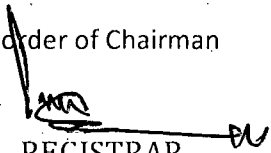


Form- A

## FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- \_\_\_\_\_ 1284/2022


| S.No. | Date of order proceedings | Order or other proceedings with signature of judge   |
|-------|---------------------------|--|
| 1     | 2                         | 3  |
| 1-    | 02/09/2022                | <p>The appeal of Mr. Kashif Hussain resubmitted today by Mr. Rashid Rauf Swati Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____. Notices be issued to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman</p> <p><br/>REGISTRAR</p> |

The appeal of Mr. Kashif Hussain Ex-Constable Khyber Pakhtunkhwa Police received today i.e. on 01.09.2022 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Check list is not attached with the appeal.
- 2- Memorandum of appeal may be got signed by the appellatant.
- 3- Appeal has not been flagged/marked with annexures marks.
- 4- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 2500 /S.T,


Dt. 01/9 /2022

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Rashid Rauf Swati Adv. Pesh.

- Respectfully Submitted
- i. check list attached.
  - ii. Memorandum of appeal signed by appellatant.
  - iii. Appeal has been flagged.
  - iv. Five complete copies of case file furnished in separate file cover.

Resubmitted after removal  
of objections please

  
Rashid Rauf Swati Adv.  
02.09.2022, Counsel for the Appellatant

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR

A - No. 1284/2022

Kashif Hussain Vs The Inspector General Police & Other

INDEX

| S.No | Description of Documents                                       | Annexure | Pages |
|------|--|----------|-------|
| 1.   | Memo of Appeal   |          | 1-5   |
| 2    | Copy of Appointment Order                                      | A        | 6     |
| 3    | Copy of FIR No 53 of 2020 of PS Umer Zai                       | B        | 7     |
| 4    | Copy of Dismissal Order Dated 16/10/2020                       | C        | 8.    |
| 5    | Copies of Departmental Appeal and Order Dated 26/07/2021       | D & E    | 9-11  |
| 6    | Copy of Appeal and Order Dated 03/05/2021                      | F & G    | 12-14 |
| 7    | Copy of Order Dated 16/07/2022 passed by learned ADSJ Charsada | H        | 15-20 |
| 8    | Copy of Appeal Dated 22/07/2022                                | I        | 21    |
| 10   | Wakalatnama  |          | 22    |

Kashif Hussain (Appellant)

Through

Rashid Rauf Swati

Zeel Huma Advocate High Court Peshawar

1

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

Khyber Pakhtunkhwa  
Service Tribunal

No. 1124

01-09-2022

***Kashif Hussain Son of Zahid Hussain Said Afzal, Ex Constable  
Khyber Pakhtunkhwa Police, Resident of Sheikh Abad Rajar  
Utmanzai Tehsil & District Charsada.***

**(Appellant)**

**Versus**

1. The Inspector General Police Khyber Pakhtunkhwa Peshawar
2. Additional Inspector General of Police HQrs: Khyber Pakhtunkhwa Peshawar
3. Additional Inspector General Police Establishment Khyber Pakhtunkhwa Peshawar
4. Capital City Police Officer Peshawar
5. Senior Superintendent of Police Peshawar

**(Respondents)**

APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT, 1974,  
AGAINST THE ORDER, BEARING ENDORSEMENT NO 2344-51 DATED  
16/10/2020, PASSED BY RESPONDENT NO 5, WHEREBY APPELLANT  
WAS DISMISSED FROM SERVICE, ORDER BEARING ENDORSEMENT  
NO 1407-12 DATED 20/11/2020, OF RESPONDENT NO 4 WHEREBY  
DEPARTMENTAL APPEAL FILED BY THE APPELLANT WAS  
DISMISSED, AS WELL AGAINST THE ORDER NO 1891/2021 DATED  
03/05/2021 OF RESPONDENT NO 3, WHEREBY REVISION PETITION  
FILED BY THE APPELLANT WAS DISMISSED AND THE ACT OF  
RESPONDENT NO 4 WHEREBY DEPARTMENTAL APPEAL FILED BY  
THE APPELLANT, DATED 22/07/2022 WAS NOT ENTERTAINED

2

PRAYER

ON ACCEPTANCE OF THE APPEAL THE IMPUGNED ORDERS DATED 16/10/2020 PASSED BY RESPONDENT NO 5 AND ORDER DATED 20/12/2020 PASSED BY RESPONDENT NO 4, AND ORDER DATED 03/05/2021 PASSED BY THE RESPONDENT NO 3 MAY GRACIOUSLY BE SET ASIDE AND APPELLANT, MAY BE REINSTATED TO SERVICE WITH ALL LEGALLY DUE BENEFITS

ANY OTHER RELIEF, WHICH THIS HONORABLE TRIBUNAL MAY DEEM FIT, MAY ALSO BE GRANTED

**Respectfully Submitted**

1. That, after fulfillment of requisite criteria, appellant was appointed as constable in Khyber Pakhtunkhwa Police Force on 03/16/2009. *Copy of Appointment Order is Annexure "A"*.
2. That appellant performed his duty with full devotion and dedication to the entire satisfaction of the immediate bosses.
3. That appellant was involved in false case vide FIR No 53 dated 25/01/2020 of Police Station Umer Zai Charsada, and disciplinary proceedings were initiated against the appellant by the respondent No 5. No charge sheet or statement of allegations were provided to the appellant. No Show Cause Notice was issued to appellant. *Copy of FIR is Annexure "B"*
4. That appellant was dismissed from service by the respondent No 5 vide order dated 16/10/2020. *Copy of the Order is Annexure "C"*.
5. That on 22/10/2020, appellant filed departmental appeal against the order dated 16/10/2020 passed by respondent No 5, to the respondent No 4, on sound and plausible reasons which was dismissed on 26/07/2021 and never conveyed to appellant. *(Copy of Departmental Appeal and Order is Annexure "D" & "E")*.

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6. That appellant filed another appeal to the respondent No 3 against the orders of the respondents No 4 and 5 however; it was also dismissed on 03/05/2021. *Application and Order is Annexure "F" and "G"*
7. That the appellant faced trial in the criminal case and was acquitted from the charges by the learned Additional Sessions Judge/SC Charsada vide order dated 16/07/2022. *Attested copy of the Order is Annexure "H"*
8. That appellant after acquittal from the charges filed another appeal to respondent No 4 on 22/07/2022 which was kept pending and on 16/08/2022 appellant was verbally informed that the respondent will not entertain the appeal dated 22/07/2022 as his earlier appeal has been dismissed. *Copy of Appeal dated 22/07/2022 is Annexure "I"*
9. *That being aggrieved and dissatisfied of the impugned orders passed by the Respondents, appellant is before this Hon'ble Tribunal inter alia on the following grounds:*

**GROUND**

- A. That the so-called disciplinary proceedings are in violation of settled law on the subject as such the impugned order/notification of dismissal of appellant from service by the respondent No 5 is liable to be set-aside.
- B. That impugned order passed by the respondents No 5 is against the law facts and service record of appellant and not tenable.
- C. That appellant throughout his career performed his duties properly and with full dedication to entire satisfaction of his immediate bosses and left no room for any complaint.
- D. That impugned order is, arbitrary and based on malafide besides, discriminatory and as such, is not maintainable.

61

- E. That legal requirements and codal formalities required for imposition of major penalty were not fulfilled, while passing the impugned order/notification as such impugned notification is not tenable.
- F. That appellant has been punished prematurely as the disciplinary proceedings were initiated against the appellant because of registration of crime registered vide FIR No 53 dated 25/01/2022 Under Section (C) CNSA. Appellant has categorically denied his involvement in said crime. More so the appellant has been acquitted from the charges FIR No 53 dated 25/01/2020 of police station Rajar Mardan. Therefore, there is no justification of disciplinary proceedings against the appellant and to impose penalty.
- G. That appellant has been condemned unheard and as such fundamental rights of appellant guaranteed by the Constitution of Islamic Republic of Pakistan have been infringed beside the violation of principles of natural justice.
- H. That penalty imposed is harsh and disproportionate and against the settled principles therefore is not tenable.
- I. That major penalty was imposed on Appellant without fulfillment of codal formalities which is again violation of fundamental rights of **Fair Trail** guaranteed by the Constitution.
- J. That no charge sheet and statement of allegations were provided to appellant. Similarly appellant was not served with showcase notice nor any opportunity of **Personal Hearing** was provided to the appellant during so called disciplinary proceedings and appellant was condemned unheard.
- K. That proper procedure was not adopted by the respondents while passing the impugned orders and as such damaged the career of appellant without any justification.

5

That appellant was treated in accordance with law and as such impugned penalty is not sustainable.

M. That any other ground will be agitated during arguments with the permission of the Court/Tribunal.

IT IS, THEREFORE HUMBL Y PRAYED THAT, ON ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDERS MAY BE SET-ASIDE AND APPELLANT MAY BE INSTATED TO SERVICE WITH ALL BACK BENEFITS.

ANY OTHER RELIEF WHICH THIS HON'BLE TRIBUNAL DEEM FIT, MAY ALSO BE GRANTED.

Kashif Hussain (Appellant)

Through

- Rashid Rauf Swati & Zele Huma Advocates

AFFIDAVIT

Stated on oath that the contents of the appeal are true and correct. nothing has been concealed or misstated.

(Deponent)

CNIC 17104-134823-1

0313 9770694



ENLISTMENT ORDER

Amir A (6)

Mr Kashif Hussain S/O Zahid Hussain R/O Sheikh Abad Rajar  
Distt: Charsadda is hereby appointed as recruit constable (band  
staff) in CCP, Peshawar vide W/PPO order endst: No. 13039/E-II, dated  
21.05.2009 with immediate effect & allotted constabulary No. 3078

Height 5' - 5 3/4"  
Chest 33 1/2" x 35"  
Education 9th  
D/O Birth 13.04.1989

His services is purely on temporary basis, and liable for  
termination at any time without any notice. (Deficiencies condoned by W/PPO)

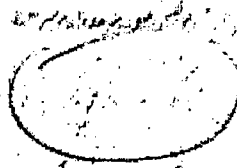
SP/HQrs:  
For Capital City Police Officer,  
Peshawar.

NO. 1724  
dated 3-6-09

Attested

Handwritten text in Urdu script at the bottom of the page.

ابتدائی اطلاعی رپورٹ



7

(تاریخ) ابتدائی اطلاع نمبر 3181/2020-2021 جس میں 154 نمبر ضابطہ عدالتی

ASIX  
تاریخ: چار سید

تاریخ: 25/01/2020

تاریخ اور وقت وقوعہ 25/01/2020 وقت 19:30 بجے

نمبر: 53

|   |  |
|---|--|
| 1 | تاریخ اور وقت رپورٹ 25/01/2020 وقت 19:45 بجے یا سید کی رپورٹ 25/01/2020 وقت 19:30 بجے        |
| 2 | نام و شناخت اطلاع دہندہ: مستغیث: سبحان اللہ خان Asi  |
| 3 | مشترکیت جرم (موردہ) اعمال اگر کچھ لیا گیا ہو: 90 C.NSA Kp برآمدگی جس 950 گرام                |
| 4 | جائے وقوعہ نام و علاقہ: اور دستاویز نمبر: کوہستان ٹورنگی بازار صاحب سبب: 4/5 کلومیٹر از قلعہ |
| 5 | نام و شناخت ملزم: کاشف حسین ولد زاہد حسین ساکن راجہ شاہ آباد 17191-2134825-1                 |
| 6 | کارروائی پر تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہو تو وجہ بیان کرو۔            |
| 7 | تعمیر سے روایتی کی تاریخ اور وقت: بطور پیش رپورٹ: پینل نمبر: ایک                             |

پیرسید کی تحریری مراسلہ مستغیث کو ارسال کیا گیا  
ASIX  
تاریخ: چار سید

ابتدائی رپورٹ نیچے درج کرو

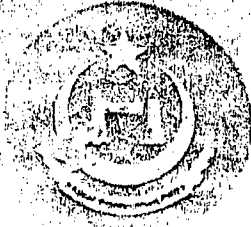
وقت: صدر سبج ایک تحریری مراسلہ منجانب مستغیث خان نمبر 2 سے بدست کانسٹیبل عالم خان 321 موصول ہو کر یہ مضمون ذیل ہے۔ بخدمت جناب SHO صاحب قلعہ عمر زئی کئی دنوں سے عوام الناس کی شکایت تھی کہ ایک جوان عمر لڑکا حدود ترنگزئی میں نشیات از قسم چرس کا کھروہ دھندہ کرتا ہے دوران نشت میں معہ کنسٹیبلان عالم خان 321 عبداللہ 14 علاقہ میں موجود تھے کہ مخبر خاص نے اطلاع دی کہ ایک جوان العمر لڑکا بمقام جائے وقوعہ بالا پر نشیات از قسم چرس کا کھروہ دھندہ میں مصروف ہے اطلاع کو مہمدانہ جان کو زوری ہمراہ فزری پولیس بمقام جائے وقوعہ بالا پر فزری کو ترتیب دیکر نہایت حکمت عملی سے قابو کر کے جس کے ہاتھ میں پکڑی ہوئی شاپنگ بیگ برنگ گلابی میں برآمد کر کے موقع پر بڈر ایڈ ڈیپارٹمنٹ سکیل وزن کرنے سے کل چرس 950 گرام نکل جملہ چرس میں سے

چرس جس بفرش تجزیہ FSL پارسل نمبر 1 بجیکہ بتایا 940 گرام چرس بندہ پارسل نمبر 2 میں سر مہر کر کے پارسلوں کے اندر 1/1 مہر جبکہ پارسلوں پر 3/3 عدد ڈانیر اسی SA مثبت کر کے بروئے فرد تفتیش پولیس میں کے شخص حاضرہ نے بدریافت اپنا نام کاشف حسین ولد زاہد حسین ساکن راجہ شاہ آباد بتلایا کاشف حسین لڑکروں کو سب جرم بالا کایا کہ حسب ضابطہ گرفتار کر کے مراسلہ بعرض قاضی مقدمہ بدست کانسٹیبل عالم خان 321 ارسال تمنا ہے دیا جا کر انوشی گیشن سٹاف کو مامور کیا جاویں۔ دستخط انگریزی سبحان اللہ خان Asi قلعہ عمر زئی صدر سبج

25/01/2020 کارروائی قلعہ آمدہ تحریری مراسلہ طرف سے طرف درج بالا ہو کر پرچہ جرم بالا جاک کیا جا کر نقش FIR

سند جرنی تفتیش حوالہ شعبہ تفتیش کئے جاتے ہیں۔ پرچہ گزارش ہے۔

خان Asi مورخہ 25/01/2020 دستخط انگریزی



OFFICE OF THE  
 SUPERINTENDENT OF POLICE,  
 OPERATIONS,  
 PESHAWAR

8  
 C

August

ORDER

1. Constable Kashif Hussain No. 3078 of CCP Peshawar while posted to Police Lines Peshawar was placed under suspension and proceeded against departmentally vide this office No. 285/JPA dated 17.02.2020 on account of his involvement in criminal case vide FIR No. 53 dated 25.01.2020 u/s 9C-CNSA-KP PS Umer Zai District Charsadda as per information received from SP Investigation, Charsadda vide memo No. 2/PE Inv dated 29.01.2020.

2. Charge sheet along with summary of allegations was issued to him and SDPO Rural was appointed as Enquiry Officer who after conducting a thorough probe into the allegations submitted his findings on 19.09.2020. The EO recommended that the enquiry may be kept pending till the final verdict of the court.

3. On receipt of the findings, Final Show Cause Notice was issued to the delinquent official who submitted his written reply. The same was perused and found unsatisfactory. He was called in OR on 14.10.2020 and heard in person. He was provided ample opportunity to defend himself against the charges. He however, failed to advance any plausible explanation in rebuttal of the charges. Officer Investigation in charge of PS Umerzai and Investigation Officer of case FIR No. 53:2020 u/s 9C-CNSA PS Umerzai were also heard. They reported that the accused took advantage of police uniform and the department and indulged in illegal businesses of narcotics. His act brought bad name to the entire police force. In the circumstances, I am fully convinced that the delinquent official has committed a gross misconduct which is proved beyond any reasonable shadow of doubt. Hence, there is no justification in keeping the departmental enquiry pending. Therefore, I, Mansoor Aman PSP, SSP (Operations) Peshawar, being competent under the law do not agree with the findings of the EO and hereby award Constable Kashif Hussain No. 3077 of CCP Peshawar the major punishment of dismissal of service with immediate effect.

*Attended*

MANSOOR AMAN, PSP  
 Senior Superintendent of Police,  
 Operations, Peshawar

No. 2344-51/JPA dated Peshawar, the 16-10-2020.  
 Copy for information and necessary action to:

1. The Capital City Police Officer, Peshawar.
2. The SP Investigation, Charsadda w/r to his memo quoted above.
3. SDPO, CCP Peshawar.
4. All Lines with the direction to collect government articles, if issued to him.
5. GSI/CRC/FMC (S/W)
6. PO (any government dues to be recovered as per law and procedure)
7. Official concerned.

File-24

حضور صاحب سی سی پی۔ اور صاحب لیبناہ

9

ایپل بر خلاف آرڈر نمبر PA 51-2344 مورخہ  
2020.10.16 از صاحب ایس۔ ایس۔ پی آئی آر  
مطالب لیبناہ

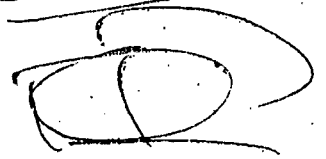
Amman

صاحب عالی اسٹیل حسب ذیل مرض دریاں۔

(1) برکٹیل محکمہ پولیس میں مورخہ 2009.06.03 کو  
حسبیت کسٹیل نمبر 378 کوئی ہوا۔ اور دوران  
سہ کار ایس۔ ٹریفین پوری لڈھی و ایمالڈاری  
سہ انجام دینا رہا

(2) برکٹیل نے ایس۔ مجاز افسران کو بھی لیبناہ کا  
موقع نہیں دیا۔ اس دوران مورخہ 2020.01.25  
میں اسٹیل کینٹلاف برکٹیل لڈھی 30.03.2009  
CNSA - 9C مکانہ ٹریڈی چار سڈہ میں ایس۔ ٹریڈ  
رہتا و شروع کوئی برکٹیل چاکلڈگی کی گئی۔

Attended



(3) لڈھی لڈھی باللا میں ایس۔ ٹریڈ جاری۔ اور لڈھی باللا  
میں اسٹیل کے لڈھی ہونے کے قوی امکانات لڈھی  
ہیں۔

(4) برکٹیل اسٹیل لڈھی لڈھی کے علوہ لڈھی لڈھی

میں ملت نہیں رہا۔ اور کفانہ کار کھارڈ بالکل صاف ہے


15

(5) یہ کہ کفانہ کو بولی کی مدعو ہے جس میں جلسہ عوامی ہسپتال پارٹی کا  
بہت ہوا تھا۔ جو کہ نئے دوران ڈیوٹی دہا ہے  
کو جس سے زخمی ہوا تھا۔ جو کہ کھارڈ پر موجود ہے

(6) یہ کہ نئے کے مالک صاحب عالم کے عارضہ میں مبتلا ہے  
اور نئے اپنے والوں کی بیمار داری کیلئے قرض لیکر ملحق  
کروا رہا ہے

(7) یہ کہ نئے کو وہ مہنگائی کے بعد میں انتہائی تنگی میں  
زندگی گزار رہا ہے۔ کیونکہ آئل کا کوئی دو سڑا ہوا ہے

اللہ اے صاحبان سے ہرگز اہل نڈا  
عالمزبانہ درخواست ہے کہ تمام حالات واقعات کو مد نظر  
رکھتے ہوئے نئے کی معطلی کا وارڈ رٹ ہارڈر ہوا ہے  
اس آڈر کو برطرف کرتے ہوئے نئے کی بجائی کا  
آڈر جاری فرمائیں۔ نئے تا صحت ڈیکورٹ ہو گیا۔

Attested  


نئے  
کا سف حسین (بلاٹ نمبر 3078)  
22-10-20



OFFICE OF THE  
CAPITAL CITY POLICE OFFICER  
PESHAWAR

Phone No. 091-9210989  
Fax No. 091-9212597

ORDER.

Amendment "E"

11

This order will dispose of the departmental appeal preferred by Ex-Constable Kashif Hussain No.3078 who was awarded the major punishment of "Dismissal from Service" by SSP/Operations, Peshawar vide No.2344-51/PA, dated 16-10-2020.

2- The allegations leveled against him were that he while posted at Police Lines Peshawar was proceeded against departmentally on account of his involvement in criminal case vide FIR No.53, dated 25-01-2020 u/s 9C CNSA Police Station Umerzai District Charsadda.

3- He was issued proper Charge Sheet and Summary of Allegations by SSP/Operations Peshawar and DSP/Rural Peshawar was appointed as enquiry officer to scrutinize the conduct of the accused official. The enquiry officer concluded the enquiry and submitted that the alleged official was directly charged in the FIR and recovery of charas 950 gm was also made from his possession but being a member of discipline force his act is highly objectionable. The enquiry officer recommended that the enquiry may be kept pending till the final verdict of the honorable court. The competent authority after receipt of findings of the enquiry officer issued him Final Show Cause Notice to which he replied and found unsatisfactory by the competent authority. Hence was awarded the above major punishment.

4- He was heard in person in O.R. The relevant record along with his explanation perused but the appellant failed to submit any plausible explanation. Therefore his appeal for setting aside the punishment awarded to him by SSP/Operations Peshawar is hereby dismissed/rejected.

(MUHAMMAD ALI KHAN)PSP  
CAPITAL CITY POLICE OFFICER,  
PESHAWAR

No.

1407-12

/PA dated Peshawar the

20-11-2020

Copies for information and n/a to the:-

1. SSP/Operations Peshawar.
2. OASI/CRC/FMC & Pay officer
3. Official concerned.

Attested

Received

15/11/2021

15/11/2021

کفر حہا۔ الیکٹرانکس جنرل آف پولیس حیدرآباد کونواہ لیسٹ

Annexure "F"

12

اپیل بر خلاف آرڈر نمبر - PA 12-1407  
مخبرہ نمبر 2020-11-20 آرڈر نمبر حہا - حہا  
لیٹل سٹی پولیس آفس حہا لیسٹ حہا -  
محمد علی خان (P.S.P)

حہا - مالی

سب سے پہلے دیکھیں کہ کیا

(1) ڈاکٹر کبیر کبیر کبیر نمبر 3078 ڈاکٹر کبیر کبیر  
خدمات سہا اچام دیہا ریا۔ اور اچہ لیسٹ پوری لیسٹ  
سہا اچام دیہا ریا -

(2) ڈاکٹر کبیر کبیر کبیر نمبر 16-10-2020 آرڈر نمبر  
PA/51-2344 لیسٹ لیسٹ لیسٹ لیسٹ  
ڈاکٹر کبیر کبیر کبیر۔ (لعل لعل)

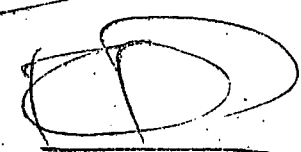
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(3) ڈاکٹر کبیر کبیر کبیر نمبر  
صاحب کو اپیل گزارا۔ مگر لیسٹ لیسٹ لیسٹ  
صاحب نے لیسٹ لیسٹ لیسٹ لیسٹ  
(لعل لعل)

۴) سرکہ پل کو ایک سڑک گھونٹ دیکھیں کہ وہ سے مللا رہے  
سے ہر طرف لگا گیا ہے جس میں ٹرانسپل جو نا اہلی  
باقی ہے۔

۵) یہ کہ پل ایک بال بیم دار آدمی ہے اور وہ وہ مہنگائی  
کے دو میں انتہائی کمپریس کی زندگی گزار رہا ہے

اللہ اے دعا ہے کہ منطوری اپیل ادا  
پل کو ملازمت پر بحال کر دیا حکم صادر فرمائے  
شکوہ نمائش

Attested  


۱۱  
2020  
30

کاٹھن حسین (بالم کسٹیل پلٹ نمبر 3078)





INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
PESHAWAR.

14

No. SI/ 1891 /21, dated Peshawar the 03/05/2021.

ORDER

Amendment "E"

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khy Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Ex-FC Kashif Hussain No. 3078. The petitioner was dismissed from service by Senior Superintendent of Police, Operations, Peshawar vide order No. 2344-51/PA, dated 16.10.2020 on the allegations that he while posted at Police Lines Peshawar was involved in criminal case vide FIR No. 53, dated 25.01.2020 u/s 9C CNSA Police Station Umerzai dist Charsadda. His appeal was rejected by Capital City Police Officer, Peshawar vide order Endst: No. 14 12/PA, dated 20.11.2020.

Meeting of Appellate Board was held on 13.04.2021 wherein petitioner was heard in person. Petitioner denied the allegations leveled against him.

The petitioner was heard and all record perused. His case is under trial in the court. Board see no ground and reasons for acceptance of his petition, therefore, the Board decided that petition is hereby rejected.

Sd/-

**KASHIF ALAM, PSP**

Additional Inspector General of Police,  
HQrs: Khyber Pakhtunkhwa, Peshawar.

No. SI/ 1872-99 /21,

Copy of the above is forwarded to the:

1. Capital City Police Officer, Peshawar. One Service Roll and one Fauji Missal and one enq file of the above named Ex-FC received vide your office Memo: No. 22369/CRC, dated 30.12.2020 is returned herewith for your office record.
2. Senior Superintendent of Police, Operations, Peshawar.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

*Attended*

(IRFAN ULLAH KHAN) PSP  
AIG/Establishment.

For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.

یوزر لوگ انٹرنیٹ سروس پر بلا فائلنگ کے ساتھ درخواستیں جمع کروانے کے لیے  
لیٹل عالم خان 321 ارسال خدمات سے سرجہ رہا جانے والی تین سٹاف کو فوری طور پر  
رہنما انٹرنیٹ سروس پر بلا فائلنگ کے ساتھ درخواستیں جمع کروانے کے لیے  
25 کارروائی کے لیے آئندہ کمریوں پر  
2020

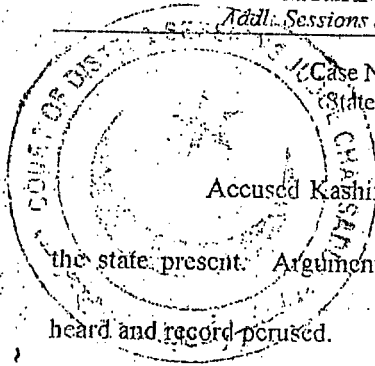
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In The Court Of  
**MUHAMMAD ZAHOOR**  
Addl. Sessions Judge-I/ISC, Charsadda

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**ORDER**  
16.07.2022



Case No. 34/20 CNSA  
State...Vs...Kashif

Accused Kashif Hussain on bail present. Sr.P.P for the state present. Arguments on application u/s 265-K Cr.P.C heard and record perused.

Allegations against the accused facing trial are that on 25.01.2020, he was found in possession of contraband charrs weighing 950 grams, thus leading to his arrest and registration of FIR.

In due course, after completion of investigation, challan was put in the Court and the formal charge was framed on 13.07.2020 to which he, however, pleaded not guilty and claimed trial. Since then, statements of four PWs have been recorded. As despite opportunities having been granted, the prosecution could not have concluded its evidence, hence, the Court feels constrained to infer that the prosecution does not have the required standard of evidence so that it could prove the charge against the accused.

I have considered the arguments of the learned counsel for the accused and Sr.P.P for the state and have benefited from the case laws relied upon by the counsel for the accused/petitioner while the record has carefully scanned as well.



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20 JUL 2022

Examiner  
Criminal Agency Branch  
Courts of Sessions, District Charsadda



According to the judgments of superior Courts, in cases of narcotics, prosecution has to establish and prove the following facts:

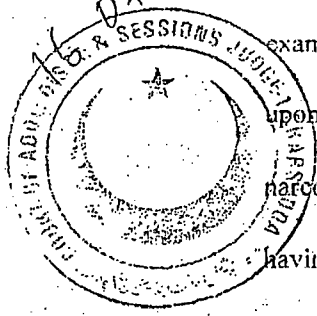
16

1. Alleged recovery of narcotics;
2. Taking samples from each slabs;
3. Safe custody of narcotics and its safe transmission to FSL;
4. Neutral and transparent investigation;

While taking stock of the available stuff and particularly that of PW-3 Subhan Ullah Khan ASI (complainant) and PW-4 Alam Khan FC No.321 (marginal witness), a clear cut redeeming circumstance is forthcoming in favour of the accused/petitioner.

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In order to prove the case of prosecution, complainant of the case namely Subhan Ullah Khan ASI appeared in the witness box and recorded his statement as PW-3. In examination in chief the complainant of the case deposed that upon receiving information that a young boy was busy in selling narcotics, they came to the spot where they found a young boy having a red shopping bag in his hand which was taken into possession and upon checking charas were recovered weighing through digital scale, the same came out 950 grams from which 10 grams were separated for FSL analysis while the remaining



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 20.5.12.2012  
 Special Agency  
 ...

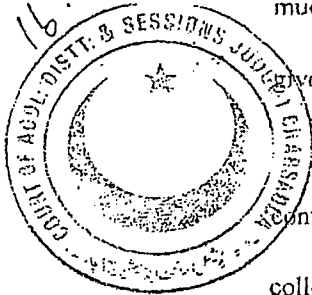
quantity was sealed into parcel No.2 Ex P-1. In cross examination the complainant admitted that the recovered contraband were available in a pink shopper while he do not know the number of pouches of the contraband available in the said shopper. Similarly, complainant further admitted in clear terms that he has only separated 10 grams from only one pouch. It was also disclosed in the cross examination by the complainant of the case that at the time when the I.O came to the spot, he was at that time in police station.

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The important redeeming features of the case is that during the cross examination of the complainant, the leaned defense counsel requested to de-seal the parcel of the alleged contraband, which was allowed accordingly and when the same was de-sealed in the open Court in the presence of St.P.P for the state, it was found that instead of alleged contraband, pieces of mud came out about which the complainant has been failed to give plausible explanation.

16.07.22



As stated above, that numbers of pouches of the contraband were available in the parcel and the samples were collected through collection of one pouch. This was a complete departure of the witness from the case of prosecution and this Court observed it that it cannot be ignored that the witness has joined hands with accused or the case is false one. Complainant

Attested

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20 JUL 2022

Executive Magistrate  
 Charsadda

affirms that he had separated 10 grams from only one pouch despite of the fact that numbers of pouches of the contraband were available at the time of recovery.

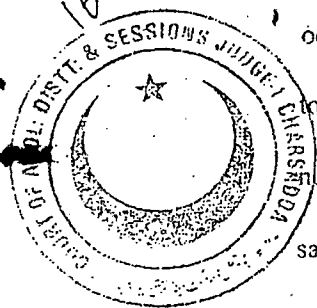
Since, it is a fake case planted upon the accused having mud in the parcel sealed at the recovery, the sample whereof is though been reported positive by the FSL but it makes the whole system objectionable on one hand and makes the petitioner/accused entitled to acquittal on the other.

The given expression of the said witness strikes a death blow to the prosecution case and outrightly suggests that the case is not fit for onward adjudication. The available position of the record forthrightly alludes that further adjudication in the case will be nothing short of grouping in the dark. The bird eye of the record especially of the FIR and FSL report further reveals that the occurrence took place on 25/01/2020 while the samples were sent to FSL on 27/01/2020 after delay of 02 days. However, there is nothing on the record whatsoever that with whom the seized samples were lying and whether the same is in a safe custody till it reached to the FSL. Under Rule-5 (iii) of the Control of Narcotics Substances (Government analyst) Rule-2001, all samples shall be passed to the analyst on the same day who will then kept the same in a safe custody and will examined and record it weight in the test memorandum. He will compared the marking

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ib 07.22



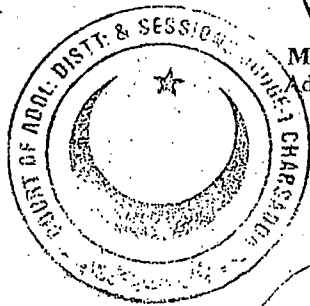
Attested  
[Signature]

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20 JUL 2022  
Examination  
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on the test memorandum with the markings of packing envelopes and with ensure the test of the relevant samples and in no case the analysis of a narcotics drugs be delayed. The rules mentioned hereinabove cannot be blatantly flouted and substantial compliance with the rules must be insisted upon so that the physical evidence in such like case remained intact. Reliance in this regard has been placed in the dictum of august Supreme Court 2019 SCMR 608. Thus, the likelihood of the acquittal of the accused by the dint of the available record seems a writing on the wall. The accused/petitioner is thereby found entitled to the statutory benefit of Section-265-K Cr.P. and hence acquitted. Accused is on bail, his bail bonds stand cancelled, and sureties discharged. Case properly be dealt with in accordance with law after lapse of period of appeal/revision.

File be consigned to the Record Room after necessary completion and compilation.

Announced  
16.07.2022



**MUHAMMAD ZAHOOR**  
Additional Sessions Judge-I,  
Charsadda

16.07.22

20 JUL 2022

Examiner  
Copying Agency Branch  
Court of Dist & Sessions Judge,  
Charsadda

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19

BEFORE THE COURT OF SESSIONS JUDGE/JUDGE SPECIAL COURT, CHARSADDA

CHARGE

The State . . . . . VERSUS . . . . . Kashif Hussain

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I, Azhar Ali, Sessions Judge/Judge Special Court, Charsadda, do hereby charge you accused namely Kashif Hussain S/O Zahid Hussain aged about 31/32 years R/O Sheikh Abad Rajar Tehsil and District Charsadda, as under:

That you the accused named above on 25.01.2020 at 19:30 hours in village Khat Koroon near Turangzai Bazar situated within the criminal jurisdiction of P.S, Umarzai were found in possession of charas weighing 950 grams and you thereby committed an offence punishable u/s 9(c) KP CNSA, 2019 and within the cognizance of this Court.

And I hereby direct that you be tried on the aforesaid charge by this Court.

Date: 13.07.2020.

2

(Azhar Ali)  
Sessions Judge/Judge Special Court,  
Charsadda.

Note:

The charge has been read over and explained to the accused.

Q: Have you heard and understood the charge?

A: Yes.

Q: Do you plead guilty or claim trial?

A: No. I do not plead guilty and claim trial.

Date: 13.07.2020.

Certified u/s 364 Cr.P.C.

Accused-Kashif Hussain.

Sessions Judge/Judge Special Court,  
Charsadda. 13/07/2020

COPIED  
EXHIBIT  
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20 JUL 2020

Copying Agency Branch  
Courts of Dist & Sessions Judge,  
Charsadda

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Attended

20/7/20

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بمختصر اچناب سی سی پی او صاحب پشاور

محکمہ اہیل

Annex

I

جناب عالی!

اہیل کنندہ / سائل حسب ذیل عرض رساں ہے۔

1. یہ کہ اہیل کنندہ محکمہ پولیس میں بطور کنسٹیبل اپنے فرائض سرانجام دے رہا تھا کہ اسی دوران اہیل کنندہ پر ایک جھوٹا FIR نمبر 53 مورخہ 25/01/2020، زیر دفعہ 9C CNSA، پولیس سٹیشن عمر زئی درج کیا گیا۔

(FIR کی کاپی لف ہے)

2. یہ کہ اسی FIR میں مورخہ 03/05/2021 کو اہیل کنندہ کو درخواست کیا گیا۔

(ارڈر لف ہے)

3. یہ کہ اہیل کنندہ ناکردہ گناہ میں نہ صرف نوکری سے میر خاست ہوا بلکہ عدالتوں کے چکر لگاتا رہا اور عدالت ASI-I چار سہ نے نہ صرف مورخہ 16/07/2022 کو اہیل کنندہ کو الزام سے بری کیا بلکہ دوران مقدمہ عدالت نے اہیل کنندہ کے خلاف دالے گئے پارسل کو کھولتے ہوئے اپنے OBSERVATION بہ موجودگی مدعی دسرکاری وکیل یہ تسلیم کیا کہ متعلقہ پارسل میں خشک کیچڑ (مٹی) تھی اور کوئی چرس نہیں تھا۔

(عدالتی فیصلہ لف ہے)

4. یہ کہ چونکہ عدالتی فیصلہ کے بعد یہ صاف ظاہر ہے کہ اہیل کنندہ کو بے گناہ ہوتے ہوئے بدعتی سے پھنسا یا گیا تھا۔

لہذا استدعا ہے کہ بمنظوری درخواست اہیل کنندہ / سائل کو اپنی

نوکری پر بحال کرتے ہوئے تمام BANK BENEFITS دینے

کا حکم صادر فرمائی جاوے

المرقوم: 22/07/2022

Attested  
عبدالحق حسین

کاشف حسین ولد زاہد حسین سکنہ چار سہ، رجز، شیخ آباد

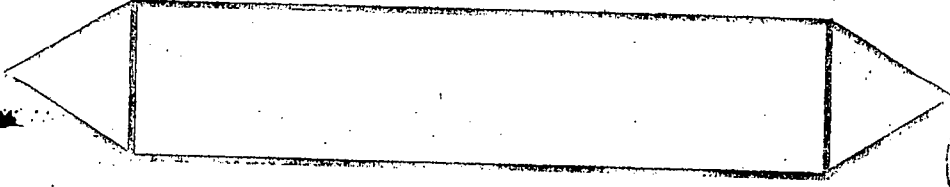
پلٹ نمبر: FC NO: 3078

شناختی کارڈ: 1-134825-1-171-01

موبائل نمبر: 0313-9770694



Khyber Pakhtunkhwa Service Tribunal  
پنجاب بھارت



22

2022ء پنجاب

نام

Service Appeal

مورخہ

مقدمہ

دعویٰ

چم

RC - 10 - 3017

باعتبار تحریر آنکے  
2222 - 8 - 33

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے ق تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برابری

اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا محتاج ہوگا۔ از بصورت ضرورت

مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے

تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ تذکرہ با اختیار حاصل ہوں گے

اور اس کا ساختہ پر داخستہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ ہوں گے

سب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔

کہ پیروی نہ کور کریں۔ لہذا کالت نامہ لکھ دیا کہ سندر ہے۔

2022ء

ماہ

المرقوم 10

الحمد لله والحمد لله

کے لئے منظور ہے

مقام