

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

Service Appeal No. 296/2014

Date of Institution... 19.02.2016

Date of decision... 26.01.2018

Hameedullah son of Sar Biland Khan, R/O Jabbu Khel Lakki Marwat Ex-Chowkidar, GPS Jabbu Khel Lakii Marwart. ... (Appellant)

Versus

1. Deputy Commissioner, Lakki Marwat, Ex-District Coordination Officer, Lakki Marwat and three others. ... (Respondents)

Arbab Saiful Kamal, ... For appellant.
Advocate.

Mr. Kabeerullah Khattak, ... For respondents.
Addl. Advocate General

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN
MR. GUL ZEB KHAN, ... MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the
learned counsell for the parties heard and record perused.

FACTS

2. The appellant was terminated from service on 24.09.2005 with retrospective date i.e. 12.08.2001. But ground for termination was the involvement of the appellant in a criminal case. The appellant was acquitted from the criminal case on 03.06.2013 and thereafter, the appellant filed departmental appeal on 25.06.2013 which was not responded to and thereafter, he filed the present service appeal on 19.02.2014.

ARGUMENTS

3. The learned counsel for the appellant argued that the very impugned order is a void order as it was given retrospective effect. That the rules under which the appellant was terminated were not in vogue at the relevant time. That no independent departmental proceedings were initiated against the appellant. That with the acquittal in criminal case he would be reinstated in service.

4. On the other hand the learned Addl. Advocate General argued that the present appeal is not maintainable. That the appellant filed three successive departmental appeals and the period of limitation would not be enlarged. That there is no provision for second departmental appeal in the light of judgment reported as 2013-SCMR-911.

CONCLUSION

5. This Tribunal in a number of appeals has held that retrospective order as a void order and no limitation would run against void order on the strength of the judgment of the august Supreme Court of Pakistan reported as 1985-SCMR-1178. The issue of successive departmental appeals became irrelevant when no limitation is attracted. The department did not initiate any proceedings against the appellant and had only terminated him due to his involvement in criminal case. Had there been any departmental proceedings against the appellant then, of course, the order of acquittal by court of law would have no relevancy and the departmental proceedings would have prevailed. The impugned order shows that the appellant was terminated only due to his involvement in criminal case and his absence. In such like cases when the department has based the termination order on the ground of involvement in criminal case then the acquittal by the court of law would result

in his reinstatement. The issue of willful absence is also irrelevant because no proceedings for willful absence were carried out against the appellant.

6. As a sequel to the above discussion, the present appeal is accepted and the appellant is reinstated in service. His absence period should be treated as leave of the kind due. In case no leave is due to the appellant then the period should be considered as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

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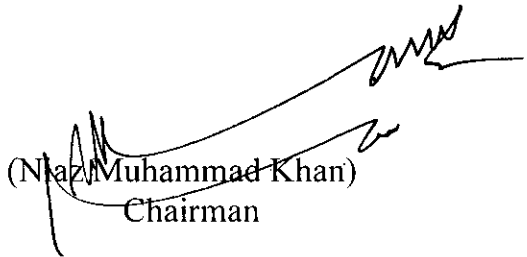
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(Gul Zeb Khan)
Member


(Naz Muhammad Khan)
Chairman

ANNOUNCED

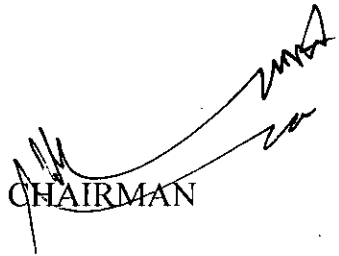
26.1.2018

26.01.2018

Appellant alongwith counsel and Mr. Kabirullah Khattak, Addl. AG for the respondents present. Arguments heard and record perused.

This appeal is accepted as per our detailed judgment. Parties are left to bear their own costs. File be consigned to the record room.


MEMBER

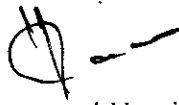

CHAIRMAN

ANNOUNCED
26.01.2018

23.11.2017


Junior counsel for the appellant present. Mr. Zia Ullah, Deputy District Attorney for the respondents present. Junior counsel for the appellant seeks adjournment due to non availability of his senior counsel. Adjourn. To come up for arguments on 17.01.2018 before D.B.



(Gul Zeb Khan)
Member


(Muhammad Hamid Mughal)
Member

16.01.2018

Counsel for the appellant present. Mr. Zia Ullah, DDA for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 22.01.2018 before D.B.


(Gul Zeb Khan)
Member (E)


(Muhammad Hamid Mughal)
Member (J)

18.05.2017

Counsel for the appellant and Mr. Muhammad Jan Deputy District Attorney for the respondent present. Counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 24.07.2017 before D.B.

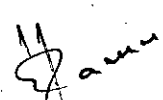

(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kundi)
Member

19. 24.07.2017

Agent to counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondent present. Agent to counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 23.10.2017 before D.B.


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

23.10.2017

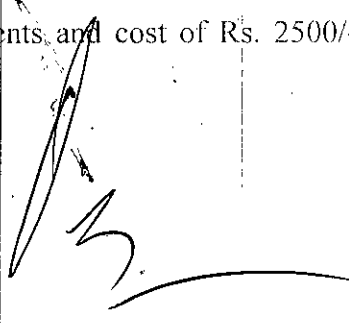
Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney alongwith Muhammad Akram, Superintendent for the respondents present. After hearing the arguments at some length this Tribunal put the question to learned counsel for the appellant whether an order made effective retrospectively is a void order or not. To this regard no judgment is available with the learned counsel for appellant. Adjourned. To come up for further arguments on 23.11.2017 before D.B.


Member


Chairman

22.08.2016

Agent to counsel for the appellant, M/S Khurshid Khan, SO and Hamced-ur-Rehman, AD (lit.) alongwith Additional AG for respondents present. Written reply by respondents not submitted despite extension of last opportunity subject to payment of cost of Rs. 2500/-. Request for adjournment was further made on behalf of learned Additional AG. Last opportunity is further extended. To come up for written reply/comments and cost of Rs. 2500/- on 24.10.2016 before S.B.



Member

24.10.2016

Appellant in person and Mr. Sharifullah, ADO alongwith Assistant AG for respondents present. Written reply submitted. Cost of Rs. 2500/- also paid and receipt thereof obtained from the learned counsel for the appellant. The appeal is assigned to D.B for rejoinder and final hearing on 04.01.2017.



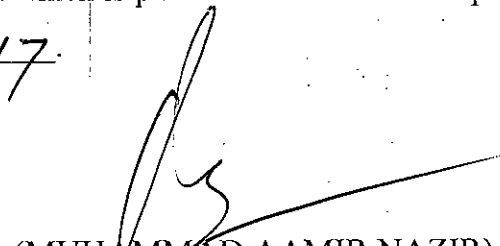
Chairman

04.01.2017

Counsel for the appellant and Assistant AG for respondents present. Rejoinder submitted which is placed on file. To come up for arguments on 18.5.17.



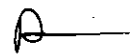
(ASHFAQUE TAJ)
MEMBER



(MUHAMMAD AAMIR NAZIR)
MEMBER

11.05.2016

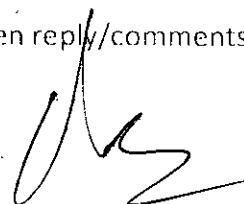
Counsel for the appellant, M/S Sharifullah, ADO, Hameed-ur-Rehman, AD (lit.) and Khurshid Khan, SO alongwith Assistant AG for respondents present. Written reply by respondents not submitted despite extension of last opportunity subject to payment of cost of Rs. 1500/- Learned Addl: AG requested for further time for submission of written reply on behalf of respondents. Last opportunity further extended subject to payment of further cost of Rs. 1000/- which shall be borne by the respondents from their own pockets. To come up for written reply/comments and cost of Rs. 2500/- on 09.09.2016 before S.B.



Member

09.06.2016

None present for appellant. M/S Hameed-ur-Rehman, AD (lit.) for respondent No. 3 and Khurshid Khan, SO for respondent No. 4 alongwith Addl: AG for respondents present. Written reply by respondents not submitted despite extension of last opportunity subject to payment of cost of Rs. 2500/-. Request for adjournment was further made on behalf of learned Addl: AG. Last opportunity is further extended. To come up for written reply/comments and cost of Rs. 2500/- on 22.08.2016 before S.B.



MEMBER

10.11.2015

Appellant with counsel and Mr. Sharifullah, ADO alongwith Addl: A.G for respondents present. Written reply not submitted despite last opportunity. Requested for further adjournment. Last opportunity is extended subject to payment of cost of Rs. 500/- which shall be borne by the respondents from their own pockets. To come up for written reply/comments and cost on 22.12.2015 before S.B.


Chairman

22.12.2015

Counsel for the appellant, M/S Sharifullah, ADO, Hameed-ur-Rehman, AD (lit.) and Khurshid Khan, SO alongwith Assistant AG for respondents present. Written reply not submitted despite extension of last opportunity and payment of cost of Rs. 500/-. Last opportunity is extended subject to payment of further cost of Rs. 1000/- which shall be borne by the respondents from their own pockets. To come up for written reply/comments and cost of Rs. 1500/- on 2.3.2016 before S.B.


Chairman

02.03.2016

Appellant in person and Mr. Sharifullah, ADO alongwith Addl: A.G for respondents present. Cost of Rs. 1500/- paid and receipt thereof obtained. Learned Addl: AG requested for further adjournment as the written statement is not yet complete. One more opportunity is extended subject to payment of further cost of Rs. 1500/- which shall be borne by respondents from their own pockets. To come up for written reply/comments and cost on 11.5.2016 before S.B.


Chairman

12.11.2014

Ms.Uzma Bibi, Advocate on behalf of counsel for the appellant and Assistant Advocate General for the respondents present. The Tribunal is incomplete. To come up, as before, on 6.03.2015.



Reader

06.3.2015

Appellant in person and Mr. Khurshid Khan, SO for respondent No. 4 alongwith Assistant A.G for respondents present. Representative of respondent-department is submitted that written reply is in process of completion and requested for adjournment. The respondent department is directed to submit written reply on 26.05.2015.



MEMBER

26.05 2015

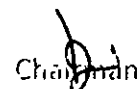
Agent of counsel for the appellant and Mr. Khurshid Khan, SO for respondent No. 4 alongwith Addl: A.G for respondents present. Written reply not submitted. Requested for adjournment. To come up for written reply/comments on 13.8.2015 before S.B.



Chairman

13.08.2015

Appellant with counsel, M/S Javed Ahmed, Supdt. and Khurshid Khan, SO Assistant A.G for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 10.11.2015 before S.B.



Chairman

Appeal No. 296/2014
Mr. Hameedullah

24.04.2014

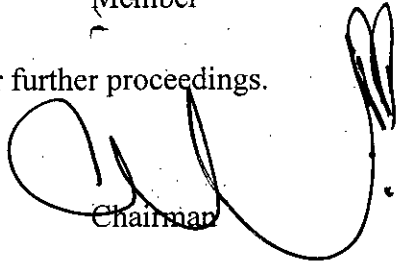
Counsel for the appellant present and moved an application for condonation of delay. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the impugned order dated 24.09.2005, he filed departmental appeal on 03.07.2013, which has not been responded within the statutory period of 90 days, hence the present appeal on 19.02.2014. 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 main appeal as well as reply/arguments on application for condonation of delay on 08.07.2014.

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

S


Member

This case be put before the Final Bench 1 for further proceedings.


Chairman

4. 8.05.2014

8.7.14

The Hon'ble bench is on Pelly
Reserve, as ordered 16.12.11-14

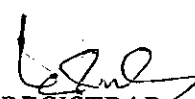


Resch

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 296/2014


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	28/02/2014	<p>The appeal of Mr. Hameedullah resubmitted today by Mr. Saadullah Khan Marwat 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	4-3-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>24-4-2014</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Hameedullah son of Sir BilandKhan Ex- Chowkidar GPS Jabbu Khel Lakki Marwat received today i.e. on 19.02.2014 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Copy of application dated 20.10.2005 mentioned in para-4 of the memo of appeal (Annexure-C) is not attached with the appeal which may be placed on it.

No. 270 /S.T,

Dt. 20/02 /2014.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Saadullah Khan Marwat Adv. Pesh.

Sir,
Resubmitted pt. The application mentioned
as 'C' shall be placed on hand before hearing.
submit pt.

Sy

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

S.A No. 296 / 2014

Hameed Ullah

Versus

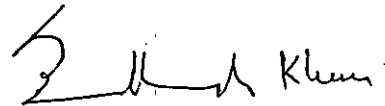
D.C & others

I N D E X

S.#	Description of Documents	Annex	Page
1.	Memo of Appeal		1-4
2.	FIR, No 143, 12.08.2001	"A"	5
3.	Termination Order, 24.09.2005	"B"	6
4.	Application, 20.10.2005	"C"	7
5.	Judgment, 03.06.2013	"D"	8-12
6.	Representation, July to Nov, 2013	"E"	13-17


Appellant

Through



Dated: 19.02.2014

(Saadullah Khan Marwat)
Advocate
21-A Nasir Mension,
Shoba Bazar, Peshawar.
Ph: 0300-5872676

1

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

S.A No. 296 / 2011

Hameed Ullah S/o Sir Biland Khan,
R/o Jabbu Khel, Lakki Marwat,
Ex-Chokidar, GPS, Jabbu Khel,
Lakki Marwat. Appellant

W. J. Peshawar
234
19-2-14

Versus

1. Deputy Commissioner, Lakki Marwat, Ex-District Coordination Officer, Lakki Marwat.
2. District Education Officer, Lakki Marwat.
3. Director of Education, KP, Peshawar.
4. Secretary, Govt: of KP, Education Department, Peshawar. Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST OFFICE ORDER NO. 2363-67 / DCO / LM, DATED 24.09.2005 OF RESPONDENT NO. 1, WHEREBY SERVICES OF APPELLANT WERE TERMINATED WITH EFFECT FROM 12.08.2001 RETROSPECTIVELY.

Legal
19/2/14

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth:

That on 07.12.1989, appellant was appointed as Chowkidar and was posted in GPS, Kotka Sir Biland, Lakki Marwat, and since then he was performing his duties with devotion and without any complaint.

re-submitted to **19/2/14**
and filed.

Legal
19/2/14

2. That unfortunately, FIR, No. 143, dated 12.08.2001, PS Ghazni Khel, was registered under section 302 / 34 PPC and appellant, along with other family members, was implicated by the complainant, Guldin Khan enemy of the village. (Copy as annex "A")
3. That due to fear and torture of the local police, appellant decamped from the spot and vide order dated 24.09.2005, services of appellant were terminated by respondent No. 1 with effect from 12.08.2001 retrospectively. (Copy as annex "B")
4. That on 20.10.2005, appellant submitted application before respondent No. 1 at that time but invain. (Copy as annex "C")
5. That on the other hand, appellant surrender before the court and after completion of the trial; he was acquitted of the baseless charges by Additional Session Judge, Lakki Marwat, vide judgment dated 03.06.2013. (Copy as annex "D")
6. That after gaining acquittal from the competent court of law, appellant again submitted representation before respondent No. 1 on 03.07.2013, 05.09.2013, 25.09.2013, 07.10.2013, 11.11.2013, etc. On some of the applications remarks were recorded to respondent No. 2, "please inquire into the matter and take necessary action as per law under intimation to this office but the same also met dead response.

Sd / DC
02.07.2013.

(Copies as annex "E")

It is, therefore, most humbly prayed that on acceptance of the appeal, order dated 24.09.2005 of respondent No. 1 be set aside and appellant be reinstated in service with all back benefits, with such other relief as may be deemed proper and just in circumstances of the case.

[Signature]
Appellant

Through

[Signature]

Saadullah Khan Marwat

[Signature]

Arbab Saif-ul-Kamal

&

[Signature]

Miss Rubina Naz,
Advocates,

Dated: 19.02.2014

ابتدائی اطلاع رپورٹ

— ۰۸۰ —

تفانہ غزنی ضلع - ضلع کلکی فروٹ - ۸
 نمبر 143 - تاریخ وقت وقوعہ 12-8-2001 وقت طلوع آفتاب ولیم
 تاریخ وقت رپورٹ 12-8-01 وقت 9:15 بجے جا کیدی 12-8-01 وقت 9:45 بجے
 کوئٹہ اطلاع دیندہ - گل دین ولد میر علی قوم پشتون سکندہ جا پوئل لوبکہ/7 سال
 مختصر کیفیت (جم) - 302/84
 جا وقوعہ قاصد و سکت - اراخی لوڑہ پید جا پوئل جانب غرب لیاصل 8/9 مکتوبر از قاصد
 نام و سکت ملازم - دلہا درخان یا سردل خان پسران الہی زریہ شمیم خان ولد بہادر ام عبد الحمید
 خان ولد سر بلند سکناٹے جا پوئل -
 برسر الہی رپورٹ پر یہ پتھر لے کر رپورٹ چاک کیا گیا
 تھانہ سے روانگی - پتھر لے کر رپورٹ چاک کیا گیا

ابتدائی اطلاع نیچے درج کرو - سخت مندر یہ خانہ نمبر 2 سے آج مورخہ
 12/8/01 کو فٹن زوان فٹن شہر شہر محمد خان بادیاد ولیم درید فانیواری ڈائن تھانہ لا کر
 رپورٹ کرتا ہے کہ میں معہ سپرم شہر محمد خان نواسہ ام محمد زمان ولا شہر محمد بیل
 گاڑی میں فصل گوارہ و مٹی ڈال کر دینہ تفریل لفظ فرض فروخت کرنے فصل روانہ ہوئے -
 جب راستہ عام پر نزد لوڑہ پہنچے - تو راستے میں سپریر لگا تھا کہ ہم نے بند کو توڑ کر
 بیل گاڑی کو روانہ کیا - مقورزی دور جا کر پونت طلوع آفتاب ولیم

ی مسیان بہادر خان یا سردل خان پسران الہی زریہ شمیم خان ولد بہادر خان ۲ عبد الحمید خان
 عرف ملا سر بلند صلح با کلا شتوف با سکناٹے دیہ ام آمو کھڑے ہوئے اور دہلیتہ بکاہ
 جا رکبان نے بہ نیت قتل سپرم شہر محمد خان پر فائرنگ کی - جو وہ ننگ کر زخمی ہوا اور
 زمین پر گر پڑا۔ ملزمان بعد وقوعہ چلے گئے - میں جب سپرم کے پاس پہنچا تو وہ افری
 سٹن پتے پورے جان بحق ہوا۔ جب عداوت اراخی ہے - وقوعہ کو جب عدوہ نواسہ ام
 محمد زمان نے چشم خود دیکھا ہے - وجہ تاخیر ڈائن نہ ملنے کی وجہ سے یوٹی سپرم
 شہر محمد کے قتل کرنے کا ہر خلاف ملزمان بالا دیوید اریوں - الٹن انگوٹھ
 گل دین

لکھنا
 8/9

B

24-9-05

Ammer C

OFFICE OF THE DISTRICT COORDINATION OFFICER-LAKKI MARWAT.
NO. /DCO/LM/HRD/Sus_Ter Dated 19/2005

OFFICE ORDER

Whereas Hamidullah Khan Chowkidar, GPS Sar Biland Jabu Khet involved in a criminal case under section 302/34 PPC vide FIR No. 143 dated 12.8.2001 Police Station Ghazal Khet and also absent from duty w.o.f: 12.8.2001

I, the undersigned being competent authority terminate him from service with effect from 12.8.2001 (the date of his absence from duty) under the NWFP Efficiency & Disciplinary Rules 1973.

M. Durrani
District Coordination Officer
Lakki Marwat
Dated: 19/2005

Encls: No 2363-67
/DCO/LM

- Copy forwarded to:
- 1. The EDO S&L Lakki Marwat
- 2. The District Accounts Officer, Lakki Marwat
- 3. The District Officer (M) Schools & Literacy Lakki Marwat
- 4. The ADO Circle concerned
- 5. Official concerned through ADO Circle concerned

Indran

S. Khan
Assistant Coordination Officer
Lakki Marwat

Attested
Ammer C

D

8

Amner B

3-6-13

IN THE COURT OF MR. MOHSIN ALI TURK
ADDL. SESSIONS JUDGE, LAKKI MARWAT.

Sessions Case No.132
Date of Institution.....23. 12.2010/
18-05-2012/19-03-2013.
Date of Decision.....3.06.2013.

State through Gul Din S/O Mir Alam, R/O Jabu Khel..... Complainant

.....Vs.....

1. Shamim s/o Bahadar Khan and
2. Abdul Hameed alias Hameed s/o Sirbiland both residents of Jabu Khel Tehsil & District Lakki Marwat.....Accused.

FIR NO. 143 DATED 12.08.2001 U/S 302/34 PPC P.S Ghazni Khel.

Copy

JUDGMENT:

FIR No. 143 dated 12-08-2011 U/S 302/34 PPC PS Ghazni Khel was lodged by the complainant Gul Din s/o Mir Alam at 09:15 hours on 12-08-2001. He charged four accused namely Sir Dil Khan, Bahadar Khan, Shamim Khan and Abdul Hameed for murder of his son namely Sher Muhammad Khan on motive of property dispute. Initially, all the accused had absconded and on 16-01-2003, challan u/s 512 Cr.P.C was submitted before the District & Sessions Judge, Lakki Marwat, who recorded necessary evidence and vide his order dated 25-03-2004, declared all the accused as proclaimed offender. On 03-04-2006, the accused Sard Ali has Sar dil was arrested and on 19-05-2006, supplementary challan was submitted against him. The accused Sard ali was tried for the charge u/s 302/34 PPC and vide judgment/order of the District & Sessions Judge, Lakki Marwat dated 07-04-2007, he was acquitted from the charge leveled against him.

On 13-05-2010, accused Shamim Khan s/o Bahadar was arrested while on 21-07-2010, the accused Bahadar Khan and Hameed Ullah also surrendered before the court who were subsequently arrested after their BBA was recalled. After necessary investigation, supplementary challan against the accused Hameed Ullah, Shamim Khan and Bahadar Khan was submitted. On 20-12-2010, the accused were summoned and formally charged for liability u/s 302/34 PPC, who denied the allegations leveled against them and claimed trial. During the course of trial, the accused Bahadar Khan died whose death was verified by the Illaqa Police as well as his co-accused and vide order dated 19-04-2013, his trial was abated.

Story of the case of prosecution as narrated in the FIR is that on 12-08-2001 at sunrise time, the complainant Gul Din along with his son Sher Muhammad Khan

(Handwritten signature and stamp)
M. Mohsin Ali Turk
Addl. Sessions Judge
Lakki Marwat

Muhammad (deceased) and grandson namely Muhammad Zaman s/o Sher Muhammad loaded their Gowara and maize crops () in the bull cart and left for village Titter Khel for sale of the crops. On their way at Lowara () they found a Band ()/Barrier, which they removed and proceeded ahead. After sometime and covering some distance, they found the accused Bahadar Khan, Shamim Khan, Abdul Hameed and Sar Dil (Sabz Ali) armed with Kalashnikovs who stood up and started firing upon Sher Muhammad, who was hit by the fire shots and fell down on the ground. The accused escaped from the spot and when they attended the injured Sher Muhammad, he was found dead. The dead body was taken by the complainant and others to Police Station Ghazni Khel, where FIR was lodged and dead body was sent for autopsy.

During trial of accused Shamim, Abdul Hameed and Bahadar Khan, prosecution examined as many as 12 witnesses and closed its evidence. However, Dr. Muhammad Ishaq (PW-5), Latif Ullah SI (PW-7), Abdul Hai ASI (PW-8), Gul Din (PW-10) and Muhammad Zaman (PW-11) were important witnesses. In rebuttal, the accused facing trial namely Shamim and Hameed Ullah too recorded their statements on oath and produced Noor Azim Khan and Attaullah Khan as (DW-1) & (DW-2) respectively.

Two eye-witnesses Gul Din (PW-10) and Muhammad Zaman (PW-11) narrated the same story of the occurrence as was recorded in the FIR and added that they have made pointation of the site of occurrence to the Investigation Officer, Investigation Officer (PW-7) and Abdul Hai ASI (PW-8), on the other hand verified the recoveries allegedly made by the IO on the spot. He recovered one spade, blood of the deceased and 26 empties of 7.62 bore from the place of accused Bahadar Khan & Shamim Khan while 30 empties of 7.62 bore from the place of accused Sabz Ali & Abdul Hameed. Dr. Muhammad Ishaq (PW-5) explained the injuries which he has noticed upon body of the deceased at the time of autopsy and cause of his death.

Learned counsel for both the parties and Dy DPP for state argued their respective cases. I have heard the arguments and perused the record.

Complainant has not recorded the exact time of occurrence in his report as well as during evidence in court. He however stated that it was sun rise time. The occurrence has taken place in the month of August 2001 and sun rise time in the month of August is between 06.00 to 06.30 AM. On the other hand, report was lodged at 09.15 AM which is about three hours after the occurrence. Report was lodged directly in the P.S which is at distance of 8-9 Kilometers from

the place of occurrence. Complainant stated that datsun has arrived to the spot sooner and they took the dead body straight away to P.S. Let one hour time was consumed in arrangement of datsun, 8-9 kilometer distance was hardly a travel of 15-20 minutes. Still there is delay of more than 1-1/2 hours which has not been reasonably explained. In particular circumstances of the case where four persons have been charged for indiscriminate firing and F.S.L reports that empties shells were fired from two different weapons. the possibility of consultation before lodging of FIR and implication/accusation of favorite persons from amongst the family of accused cannot be ruled out.

Complainant pleaded that four persons made indiscriminate firing at his son. Complainant has not charged the accused for firing upon him as well as his grand son namely Mohammad Zaman. In FIR he reported that all the three persons loaded Gowara and maize crops in their bull cart and started towards the public passage where they found a barrier made from mud. He stated that they removed the barrier, crossed the place and covered some distance ahead when the accused facing trial started firing upon them from behind the band. This report of the complainant means that at the time of firing all the three persons were sitting in or accompanied the bull cart and in such case unhurt escape of the other two PW,s is highly Improbable. The complainant as well eye witness stated in their statements that the place where the accused were hidden was behind the band which was of 5-6 feet height. If so, their identification was also doubtful because while standing behind the band/ wall of six feet height, a person of a normal height would not be seen.

This allegation of stand of the accused behind the wall of 5-6 feet height is further negated by the medical evidence. If accused persons were standing behind the wall they must have fired from above wall and in such case all the injuries were supposed to have been from upward to downward direction. Some of the injuries on the person of deceased however were found from downward to upward which in particular circumstance of the instant case were not possible. Meaning thereby the mode of the occurrence was not the one as has been reported by the complainant.

Site plan was prepared on pointation of complainant and eye witness. In the site plan, deceased Sher Mohammad has been shown at point No.1 whereas the eye witness and complainant have been shown at point No.3 and 2 respectively which are at sufficient distance from each other. Complainant stated in the FIR that after demolishing of band they were going ahead on public passag when the accused started firing upon them. The places shown in the site plan are

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however much behind the public passage, rather at the starting point and in total contradiction with the report of complainant. In their statement as PW-10 and PW-11, the complainant and eye witness stated that after the removal of barrier complainant and eye witness cross the barrier and covered some distance while deceased was still removing the barrier. This statement was a subsequent improvement on part of complainant as well as eye witness and produced at a very later stage. The site plan is even not supporting this contention of the complainant. Complainant and eye witness has made this improvement for the purpose of justifying their unhurt escaped from indiscriminate firing but same has changed the very basic foundation of the case of complainant as he has recorded in the FIR.

PW namely Abdur Rehman previously recorded his statement during trial of co-accused namely Sardil and stated that after having knowledge of the occurrence, he straight away went to P.S where he has identified the dead body but complainant stated that Abdur Rehman has brought the datsun to the spot and it was the said datsun in which they took the dead body to P.S. the said Abdur Rehman was this time abandoned by the prosecution as he was not supporting the case of prosecution which speaks of mala fide of prosecution. Complainant stated that he called for the datsun which was brought to the spot while his grand son said that these were the people who gathered on the spot and arranged a vehicle. PW.s were also found at variance regarding the time of conducting of P.M examination, spot inspection and of course recoveries.

Three different versions of the same occurrence by the alleged eye witnesses make their presence on the spot highly doubtful. Complainant and eye witness narrated one story of the occurrence at the time of FIR, another at the time of pointing of site and 3rd one at the time of their statements before the court. In criminal case, prosecution was bound to prove the allegations beyond any shadow of doubt and even a slight variation by PW from his previous statement would discredit his testimony. F.S.I. report Ex PK/1 on the other hand shows that 56 crime empties collected from the spot were fired from two weapons. A distinction line can not be drawn as to which two of the accused persons were present on the spot and which two were not present. Ultimate benefit in such circumstances would go to the accused.


Most important aspect of this case is that one co accused namely Sard Ali alias Sardil was earlier tried by the Sessions Judge, Lakki Marwat and his vide order dated 7.4.2007, he was acquitted from the charge level against him. Acquittal of co accused Sardil is still intact. Abscondance of the accused on the

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Sd/-
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other hand is only corroborative in nature and where case is otherwise not proved, abscondance would not disentitle the accused persons for the benefit of doubt. Prosecution has alleged that motive for the reported murder was property dispute but it has not produced any evidence regarding the property dispute with the accused. Conversely, it has admitted by the complainant that they had enmities with even other people around.

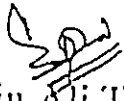
In view of above, benefit of doubt is extended to the accused facing trial and both the accused namely Shamim and Hamidullah are acquitted from the charges leveled against them. Their bail bonds are cancelled and sureties are absolved from liability of bonds. Case property is confiscated to state and be destroyed after lapse of period of limitation for appeal/ revision.

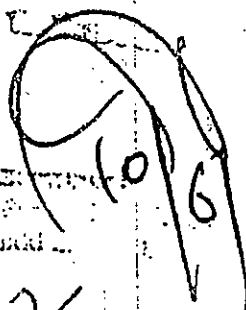
Announced.
03.06.2013.



(Mohsin Ali Turk)
Addl: Sessions Judge,
Lakki Marwat.

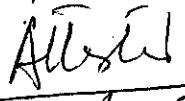
CERTIFICATE.

Certified that this judgment consists of five pages and each page has been signed by me after making necessary corrections.


(Mohsin Ali Turk)
Addl: Sessions Judge,
Lakki Marwat.


10/6/13

Application No.	2632
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DEO (M)
Please enquire into the
matter and take m/a
as per law under intimation
to this office
24/7/13

بخدمت جناب DCO صاحب لکی مروت خیبر پختونخواہ

حوالہ:- آپ کا آفس آرڈر نمبر BCO/LM/HRD-Sus_Ter dated 24.9.2005

عنوان:- بحالی ملازمت و ادائیگی سروس واجبات مابت محمد اللہ جو کیدار جا بوخیل

جناب عالی

انتہائی ادب سے التماس کرتا ہوں کہ مجھ کو مخالف پارٹی نے ایک جھوٹے اور بے بنیاد قتل کے مقدمے میں نامزد کر دیا تھا جس کے

بارے FIR No.143 dated 12.8.2001 پولیس سٹیشن غزنی خیل زیر دفعہ 302/34 نوچداری درج ہوئی تھی

(Annex-A)

۲- اس FIR کیس میں، میں نے عدالت حضور میں پیش ہو کر اپنا دفاع کیا اور بلا آخر عدالت نے مجھ کو مقدمہ ہذا سے بری کر دیا۔

ایڈیشنل سیشن جج لکی مروت فیصلہ بتاریخ 03.6.13 کی کاپی ساتھ لف ہے (Annex-B)

۳- دوران مقدمہ مجاز اتھارٹی نے بذریعہ لیٹر مورخہ 24.9.2005 مجھ کو ملازمت سے غیر حاضری کے وجہ سے 12.8.2001

سے برخاست کر دیا گیا تھا (Annex-C)

۴- کیونکہ دوران مقدمہ مجھ کو مخالف پارٹی سے جان کا خطرہ تھا۔ جس کی وجہ سے میں اس عرصہ میں روپوش رہا ہوں اور مجاز اتھارٹی

کے سامنے اپنے آپ کو نہ پیش کر سکا۔

لہذا میں آپ صاحبان سے استدعا کرتا ہوں کہ مجھ کو عدالت نے بے گناہ ثابت کر کے بری کر دیا۔ اس لئے مہربانی فرما کر سروس

لاء کے مطابق مجھ کو نوکری میں بحال کیا جائے اور تمام بقایا اجات و ادائیگی کا حکم صادر فرمائیں جو کہ 12.8.2001 سے لیکر بحالی کے حکم کی

تکمیل ہونے تک ادا کئے جائیں۔ کیونکہ میں معاشی طور پر پہلے ہی بہت تنگ دستی کا شکار ہوں اور جناب کامیرے اور میری فیملی پر ایک

احسان ہوگا۔ تمام عمر دعا گور ہوں گا۔

عین نوازش ہوگی۔

25.6.13
محمد اللہ
آپ کا فرمانبردار حمید اللہ بقلم خود کو تکہ سر بلند خان پرائمری سکول

جا بوخیل لکی مروت خیبر پختونخواہ

موبائل نمبر 0346-8003247

مورخہ: 3-7-2013

3-7-2013

Attest

محمد اللہ

5-9-13 ✓
Reminder

بخدمت جناب DCO صاحب لکی مروت خیبر پختونخواہ

حوالہ:- آپ کا آفس آرڈر نمبر DCO/LM/HRD-Sus_Ter dated 24.9.2005

عنوان:- بحالی ملازمت و ادائیگی سروس واجبات بابت حمید اللہ چوکیدار جا بوخیل

جناب عالی

انتہائی ادب سے التماس کرتا ہوں کہ مجھ کو مخالف پارٹی نے ایک جھوٹے اور بے بنیاد قتل کے مقدمے میں نامزد کر دیا تھا جس کے بارے FIR No.143 dated 12.8.2001 پولیس سٹیشن غزنی خیال زیر دفعہ 302/34 نو جداری درج ہوئی تھی

(Annex-A)

۲۔ اس FIR کیس میں، میں نے عدالت حضور میں پیش ہو کر اپنا دفاع کیا اور بلا آخر عدالت نے مجھ کو مقدمہ ہذا سے بری کر دیا۔ ایڈیشنل سیشن جج لکی مروت فیصلہ بتاریخ 03.6.13 کی کاپی ساتھ لف ہے (Annex-B)

۳۔ دوران مقدمہ مجازا تھارٹی نے بذریعہ لیٹر مورخہ 24.9.2005 مجھ کو ملازمت سے غیر حاضری کے وجہ سے 12.8.2001 سے برخاست کر دیا گیا تھا (Annex-C)

۴۔ کیونکہ دوران مقدمہ مجھ کو مخالف پارٹی سے جان کا خطرہ تھا۔ جس کی وجہ سے میں اس عرصہ میں روپوش رہا ہوں اور مجازا تھارٹی کے سامنے اپنے آپ کو نہ پیش کر سکا۔

لہذا میں آپ صاحبان سے استدعا کرتا ہوں کہ مجھ کو عدالت نے بے گناہ ثابت کر کے بری کر دیا۔ اس لئے مہربانی فرما کر سروس لاء کے مطابق مجھ کو نوکری میں بحال کیا جائے اور تمام بقایا اجات و ادائیگی کا حکم صادر فرمائیں جو کہ 12.8.2001 سے لیکر بحالی کے حکم کی تکمیل ہونے تک ادا کئے جائیں۔ کیونکہ میں معاشی طور پر پہلے ہی بہت تنگ دستی کا شکار ہوں اور جناب کامیرے اور میری فیملی پر ایک احسان ہوگا۔ تمام عمر دعا گور ہوں گا۔

عین نوازش ہوگی۔

حمید اللہ
5-9-13

آپ کا فرمانبردار حمید اللہ بقلم خود کوئٹہ سر بلند خان پرائمری سکول

جا بوخیل لکی مروت خیبر پختونخواہ

موبائل نمبر 0346-8003247

مورخہ: 05-09-2013

Attest
حمید اللہ

25-9-13

Reminder

بخدمت جناب DCO صاحب لکی مروت خیبر پختونخواہ

حوالہ:- آپ کا آفس آرڈر نمبر DCO/LM/HRD-Sus_Ter dated 24.9.2005

عنوان:- بحالی ملازمت و ادائیگی سروس واجبات بابت حمید اللہ چوکیدار جا بوخیل

جناب عالی

انتہائی ادب سے التماس کرتا ہوں کہ مجھ کو مخالف پارٹی نے ایک جھوٹے اور بے بنیاد قتل کے مقدمے میں نامزد کر دیا تھا جس کے بارے FIR No.143 dated 12.8.2001 پولیس سٹیشن غزنی خیال زیر دفعہ 302/34 نو جداری درج ہوئی تھی

(Annex-A)

۲۔ اس FIR کیس میں، میں نے عدالت حضور میں پیش ہو کر اپنا دفاع کیا اور بلا آخر عدالت نے مجھ کو مقدمہ ہذا سے بری کر دیا۔

ایڈیشنل سیشن جج لکی مروت فیصلہ بتاریخ 03.6.13 کی کاپی ساتھ لف ہے (Annex-B)

۳۔ دوران مقدمہ مجاز اتھارٹی نے بذریعہ لیٹر مورخہ 24.9.2005 مجھ کو ملازمت سے غیر حاضری کے درجہ سے 12.8.2001

سے برخواست کر دیا گیا تھا (Annex-C)

۴۔ کیونکہ دوران مقدمہ مجھ کو مخالف پارٹی سے جان کا خطرہ تھا۔ جس کی وجہ سے میں اس عرصہ میں روپوش رہا ہوں اور مجاز اتھارٹی

کے سامنے اپنے آپ کو نہ پیش کر سکا۔

لہذا میں آپ صاحبان سے استدعا کرتا ہوں کہ مجھ کو عدالت نے بے گناہ ثابت کر کے بری کر دیا۔ اس لئے مہربانی فرما کر سروس

لاء کے مطابق مجھ کو نوکری میں بحال کیا جائے اور تمام بقایا جات و ادائیگی کا حکم صادر فرمائیں جو کہ 12.8.2001 سے لیکر بحالی کے حکم کی

تکمیل ہونے تک ادا کئے جائیں۔ کیونکہ میں معاشی طور پر پہلے ہی بہت تنگ دستی کا شکار ہوں اور جناب کامیرے اور میری فیملی پر ایک

احسان ہوگا۔ تمام عرصہ گور ہونگا۔

عین نوازش ہوگی۔

25-9-13
حمید اللہ
آپ کا فرمانبردار حمید اللہ بقلم خود کو تکہ سر باند خان پرائمری سکول

جا بوخیل لکی مروت خیبر پختونخواہ

موبائل نمبر 0346-8003247

مورخہ: 25-09-2013

Hamidullah
حمید اللہ

7-10-13

OFFICE OF THE DEPUTY COMMISSIONER LAKKI MARWAT.

No. /DC/LM/PS/APP; Dated, 7-10-2013.

To

The District Education Officer (Male)
Lakki Marwat.Subject:- REQUEST FOR RE-INSTATEMENT IN SERVICE & PAYMENT OF DUES OF
HAMIDULLAH CHOWKIDAR JABOO KHEL.

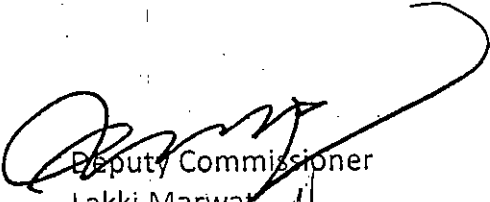
Enclosed find herewith an application submitted by Hamidullah Chowkidar GPS Jaboo Khel District Lakki Marwat regarding subject noted above (which is self explanatory). Please examine his request under the rules/policy.

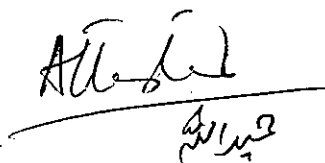
Deputy Commissioner
Lakki Marwat.

Endstt; even No. & date

Copy to Hamidullah (Chowkidar) Kotka Serbiland GPS Jaboo District Lakki Marwat w/r to above.

Muel


Deputy Commissioner
Lakki Marwat.



Reminder-3

بخدمت جناب DCO صاحب لکی مروت خیبر پختونخواہ

حوالہ: آپ کا آفس آرڈر نمبر DCO/LM/HRD-Sus_Ter dated 24.9.2005

عنوان:- بحالی ملازمت و ادائیگی سروس واجبات بابت حمید اللہ چوکیدار جا بوخیل

جناب عالی

انتہائی ادب سے التماس کرتا ہوں کہ مجھ کو مخالف پارٹی نے ایک جھوٹے اور بے بنیاد قتل کے مقدمے میں نامزد کر دیا تھا جس کے بارے FIR

No.143 dated 12.8.2001 پولیس سٹیشن غزنی خیل زیر دفعہ 302/34 فوجداری درج ہوئی تھی (Annex-A)

۲۔ اس FIR کیس میں، میں نے عدالت حضور میں پیش ہو کر اپنا دفاع کیا اور بلا آخر عدالت نے مجھ کو مقدمہ ہذا سے بری کر دیا۔ ایڈیشنل سیشن جج

لکی مروت فیصلہ بتاریخ 03.6.13 کی کاپی ساتھ لف ہے (Annex-B)

۳۔ دوران مقدمہ مجاز اٹھارٹی نے بذریعہ لیٹر مورخہ 24.9.2005 مجھ کو ملازمت سے غیر حاضری کے وجہ سے 12.8.2001 سے برخواست کر

دیا گیا تھا (Annex-C)

۴۔ کیونکہ دوران مقدمہ مجھ کو مخالف پارٹی سے جان کا خطرہ تھا۔ جس کی وجہ سے میں اس عرصہ میں روپوش رہا ہوں اور مجاز اٹھارٹی کے سامنے اپنے

آپ کو نہ پیش کر سکا۔

لہذا میں آپ صاحبان سے استدعا کرتا ہوں کہ مجھ کو عدالت نے بے گناہ ثابت کر کے بری کر دیا۔ اس لئے مہربانی فرما کر سروس لاء کے مطابق

مجھ کو نوکری میں بحال کیا جائے اور تمام بقایا اجات و ادائیگی کا حکم صادر فرمائیں جو کہ 12.8.2001 سے لیکر بحالی کے حکم کی تکمیل ہونے تک ادا کئے

جائیں۔ کیونکہ میں معاشی طور پر پہلے ہی بہت تنگ دستی کا شکار ہوں اور جناب کا میرے اور میری فیملی پر ایک احسان ہوگا۔ تمام عمر دعا گور ہوں گا۔

عین نوازش ہوگی۔

آپ کا فرمانبردار حمید اللہ بقلم خود کو لکھ سر بلند خان پرائمری سکول

جا بوخیل لکی مروت خیبر پختونخواہ

موبائل نمبر 0345-2879347 0346-8003247

مورخہ: 11-11-2013

سی سی: ڈسٹرک ایجوکیشن آفیسر (Male) لکی مروت: بحوالہ DCO صاحب لکی مروت خیبر پختونخواہ لیٹر نمبر No.

(copy attached) 3353-54/DC/LM/PS/APP Dated: 07-10-2013

Hamidullah
حمید اللہ

1

BEFORE THE SERVICE TRIBUNAL GOVT; OF KHYBER PAKHTUNKHWA
PESHAWAR

Service Appeal No: 296 / 2014

Hameedullah khan S/O Sir Biland khan Appellant

Versus

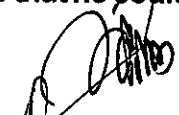

Deputy Commissioner District Lakki & Three other
..... Respondents

Joint Para Wise Comments On Behalf Of Respondent 1,2,3 & 4

Respectfully Sheweth;
Preliminary Objections: -

1. That the appellant has no cause of action and locus standi to bring the present appeal .
2. That the appeal of the appellant is not maintainable.
3. That the appellant has not come to the court with clean hands .
4. That the appeal of the appellant is bad for mis-joinder and non-joinder of necessary parties.
5. That the appellant has come to the court with malafide intention.

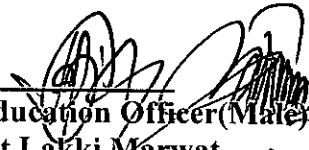
FACTS:-

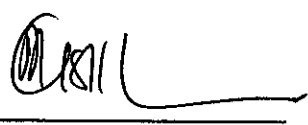
1. Para pertains to record.
 2. Para NO.2 pertains to judicial record.
 3. Correct Due to alleged involvement in criminal case the appellant became absconder and hence his service terminated under the Rules in vogue.
 4. Incorrect. Appellant was charged and he was not acquitted but he was required to police .
 5. The para is ambiguous as appellant conceals his date of arrest, however he was acquitted on 03-06-2013 which shows that he could not performed his duty for which he claims his right.
 6. Para relates to record.
- 
- 

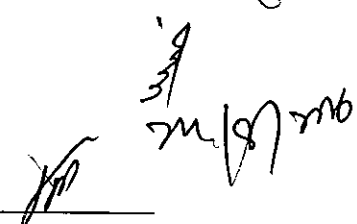
GROUND:

- a. No comments.
- b. Incorrect. As per para NO.2 appellant himself has admitted that he was charged under section 302/34 of PPC.
- c. Incorrect. Appellant was properly charged in criminal case therefore departmental proceedings could not be initiated.
- d. Incorrect, criminal charges were framed against the appellant in the light of FIR as mentioned in Para NO.2.
- e. Incorrect. Willful absentee was confirmed from the date of lodging FIR as per Para NO.2.
- f. In correct. Payment is made on performance of satisfactory duty, the appellant could not performed duty hence proceeded as per policy.

It is therefore humbly prayed that on acceptance of these para-wise comments this Honourable Service Tribunal may very graciously be pleased to dismiss the instant appeal with costs through out.


 District Education Officer (Male)
 District Lakki Marwat
 (Respondent No; 2)


 Deputy Commissioner
 District Lakki Marwat
 (Respondent NO.1)


 Director (E&SE) KPK
 (Respondent No; 3)


 Secretary E&SE KPK
 (Respondent No; 4)

AFFIDAVIT

I, Sharif Ullah Khan ADEO Education Lakki Marwat do hereby solemnly affirm and declare that the contents of the above reply are true and correct to the best of my knowledge and belief.

DEPONENT 

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A. No. 296/2014

Hamidullah Khan versus DC & Others

REPLICATION**Respectfully Sheweth,****PRELIMINARY OBJECTIONS:**

All the 5 preliminary objections are illegal and incorrect. No reason in support of the same is ever given as to why the appellant has no cause of action, locus standi, no vested rights infringed, not maintainable.

ON FACTS:

- 1-2. Needs no comments.
3. Admitted correct to the extent of involvement in Criminal Case by respondents services of appellant were illegally terminated as no enquiry was conducted in the matter, even ex-parte too. No order could be given retrospective effect.
4. Not correct. To charging someone for ulterior motive is not an offence unless and until proved guilty.
5. Not correct. When the charge was not proved on which appellant was removed from service, then it means that he was on duty.
6. Admitted correct by respondents regarding submission of repeated representations.

More so, as per letter dated 14-04-2016, the post is still laying vacant. (Copy Attached)

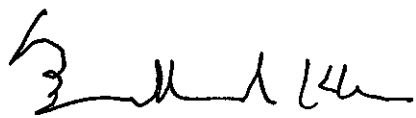
GRUNDS:

All the grounds of the appeal are legal and correct while that of the reply are illegal and incorrect. The same are again adopted.

It is, therefore, most humbly prayed that the appeal be accepted as prayed for.


Appellant

Through


Saadullah Khan Marwat
Advocate,

Dated: 04-01-2017

AFFIDAVIT

I, Mr. Hamidullah Khan appellant do hereby solemnly affirm and declare that contents of the **Appeal & rejoinder** are true and correct to the best of my knowledge and belief while that of reply of respondents are illegal and incorrect.

I reaffirm the same on oath once again to be true and correct as per the available record.


DEPONENT

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) LAKKI MARWAT

No. 2498-2500

Dated. 14/04/2016

To,

- (1) Sub-Divisional Education Officer (Male) Lakki Marwat
- (2) ASDEO (Circle) Tajazai.
- (3) Head Teacher GPS Sarbiland Jabu Khel.


Subject:- TERMINATION OF HAMIDULLAH CHOWKIDAR GPS SARBILAND JABU KHEL.

Memo:-

I am directed to inform you, that the services of the above named chowkidar has been terminated vide District Co-ordination Officer, Laki Marwat order No. 2363-2367 dated. 24-09-2005, due to prolong absence from duty, after observing all codle formalities.

I am further directed to confirm / clarify that, the above mentioned post of chowkidar is still lying vacant or otherwise.

The above information must be reached to this office within three days positively for taking further action into the matter.

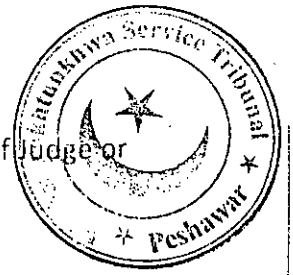

Personal Assistant
To District Education Officer
(Male) Lakki Marwat.

Endst:No. _____ Dated. _____

Copy to the:-

1. Worthy Deputy Commissioner, Lakki Marwat.

Personal Assistant
To District Education Officer
(Male) Lakki Marwat.



No. _____
Date of order/ proceedings _____

Order or other proceedings with signature of Judge or Magistrate

2

3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 1037/2013

Sharif Hussain Khan Versus Superintendent of Police, FRP Malakand Range, Swat and 2 others.

JUDGMENT

MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-

02.05.2017

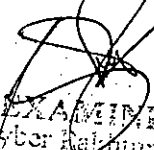
Counsel for the appellant and Mr. Ziaullah, Government Pleader for respondents present.

2. Mr. Sharif Hussain Khan hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against impugned order dated 17.07.2012 vide which he was removed from service and where-against his departmental appeal was also rejected vide order dated 10.09.2012 and hence the instant service appeal on 20.06.2013.

3. We have heard arguments of learned counsel for the parties and perused the record.

4. At the very outset it was brought in notice of this court that the enquiry was conducted under the provisions of Removal from Service (Special Powers) Ordinance, 2000 which was repealed on 16th September, 2012 while the enquiry against the said repealed law was initiated in the year 201~~2~~² meaning thereby that the appellant was proceeded against under the repealed law.


ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

5. In view of the above we are constrained to accept the present appeal set aside the impugned orders referred to above and reinstate the appellant in service by placing the respondents at liberty to conduct denovo enquiry in the charges against the appellant which shall be conducted and concluded within a period of 2 months from the date of receipt of this judgment wherein proper opportunity of hearing including the defence be extended to him. In case the respondents fail to conduct and conclude the enquiry within the specified period it shall be deemed that the appellant has been reinstated in service and in such eventuality the period of absence of appellant from service shall then be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

M. Azim Khan Qureshi,
Chairman

M. Ahmed Hassan,
Member

Certified to be true copy

 MEMBER
 Kyber Peshawar
 Service Tribunal,
 Peshawar

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 298 /ST

Dated 08 /02/2018


To

The Deputy Commissioner,
Government of Khyber Pakhtunkhwa,
Lakki Marwat.

Subject: ORDER/JUDGEMENT IN APPEAL NO. 296/2014, MR. HAMEEDULLAH.

I am directed to forward herewith a certified copy of Judgment/Order dated 26/01/2018 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.



۶۰
یعدالت جناب سرسری ٹریبونل سوہا سہہ پشاور

منجانب اسلانت

حمید اللہ نام ڈپٹی کمشنر مغیرہ

دعویٰ ایل

باعث تحریر ایٹکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکیل کاروائی متعلقہ آن مقام پشاور کیلئے سعید اڈاس خٹاں دسروتے ایڈووکیٹ ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے رضی نامہ تقریر ثالثہ و فیصلہ برحلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور رضی دعویٰ اور درخواست بر قسم کی تقدیر اور اس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور تفسیحی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی سے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقریر کا اختیار ہوگا اور صاحب مقرر شاہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور قبول ہوگا و دوران مقدمہ میں جو خرچہ و ہرجانہ التوا مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب موصوف ہوں گے نیز بقایا و خرچہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔

لہذا وکالت نامہ رکھ دیا کہ سند ہے۔

المرقوم

العبد

العبد

العبد

۱۱
ارباب سید اسماعیل
ایڈووکیٹ

سید اللہ خان مروت
ایڈووکیٹ

حمید اللہ

من روپیہ تازہ
ایڈووکیٹ