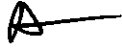


179/2014

11.3.2015

Appellant with counsel and Addl. AG with Khawas Khan, SI (Legal) for the respondents present. The case need further clarification. Therefore, representative of the respondents is directed to produce enquiry reports alongwith other relevant record. To come up for order on 19.3.2015.



MEMBER



MEMBER

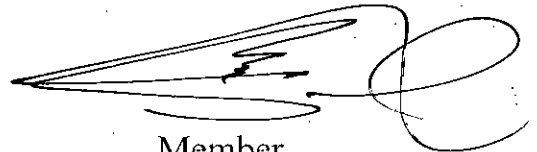
19.3.2015

Appellant with counsel and Mr. Muhammad Adeel Butt, Addl. AG with Khawas Khan, SI (Legal) for the respondents present. Arguments heard. Record perused. Vide our detailed judgment of to-day in connected Service Appeal No. 172/2014, titled "Khair-ur-Rahman Versus Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar etc.", This appeal is disposed of as per detailed judgment. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
19.03.2015.



Member



Member

21.01.2015

Since 20th January has been declared as public holiday by the provincial government, therefore, case to come up for the same on 2.2.2015.


READER

2.2.2015

Appellant with counsel and Mr. Muhammad Adeel Butt, AAG with Khawas Khan, SI (Legal) for the respondents present. Arguments heard. To come up for order on 26.2.2015.


MEMBER


MEMBER

26.2.2015

Appellant with counsel and Add. AG with Khawas Khan, SI (Legal) for the respondents present. Case is adjourned to 09.3.2015 for order.


MEMBER


MEMBER

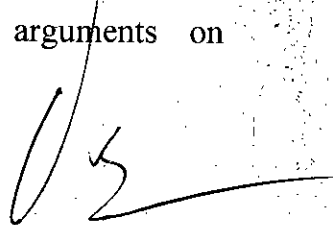
09.3.2015

Counsel for the appellant and Addl. AG with Khawas Khan, SI (Legal) for the respondents present. The learned Member-II of the bench is on leave, therefore, case to come up for order on 11.3.2015.


MEMBER

06:08.2014

Counsel for the appellant and AAG with Khawas Khan, SI (Legal) for the respondents present. Due to retirement of learned executive Member, the bench is incomplete. To come up for ~~ex-parte~~ arguments on 15.09.2014.



MEMBER

15.09.2014

Counsel for the appellant and Mr. Muhammad Adeel Butt, AAG with Khawas Khan, SI (Legal) for the respondents present. The learned Member (Judicial) is not working due to a recent order of the Hon'ble Peshawar High Court affecting his status as District & Sessions Judge. To come up as before on 25.11.2014.



READER

25.11.2014

Clerk to counsel for the appellant, and Mr. Muhammad Jan, GP with Khawas Khan, SI (Legal) for the respondents present. The Tribunal is incomplete. To come up for the same on 22.12.2014 alongwith connected appeals.



READER

22.12.2014

Counsel for the appellant and Mr Muhammad Jan, GP for the official respondents present. The Tribunal is incomplete. To come up for the same on 20.01.2015.



READER

28.3.2014.

Counsel for the appellant and Mr. Muhammad Jan, GP with Khawas Khan, SI (Legal) for the respondents present. Respondents need further time. To come up for reply/arguments on stay application on 14.4.2014.

MEMBER

MEMBER

14.4.2014.

Clerk to counsel for the appellant and AAG with Khawas Khan, SI (Legal) for the respondents present. Written reply on main appeal received. Copy handed over to clerk to counsel for the appellant. Representative of the respondents need time to file reply on stay application. Reply on stay application in the meantime. To come up for rejoinder and arguments on stay application on 8.5.2014.

MEMBER

8.5.2014.

Clerk to counsel for the appellant and Mr. Muhammad Jan, GP with Khawas Khan, SI (Legal) for the respondents present. Rejoinder received and copy handed over to the learned GP. To come up for arguments on 4.6.2014.

MEMBER

MEMBER

4.6.2014

Counsel for the appellant and AAG present. The learned AAG stated that he is not in possession of departmental record and representative of the respondents is absent to-day. To come up for arguments on 06.8.2014.

MEMBER

MEMBER

3.
21.02.2014

Counsel for the appellant present and submitted an application for fixing an early dated of hearing instead of 13.03.2014. Application is accepted. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the order dated 23.12.2013, the appellant filed departmental appeal on 24.12.2013, which has been rejected on 06.02.2014, hence the present appeal on 14.02.2014. That the appellant has been treated under Police Rules-1975 for awarding the major punishment of compulsory retirement which is wrong law. He further contended that the impugned final order 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, Notice be issued to the respondents. Appellant has also filed an application for suspending the operation of the impugned orders dated 06.02.2014 of respondent No.2 and dated 23.12.2013 of respondent No.3. Notice of application should also be issued to the respondents for reply/arguments. To come up for written reply on main appeal on 13.05.2014 as well as reply/arguments on application on 07.03.2014.

4.
21.02.2014

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

Member

Chairman

7.3.2014

Counsel for the appellant and AAG present. Fresh notices be issued to the respondents for reply/arguments on stay application on 28.3.2014.

MEMBER



MEMBER

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 179/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	14/02/2014	<p>The appeal of Mr. Anwar Badshah Khan presented today by Mr. Khaled Rehman 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	18-2-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>13-3-2014</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 179 /2014

Anwar Badshah Khan,
Ex-ASI

.....Appellant

Versus

The PPO and others

.....Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal			1-6
2.	Application for interim relief			7-8
3.	Charge sheet and statement of allegations	24.10.2013	A	9-10
4.	Reply to the charge sheet and statement of allegations		B	11
5.	Statements recorded by enquiry officer		C	12-17
6.	Report of enquiry Officer		D	18
7.	Impugned order	10.12.2013	E	19
8.	Departmental appeal	12.12.2003	F	20-21
9.	Impugned appellate order	06.02.2014	G	22
10.	Wakalat Nama			23

Through

Appellant

Khaled Rahman
Advocate, Peshawar
Cell # 0345-9337312

Dated: 14 / 02 / 2014

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 179 /2014

Anwar Badshah Khan, Ex-ASI,
District Police, Swat DistrictAppellant

Versus

1. The Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police,
Malakand Region at Saidu Sharif Swat.
3. The District Police Officer,
District Swat.....Respondents

A.W.F. PESHAWAR
182
14-2-14

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED APPELLATE ORDER DATED 06.02.2014 VIDE WHICH THE DEPARTMENTAL APPEAL OF THE APPELLANT AGAINST THE IMPUGNED ORDER DATED 10.12.2013 ISSUED BY RESPONDENT NO.3 WHEREBY THE APPELLANT WAS IMPOSED UPON THE MAJOR PENALTY OF COMPULSORY RETIREMENT WAS REJECTED.

PRAYER:

On acceptance of the instant appeal, the impugned appellate order dated 06.02.2014 passed by Respondent No.2 and the impugned order dated 10.12.2013 passed by Respondent No.3 may graciously be set aside and appellant be re-instated into service with all back benefits.

[Signature]
14/2/14

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That appellant joined the service of Police Force in the year 1992 as a Constable and later on promoted as Assistant Sub-Inspector by dint of his efficient performance of duties. Since his appointment, appellant has been performing his duties to the entire satisfaction of his high-ups.
2. That on 24.10.2013 appellant was issued a Charge Sheet and Statement of Allegations (*Annex:-A*) alleging therein involvement of the appellant in corruption. Since the charges were unfounded and baseless, therefore, appellant submitted his reply (*Annex:-B*) to Charge Sheet and Statement of Allegations thereby denying the allegations and explaining his position. The reply may kindly be considered an integral part of this appeal.
3. That thereafter an enquiry was conducted by Salim Khan Jadoon, DSP Barikot, who after recording some statements and collecting other documentary evidence (*Annex:-C*) concluded that the appellant is innocent and recommended for filing of the enquiry vide Enquiry Report (*Annex:-D*).
4. That inspite of the recommendations of the Enquiry Officer for filing the enquiry and exonerating the appellant vide impugned order dated 10.12.2013 (*Annex:-E*) the competent authority imposed the major penalty of compulsory

retirement upon the appellant with immediate effect even without issuing final show cause notice.

5. That being aggrieved of the impugned order *ibid*, appellant preferred departmental appeal (*Annex:-F*) to Respondent No.2 but the same was also summarily rejected vide impugned appellate order dated 06.02.2014 (*Annex:-G*). Hence this appeal inter-alia on the following grounds:-

Grounds:

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned orders, which are unjust, unfair and hence not sustainable in the eye of law.
- B. That appellant has been imposed upon the major penalty on the basis of no evidence. Not an iota of evidence/material has been brought to prove the allegations leveled against the appellant which fact has been admitted by the enquiry Officer himself in his enquiry report, moreover, the Enquiry Officer has collected overwhelming documentary evidence whereby not only the appellant was proved to be innocent rather was proved to be honest, efficient person, therefore, the impugned order is arbitrary, unlawful and hence not

sustainable in the eye of law.

- C. That Enquiry Officer has exonerated the appellant from the allegations leveled against him and has recommended to competent authority the filing of the enquiry and disciplinary proceedings against the appellant but strange enough the competent authority neither ordered a second enquiry nor agreed with enquiry report of the Enquiry Officer and directly passed the impugned order without any lawful justification, therefore, the impugned order is void, arbitrary and hence not sustainable in the eye of law.
- D. That it is a settled legal principle that where major penalty is proposed then only a regular enquiry is to be conducted wherein the accused must be associated with all stages of the enquiry including the collecting of oral and documentary evidence in his presence and he must be confronted to the same and must be afforded an opportunity of cross-examining the witnesses. In the case in hand although the enquiry was conducted which was in favour of appellant but inspite of the same the appellant was imposed upon the major penalty. Thus the impugned orders are nullity in the eye of law and hence liable to be set aside.
- E. That the controversy was indeed factual in nature and the same could only be resolved by holding a regular enquiry. It is also a settled legal principle that in such eventuality where factual controversy is involved then only alternative left with the

competent authority is to hold a regular enquiry into the allegations. Since no such enquiry had been contemplated, therefore, the passing of the impugned order is ill-founded and therefore not maintainable.

- F. That no meaningful opportunity of personal hearing was afforded to the appellant neither by the competent authority, nor even by the appellate authority which are the mandatory requirements of law. Thus appellant was condemned unheard as the action has been taken at the back of the appellant which is against the principle of natural justice.
- G. That appellant was not served with final show cause notice which is also the mandatory requirement of law hence the impugned order imposing the major penalty without show cause notice is void, coram-non-judice and as such not maintainable.
- H. That the appellant has served the Department for 21 years and has consumed his precious life in the service and keeping in view his longstanding unblemished service the imposition of the major penalty in peculiar facts and circumstances of the case is harsh, excessive and does not commensurate with the guilt of the appellant.
- I. That the allegations leveled against the appellant are general and sweeping in nature and moreover fabricated without any legal and tangible footings nor the same have been substantiated by any solid

evidence.

- J. That appellant would like to offer some other additional grounds during the course of arguments when the stance of the Respondents is known to the appellant.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Through


Appellant

**Khaled Rahman,
Advocate, Peshawar**

Dated: 10 / 02 / 2014

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2014

Anwar Badshah Khan.....Applicant/Appellant

Versus

The PPO & others.....Respondents

Application for suspending the operation of the impugned orders dated 06.02.2014 of Respondent No.2 and dated 10.12.2013 of Respondent No.3 till the final disposal of the instant appeal.

Respectfully Sheweth,

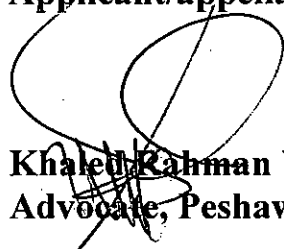
1. That the titled appeal is being filed today which is yet to fixed for hearing.
2. That the facts alleged and grounds taken in the body of appeal which may also be considered as an integral part of this application, make out an excellent prima facie case in favour of appellant who is quite sanguine of its success.
3. That in case the impugned orders are not suspended appellant will suffer irreparable loss moreover, the balance of convenience and inconvenience also lie in favour of the appellant.

It is therefore, humbly prayed that on acceptance of this application, the operation of the impugned orders dated 06.02.2014 of Respondent No.2 and dated

10.12.2013 of Respondent No.3 may graciously be suspended till the final disposal of the instant appeal.


Applicant/appellant

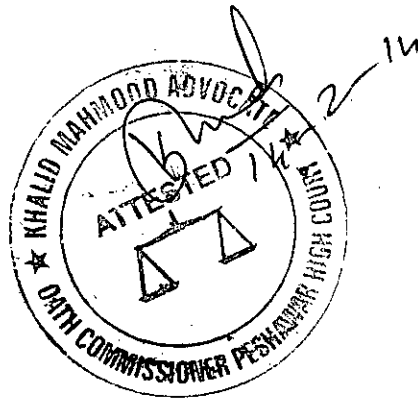
Through


Khaled Rahman
Advocate, Peshawar.

Dated: 10 / 02/ 2014

AFFIDAVITE

Stated on oath that the contents of the application, are true and correct and nothing has been concealed from the Hon'ble tribunal.




Applicant/Appellant

CHARGE SHEET

ANNEX A' 9

Mr. Sher Akbar S.St. P.S.P. District Police Officer, Swat as competent authority, hereby charge you, A.S.I. Anwar Bacha while posted as I/C Police Post Miandam PS K.K.S. as follows:-

It has been reported that you committed the following act / acts, which is / are gross misconduct on your part as defined in Rules 2 (iii) of Police Disciplinary Rules 1975.

You A.S.I. Anwar Bacha while posted as I/C Police Post Minadam PS K.K.S. have been reported to be allegedly involved in corruption, which is a gross misconduct on your part.

2. By reasons of the above, you appear to be guilty of misconduct and rendered yourself liable to all or any of penalties specified in Rule-4 of the Disciplinary Rules 1975.

3. You are, therefore, required to submit your written reply within seven (7) days of the receipt of this Charge Sheet to the Enquiry officer.

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

5. Intimate as to whether you desire to be heard in person or not.

6. A statement of allegations is enclosed.

No. 204 /E.

Dated: 24-10 /2013

District Police Officer, Swat

(Handwritten signature)

DISCIPLINARY ACTION

Mr. Sher Akbar S.St. P.S.P. District Police Officer, Swat as competent authority, is of the opinion that he **A.S.I. Anwar Bacha** while posted as **I/C Police Post Mairand PS K.K.S.** has rendered himself liable to be proceeded against departmentally as he has committed the following acts/omissions as defined in Rule 2 (iii) of Police Rules 1975, as per Provincial Assembly of Khyber Pakhtunkhwa Notification No. PA/Khyber Pakhtunkhwa/ Bills/ 2011/ 44905 dated 16/09/2011 and C.P.O, K.P.K Peshawar Memo: No. 3037-62/Legal, dated 19/11/2011.

STATEMENT OF ALLEGATIONS

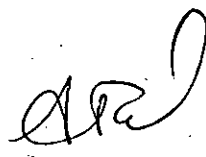
It has been reported that he while posted as **I/C Police Post Miandam PS K.K.S.** committed the following act / acts, which is / are gross misconduct on his part as defined in Rules 2 (iii) of Police Rules 1975.

That he A.S.I. Anwar Bacha while posted as I/C Police Post Miandam PS K.K.S. has been reported to be allegedly involved in corruption, which is a gross misconduct on his part.

2. For the purpose of scrutinizing the conduct of the said officer with reference to the above allegations, **DSP/Barikot, Swat** is appointed as Enquiry Officer.

-3. The enquiry officer shall conduct proceedings in accordance with provisions of Police Rules 1975 and shall provide reasonable opportunity of defense and hearing to the accused officer, record its findings and make within twenty five (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused officer.

4. The accused officer shall join the proceedings on the date, time and place fixed by the enquiry officer.



District Police Officer, Swat

No. 204 /EB, Dated Gulkada the, 24-10 2013.


Copy of above is forwarded to the:-

1. **DSP/Barikot, Swat** for initiating proceeding against the accused Officer/ Official namely **A.S.I. Anwar Bacha** under Police Rules, 1975.
2. **A.S.I. Anwar Bacha Police Post Miandam PS K.K.S.:-**
With the direction to appear before the enquiry officer on the date; time and place fixed by the enquiry officer for the purpose of enquiry proceeding.

جو اسٹورٹ جارج اسٹریٹ نمبر 1/E 204 اور 24¹⁰/₁₃ معروف خدمت ہے جس میں
 26 مارچ سال 1992 کو محکمہ پولیس میں بحیثیت کنسل لکھن جو کہ سال 2011 میں بحیثیت
 ASI ترقیاً ہوا ہے۔ اسے ایسے تقریباً 22 سال کے ملازمت ایمانداری اور وفاداری سے
 انجام دی ہے جس کا ایک واضح ثبوت یہ ہے کہ سہ ماہی کے سال 2007 تا 2009
 جب دہشت گردی شروع ہوئی اور پولیس اہلکار جان بچانے کے خاطر لوٹریاں چھوڑ کر
 سوات سے بھاگ رہے تھے، تو میں نے مکمل و محکمہ کی خدمت اور وفاداری کا ثبوت دینے
 کے لئے دہشت گردوں کے سامنے ثابت قدم رہا اور راہ فرار اختیار نہیں کی۔ محکمہ پولیس
 میں لکھن جوئے وقت میں والدین کیساتھ متفرق چار کمروں پر مشتمل تھے گھروں میں
 رہائش پذیر تھا۔ اور محکمہ پولیس میں بائیس سال خدمات کے انجام دہنے کے بعد اب
 کبھی اسی گھر میں رہائش پذیر ہوں بحیثیت ASI سال 2011 میں ترقیاً ہونے کے
 بعد میں بحیثیت ایگزیکٹو چوکیا تھے اور اتر پردیش میں دہشت گردی کے نقصانات دیکھے
 اور میں نے ایسا ڈیوٹی اسٹیج کی ایجنز اور ایمانداری سے انجام دی ہے اور اچھے کارکردگی پر انہیں
 کی ہے جس کی تائید میرے وقتاً جیٹا SDOs کا پاس پاس اور جیٹا جی کے ذریعہ لکھن جوئے میں
 نے بحیثیت ASI چوکیا پر ڈیوٹی انجام دی ہے، لکھن جوئے میں ایسی نسبت ان
 چوکیا دور SDOs کے بیانات لکھ میرے ایمانداری اور اچھے ڈیوٹی کا ثبوت ہے جس
 میں نے بیانات لکھے جواب ہے اچھے اور میں نے کوئی کرپشن نہیں کی ہے اور میرے نگران
 افسران SDOs کے میرے خلاف شکایات کرنے میرے خلاف 2 سال
 سے اس میں نہ تو میرے کسی سیر افسر نے کرپشن کی شکایات کی ہیں اور نہ میرے
 خلاف کوئی عوامی شکایات ہوئی ہیں، بحیثیت ایگزیکٹو چوکیا میں نے لکھن جوئے
 میں اپنے ڈیوٹی انجام دی ہے اور میرے بحیثیت ایگزیکٹو چوکیا میں نے لکھن جوئے میں
 ہر 3¹¹/₁₃ کو پاس SDOs کے ملازمت کے دوران میں نے دو چھ ماہوں کے لئے لکھن جوئے میں
 اور سرٹیفیکٹ سے نوازا ہے، لکھن جوئے میں نے اس کو لکھن جوئے میں لکھن جوئے میں
 ایمانداری دیا ہے اور میں نے اس سے متعلق انجام دی ہے اور میں نے کرپشن نہیں
 کی ہے۔ لکھن جوئے میں نے لکھن جوئے میں نے لکھن جوئے میں نے لکھن جوئے میں
 نے حاصل کر سکیں شکایات کارروائیوں کو سبیل دعاگو رہتا ہوں


 P. Mianclan
 5/11/13

ASi انور پور سٹاٹہ میں 24/11/2012 تک جوگی فتح پور میں
 کثرت ایجاڑہ 2، رہائے انتہائی اہم انداز اور فرض شناس
 لوکل آفرے۔ مجھے کوئی شکایت پس ملی ہے نہ
 کر لپٹن کی ہے۔ علاوہ اس کثرت SDPO سرکل بریل
 مرے سفارش پر ASi ایجاڑہ 2 جوگی راجوگی لکھنات
 لیا گیا تھا۔ جبکہ SDPO سرکل KK8 خوارہ ضلع
 کے دوران جوگی سفارتم ہی کثرت ایجاڑہ 2 لکھنات
 سے ایک مسئلو کر لپٹن کی شکایت پس ملی ہے
 فرض شناس اور قابل اعتبار لوکل آفرے


 SDPO KK
 5-11-2013

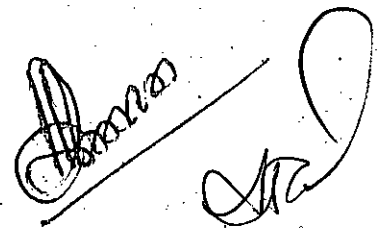


Statement of DSP/Ali Rahman
SDP / Daggay

(13)

certified that ASI Anwar Bacha
ASI/SC PP Fatchpur, presently S/C PP Mandan
remained on PP/Fatchpur w.e.f
01-01-012 to 30/6/012.

During the period mentioned above,
No one complained to the undersigned
regarding his corruption. He remained
honest and competent officer and
performed the duty assigned to him


(Ali Rahman DSP)
SDPO / Daggay

05/01/013

جانبی

میں کوئی 18/7 = 181/203 = 181/203 تھا فوراً ضلع تفتا

(14)

الوزیجہ ASI جو کہ میانہ میں ایچ آر تھا
میں تفتان کے دوران AGI الوزیجہ کے

متعلق کوئی شکایت موصول نہیں ہوئی
اس بارے میں کریئر کے متعلق کچھ شکایت
نہیں ملے۔ البتہ میں تفتان کے دوران

AGI = 70000 سے 75000 تک ہوتا ہے۔

ڈسٹرکٹ ہیڈ کوارٹر - اینڈ ٹراویس میں
میں آئیے ڈیوٹی ہے 10000 سے 15000 تک

کبھی شکایت کا موقع نہیں دیا ہے۔

پولیس ڈسٹرکٹ
INSAP Police

05.11.13

ATC

حروف ہوں۔ کہ میں ہوشیار ہونا $\frac{5}{12}$ تا $\frac{12}{12}$ تک
 SHD خانہ نوشید خان شہید خوارہ صید ضلع سوات ڈولوی
 سرانجام دیا ہے۔ میرے عہدہ خصیاتی در دوران انور باجم خان
 ASI جوگی فتح پور خصیات تھا۔ جسے میرے عہدہ خصیاتی در
 دوران اچھے کارکردگی، سکوا اور دیاننداری کیا تھا ڈولوی رجم
 دیا ہے۔ اور اسی عہدہ میرا اچھا مذکورہ کیف کسمائی
 شخص نے شہادت دیا کہ۔ اور نہ ہی شہادت کا موقع
 دیا ہے۔ جوگی کارکردگی اور ڈولوی سے جس ملک میں تھا۔

Amoy

شہر میں اننگٹ
 SHD خان لاہور
 05. 11. 13.



(16)

جایابی کر

نیں فوراً 6/2012 سے کینٹ سٹوڈنٹس ایسوسی ایشن کے فوراً
ٹیچر (اورہ ضلع) کے ساتھ تھا۔

اکوریا جی خان آف چوکا ضلع پور میں ریجنل
'کونسل' کے راج۔ اس دوران انوریا جی کے متعلق
کوئی شکایت یا موصول نہیں ہوئی۔ ایک ڈیوٹی فل
اور فرض مناسب ہو گیا آئندہ۔ اس کے بارے
میں مگریشن کی کوئی بات نوٹس میں نہیں آ رہی
موس نے اپنے 'کونسل' کے دوران عرصہ دو ہفتے
ایک ہفتہ سے گزارے ہیں۔ اور میں اس کے ڈیوٹی
سے قطعاً تھا۔ راج کے متعلق

SHOPS KKS Swat.
New Insp. SHO Dargan
Buner.
(جایابی کر) (2012/06/13)

مصرف خدمت ہوں کہ میں جتناہ شاہد دہری میں سال 2012 میں

جیت SHO تفتا، میرے ساتھ چوکی دیولنی میں الوریہ شاہد دہری

جیت اعجاز چوکی تفتا، منگورہ ASI صاحب نے نیابت ایمانداران

وریانت دارس سے اپنا ڈیوٹی انجام دی ہے۔ منگورہ کے خلاف

کسی نے کسی قسم کی شہادت نہیں کی ہے اور نہ ہی گریشن کے متعلق

کوئی شہادت موصول ہوئی ہے۔ ASI صاحب نیابت ایماندار اور

فرع شناس پولیس افسر ہے جس میں بہترین پولیس افسر کے اوصاف

موجود ہے۔

آمریہ شاہد دہری

SHO / ASLam

SHO / ASLam

06.11.13

Handwritten signature

کتاب نمبر ۱۸

پول انکوائری آزان انور جا خان ASI شروع کردہ ہوا جائزہ کیٹیجی 2014
 مورخہ 10/13 جولائی دفتر جناب DPO کا سات معروض خدمت ہوا ہے مذکورہ
 ASI کو دفتر جناب DPO سے چارج اسٹ وٹھری آف ایلیکشن موصول ہو کر
 یہ الزام عائد کیا گیا ہے کہ آپ دوران ڈیوٹی کریشن میں ملوث پائے گئے ہیں
 جو باضابطہ انکوائری کیلئے مقرر ہو کر سلسلہ انکوائری مذکورہ ASI کو آجکل
 چونکہ میڈیم میں تعینات ہیں، کو طلب کرنے مذکورہ کا بیان لیا گیا ہے اور
 اس کے علاوہ جہاں جہاں مذکورہ ASI تعینات رہا ہے، متعلقہ افسران
 DSPs کا حوالہ دیا گیا ہے کہ ریاضی اسٹیٹسٹکس کا وہ اقبال خان
 اسٹیٹسٹکس لکھنؤ اور DSPs لکھنؤ میں DSP خان DSP، مذکورہ خان
 DSPs کے بیانات بھی لئے گئے ہیں جنہوں نے مذکورہ ASI کو سٹریٹجی
 اور ریاست میں دلا گیا ہے اور دوران انکوائری کس شخص نے کہا ہے
 خلاف کوئی ایسا بیان زیادتی یا جبری نہیں بتلایا جس سے یہ بات
 ظاہر ہو کہ مذکورہ سوشل سروسز میں ملوث رہا ہے، مذکورہ
 ASI نے حال میں میں DIO سے اعلیٰ کارکردگی پر سٹیٹسٹکس کلار
 سرٹیفکیٹ اور اعلیٰ انعام حاصل کیا ہے اور سالانہ ACR بھی (A) کا
 کر گیا ہے، کوئی ٹیوٹوریل کے متعلق دوران انکوائری نہیں دلا گیا
 لہذا مذکورہ کے خلاف انکوائری داخل دفتر کر رہی ہے

اس کے ساتھ ساتھ
 لکھنؤ
 ڈی ڈی سٹریٹ
 14 نومبر سال 2013

۱۸

ORDER


(19)
ANNEX E

This order will dispose off the departmental enquiry against Assistant Sub-Inspector Anwar Bacha has been reported to be allegedly involved in corruption which is a gross misconduct on his part.

He was issued Charge Sheet alongwith Statement of Allegations and DSP/Barikot, Swat was deputed as Enquiry Officer. The Enquiry Officer conducted proper departmental enquiry against the delinquent Officer and recorded the statements of all concerned officers. He provided ample opportunity to the delinquent officer to present justification for the charges leveled against him. After conducting proper departmental enquiry, the Enquiry Officer submitted his findings. He was heard in Orderly Room.

Having gone through the enquiry report and the relevant record in undersigned is of considered opinion that the delinquent officer bears notorious reputation of involvement in corrupt practices. Therefore, in exercise of the powers vested in the undersigned in Rules 2 (iii) of Police Disciplinary Rules-1975, I, Sher Akbar, S.St, P.S.P, District Police Officer, Swat as a competent authority, am constrained to award him the punishment of Compulsory Retirement from service with immediate effect.

Order announced.


District Police Officer, Swat.

O.B. No. 202

Dated 10.12 /2013.

20

ANNEX F

To

The Deputy Inspector General of Police

Malakand Range at

Saidu Sharif, District Swat

Subject: Departmental appeal against the order O.B. No. 202 dated 10-12-2013 vide which major penalty of compulsory retirement was imposed on the appellant.

Respected Sir;

The appellant submits as under:

That the appellant was regular member of the police force was performing his duty ^{as a} Sub-Inspector to the satisfaction of his authorities and the public as well.


That recently the appellant was issued charge sheet and statement of allegations, wherein, vague charges of corruption were alleged. This charge sheet and statement of allegation was replied and the charges specifically denied, being baseless and frivolous.

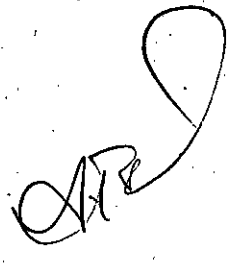
That shame inquiry was conducted in violation of the law and rules and as a result of which major penalty of compulsory retirement was imposed on the appellant, despite the fact that the appellant was never given the chance to be heard in person.

That the order mentioned above is passed in a very hush hush manner and in violation of the law and rules, hence liable to be set aside.

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It is, therefore, very respectfully prayed that on acceptance of this appeal the order impugned may be set aside and the appellant reinstated into service with all back benefits.

Appellant

Anwar Bacha
12-12-13



WAKALAT NAMA

IN THE COURT OF

K.P. K. Jevell

Tribunal.

Ameer Badsha Appellant(s)/Petitioner(s)

VERSUS

Gout

Respondent(s)

I/We _____ do hereby appoint
Mr. Khaled Rehman, Advocate in the above mentioned case, to do all or
any of the following acts, deeds and things.

1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

AND hereby agree:-

- a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____

Attested & Accepted by

Khaled Rehman,
Advocate, Peshawar.

A. Badsha

Signature of Executants

(G.P.K.)

POLICE DEPARTMENT**NO.13-17****KPK .POLICE**Annual Confidential Report on the Working of Assistant Sub-Inspector, Sub-Inspector and Inspector for the year ending 31st December 2013.

Name, Provincial or Range No. Rank and Grade	ASI Anwar Bacha
Father's Name	Mian Noor Jamal
Where and on what duties Employed during the past 12 months	01-01-2013 to 19-06-2013 JIS Police Line
Class of Superintendent of Police's Report, i.e "A" or "B"	A
Is he honest?	Yes
Remarks by:- (1) Superintendent of Police, (2) Regional Police Officer, Malakand Region, Saidu Sharif, Swat	<p><i>Hard worker, intelligent & professional police officer.</i></p> <p><i>(Mian Nasib JAN)</i> DSP Hqrs Swat 01-01-2013 to 19-06-2013</p> <p><i>Agreed</i></p> <p><i>(Gul Afzal Khan Afridi)</i> District Police Officer, Swat 01-01-2013 to 19-06-2013</p>

POLICE DEPARTMENT

NO.13-17

KPK .POLICE

Annual Confidential Report on the Working of Assistant Sub-Inspector, Sub-Inspector and Inspector for the year ending 31st December 2012.

Name, Provincial or Range No. Rank and Grade	ASI Anwar Bacha
Father's Name	Mian Noor Jamal
Where and on what duties Employed during the past 12 months	01-01-2012 to 31-12-2012 I/C PP Fatehpur, I/C PP Township I/C PP Dewlai
Class of Superintendent of Police's Report, i.e "A" or "B"	"A"
Is he honest?	
Remarks by:- (3) Superintendent of Police, (4) Regional Deputy Inspector General of Police	<p>No Complaint</p> <p>A professional, obedient and competent officer. Knows his job well.</p> <p>(ALI REHMAN) DSP Khwaza Khela Swat 01-01-2012 to 30-06-2012</p> <p>A Good Police Officer No Complaint (A)</p> <p>(HUSSAIN BACHA) DSP Swat 01-07-2012 to 27-09-2012</p> <p>Good Police officer. Known his job well.</p> <p>(Muzakir Shah Khan) DSP Swat 28-09-2012 to 31-12-2012</p> <p>Competent officer.</p> <p>(DILAWAR KHAN BANGASH) District Police Officer, Swat 01-01-2012 to 13-04-2012</p> <p>agreed</p> <p>(GUL AFZAL FRIDI) District Police Officer, Swat 14-04-2012 to 31-12-2012</p>

Police No. 99

GS&PD.KPK.15... S 500P. of 100-9-12 1990-(62)

POLICE DEPARTMENT

NO.13-1

KPK.POLICE

Annual Confidential Report on the Working of Assistant Sub-Inspector, Sub-Inspector and Inspector for the year ending 31st December 2011.

Name, Provincial or Range No.	ASI Anwar Bacha
Rank and Grade	Mian Noor Jamal
Father's Name	
Where and on what duties Employed during the past 12 months	01-01-2011 to 31-12-2011 I/C PP Fatehpur
Class of Superintendent of Police's Report, i.e. "A" or "B"	'A'
Is he honest?	No Complaint.
Remarks by:- (1) Superintendent of Police, (2) Regional Deputy Inspector General of Police	A professional, obedient and responsible officer assets for police department (Yousaf Ali Khan) DSP Khwaza Khela Swat 01-01-2011 to 12-10-2011 D.P.O. KHELA CIRCLE A professional and responsible officer (ALI REHMAN) DSP Khwaza Khela Swat 13-10-2011 to 31-12-2011 (QAZI GHULAM FAROOQ) District Police Officer, Swat 01-01-2011 to 31-07-2011 (DILAWAR KHAN BANGASH) District Police Officer, Swat 31-07-2011 to 31-12-2011

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No. 179 /2014.

Anwar Badshah Ex-ASI District Police, Swat District Swat.

Appellant

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police, Malakand Region, Saidu Sharif Swat.
3. The District Police Officer, Swat.

Respondents.

WRITTEN REPLY ON BEHALF OF RESPONDENTS.

1. Preliminary Objections.

1. That the appellant has got no Cause of action and locus standi to file the present appeal.
2. That the appeal is bad due to misjoinder and nonjoinder of necessary parties.
3. That the appeal is time barred.
4. That the appellant is estopped by his own conduct to file the instant appeal.
5. That the appellant has not come to the Tribunal with clean hands.
6. That this Hon'ble Tribunal has got no jurisdiction to entertain the present appeal.
7. That the instant appeal is not maintainable in its present form.
8. That the appellant concealed the material facts from this Hon'ble Tribunal.
9. That the appellant has been estopped by his own conduct to file the appeal.

2. REPLY ON FACTS.

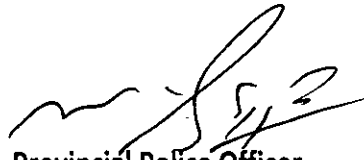
1. Para No. 1 of appeal, pertain to service record, hence needs no comments.
2. Para No. 2 of appeal is correct, to the extent that appellant has been served with charge sheet and summary of allegation, but the same were based on facts and for the purpose of securitizing the conduct of appellant proper departmental enquiry was conducted through DSP/Barikot, Swat. After the receipt of recommendations from Enquiry Officer the competent authority keeping in view the nature of charges, awarded the punishment of compulsory retirement from the service, which is according to law and rules.
3. Para No. 3 of appeal is correct to the extent that Mr. Saleem Khan Jadoon DSP/Barikot conducted proper departmental enquiry but after conclusion of enquiry and recommendations of Enquiry Officer, the competent authority awarded proper punishment in accordance with rules which commensurate with the charges.
4. Para No 4 of appeal is correct to the extent of imposition of major punishment of compulsory retirement, however after receipt of enquiry report the competent authority gone through the enquiry report and also heard the appellant in person in Orderly room but could not produce any cogent evidence in his defence to prove his innocence.
5. Para No. 5 of appeal is correct to the extent that appellant filed departmental appeal but the same was entertained by the respondent No. 2 and rejected the same being devoid of merits.

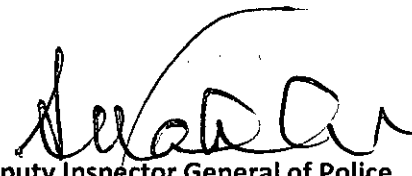
GROUNDS.

- a. Incorrect, appellant was treated in accordance with Law and Rules.
- b. Incorrect, the charges against the appellant were of serious in nature and the respondent has taken a lenient view by awarding major punishment of compulsory retirement.
- c. Incorrect, the competent authority has satisfied himself and after personal hearing of appellant major penalty was imposed, however the recommendations of Enquiry Officer are not binding upon the competent authority.
- d. Incorrect, proper departmental enquiry was conducted against the appellant and proper opportunity of defence was provided but the appellant could not prove himself as innocent.
- e. Incorrect, reply already given in para above.
- f. Incorrect, reply already given in para above.
- g. Incorrect, proper opportunity of hearing was provided to the appellant and all codal formalities were fulfilled.
- h. Incorrect, the respondents by keeping in view the long service of appellant had already taken lenient view and thereby awarded major punishment of compulsory retirement.
- i. Incorrect, the charges against appellant has been provided.
- j. Incorrect, being irrelevant.

The respondents also offered some additional grounds during the course of arrangement.

It is therefore prayed that the appeal of appellant may kindly be dismissed with cost being devoid of merits and without any legal substance.

1) 
 Provincial Police Officer,
 Khyber Pakhtunkhwa, Peshawar
 (Respondent No. 1)

2) 
 Deputy Inspector General of Police,
 Malakand Region Saidu Sharif Swat
 (Respondent No. 2)

3) 
 District Police Officer, Swat.
 (Respondent No. 3)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No. 179 /2014.

Anwar Badshah Ex-ASI District Police, Swat District Swat.

Appellant


VERSUS

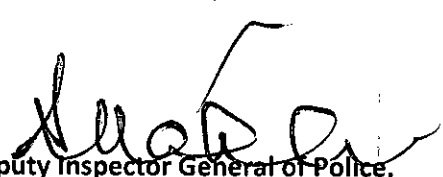
- 1) Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
- 2) The Deputy Inspector General of Police, Malakand Region, Saidu Sharif Swat.
- 3) The District Police Officer, Swat.

Respondents.

POWER OF ATTORNEY.

We, the undersigned No. 1 to 3 do hereby appoint Muhammad Ayaz DSP Legal Swat as special representative on our behalf in the above noted appeal. He is authorized to represent us before the Tribunal on each and every date fixed and to assist the Govt: Pleader attach to Tribunal in Submission of record.

1) 
Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)

2) 
Deputy Inspector General of Police,
Malakand Region Saidu Sharif Swat
(Respondent No. 2)

3) 
District Police Officer, Swat.
(Respondent No. 3)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No. 179 /2014.

Anwar Badshah Ex-ASI District Police, Swat District Swat.

Appellant


VERSUS

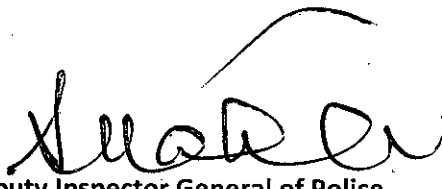
- 1) Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
- 2) The Deputy Inspector General of Police, Malakand Region, Saidu Sharif Swat.
- 3) The District Police Officer, Swat.


Respondents.

AFFIDAVIT:-

We the above respondents do hereby solemnly affirm on oath and declare that the contents of the appeal are correct/true to the best of our knowledge / belief and nothing has been kept secrete from the honourable Service Tribunal Khyber Pakhtunkhwa, Peshawar.

1) 
Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)

2) 
Deputy Inspector General of Police,
Malakand Region Saidu Sharif Swat
(Respondent No. 2)

3) 
District Police Officer, Swat.
(Respondent No. 3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**Service Appeal No. 179/2014**

Anwar Bacha.....Appellant

Versus

The PPO and others.....Respondents

**REJOINDER ON BEHALF OF APPELLANT IN
RESPONSE TO REPLY FILED BY
RESPONDENTS.**

Respectfully Sheweth,

Preliminary Objections:

Preliminary objections raised by answering respondents are erroneous and frivolous, the detailed replies thereof are as under:-

- I. That valuable rights of the appellant have been infringed through the impugned orders which have been challenged through the instant appeal under the law, therefore, appellant has got a strong cause of action and for that matter locus standi to file the instant appeal.
- II. That all necessary and proper parties have been arrayed as Respondents in the instant appeal, hence the question of mis-joinder and non-joinder is misconceived.
- III. That the appeal is within time.

- IV&IX. That appellant has challenged the impugned order within the meaning of Section-4 of the Khyber Pakhtunkhwa Service Tribunal Acts, 1974. It is a settled principle that estoppel does not operate against the law.
- V. That appellant has approached the Hon'ble Tribunal with a bonafide claim inas much as he has been treated in violation of the law.
- VI. That being a matter relatable to the terms and conditions of service, the Service Tribunal has got exclusive jurisdiction in the matter.
- VII. That all codal formalities as per the Khyber Pakhtunkhwa Service Tribunal Act, 1974 have been complied with and therefore the appeal is in its correct form and shape.
- VIII. That all the facts relevant for the disposal of the instant appeal concisely have been incorporated in the appeal and nothing has been concealed from the Hon'ble Tribunal.

Facts:

1. Being not replied hence admitted.
2. Incorrect. The allegations were altogether ill-founded. Moreover, the departmental enquiry was also conducted in an improper manner. No material was available in support of the allegations, therefore, the Enquiry Officer declared the appellant as innocent and recommended the

filing of the enquiry but inspite of the recommendations, the impugned order was unlawfully issued which is against the law.

3. Incorrect. Once the Enquiry Officer exonerated the appellant then no justification arose to pass the impugned order thereby imposing the major penalty upon the appellant which is against the law and rules on the subject.
4. Misconceived. Without Show Cause Notice and personal hearing, the impugned orders were passed in a highly illegal manner which has resulted in serious miscarriage of justice.
5. Incorrect.

Grounds:

- A. Incorrect. The appellant was not treated in accordance with law and rules on the subject.
- B. Incorrect. The allegations were without any legal basis nor the same were established, therefore, the imposition of major penalty is without lawful authority and hence not maintainable.
- C. Misconceived. No opportunity of personal hearing has been provided to the appellant. The recommendations of the Enquiry Officer are binding upon the competent authority.
- D. Misconceived. The Departmental enquiry has been conducted irregularly and in violation of the rules, therefore, no punishment can be based upon the same.

E&F. Being not replied hence admitted.

G. Incorrect. No opportunity of personal hearing as well as defence was given to the appellant nor other formalities have been complied with.

H. Misconceived. No leniency has been shown to the appellant inas much as major penalty of compulsory retirement has been imposed upon the appellant.

I&J. Incorrect hence denied.

It is, therefore, humbly prayed that the reply of answering Respondents may graciously be rejected and the appeal as prayed for may graciously be accepted with costs.

Through

Appellant

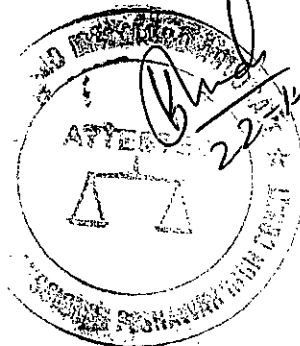
Khaled Rahman
Advocate, Peshawar

Dated: 18/04/2014

Affidavit

I, Khaled Rahman, Advocate, as per instructions of my client, do hereby affirm and declare on oath that the contents of this rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Deponent



Service Appeal No. 179 /2014

Anwar Bacha.....Appellant

Versus

The PPO and others.....Respondents

**REJOINDER ON BEHALF OF APPELLANT IN
RESPONSE TO REPLY FILED BY
RESPONDENTS.**

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- VIII. That all the facts relevant for the disposal of the instant appeal concisely have been incorporated in the appeal and nothing has been concealed from the Hon'ble Tribunal.

Facts:

1. Being not replied hence admitted.
2. Incorrect. The allegations were altogether ill-founded. Moreover, the departmental enquiry was also conducted in an improper manner. No material was available in support of the allegations, therefore, the Enquiry Officer declared the appellant as innocent and recommended the

filing of the enquiry but inspite of the recommendations, the impugned order was unlawfully issued which is against the law.

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5. Incorrect.

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- B. Incorrect. The allegations were without any legal basis nor the same were established, therefore, the imposition of major penalty is without lawful authority and hence not maintainable.
- C. Misconceived. No opportunity of personal hearing has been provided to the appellant. The recommendations of the Enquiry Officer are binding upon the competent authority.
- D. Misconceived. The Departmental enquiry has been conducted irregularly and in violation of the rules, therefore, no punishment can be based upon the same.

E&F. Being not replied hence admitted.

G. Incorrect. No opportunity of personal hearing as well as defence was given to the appellant nor other formalities have been complied with.

H. Misconceived. No leniency has been shown to the appellant inas much as major penalty of compulsory retirement has been imposed upon the appellant.

I&J. Incorrect hence denied.

It is, therefore, humbly prayed that the reply of answering Respondents may graciously be rejected and the appeal as prayed for may graciously be accepted with costs.

Through

Appellant

Khaled Rahman
Advocate, Peshawar

Dated: 18/04/2014

Affidavit

I, Khaled Rahman, Advocate, as per instructions of my client, do hereby affirm and declare on oath that the contents of this rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Deponent

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 179/2014

Anwar Bacha.....Appellant

Versus

The PPO and others.....Respondents

**REJOINDER ON BEHALF OF APPELLANT IN
RESPONSE TO REPLY FILED BY
RESPONDENTS.**

Respectfully Sheweth,

Preliminary Objections:

Preliminary objections raised by answering respondents are erroneous and frivolous, the detailed replies thereof are as under:-

- I. That valuable rights of the appellant have been infringed through the impugned orders which have been challenged through the instant appeal under the law, therefore, appellant has got a strong cause of action and for that matter locus standi to file the instant appeal.
- II. That all necessary and proper parties have been arrayed as Respondents in the instant appeal, hence the question of mis-joinder and non-joinder is misconceived.
- III. That the appeal is within time.

IV&IX. That appellant has challenged the impugned order within the meaning of Section-4 of the Khyber Pakhtunkhwa Service Tribunal Acts, 1974. It is a settled principle that estoppel does not operate against the law.

V. That appellant has approached the Hon'ble Tribunal with a bonafide claim inas much as he has been treated in violation of the law.

VI. That being a matter relatable to the terms and conditions of service, the Service Tribunal has got exclusive jurisdiction in the matter.

VII. That all codal formalities as per the Khyber Pakhtunkhwa Service Tribunal Act, 1974 have been complied with and therefore the appeal is in its correct form and shape.

VIII. That all the facts relevant for the disposal of the instant appeal concisely have been incorporated in the appeal and nothing has been concealed from the Hon'ble Tribunal.

Facts:

1. Being not replied hence admitted.
2. Incorrect. The allegations were altogether ill-founded. Moreover, the departmental enquiry was also conducted in an improper manner. No material was available in support of the allegations, therefore, the Enquiry Officer declared the appellant as innocent and recommended the

E&F. Being not replied hence admitted.

G. Incorrect. No opportunity of personal hearing as well as defence was given to the appellant nor other formalities have been complied with.

H. Misconceived. No leniency has been shown to the appellant inas much as major penalty of compulsory retirement has been imposed upon the appellant.

I&J. Incorrect hence denied.

It is, therefore, humbly prayed that the reply of answering Respondents may graciously be rejected and the appeal as prayed for may graciously be accepted with costs.

Through

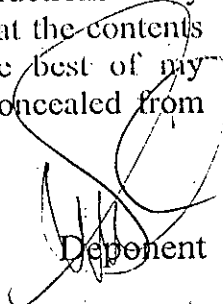
Appellant


Khaled Rahman
Advocate, Peshawar

Dated: 18/04/2014

Affidavit

I, Khaled Rahman, Advocate, as per instructions of my client, do hereby affirm and declare on oath that the contents of this rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.


Deponent