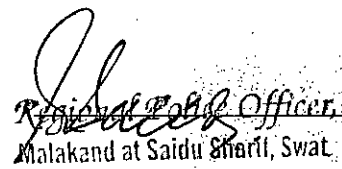
It is therefore humbly prayed that on acceptance of this Para-wise reply, the appeal may graciously be dismissed with cost.



Provincial Police Officer,
Khyber Pakhtunkhwa Peshawar.



Regional Police Officer,
Malakand at Saidu Sharif Swat,

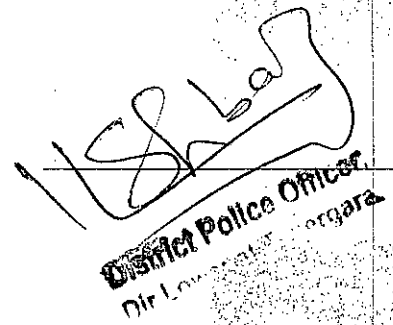


Regional Police Officer,
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Assistant Inspector General of Police,
Establishment CPO Peshawar.



District Police Officer,
Dir Lower
District Police Officer
Dir Lower at Timergara



District Police Officer
Dir Lower at Timergara

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3. Assistant Inspector General of Police Establishment CPO Peshawar.
4. District Police Officer Dir Lower.Respondents

AFFIDAVIT.

I, Zewar Khan Inspector Legal Dir Lower, do hereby solemnly affirm on oath, that the contents of accompanying comments on behalf of Respondents is correct to the best of my knowledge and belief. Nothing has been concealed from this honourable Court.

DEPONENT.



(ZEWAR KHAN)
Inspector Legal
Dir lower.
15302-0226450-3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

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POWER OF ATTORNEY

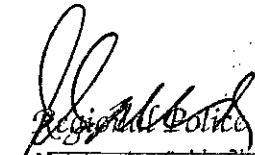
We the following respondents do hereby authorize Mr. Zewar Khan SI Legal Dir Lower to appear on our behalf before the Honorable service Tribunal in the above Service appeal and pursue the case on each and every date.

He is also authorized to submit all the relevant documents in connection with the above Service Appeal.

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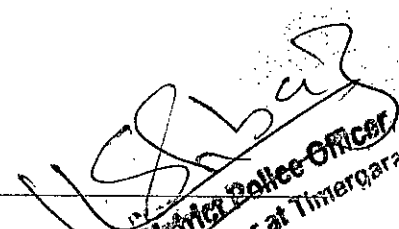
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District Police Officer,
Dir Lower.


District Police Officer
Dir Lower at Timergara

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 2204 /ST

Dated 16 / 12 / 2019


To

1. The Assistant Inspector General of Police (Establishment) C.P.O.,
Government of Khyber Pakhtunkhwa,
Peshawar.
2. District Police Officer,
Government of Khyber Pakhtunkhwa,
Dir Lower at Timergara

Subject: - JUDGMENT IN APPEAL NO. 1230/2018, MR. ZAHOOR IOBAL.

I am directed to forward herewith a certified copy of Judgement dated 02.12.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No 1230/2018

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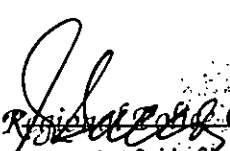
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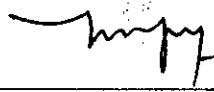
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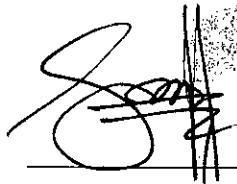


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Malakand at Saidu Sharif Swat.



Regional Police Officer,
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District Police Officer
Dir Lower at Timergara
