

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

SERVICE APPEAL NO. 446/2018.

Date of institution ... 03.04.2018

Date of judgment ... 22.11.2018

Irshad Khan ASI S/o Bahadar Sher
R/o Village Marghuz District Swabi presently at Police Station Nowshera Kalan

... (Appellant)

VERSUS

1. District Police Officer Nowshera.
2. Deputy Inspector General of Police Mardan Region-I Mardan.
3. Regional Police Officer Mardan.
4. Assistant Superintendent Police Circle Cantt Nowshera.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 13.02.2018 WHEREBY THE APPELLANT HAS BEEN AWARDED MAJOR PUNISHMENT OF REDUCTION IN RANK (SUBSTANTIVE RANK OF SI TO ASI) AGAINST WHICH THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED BY THE RESPONDENT NO. 3 ON 13.03.2018 ON NO GOOD GROUNDS.

Miss. Roeeda Khan, Advocate.

.. For appellant.

Mr. Muhammad Jan, Deputy District Attorney

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. AHMAD HASSAN

.. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Appellant with

counsel present. Mr. Muhammad Jan, Deputy District Attorney alongwith Mr.

Muhammad Fayaz, Head Constable for the respondents also 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 as Sub-Inspector, he was imposed

major penalty of reduction in rank from S.I to ASI with immediate effect by the competent authority vide order dated 13.02.2018 on the allegation that he was in league with the criminals of the area and provide them undue favour. The appellant filed departmental appeal (undated) which was decided and modified by reverting the appellant from his substantive rank of ASI to Head Constable and list-D with immediate effect vide order dated 13.03.2018 and thereafter the appellant filed the present service appeal on 03.04.2018.

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

4. Learned counsel for the appellant contended that the appellant was serving in Police Department as Sub-Inspector. It was further contended that the appellant was imposed aforesaid major penalty on the aforesaid allegation of having in league with the criminals of the area and provide them undue favour. It was further contended that inquiry was initiated and the inquiry officer found the appellant guilty on the basis of photos received to the inquiry officer. It was further contended that neither there is any direct evidence regarding his involvement in criminal cases nor the inquiry officer has recorded any statement during the inquiry proceedings against the appellant. It was further contended that the official respondents also ~~did~~ ^{could} not produce the said photos despite the direction in the previous order sheet to the respondents to produce the said photos. It was further contended that in case if there is any photos of the appellant shown with the private persons the same does not shows that the private persons were involved in any offence. It was further contended that neither inquiry report was handed over to the appellant with the show-cause notice nor the appellant was associated by the inquiry officer in inquiry proceedings nor provided him opportunity of personal hearing and


M. Anwar
22.11.2018


defence therefore, the impugned order is illegal and liable to be set-aside and prayed for dismissal of appeal.

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 was serving in Police Department and was having in league with the criminals therefore, departmental proceedings was initiated against him and the inquiry officer found the appellant guilty therefore, on the basis of inquiry report the competent authority has rightly imposed major penalty and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant was serving in Police Department as Sub-Inspector, departmental proceedings was initiated against the appellant on the charge that he was having in league with the criminals of the area and provide them undue favour but neither there is any evidence in this regard in the shape of any document that the appellant was having in league with the criminals of the area and provide them undue favour nor the inquiry officer has recorded statement of any witness in this regard. The record further reveals that the inquiry officer based his opinion that some photos was received to him but in the previous order sheet the respondent-department was directed to produce the same but they ^{could not} did not produce the said photos before the Tribunal, therefore, the impugned order passed on the basis of said inquiry report is illegal and liable to be set-aside. As such, we accept the appeal and set-aside the impugned orders. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
22.11.2018


(AHMAD HASSAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER


22.11.2018

Appellant with counsel present. Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Muhammad Fayaz, Head Constable for the respondents also present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of three pages placed on file, we accept the appeal and set-aside the impugned orders. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

22.11.2018


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER


(AHMAD HASSAN)
MEMBER


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Service Appeal No. 446/2018

20.08.2018


Learned counsel for the appellant and Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for rejoinder and arguments on 11.10.2018 before D.B

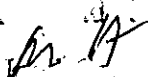

(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

11.10.2018

Counsel for the appellant present. Mr. Fayaz, H.C alongwith Mr. Muhammad Jan, DDA for respondents present. During the course of arguments learned DDA argued that ~~charges of~~ allegations were proved against the appellant in the enquiry report with the help of photographs provided to the enquiry officer. Respondents are directed to produce the photographs on or before the next date of hearing. Case to come up for such record and arguments on 22.11.2018 before D.B.


(Ahmad Hassan)


(M. Amin Khan Kundi)

16.04.2018

Counsel for the appellant present. Preliminary arguments heard and case file perused. Learned counsel for the appellant argued that on the charges of misconduct disciplinary proceedings were initiated against him and upon conclusion major penalty of reduction in rank from S.I to ASI was imposed on him vide impugned order dated 13.02.2018. He filed an undated departmental appeal, which was rejected on 13.03.2018, hence, the instant service appeal. Codal formalities were not observed before imposition of said penalty and as such, he was condemned unheard.


Points urged need consideration. Admit, subject to limitation. The 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 06.06.2018 before S.B.

Appellant Deposited
Security Process Fee


(AHMAD HASSAN)
MEMBER


06.06.2018


Counsel for the appellant and Addl: AG alongwith Mr. Fayaz Khan, H.C for the respondents present. Written reply submitted. To come up for rejoinder and arguments on **29.06.2018** before D.B


Member

29.06.2018

Appellant with counsel and Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned counsel for the appellant seeks adjournment to furnish rejoinder. Adjourned. To come up for rejoinder and arguments on 20.08.2018 before D.B.




(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

Form-A
FORM OF ORDERSHEET

Court of _____

Case No. 446/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	03/04/2018	<p>The appeal of Mr. Irshad Khan presented today by Roeeda Khan Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR 3/4/18</p>
2	04/04/18	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>16/04/18</u>.</p> <p style="text-align: right;"> MEMBER</p>

BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR

In Re S.A 446 /2018

Irshad Khan

Versus

District Police Officer Nowshera and others

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5	Copy of reply of charge sheet	"C"	12
6	Copy of final show cause notice and reply.	"D", "E"	13, 14
7	Copy of Impugned order	"F"	15
8	Copy of Departmental appeal and rejection order	"G", "H"	16, 17, 18
9	Copy of Roznamcha report	"I"	19
10	Wakalatnama		

Dated: 03/04/2018


Appellant

Through


Rozeeda Khan


Afshan Manzoor
Advocates High Court
Peshawar.

BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

In Re S.A 446 /2018

Diary No. 478

Dated 3-4-2018

Irshad Khan A.S.I. s/o Bahadar Sher R/o Village Marghuz
District Swabi presently at Police Station Nowshera Kalan .

-----(*Appellant*)

VERSUS

1. District Police Officer Nowshera.
2. Deputy Inspector General of Police Mardan Region-1
Mardan.
3. Regional Police officer Mardan.
4. Assistant Superintendent Police Circle Cantt
Nowshera.

-----(*Respondents*).

APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT
1974 AGAINST THE ORDER DATED 13-02-
2018 WHERE BY THE APPELLANT HAS
BEEN AWARDED MAJOR PUNISHMENT OF
REDUCTION IN RANK (SUBSTANTIVE
RANK OF SI TO ASI) AGAINST WHICH THE
DEPARTMENTAL APPEAL OF THE
APPELLANT HAS BEEN REJECTED BY THE
RESPONDENT NO. 3 ON DATED 13/03/2018
ON NO GOOD GROUNDS.

Filed to-day
Registrar
3/4/18

Prayer:-

ON ACCEPTANCE OF THIS APPEAL
BOTH THE IMPUGNED ORDER DATED
13/02/18 AND 13/03/2018 MAY KINDLY
BE SET ASIDE AND THE APPELLANT
MAY KINDLY BE REINSTATED AS SUB
INSPECTOR WITH ALL BACK
BENEFITS.

Respectfully Sheweth:-

1. That the appellant has been serving in Police department for the last 27 year and performed has duty with full devotion and no complaint what so ever has been made against the appellant.
2. That on 25/01/2018 the respondent has been issued a charge sheet and statement of allegation against the appellants. (Copy of charge sheet and statement of allegation is attached)

3. That the appellant submitted reply of the said charge sheet whereby the appellant denied all the allegation level against him. **(Copy of reply is attached**

4. That on **31/01/2018** a final show cause notice has been issued against the appellant by the Respondent which is properly replied by the appellant on dated **06/01/2018** where the appellant denied and the allegation level against him. **(Copy of show cause notice and reply are attached**

5. That on **13/02/2018** the Respondent department issued the impugned order against the appellant whereby the appellant has been awarded major punishment of reduction in rank of SI to ASI without conducting regular inquiry. **(Copy of impugned order is attached**

6. That the appellant filed Departmental appeal against the impugned order dated **13/02/2018**

which has been rejected on dated **13/03/2018** by the Respondent department on no good grounds and also removal from list E. **(Copy of appeal and rejection order are attached**

7. That the order is liable to be set aside inter alia on the following grounds.

Grounds:

A. That the impugned order is illegal, void and being passed in utter violation of law and rules on the subject.

B. That the appellant has not been treated according to law and mandatory provisions of law have been violated by the Respondents and the appellant was unaware regarding the such stance because the appellant was present at Peshawar in connection within Investigation of daily diary report in case U/S 379 dated 01/02/2018 FIR No. 80 Police

Station, Pabbi at the relevant time (copy of Roznamcha is attached .

- C. That no inquiry has been conducted into the matter to find out the true facts and circumstances and prove the allegations leveled against the appellant, and there is also not mention in final show cause notice regarding the conducted of the inquiry.
- D. That right of fair trial has not been provided as per article 10-A of the constitution.
- E. That no statement or cross examination of witness has been recorded by the enquiry officer as well as there is no proving regarding the allegation leveled against the appellant with Respondent department.
- F. That ex-parte action has been taken against the appellant, thus the impugned order is void and the appellant has been condemned unheard.

G. That the appellant seeks permission of this Hon'ble Tribunal for further additional grounds at the time of arguments.

H. That the allegation are general in nature and not specific.

It is, therefore, most humbly prayed that on acceptance of the instant Appeal the impugned order, dated 13-02-2018 may kindly be set aside and the Respondent may kindly be directed to conversion of rank for lower to higher (as prayed for).

Any other relief not specifically asked for may also graciously be extended in favour of the appellant in the circumstances of the case.

Dated: 03/04/2018


Appellant

Through


Roeeda Khan


Afshan Manzoor

Advocates High Court
Peshawar.

NOTE:-

No such like appeal for the same appellant, upon the same subject matter has earlier been filed by me, prior to the instant one, before this Hon'ble Tribunal.

Advocate.

BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR

In Re S.A _____/2018

Irshad Khan

Versus

District Police Officer Nowshera and others

AFFIDAVIT

I, Irshad Khan A.S.I. s/o Bahadar Sher R/o Village Marghuz District Swabi presently at Police Station Nowshera Kalan, do hereby solemnly affirm and declare that all the contents of the accompanied appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Tribunal.


DEPONENT

Identified By:


Rozeeda Khan

Advocate High Court
Peshawar.

BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR

In Re S.A _____/2018

Irshad Khan

Versus

District Police Officer Nowshera and others

ADDRESSES OF PARTIES

APPELLANT.

Irshad Khan A.S.I. s/o Bahadar Sher R/o Village Marghuz
District Swabi presently at Police Station Nowshera Kalan.


RESPONDENTS:

1. District Police Officer Nowshera.
2. Deputy Inspector General of Police Mardan Region-1
Mardan.
3. Regional Police officer Mardan.
4. Assistant Superintendent Police Circle Cantt Nowshera.

Dated: 03/04/2018


Appellant

Through


Roeda Khan
(A) &
Afshan Manzoor
Advocates High Court
Peshawar.

"A" (10)
(8)

[Handwritten Signature]

CHARGE SHEET

1. I, **QASIM ALI, PSP** District Police Officer, Nowshera, as competent authority, hereby charge **SI Irshad Khan** as per Statement of Allegations enclosed.

2. By reasons of above, you appear to be guilty of misconduct under Police Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in Police Rules, 1975.

3. You are, therefore, required to submit your written defense within **03 days** of the receipt of this Charge Sheet to the Enquiry Officer, as the case may be.

4. Your written defense, if any should reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall follow against you.

5. Intimate whether you desire to be heard in persons.

[Handwritten Signature]
District Police Officer,
Nowshera.

Attested
Shahid Muneer Khan
Advocate High Court
District Courts Nowshera

جناب عالی!

حوالہ مشمولہ چارج شیٹ نمبر ۵۵-۲۸ جاری دفتر جناب ڈپٹی ایچ جی

25-01-018

نوشترہ مہربانی خدمت میں کہ من ای پر علاقہ کے جہلم پوسٹہ افراد کے ساتھ
اور انہیں "بائزر فرائڈ ریپیمانے" کا الزام عائد کیا گیا ہے۔

اندریں بارہ گزارش ہے کہ من سائل نے ایس کے ایس کے
حکومت کے خلاف نہیں کیا ہے۔ اور ایک جتنے ہی سرکاری اور غیر
مقامات پر خوف پڑے ہیں۔ ان پر نہ تو انہیں بالذکر طرف سے جان بوجھ کر
کیا گیا ہے اور نہ ہی فریقین متدہ کی جانب سے کیا گیا ہے۔
اٹھایا گیا ہے۔ یہ خلاف مائد کردہ الزام میں کوئی صداقت نہیں ہے۔
یہ کہ یہ خلاف جاری کردہ چارج شیٹ کو بغیر کسی فرد کاروں داخل دفتر فرمایا

میں نوٹ کر رہا

ارشاد خان ایڈووکیٹ
تھانہ ڈسٹرکٹ
نوشترہ

attested
Shahid Muneer Khan
Advocate High Court
District Courts Nowshera

(D) 13 5 8A A

FINAL SHOW CAUSE NOTICE

Whereas, you **SI Irshad Khan**, while posted at Inv: Wing PS, Akbarpura. Reportedly, you have close link with criminals of the area and provided undue favor to accused. On account of which, you were proceeded against departmentally through Mr. Avais Shafiq ASP Cantt: Nowshera, who after full filling necessary process, submitted his report to undersigned wherein he suggested you for Major Punishment.

Therefore, it is proposed to impose Major/Minor penalty including dismissal as envisaged under Rules 4(b) of the Khyber Pakhtunkhwa Police Rules 1975.

Hence, I, **Qasim Ali, PSP, District Police Officer Nowshera**, in exercise of the powers vested in me under Rules 5(3) (a) & (b) of the Khyber Pakhtunkhwa Police Rules 1975, call upon you to Show Cause finally as to why the proposed punishment should not be awarded to you.

Your reply shall reach this office within 07 days of the receipt of this notice, failing which; it will be presumed that you have no defense to offer.

You are at liberty to appear for personal hearing before the undersigned.


**District Police Officer,
Nowshera.**

No. 50 /PA,

Dated 3/11 /2018.

Attested
Shahid Muneer Khan
Advocate High Court
District Courts, Nowshera

خبا بیلہ 10

سجہا (ص) مائنز شو کا رزلٹوں کی فہرست 50/PA کی صورت میں
 31-1-018
 کہ (قبیل) ازیں بہن من ازی نے جاری کردہ چارج ٹیبلٹ کے سلسلے میں
 فہرست کی طور پر اپنی مہتممی نہیں رکھنا چاہوں۔ نہ تو نہ تو نہ تو نہ تو نہ تو نہ تو
 میں (بہن) کے حوالے سے درجہ اولیٰ کار سہ کار کیا ہے خوش اسلوبی اور مہتممی
 ایسا نہ لاری سے دے رہا ہوں۔ اور اس کا سہ کار اور اس کا سہ کار سہ کار
 سے نا پسندیدگی کا اظہار نہیں ہوا ہے۔ اور نہ ہی اس کے خلاف
 کوئی قسم کا عوامی بیجا شکایت موجود نہیں ہے۔ چارج ٹیبلٹ کے سلسلے
 میں رزلٹوں اور اس کے بعد عمر پر ہی بیان حاصل کیا ہے۔ نہ ہی اس کے خلاف
 کسی اور ادارہ اور انجمن میں ذرا سے بھی وہاں جھینڈا ہوا ہے
 نسبت سے اس کو آگاہ کیا ہے۔ اس میں صورت میں تو اس کی نسبت سے
 اپنی مہتممی میں ذرا سا اشتہار کرنا چاہوں۔
 اس میں کوئی بھی ایسے گزارشات کو سرفہرست قبول نہ کیا جائے
 اور عاریتاً وہ شو کا رزلٹوں میں کسی فرد کا رزلٹ داخل نہ ہو جائے
 کا حکم صادر فرمائیں تاکہ دعا گور ہو جائے۔

شاہد منیر خان
 51/10/PS/PA
 06-02-018

Shahid Muneer Khan
 Advocate High Court
 District Courts Nowshera

REVERSION ORDER

This order will dispose off a departmental enquiry initiated under Khyber Pakhtunkhwa Police Rules, 1975 against SI Irshad Khan, while posted at Investigation Wing Police Station, Akbarpura, now PS, Pabbi. Reportedly, he is in league with criminals of the area and providing undue favor to accused.

On account of which, he was proceeded against departmentally through Mr. Avais Shafiq, ASP Cantt: Nowshera, who after fulfillment of legal formalities, submitted his report to undersigned vide his office Endst: No.62/St: dated 30.01.2018, wherein SI Irshad Khan was held responsible for misconduct and suggested him for major punishment.

He was heard in Orderly Room held in this office on 13.02.2018 wherein he failed to satisfy the undersigned, therefore, SI Irshad Khan is hereby awarded Major punishment of reduction in rank (substantive rank of SI to ASI) with immediate effect, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules-1975.

OB No. 204

Dated 13/02/2018

[Signature]
District Police Officer,
Nowshera

No. 943-44 /PA, dated Nowshera, the 13/02 /2018.

Copy for information and necessary action to the:-

1. Deputy Inspector General of Police, Mardan Region-I, Mardan.
2. SP Investigation, Nowshera.
3. FMC

[Signature]
Shahid Muneer Khan
Advocate High Court,
District Courts Nowshera

To: - Deputy Inspector General of Police,
Mardan Region-I Mardan.

Through: Proper Channel

Subject: - APPEAL

Respected Sir,

With due respect I beg to submit that I have been awarded a Major Punishment (Reduction in rank of ASI) by the District Police Officer Nowshera, vide OB No.204 dated 13-02-2018 for the allegation (reportedly in league with criminals of the area and provide undue favor to accused during posting as OI PS Akbarpura).

Therefore, I am going to submit the present Appeal against the above cited order on the following grounds/justifications for favorable and sympathetic consideration:-

1. I was issued a Charge Sheet in response to which I have submitted a well convincing reply that during my posting as OI PS Akbarpura, I have tried my best to perform my duties according to the rules/laws and in a well disciplined manner so that the image of the department may not be stigmatized. I have conducted investigation of all the cases entrusted to me impartially, without any favor of accused parties and to extend justice to all. In addition to above it is worth to be mentioned here that there is neither a single complaint against me like above cited allegation nor any other kind of complaint against me during my posting as OI PS Akbarpura, as well as during my posting in all the Police Stations of Swabi District and as SHO PS Akbarpura, ASHO Police Station Pabbi and ASHO PS Nowshera Cantt in Nowshera District, but it was not paid due consideration.
2. I was issued final Show Cause Notice, in response to which I have submitted a well convincing reply but it was also not entertained.
3. I also appeared in OR and tried to convince my Officer but with no due consideration.
4. The allegations leveled against me were not proved against me and I was awarded the above cited punishment.
5. I have been serving in the department for the last 24 years.
6. I have been performing my duties up to the entire satisfaction of my superiors, as against no complaint of any kind against me has been received during my whole/long service, but it was not taken into consideration while issuing the order of punishment.
7. There is also no punishment at my discredit.

Shahid Muneer Khan
Shahid Muneer Khan
Advocate High Court
District Courts Nowshera

8. The enquiry proceedings were not conducted according to the rules and I was not given opportunity to appear before the E.O. which is contrary to the rules.

9. The gravity of the charge was not so severe while the punishment awarded is too harsh and severe due to which I have been put to great financial loss and my service career has also been damaged, for having no fault on my part.

10. As regard photographs taken by SHO, it is pertinent to mention here that it carries no weight/footing and may be based on personal grudges/melafide intension/ulterior motives and there is no melafide intension involved in the matter, however, I may be permitted to appear before your good self to convince your kind honor orally.

Therefore, I approach your good self to kindly consider/accept my Appeal and the order of punishment awarded by the DPO Nowshera vide OB No.206 dated 13-02-2018 may kindly be withdrawn, so that my service career may not be damaged.

I shall be highly obliged and will pray for your long life and prosperity for this act of kindness.

Yours Obediently

(IRSHAD KHAN)

ASI PS PABBI
DISTRICT NOWSHERA

attested
Shahid Muneer Khan
Advocate High Court
District Courts Nowshera

II (18) (12) (9)

ORDER.

This order will dispose of the appeal preferred by ASI Irshad Khan of Nowshera District Police against the order of District Police Officer, Nowshera, whereby he was awarded Major Punishment of Reduction in rank from Substantive rank of SI to ASI vide OB: No. 204 dated 13.02.2018.

Brief facts of the case are that the appellant while posted at Investigation Police Station Akbarpura. Reportedly he was in league with criminals of the area and provide undue favor to accused. Consequently he was proceeded against departmentally through Mr. Avais Shafiq ASP Cantt: Nowshera. The Enquiry Officer after fulfillment of proper departmental enquiry submitted his report to District Police Officer, Nowshera wherein the allegations against appellant were proved and was held responsible for the misconduct and recommended him for Major Punishment. He was heard in Orderly Room on 13.02.2018 by the District Police Officer, Nowshera but he failed to satisfy the District Police Officer, Nowshera therefore awarded Major Punishment of reduction from substantive rank of SI to ASI.

He was called in orderly room held in this office on 07.03.2018 and heard him in person, but he did not produce any substantial evidence about his innocence. According to this office record the appellant is still Officiating Sub Inspector Therefore in exercise of the appellate powers conferred upon me under Khyber Pakhtunkhwa Disciplinary Rules 1975 the order of District Police Officer, Nowshera is hereby modified to the extent of Reduction in rank from his substantive rank of ASI to Head Constable List "D".

ORDER ANNOUNCED.

(Muhammad Alam Shinwari)PSP
Regional Police Officer,
Mardan

No. 1503 /ES, Dated Mardan the 13/03 /2018.

Copy to District Police Officer, Nowshera for information and necessary action w/r to his office Memo: No. 1227/PA dated 26.02.2018. The Service Record is returned herewith.

(*****)
P. H. M. /
PO-EC. N.H.C. OBC. F.M.E.
FOR necessary action.

M. P.P.O. N.S.R.
13/3/18.

OB NO 332
16-3-18
H 15-3-2018

Shahid Muneer Khan
Advocate High Court
District Courts Nowshera

"I" (19) (4) (10) F

نقلہ 10 روزانہ 13²/₁₈ صلح نوٹس

رد 10 روانگی ارشد خان کا وقت 09:00 صبح 13²/₁₈ سے صبح
 نفی نوٹس لکھی گئی ہے مقدمہ نمبر 8 صبح 28¹/₁₈ بجے 379 نمبر ہے
 لکھی گئی ہے ڈیٹس وگرتاری طرمان زمان علاقہ لکھی گئی ہے

صا عالی!

نقل بہ مطابق اصل

mmc



mmc - Pabbi
13-2-18

نقلہ 28 روزانہ 13²/₁₈ صلح نوٹس

ارشد خان کا وقت 23:30 صبح 13²/₁₈ سے صبح ہوا ہے
 رفتہ بہ ہوا عدالہ علاقہ لکھی گئی ہے ڈیٹس وگرتاری طرمان زمان علاقہ لکھی گئی ہے
 نفی علیہ عرفہ ہوئی

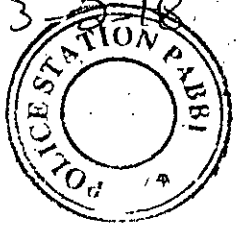
صا عالی!

نقل بہ مطابق اصل

mmc

mmc - Pabbi

13-2-18



Shahid Muneer Khan
 Advocate High Court
 District Courts Nowshera

قیمت
50 روپے



33549

ایڈوکیٹ: Pleaser

بار کونسل ایسوسی ایشن نمبر:

رابطہ نمبر: 03330268950

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: جج سید سعید انیس خان 1000

دعویٰ: <u>اپیل</u>	منجانب: <u>اسلام آباد</u>
علت نمبر:	
مورخہ:	
جرم:	
تھانہ:	

ارشد خلیل بنام لولہ

باعث تحریر آنکہ

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

آن مقام اسلام آباد کیلئے ارشد خلیل بنام لولہ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ 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 وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 3-4-18

العبد گواہ شد العبد

مقام اسلام آباد کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی نوٹو کاپی ناقابل قبول ہوگی۔

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

Service Appeal No. 446/2018

Irshad Khan ASI s/o Bahadar Sher r/o village marghuz,
District Swabi presently at Police Station Nowshera Kalan.
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. Regional Police Officer, Mardan-I, Mardan.
4. Assistant Superintendent Police Circle Cantt: Nowshera.

.....Respondents

REPLY ON BEHALF OF RESPONDENTS No. 1,3 &4

Respectfully Sheweth: -

PRELIMINARY OBJECTIONS

1. That the appellant has got no cause of action.
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

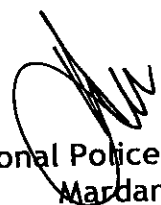
1. Correct to the extent of Serving in Police department while rest of the para is not related.
2. Correct to the extent of issuing charge sheet and statement of allegations.
3. Correct to the extent of submitting his reply hence, the said reply was found unsatisfactory and awarded major punishment.
4. Correct to the extent of issuing the final show cause notice and submitting reply and the same was found unsatisfactory.
5. Incorrect. A proper enquiry was conducted, after fulfillment of all legal and codal formalities the appellant was awarded major punishment. (Copy of enquiry is attached).
6. Incorrect, a departmental appeal of the appellant was rejected on solid ground of the appellant.


7. That the appeal of the appellant is liable to be dismissed on the following grounds: -

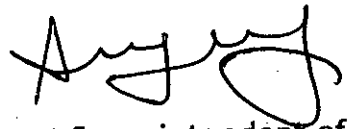
GROUNDS

- A. Incorrect. The orders of the high-ups are legal, valid and in accordance with law.
- B. Incorrect. That the appellant has been treated in accordance with law and mandatory provisions of law have not been violated by the respondents while rest of the para is incorrect hence, denied.
- C. Incorrect. A proper enquiry has been conducted into the matter to find out the true facts, circumstances and proved the allegations leveled against the appellant.
- D. Not related hence, no comments.
- E. Incorrect. That the enquiry officer called in the office in person and heard him and proved the allegation leveled against the appellant.
- F. Incorrect. That ex-parte action has not been taken against the appellant, thus the orders of the high-ups are valid and legal.
- G. That the respondents will also argue more grounds at the time of arguments with the permission of this Honourable Tribunal.
- H. Not related hence, no comments.

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


Regional Police Officer,
Mardan.
Respondent No. 03


District Police Officer,
Nowshera.
Respondent No.1


Assistant Superintendent of Police,
Cantt: Circle, Nowshera
Respondent No. 04

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

Service Appeal No. 446/2018

Irshad Khan ASI s/o Bahadar Sher r/o village marghuz,
District Swabi presently at Police Station Nowshera Kalan.
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. Regional Police Officer, Mardan-I, Mardan.
4. Assistant Superintendent Police Circle Cantt: Nowshera.

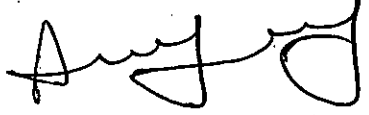
.....Respondents

AFFIDAVIT

We the respondents No. 1,3 &4 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.


Regional Police Officer,
Mardan.
Respondent No. 03


District Police Officer,
Nowshera.
Respondent No.1


Assistant Superintendent of Police,
Cantt: Circle, Nowshera
Respondent No. 04

1

(10) (C)

ENQUIRY REPORT AGAINST SI IRSHAD KHAN.

ALLEGATION:

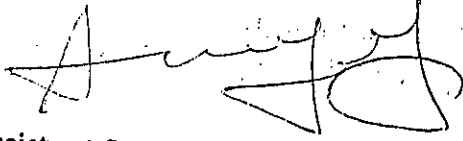
SI Irshad Khan while posted as IO PS Akbarpura reportedly is in league with criminals of the area and provide undue favor, which amount to gross misconduct on his part and rendered him liable for Minor/Major punishment under Khyber Pakhtunkhwa Police Rules 1975.

PROCEEDINGS:

The delinquent police officer was called to office and received his charge sheet. The defaulter official submitted his reply to the charge sheet and statement of allegation. He stated therein that during the period as IO PS Akbarpura he has completed his law full duties without any complaint from any parties. He further stated that during investigation of all cases he investigated the cases impartially without any favor of accused parties. He deny the allegation leveled against him and stated that the allegation mentioned against him is not based on fact, further requested that charge sheet issued against him may be filed please.

FINDING:


After perusal of statement and record it came to light that the delinquent police officer found guilty on the basis of photos received to undersigned officer, wherein the defaulter officer found present with accused, which is clear evident against the defaulter officer. Therefore he is recommended for major punishment.


Assistant Superintendent of Police,
Circle Cantt Nowshera

No. 61 / St:

Dated 30-1 / 2018.

Issue Final SCN


attested
Shahid Muneer Khan
Advocate High Court
Distict Courts Nowshera

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 2370 /ST

Dated 10/12/2018

To


The District Police Officer,
Government of Khyber Pakhtunkhwa,
Mardan.

Subject: -

JUDGMENT IN APPEAL NO. 446/2018, MR. IRSHAD KHAN.

I am directed to forward herewith a certified copy of Judgement dated 22.11.2018 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR,
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.