

26.02.2016

Counsel for the appellant and Asst: AG for respondents present. Fresh Wakalat Nama submitted on behalf of the appellant which is placed on file. Arguments could not be heard due to shortage of time. Therefore, the case is adjourned to 19.4.16 for arguments.



Member



Member

19.04.2016

Appellant in person and Addl: AG for respondents present. Appellant submitted an application for withdrawal of the appeal as his grievances have been redressed by the respondent-department. Signature of appellant secured at the margin of order sheet. Accordingly the appeal is dismissed as withdrawn. File be consigned to the record room.

ANNOUNCED
19.04.2016



MEMBER



MEMBER

محمد الیوم علیہ السلام سرگرمی سیزنل فیئر فخر خواہ لیکچرار

درخواست دربارہ Withdrawal

عنوان

کرنے کی تاریخ 416/14

فاضل عالی: استدعا ہے کہ درخواست منظور ہوگی کہ سائیل کے

سال 2014 میں بسلسلہ کالی سروس

آنجناب کی عدالت میں اپریل 416/14 ڈائری

گنتی تھی: اور اندر میں بسلسلہ GDP و مہلک کے KDK کو

بھی اپریل کی تھی

فاضل - GDP و مہلک فیئر فخر خواہ لیکچرار کے من

ASI کی منظور ہو چکر دانہ غور کے سائیل کی اپریل منظور کیا

اور مورخ 15/4 کو جناب GDP مہلک کے من سائیل کو

دوبارہ سروس میں بحال کیا گیا۔ لیکن سائیل کی پیشیاں

بدرستور آنجناب کی عدالت میں زیر سماعت ہے

لہذا بذریعہ درخواست عرض ہے کہ سائیل کا اپریل

416/14 کو بلڈ ہیز پر ردائی Withdrawal کر دیا

صم صادر فرمادیں

عین خواہش ہوگی

فقط ص 19/4

الکافی

سائیل میں ایوب خان ASI عدو محمد علی محمد خان سے ادائیگی فرمادگی

صلح کی صورت آئندہ صلح ہوں

Nic No: 11201-0703669-1

Mob: 03349543463

13.11.2014

Appellant in person and Mr. Shafi-uz-Zaman, Naib Court, on behalf of respondents with Mr. Muhammad Adeel Butt, AAG present. The Tribunal is incomplete. To come up for written reply/comments on 09.01.2015.


Reader

09.01.2015

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 29.04.2015.


Reader.

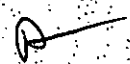
5 29.04.2015

None present for appellant. Mr. Yaqoob Khan, Naib Court alongwith Addl. A.G for respondents present. Para-wise comments submitted. The appeal is assigned to D.B for rejoinder and final hearing for 28.10.2015.


Chairman

28.10.2015

None for the appellant present. Mr. Mir Faraz Khan, Inspector (Legal) alongwith Asst. AG for respondents present. Arguments could not be heard due to learned Member (Judicial) is on official tour to D.I Khan. Therefore, the case is adjourned to 26-2-16 for arguments.


Member.

Appeal No. 416/2014
Mr. Gul Azeem


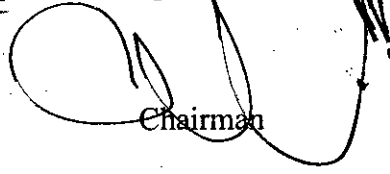
3. 20.05.2014

Appellant deposited
Security & process fee
Rs 180/- Bank receipt
attached with
file
JAW
2/5

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 original order dated 31.12.2013, he filed departmental appeal on 06.01.2014, which has been rejected on 10.03.2014, hence the present appeal on 25.03.2014. He further contended that the impugned order dated 10.03.2014, 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. To come up for written reply/comments on 18.08.2014.

4. 20.05.2014

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


Member

Chairman

18.8.2014

The Hon'ble Bench is on tour to Abbottabad, therefore, case adjourned to 13.11.2014.


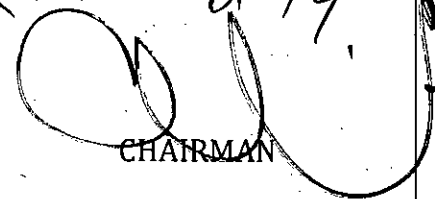

Reader

at 12/11/14

Form-A
FORM OF ORDER SHEET

Court of _____

Case No. 416/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	25/03/2014	<p>The appeal of Mr. Gul Ayub presented today by Mr. Noor Badshah Bangshah 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	31-3-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>20-5-2014</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal no. 416/2014

Ex-ASI Gul Ayub Police Department Bannu S/o Muhammad Azim
Khan R/o Adam Zai District Lakki Marwat. (Appellant)

Versus

Deputy Inspector General of Police / RPO, Bannu Region Bannu etc.
(Respondents)

Appeal

I N D E X

S. No	Description of Documents	Annexure	Pages
1.	Memo of Appeal		1-4
2.	Charge Sheet, statement of allegations.	A	5-6
3.	Reply to the charge sheet etc.	B	7-10
4.	Inquiry Report	C	11-12
5.	Impugned order of respondent No.2	D	13
6.	Departmental appeal		14-17
7.	Impugned order No.641-42/EC dated 10-3-14 of respondent No.1	E	18
8.	Wakalat Nama		19

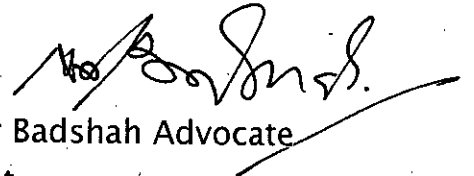


Appellant

Ex-ASI Gul Ayub

Dated: 18-3-2014.

Through:



Noor Badshah Advocate
Kohat.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal no. 416/2014

459
25/3/14

Ex-ASI Gul Ayub Police Department Bannu S/o Muhammad Azim
Khan R/o Adam Zai District Lakki Marwat. (Appellant)

Versus

1. Deputy Inspector General of Police / RPO, Bannu Region
Bannu.
2. District Police Officer Bannu.
3. Sub Divisional Police Officer Naurang, District Lakki Marwat.

(Respondents)

APPEAL UNDER SECTION-4 OF KPK SERVICE TRIBUNAL ACT
1974 AGAINST THE IMPUGNED ORDER OF RESPONDENT NO.1
VIDE endst: NO.641-42/EC DATED 10-3-2014, WHEREBY
THE DEPARTMENTAL APPEAL PREFERRED BY THE APPELLANT
HAS BEEN FILED WITH IMMEDIATE EFFECT.

Prayer in Appeal:

On acceptance of this appeal the impugned order vide no.641-42/ec dated 10-3-2014 of respondent no.1 and order vide No.1445/EC dated 31-12-2013 of respondent No.2 may please be set-aside being illegal arbitrary against law, contrary to Police Rules prescribed service rules and also against the fact and circumstances of the case. Therefore the appellant may graciously be reinstated in services with all back benefits. Further prayed any relief deem appropriate may also be extended in favour of appellant to meet the requirement of justice.

Respectfully Sheweth

25/3/14

Facts :

- I. Facts giving rise to the present appeal are that the appellant ^{Joined} ~~joined~~ service in police department as constable on 02-10-1983, who after getting basic training started his duty at Distt: Bannu.
- II. That on account of his excellent performance the appellant was promoted to the rank of ASI, which is evident from the record.
- III. That while posted as ASI at Police Station Baka Khel Baran Bridge Post, the appellant was suspended, charge sheet was issued to him on account of so called allegations and inquiry conducted against him. Copy of annexure-A.
- IV. That in response the appellant submitted written reply to the concerned inquiry officer and denied the allegations leveled against the appellant. Copy of annexure-B.
- V. That after conducting inquiry final report was submitted to the respondent No.2, who imposed major penalty upon the appellant on the basis of spy information as the inquiry officer did not prove allegations against the appellant and passed compulsory retirement order with immediate effect. Copy of annexure-C & D.
- VI. That dissatisfied with the impugned order passed by respondent No.2 the appellant preferred a departmental appeal before the respondent No.1, who without going into the merit of the case also filed the appeal vide annexure-E.
- VII. That feeling aggrieved the appellant submit the instant appeal on the following grounds amongst others.

Grounds:

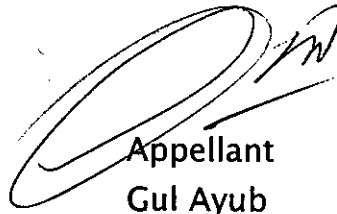
- a) That the impugned orders referred to above is against law, contrary ^{to} Police Rules / prescribed services rules, capricious and also against the fact and circumstances of the case, hence liable to be set-aside.
- b) That the appellant was an honest, efficient, police officer. He has performed his duty with great zeal and also tackled all tasks whenever assigned to him. There is no complaint against him either by general public or by any agency i.e. officers / officials.

- c) That the appellant has earned 12 good entries with regard to his annual confidential report and there is no adverse remarks. It is added that the so called five bad entries incorporated in the inquiry findings by the inquiry officer the same are based in respect of casual leave etc. which at all could not be considered as bad entry. The inquiry officer has not conducted inquiry proceeding in transparent manner and also did not concentrate the various documentary evidence which have been collected from Bank Authority as well as from revenue agencies. It prima facie established that there is nothing with regard to corruption / malpractices against the appellant. So in these circumstances the punishment as major penalty awarded by the respondent No.2 on the so called findings furnished by Inquiry officer based on surmises and conjectures. The appellate authority overlooked and neglected the material available on record, which is miscarriage of justice. Therefore, the impugned order is not sustainable in the eyes of law.
- d) That the alleged corrupt practices at Baran Bridge Post are also based on surmises and conjectures and no FIR in respect of the alleged allegations has been registered in any Police Station Cantt/ Custom Distt: Bannu or with any authority. Hence, the impugned order is not tenable.
- e) That the appellant is an honest police officer, law abiding citizen and cant not even think to commit such like activities, furthermore the appellant has brilliant service record and also participate in front line duty in the ^{and} ~~aid~~ proceeding of police as well as on so many sensitive places.
- f) That general allegation are leveled against the appellant and no specific charge has been made by any specific complaint. Further more no solid and cogent evidence is available against the appellant and no chance of cross-examination has been given the appellant and ex-parte proceeding conducted by enquiry Officer having no validity of enquiry findings.
- g) That the learned inquiry officer has based his finding on the aerial information of spy resources and intelligent agencies which have no evidentiary value in the eyes of law. It is worth mentioning that the alleged charges are not proved at all against the appellant. The inquiry officer has not adopted the legal procedure as required under the relevant provisions of prescribed service rules

/ police rules and have flagrantly violated the same. The respondents did not bother to concentrate about the clear picture of the case as well as material available on record. It was incumbent upon them to go into the merit of the case and should have taken into consideration the various aspects of the case. They have committed illegalities / irregularities, which are unwarranted by law therefore, the impugned orders are liable to be set-aside.

h) That the appeal is within time.

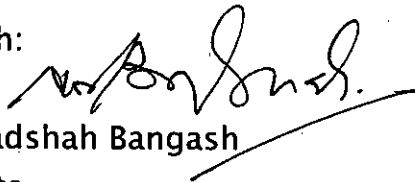
In view of the above, it is humbly prayed, that on acceptance of the instant appeal the impugned orders referred to above may please be set-aside and the appellant may graciously be reinstated in service as ASI with all back benefits and to allow the appellant to join / continue his duties as ASI for ends of justice.



Appellant
Gul Ayub

Dated: 18-3-2014.

Through:



Noor Badshah Bangash
Advocate,
Distt: Courts Kohat.

Affidavit

I do hereby solemnly affirm and declare that the contents of this appeal are true to the best of my knowledge and belief and nothing concealed from this Honourable Court.



Deponent

④ ⑤

Annexure - A

CHARGE SHEET

1. MUHAMMAD IQBAL District Police Officer, Bannu, as competent authority, hereby charge you ASI Gul Ayub I/C Branch Bridge (PS Baka Khel), Bannu, as you have been suspended by the Regional Police Officer, Bannu on the basis of your tainted reputation and your alleged involvement in anti-social activities. Your activities are against the norms of a discipline, serious morality and impartialness which are badly required for the police force.

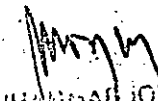
2. By reason of the above you appear to be guilty of misconduct under the police Rules (amended vide NWFP gazette, 27 January 1976) and have rendered yourself liable to all or any of the penalties specified in the said rules.

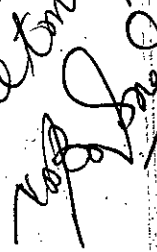
3. You are therefore, directed to submit your defense within 07 days of the receipt of this Charge Sheet to the enquiry officer.

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

5. You are directed to intimate whether you desire to be heard in person.

6. A statement of allegations is enclosed.


(MUHAMMAD IQBAL)
District Police Officer,
Bannu.

Attest
to be true copy


④ ⑥

STATEMENT OF ALLEGATIONS:


I, Muhammad Iqbal, District Police Officer, Bannu as competent authority, am of the opinion that ASI Gul Ayub I/C Branch Bridge(PS Baka Khet), Bannu has rendered himself liable to be proceeded against as he has committed the following misconduct within the meaning of Police Rules (amended vide NWFP gazette 27th January 1976).

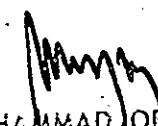
STATEMENT OF ALLEGATIONS:

1. He has been suspended by the Regional Police Officer, Bannu on the basis of his tainted reputation and his alleged involvement in anti-social activities. His activities are against the norms of a disciplined service, morality and impartialness which are badly required for the police force.
2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations Mr. Liaqat Shah, DSP Naurang, District Lakki Marwat, is appointed as Enquiry Officer.
3. The Enquiry Officer shall provide reasonable opportunity of hearing to the accused, record statements etc and findings within (25 days) after the receipt of this order.
4. The accused shall join the proceedings on the date, time and place fixed by the Enquiry Officer.

No. 668-70/SRC dt. 06-12-2013

Copies to (1) ASI Gul Ayub I/C Branch Bridge(PS Baka Khet)(2) DSP Naurang, District Lakki Marwat (3) SRC Bannu.


(MUHAMMAD IQBAL)
District Police Officer,
Bannu.


(MUHAMMAD IQBAL)
District Police Officer,
Bannu.

7

1

Annexure - B

To,

The District Police Officer,
Bannu.

Subject: REPLY TO THE CHARGE SHEET BASED UPON
STATEMENT OF ALLEGATION.

Respected Sir,

With reference to your good self-number 668-70/SRC dated 06/12/13, the petitioner prayed as under:-

1. The petitioner recruited in police deptt: as constable in the year 02/10/1983 and after undergoing basic training in the training institution, reported back in the District for performance of duty. The petitioner was then deputed for the training of different courses which was successfully completed and thereafter the petitioner has been assigned the duties in various police stations which was discharge efficiently.
2. That the petitioner was posted on various establishment in police deptt: and performed the duty with great zeal and zest and this is why that the officers under whom command, I have performed the duty has made no complaint what so ever against the petitioner and was happy from the performance of duty.
3. That throughout my service since 1983, the petitioner has not done any such thing/action which is against the spirit of police rules as well as disciplinary force. The service record of the petitioner is so much clean that during the entire period of service, no complaint has been received from the public to the officers and this is why that no departmental action has been initiated against the petitioner from any corner on the basis of Anti-Social activities. During the course of extra ordinary performance of duty the petitioner has obtained so many

attached to be done copy
M. A. Ghani

commendation certificates with cash award. In which the extraordinary performance has been recognized in so many cases.

4. That after qualifying different course satisfactory in different institution like gas course, weaponry course, finger print course, BDS course and Traffic course. The petitioner was assigned the duties of the above courses which was discharged efficiently and devotedly. Furthermore the petitioner have also assigned the duty against the terrorist/militants and other anti-social elements which has also been performed devotedly and honestly. During the course of performance of duty the petitioner has not shown any cowardice whatever situation came forwarded as evident from service record of the petitioner.
5. That the petitioner has performed front line duty in the raid proceeding of police as well as whenever the services of the petitioner was required in any field for police deptt. The petitioner has also performed the duty on so many sensitive places and the services of the petitioner in the performance of duty in such sensitive places has been recognized by the officers with good name in-spite of the fact that many time threat has been received to the petitioner from the terrorist.
6. The allegation leveled in the subject Charge Sheet is not based upon facts because the petitioner has not been counseled by the authority in light of the contents of the above allegations. According to service laws whenever no proof is available against any officer/official on the subject of corruption or any other anti-social activities then the official/officer is directed by the authority for reformation or removing the short coming or the same is communicated to the officer/official in shape of adverse remarks in the ACR but in my case no such adverse remarks has been communicated to me in shape of ACR or advice, which suggest that the allegations mention in the above letter is not substantiated by cogent evidence.

9

Sir, the petitioner has never been indulged in any such activities beneficial to the person of petitioner except the performance of good duty vide which I am receiving monthly salary from police Deptt. The allegations in the above charge sheet is quite based upon hearsay evidence which has got no footing in the service laws, furthermore, I do not know that under what source, the same has been communicated to your good self by worthy RPO Bannu because till date I have not even warned by the authority on any score of mis-conduct.

8. According to the dicta of Supreme court of Pakistan as well as service tribunal and the constitution of Islamic republic of Pakistan 1973 no official/officer should be condemned without solid reasons / proof of any allegation and in the case of any allegation against the spirit of police rules/service laws, the official/officer will be suspended when there is some clue leading towards the allegations but in the case of petitioner no complaint what so ever has been made against the petitioner nor any kind of tinted allegation has been refereed in the charge sheet. The general allegations without proof are nothing but amounts the harassment of the official.

9. The petitioner is the only bread earner of the family and such like defamation will certainly discourage myself as well as other police officials in performance of duty specially in the situation facing by the police in now a days. The petitioner's performance has been praised by the authorities on each and every occasion as evident from the service record. but I don't know that why I have been blamed for such allegations.

10. That the allegations in the charge sheet are in-morality and impartialness not governed by any cogent/solid proof and no official/officer can be entangle with such like allegations without substantive proof. Furthermore, throughout my service I have performed my duty so devotedly and bravery that no chance has been given to any authority for fingering upon my duty.

6
C
i
19A

10

In light of the above facts and circumstances, it is requested that the allegations mentioned in the charge sheet is Ariel in nature and the charge sheet may kindly be filled without further action.

Your Obedient

ASI GUL AYUB,
Police Line Bannu.

از دفتر DSP سرکل لڑکانہ
انٹرویو افند
Annexure - C

تاریخ - 12.2013 ، 23
فائنل رپورٹ انٹرویو افند

جناب عالی! عرض خدمت میں کہ مطبق خارج سٹیٹ سہمی
آف الیکشن نمبر 66870 تاریخ 12-06-2013 جاری ہے۔
ASi مل ایوب پونیس اس کے خلاف الزام عائد کیا ہے۔ تم
وہ سماج دشمن عناصر سے قصہ طور پر ملے ہوئے ہے۔ جو حکم

پولیس کیلئے بدنامی کا باعث ہے۔ خارج سٹیٹ سہمی آف
الیکشن جاری کردہ میں DSP فونڈ کو انٹرویو افند فور
کرنے اور دو ²⁵ عیس یوم کے اندر فائنل رپورٹ درج کرنا کے
احکامات صادر کیے گئے ہیں۔ خارج سٹیٹ سہمی آف الیکشن
وصول کردہ ہم الزام علیہ آفند نے اپنا ڈیوٹی جوب دیا
اور اسے خلاف لگائے گئے الزامات کی تردید کی اور
خود کو بے گناہ اور بے قصور بتلایا۔

دوران انٹرویو ذیل گواہان بشمول الزام علیہ آفند طلب کیے
جائے گا۔ آئے ہوئے بنائے موجودگی الزام علیہ آفند علیہ
کہ الزام علیہ کو گواہان پر اپنا دفاع، چارج کرنے اور
کامیور لورا حق، اصرار دیا گیا۔

- ① سید احمد ACRC دفتر پولیس بنوں ،
- ② گل محمد ASi دفتر پولیس بنوں

to be tone copy
no of sound
for

3) Asi گل آویں خان مقیمہ پولیس اسٹیشن پول

بطلانی رلیکارڈ SRC ، OASI مذکورہ Asi گل آویں حورج 1983
کو حکم پولیس پول میں لپور فائیل ہوئی ہوا اور اپنی ڈوئیاں مختلف تھان
جائے تھان صدر ، بلا کمنٹ ، بلا ڈوئیل ، P.S منڈان ، P.S سٹی ،
بلا بویہ ، بلا ٹاؤن شپ ، ریخراج چوکی ہارن پول میں وقتاً فوقتاً
ڈوئیں سے انجام دیا گیا۔ بطلانی رلیکارڈ SRC ، OASI مذکورہ
Asi گل آویں کے بارہ 12 Good اور ٹائیچ Bed اسٹری موجود ہے۔

بطلانی حورج شہر ٹیپری آف ایگیشن ، لگانے کے ذرائع کے
بابت الزام علیہ احمد کے نام میں شیشل بند آف پاکستان پول
میں ایکارڈنٹ نمبر 2-5045 موجود ہے جس میں 10 روپے میں موجود ہے۔
اسی طرح نیواری صلح بخت خان سے ڈوئری رپورٹ حاصل کی بابت جائیداد
مذکورہ کے نام کوئی زرعی جائیداد نہیں ہے۔ اسی طرح مذکورہ الزام
علیہ Asi گل آویں پر لگانے کے ذرائع کے بابت مقیمہ ذرائع انٹیٹی جنس
کیسین سے بھی معلومات کی گئی ہے۔ صورت کے مطابق مذکورہ

Asi گل آویں ہارن پول چوکی پر کھیتی باڑی کے دوران نان کیم پیڈ ٹیپری
اور دیگر اشیاء از قلم جائے اور ٹیپری کی سھلک ہوئی رہی۔
جو مذکورہ مقیمہ حورج اور اشرف حورج میں اسی صورت کو سھلک ہم ملوث
بایا گیا ہے۔ جو کسٹمر انگریزی سے گنتی کار، تصور دار غورانا جاتا ہے۔
پیکو (majar) سزا دینے کی سفارش کیا گیا ہے۔

12/12/2017
5000
5000
5000
5000



(13)

Amendment - D

**OFFICE OF THE
DISTRICT POLICE OFFICER,**

BANNU.

Phone No: 0928-9270 038

Fax No: 0928-9270045

OB No. 1445 /EC

Dated 31.12.2013

To: **ASI Gul Ayub of District Bannu Police.**

ORDER

1. You, ASI Gul Ayub, at the time of your posting at Police Station Baka Khel were charged for the misconduct communicated to you during departmental proceedings, the gist of which is that you had a tainted reputation and remained involved in anti social activities. Accordingly proper departmental enquiry was conducted to find out facts.
2. Mr. Liaqat Shah DSP Naurang District Lakki was appointed as Enquiry Officer who has submitted his findings wherein the charges leveled against you have been proved.
3. You were called in the orderly room on 30.12.2013 and were heard in person. You had nothing substantial in your defense. I, Mohammad Iqbal, DPO Bannu, as competent authority under Police Rules (amended vide NWFP gazette, 27 January 1976) have come to the conclusion that charges leveled against you are proved beyond any doubt and that your retention in police service would be harmful for the force. I have, therefore, decided to impose major penalty upon you by retiring you compulsorily from service. This order will take effect immediately.


District Police Officer,
Bannu.

*Attest
to be done by
[Signature]
A.S.*

14

To,

The Regional Police Officer / D.I.G

Bannu Division, Bannu.

SUBJECT: DEPARTMENTAL APPEAL / REPRESENTATION AGAINST OFFICE ORDER BEARING NO. 1445/EC DATED 13/12/2013 ISSUED BY DISTRICT POLICE OFFICER BANNU VIDE WHICH MAJOR PENALTY OF COMPULSORILY RETIREMENT WAS IMPOSED UPON THE APPELLANT (UNDER POLICE RULES AMENDED VIDE N.W.F.P GAZETTE, 27 JANUARY 1976).

PRAYER: ON ACCEPTANCE OF INSTANT APPEAL / REPRESENTATION THE IMPUGNED ORDER DATED 31/12/2013 MAY VERY KINDLY BE SET-ASIDE BY RE-INSTATING THE APPELLANT IN SERVICE WITH ALL BACK BENEFITS AND TO ALLOW THE APPELLANT TO JOIN / CONTINUE HIS DUTY AS ASI.

Respected Sir,

The Appellant most submits as under:-

- 1) That the appellant was recruited in police department as constable on 02/10/1983, who after getting basic training, started his duty at district Bannu.
- 2) That during the course of duty, the Appellant was assigned different tasks who performed the same with great zeal and zeast, in reward of which the Appellant was approved for different training courses and after completion of the said courses and best



performance, the Appellant was promoted to the post of Head Constable and ASI respectively.

- 3) That while posted as ASI at police station Baka Khel, the Appellant was suspended, charge sheet was issued to the Appellant for the so-called allegations and enquiry officer was deputed for conducting enquiry.

(Copy of charge sheet & suspension order is attached herewith as Annexure-"A")

- 4) That the Appellant submitted written reply to the concerned enquiry officer, verbally given complete details in respect of service career and completely denied from the so-called allegations.

(Copy of written reply is attached herewith as Annexure-"B")

- 5) That the learned enquiry officer submitted his final report / enquiry report to the Honourable D.P.O Bannu on 27/12/2013, wherein spy Information's were based for imposing major penalty upon the Appellant.

(Copy of final (enquiry) report is attached as Annexuer-C)

- 6) That the Honourable D.P.O Bannu issued the impugned order dated 13/12/2013, wherein major penalty of compulsorily retirement was imposed upon the Appellant.

(copy Annexure - D)

- 7) That having no other efficacious remedy, the Appellant now knocks at the doors of this Honourable forum/chair, inter-alia, on the following grounds;

GROUNDS:-

- A) That the Appellant was assigned different tasks during service career wherein, who has performed his duty with great zeal and zest and no complaint whatsoever has been made by the general public against the Appellant in the whole career.

- B) That 12 good entries have been made by the High ups in favour of Appellant which is part and parcel of the record and no adverse remarks have been made in the Appellant's record or in the ACR's by the High ups, furthermore, the so-called 05 bad entries are shown in respect of casual leave which at all could not be considered as bad entries, but this aspect of the case has been ignored by the learned enquiry officer as well as by the Honourable D.P.O Bannu, which is against the norms of justice.
- C) That the Appellant was initially recruited as constable in the police department, and due to his best performance promotions were sanctioned in his favour to Head Constable and then ASI respectively.
- D) That according to the available record only Rs. 30 as cash amount was found present in the Appellant's Bank account i.e. A/C No. 5045-2 National Bank of Pakistan Bannu and no agricultural or builded property is registered in the name of Appellant nor any proof of Benami property was found in the name of Appellant, then how the learned enquiry officer as well as the Honourable D.P.O Bannu based the so called Arial allegations for imposing major penalty upon the Appellant.
- ✓ E) That the alleged corrupt practices at "Baran Pool Post" are based on surmises and conjectures because no FIR in respect of alleged allegations has been registered in police station Cantt, Bannu which comes in the way next to the "Baran Pool Post".
- F) That the Appellant is law abiding citizen as well as police official and cannot even think to commit such like activities; furthermore, the Appellant has brilliant service record and always participate in front line duty in the raid proceedings of police as well as on so many sensitive places.
- G) That general allegations are leveled against the Appellant and no specific charge has been made by any specific complainant,

12

furthermore, no solid and cogent evidence is available against the Appellant, and no chance of cross examination has been given to the Appellant.

- H) That the learned enquiry officer has based his findings on the Aerial information of spy resources and intelligence agencies which have no evidentiary value in the eyes of law.
- I) That the Appellant is the only and solely source of income for his younger kids having no property or business resources, therefore, the Appellant is also entitled for re-instatement on this score alone.

It is, therefore, most humbly prayed that on acceptance of instant departmental Representation/Appeal, the impugned order dated 13/12/2013 may very kindly be set-aside by re-instating the Appellant in service as ASI with all back benefits and to allow the Appellant to join/continue his duty as ASI.

Note: The Appellant may kindly be heard in person or through pleader.

Appellant

Dated: 06/01/2014



Gul Ayub ASI

District Police Bannu.

ORDER

My this order will dispose of departmental appeal preferred by Ex: ASI Gul Ayoub against the order of Major Punishment of compulsory retirement from service by DPO/Bannu vide OB No. 1445 dated 31-12-2013 for committing of the following omissions:-

- That his reputation was reported to be tainted as well as charged for anti social activities

The said EX: ASI was proceeded against departmentally for the above misconduct. Mr. Liaqat Shah, DSP/Naurang, District Lakki Marwat was appointed as Enquiry Officer, who conducted proper departmental enquiry into the allegations and submitted his findings. The delinquent ASI was reported to be guilty of the charges. Hence, he was awarded major punishment of Compulsory retirement from service by the competent authority under police rule-1975 vide Order Book No and dated quoted above.

The appellant preferred departmental appeal before the undersigned for set asiding the awarded punishment. The undersigned, besides perusing the departmental enquiry file and contents of the appeal, also verified the allegations through various sources which were found accurate. Opportunity of personal hearing was also afforded to the appellant but failed to satisfy the undersigned regarding the allegations leveled against him.

Keeping in view the above, therefore, I SAJID ALI KHAN, Regional Police Officer, Bannu Region, Bannu in exercise of the powers vested in me under Police Rules 1975, hereby file the instant appeal with immediate effect.

Order announced.

(Sajid Ali Khan)PSP
Regional Police Officer,
Bannu Region, Bannu.

No. 641-42/EC, dated Bannu the 10/03/2014.

Copy to:-

1. The District Police Officer, Bannu along with service record containing departmental proceeding file for information and necessary action w/r to his office memo: No. 100 dated 28-01-20147.
2. ✓ Ex: ASI Gul Ayoub.

(Sajid Ali Khan)PSP
Regional Police Officer,
Bannu Region, Bannu

کام

2014

منجانب
appellant
D.G. نون
and others

نام

Ex-Asi
مقدمہ

suc appeal

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جوابدہی کل کاروائی متعلقہ آں مقام
کے لیے نور بادشاہ بنگش ایڈووکیٹ کو ہاٹ کوکیل مقرر کر کے اقرار کیا جاتا ہے کہ
صاحب موصوف کو مقدمہ کی کل کاروائی کا اختیار ہوگا۔ نیز وکیل صاحب کو کرنے راضی نامہ و تقرر ثالث و فیصلہ بر جلف دینے جواب دہی
اور اقبال دعویٰ اور بصورت ڈگر کرانے اجرا و وصولی چیک زر روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زراس پر دستخط کرنے
کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی و نیز دائر کرنے اپیل نگرانی نظر ثانی و پیروی کرنے کا
اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کے کل یا جزو کاروائی کے واسطے اور وکیل یا مختیار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا
اختیار ہوگا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اسکا ساختہ پر داختم منظور و قبول ہوگا۔ دوران
مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق کیا صاحب موصوف ہونگے نیز بقایا خرچہ کی وصولی کرنے کا بھی
اختیار ہوگا۔ اگر کوئی تاریخ پیشی مقدمہ دورہ پر ہو یا حد سے باہر ہو وکیل صاحب پابند نہ ہونگے کہ پیروی مذکورہ کریں۔ لہذا نکالت نامہ لکھ
دیا کہ سند ہے۔

2014

مارچ

18

المرقوم

(Ex-Asi Gul Aynub)
appellant
Attest
accept

مقام کے لئے منظور ہے۔

نور بادشاہ بنگش ایڈووکیٹ
NOR BASHAH BANGSHI
Advocate
D.G. Courie Kohat.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUN KHWA PESHAWAR

Appeal No. 416/2014.

Gul Ayub Khan, EX-Assistant Sub-Inspector Police Department Bannu
S/o Muhammad Azim Khan R/o Adam Zai Lakki Marwat.

(Appellant)

VERSUS

- 1) Regional Police Officer Bannu Region, Bannu.
- 2) District Police Officer Bannu.
- 3) Sub Divisional Police Officer Nourang, District Lakki Marwat (Respondents)

PARA WISE COMMENTS BY THE RESPONDENTS No.1 & 2.

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:

- 1) That the appeal of appellant is time-barred.
- 2) That the appeal is not maintainable in its present form.
- 3) That the appellant has concealed the material facts from the Honorable Tribunal.
- 4) That the appeal is bad in law due to non-joinder and mis-joinder of necessary parties.
- 5) That the appellant has approached the Honorable Tribunal with unclean hands.
- 6) That the appellant has got no cause of action and locus standi to file the instant appeal.
- 8) That the appellant has been estopped by his own conduct to file the appeal.

OBJECTIONS ON FACTS

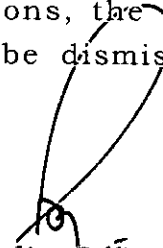
- I. Pertains to record, hence needs no comments.
- II. Incorrect. The appellant has indifferent record. On the basis of seniority cum fitness, he was promoted to the rank of officiating ASI.
- III. Pertains to record. Reportedly the appellant was found involved in smuggling of NCP vehicles, tea, tyre and corruption while posted at Police Post Baran Bridge.
- IV. Pertains to record. The reply of appellant was found baseless and unsatisfactory.
- V. Incorrect. The allegation levelled against the appellant were established in the inquiry finding report submitted by impartial inquiry officer (DSP circle Naurang Distt: Lakki Marwat). After providing opportunity of hearing, the appellant was awarded punishment of compulsory retirement from service as his further retention in Police service was harmful for the force.
- VI. Incorrect. The departmental appeal of appellant was rejected/filed on merits, being found unsatisfactory and baseless.
- VII. The appellant has wrongly challenged the valid and legal orders of the respondents through unconvincing grounds.

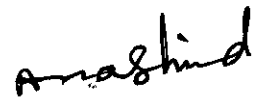
OBJECTIONS ON GROUNDS:

- a) Incorrect. The orders of the respondents are based on facts, justice and in accordance with Police Rules 1975.
- b) Incorrect. The appellant has indifferent record. Beside his involvement in smuggling and corruption, five bad entries are available in his service record.
- c) Incorrect. Fair and impartial inquiry was conducted through inquiry officer wherein all the opportunities of defense and hearing were provided in accordance with rules to the appellant. During the course of inquiry no objection has been raised by the appellant over the inquiry officer. He was heard in orderly room by the respondents but he badly failed to establish his plea regarding the allegations. The orders of the respondents are legal and sustainable in the eye of law and Police Rules 1975.
- d) Incorrect. The appellant has committed/dealt the acts of smuggling/corruption in a clandestine manner and concealed the proof from the immediate boss and public at large. The secret agencies have unearthed this fact hence the impugned order is according to law and rules.
- e) Incorrect. Explained in preceding Para. He has not shown any exceptional performance but performed duty as a routine.
- f) Incorrect. The charges of corruption etc have been specifically mentioned in the charge sheet/statement of allegations and the whole inquiry was carried out in his presence with providing of opportunities of defense etc.
- g) Incorrect. Besides the information of secret agencies which has evidentiary value under Qanun-e-Shahadat, statements of witnesses have been recorded in presence of appellant. Inquiry was conducted under proper rules 1975 which is a special law/rules for Police Force and all the codal formalities were observed and no illegality has been done by the respondents while passing the order of compulsory retirement of appellant and rejection of departmental appeal.
- h) Incorrect. The appeal is not maintainable and time barred.

Prayer:

In view of the above facts and stated reasons, the appeal of appellant is devoid of legal force, may kindly be dismissed with costs.


Regional Police Officer,
Bannu Region, Bannu
(Respondent No.1)


District Police Officer,
Bannu.
(Respondent No.2)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUN KHWA PESHAWAR

Appeal No: 416/2014.

Gul Ayub Khan, EX-Assistant Sub-Inspector Police Department Bannu S/o Muhammad Azim
Khan R/o Adam Zai Lakki Marwat. (Appellant)


VERSUS

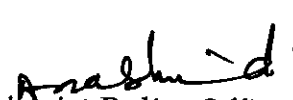
- 1) Regional Police Officer Bannu Region, Bannu.
- 2) District Police Officer Bannu.
- 3) Sub Divisional Police Officer Nourang, District Lakki Marwat (Respondents)

AUTHORITY LETTER.

Mr. Mir Faraz Khan Inspector Incharge Legal Cell Bannu is hereby authorized to appear before The Service Tribunal Khyber Pakhtunkhwa Peshawar on behalf of the undersigned in the above cited case.

He is authorized to submit and sign all documents pertaining to the present appeal.


Regional Police Officer,
Bannu Region, Bannu
(Respondent No.1)


District Police Officer,
Bannu.
(Respondent No.2)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUN KHWA PESHAWAR

Appeal No. 416/2014.

Gul Ayub Khan, EX-Assistant Sub-Inspector Police Department Bannu S/o
Muhammad Azim Kahn R/o Adam Zai Lakki Marwat.


(Appellant)

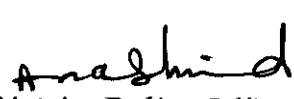
VERSUS

- 1) Regional Police Officer Bannu Region, Bannu.
- 2) District Police Officer Bannu.
- 3) Sub Divisional Police Officer Nourang, District Lakki Marwat (Respondents)

COUNTER AFFIDAVIT

We, do hereby solemnly affirm and declare that the contents of the attached comments are true and correct to the best of our knowledge and belief and nothing has been withheld or concealed from this Honorable Tribunal.


*Regional Police Officer,
Bannu Region, Bannu
(Respondent No.1)*


*District Police Officer,
Bannu.
(Respondent No.2)*