

101/2014 Saif Ullah

10.11.2015

Appellant with counsel and Mr. Muhammad Jan, Government Pleader for the respondents present. Arguments heard and record perused. Vide our detailed judgment of to-day in connected appeal No. 1387/2013, titled " Tariq Khan Versus Provincial Police Officer, KPK, Peshawar etc." this appeal is also disposed off as per detailed judgment. Parties are left to bear their own costs. File be consigned to the record.

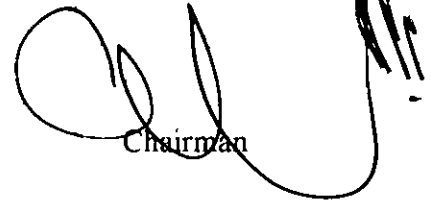
ANNOUNCED  
10.11.2015

  
MEMBER

  
MEMBER

4.9.2014

Counsel for the appellant and Mr. Riaz Khan, SI (legal) on behalf of respondents No. 1 to 3 with Mr. Muhammad Adeel Butt, AAG present. Notice to respondent No. 4 could not be issued due to non-furnishing of complete address of the respondent. Complete address of respondent No. 4 be furnished, positively, within three days, where-after notice be issued to respondent No.4. Written reply has not been received on behalf of respondents No. 1 to 3, and request for further time made on their behalf. Another chance is given for written reply/comments on behalf of respondents No. 1 to 3 on 31.12.2014.



Chairman

31.12.2014

No one is present on behalf of the appellant. Mr. Muhammad Adeel Butt, AAG for the respondents present. The Tribunal is incomplete. To come up for written reply/comments on behalf of respondents No. 1 to 3 on 14.04.2015.



Reader.

14.04.2015

None present for appellant. Mr. Muhammad Hayat, Reader to DSP alongwith Addl: A.G for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 14.10.2015.




Chairman

14.10.2015

Counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. arguments heard. To come up for order on

10-11-15.

Member



Member

Appeal No. 101/2014  
Mr. Saifullah

3. 10.03.2014

Counsel for the appellant present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the order dated 20.05.2013, he filed departmental appeal on 05.06.2013, which has been rejected on 16.12.2013, hence the instant appeal on 15.01.2014. He further contended that the appellant treated under a wrong law and order dated 16.12.2013 is not a proper order and has been issued in violation of Rule-5 of the Civil Servant (Appeal) Rules-1986. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents for submission of written reply/comments on 26.5.2014.

Appellant Deposited  
Security & Process Fee  
Rs. .... 200/- ..... Bank  
Receipt is Attached with File.

JAU

Member

4. 10.03.2014

This case be put before the Final Bench 5 for further proceedings.

Chairman

26.5.2014

Appellant in person present. Respondents No. 1 to 3 are not present despite their service through concerned officials; while notice of respondent No. 4 has been received back un-served due to his incomplete address. Complete address of respondent No. 4 be furnished within three days, whereafter fresh notice be issued to him. Mr. Usman Ghani, Sr. GP is present on behalf of respondents No. 1 to 3 and would be contacting the respondents for written reply/comments on 7.9.2014.


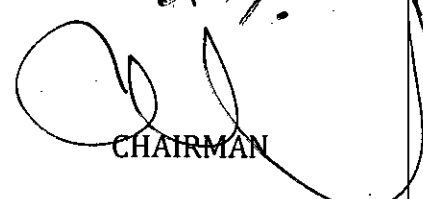
Chairman

Form- A

FORM OF ORDER SHEET

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

Case No. 101/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	21/01/2014	<p>The appeal of Mr. Saifullah resubmitted today by Mr. Abdul Jabbar Khan Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	24-1-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>10-3-2014</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Saifullah received today i.e. on 15.01.2014 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Index of the appeal may be prepared according to Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Memorandum of appeal may be got signed by the appellant.
- 3- Law under which appeal is filed is not mentioned.
- 4- Copy of departmental appeal is not attached with the appeal which may be placed on it.
- 5- Copies of charge sheet, statement of allegations, show cause, enquiry report and replies thereto are not attached with the appeal.
- 6- Annexures of the appeal may be attested.
- 7- Address of appellant is incomplete which may be completed according to Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 8- One copy/set of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal in file cover.

No. 74 /S.T.

Dt. 16/01 /2014.

*(Signature)*  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Abdul Jabbar Khan Adv. Pesh.

Re-submitted after  
completion.

*(Signature)*  
Hafiz Khan

Advocate, on  
behalf of Appellant

21-01-2014

# BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No. 101 /2014

SAIF ULLAH

VS

IGP, & OTHERS KPK PESHAWAR

## I N D E X

S#	Description of Documents	Annexure	Page#
1.	Appeal		1-3
2.	Affidavit & Addresses of Parties		4-5
3.	Dismissal order of the appellant SP Headquarter dated 20-05-2013	"A"	6
4.	Copy of Departmental Appeal & Dismissal Order dated 16-12-2013	"B"	7-9
5.	Report of SP Ruler bearing No. 132 dated 17-01-2012	"C"	10
6.	Charge Sheet		11
7.	Statements of Allegations and Initial Report of Inquiry dated 29-10-2011		12
8.	Final Show cause Notice & reply to final show cause notice		13-15
9.	<del>to</del> -Enquiry Report of DSP-Rural Circle Peshawar		16
10.	Wakalat Nama		17

Appellant

(Saifullah)

Through

*Saif*

ABDUL JABBAR KHAN

~~HAQ NAWAZ KHAN~~

Date 15-01-2014

Advocates HIGH COURT,  
PESHAWAR

①

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No. 101 /2014

77  
15-1-2014

Saif Ullah S/o Zafirullah R/o Mohallah Shikhan, Musa Zai, Tehsil & Distt  
Peshawar .....Appellant

**VERSUS**

- 1: IGP, KPK Peshawar
- 2: CCPO KPK Peshawar
- 3: SP Head Quarter Peshawar
4. DSP Peshawar

.....Respondents

**APPEAL U/S 4 OF KPK SERVICE TRIBUNAL RULES  
1974 AGAINST THE ORIGINAL ORDER OF SP  
HQ'S PESHAWAR AND CCPO PESHAWAR  
ORDER DATED 20-05-2013 AND 16-12-2013  
RESPECTIVELY VIDE WHICH THE APPELLANT  
STAND DISMISSED FROM SERVICE.**

**THE APPELLANT RESPECTFULLY SUBMITS AS UNDER**

1. That he was enrolled as constable in KPK Police at Peshawar

2. That he served with Zeal and diligence.

3. That while being posted in police lines Peshawar he was issued an  
SMG NO 3900020.

4. That according to allegation leveled against him the original SMG was  
replaced with the local made rifle and the original was sold to father of  
appellant for Rs. 60.000/-

5. That he along with FC Tariq were placed under suspension and  
disceplary action was initiated under the Removal from Service (SP)  
ordinance 2000

re-submitted to dep  
and filed,

15/1/2014  
20/1/2014

6. That the appellant was awarded punishment of dismissal from service vide order of SP Headquarter dated 20-05-2013  
(Copy enclosed as Annex "A")
7. The appellant filed the departmental appeal which has been rejected by CCPO Peshawar vide order dated 16-12-2013  
(Copy enclosed as Ann "B")

The appellant thus files the present appeal for reconsideration of the course by the Hon'ble Tribunal. The grounds, inter alia are;

- A. FC Tariq was colleague of the appellant. He and the appellant were to deposit the SMG in KOT on conclusion of Duty.
- B. Mr. Tariq dishonestly changed the SMG of the appellant and deposited local made rifle in KOT in its stead.
- C. Mr. Tariq was solely guilty of misdeed and has been punished accordingly.
- D. There is no concept of Vicarious or alternative liability in disciplinary matters and hence the order passed against two employee's for one misdeed lacks legal sanctity.
- E. Neither the IO conducted inquiry in accordance with accepted legal procedure nor the appellant was provided opportunity to cross examine the witness, This would vitiate the inquiry proceedings. As the report of SP rural bearing No. 132 dated 17-1-2012 indicates, (Copy of the report is enclosed is "C"). No opportunity of personal hearing was given to the appellant before passing of final order. None completion with this requirement would mean that appellant has been condemned unheard. And hence the punishment awarded to him would not stand keeping in view the illustrates rulings of the Supreme Courts Including the apex Court of the Pakistan.
- F. That final show cause notice was issued to the appellant under the removal from service (SP) ordinance 2000 while punishment was awarded to him under police Rules; an irreconcilable phenomenon, with legal backing



It is, thus humbly prayed that on acceptance of this appeal the impugned order past by SP, dated 20-05-2013 and CCPO Peshawar Dated and 16-12-2013 may very graciously be set aside and appellant may be ordered to be reinstated in service with back benefits. The appellant may kindly be given any other relief to which he may be found entitled

Appellant

(Saif Ullah)



Through

ABDUL JABBAR KHAN



HAQ NAWAZ KHAN

HIGH COURT, PESHAWAR

Date 15-01-2014

u

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No. \_\_\_\_\_/2014

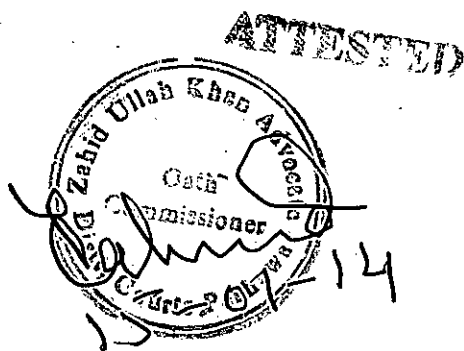
SAIF ULLAH

**VERSUS**

1. IGP, KPK PESHAWAR & OTHERS

**AFFIDAVIT**

I, **SAIF ULLAH** S/o **ZAFEER ULLAH** R/o **MUSSA ZAI**,  
**DISTRICT & TEHSIL PESHAWAR** do hereby solemnly  
and declare on oath that no such like appeal has  
been earlier filed by the appellant in any court of  
Justice.



*Saif*  
DEPONENT

Date 15-01-2014

5

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No. \_\_\_\_\_/2014

SAIF ULLAH

**VERSUS**

IGP, KPK PESHAWAR & OTHERS

**1. ADDRESS OF APPELLANT**

Saif Ullah S/o Zafirullah R/o Mohallah Shikhan, Musa Zai,  
Tehsil & Distt Peshawar

.....Appellant

**2. ADDRESSES OF RESPONDENTS**

1. IGP, KPK Peshawar
2. CCPO KPK Peshawar
3. SP Head Quarter Peshawar
4. DSP Peshawar

.....Respondents

Through

ABDUL JABBAR KHAN

  
~~HAQ NAWAZ KHAN~~

Advocates HIGH COURT,

PESHAWAR

Date 15-01-2014

ORDER

This office order relates to the disposal of formal departmental enquiry against Constable Saif Ullah No.5693 & Constable Tariq 5555 of Capital City Police Peshawar on the allegations/charges that they while posted at Police Lines, Peshawar have changed the official SMG No.3900020 with a local made rifle and sold at a rate of Rs.60,000/- which was later on recovered by SHO PS Badaber from the possession of one Safihullah resident of Musazai PS Badaber Peshawar.

In this connection, they were placed under suspension vide O.B No.3973 dated 28.10.2011. Departmental enquiry was initiated. DSP Rural was appointed as Enquiry Officer. He conducted the enquiry proceedings and submitted his report that in light of the statements of FC Saif Ullah & I/C Kot Police Lines Peshawar, FC Tariq No.5555 is appearing to be involved in the entire offence. The E.O further recommended that FC Saif Ullah No.5693 may be awarded with major punishment while FC Tariq No.5555 may be awarded minor punishment vides Enquiry Report No.132/S dated 17.01.2012.

Upon the finding of E.O, they were issued final show cause notice to which they received & replied. They were called & heard in person. Therefore, the enquiry paper of above named officials was again sent to E.O by the then SP/HQrs, Peshawar. He conducted re-enquiry & submitted report that the act of delinquent officials is against the discipline of the force. He recommended both the officials for major punishment vide enquiry report No.2040/S dated 26.07.2012.

In view of the above and other material available on record, the undersigned came to conclusion that the alleged officials found guilty of the charges and not deserve an iota of leniency. Therefore, in exercise of the power vested in me under the Police Disciplinary Rules-1975, they are awarded the major punishment of dismissal from service with immediate effect.

  
SUPERINTENDENT OF POLICE  
HEADQUARTERS, PESHAWAR

OB. NO. 1790 / Dated 20.1.5 /2013

No. 1303-10 /PA/SP/dated Peshawar the 20.1.5 /2013

Copy of above is forwarded for information & n/action to:

- ✓ Capital City Police Officer, Peshawar.
- ✓ SSP/Operation, Peshawar
- ✓ DSP/HQrs, Peshawar.
- ✓ Pay Office/OASI/CRC & FMC along-with complete departmental file.
- ✓ Officials concerned.

Attested  
Hafiz

Date

26/6/013

c.c.p.

D.S.P. legal

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١٦ یونیو ٢٠١٣

شعبہ قانونی و جرمی

Recovery

To,

The Capital City Police Officer,  
Peshawar

Through: Proper Channel

Subject: **DEPARTMENTAL APPEAL / REPRESENTATION AGAINST THE ORDER DATED 20.05.2013, WHEREBY THE UNDERSIGNED HAS BEEN AWARDED THE MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE.**

Respectfully Sir,

I very humbly submits the following few lines for your kind and sympathetic consideration:-

1. That I was initially enlisted as Constable in the Police Department on 10-08-2007. Ever since my appointment I have performed my duties with zeal and devotion and there was no complaint whatsoever regarding my performance.
2. That while serving in the said capacity I was served with Charge Sheet containing the false allegations that I while attached to Police Lines Peshawar have changed the Official SMG Rifle No. 390020 with a local made Rifle and sold for an amount of Rs.60,000/- (Sixty thousand only) I was also placed under suspension for the same allegations vide Order dated 28.10.2011 along with one FC Tariq.
3. That a partial inquiry was conducted and without associating me properly with the inquiry proceedings the inquiry officer gave his findings and recommended me for major punishment while the said FC Tariq No 5555 was recommended for minor punishment, and I was served with a Show Cause Notice dated 23.01.2012, which I duly replied.
4. That thereafter another enquiry was also conducted, and again I was recommended for major punishment.
5. That the competent authority vide Order dated 20.05.2013, awarded me the major punishment of Dismissed from Service.
6. That I pray for the acceptance of my appeal inter alia in the following grounds:-

**GROUND:**

- A. That I have not been treated in accordance with law, my rights secured and guaranteed under the law are badly violated.

Attested  
Hafiz Peshawar

(7)

- B. That no proper procedure is followed before awarding me the penalty of Dismissal from Service neither any proper inquiry has been conducted nor I have been given proper opportunity to defend myself during the inquiry procedure, thus the whole proceedings are defective in nature.
- C. That witness if any, have never been examined in my presence, nor I have been given opportunity to cross examine them.
- D. That the charges were never proved against me during the enquiry, the enquiry officer gave his findings on surmises and conjectures.
- E. That I have never committed any act or omission, which could be termed as mis-conducted, I have been awarded the penalty.
- F. That I have no knowledge of the alleged occurrence, in fact the said FC Tariq No 5555 was involved in the whole incident, however he falsely roped me in the instant case.
- G. That I have not been allowed opportunity of personal hearing, thus I have been condemned unheard.
- H. That the proceedings conducted against me are complete misapplication of law as the Show Cause Notice dated 23.01.2012, was issued to me under the RSO 2000, which was by then repealed.
- I. That I have more than five years spotless service career, during the entire service I have never mis-conducted myself, however my spotless service has never been considered before awarding me the penalty.
- J. That the penalty imposed upon me is to harsh and liable to be set aside, more over I am jobless since my illegal Dismissal from Service. It is therefore, prayed that on acceptance of this appeal the order dated 20.05.2013 may please be set aside and I may be reinstated into service with all back benefits.

Your Sincerely

  
(SAIF ULLAH)

Ex-Police Constable No. 5693  
District Peshawar

Dated:- 5 / 6 / 2013

*Attestant*

*Haq Nawaz*

**ORDER**

This office order will dispose off departmental appeals of ex-constables **Tariq Khan No: 5555 & Saif-Ullah No: 5693** of Police Lines Peshawar who were awarded major punishments of **Dismissal** from service vide OB No. 1790 dated 20/5/2013 under the PR 1975 by SP-HQRs; Peshawar.

The allegations/charges levelled against them were that they have changed the official SMG No. 3900020 with a local made rifle and sold at a rate of Rs. 60,000/- which was later on recovered by SHO PS Badhaber from the possession of one Saif Ullah resident of Musazai PS Bdhaber Peshawar.

Proper departmental proceedings were initiated against them and DSP-Rural (Mr. Sahibzada Sajjad) was appointed as the E.O. who carried out a detailed enquiry and held them responsible. After observing all the codal formalities the Competent Authority awarded him above major punishment.

The relevant record has been perused along with their explanations and also heard them in person in OR on 6.12.2013 but they could not defend themselves. The allegations levelled against them stand proved. They are not deserving any leniency. The undersigned sees no plausible reason to interfere with the order passed by SP-HQRs; Peshawar. Hence the same order is upheld appeals are rejected/filed.

*Attested*  
*Hazir*

  
**CAPITAL CITY POLICE OFFICER,  
PESHAWAR.**

No. 2144-49/PA; dated Peshawar the 16 /12/13

Copies for information and n/a to the:-

- 1/ SP-HQRs; Peshawar
- 2/ PO
- 3/ CRC along with S.Roll of (ex-FC Saif Ullah No. 5693) for made n/entry.
- 4/ OASI
- 5/ FMC encls: FM+ Enquiry Papers of both the ex-officials.
- 6/ Official concerned.



From: The Deputy Superintendent of Police,  
Rural Circle, Peshawar.

To: - The Superintendent of Police,  
Headquarters, Peshawar.

Subject: - **DISCIPLINARY ACTION AGAINST FC SAIF ULLAH NO. 5693 &  
FC TARIQ NO. 5555 POSTED AT POLICE LINES PESHAWAR.**

Memo.:-

Please refer to your office No. 412/E-PA dated 29.10.2011, on the subject cited above.

Allegations:

Constable Saif Ullah No. 5693 & Constable Tariq No. 5555 while posted at Police Lines Peshawar have changed the official SMG No. 3900020 with a local made rifle and sold at a rate of Rs. 60,000/- which was later on recovered by SHO PS Badaber from the possession of one Saif Ullah resident of Musazai PS Badaber, Peshawar. In this regard she was issued Charge Sheet & Statement of Allegation by the W/SP Headquarters and the undersign was appointed as E.O to scrutinize the conduct of the said official.

Proceedings:

Accordingly, both the alleged constables along with Incharge Kot were summoned through parwanas and telephonically. They all appeared before undersigned, they were heard in person and also record their statements. SHO PS Badaber was also summoned by this office through parwanas and also telephonically with the direction to appear before the undersigned to record his statement alongwith the statement of Saif Ullah r/o Musa Zai Badaber (father of alleged FC Saif Ullah) but he did not to do so.

STATEMENT OF SI MUHAMMAD IQBAL

Incharge Kot SI Muhammad Iqbal stated that for purpose of duty, accordingly an SMG No. 3900020 was handed over to FC Saif Ullah No. 5693. After completion of the duration of duty, FC Saif Ullah No. 5693 surrendered a local model SMG instead of official/original. He further stated that FC Tariq No. 5555, FC Saif Ullah No. 5693 and Saif Ullah (F/O alleged constable Saif Ullah) are involved to change the official SMG as mentioned in attached DD report vide No. 58 dated 26.10.2011 of Police Lines Peshawar.

STATEMENT OF FC SAIF ULLAH NO. 5693

FC Saif Ullah No. 5693 appeared before the undersigned and recorded his statement. He stated in his statement satisfactorily that the said SMG was changed by him, with the collaboration of his friend FC Tariq No. 5555 deliberately.

STATEMENT OF FC TARIQ NO. 5555

FC Tariq No. 5555 appeared before the undersigned and also recorded his statement. He stated in his statement that the mentioned above is done by FC Saif Ullah and his father Saif Ullah r/o Musa Zai Badaber Peshawar. Further in his statement, he showed himself unaware from the entire occurrence.

*Attested  
Head Peshawar*

Annex C

479  
LO #  
[Signature]



CONCLUSION:

After going through the statements and examining the alleged constables and the statement of Iachage Kot, it has come to fore that FC Saif Ullah No. 5693 is guilty of changing of official SMG No. 3900020 with a local made rifle and sold at a rate of Rs. 60,000/- which was later on recovered by SHO PS Badaber from the possession of one Saif Ullah resident of Musazai PS Badaber Peshawar. Being a police official, his this act is against the discipline of the force. Also in light of the statements of FC Saif Ullah No. 5693 and LKot Police Lines Peshawar, FC Tariq No. 5555 is appearing to be involved in the entire offense.

RECOMMENDATIONS:

In light of the above, FC Saif Ullah No. 5693 is recommended to be awarded the major punishment, while FC Tariq No. 5555 may be awarded minor punishment.

Submitted please.

No. 132 /Stn

Dated 17/01/2012

Encl (13)

[Signature]

(SAR AHMAD)  
DEPUTY SUPERINTENDENT OF POLICE,  
RURAL CIRCLE PESHAWAR

Some final  
show cause  
memo

Attested  
[Signature]

[Signature]  
SP-187412

(A)

21

3

CHARGE SHEET

I, Superintendent of Police, Headquarters, Capital City Police Peshawar, as a competent authority, hereby, charge that Constable Saif Ullah No.5693 & Constable Tariq No.5555 of Capital City Police Peshawar with the following irregularities.

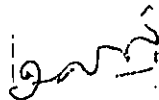
"That you Constable Saif Ullah No.5693 & Constable Tariq No.5555 while posted at Police Lines, Peshawar have changed the official SMG No.3900020 with a local made rifle and sold at a rate of Rs.60,000/- which was later on recovered by SHO PS Badaber from the possession of one Safihullah resident of Musazai PS Badaber Peshawar. This amounts to gross misconduct on your part and is against the discipline of the force."

You are, therefore, required to submit your written defence within seven days of the receipt of this charge sheet to the Enquiry Officer committee, as the case may be.

Your written defence, if any, should reach the Enquiry Officer/Committee within the specified period, failing which it shall be presumed that have no defence to put in and in that case exparte action shall follow against you.

Intimate whether you desire to be heard in person.

A statement of allegation is enclosed.

  
SUPERINTENDENT OF POLICE,  
HEADQUARTERS, PESHAWAR

Attested

~~Has~~

FINAL SHOW CAUSE NOTICE

13

9

13

I Superintendent of Police, Headquarters, Capital City Police, Peshawar as competent authority, under the North West Frontier Provincial Removal From Service (Special Power) Ordinance, 2000 do hereby serve you Constable Saif Ullah No.5693 & Constable Tariq No.5555 Capital City Police, Peshawar as follows.

- 1 (i) That consequent upon the completion of enquiry conducted against you by the enquiry officer for which you were given opportunity of hearing.
- (ii) On going through the findings and recommendation of the enquiry Officer, the material on record and other connected papers produced before the E.O.

I am satisfied that you have committed the following acts/omissions specified in section 3 of the said Ordinance.

"That you Constable Saif Ullah No.5693 & Constable Tariq No.5555 while posted at Police Lines, Peshawar have changed the official SMG No.3900020 with a local made rifle and sold at a rate of Rs.60,000/- which was later on recovered by SHO PS Badaber from the possession of one Safihullah resident of Musazai PS Badaber Peshawar. This act amounts to gross misconduct on your part and against the discipline of the force"

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of major punishment under section 3 of the said Ordinance of sub section 4 of section 5 for absence willfully performing duty away from place of posting.

3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within 7 days of its delivery, in normal course of circumstances, it shall, be presumed that you have no defence to put in and in that case as separate action be taken against you.

5. The copy of the finding of the enquiry officer is enclosed.

Attested

*[Signature]*

*[Signature]*  
SUPERINTENDENT OF POLICE,  
HEADQUARTERS, PESHAWAR

No. 412 /PA, SP/IQrs dated Peshawar the 23-1 /2012.

Copy to official concerned

*[Handwritten Urdu text]*

SP/HQ.rs Punishment folder/FINAL SHOW CAUSE NOTICE

*[Handwritten Urdu notes]*

23/1/2012

Seals

BEFORE THE SUPERINTENDENT POLICE HEADQUARTERS.  
PESHAWAR

14

Subject: REPLY TO THE FINAL SHOW CAUSE NOTICE.

Kindly refer to the final show case notice issued to me on the allegations mentioned therein, in this connection it is submitted:-

1. That I was attached to the Registrar Supreme Court Registry Branch and always performed my duties with honesty and full devotion.
2. That the allegation are totally false and baseless I never changed the official SMC Rifle nor sold the same, rather the same was changed by Tariq constable No.5555 and he kept the same and after coming to know of the true situation, my father returned the same voluntarily to the police officials of P.S Badaber in the presence of R.I and other police officials.
3. That I have about five years of service with no allegation of any sort having numerous good entry and always earned the laurus of superior officers.

Attested

*[Handwritten signature]*

(3)

(12)

(15)

4. That I can not think of doing any misconduct being a police officials and the whole drama is staged to make me a scape goat. Even the mentioned Tariq Constable admitted that the same rifles belong to him before the staff of Supreme Court registry Branch Peshawar.

It is, therefore, requested that the final show cause notice may kindly be filed and I may be exonerated of the charges levelled against me.

Date: 28.01.2012

Saiful Haq Constable No. 5693  
 Police Line Peshawar

*Attested*

*Hafiz Awwaz*

Saiful Haq Constable No. 5693  
 Police Line Peshawar

**Enquiry Report**

From: The Deputy Superintendent of Police,  
Rural Circle, Peshawar.

*OK*

*472*

To: The Superintendent of Police,  
Headquarters, Peshawar.

*#*

*16*

Subject: **DISCIPLINARY ACTION AGAINST FC SAIF ULLAH NO. 5693  
AND FC TARIQ NO. 5555 OF POLICE STATION MATIRA,  
PESHAWAR.** *EJF*

Memo:

Please refer to your office No. 455/PA/SP H.Qrs: dated 31.01.2012 and  
No. 412/I-PA dated 29.10.2011 on the subject cited above.

Constable Saif Ullah No. 5693 & Constable Tariq No. 5555 while posted  
at Police Lines, Peshawar have changed the official SMG No. 3900020 with a local made  
rifle and sold at a rate of Rs. 60,000/- which was later on recovered by SHO PS Badaber  
from the possession of one Zafir Ullah resident of Musazai PS Badaber Peshawar. In this  
regard, they were issued Charge Sheet and Statement of Allegation by  
W/SP/Headquarters and DSP Rural was appointed as E.O to scrutinize the conduct of the  
said officials.

DSP Rural (EO) conducted an enquiry in which both the alleged  
constables alongwith Incharge Kot were summoned through parvanas and also  
telephonically. They all appeared before the E.O, there were heard in person and also  
record their statements. But the then SHO PS Badaber and RI Police Lines did not  
appeared before DSP Rural due to the reasons known to them. However, EO had  
recommended that FC Saif Ullah No. 5693 may awarded major punishment while FC  
Tariq No. 5555 may be awarded minor punishment. But the W/SP Headquarters declared  
the same enquiry as incomplete and sent back to the undersigned with some directions.

As per directions of the W/SP Headquarters vide his reference attached  
No. 455/PA/SP H.Qrs: dated 31.01.2012, statements of Insp: Abid Ur Rehman the then  
SHO PS Badaber and Zafcer Ullah (I/o alleged FC Saif Ullah) However, RI Police lines  
was summoned through parvana(copy attached) and also telephonically by this office but  
he did not appeared reasons known to him.

**FINDINGS:**

From the perusal of available materials in the same enquiry which are  
statements of Zafcer Ullah (I/o FC Saif Ullah), the then SHO PS Badaber, FC Tariq No.  
5555 and FC Saif Ullah No. 5693 and I/C Kot Police Lines, being a police official, their  
this act is against the discipline of the force.

**Recommendations:**

In light of the above, FC Saif Ullah No. 5693 and FC Tariq No. 5555 may  
be awarded the major punishment.

Submitted for your kind perusal please.

No. *2040* IS

Dated *26/10/2012*

*end (32)*

*OK*  
*jam*  
Superintendent of Police H.Qrs  
Capital City Police Peshawar  
*SP-Head*  
*20/11/12*

*(SAHIBZADA SAJJAD AHMAD)*  
DEPUTY SUPERINTENDENT OF POLICE,  
RURAL CIRCLE PESHAWAR

*Attested*  
*Hafiz*

# بعدالت سدوس ٹرائیونل

۱۲

15-01-2014

مورخہ

مقدمہ

دعویٰ

جرم

2014ء منجانب اسلام آباد  
سید اللہ بنام  
P.P. 1/1/14

## باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
آن مقام <sup>کیلئے</sup> عبدالجبار خان و حصوا زہالہ ابراہیم

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 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  
زر میں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت 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۔ 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 مذکورہ باختیارات 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 وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں  
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔  
Accepted

المرقوم 15  
ماہ جنوری 2014

Handwritten signature

الع د گ و الع  
مقام در کے لئے منظور ہے۔



میشتری مارت  
پتاور کڈون: 2220193  
Mob: 0345-922

# BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No. 101 /2014

SAIF ULLAH

VS

IGP, & OTHERS KPK PESHAWAR

## INDEX

S#	Description of Documents	Annexure	Page#
1.	Appeal		1-3
2.	Affidavit & Addresses of Parties		4-5
3.	Dismissal order of the appellant SP Headquarter dated 20-05-2013	"A"	6
4.	Copy of Departmental Appeal & Dismissal Order dated 16-12-2013	"B"	7-9
5.	Report of SP Ruler bearing No. 132 dated 17-01-2012	"C"	10
6.	Charge Sheet		11
7.	Statements of Allegations and Initial Report of Inquiry dated 29-10-2011		12
8.	Final Show cause Notice & reply to final show cause notice		13-15
9.	<del>to</del> Enquiry Report of DSP-Rural Circle Peshawar		16
10.	Wakalat Nama		17

Appellant

(Saifullah)

Through

ABDUL JABBAR KHAN

HAQ NAWAZ KHAN

Advocates HIGH COURT,

PESHAWAR

Date 15-01-2014

①

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No. \_\_\_\_\_/2014

Saif Ullah S/o Zafirullah R/o Mohallah Shikhan, Musa Zai, Tehsil & Distt  
Peshawar .....Appellant

**VERSUS**

1. IGP, KPK Peshawar
2. CCPO KPK Peshawar
3. SP Head Quarter Peshawar
4. DSP Peshawar

.....Respondents

**APPEAL U/S 4 OF KPK SERVICE TRIBUNAL RULES  
1974 AGAINST THE ORIGINAL ORDER OF SP  
HQ'S PESHAWAR AND CCPO PESHAWAR  
ORDER DATED 20-05-2013 AND 16-12-2013  
RESPECTIVELY VIDE WHICH THE APPELLANT  
STAND DISMISSED FROM SERVICE.**

**THE APPELLANT RESPECTFULLY SUBMITS AS UNDER**

1. That he was enrolled as constable in KPK Police at Peshawar
2. That he served with Zeal and diligence:
3. That while being posted in police lines Peshawar he was issued an SMG NO 3900020.
4. That according to allegation leveled against him the original SMG was replaced with the local made rifle and the original was sold to father of appellant for Rs. 60.000/-
5. That he along with FC Tariq were placed under suspension and disceplary action was initiated under the Removal from Service (SP) ordinance 2000

6. That the appellant was awarded punishment of dismissal from service vide order of SP Headquarter dated 20-05-2013  
(Copy enclosed as Annex "A")
7. The appellant filed the departmental appeal which has been rejected by CCPO Peshawar vide order dated 16-12-2013  
(Copy enclosed as Ann "B")

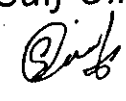
The appellant thus files the present appeal for reconsideration of the course by the Hon'ble Tribunal. The grounds, inter alia are;

- A. FC Tariq was colleague of the appellant. He and the appellant were to deposit the SMG in KOT on conclusion of Duty.
- B. Mr. Tariq dishonestly changed the SMG of the appellant and deposited local made rifle in KOT in its stead.
- C. Mr. Tariq was solely guilty of misdeed and has been punished accordingly.
- D. There is no concept of Vicarious or alternative liability in disciplinary matters and hence the order passed against two employee's for one misdeed lacks legal sanctity.
- E. Neither the IO conducted inquiry in accordance with accepted legal procedure nor the appellant was provided opportunity to cross examine the witness, This would vitiate the inquiry proceedings. As the report of SP rural bearing No. 132 dated 17-1-2012 indicates, (Copy of the report is enclosed is "C"). No opportunity of personal hearing was given to the appellant before passing of final order. None completion with this requirement would mean that appellant has been condemned unheard. And hence the punishment awarded to him would not stand keeping in view the illustrates rulings of the Supreme Courts Including the apex Court of the Pakistan.
- F. That final show cause notice was issued to the appellant under the removal from service (SP) ordinance 2000 while punishment was awarded to him under police Rules; an irreconcilable phenomenon, with legal backing

It is, thus humbly prayed that on acceptance of this appeal the impugned order past by SP, dated 20-05-2013 and CCPO Peshawar Dated and 16-12-2013 may very graciously be set aside and appellant may be ordered to be reinstated in service with back benefits. The appellant may kindly be given any other relief to which he may be found entitled.

Appellant

(Saif Ullah)



Through

ABDUL JABBAR KHAN



HAQ NAWAZ KHAN

HIGH COURT, PESHAWAR

Date 15-01-2014

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

(4)

Service Appeal No. \_\_\_\_\_/2014

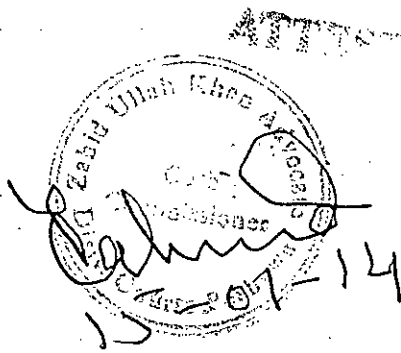
SAIF ULLAH

VERSUS

1. IGP, KPK PESHAWAR & OTHERS

AFFIDAVIT

I, SAIF ULLAH S/o ZAFEER ULLAH R/o MUSSA ZAI,  
DISTRICT & TEHSIL PESHAWAR do hereby solemnly  
and declare on oath that no such like appeal has  
been earlier filed by the appellant in any court of  
Justice.

  
15-01-14

  
DEPONENT

Date 15-01-2014

5

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No. \_\_\_\_\_/2014

SAIF ULLAH

**VERSUS**

IGP, KPK PESHAWAR & OTHERS

**1. ADDRESS OF APPELLANT**

Saif Ullah S/o Zafirullah R/o Mohallah Shikhan, Musa Zai,  
Tehsil & Distt Peshawar

.....Appellant

**2. ADDRESSES OF RESPONDENTS**

1. IGP, KPK Peshawar
2. CCPO KPK Peshawar
3. SP Head Quarter Peshawar
4. DSP Peshawar

.....Respondents

Through

ABDUL JABBAR KHAN

*Haq Nawaz Khan*  
HAQ NAWAZ KHAN

Advocates HIGH COURT,

PESHAWAR

Date 15-01-2014

ORDER

This office order relates to the disposal of formal departmental enquiry against Constable Saif Ullah No.5693 & Constable Tariq 5555 of Capital City Police Peshawar on the allegations/charges that they while posted at Police Lines, Peshawar have changed the official SMG No.3990020 with a local made rifle and sold at a rate of Rs.60,000/- which was later on recovered by SHO PS Badaber from the possession of one Safihullah resident of Musazai PS Badaber Peshawar.

In this connection, they were placed under suspension vide O.B No.3973 dated 28.10.2011. Departmental enquiry was initiated. DSP Rural was appointed as Enquiry Officer. He conducted the enquiry proceedings and submitted his report that in light of the statements of FC Saif Ullah & I/C Kot Police Lines Peshawar, FC Tariq No.5555 is appearing to be involved in the entire offence. The E.O further recommended that FC Saif Ullah No.5693 may be awarded with major punishment while FC Tariq No.5555 may be awarded minor punishment vides Enquiry Report No.132/S dated 17.01.2012.

Upon the finding of E.O, they were issued final show cause notice to which they received & replied. They were called & heard in person. Therefore, the enquiry paper of above named officials was again sent to E.O by the then SP/HQrs, Peshawar. He conducted re-enquiry & submitted report that the act of delinquent officials is against the discipline of the force. He recommended both the officials for major punishment vide enquiry report No.2040/S dated 26.07.2012.

In view of the above and other material available on record, the undersigned came to conclusion that the alleged officials found guilty of the charges and not deserve an iota of leniency. Therefore, in exercise of the power vested in me under the Police Disciplinary Rules-1975, they are awarded the major punishment of dismissal from service with immediate effect.

Attested

*[Handwritten signature]*

**SUPERINTENDENT OF POLICE  
HEADQUARTERS, PESHAWAR**

OB. NO. 1790 / Dated 20/5 /2013

No. 132-10 /PA/SP/dated Peshawar the 20/5 /2013

Copy of above is forwarded for information & n/action to:

- ✓ Capital City Police Officer, Peshawar.
- ✓ SSP/Operation, Peshawar
- ✓ DSP/HQrs, Peshawar.
- ✓ Pay Office/OASI/CRC & FMC along-with complete departmental file.
- ✓ Officials concerned.



(7)

To,

The Capital City Police Officer,  
Peshawar

Through: Proper Channel

Subject: **DEPARTMENTAL APPEAL / REPRESENTATION AGAINST THE ORDER DATED 20.05.2013, WHEREBY THE UNDERSIGNED HAS BEEN AWARDED THE MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE.**

Respectfully Sir,

I very humbly submits the following few lines for your kind and sympathetic consideration:-

1. That I was initially enlisted as Constable in the Police Department on 10-08-2007. Ever since my appointment I have performed my duties with zeal and devotion and there was no complaint whatsoever regarding my performance.
2. That while serving in the said capacity I was served with Charge Sheet containing the false allegations that I while attached to Police Lines Peshawar have changed the Official SMG Rifle No. 390020 with a local made Rifle and sold for an amount of Rs.60,000/- (Sixty thousand only) I was also placed under suspension for the same allegations vide Order dated 28.10.2011 along with one FC Tariq.
3. That a partial inquiry was conducted and without associating me properly with the inquiry proceedings the inquiry officer gave his findings and recommended me for major punishment while the said FC Tariq No 5555 was recommended for minor punishment, and I was served with a Show Cause Notice dated 23.01.2012, which I duly replied.
4. That thereafter another enquiry was also conducted, and again I was recommended for major punishment.
5. That the competent authority vide Order dated 20.05.2013, awarded me the major punishment of Dismissed from Service.
6. That I pray for the acceptance of my appeal inter alia in the following grounds:-


**GROUND S:**

- A. That I have not been treated in accordance with law, my rights secured and guaranteed under the law are badly violated.

Attested  
*[Signature]*

- B. That no proper procedure is followed before awarding me the penalty of Dismissal from Service neither any proper inquiry has been conducted nor I have been given proper opportunity to defend myself during the inquiry procedure, thus the whole proceedings are defective in nature.
- C. That witness if any, have never been examined in my presence, nor I have been given opportunity to cross examine them.
- D. That the charges were never proved against me during the enquiry, the enquiry officer gave his findings on surmises and conjectures.
- E. That I have never committed any act or omission, which could be termed as mis-conducted, I have been awarded the penalty.
- F. That I have no knowledge of the alleged occurrence, in fact the said FC Tariq No 5555 was involved in the whole incident, however he falsely roped me in the instant case.
- G. That I have not been allowed opportunity of personal hearing, thus I have been condemned unheard.
- H. That the proceedings conducted against me are complete misapplication of law as the Show Cause Notice dated 23.01.2012, was issued to me under the RSO 2000, which was by then repealed.
- I. That I have more than five years spotless service career, during the entire service I have never mis-conducted myself, however my spotless service has never been considered before awarding me the penalty.
- J. That the penalty imposed upon me is too harsh and liable to be set aside, more over I am jobless since my illegal Dismissal from Service. It is therefore, prayed that on acceptance of this appeal the order dated 20.05.2013 may please be set aside and I may be reinstated into service with all back benefits.

Your Sincerely

  
 (SAIF ULLAH)  
 Ex-Police Constable No. 5693  
 District Peshawar

Dated:- 5 / 6 / 2013

*Attestant*

*Haq Nawaz*

ORDER

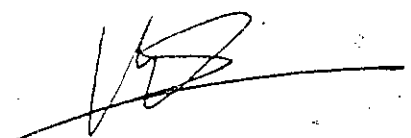
This office order will dispose off departmental appeals of ex-constables **Tariq Khan No. 5555 & Saif Ullah No. 5693** of Police Lines Peshawar who were awarded major punishments of **Dismissal** from service vide OB No. 1790 dated 20/5/2013 under the PR 1975 by SP-HQRs; Peshawar.

The allegations/charges levelled against them were that they have changed the official SMG No. 3900020 with a local made rifle and sold at a rate of Rs. 60,000/- which was later on recovered by SHO PS Badhaber from the possession of one Saif Ullah resident of Musazai PS Bdhaber Peshawar.

Proper departmental proceedings were initiated against them and DSP-Rural (Mr. Sahibzada Sajjad) was appointed as the E.O. who carried out a detailed enquiry and held them responsible. After observing all the codal formalities the Competent Authority awarded him above major punishment.

The relevant record has been perused along with their explanations and also heard them in person in OR on 6.12.2013 but they could not defend themselves. The allegations levelled against them stand proved. They are not deserving any leniency. The undersigned sees no plausible reason to interfere with the order passed by SP-HQRs; Peshawar. Hence the same order is upheld appeals are rejected/filed.

*Attested*  
*Hafiz Ahmad*



**CAPITAL CITY POLICE OFFICER,  
PESHAWAR.**

No. 2144-49 /PA; dated Peshawar the 16 /12/13.

Copies for information and n/a to the:-

- 1/ SP-HQRs: Peshawar
- 2/ PO
- 3/ CRC along with S.Roll of (ex-FC Saif Ullah No. 5693) for made n/entry.
- 4/ OASI
- 5/ FMC erics: FM+ Enquiry Papers of both the ex-officials.
- 6/ Official concerned.

From: The Deputy Superintendent of Police,  
Rural Circle, Peshawar.

To: - The Superintendent of Police,  
Headquarters, Peshawar.

Subject: - DISCIPLINARY ACTION AGAINST FC SAIF ULLAH NO. 5693 &  
FC TARIQ NO. 5555 POSTED AT POLICE LINES PESHAWAR.

Memo:-  
Please refer to your office No. 412/E-PA dated 29.10.2011 on the  
subject cited above.

Allegations:

Constable Saif Ullah No. 5693 & Constable Tariq No. 5555 while posted at Police Lines Peshawar have changed the official SMG No. 3900020 with a local made rifle and sold at a rate of Rs. 60,000/- which was later on recovered by SHO PS Badaber from the possession of one Saif Ullah resident of Musazai PS Badaber Peshawar. In this regard she was issued Charge Sheet & Statement of Allegation by the W/SP Headquarters and the undersign was appointed as E.O to scrutinize the conduct of the said official.

Proceedings:

Accordingly, both the alleged constables along with Incharge Kot were summoned through parwanas and telephonically. They all appeared before undersigned, they were heard in person and also record their statements. SHO PS Badaber was also summoned by this office through parwanas and also telephonically with the direction to appear before the undersigned to record his statement alongwith the statement of Saif Ullah t/o Musa Zai Badaber (father of alleged FC Saif Ullah) but he did not to do so.

STATEMENT OF SI MUHAMMAD IQBAL

Incharge Kot SI Muhammad Iqbal stated that for purpose of duty, accordingly an SMG No. 3900020 was handed over to FC Saif Ullah No. 5693. After completion of the duration of duty, FC Saif Ullah No. 5693 surrendered a local model SMG instead of official/original. He further stated that FC Tariq No. 5555, FC Saif Ullah No. 5693 and Saif Ullah (F/O alleged constable Saif Ullah) are involved to change the official SMG as mentioned in attached DD report vide No. 58 dated 26.10.2011 of Police Lines Peshawar.

STATEMENT OF FC SAIF ULLAH NO. 5693

FC Saif Ullah No. 5693 appeared before the undersigned and recorded his statement. He stated in his statement unequivocally that the said SMG was changed by him, with the collaboration of his friend FC Tariq No. 5555 deliberately.

STATEMENT OF FC TARIQ NO. 5555

FC Tariq No. 5555 appeared before the undersigned and also recorded his statement. He stated in his statement that the mentioned above is done by FC Saif Ullah and his father Saif Ullah t/o Musa Zai Badaber Peshawar. Further in his statement, he showed himself unaware from the entire occurrence.

*Attested  
H. J. Adawar*

Annex - C

(11)

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CONCLUSION:

After going through the statements and examining the alleged constables and the statement of Lachage Kot, it has come to fore that FC Saif Ullah No. 5693 is guilty of changing of official SMG No. 3900020 with a local made rifle and sold at a rate of Rs. 60,000/- which was later on recovered by SHO PS Badaber from the possession of one Saif Ullah resident of Musazai PS Badaber Peshawar. Being a police official, his this act is against the discipline of the force. Also in light of the statements of FC Saif Ullah No. 5693 and I.Kot Police Lines Peshawar, FC Tariq No. 5555 is appearing to be involved in the entire offense.

RECOMMENDATIONS:

In light of the above, FC Saif Ullah No. 5693 is recommended to be awarded the major punishment, while FC Tariq No. 5555 may be awarded minor punishment.

Submitted please.

No. 132 Sin  
Dated 17/01/2012

3/1 (13)

Attested  
~~Hafiz~~

*[Signature]*

(SAR AHMAD)  
DEPUTY SUPERINTENDENT OF POLICE,  
RURAL CIRCLE PESHAWAR

1882 final  
now cause  
subca

*[Signature]*  
1874/12

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CHARGE SHEET

I, Superintendent of Police, Headquarters, Capital City Police Peshawar, as a competent authority, hereby, charge that Constable Saif Ullah No.5693 & Constable Tariq No.5555 of Capital City Police Peshawar with the following irregularities.

"That you Constable Saif Ullah No.5693 & Constable Tariq No.5555 while posted at Police Lines, Peshawar have changed the official SMG No.3900020 with a local, made rifle and sold at a rate of Rs.60,000/- which was later on recovered by SHO PS Badaber from the possession of one Safihullah resident of Musazai PS Badaber Peshawar. This amounts to gross misconduct on your part and is against the discipline of the force."

You are, therefore, required to submit your written defence within seven days of the receipt of this charge sheet to the Enquiry Officer committee, as the case may be.

Your written defence, if any, should reach the Enquiry Officer/Committee within the specified period, failing which it shall be presumed that have no defence to put in and in that case exparte action shall follow against you.

Intimate whether you desire to be heard in person.

A statement of allegation is enclosed.

*[Handwritten signature]*

SUPERINTENDENT OF POLICE,  
HEADQUARTERS, PESHAWAR

*Attested*

*Has [Signature]*

*[Vertical list of handwritten notes on the left margin]*

FINAL SHOW CAUSE NOTICE

13

9

13

I Superintendent of Police, Headquarters, Capital City Police, Peshawar as competent authority, under the North West Frontier Provincial Removal From Service (Special Power) Ordinance, 2000 do hereby serve you Constable Saif Ullah No.5693 & Constable Tariq No.5555 Capital City Police, Peshawar as follows.

(i) That consequent upon the completion of enquiry conducted against you by the enquiry officer for which you were given opportunity of hearing.

(ii) On going through the findings and recommendation of the enquiry Officer, the material on record and other connected papers produced before the E.O.

I am satisfied that you have committed the following acts/omissions specified in section 3 of the said Ordinance.

"That you Constable Saif Ullah No.5693 & Constable Tariq No.5555 while posted at Police Lines, Peshawar have changed the official SMG No.3900020 with a local made rifle and sold at a rate of Rs.60,000/- which was later on recovered by SHO PS Badaber from the possession of one Saifhullah resident of Musazai PS Badaber Peshawar. This act amounts to gross misconduct on your part and against the discipline of the force"

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of major punishment under section 3 of the said Ordinance of sub section 4 of section 5 for absence willfully performing duty away from place of posting.

3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within 7 days of its delivery, in normal course of circumstances, it shall, be presumed that you have no defence to put in and in that case as separate action be taken against you.

5. The copy of the finding of the enquiry officer is enclosed.

Attested

*[Signature]*

*[Signature]*  
SUPERINTENDENT OF POLICE,  
HEADQUARTERS, PESHAWAR

No. 412 /PA. SP/HQrs dated Peshawar, the 23-1-2012.

Copy to official concerned

*[Handwritten Urdu text]*

SP/HQ.rs Punishment folder/FINAL SHOW CAUSE NOTICE

*[Handwritten Urdu text]*

*[Signature]*

23/1/2012

*[Handwritten Urdu text]*

②      ③  
④

BEFORE THE SUPERINTENDENT POLICE HEADQUARTERS.  
PESHAWAR

Subject: REPLY TO THE FINAL SHOW CAUSE NOTICE.

Kindly refer to the final show case notice issued to me on the allegations mentioned therein, in this connection it is submitted:-

1. That I was attached to the Registrar Supreme Court Registry Branch and always performed my duties with honesty and full devotion.
2. That the allegation are totally false and baseless I never changed the official SMO Rifle nor sold the same, rather the same was changed by Tariq constable No.5553 and he kept the same and after coming to know of the true situation, my father returned the same voluntarily to the police officials of P.S Badaher in the presence of R.I and other police officials.
3. That I have about five years of service with no allegation of any sort having numerous good entry and always earned the laurus of superior officers.

*Attested*

*Hafiz*



(15) (12) (15)

4. That I can not think of doing any misconduct being a police officials and the whole drama is staged to make me a scape goat. Even the mentioned Tariq Constable admitted that the same rifles belong to him before the staff of Supreme Court registry Branch Peshawar.

It is, therefore, requested that the final show cause notice may kindly be filed and I may be exonerated of the charges levelled against me.

Saifulah Constable No. 5693  
Police Line Peshawar

Date: 28.01.2012

Branch Peshawar

Attested  
~~Haf Nawaz~~

Signature  
Date

Enquiry Report

From: The Deputy Superintendent of Police,  
Rural Circle, Peshawar.

OK

L#2  
H

To: - The Superintendent of Police,  
Headquarters, Peshawar.

Subject: - DISCIPLINARY ACTION AGAINST FC SAIF ULLAH NO. 5693  
AND FC TARIQ NO. 5555 OF POLICE STATION MATIRA,  
PESHAWAR. EJE

(16)

Memo: Please refer to your office No. 455/PA/SP H.Qrs: dated 31.01.2012 and  
No. 412/15-PA dated 29.10.2011 on the subject cited above.

Constable Saif Ullah No. 5693 & Constable Tariq No. 5555 while posted  
at Police Lines, Peshawar have changed the official SMG No. 3900020 with a local made  
rifle and sold at a rate of Rs. 60,000/- which was later on recovered by SHO PS Badaber  
from the possession of one Zafir Ullah resident of Musazai PS Badaber Peshawar. In this  
regard, they were issued Charge Sheet and Statement of Allegation by  
W/SP/Headquarters and DSP Rural was appointed as E.O to scrutinize the conduct of the  
said officials.

DSP Rural (E.O) conducted an enquiry in which both the alleged  
constables alongwith Incharge Kot were summoned through parvanas and also  
telephonically. They all appeared before the E.O, there were heard in person and also  
record their statements. But the then SHO PS Badaber and RI Police Lines did not  
appear before DSP Rural due to the reasons known to them. However, EO had  
recommended that FC Saif Ullah No. 5693 may awarded major punishment while FC  
Tariq No. 5555 may be awarded minor punishment. But the W/SP Headquarters declared  
the same enquiry as incomplete and sent back to the undersigned with some directions.

As per directions of the W/SP Headquarters vide his reference attached  
No. 455/PA/SP H.Qrs: dated 31.01.2012, statements of Insp: Abid Ur Rehman the then  
SHO PS Badaber and Zafeer Ullah (f/o alleged FC Saif Ullah) However, RI Police lines  
was summoned through parvana(copy attached) and also telephonically by this office but  
he did not appeared reasons known to him.

FINDINGS:

From the perusal of available materials in the same enquiry which are  
statements of Zafeer Ullah (f/o FC Saif Ullah), the then SHO PS Badaber, FC Tariq No.  
5555 and FC Saif Ullah No. 5693 and IC Kot Police Lines, being a police official, their  
this act is against the discipline of the force.

Recommendations:

In light of the above, FC Saif Ullah No. 5693 and FC Tariq No. 5555 may  
be awarded the major punishment.

Submitted for your kind perusal please.

No. 20190 IS  
Dated 26/10/2012

OK

end (32)

Superintendent of Police H.Qrs  
City Police Peshawar  
26/10/12

(SAHIBZADA SAJJAD AHMAD)  
DEPUTY SUPERINTENDENT OF POLICE,  
RURAL CIRCLE PESHAWAR

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA  
PESHAWAR**

Service Appeal No.101/2014.

Saif Ullah S/o Zafeer Ullah R/o Mohallah Shikhan, Musa Zai, Tehsil and  
Distt Peshawar.....Appellant.

**VERSUS.**

- 1- Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
- 2- Capital City Police Officer, Peshawar.
- 3- Superintendent of Police Head quarter, Peshawar.
- 4- Deputy Superintendent of Police, Rural, Peshawar.....Respondents.

**Reply on behalf of Respondents No 1, 2, 3 and 4.**

**PRELIMINARY OBJECTIONS.**

1. That the appeal is badly time barred.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has not come to this Honorable Tribunal with clean hands.
4. That the appellant has no cause of action and locus standi.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant concealed the material facts from this Honorable Tribunal.

**FACTS:-**

- 1- Para No. 1 pertains to record, hence needs no comments.
- 2- Para No. 2 is for the appellant to prove.
- 3- Para No.3 is correct to the extent that as per report of I/C Kot Police Line Peshawar Government Rifle SMG No. 3900020 was issued to the appellant for official duty.
- 4- Para correct to the extent that the appellant while posted as security guard at Saint John Church Peshawar Cantt: violated the disciplinary rules of the force with the collaboration of his companion constable Tariq Khan. The appellant showed negligence by changing official rifle SMG bearing No. 3900020 and sold the same for the sake of Rs. 60,000/- rupees. Which was subsequently recovered by the local Police of PS Badbher, Peshawar.
- 5- Para No. 5 pertains to record, hence needs no comments.
- 6- Para No. 6 is pertains to record, hence needs no comments.
- 7- In reply to Para 7, it is submitted that the appellant was already found guilty for such misconduct, hence his departmental appeal was rejected/filed because the charges leveled against him in the enquiry


were stand proved.

**GROUND:-**

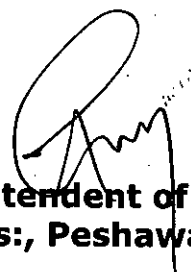
- A- Incorrect. As per the statement of ASI M.Iqbal Khan Incharge Kot, It was revealed that the appellant Saif Ullah deposited the fake SMG rifle instead original SMG rifle which was changed with the collaboration of constable Tariq.
- B- Incorrect and denied, the appellant and constable Tariq were the joint accuseds, who are responsible for changing of rifle.
- C- Incorrect and denied as both appellant and constable Tariq were found involved /guilty, hence impartial enquiry proceeding was conducted and during the course of enquiry, father of appellant Mr. Zafeer Ullah also disclosed in his written statement that both the above official's came to him and handed over the SMG rifle to him and told him to sell it for them, therefore the competent authority being agreed with recommendation of E.O, awarded both the appellant and constable Tariq major penalty of dismissal from service.
- D- Incorrect and denied. During the course of enquiry, ample opportunities were given to both the appellant and constable Tariq for their self defense, their statements were recorded, cross questioned and heard in persons by the enquiry officer who after completion of the enquiry, legally recommended them for major punishment.
- E- Incorrect and denied. The enquiry Officer conducted the impartial enquiry in accordance with the law who recorded the statements of the witnesses i.e. statement of the father of the appellant which clearly narrate the story and plans of the appellant and constable Tariq, hence the entire statements of the witnesses proved the allegation against the appellant. The enquiry officer heard both the official accused in persons and also placed their cross examination below of their statements and after completion of all the codal formalities and perusal of the record, the competent authority passed the punishment order in accordance with the law and no injustice or illegality has been done to him.
- F- Incorrect. Major punishment of dismissal was awarded to the appellant after completion all the codal formalities. Moreover, the respondents seek permission of this Honorable Tribunal to raise additional grounds at the time of arguments.

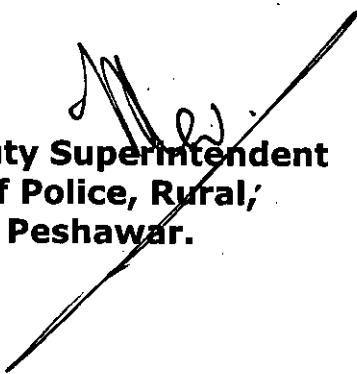
**PRAYER.**

Keeping in view the above facts, it is therefore prayed that the subject appeal may kindly be dismissed.

  
**Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.**  
A144

  
**Capital City Police Officer,  
Peshawar.**

  
**Superintendent of Police,  
HQrs:, Peshawar.**

  
**Deputy Superintendent  
of Police, Rural,  
Peshawar.**

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

**Service Appeal No.101/2014.**

Saif ullah S/o Zafeer ullah R/o Mohallah Shikhan, Musa Zai, Tehsil &  
Distt,

Peshawar.....**Appellant.**


**VERSUS.**


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- 4- Deputy Superintendent of Police, Rural,  
Peshawar.....**Respondents.**

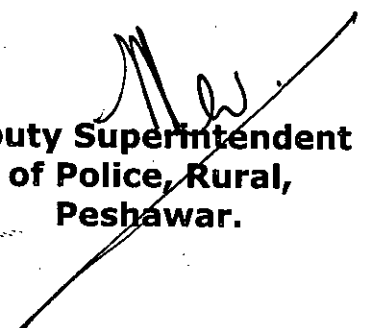
**AFFIDAVIT.**

We respondents 1 to 4 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.

  
**Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.**

  
**Capital City Police Officer,  
Peshawar.**

  
**Superintendent of Police,  
HQrs:, Peshawar.**

  
**Deputy Superintendent  
of Police, Rural,  
Peshawar.**