

FORM OF ORDER SHEET

Court of _____

Case No.- 1192/2022

S.No.	Date of order proceedings
1	2

1-	29/07/2022
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considered by
By Telephone -
11-8-22

19.08.2022

Rs-100/-
Appellant Deposited
Security & Process Fee

Muhammad
25/8/22

Order or other proceedings with signature of judge

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The appeal of Mr. Mamrez Khan presented today by Dr. Fawad Jan 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. *19-8-22*

By the order of Chairman,

A *m*
REGISTRAR

Learned counsel for the appellant present. Preliminary arguments heard.

Points raised need consideration. The appeal is admitted to regular hearing, subject to all just and legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments. To come up for reply/comments before the S.B on 11.10.2022.

Muhammad
(Mian Muhammad)
Member (E)

**BEFORE THE HONOURABLE
KHYBER PAKHTOONKHWASERVICE TRIBUNAL,
PESHAWAR**

Appeal No. 1192/2022

Mamrez KhanAppellant

Versus

Govt of KPK & Others.....Respondents

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Appellant

Through

Dr. Fawad Jan
Advocate, Peshawar

Dated: 27.07.2022

(1)

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

Appeal No. /2022

Mr. Mamrez Khan, Head Constable No.769, Police Station
SNGPL, KarakAppellant

V E R S U S

1. Inspector General of Police, KPK, Peshawar.
2. Regional Police Officer, Kohat.
3. District Police Officer, Karak.

.....Respondents

APPEAL U/S-4 OF THE KHYBER
PAKHTOONKHWAS TRIBUNAL ACT 1974
AGAINST THE IMPUGNED ORDER DATED:
29.09.2021 OF THE DISTRICT POLICE
OFFICER KARAK (RESPONDENTS NO.3),
WHEREBY PENALTY OF REMOVAL FROM
SERVICE WAS IMPOSED ON APPELLANT AND
THE IMPUGNED ORDER DATED: 16.11.2021
PASSED BY THE REGIONAL POLICE OFFICER
(RESPONDENT NO.2) VIDE WHICH THE
DEPARTMENTAL APPEAL OF APPELLANT WAS
REJECTED AND IMPUGNED ORDER DATED
11.04.2022 OF THE INSPECTOR GENERAL OF
POLICE KHYBER PAKHTOONKHWAS
(RESPONDENT NO. 1), VIDE WHICH THE
REVISION PETITION OF APPELLANT FILED
UNDER POLICE RULE 11-A OF POLICE RULES
1975 WAS PARTIALLY ACCEPTED AND
PENALTY OF REMOVAL FROM SERVICE WAS

27

**CONVERTED INTO MAJOR PENALTY OF
COMPULSORY RETIREMENT FROM SERVICE.
COPIES OF ALL THE THREE ORDERS ARE
ENCLOSED AS ANNEXURE A, A-1 AND A-2
RESPECTIVELY.**

Prayer in Appeal:

**ON ACCEPTANCE OF THIS APPEAL THE
IMPUGNED ORDER DATED: 16.11.2021 OF
THE RESPONDENTS NO.2, AND THE
IMPUGNED ORDER DATED: 29.09.2021 OF
THE RESPONDENT NO.3 AND IMPUGNED
ORDER DATED: 11.04.2022 MAY PLEASE BE
SET-ASIDE AND THE APPELLANT POSITION
MAY KINDLY BE RESTORED WITH ALL BACK
BENEFITS.**

Respectfully Sheweth..

Appellant very humbly submits the service appeal based on the following facts and grounds.

Facts:-

1. That the appellant is bona-fide resident of village Gardi Banda, Tehsil Takhte Nasrati District Karrak. The appellant joined police as a constable and was promoted to the rank of head constable. The appellant had put in long and unblemished service of 37 years in police. In the year 2021 appellant while posted in Police Station Sui Northern Gas Pipe line (SNGPL) Karak was rendered to disciplinary action by respondent NO. 3 on the basis of business departmental charges.
2. That un-officially partitioned landed property situated adjacent of the house of appellant was purchased by one Bashir Advocate. Appellant being a co-sharer in the property and neighbor was having superior right of pre-emption, therefore, appellant without loss of a moment-initiated pre-emption proceedings by serving notice on vender followed by lodging pre-emption suit before competent court.
3. That the quick and lawful action of appellant annoyed the vendee and vendor and both started

- harassing the appellant one way or the other so as to force and pressure, the appellant for withdrawal of the suit but appellant did not succeed to their nefarious designs.
4. That the vendee and vendor lodged joint complaint against appellant before respondent NO. 3, the immediate superior officer of appellant. The complaint was based on false, fabricated and concocted allegations of criminal intimidation and misuse of officiated status.
 5. That through the matter was purely private event and was not rendered to official duty or commission of misconduct yet respondent No. 3 rendered appellant to disciplinary action, charge sheet and statement of allegations based on false contents of complaint of vendee and vendor was issued to appellant. **Copies of the charge sheet and statement of allegation annexed as annexure as B and B-1.**
 6. That the appellant submitted detailed and plausible reply in response to the charge sheet but the defense of the appellant was not considered. In same vein appellant when noticed the biased attitude of the enquiry officer, the appellant submitted two applications for transfer of the enquiry to another officer. **Copies of the reply and applications are attached as annexure -C, D-1 and D-2.**
 7. That though appellant expressed written no confidence on the enquiry officer yet the same enquiry officer submitted fact findings based on no evidence that the charge is proper and respondent NO. 3 without issuing final show cause notice, provision of the copy of the fact findings and chance to personal hearing issued removed from service order of the appellant. **Copy of the order is already enclosed as annexure -A.**
 8. That appellant filed departmental appeal before the respondent No. 2 against the order of respondent No. 3 but the departmental appeal was rejected. **Copy of the departmental appeal and rejection order is enclosed as annexure E and rejection order already enclosed as annexure A-1.**
 9. That the appellant filed revision petition under rule 11 -A of the Police Rules 1975 before the respondent No. 1 against the orders of the respondent No. 2 and 3. The review petition was not respondent therefore the appellant submitted service appeal No. 310/2022 before this honorable service tribunal. **Copy of the revision petition is enclosed as annexure F.**

(4)

10. That respondent No. 1 partially accepted the revision petition vide order dated 11/04/2022 whereby the penalty of removal from service was converted into compulsory retirement from service. **Copy of the order is already enclosed as annexure - A-2.**
11. That in the view of the above changed scenario appellant placed request for amended of the service appeal and also prayed for the grant of permission of filing afresh appeal for challenging inter alia the major penalty of compulsory retirement from service.
12. That this honorable tribunal was pleased to allow the above request of appellant vide order dated **copy of the order is considered as annexure G.** Therefore, the appellant submits fresh appeal on the following grounds.

GROUND:

- A. That the enquiry proceedings were conducted in flagrant violation of law and rules governing disciplinary actions. No one was examined as a witness in support of the charges leveled against appellant. No chance of cross examination of the witnesses was provided to appellant. Appellant expressed written no confidence on enquiry officer but the enquiry officer and respondent No. 3 ignore the written objection of appellant. Enquiry having not conducted in accordance with law, the entire subsequent action based on the enquiry findings have no legal sanctity.
- B. That under the law and rules, enquiry officer will be confined to the allegations stated in the charge sheet. Enquiry officer will not travel beyond the ambit of such allegations. The enquiry officer of appellant case was biased and he submitted findings based on his personal observations and grievances. The enquiry officer submitted findings in violation of settled principle of law that "No one shall be a judge of his own cause."
- C. That superior courts have held in numerous reported judgements that final show cause notice along with enquiry findings shall be supplied to accused officer. No final show cause notice was issued to appellant. Findings of enquiry officer were not supplied despite submission of an application before the respondent No. 3.

- D. That the respondents have passed the order without properly evaluating the facts and evidence on record. Therefore, the orders are against law, facts and materials on record, hence liable to be set aside.
- E. That the impugned orders were outcome of private event between appellant and his opponents of the pre-emption suit. Respondent No. 3 and the enquiry officer under the influence of the opponents of appellant, initiated departmental proceedings against appellant despite the fact it was no case of commission of mis conduct.
- F. That appellant was not associated in the enquiry proceedings. No opportunity of personal hearing was provided. The impugned orders were passed in slipshod manner without applying prudent mind for ascertaining the truth or otherwise of the charge, award of penalty to police officer on the base of civil dispute of police officer with his opponents, adversely affect the moral of the police establishment.
- G. That the whole departmental file has been prepared in violation of law and rules. Appellant was serving police as lower subordinate therefore question of criminally intimidating an advocate and co-villagers does not arise. Again, a lower subordinate is not in position to misuse his authority. Therefore, there is no truth in the charge and the same is baseless and the opponent of appellant fabricated the charge with sole aim of harassing the appellant for withdrawal of pre-emption suit.
- H. That the impugned orders suffer from legal and factual infirmities and mis-application of law in violation of settle principles of evaluation of facts and evidence by the superior courts.
- I. That the Appellant per policy of civil servant should be given an opportunity of hearing and the same has not been done, which seems to be injustice with Appellant.
- J. That the appellant belongs to very poor family and according to civil servant laws and impugned orders without fulfilling the legal

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- requirements is nullity in the eye of law and also against all norms of natural justice.
- K. That appellant seeks permission of the honorable tribunal for rising other grounds at the time of hearing of the case.

**IT IS, THEREFORE, GRACIOUSLY PRAYED
THAT ON ACCEPTANCE OF THIS APPEAL THE
IMPUGNED ORDERS OF THE RESPONDENTS
MAY PLEASE BE SET-ASIDE AND THE
APPELLANT MAY KINDLY BE REINSTATED
WITH ALL BACK BENEFITS.**

Mamroz
Appellant

Through:

Dr. Fawad Jan *fawad*
Advocate, Peshawar

Dated: 27.07.2022

VERIFICATION:

It is verified that (as per information given me by my client) all the contents of the instant appeal are true and correct and nothing has been concealed intentionally from this Hon'ble Tribunal.

Advocate *fawad*

Note:

That no such like petition / Appeal on this subject matter has earlier been filed before this Hon'ble Tribunal.

Advocate *fawad*

Annex A ⑦

ORDER

My this Order will dispose off the departmental enquiry against HC Mumraiz Khan No. 789 (suspended) of this district Police.

Facts are that as per complaint submitted by sons of Gul Daraz and Bashir Ahmad etc that HC Mamraiz Khan No. 769 indulged in extra and illegal departmental activities and misuse of his official power. This is quite adverse on his part and shows his malafide intention and non- professionalism in the discharge of his official obligations. Such act on his part is against the service discipline and amounts to gross misconduct.

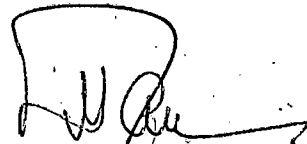
He was issued with Charge Sheet and Statement of allegations. Mr. Zahir Shah, SP Investigation Wing Karak was appointed as an Enquiry Officer to conduct proper departmental enquiry against him and submits his findings within the stipulated time.

The Enquiry Officer reported that HC Mumraiz Khan is involved in illegal extra activities being a member of discipline Force. Iftekhhar Ullah sale 62 Kanal land on Bashir Ahmad Advocate but HC Mumraiz possessed forcibly the said land without having legal rights. He is found guilty of the charges and he is poison for the Police department.

He was called and heard in person in the Orderly Room.

Keeping in view of the available record and facts on file, perusal of enquiry papers and recommendations of the E.O, he is found guilty of the charges, he is involved in extra departmental activities, his services is no more required, therefore, he is awarded major punishment of removal from service with immediate effect.

OB No. 587
Dated 29/09/2021



District Police Officer, Karak

District Police Officer
(Karak)

Annex-A-1



POLICE DEPTT:

KOHAT REGION

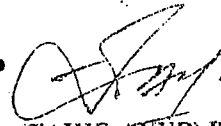
ORDER.

This order will dispose of a departmental appeal, moved by Ex-HC Mamraiz Khan No. 769 of Karak district against the punishment order, passed by DPO Karak vide OB No. 587, dated 29.09.2021 whereby he was awarded major punishment of removal from service on the allegations forcibly occupying land without any legitimate right and his involvement in extra / illegal departmental activities being member of a disciplined force.

He preferred an appeal to the undersigned, upon which comments were obtained from DPO Karak and his service record was perused. The appellant was also called and heard in Orderly Room held in this office on 09.11.2021. During hearing, the appellant did not produce any plausible explanation in his defense to prove his innocence and just advanced lame excuses.

I have gone through the available record and came to the conclusion that the allegations leveled against the appellant are proved beyond any shadow of doubt and the same have also been established by the E.O in his findings. Therefore, exercise of the powers conferred upon the undersigned, his appeal being devoid of is he:


Order Announced
09.11.2021


(TAHER AYUB) PSP
Region Police Officer,
Kohat Region.

No. _____ /EC, dated Kohat the 16/11 /2021.

Copy for information and necessary action to the District Police Officer, Karak w/r to his office Memo: No. 6578/EC, dated 20.10.2021. His Service Fauji Missal is returned herewith.

*Be/Officer
As per order
Jany
17/11*


(TAHER AYUB) PSP
Region Police Officer,
Kohat Region

Annex - A - 2 (9)



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Ex-Head Constable Mamraiz Khan No. 769. The petitioner was removed from service by District Police Officer, Karak vide OB No. 587, dated 29.09.2021 on the allegations that as per complaint preferred by sons of Gul Daraz and Bashir Ahmad etc that the above named ex-official indulged in extra and illegal departmental activities and misuse of his official power. His appeal was rejected by Regional Police Officer, Kohat vide order Endst: No. 18547/EC, dated 16.11.2021.

Meeting of Appellate Board was held on 29.03.2022 wherein petitioner was heard in person. Petitioner contended that he lodged pre-emption suit which annoyed Bashir Advocate and the Bashir Advocate and his brother make false complaint against him to harass him.

The petitioner has long service of 36 years, 11 months & 14 days at his credit.

Keeping in view his long service, the Board decided that the punishment of removal from service is hereby converted into compulsory retirement from service.

Sd/-

SABIR AHMED, PSP

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

No. S/ 661-67 /22, dated Peshawar, the 11 / 4 /2022.

Copy of the above is forwarded to the:

1. Regional Police Officer, Kohat. One Service Roll and one Fauji Missal of the above named Ex-HC received vide your office Memo: No. 19701/EC, dated 17.12.2021 is returned herewith for your office record.
2. District Police Officer, Karak.
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.

(IRFAN TARIQ) PSP

AIG/Establishment,

For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

Annex - B

(10)

No. 109 /Enq

Dated 06/07/2021

CHARGE SHEET

I, HAROON RASHID KHAN, District Police Officer, Karak as a competent authority, hereby charge you HC Mamraiz Khan No. 769 (suspended) Police Lines Karak as follows:-

"As per complaint submitted by sons of Gul Daraz and Bashir Ahmad etc that you HC Mamraiz Khan No. 769 indulged in extra and illegal departmental activities and misuse of your official power. This is quite adverse on your part and shows your malafide intention and non-professionalism in the discharge of your official obligations. Such act on your part is against the service discipline and amounts to gross misconduct.

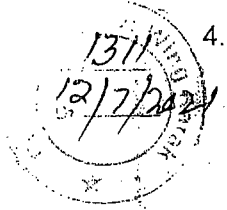
1. By the reason of your commission/omission, constitute miss-conduct under Police disciplinary Rule-1975 (amendment Notification No. 3859/Legal, dated 27.08.2014) Govt: of Khyber Pakhtunkhwa, Police Department, you have rendered your-self liable to all or any of the penalties specified in Police Rule-1975 ibid.

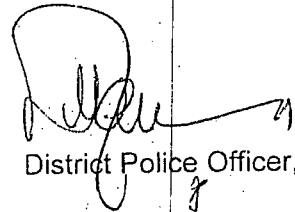
2. You are, therefore, required to submit your written defense within 07-days of the receipt of this charge sheet to the enquiry Officer SP Hameed is hereby appointed for the purpose of conducting enquiry.

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

3. Intimate whether you desire to be heard in person.

4. A statement of allegation is enclosed.




District Police Officer, Karak

4.2
1007

Annex - B-1

(11)

22

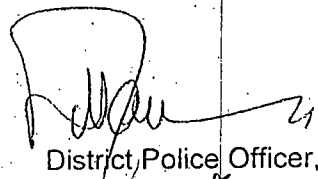
DISCIPLINARY ACTION

I, HAROON RASHID KHAN, District Police Officer, Karak as a competent authority, is of the opinion HC Mamraiz Khan No. 769 (suspended) Police Lines Karak has rendered himself liable to be proceeded against on committing the following act/commission within the meaning of Police Disciplinary Rule-1975 (amendment Notification No. 3859/Legal, dated 27.08.2014) Govt: of Khyber Pakhtunkhwa, Police Department.

STATEMENT OF ALLEGATIONS

"As per complaint submitted by sons of Gul Daraz and Bashir Ahmad etc that HC Mamraiz Khan No. 769 indulged in extra and illegal departmental activities and misuse of his official power. This is quite adverse on his part and shows his malafide intention and non-professionalism in the discharge of his official obligations. Such act on his part is against the service discipline and amounts to gross misconduct.

1. The enquiry Officers SP (Inv) in accordance with provision of the Police Rule-1975 (amendment Notification No. 3859/Legal, dated 27.08.2014) Govt: of Khyber Pakhtunkhwa, Police Department may provide reasonable opportunity of hearing to the accused official, record his finding and make within 10-days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused.
2. The accused official shall join the proceeding on the date, time and place fixed by the enquiry officer.



District Police Officer, Karak

No. 110 /Enq, dated 06 107 /2021.

Copy to:-

1. The enquiry Officers for initiating proceeding against the accused under the Provision of the Police Disciplinary Rule-1975 (amendment Notification No. 3859/Legal, dated 27.08.2014) Govt: of Khyber Pakhtunkhwa, Police Department.
2. HC Mamraiz Khan No. 769 (suspended) Police Lines Karak

①

بیان ازان مسرین خانیز 769 متنبه پولیس لائن رکا
HC

جو الہ پمارہ شیٹ نمبر ENQ/109 موہم 7/2021 کا تجزیہ ضابطہ بارہ الرشد

ڈسٹرکٹ پولیس افسر کمر و متحمل و متفرق ہیں

میرا ساٹل سال 1984 کو پولیس میں بھرتی ہوا۔ اپنا سرحد سہرنت

تہا بہت ایمانداری اور خوش اسلوبی سے ڈیوٹی سرانجام دے چکا ہوں

جبکہ امدان بالا کو کسی قسم شکایت کا موضوع نہیں رہا ہے

باب ۱۰: درخواست تندرہ مان منہ جانبدار اٹھان ہے۔ جلد سے متعلق ہے

ماندن ماکوئی ہونی رشتہ نہیں ہے۔ اراقی کتابہ 1011

تنداری کا - 276 مشترکہ جامد ہے

جمہی پیرا گرو تقریباً 18/20 سال سے لقمیر کیا گیا ہے جس میں

میں بے مال بچوں کیساتھ رجائش پذیر ہیں

باب ۱۱!

اسی کتابہ نمبر 1011 التنداری کا - 276 مشترکہ میں

میں لقمیر لقمیر و غیرہ پیریں از و غیرہ برابر ان

نے لتداری کا جامد اور فروخت کر چکا ہے

سکن ہوا فتح پور میں سینہ کیا گیا ہے

اسی مشترکہ کتابہ نمبر 1011 التنداری کا - 276

میں کیا اور لقمیر سے پیر کیا گیا ہے

تصنیف بھی حوالہ نہیں کیا گیا ہے۔ - تیسری صورت صلوات ہے جو نے نہ ہے
۳۔ تصنیف نامحال باقی ہے۔ -

۲۔ خان صاحب اراکین شکرہ مالتوف ہے۔ سکران تصنیف سید پر ہے
بدین وصف است باقی ہے۔

مذکورہ اوپر بات اور مسائل کا حال کا نام صوفی کو
مذکورہ حصے پر ڈیڑھ روایت گذرہ خان کو چاہیے۔ آدھ
سکران تصنیف عدالت اور حکم مال تک انتظار ہے
جبہ مسائل نے اسرا شکرہ جائیداد پر قبل ازین عدالت
سید صوفی شفع بھی دائر کیا گیا ہے۔ عدالت منصف
تک روایت گذرہ خان انتظار مندر ہے۔

۳۔ جہاں تک مسائل ۲ صرف پولیس ماورد کا استعمال
پر نہ مالتوف ہے۔ مثال NGP/2 خان سے تصنیفات
نما۔ جہاں پر پولیس سے تصنیفات لف ان سے صلوات
کر سکتے ہوئے مسائل نے تک اور لکھا تا ریخ تو پولیس
کاورد استعمال کیا ہے۔ جہاں سے ایک سید عدالت
اور سید رشتہ (بھی) پر تحقیقات خان پر لکھی ہیں
۲۔ حرووی کا نام جائیداد استعمال نہیں کر چکا ہوں۔

نمبر 4 : درخواست کنندگان پیر ریٹائرمنٹ سے لے کر پیر ریٹائرمنٹ
 کے ناموں پر ریٹائرمنٹ کے لئے درخواستیں لے کر پیر ریٹائرمنٹ
 میں پہنچا کر وہ درخواستیں ملنے پر حسب اجازت مختلف
 اوقات میں پیر ریٹائرمنٹ کے لئے درخواستیں لے کر پیر ریٹائرمنٹ
 کے لئے پیر ریٹائرمنٹ کے لئے پیر ریٹائرمنٹ کے لئے پیر ریٹائرمنٹ کے لئے
 پیر ریٹائرمنٹ کے لئے پیر ریٹائرمنٹ کے لئے پیر ریٹائرمنٹ کے لئے پیر ریٹائرمنٹ کے لئے

نمبر 5 : جب سائل کے اندر سائل آئے ہیں انہیں پیر ریٹائرمنٹ کے لئے
 پیر ریٹائرمنٹ کے لئے پیر ریٹائرمنٹ کے لئے پیر ریٹائرمنٹ کے لئے پیر ریٹائرمنٹ کے لئے
 پیر ریٹائرمنٹ کے لئے پیر ریٹائرمنٹ کے لئے پیر ریٹائرمنٹ کے لئے پیر ریٹائرمنٹ کے لئے پیر ریٹائرمنٹ کے لئے
 پیر ریٹائرمنٹ کے لئے پیر ریٹائرمنٹ کے لئے پیر ریٹائرمنٹ کے لئے پیر ریٹائرمنٹ کے لئے پیر ریٹائرمنٹ کے لئے
 پیر ریٹائرمنٹ کے لئے پیر ریٹائرمنٹ کے لئے پیر ریٹائرمنٹ کے لئے پیر ریٹائرمنٹ کے لئے پیر ریٹائرمنٹ کے لئے
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نمبر 7 : جب سائل کے اندر سائل آئے ہیں انہیں پیر ریٹائرمنٹ کے لئے
 پیر ریٹائرمنٹ کے لئے پیر ریٹائرمنٹ کے لئے پیر ریٹائرمنٹ کے لئے پیر ریٹائرمنٹ کے لئے
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۱۔ نانا خورشید شاہ ASI جوبی اہد آباد کھورد 2 جیا پور
 کندی خالف خرقین کی طرف سے جوب سینہ صدر
 ندری۔ جب مائل اور در عرواست کتذہ مائل اور کتذہ مائل
 صدر دتخانہ وقت لفرق ۷ اجنہا سے ہے۔ لورالہ
 صورت سے 25H0 مائل کتذہ مائل جوبی اہد آباد
 یعنی حوض میر آنا بخاری کرتا ہے۔ یہ وہ دونوں افز
 کیوں در سر ۷ صدر اجنہا سے اور کتذہ مائل
 دباویں ڈالنا ہے۔ جو غیر مائل ہے۔ اور مائل
 مائل۔ مڈر جہ بالا قسیر کو مد نظر رکھتے ہوئے اور مائل
 کاسٹریٹس جو اس عمر سے مائل کے
 صدر 2 بنیاد الزامات اور مائل کو کھو
 جولنا گورنہ سینہ کرتا۔
 ۲۔ مڈر مائل چارہ شپ مڈر کس کاروائی رافل
 دفتر مڈر مائل جاوے
 سینہ مڈر مائل
 ال عارض
 مڈر کسٹیل مڈر مائل 769 مڈر مائل
 کرب

تشریح حکم میں کیا گیا ہے
 میں درج ذیل کی باتیں جانند رہ
 تار سے ہے خریدتے ہیں یہ سائل
 نے صرف نے بیجا درجہ ہوتے ہیں

ہاں تو نے دیکھیں یہاں
 ہاں یہاں یہاں ہے آج

الرشی لشن کو دیکھو آج
 حضورؐ کی باتیں یاد رکھو آج
 آج میں اعجاز آج

اندر ماہم دیکھو آج
 ہاں دیکھو آج
 کو سیکھو آج
 آج کو دیکھو آج

کتاب عالی
 769
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 7

میں

کے لئے جو کہیں سے بھی آئے ہوں
میں نے ان کو سزا دے دی ہے

میں نے ان کو سزا دے دی ہے
میں نے ان کو سزا دے دی ہے

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27/7/2021
769
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Forwarded
L.C. Kharak
27-7-2021

To: The Regional Police Officer,
Kohat Region Kohat

Subject: DEPARTMENTAL APPEAL

With profound regards and great veneration appellant submits departmental appeal against the order dated 29.09.2021 bearing OB No. 587, passed by learned District Police Officer, Karak vide which appellant was removed from service.

FACTS

1. That appellant was serving as Head Constable District karak under your kind command and control. Appellant is native of village Alam Sheri, Tehsil Takht-e-Nasrati. Now appellant has shifted his abode to village Gardi Banda and has constructed a house on ancestral property situated at Gardi Banda.
2. That one Bashir Advocate and his brothers purchased 27-Kanal and 04-Marla landed property vide Mutation No. 12295 attested on 18.07.2021, situated at Kata No. 1011 Moza Khojaki Tehsil Takht-e-Nasrati.
3. That appellant house is situated in the said Kata No. and is also co-owner in the said Kata. Therefore appellant lodged a Pre-emption Suit against Bashir and others before the Court of Civil Judge-II Takht-e-Nasrati (Copy of the Suit is attached).
4. That lodging of the pre-emption suit by appellant annoyed Bashir Advocate vender of the landed property and he first offered payment of certain amount for withdrawing the pre-emption suit but appellant did not accept the offer.
5. That Bashir Advocate in order to pressurize the appellant for withdrawing the pre-emption suit submitted a false and fabricated complaint against appellant before District Police Officer, Karak. Appellant was proceeded against departmentally on the allegations contained in false and concocted

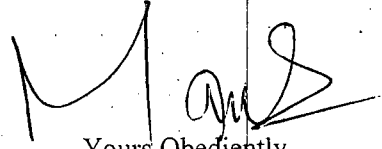
compliant of Bashir Advocate and the departmental proceedings culminated in passing the impugned order, hence this departmental appeal on the following grounds.

GROUND

- a. That the impugned order has been passed without taking into account the ground realities and facts and evidence on record. The lower authority and enquiry officer did not consider the plausible and detailed reply of appellant submitted in response to the charge sheet.
- b. That the enquiry officer conducted ex-parte proceedings. He did not associate appellant in the enquiry proceedings. He did not examine any witness including the applicant party in the presence of appellant. No chance of cross examination was provided to appellant. Therefore the enquiry proceeding are void ab-imitio.
- c. That appellant was the elder of the family and there was none other member of the family for lodging the pre-emption suit. Therefore appellant lodged the suit in his name. Lodging Civil Suit does not amount to commission of misconduct. No Law and Rules debar a Police officer or civil servant from knocking at the door of Civil Court for defending his civil right. Therefore the charge sheet was wrongly been issued to appellant.
- d. That Bashir Advocate first persuaded the appellant for withdrawal of the pre-emption suit by making payment and than resort to pressurize the appellant for withdrawing the suit by lodging false complaint against appellant before Police Authority.
- e. That appellant was proceeded against departmentally on the basis of commission of no departmental charge. No allegation of absence from duty and misuse of official status has been leveled against appellant. Therefore the impugned order is not sustainable.

(20)

- f. That no final show-cause notice was issued to appellant. The finding of enquiry officer were not supplied to appellant despite repeated request were placed before the authority.
- g. That the whole departmental file has been prepared in violation of the Law and Rules. Appellant may be allowed to other grounds during personal hearing.



Yours Obediently

Mamriz Khan
Ex-HC No. 769
District Karak
Cell: No. 0343-9802069

7. 10. 2021

Annex - 1

(21)

To

The Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

Subject: REVIVE PETITION UNDER RULE 11-A POLICE RULES, 1975
(AMENDED 2014)

Respected sir,

With great reverence, petitioner very humbly submits petition against the order of District Police Officer, Karak dated 29-09-2021, OB No. 587 vide which petitioner was dismissed from service and order of Regional Police Officer, Kohat Region, Kohat dated 09-11-2021 issued vide No. 18387 M/ME dated 16-11-2021 which by the departmental appeal of petitioner was rejected.

FACTS:-

- 1) That petitioner was serving in District Karak Police as Head Constable and 37 years long service was at the credit of petitioner. In July, 2021, petitioner was posted in Police Station SNGPL Karak and was rendered to disciplinary action.
- 2) That petitioner is native of village Gardi Banda, Tehsil Takhte Nasrati, Karak. One Bashir Advocate purchased a landed property situated adjacent to the house of petitioner and petitioner was also co-sharer in the property. Therefore, petitioner lodged a pre-emption suit before the Court of Civil Judge Takhte Nasrati.
- 3) That lodging of the pre-emption suit annoyed Bashir advocate. He in order to harass the petitioner lodged a false and concocted complaint against petitioner. He leveled allegations of involvement of petitioner in extra departmental activities and misuse of official authority.
- 4) That charge sheet based on above allegations was issued to petitioner and petitioner submitted reply in response to charge sheet. An ex-parte inquiry was conducted into the charges leveled against petitioner through Superintendent of Police Investigation, Karak.
- 5) That inquiry officer without collecting any evidence in support of the charges submitted finding and made recommendations, that petitioner was not fit for Police service. Eventually District Police Officer Karak passed the impugned order of dismissal from service of petitioner.
- 6) That the departmental appeal of petitioner was also rejected by Regional Police Officer Kohat vide impugned order, hence this petition on the following grounds.

GROUND:-

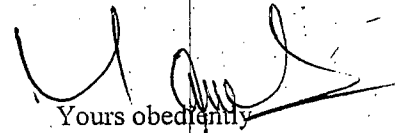
- 1) That the lower authority and the appellate authority as well not properly examine the record before passing the impugned order. Petitioner is defending his civil right of pre-emption which does not fall within the ambit of commission of misconduct; therefore the impugned orders are void ab-initio.

(22)

- 2) That Bashir advocate and his brothers make false complaint against petitioner based on charges of involvement in extra departmental activities and misuse of powers. Petitioner has filed civil suit against Bashir and others which does not fall within the mischief of involvement in extra departmental activities. Petitioner being a lower subordinate was unable to misuse his power and authority.
- 3) That no evidence was collected in support of the charges. No one was examined in the presence of petitioner. No chance of cross examination of the witnesses was provided to petitioner. Neither Final Show Cause noticed was issued to petitioner nor copy of findings of inquiry were supplied to petitioner.
- 4) That the inquiry officer allegedly based his opinion on the sole statements of complained makers. He did not take into account the pre-emption suit pending before the court which was the main motive behind the complaint.
- 5) That thirty (37) years long service was at the credit of petitioner and impugned orders were passed without noting the long service of petitioner. The whole departmental file against petitioner was prepared in violation of law and rules.
- 6) That being Police Officer, petitioner was competent to knock at the doors of civil court for seeking civil remedy. Therefore the charge was not tenable.
- 7) That Bashir advocate and his brother have lodged the complaint against petitioner with sole aim and objective of harassing the petitioner for withdrawing the pre-emption suit.

It is therefore requested that the impugned orders may be set aside with grant of back benefits.

Enclosures impugned orders


Yours obediently

Mamraz Khan, Ex-HC N769

District Karak

Cell No 0343-9802069

22-11-2021

Annex - 4 (23) (1)



**BEFORE K.P.K, SERVICE TRIABUNAL, K.P.K,
PESHAWAR**

Appeal No. 310 /2022

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 344

Dated 23/2/2022

Mr. Mamrez Khan, Head Constable No.769, Police Station
SNGPL, Karak
.....Appellant

Versus

1. Government of KPK, through, Secretary Home & Tribal Affairs KPK, Peshawar.
2. Inspector General of Police, KPK, Peshawar.
3. Additional Inspector General of Police Investigation, KPK, Peshawar.
4. Regional Police Officer, Kohat.
5. District Police Officer, Karak.

.....Respondents

**APPEAL U/S-4 OF THE KHYBER
PAKHTOONKHWA TRIBUNAL ACT 1974
AGAINST THE IMPUGNED ORDER DATED:
16.11.2021 OF THE RESPONDENTS NO.4,
WHEREBY THE APPELLANT'S
DEPARTMENTAL APPEAL WAS DISMISSED
AND THE IMPUGNED ORDER DATED:
29.09.2021 OF THE RESPONDENT NO.5 WAS
MAINTAINED WHEREBY THE APPELLANT
AWARDED THE MAJOR PUNISHMENT OF
REMOVAL FROM SERVICE, WITHOUT ANY
REASONABLE AND PROBABLE CAUSE, WHICH
IS ILLEGAL, AGAINST LAW AND FACTS AND
LIABLE TO BE REVERSED.**

Filed to-day

Registrar
23/2/2022

Re-submitted to -day
and filed.

Registrar
8/03/2022

Official Seal and Signature
Registrar
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

24

26.07.2022

Appellant present through counsel.



An application was submitted seeking permission for amendment. The case is in its initial stage and comments have not been filed by respondents till today. Therefore, application is allowed. Appellant is directed to submit amended appeal within 20 days. To come up for reply/comments on 11.10.2022 before S.B.

9/

(Rozina Rehman)
Member (J)

(Signature of Rozina Rehman)

(Handwritten signature)

28-7-22

800

10/-

10/-

29-7-22

29-7-22

Member (E)

VAKALATNAMA

BEFORE THE SERVICE TRIBUNAL K.P.K. PESHAWAR

Appeal. No. _____/2022

MAMREZ KHAN

..... Applicant

VERSUS

Govt of KPK and others Respondents

*I/We Mr. Mamrez Khan, Head Constable No.769,
Police Station SNGPL, Karak*

Do hereby appoint and constitute **Dr. Fawad Jan** Advocate, Peshawar to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. 27/07/2022

CLIENT(S)

Mamrez

ACCEPTED

Fawad
Dr. Fawad Jan
Advocate High Court
(BC-19-1109)
17101-0278021-9

OFFICE:

Flat No.3 -A, Haroon Mension,
Khyber Bazar, Peshawar City.
Mobile No.0314-9828818
Email: drfawadjan@gmail.com