

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 142/2014

Date of institution ... 06.02.2014
Date of judgment ... 19.12.2016

Shafique Ahmad, Ex-Constable No. 131,
District Police, Tank.

... (Appellant)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The D.I.G D.I.Khan (Region), D.I.Khan.
3. The District Police Officer, Tank.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 09.12.2013 WHEREBY THE APPELLANT HAS BEEN DISMISSED FROM SERVICE AND AGAINST THE ORDER DATED 13.01.2014 WHEREBY THE PENALTY OF DISMISSAL FROM SERVICE HAS BEEN CONVERTED INTO COMPULSORY RETIREMENT ON THE APPEAL OF THE APPELLANT

Mr. Muhammad Asif Yousafzai, Advocate.

.. For appellant.

Mr. Muhammad Adeel Butt, Additional Advocate General

.. For respondents.

MR. MUHAMMAD AAMIR NAZIR

.. MEMBER (JUDICIAL)

MR. ASHFAQUE TAJ

.. MEMBER (JUDICIAL)

JUDGMENT

MUHAMMAD AAMIR NAZIR, MEMBER:-

Shafique Ahmad, ex-Constable

No. 131, District Police, Tank, hereinafter called the appellant, through instant appeal under section-4 of the Service Tribunal Act, 1974, has impugned order dated 09.12.2013 vide which appellant was dismissed from service. Against the impugned order, the appellant filed a departmental appeal which was partially accepted and the major penalty of dismissal from service was converted into compulsory retirement by appellate authority vide order dated 13.01.2014.

19.12.16

2. Briefly stated facts giving rise to the instant appeal are that the appellant joined the police force in the year 1995 and thereafter started performing his duty with great devotion and zeal. That afterwards the appellant was served with charge-sheet alongwith statement of allegations on the grounds of corruption, ill-reputation and inefficiency. That the appellant submitted reply to the charge sheet, however, a one sided inquiry was conducted and the competent authority on the basis of inquiry report, awarded major punishment of dismissal from service to the appellant. Against the impugned order appellant filed a departmental appeal which was partially accepted and the major penalty of dismissal from service was converted into compulsory retirement by appellate authority vide order dated 13.01.2014 hence, the instant appeal.

3. The learned counsel for the appellant argued before the court that despite the fact that the appellant had performed his duty with honestly and devotion, he was issued charge sheet without mentioning of any specific instance against the appellant. That general allegations of corruption, ill-reputation and inefficiency were leveled against the appellant to which appellant submitted a detailed reply. That a one sided inquiry was conducted without associating the appellant with the inquiry proceedings. That the competent authority while relying on the defective inquiry report, awarded major punishment of dismissal from service to the appellant. That the appellate authority also relied on illegal findings of the competent authority, however, converted the punishment of dismissal from service into compulsory retirement. Learned counsel for the appellant requested that instant appeal be accepted and the appellant be reinstated in service with all back benefits.

4. On the contrary, learned Additional Advocate General argued before the court that since the appellant was involved in corruption, ill-reputation and was inefficiency hence, an inquiry was initiated against him and after fulfilling all the codal formalities, appellant was awarded major punishment of dismissal from service. That the charges leveled against the appellant were fully proved in the inquiry proceedings hence, the competent authority has rightly awarded major punishment to the appellant. That the instant appeal being devoid of merits, hence, the same be dismissed.

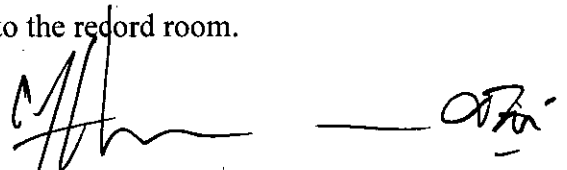
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19.12.16

5. We have heard the arguments of learned counsel for the appellant and learned Additional Advocate General for the respondents and have gone through the record available on file.

6. Perusal of the case file reveals that the appellant was charged for corruption, inefficiency and ill-reputation, however, no specific instance was cited in the charge sheet in respect of the allegations leveled against him. The inquiry office, on the other hand conducted a one sided inquiry against the appellant. Neither any witness was examined by the inquiry officer nor appellant was associated with the inquiry proceedings in order to provide him a chance to rebut the allegations leveled against him, hence mandatory provisions of law and rules on the subject were violated. The inquiry officer substantiated the charges leveled against the appellant on the basis of discreet information which is not sustainable in the eyes of law. Moreover, the mandatory provisions of fair trial as enshrined in Article-10-A of the Constitution of Islamic Republic of Pakistan are violated by not providing the appellant the opportunity of defence. Hence, in the above stated circumstances, we are constraint to accept the instant appeal and set-aside the impugned orders dated 09.12.2013 and 13.01.2014 and reinstate the appellant into service. The respondents are at liberty to conduct a de-novo inquiry against the appellant on the allegation leveled against him by providing him full opportunity of defence. Inquiry must be concluded within a period of 90 days from the receipt of this order, failing which appellant shall be deemed to have been reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

NNOUNCED
19.12.2016


(ASHFAQUE TAJ)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

16.12.2016

Counsel for the appellant present. Arguments of learned counsel for the appellant heard. Learned Asst: A.G was busy before Chairman Bench and could not argue the case. To come up for arguments of Asst: AG and order on 19.12.2016.


(ASHFAQUE TAJ)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

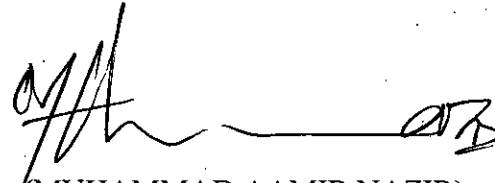
19.12.2016

Counsel for the appellant and Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present. Arguments heard and case file perused.

Vide our detailed judgment of today consisting of three pages placed on file, we are constraint to accept the instant appeal and set-aside the impugned orders dated 02.12.2013 and 13.01.2014 and reinstate the appellant into service. The respondents are at liberty to conduct a de-novo inquiry against the appellant on the allegation leveled against him by providing him full opportunity of defence. Inquiry must be concluded within a period of 90 days from the receipt of this order, failing which appellant shall be deemed to have been reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room..

ANNOUNCED
19.12.2016

(ASHFAQUE TAJ)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

findings on merits as to right of pre-emption without filing cross-objections. Being aggrieved of this judgment, the petitioners filed C.Rs Nos. 1664 and 1665 of 2003 before the Lahore High Court which have been dismissed through the impugned judgment, dated 24.11.2003 against which leave to appeal is sought.

4. We have heard learned counsel for the petitioners at some length. He contends that it was not the requirement of law to file cross-objections where the respondents in appeal wanted to support on any ground which had been decided against them. There is no cavil with this principle of law but we find that before the High Court, they only pressed the issuance of Talb-i-Ishhad. He maintained that Talb-i-Ishhad had not been proved through primary evidence by producing original notice whereas copy of notice mentioned by the plaintiffs was produced and further it was though sent through registered post but not with acknowledgment due receipt.

5. We have examined the record with the assistance of learned counsel for the petitioners. The notice of Talb-i-Ishhad was sent through registered post which is evident from postal receipt produced in evidence. The Postmaster of the area appeared as witness and stated that he had brought the record which bears his signatures after satisfying himself that it was delivered to the addressee. P.W.2 Altaf Hussain, postman clearly stated that the registered envelopes delivered to the petitioner and his signatures were obtained on the receipt which was available on the record. According to section 13(3) of the Punjab Pre-emption Act, 1991, the requirement was to prove sending dispatch of notice. When questioned learned counsel for the petitioners did not dispute the correctness of the address of the petitioners. This being so, the said notice shall be presumed to have been delivered to the petitioners-addressee by virtue of section 26 of the General Clauses Act. Learned counsel submitted that it was the requirement of law that notice should have been sent through registered post acknowledgment due. In this case, it was not accompanied by acknowledgment receipt. The requirement of acknowledgment due receipt appears to be one of the modes to satisfy that it had reached the addressee. The delivery of the post has been proved through other evidence of unimpeachable character as such, in our view, the relevant provisions of law have been substantially complied with.

6. The findings recorded by the Courts below do not suffer from any legal infirmity. These petitions have no merits which are accordingly dismissed and leave refused.

M.H./G-4/SC

Petition dismissed.

2008 S C M R 1369

[Supreme Court of Pakistan]

Present: Abdul Hameed Dogar, C.J.,

Ijaz-ul-Hassan Khan and Ch. Ejaz Yousaf, JJ

NASEEB KHAN---Petitioner

versus

DIVISIONAL SUPERINTENDENT, PAKISTAN RAILWAYS,
LAHORE and another---Respondents

Civil Petition for Leave to Appeal No.466 of 2008, decided on 26th May, 2008.

(On appeal from the judgment, dated 23-1-2008 passed by Federal Service Tribunal in Appeal No.397(R) of 2007).

Removal from Service (Special Powers) Ordinance (XVII of 2000)---

---S. 5---Misconduct---Dismissal from service---Non-holding of departmental Enquiry---Violation of principles of natural justice---Effect---Held, in case of imposing a major penalty, the principles of natural justice required that a regular enquiry was to be conducted in the matter and opportunity of defence and personal hearing was to be provided to the civil servant proceeded against, otherwise civil servant would be condemned unheard and major penalty of dismissal from service would be imposed upon him without adopting the required mandatory procedure, resulting in manifest injustice.

[pp. 1370, 1371, 1372] A, B, C & D

Pakistan International Airlines Corporation v. Ms. Shaista Naheed 2004 SCMR 316 and Inspector-General of Police, Karachi and 2 others v. Shafqat Mahmood 2003 SCMR 2007 ref.

Abdul Rehman Siddiqui, Advocate Supreme Court with Arshad Ali Chaudhry, Advocate-on-Record for Petitioner.

Qamar Zaman, Clerk, Litigation Branch for Respondents.

Date of hearing: 26th May, 2008.

JUDGMENT

IJAZ-UL-HASSAN KHAN, J.--- Through instant petition under Article 212(3) of the Constitution of the Islamic Republic of Pakistan, 1973, Naseeb Khan, petitioner, seeks leave against judgment, dated 23-1-2008 of learned Federal Service Tribunal, Islamabad, whereby,

appeal of the petitioner, challenging his dismissal from service, has been dismissed, in limine, being barred by time.

2. Precisely stated facts of the case as gathered from the record are, that petitioner joined service of respondent Department as Junior Commercial Assistant Booking (BS-5) on 26-3-1998 and served as such for 14 years. On 10-11-2001 due to demise of his wife, petitioner proceeded on leave. Petitioner was on leave when his father expired on 31-12-2001. According to the petitioner on 26-5-2002, he reported back but he was not allowed to resume duty and was issued a show-cause notice along with statement of allegations for remaining absent from duty without prior permission. The petitioner preferred representation/appeal which was rejected vide order, dated 13-5-2006. Feeling aggrieved, petitioner filed appeal before the Federal Service Tribunal, Islamabad which has been dismissed in limine, as stated above vide judgment impugned herein.

3. Mr. Abdur Rehman Siddiqui, learned Advocate, appearing for the petitioner argued that learned Tribunal has overlooked the settled law regarding limitation against a void order while dismissing petitioner's appeal as time-barred particularly when petitioner's departmental representation was not rejected on the question of limitation and that major penalty of dismissal from service has been imposed upon the petitioner without holding regular inquiry into the matter and without affording opportunity of defence to the petitioner.

4. We find substance in the submissions of learned counsel for the petitioner. It has been contemplated under section 5 of the Removal from Service (Special Powers) Ordinance, 2000 that in case of charge of misconduct as stipulated in section 3 of the Ordinance, a full fledged enquiry is to be conducted in order to give an opportunity to the civil servant to clarify his position. Section 5 of the Ordinance is reproduced below for facility sake:---

"Power to appoint an Inquiry Officer or Inquiry Committee."

(1) Subject to the provisions of subsection (2), the competent authority shall, before passing an order under section 3, appoint an Inquiry Officer or Inquiry Committee to scrutinize the conduct of a person in Government service or a person in corporation service who is alleged to have committed any of the acts or omissions specified in section 3. The Inquiry officer or as the case may be, the Inquiry Committee shall---

- (a) communicate to the accused the charges and statement of allegations specified in the order of inquiry passed by the competent authority,

- (b) require the accused within seven days from the day the charge is communicated to him to put in written defence;
- (c) enquire into the charge and may examine such oral or documentary evidence in support of the charge or in defence of the accused as may be considered necessary and the accused shall be entitled to cross-examine the witnesses against him; and
- (d) hear the case from day to day and no adjournment shall be given except for special reasons to be recorded in writing and intimated to the competent authority.
- (2) Where the Inquiry Officer or as the case may be, the Inquiry Committee is satisfied that the accused is hampering, or attempting to hamper, the progress of the inquiry he or it shall record a finding to that effect and proceed to complete the inquiry in such manner as he, or it, deems proper in the interest of justice.
- (3) The Inquiry Officer or as the case may be the Inquiry Committee shall submit his or its findings and recommendations to the competent authority within twenty-five days of the initiation of inquiry.
- (4) The competent authority may dispense with the inquiry under subsection (1) if it is in possession of sufficient documentary evidence against the accused, or for reasons to be recorded in writing, it is satisfied that there is no need of holding an inquiry.
- (5) Where a person who has entered into plea bargaining under any law for the time being in force, and has returned the assets or gains acquired through corruption or corrupt practices voluntarily, the inquiry shall not be ordered:

Provided that show-cause notice shall be issued on the basis of such plea bargaining to such person informing of the action proposed to be taken against him and the grounds of such action requiring him to submit reply within fifteen days of the receipt of the notice. On receipt of the reply, the competent authority may pass such orders as it may deem fit."

5. In case of imposing a major penalty, the principle of natural justice requires that a regular enquiry is to be conducted in the matter and opportunity of defence and personal hearing is to be provided to the civil servant proceeded against as held by this Court in the case of Pakistan International Airlines Corporation v. Ms. Shaista Naheed 2004

SCMR 316 and Inspector-General of Police, Karachi and 2 others v. Shafqat Mehmood 2003 SCMR 2007.

6. Keeping in view the facts and circumstances of the case, we find that petitioner has been condemned unheard and major penalty of dismissal from service has been imposed upon him without adopting the required and mandatory procedure, resulting in manifest injustice.

7. In view of the above, this petition is converted into appeal and allowed accordingly. The impugned judgment of the Service Tribunal, Islamabad, is set aside and petitioner is reinstated in service. However, his intervening period shall be treated as leave without pay. The department, may conduct a regular inquiry into the charges against the appellant, if so desired. No order as to costs.

H.B.T./N-9/SC

Order accordingly.

2008 S C M R 1372

[Supreme Court of Pakistan]

Present: Mian Hamid Farooq and Sheikh Hakim Ali, JJ

MUHAMMAD ASHRAF---Petitioner

versus

THE STATE and another---Respondents

Criminal Petition No.158-L of 2008, decided on 14th July, 2008.

(On appeal from the order, dated 27-5-2008 of the Lahore High Court, Lahore passed in Criminal Miscellaneous No.8888-CB of 2008).

Criminal Procedure Code (V of 1898)---

---S. 497---Penal Code (XLV of 1860), Ss.302/147/148/452/109/337-A(i), 337-F(v) & 337-L(ii)---Constitution of Pakistan (1973), Art.185(3)---Power and jurisdiction of High Court for cancellation of bail---Scope---Additional Sessions Judge, no doubt, had the power to grant bail in appropriate case under S.497, Cr.P.C., yet that discretion could be scrutinized by the High Court when exercise of the discretion in granting bail had been made by the subordinate court on flimsy grounds and contrary to the settled principles of law---Power and jurisdiction of High Court in this behalf could not be circumscribed and considered to be limited one---Particular role with specific attribution of the act of inflicting blow to the deceased by the petitioner was ascribed in F.I.R.

due to which deceased had allegedly expired---F.I.R. was promptly lodged and a corroborative and supportive evidence in the form of post-mortem report was also in existence---Discretion by Additional Sessions Judge in allowing bail to the accused, held, could not be considered to have been properly exercised---Impugned order of the High Court cancelling the bail of accused, in circumstances, was not liable to be interfered with by the Supreme Court---Petition for leave to appeal was dismissed. [p. 1374] A

Ch. Anwar-ul-Haq Pannu, Advocate Supreme Court for Petitioner.

Alamgir, Additional Prosecutor-General, Punjab with Mehmud, S.-I., Police Station Narang, District Sheikhpura for the State.

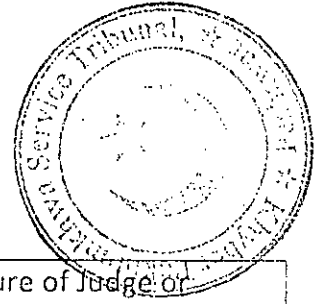
Zafar Iqbal Chohan, Advocate Supreme Court for Respondent No.2.

ORDER

SHEIKH HAKIM ALI, J.--- Through this Criminal Petition for leave to appeal, order dated 27-5-2008, passed by the learned Lahore High Court, Lahore, in Criminal Miscellaneous No.8888/CB of 2008 (Muhammad Amin v. Muhammad Ashraf and others) wherein the bail granted to Muhammad Ashraf by the learned Additional Sessions Judge, Ferozewala, through order dated 24-7-2007, in case F.I.R. No.273 of 2006, registered with Police Station Narang, Tehsil Muridke, District Sheikhpura, under sections 302/147/148/452/109/337-A(i), 337-F(v), 337-L(ii), P.P.C. was cancelled by the learned High Court. Hence, this petition seeking bail in the above-mentioned case, after reversal of the impugned order dated 27-5-2008, above mentioned.

2. In the above noted F.I.R., a specific role attributed to the petitioner in the occurrence, on the basis of which his bail was cancelled by the learned High Court, was that of the petitioner having inflicted Sota blow to Muhammad Sharif son of Mehtab, due to which aforesaid Muhammad Sharif had expired instantaneously at the spot.

3. Learned counsel for the petitioner submits that learned Additional Sessions Judge had granted bail after arrest to the petitioner, which concession, once granted to the petitioner, could not be snatched away by the learned High Court, as the petitioner had not committed any misuse of bail concession granted to him. Further submits that the consideration for cancellation of bail after arrest granted are somewhat different than the grant of bail. There were no sufficient grounds or reasons to cancel the bail of the petitioner. It has also been argued by the



Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	22.02.2016	<p style="text-align: center;"><u>BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR</u> <u>CAMP COURT, D.I.KHAN</u></p> <p style="text-align: center;">Appeal No. 474/2014</p> <p style="text-align: center;">Sufyan Ahmed Versus Government of KPK through Provincial Police Officer, Peshawar etc.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>PIR BAKHSH SHAH, MEMBER.-</u> Counsel for the appellant (Sheikh Ifikharul Haq, Advocate) and Government Pleader (Mr. Farhaj Sikandar) with Muhammad Asif. H.C for the respondents present.</p> <p>2. During the course of pro & contra arguments, it was brought into notice of the Tribunal that in such like charges of the general nature, this Tribunal while setting aside the impugned orders has directed for proceedings denovo. Hence, in the interest of justice, the case is remitted to the respondent department with the direction to conduct enquiry denovo within a period of two months of the receipt of this order strictly in accordance with law and rules. Needless to mention that the impugned orders are set aside and the appellant is reinstated into service for the purpose of denovo proceedings. Back benefits etc. will be subject to outcome of the denovo proceedings. The appeal is disposed off</p>

ATTESTED

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SECRETARY
KPK SERVICE TRIBUNAL
PESHAWAR

BEFORE THE SERVICE TRIBUNAL K.P.K. PESHAWAR.



S.T.A No. 474 2014

Sufyan Ahmad S/O Muhammad Ismail,
Caste Kundi R/O Gharib Abad Pai
Distt: Tank.

A.W.F. Pr...

103
03-0-14

Appellant

V/S

- 1 + Govt of K.P.K through Provincial Police Officer,
(I.G.P.) Peshawar.
2. The Divisional Police Officer (D.I.G) D.I.Khan.
3. District Police Officer (D.P.O.) Tank.

(Respondents)

Service Appeal under Section 4 of K.P.K Service Tribunal Act , 1974 against the Office order No.OB 1643 dated.2.12.2013 Passed by D.P.O.Tank and against the Office order No.129/ES dated. 13.1.2014 passed by D.I.G. D.I.Khan Range D.I.Khan in response to Departmental Appeal vide which the Services of Appellant was dismissed .

Prayer.

On acceptance of the instant Appeal the impugned order dated.2.12.2013 of D.P.O (Respondent No.3) and impugned order dated.13.1.2014 of D.I.G (Respondent No.2) may kindly be set aside and the Appellant services may graciously be re-instated with all back benefits in his original number.

ATTESTED

3/4/14
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar



OFFICE ORDER

In compliance with the order of Deputy Inspector General of Police, Dera Ismail Khan Range vide his office Memo No. 3639-401-E, dated 22.10.2013, the following Police Officers/Officials is hereby placed under suspension on the allegations of ill reputation, corruption and inefficiency and closed to Police Lines, Tank for further departmental proceedings with immediate effect:-

1. Inspector Muhammad Hussain Khan, Inspector Local, Tank.
2. Sub-Inspector Amir Abdullah Khan, SHO PS SMA, Tank. *جسے*
3. Sub-Inspector Faizullah Khan, SHO PS Gomal. *جسے* *Revert*
4. Sub-Inspector Inayatullah, SHO PS/Mullazai. *جسے* *Revert*
5. Sub-Inspector Mir Aslam Khan, Invest: Staff PS Mullazai. *جسے*
6. ASI Gul Wali, Incharge PP City Tank. *جسے*
7. ASI Sher Bad Shah, Invest: Staff PS SMA, Tank. *جسے*
8. ASI Ishaq Ahmad, PS SMA, Tank. *جسے*
9. PASI Inamullah Khan of Police Lines, Tank.
10. ASI Manzoor Ahmad, Incharge Traffic Staff, Tank.
11. HC Kalu Khan No. 30 of PP Latif Shaheed, Tank. *جسے*
12. HC Imranullah No. 275 Traffic Staff, Tank. *جسے*
13. HC Shaista Khan of QRF Squad, Tank. *جسے*
14. HC Shafique No. 131 of Traffic Staff, Tank. *جسے*
15. HC Amin Shah No. 298 of Police Line, Tank. *جسے*
16. HC Sabz Ali No. 58 MT Staff, Tank. *جسے*
17. HC Rehmanil Khan No. 103 I/C PP Darraki. *جسے*
18. HC Muntaz Ali of PS Mullazai. *جسے*
19. LHC Inamullah. ²⁹¹ (now transferred to District DE Tank) *جسے*
20. Constable Alam Sher No. 322 of Police Lines, Tank. *جسے*
21. Constable Muhammad Aslam No. 110 of Traffic Staff, Tank. *جسے*
22. Constable Ilizbullah No. 402 of Police Lines, Tank. *جسے*
23. Constable Rifatullah No. 14 of Police Lines, Tank. *جسے*
24. Constable Alamgir No. 74 of Police Lines, Tank. *جسے*
25. Constable Ashfaq No. 86 Asst. Cashier Police Lines, Tank. *جسے*
26. Constable Fazal Rehman No. 37 of Police Lines, Tank. *جسے*

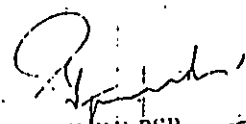


OFFICE OF THE
DISTRICT POLICE OFFICER
DISTRICT TANK

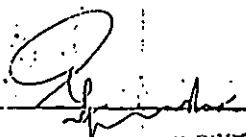
Ph. No. 0963-510257.
Fax no. 0963-510565.

- 27. Constable Sufyan Ahmad No. 152 of Police Lines, Tank. — دس
- 28. Constable Shahab-ud-Din No. 153 of Police Lines, Tank. — دس
- 29. Constable Shah Zaman No. 662 of Police Lines, Tank. — دس
- 30. Constable Tahir Habib No. 616 of Police Lines, Tank. — دس
- 31. Constable Muhammad Haroon No. 626 of Police Lines, Tank. — دس
- 32. Constable Abdullah No. 490 of Police Lines, Tank. — دس
- 33. Constable Khurshed No. 312 of Police Lines, Tank (Now on loan to DIKhan Police). — دس
- 34. Constable Anjad Yasir No. 318 of Police Lines, Tank. — دس
- 35. Constable Abdul Rauf No. 468 of Police Lines, Tank. — دس

Charge sheet along with summary of allegations will be issued separately and will be served upon them for further proceedings properly.


(ANWAR SAEED KUNDI) PSP
District Police Officer,
Tank.

No. 1330/R, Tank, Dt. 23-10-2017.
Copy of above is submitted to the Deputy Inspector General of Police, DIKhan Range, DIKhan w/r to above for kind information please.


(ANWAR SAEED KUNDI) PSP
District Police Officer,
Tank.



Sr. No.	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	09.04.2015	<p style="text-align: center;">KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.</p> <p>Service Appeal No. 163/2014, Tariq Saleem and Service Appeal No. 164/2014, Muhammad Alamgir Vs. Deputy Inspector General of Police, D.I.Khan Region etc.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>PIR BAKHSH SHAH, MEMBER.-</u> Appellants</p> <p>with counsel (Mr. Imtiaz Ali, Advocate) and Mr. Muhammad Jan, GP with Nazir Ahmad, H.C for the respondents present.</p> <p>2. Since same charge sheet containing charges of corruption, ill-reputation and inefficiency, was served on both the appellants alongwith 19 other civil servants and enquired into by the same enquiry officer, therefore this single judgment is directed to dispose of both the above appeals jointly.</p> <p>3. Arguments heard. Record perused.</p> <p>4. Learned counsel for the appellant submitted that no specific instance or ground to justify charge of corruption has been given. It was further submitted that there is no evidence on record to substantiate the allegations leveled against the appellants. That the enquiry report shows that the respondents-department had become vindictive due to Writ Petition of the appellants in the Hon'ble High Court. The learned counsel for the appellant further stressed that discrimination has been made by the respondents-department as some of affectees,</p>

ATTESTED

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

influential, were taken back in service or their penalty reduced. It was also submitted that not a single yardstick has been used by the appellate authority who passed order in a whimsical manner when showing leniency in cases of the appellant Muhammad Alamgir by reducing his penalty of removal from service to reduction in rank and refusing the same relief in case of appellant Tariq Saleem. He requested that the appeal may be accepted.

5. The learned Government Pleader while rebutting the arguments submitted that all codal formalities were fulfilled. Charge sheet and statement of allegations were served upon the appellants, opportunity of personal hearing was given to them, and the penalty was recommended by the enquiry officer. He requested that the appeals may be dismissed.

6. Perusal of the charge sheet would show that charges have been leveled against the appellants without citing any instance of corruption, inefficiency and mis-conduct, much-less quoting the relevant span of time of occurrence of any such instance. Report of the enquiry officer was perused wherein he has stated that there is no witness coming forth against the appellants regarding charge of corruption but the appellants are not well reputed in the public. The record shows that during the career of their services, the appellants had also earned one step promotion, which could be strange phenomena if the appellants were ill reputed in the public. The

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

discriminatory treatment can be noted when departmental appeal of appellant Muhammad Alamgir was partially allowed without any cogent reason but merely, on the basis of a lenient view taken by the appellate authority. The grace not shown in case of the appellant Tariq Saleem.

7. In view of the above, the impugned orders are set aside, the appellants are reinstated into service for denovo enquiry strictly in accordance with law and rule, which shall be completed within three months of the receipt of this judgment. Back benefits shall follow the outcome of departmental enquiry failing which the appeals shall be deemed to have been allowed. The appeals are disposed of in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
09.4.2015

Sd/-

(ABDUL LATIF)
MEMBER

Sd/-

(PIR BAKHSH SHAH)
MEMBER

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EX-100/100/100
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 29.6.2015

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Total 10

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Date of Completion of Copy 29.6.2015

Date of Delivery of Copy 29.6.2015



Sr. No.	Date of order/ proceedings	Order or other proceedings with signature of Judge/Magistrate
1	2	3
1.	12.05.2015	<p style="text-align: center;">KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.</p> <p style="text-align: center;">Appeal No. 419/2014</p> <p>Ayat Ullah S/O Aman Ullah R/O Shakardara, Tehsil Lachi, District Kohat Versus The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar etc.</p> <p style="text-align: right;"><u>PIR BAKHSH SHAH, MEMBER.-</u> Appellant</p> <p>Ayatullah with his counsel (Mr. Arshaf Ali, Advocate) and G.P Mr. Ziaullah, with Arif Saleem, ASI for the respondents-department present.</p> <p>2. The instant appeal has been filed by appellant Ayat Ullah under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned order dated 09.1.2014 whereby he was awarded major penalty of compulsory retirement from service with immediate effect.</p> <p>3. The appellant Ayatullah Sub Inspector Kohat Police was issued charge sheet alongwith statement of allegations on 23.08.2013. Charges against the appellant were that according to reliable source report he was having ill reputation in the department. An enquiry was conducted by Mr. Bashir Ahmad Syed, Superintendent of Police (Investigation) Kohat in which the appellant was found innocent and recommended for exoneration. The competent authority issued another charge sheet to the appellant on 12.12.2013 with the charges of bad</p>

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

reputation in public, living beyond his means, financial corruption and poor performance as police officer. Mr. Mansoor Aman, ASP, Headquarter, Kohat was appointed as enquiry officer, who conducted the enquiry and recommended the appellant for major punishment. Final show cause notice was issued to the appellant on 30.12.2014, to which the appellant submitted his reply on 5.1.2014. Vide impugned order dated 09.1.2015, the appellant has been compulsorily retired from service under Rule 5(5) of Police Discipline Rules, 1975. Feeling aggrieved, the appellant filed departmental appeal on 16.1.2014, which has not been decided within the statutory period, hence the instant appeal before this Tribunal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

4. Learned counsel for the appellant stated that charges against the appellant were general in nature much-less that it would have referred any specific time of occurrence or any specific instance. He further stated that no proper procedure has been adopted by the respondents before passing the impugned order. In the first enquiry conducted by SP Investigation, Kohat, the appellant was found innocent while the second enquiry officer failed to examine any witness or to collect any documentary proof in support of the charges leveled against the appellant. That the appellant was not given proper opportunity of defence to prove his innocence and that the enquiry officer has given his findings on surmises and

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EXHIBITIVE
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

conjectures. He stressed that in fact the appellant was selected for upper course in the year, 2011. He requested that on acceptance of the appeal, the impugned order may be set aside and the appellant may be reinstated into service with all back benefits.

5. The learned Government Pleader while rebutting the arguments submitted that all codal formalities were fulfilled. Charge sheet and statement of allegation was served upon the appellant, opportunity of personal hearing was given to him, and major penalty was recommended by the enquiry officer. He requested that the appeals may be dismissed.

6. We have heard arguments of the learned counsel for the parties and perused the record with their assistance.

7. It transpired from perusal of record that in the first enquiry, the appellant was declared as innocent and in the second enquiry he has been found guilty for financial embezzlement and recommended for major penalty. This is specifically noted that for the said alleged financial embezzlement the fact finding enquiry was also conducted by the same enquiry officer, ASP Headquarter Kohat and both the enquiries seem to have been concluded on one and the same time. This practice of both the enquiry by one and the same enquiry officer is not appreciated by law. Moreover, the Tribunal feels from perusal of the enquiry report that prejudice of the enquiry officer was a bit harsh rather biased against the

ATTESTED
 EKA NAWAZ
 Khaydar Pakhtunkhwa
 Service Tribunal,
 Peshawar

appellant. According to the enquiry report the alleged embezzlement was loan received by the appellant from his concerned boss. If it was a loan, then how it was embezzled and if it was embezzlement through fake receipt whether he was also the DDO? The charges are not specific and further that no evidence has been collected for the subsequent departmental enquiry against the appellant.

8. In view of the above, the impugned order is therefore, liable to be set aside. In order to meet the ends of justice and to provide opportunity of fair trial to the appellant, the case is remanded back to the respondent department for denovo enquiry strictly in accordance with law/rules. The appellant is reinstated in service for the purpose of the denovo enquiry proceedings. Back benefits will be subject to the outcome of the fresh enquiry which should be completed within a period of two months of the receipt of this judgment. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
12.5.2015

sd/-
(PIR BAKHSH SHAH)
MEMBER

sd/-
(ABDUL LATIF)
MEMBER

Certified to be true copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

10-6-2015
12-6-2015
29-6-2015
29-6-2015

to add that as per provisions of section 89, Cr.P.C. any attached property which was sold under section 88 of the Cr.P.C. was not liable for restoration and even if the proclaimed offender had satisfied the competent Court about his ignorance regarding his requirement before a Court of law then only the sale proceeds of the property in question could be offered to him after deducting expenses incurred in the auction of the same which clearly established that the auction or sale of such a property once made was final and could not be undone even when the competent Court was satisfied that the disappearance of the owner of the said property was not intentional.

(10) The only legal issue raised before us by the learned counsel for the petitioners was that the property in question was situated in the Federally Administered Tribal Areas and the provisions of Cr.P.C. did not extend to the said territory. This question was examined by the learned High Court and rightly answered in the impugned judgment and no further answer needs to be given to the said submissions. We may, however, add that the provisions of section 88, Cr.P.C. did not exempt the property situated in the Federal Administered Tribal Areas from the operation of the provisions of the said section 88, Cr.P.C. and more so when the Federally Administered Tribal Areas were a part and parcel of the territories comprising the State of Pakistan in terms of Article 1(1) of the Constitution.

(11) Thus looking at the matter from whatever angle i.e. be it a question of limitation; be it a question of the finality attached to the auction/sale under section 88, Cr.P.C. or the fact that the ones who had purchased the property in an auction held under the orders of a competent Court were bona fide purchasers of the same for valuable consideration, no exception could be taken to the consistent findings of the three learned Courts which are being questioned before us."

The petitioner cannot be allowed to reopen the case under the umbrella of review petition and his learned counsel cannot be permitted to reargue the case. Reference can be made to Mst. Kabir-un-Nisa and another v. Settlement Commissioner (Lands) Lahore and 3 other 1975 SCMR 493. This Court after taking into consideration every aspect of the case and taking conscious and deliberate decision on points of facts and law dismissed petitioner's civil petition. Neither there is any mistake or error apparent on the face of record nor discovery of a new and important matter or evidence, which is sine qua non for exercise of review jurisdiction of this Court. In this behalf reference can be made to Abdul Ghaifur-Abdul Rehman and others v. Asghar Ali and others PLD

1998 SC 363; Mian Rafiq Saigol and another v. Bank of Credit and Commerce International (Overseas) Ltd. and another PLD 1997 SC 865; Mst. Kalsoom Malik v. Assistant Commissioner 1996 SCMR 710 and Daewoo Corporation v. Zila Council Jhang 2004 SCMR 1213.

5. For what has been discussed above, we do not find any merit in the instant petition, which is accordingly dismissed and review is declined.

C.M.A. No.2696 of 2004

6. Instant application has been filed on behalf of legal heirs of Said Rehman (respondent No.3), seeking following relief:—

"It is, therefore, respectfully prayed that on acceptance of this application, the names of said two gentlemen Umar Gul and Hazrat Haque may kindly be omitted/deleted from line 4 on page 2 of the judgment and the same be corrected accordingly."

7. Learned counsel stated that only Said Rehman, predecessor-in-interest of applicants, purchased the land in an open auction and he was put in possession, but in lines 4 to 6 at page 2 of the judgment, dated 28-4-2004, passed by this Court in the case of Habib-ul-Haque alias Ajar v. Umer Gul (deceased) through his L.Rs. Mst. Umtul Khair and others (Civil Petition No.664 of 2002)", it has been noted that piece of land was purchased by Umar Gul, Hazrat Haque and Said Rehman in an auction which is factually incorrect.

8. Having heard learned counsel, we would like to know the view point of Umar Gul and Hazrat Haque. Office is, therefore, directed to issue notice to the said respondents for a date in the 1st week of December, 2008.

H.B.T./H-23/SC

Petition dismissed.

2009 S C M R 339

[Supreme Court of Pakistan]

Present: Sayed Saeed Ashhad and Sheikh Hakim Ali, JJ

MUHAMMAD HALEEM and another---Petitioners

versus

GENERAL MANAGER (OPERATION) PAKISTAN RAILWAYS
HEADQUARTER, LAHORE and others---Respondents

Civil Petitions Nos.227-K and 228-K of 2008, decided on 25th July, 2008.

(On appeal from the judgment, dated 4-2-2008, passed by Federal Service Tribunal, Islamabad in Appeals Nos. 426 and 427(K)(C.S.) of 2003)

(a) Removal from Service (Special Powers) Ordinance (XVII of 2000)---

---Ss. 3, 5(4) & 10---Constitution of Pakistan (1973), Art. 212(3)
Dismissal from service---Employee of Pakistan Railways---Charge of illegal supply of water and electricity belonging to residents of a colony---Imposition of such penalty by authority after considering appellant's reply to show-cause notice without holding regular inquiry---Submission of legal notices by appellant through his Advocate instead of filing departmental appeal---Dismissal of appeal by Service Tribunal for non-filing of departmental appeal by appellant---Validity---Such charges could have been proved only by producing evidence showing appellant to be responsible for alleged illegal act---Authority had not given any reason as to why there was no need to hold inquiry and how such factual charges were taken to be proved without holding an inquiry---Validity---Holding of inquiry was essential to prove such charges of fact and the same could not be dispensed with---When initial order or act relating to initiation of proceedings was contrary to law then all subsequent proceedings and actions taken thereon would have no basis and would fall---Department had penalized appellant without complying with provisions of law---Such legal notices could not be equated/treated as appeal under Removal from Service (Special Powers) Ordinance, 2000---Tribunal had entangle itself in technicalities and completely ignored such illegalities committed by department---Entire process initiated against appellant for his removal from service smacked of mala fides and animosity besides lacking legal sanctions---Supreme Court set aside impugned order and ordered for appellant's immediate reinstatement with all back-benefits. [pp. 343, 344] A, B, C, D, E & F

Mansab Ali v. Amir and 3 others PLD 1971 SC 124 fol.

(b) Removal from Service (Special Powers) Ordinance (XVII of 2000)---

---Ss. 3 & 5(4)---Charge of misconduct or allegation of fact---Proof---Holding of regular inquiry in such-like cases would be essential and dispensation therewith was not permissible---Reasons stated.

Where the allegations/charges/misconduct is of the nature requiring production of evidence to prove the same, then holding of a departmental inquiry is a necessary condition and dispensation therewith cannot be made as in the first place, there would be no evidence or material in possession of the department to establish and prove the

2009] Muhammad Haleem v. General Manager, Pakistan Railways (Sayed Saeed Ashhad, J) 341

charges/allegations of fact and secondly, that the civil servant proceeded against would be deprived of his right to defend himself properly as it would not be possible for him to cross-examine the witnesses, who would depose against him and from their cross-examination, he could not elicit favourable and beneficial statements. [p. 343] B

(c) Administration of justice---

---When initial order or act relating to initiation of proceedings was contrary to law and illegal, then all subsequent proceedings and actions taken thereon would have no basis and would fall. [p. 343] C

Mansab Ali v. Amir and 3 others PLD 1971 SC 124 fol.

Petitioners in person.

Latif-ur-Rehman Survery, Advocate Supreme Court and Mazhar Ali B. Chohan, Advocate-on-Record for Respondent No.2.

ORDER

SAIYED SAEED ASHHAD, J.--- Both the petitioners were dismissed on the ground that they had provided illegal water and electricity connections. Charge-sheets along with the statement of allegations were issued to both of them. It will be useful to reproduce the contents of both the charge-sheets as well as the statements of allegations, as under:---

Show-cause notice in respect of Muhammad Haleem

- (1) Whereas you are charged with gross misconduct and breach of discipline as per statement of charges attached.
- (2) And whereas the competent authority has decided that there is no need of holding an enquiry against you under subsection (4) of section 5 of the Ordinance XVII of 2000 (Removal from Service (Special Powers) (Amendment) Ordinance No.V of 2001 and that proceedings are being initiated under section 5(4) of the Removal from Service (Special Powers) Ordinance, 2000, which might entail imposition of a major penalty of "dismissal" from service as specified in section 3 of the said Ordinance.
- (3) Now, therefore, you are required to show cause within 7 days from the date of receipt of this notice, as to why the proposed action should not be taken against you.
- (4) If no response is received from you within the time stipulated above, it would be presumed that either you have no defence to offer and/or you have wilfully declined to do so. The case shall then be decided on "ex parte" without further reference.

Statement of allegations in respect of Muhammad Haleem

You Mr. Muhammad Haleem son of Ghulam Farced Mate under P.W.1/KCR (Baldia) are charged with gross misconduct inefficiency and corruption for the following charges and other relevant circumstances.

- (a) You are involved to supply illegal Railways Electric and Water to the outsiders of Muchar Colony including Sultan Hotel.

You are, therefore, being proceeded against under Removal from Service (Special Powers) Ordinance, 2000-2001.

Show-cause notice in respect of Sher Muhammad

- (1) Whereas you are charged with gross misconduct and breach of discipline and per statement of charges attached.
- (2) And whereas the competent authority has decided that there is no need of holding an enquiry against you under subsection (4) of section 5 of the Ordinance XVII of 2000 (Removal from Service (Special Powers) (Amendment) Ordinance V of 2001) and that proceedings are being initiated under section 5(4) of the Removal from Service (Special Powers) Ordinance, 2000, which might entail imposition of a major penalty of "Dismissal" from service as specified in section 3 of the said Ordinance.
- (3) Now, therefore, you are required to show cause within 7 days from the date of receipt of this notice, as to why the proposed action should not be taken against you.
- (4) If no response is received from you within the time stipulated above, it would be presumed that either you have no defence to (sic) other order you have wilfully decline to do so. The case shall be decided on "ex parte" without further reference.

Statement of allegations in respect of Sher Muhammad

You Mr. Sher Muhammad son of Ghulam Nabi Gate Keeper under P.W.1/KCR (Baldia) are charged with gross misconduct inefficiency and corruption for the following charges and corruption circumstances.

- (a) You are involved to supply illegal Railways Electric and Water to the outsiders of Muchar Colony including Sultan Hotel.

You are, therefore, being proceeded against under Removal from Service (Special Powers) Ordinance, 2000-2001.

2. From a bare perusal of aforementioned show-cause notices and

statements of allegations, it is noted that they are verbatim. It is also noted that the allegations levelled against them were with regard to the illegal supply of electricity and water belonging to railway to the residents of Muchar Colony including Sultan Hotel. These charges could have been proved only by producing evidence showing that the petitioners were responsible for providing electricity and water belonging to the railways to the residents of Muchar Colony and Sultan Hotel but instead of doing so the respondents in their wisdom thought it fit that there was no need to hold an inquiry without specifying as to why there was no need for holding an inquiry and how the charges/misconduct which were questions of fact would be proved without holding an inquiry. In other words initiation of the proceedings against the petitioners was based on illegalities as the observation of doing away with the inquiry was contrary to the pronouncement made by this Court in a large number of cases that where the allegation/charge/misconduct is of the nature requiring production of evidence to prove the same then holding of a departmental inquiry is a necessary condition and dispensation thereof cannot be made as in the first place there would be no evidence or material in possession of the department to establish and prove the charge/allegation of fact and, secondly that the civil servant proceeded against would be deprived of his right to defend himself properly as it would not be possible for him to cross-examine the witnesses who would depose against him and from their cross-examination he could elicit favourable and beneficial statements. It is a settled principle of law that when the initial order or the very act which relates to the initiation of a proceeding is contrary to law and illegal then all subsequent proceedings and actions taken on the basis of such illegal and unlawful action would have no basis and would fall. If any authority is required in support of the above the same is available from the case of Mansab Ali v. Amir and 3 others PLD 1971 SC 124. It is also surprising that the Tribunal while hearing the appeals of the petitioner got involved and entangled itself in technicalities without taking into consideration the above illegalities. There is no doubt that the petitioners did not assail their orders of dismissal by filing the departmental appeals and instead they submitted legal notices through their advocates which could not be equated or treated as appeal under the Removal from Service (Special Powers) Ordinance, 2000 but completely ignored the illegalities and shortcoming committed by the Railway Authorities and on the basis of the failure of the petitioners to comply with the provisions of law penalized them while completely ignoring and overlooking the respondent/Railway Department's illegal, unlawful actions, and contravention of law which resulted in illegal dismissal of the petitioners.

3. In view of the above there is no doubt that entire process initiated by the Department against the petitioners was

dismissal/removal from service smacks of mala fides and animosity besides lacking legal sanctions.

For the foregoing facts and reason these petitions merit consideration. Accordingly, they are converted into appeals and are allowed. The impugned judgment of the Tribunal as well as the orders of dismissal of the petitioners are set aside and they are ordered to be reinstated in service immediately with all back-benefits with the intimation to this Court. No order as to costs.

S.A.K./M-1/SC

Appeals accepted

2009 S C M R 344

[Supreme Court of Pakistan]

Present Ifikhar Muhammad Chaudhry, C.J.,
Faqir Muhammad Khokhar and Mian Shakirullah Jan, JJ

COMMISSIONER OF INCOME TAX and others—Appellants

versus

FATIMA SHARIF TEXTILE, KASUR and others—Respondents

Civil Appeals Nos. 1962 to 2205 of 2005, decided on 1st March, 2006.

(On appeal from judgment and order of the Lahore High Court, Lahore, dated 21-7-2004 and 4-10-2004 in Writ Petitions 7800, 8047, 8121, 8294, 8398, 8410, 8481, 8483, 8494, 8516, 8614, 8616, 8623, 8627, 8662, 8682, 8688, 8710, 8736 to 8739, 8743, 8751, 8758, 8759, 8761, 8777, 8797, 8822, 8830, 8838, 8840, 8841, 8895, 8898, 8923, 8930, 8935, 8938, 8940, 8959, 8983, 9001, 9023 to 9026, 9036, 9037, 9042, 9048 to 9053, 9064, 9065, 9075, 9080, 9114, 9135, 9151, 9152, 9166, 9171, 9173, 9174, 9187, 9188, 9193, 9194, 9202 to 9204, 9208, 9209, 9926, 10056 to 10059, 10104, 10108, 10124, 10126, 10148 to 10150, 10238, 10498, 10502, 10503, 10577 to 10579, 10591 to 10601, 10667 to 10676, 10875, 10876, 10878, 10686, 10874, 10925, 10927, 10929, 11032, 11082 to 11084, 11091 to 11107, 11123, 11255 to 11270, 11348 to 11350, 11354 to 11366, 11373, 11374, 11381 to 11383, 11432, 11562, 11726 to 11731, 11799, 11800, 12053, 12056, 12066 to 12070, 12279, 12081 to 12083, 12159, 12280, 12493 to 12498, 12590, 12627, 12635, 12720, 12927 to 12930, 13807, 13851, 13852, 13854 to 13868, 14252, 15022 and 15027 of 2004).

(a) Income Tax Ordinance (XLIX of 2001)---

---S. 177---C.B.R. Circular No. 1(1)S(ITAS)/2004---Filing of return

SCMR

2009]. Commissioner of Income Tax v. Fatima Sharif Textile 345
(Ifikhar Muhammad Chaudhry, CJ)

under self-assessment scheme. Reopening of assessment. Absence of specific provision in Income Tax Ordinance, 2001 requiring issuance of notice to assessee before proceeding against him. Effect. Law provided that such return filed by assessee would amount to an assessment order. General audit of assessment would result in prejudice to assessee making him subject to scrutiny. No one could be condemned unheard. Provision of notice to a person against whom department proposed to proceed would be read in every statute irrespective of absence of such provision therein. Notice to assessee would be given before proceeding against him in spite of absence of its provision in Income Tax Ordinance, 2001. Principles. [p. 346] A

Mst. Sattan and others v. Group Captain Masroor Hussain, Officer Commanding, P.A.F. Station Sargodha Cantt. PLD 1962 Lah. 151; Abdul Rashid v. Government of the Punjab through the Chief Conservator of Forests Lahore and 2 others 1985 CLC 199; Mst. Abeda Begum v. Government of Pakistan and others 1985 CLC 2859; Muhammad Tufail v. Government of Punjab 1990 MLD 327; Gul Muhammad and 8 others v. Buxal and 2 others 1991 CLC 229; Messrs Murree Brewery Company Limited v. Director-General, Excise and Taxation and 3 others 1991 MLD 267; Fateh Muhammad v. Mushtaq Ahmad and 9 others 1981 SCMR 1061 and Mst. Zahida Sattar and others v. Federation of Pakistan and others PLD 2002 SC 408 rel.

(b) Income tax---

---Press-release issued by Federal Board of Revenue subsequent to filing of return by assessee---Validity---Such subsequent press release could not work retrospectively and would be of no legal consequence for same not being in knowledge of assessee while filing return. [p. 347] B

Sadiq Brothers Poultry, Rawalpindi v. Appellate Additional Commissioner I.T./W.T. Rawalpindi 2003 PTD 1780 and 2004 PTD 122 rel.

Makhdoom Ali Khan, Attorney General of Pakistan Raja Muhammad Irshad D.A.G., Muhammad Zafar Iqbal, Advocate-on-Record, Sh. Shaukat Ali, C.I.T., LTU, Lahore for Appellants.

Muhammad Naqem Shah, Larif Ahmad Qureshi, Shahbaz Butt, Dr. Ilyas Zafar, Shahzad Shaukat, Muhammad Iqbal Hashmi, Mian Ashiq Hussain, Zaem ul Farooq, Siraj-ud-Din Khalid, Advocate Supreme Court, for Respondents.

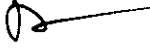
Dates of hearing: 28th February and 1st March, 2006.


JUDGMENT

IFTIKHAR MUHAMMAD CHAUDHRY, C.J.--- Above

10.09.2015

Counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Due to shortage of time therefore, case is adjourned to 8-2-16 for arguments.


Member


Member

08.02.2016

Counsel for the appellant and Mr. Muhammad Asif, Head Constable alongwith Addl: AG for respondents present. Counsel for the appellant requested for adjournment. To come up for arguments on 27-4-16.


Member


Member

27.04.2016

Agent of counsel for the appellant and Mr. Usman Ghani, Sr.GP for respondents present. Due to general strike of the Bar learned counsel for the appellant is not in attendance. Adjourned for arguments to 09.08.2016 before D.B.



Member


Chairman

09.08.2016

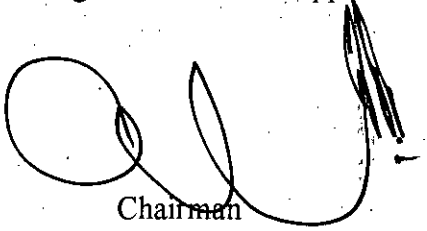
Agent to counsel for the appellant and Mr. Ziaullah, GP for respondents present. Arguments could not be heard due to general strike of the bar. To come up for arguments on 16-12-16.


Member


Member

11.9.2014

Counsel for the appellant and Mr. Muhammad Khan, Reader to Inspector (Legal) Tank on behalf of respondents with Mr. Kabirullah Khattak, AAG present. Written reply received on behalf of the respondents, copy whereof is handed over to the learned counsel for the appellant for rejoinder alongwith connected appeals on 12.1.2015.



Chairman

12.01.2015

Counsel for the appellant and Mr. Shad Muhammad, S.I (legal) on behalf of respondents with Addl: AG present. Rejoinder received on behalf of the appellant, copy whereof is handed over to the learned Addl: AG for arguments alongwith connected appeals on 29.06.2015.



Chairman

29.06.2015

Appellant with counsel and Mr. Muhammad Jan, GP with Syed Saghir Gillani, SI (Legal) for the respondents present. During the course of arguments, it came to know that copy of enquiry report is not available on the file. Representative of the respondents is directed to produce the same on the next date positively. To come up for full arguments on 10.09.2015.



Member



Member

Appeal No. 142/2014.

Mr. Shubique Ahmed

20.03.2014

Counsel for the appellant present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the original order dated 09.12.2013, he filed departmental appeal on 12.12.2013, which has been rejected on 13.01.2014, hence the present appeal on 06.02.2014. He further contended that the appellant has been treated under wrong law and the impugned order dated 13.01.2014, has been issued in violation of Rule-5 of the Civil Servant (Appeal) Rules 1986. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents for submission of written reply/comments on 05.06.2014.

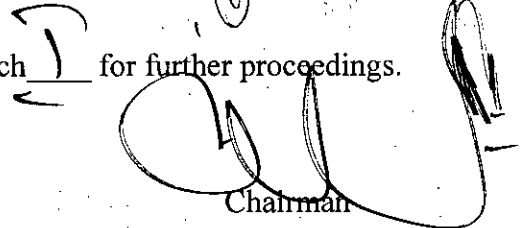
Appellant Deposited
Security & Process Fee
Rs. 180/- Bank
Receipt attached with File.

EE


Member

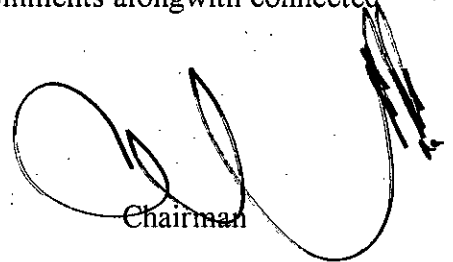
20.03.2014

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


Chairman

5.6.2014


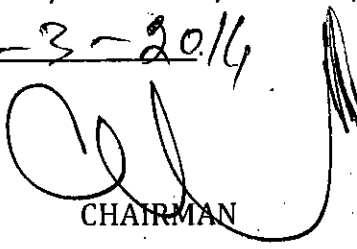
Appellant with counsel present. Respondents are absent despite their service through registered post/concerned official. However, AAG is present on behalf of the respondents and would be contacting them for written reply/comments alongwith connected appeals on 11.9.2014.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 142/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	06/02/2014	<p>The appeal of Mr. Shafique Ahmad presented today by Mr. Muhammad Asif Yousafzai 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	10-2-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>20-3-2014</u></p> <p style="text-align: right;"> CHAIRMAN</p>

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

Appeal No. 142 /2014

Mr. Shafique Ahmad V/S P.P.O. KPK & Others.

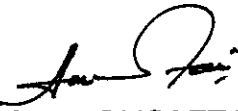
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INDEX

S.No.	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	01-04
2.	Copy of Charge sheet	- A -	05
3.	Copy of Statement of Allegations	- B -	06
4.	Copy of Reply to Charge-sheet	-B-1-	07
5.	Copy of Order (10/12/2013)	- C -	08
6.	Copy of Appeal	- D -	09
7.	Copy of Rejection Order (13.1.2014)	- E -	10
8.	Vakalat Nama	-----	11

APPELLANT
Shafique Ahmad

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

(1)

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

Appeal No. 142 /20134

Mr. Shafique Ahmad, Constable No.131,
District Police, Tank.

S.W.S. Peshawar
6/2/14

APPELLANT

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The D.I.G. D.I.Khan (Region), D.I.Khan.
3. The District Police Officer, Tank.

RESPONDENTS

.....

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 09.12.2013 WHEREBY THE APPELLANT HAS BEEN DISMISSED FROM SERVICE AND AGAINST THE ORDER DATED 13.01.2014 WHEREBY THE PENALTY OF DISMISSAL FROM SERVICE HAS BEEN CONVERTED INTO COMPULSORY RETIREMENT ON THE APPEAL OF THE APPELLANT.

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 09.12.2013 AND 13.01.2014 MAY BE SET ASIDE AND THE APPELLANT MAY VERY GRACIOUSLY BE REINSTATED WITH ALL BACK BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

6/2/14

RESPECTFULLY SHEWETH:

1. That the appellant joined the Police Force in the year 1995 and completed all his due training etc and also has good service record throughout.

2

2. That all of sudden, the appellant was served with charge sheet and statement of allegations under the Police Rules, 1975 in which though the charges of corruption, ill-reputation and inefficiency were leveled against the appellant but without specification of any incident or occurrence which led to formulate such statement of allegations. However, the appellant submitted his reply and denied all allegations. Copies of Charge-sheet, Statement of Allegations and Reply to Charge sheet are attached as Annexure-A and B, B-1.
3. That then one sided enquiry was conducted against the appellant in which neither the appellant was associated with the enquiry proceedings nor any statement was recorded in the presence of appellant or to cross examine the same. The appellant was also not provided enquiry report till date.
4. That on 9.12.2013, the penalty of dismissal from service was imposed on the appellant under the Police Rules, 1975. The appellant preferred Departmental Appeal on 12.12.2013 which was partially accepted on 3.1.2014 and the penalty has been modified to compulsory retirement. Copies of Order, Appeal and Rejection Order are attached as Annexure-C, D and E.
5. That now the appellant comes to this Honourable Tribunal on the following grounds amongst the others.

GROUND:

- A) That the impugned order dated 09.12.2013 and 13.01.2014 are against the law, facts, norms of justice and material on record, therefore, not tenable and liable to be set aside.
- B) That the appellant has been condemned unheard and has not been treated according to law and rules.

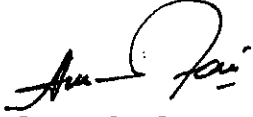
- C) That neither the appellant was associated with the enquiry proceedings nor any statement of the witnesses have been recorded in the presence of appellant. Even a chance of cross examination was also not provided to the appellant which is violation of norms of justice.
- D) That even no final show cause notice was served on appellant which before imposing major penalty of dismissal from service which is the violation of principle of personal hearing and fair play.
- E) That no enquiry paper was provided to the appellant which is the violation of law as held by the Honourable Supreme Court of Pakistan in the case of Mir Muhammad Khan.
- F) That the charge sheet and statement of allegations is vague and contains no specification about in incident or nothing which could based to level in allegations.
- G) That the appellant has not been treated under the proper law despite he was a civil servant of the province, therefore, the impugned order is liable to be set aside on this score alone.
- H) That the penalty of dismissal from service and further conversion into compulsory retirement is very harsh which was passed in violation of law and rules, therefore, the same is not sustainable in the eyes of law.
- I) That the appellant has been discriminated because similar like allegations were leveled against 35 officials of District Tank Police and more than 15 officials are reinstated while the same benefits were not extended to the appellant.
- J) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

4

It is, therefore, most humbly prayed that the appeal of the appellant maybe accepted as prayed for.

APPELLANT 
Shafique Ahmad

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

Q

A 3

CHARGE SHEET.

WHEREAS, I, am satisfied that a formal enquiry contemplated under Khyber Pakhtunkhwa Police Rules 1975 is necessary and expedient.

AND WHEREAS, I am of the view that the allegation(s) if established would call for a Major Penalty including dismissal from service as defined in Rules(4(i)(B) of the aforesaid Rules.

AND THEREFORE, as required by Police Rules 6 (I) of the aforesaid Rules, I, ANWAR SAEED KUNDI (PSP) District Police Officer Tank being a competent authority hereby charge you Head Const. Chafiz, 131 with the misconduct on the basis of statement of allegation attached to this Charge Sheet.

AND hereby direct you further under rule 6(I) of the said rules to put in written defence within Seven (7) days of receipt of this Charge Sheet as to why the proposed action should not be taken against you and also state that the same time whether you wish to heard in person or otherwise.

In case your reply is not received within the prescribed period, without sufficient cause, it would be presumed that you have not defence to offer and exparte action proceedings will be initiated against you.

Handwritten notes: 131, HC, 21/5/13

(ANWAR SAEED KUNDI) PSP
District Police Officer,
Tank

Signature of Anwar Saeed Kundi and date 28/1/13

ATTESTED
A

STATEMENT OF ALLEGATION.

(A)

B

6

That you while serving in Police Department have been found involved in the following misconduct:-

1. Corruption.
2. ill-reputation.
3. Inefficiency.

This amounts to gross misconduct on your part and punishable under the Khyber Pakhtunkhwa Police Rule 1975.

Hence the statement of allegation.

(ANWAR SAEED KUNDI) PSP
District Police Officer,
Tank

[Handwritten signature]
28/16

ATTESTED
[Handwritten mark]

[Handwritten notes]
01/11/13

(9) B-1

بحوالہ چارج شیٹ آف الیکیشن مشمولہ معروض ہوں کہ سائل پر جو الزامات یعنی کرپشن، بری شہرت اور نااہلیت وغیرہ لگائی گئی ہیں۔ یہ

بے بنیاد اور غلط ہیں۔ کیونکہ سائل مورخہ: 13.06.1995 کو ضلع ٹانک محکمہ پولیس میں بطور کانسٹیبل بھرتی ہو کر نہایت احسن طریقے سے

فرائض منصبی سرانجام دیتے ہوئے۔ سال 2007 میں ہیڈ کانسٹیبل ترقیاب ہو کر اس عرصہ کے دوران مختلف جگہوں پر افسران بالا کی احکامات کی

روشنی میں ڈیوٹی سرانجام دیتا رہا۔ سائل کی عرصہ تعیناتی کے دوران سائل کے خلاف نہ تو پبلک کی جانب سے کوئی زبانی یا تحریری شکایت افسران کو

ملی ہے۔ اور نہ ہی سائل نے کسی کو بے جا طور پر تنگ کر کے پولیس کی بدنامی کا باعث بنا ہے۔ اندریں سلسلہ سائل کے ریکارڈ گواہ ہے۔ سائل نہ تو

کبھی کرپشن میں ملوث رہا ہے۔ اور نہ ہی اس سلسلہ میں کسی نے سائل کے خلاف کوئی شکایت دی ہے۔ سائل تاحال اچھے طریقے سے ڈیوٹی

سرانجام دے رہا ہے۔ اور افسران بالا کو کسی قسم کی شکایت کا موقع فراہم نہیں کیا ہے۔

سائل نے مورخہ: 31.03.2013 کو انٹرمیڈیٹ کورس پولیس ٹریننگ کالج ہنگو سے پاس کیا جو سائل پر افسران بالا کا اعتماد ہے۔

سائل پر لگائے گئے الزامات میں کوئی صداقت نہیں ہے۔

استدعا ہے۔ کہ سائل کی چارج شیٹ بلا مزید کارروائی داخل دفتر فرما کر سائل کو ملازمت پر بحال کیا جائے۔

ارض

07/11/13

ہیڈ کانسٹیبل شفیق احمد نمبر: 131 حال پولیس لائن ضلع ٹانک

ATTESTED



OFFICE OF THE
DISTRICT POLICE OFFICER
DISTRICT TANK

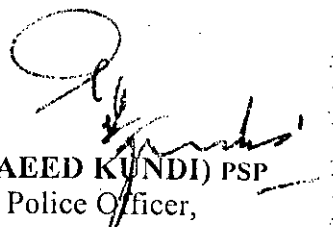
Ph: No. 0963-510257.

Fax no. 0963-510565.


OFFICE ORDER.

My this office will dispose off departmental enquiry initiated against Head Constable Shafique Ahmad No. 131 of this district police on the allegations of ill reputation, corruption and inefficiency against whom proper departmental enquiry was initiated. Charge Sheet along with statement of allegations was issued and served upon him properly. Mr. Kousar Ali, SDPO/Rural, Tank was nominated as Enquiry Officer. During enquiry, the accused official was summoned and examined. He produced his written statement which is placed on file. After finalization of inquiry, the Enquiry Officer has submitted his finding report. The enquiry report was received and perused. His previous service record was also checked and examined. His general reputation in the department is not good. He is fully derseves to be dismissed from service, therefore I ANWAR SAEED KUNDI, (PSP) District Police Officer, Tank in exercise of Powers vested upon me under Khyber PakhtunKhwa Police Rule 1975, award Major Punishment of "DISMISSAL FROM SERVICE" to defaulter Head Constable Shafique Ahmad No. 131 of this district police with immediate effect.


Announced.


(ANWAR SAEED KUNDI) PSP
District Police Officer,
Tank.

9/12
03 1666
dt: 9/12/13

ATTESTED


Attested.


C. I. INVEG
TANK

خدمت جناب ڈپٹی انسپکٹر جنرل صاحب پولیس ڈیرہ اسماعیل خان ریجن ڈیرہ

جناب عالی!

سائل حسب ذیل عرض رساں ہے

(۱) سائل مورخہ 13-06-1995 کا بھرتی شدہ ہے۔ سال 2001 میں لوہر کورس اور 2013 میں انٹرمیڈیٹ کورس پاس کیا ہے۔

(۲) سائل کو 1-11-2013 کو چارج شیٹ کیا گیا جس میں کرپشن۔ ایئر پوٹیشن اور ان آفیشنسی کے الزمات لگائے گئے ہیں۔ سائل نے چارج شیٹ کا جواب دیا اور لگائے گئے الزمات کو رد کیا۔ ساڑھے اٹھارہ سال کے طویل عرصہ ملازمت میں کوئی بڑی سزا نہیں ملی۔ اور سائل نے اپنی ملازمت نہایت ایمانداری اور جانفشانی سے کی ہے اور احسن کارکردگی پر افسران بالا سے سرٹیفکیٹس اور نقد انعامات حاصل کی ہیں۔ سائل کا سروس ریکارڈ واضح ہے انکواری عمل میں لائی گئی۔

(۳) سائل کو مورخہ 9-12-2013 کو محکمہ پولیس سے DPO صاحب ٹانک نے ڈسمس کر دیا ہے حالانکہ سائل کو نہ تو فائنل شو کاز نوٹس دیا گیا ہے۔ اور نہ ہی مجھے پیشی کے لیے بلایا گیا ہے۔

(۴) سائل کی انکواری جناب SDPO Rural کو مارک کی گئی تھی۔ جنہوں نے تینوں تھانے جات کے SHO,S صاحبان سے کی گئی۔ جنہوں نے علاقہ میں مشہوری کرائی لیکن کسی نے سائل کی خلاف کوئی تحریری یا زبانی شکایت نہیں کی۔

(۵) DPO صاحب ٹانک نے حکم Dismissal میں تحریر فرمایا ہے کہ میری محکمہ میں جنرل رپوٹیشن ٹھیک نہیں ہے۔ حالانکہ سائل نے تمام ملازمت نہایت جانفشانی سے کی ہے۔ جس کا ثبوت میرا سروس ریکارڈ ہے۔ مجھے نہ تو کسی افسر نے سزا دی ہے۔ اور نہ ہی کسی افسر نے میری شکایت کی ہے اور نہ ہی میں نے کبھی کوئی ایسا کام کیا ہے جس سے محکمہ کی بدنامی ہوئی لہذا عاجزانہ استدعا ہے کہ سائل کے چھوٹے بچے اور بوڑھے والدین ہیں۔

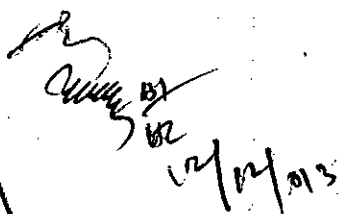
مندرجہ بالا گزارشات کو مد نظر رکھتے ہوئے جناب سے استدعا ہے کہ سائل کی اپیل منظور فرما کر سائل کو ملازمت پر

بحال کیا جاوے۔

عین نوازش ہوگی

الارض

سابقہ ہیڈ کنسٹیبل شفیق احمد نمبر 131 ضلع ٹانک


22/04/2015

ATTESTED


ORDER:

E
19

This order is meant to dispose off the appeal preferred by Ex-Head Constable Shafique Ahmad No.131 of Tank District against the order of major punishment i.e. dismissal from service, awarded to him by DPO Tank vide OB No.1666 dated 09.12.2013. He was proceeded against on the allegations of ill-reputation, corruption and inefficiency. A proper departmental enquiry was initiated and Mr. Kousar Ali, SDPO Rural Tank was appointed as Enquiry Officer to conduct proper departmental enquiry against him. On the recommendation of Enquiry Officer, DPO Tank awarded him major punishment of dismissal from service.

The appellant/ Ex-Head Constable preferred the instant appeal against the order of DPO Tank. I have gone through the enquiry file as well as service record of the appellant and also heard him in person on 01.01.2014.

Therefore in exercise of power conferred upon me I **Abdul Ghafoor Afridi** Dy: Inspector General of Police DIKhan, the competent authority in exercise of the powers conferred upon me takes lenient view, keeping in view his family set-aside the order passed by DPO Tank and convert his punishment of dismissal from service into compulsory retirement.


(ABDUL GHAFOOR AFRIDI)
PSP, PPM

Deputy Inspector General of Police,
Dera Ismail Khan Region

No. 116


IES 24/13-1-14

Copy to the District Police Officer, Tank for information with reference to his office memo: No.5711 dated 30.12.2013. His Service Record is returned herewith.


(ABDUL GHAFOOR AFRIDI)
PSP, PPM

Deputy Inspector General of Police,
Dera Ismail Khan Region

Attested


INVESTIGATION
TANK

VAKALAT NAMA

NO. _____/20

IN THE COURT OF Service Tribunal Peshawar

Safceey Ahammael (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

P.P.O and others (Respondent)
(Defendant)

I/We Safceey Ahammael

Do hereby appoint and constitute **M.Asif Yousafzai, Advocate, Peshawar,** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20

M. Asif Yousafzai
(CLIENT)

ACCEPTED

M. Asif Yousafzai
M. ASIF YOUSAFZAI
Advocate

M. ASIF YOUSAFZAI
Advocate High Court,
Peshawar.

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building,
Khyber Bazar Peshawar.
Ph.091-2211391-
0333-9103240

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

Service Appeal No. 142/2014

Shafiq Ahamd, Constable No. 131,
District Police, Tank.....(Appellant)

Versus

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police, D.I.Khan Range.
3. District Police Officer, Tank..... (Respondents 1 to 3)

WRITTEN REPLY ON BEHALF OF RESPONDENTS.

PRELIMINARY OBJECTIONS

1. That the appellant has got no cause of action & locus standi.
2. That the appeal is bad for misjoinder/non-joinder of necessary parties.
3. That the appeal is time barred.
4. That the appellant has not come with clean hands.
5. That the appellant is estopped due to his own conduct.
6. That the appellant has concealed the material facts from Honourable Tribunal.
7. That appeal is not maintainable & incompetent
8. That the Honourable Service Tribunal has no jurisdiction to entertain the instant appeal.

BRIEF FACTS

1. Pertains to record.
2. Correct to the extent that the appellant was served with charge sheet and statement of allegations under police rules 1975 on the charges of Ill-reputation, Corruption & Inefficiency and the appellant submitted his reply. The remaining portion of the para is incorrect.
3. Incorrect. Infact a proper departmental enquiry was initiated against the appellant and he was given all the lawful opportunities of defence including cross examination and personal hearing.
4. Pertains to record.


5. The appeal of appellant may be treated as per law and rules.


GROUNDS

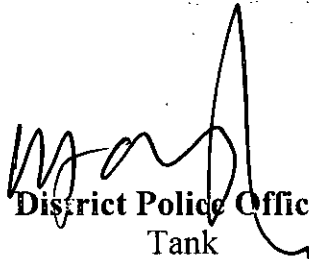
- A. Incorrect. The order were passed under the existing law & rules after proper departmental proceedings hence sustainable.
- B. Incorrect. The enquiry was initiated purely on merits and the appellant was given all the lawful opportunities of defence.
- C. Incorrect. The appellant was associated with enquiry proceedings and statements of witnesses were recorded in the presence of appellant by giving him an opportunity of cross examination.
- D. Incorrect. Infact all the legal formalities have been observed.
- E. Incorrect. The documents pertains to enquiry under law have been provided.
- F. Incorrect. The charge sheet & statements of allegations containing detail of charges were issued to the appellant.
- G. Incorrect. A proper departmental enquiry was initiated under the law & rules and no violation has been made, thus the order are sustainable.
- H. Incorrect. The penalty was given under the law and rules after proper proceedings, in which appellant was held guilty.
- I. Incorrect. Infact besides the appellant 35-officials were proceeded departmentally on the allegations of Ill-reputation, Corruption & Inefficiency out of them some of the officers were found innocent whereas the appellant and some other officers were found guilty and were awarded departmental punishment under the law and rules which self reveals that no discrimination have been done.
- J. May be treated as per law & rules.

PRAYER


It is, therefore, most humbly prayed that on acceptance of these parawise comments, the Appeal of the Appellant which is devoid of legal footing, and merit may graciously be dismissed.


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


Deputy Inspector General of Police
DIKhan Range
(Respondent No.2)


District Police Officer,
Tank
(Respondent No.3)

Ue-tted


Govt: Pleader
NPK Services Tribunal
Camp Court D.I.Khan

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

Service Appeal No. 142/2014


Shafiq Ahamd, Constable No. 131,
District Police, Tank.....(Appellant)

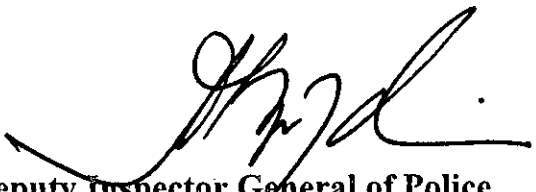
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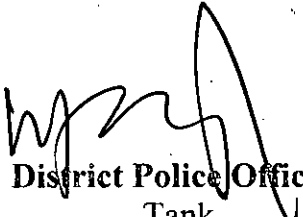
1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police, D.I.Khan Range.
3. District Police Officer, Tank..... (Respondents 1 to 3)

A U T H O R I T Y

We, the respondents do hereby authorised DSP/Legal, DIKhan to appear before the Service Tribunal Khyber Pakhtunkhwa, Peshawar, on our behalf, He is also authorised to produce/ withdraw any application or documents in the interest of Respondents and the Police Department.


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


Deputy Inspector General of Police
DIKhan Range
(Respondent No.2)


District Police Officer,
Tank
(Respondent No.3)

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

Service Appeal No. 142/2014


Shafiq Ahamd, Constable No. 131,
District Police, Tank.....(Appellant)

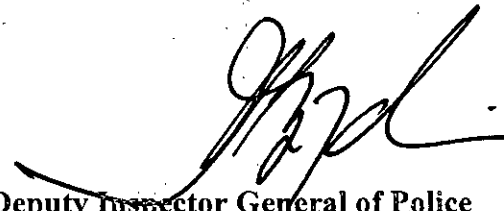
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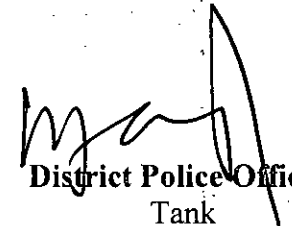
1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police, D.I.Khan Range.
3. District Police Officer, Tank..... (Respondents 1 to 3)

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS

We, the respondents do hereby solemnly affirm and declare on oath that the contents, of Comments/Written reply to Appeal are true & correct to the best of our knowledge and nothing has been concealed from this Honourable Tribunal.


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


Deputy Inspector General of Police
DIKhan Range
(Respondent No.2)


District Police Officer,
Tank
(Respondent No.3)

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

Service Appeal No. 142/2014

Shafiq Ahmad

VS

Police Deptt:

.....

REJOINDER ON BEHALF OF APPELLANT

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-8) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 Admitted correct by the respondents as the service record is laying in the custody of department.
- 2 First portion of the para is admitted correct. While the remaining portion of the para is incorrect as the charges of corruption, ill reputation and inefficiency were leveled against the appellant but with out specification of any incident or occurrence which led to formulate such charges.
- 3 Incorrect. While para 3 of the appeal is correct.
- 4 Admitted correct by the respondents as the service record is laying in the custody of department.
- 5 No comments.

GROUND:

- A- Incorrect. The orders dated 9.12.2013 and 13.1.2014 are against the law, rules, norms of justice and material on record. Therefore not tenable and liable to be set aside.
- B- Incorrect. While para B of the appeal is correct.
- C- Incorrect. While para B of the appeal is correct.
- D- Incorrect. No legal formalities have been observed as even no final show cause notice was served on appellant which is necessary before imposing major penalty of dismissal from service which is violation of principle of personal hearing and fair play.
- E- Incorrect. While para E of the appeal is correct.
- F- Incorrect. the charge sheet and statement of allegations is vague and contain no specification about in incident or nothing which could based to level in allegations
- G- Incorrect. While para G of the appeal is correct.
- H- Incorrect. While para G of the appeal is correct.
- I- Incorrect. The appellant along with 35 other officials were removed from the service on the basis of same allegations but some of them were reinstated while the same benefits were not extended to the appellant. Hence the appellant is discriminated as if the allegations were same and some of the officials were reinstated then it was also the legal right of the appellant to be reinstated.
- J- No comments.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

APPELLANT

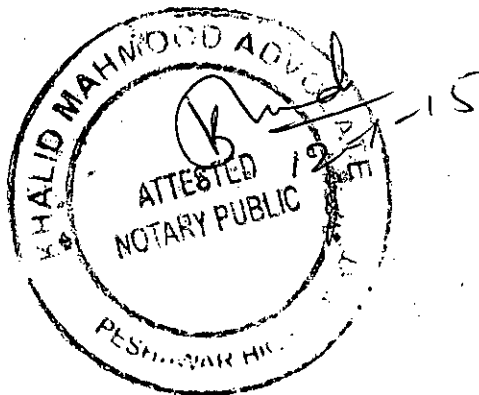
Shafiq Ahmad

Through:

Asif
(M. ASIF YOUSAFZAI)
ADVOCATE,

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.



Asif
DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 1426/2014

Shafiq Ahmad and others

Vs. Police Department etc.

APPLICATION FOR EARLY HEARING.

RESPECTFULLY SHEWETH

1. That the above mentioned Service Appeals were fixed for 12.1.2015 . On the same date the case was adjourned to 29.6.2015 for arguments.
2. That cases of similar nature have already been fixed for 4.4.2015 and in order to save the time of the Hon'ble Court, the instant appeal may also be adjourned to 26.02.2015.

It is, therefore, requested that the Service Appeal No. 450/14 alongwith other connected appeals may very graciously be fixed with other similar nature cases of Police Department Khyber Pakhtunkhwa on 26.2.2015.


APPELLANTS

Through:


COUNSEL

Connected Appeals

Name	Appeal No.
Amjid Yasin	147/2014.
Khussheed	145/2014.
Alamagui	148/2014.
Fazli Rahman	146/2014
Shee Bad Shah	144/2014.
Shahb uddin	143/2014.

(27)

اندک اندک از آن کس امر با کمره 318
صلح تمام فصلی بود بر کس 67

۱۸۵

خوبی بیرون آمدن با کمره 318 صلح تمام کسیم سے
Fe

خوبی صلح 4368 حر کالی حیرتین برآمدگی - خوب صلح
MNA

با غیر بلیک و کالی حیرتین مکرر مانگ
کالی حیرتین مکرر مانگ

مذکورہ کے صدر سے 238 7-6 2011
471 468 420 419

صلح صدر درجہ اولیٰ کس ایشیہ در علم حوران
اندک اندک از آن کس

در 440 صلح صدر کس 8-6 2011
و صلح صدر کس حوران

خوبی حوران و 13-6 2011
کس حوران سے صلح کالی حیرتین

کس حوران سے صلح کالی حیرتین
کس حوران سے صلح کالی حیرتین

کس حوران سے صلح کالی حیرتین
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کس حوران سے صلح کالی حیرتین
کس حوران سے صلح کالی حیرتین

Solo/Team

کامیابی کے لیے
محوالہ آرڈر نمبر 99-4686 مورخہ 11/04/2013 محابہ جناب DPO صاحب کے ذمہ

محابہ جی، سٹیٹ بینک کنٹریل سٹیٹ سٹیٹ الائن نمبر 153 جو نمبر دفتر 75 پوسٹل آرڈر اس کے ذریعہ پیش
کرائیں اور ان ایفیسس کا اتمام ہے۔ برائے انکوائری میں 50 کو مارک ہو کر انکوائری عمل میں لاتے ہوئے
معرض میں ہوں کہ

کنٹریل سٹیٹ الائن نمبر 153 نے حاصل کیا جو اب خارج سٹیٹ داخل نہیں حالانکہ محوری دوران
میں ڈیڑھے آسکے ذاتی جوابیل فونز پر 50 کا ٹھکانا نہ کہ نے الملاح دی ہے۔ ا.ج. حیرتے رہا تو
ملا۔ جس میں خارج سٹیٹ کا جواب طلب کیا۔ لیکن کنٹریل سٹیٹ الائن نے دوبارہ اسے مابیانہ
کرتے ہوئے جواب داخل کئے بغیر حالانکہ کنٹریل سٹیٹ مذکورہ کے متعلق قبل ازیں بھی میں تسلیم
غیر حاضری انکوائری کر چکا ہوں کنٹریل سٹیٹ مذکورہ کی محکمہ پوسٹ میں غیر حاضر شدہ سٹیٹ الائن
کے نام سے پہچانا جاتا ہے۔ نوکری کے سلسلہ میں اسکی ریٹوشن بلڈ شیک سبب استثنائی مابیانہ
کئے ہیں۔ سفارش میں ڈیڑھے اپنی مافی غیر حاضری کو مؤید سٹیٹ عمل سے منظور کرنا چاہیے
جہاں پر اسکی تعیناتی ہوئی ہے۔ درود سبب بنا رہا ہے۔ بطور ثبوت سابقہ ریکارڈز ذیل ہے۔

① غیر حاضری بلڈ تنخواہ
262 پوم

تاریخ پھرئی 30.11.2002
② غیر حاضری بطور مؤید سٹیٹ
167 پوم


③ منڈی نڈ غیر حاضری
45 پوم

④ ایکسٹرنل
11 پوم

⑤ جرمانہ سلسلہ غیر حاضری اور مورخہ 10/13 سے بدستور
500 روپے

غیر حاضری ہے۔ کنٹریل مذکورہ سے اچھا پوسٹ آفس میں بنا تو درکنار محکمہ کے استثنائی کا
سبب بنا ہوا ہے۔ ا.ج. تک خارج سٹیٹ جسکی حصار پوری ہے۔ سمجھ کرنے کی تکلیف
بھی گوارا نہیں کرتا۔ اسلئے بلکہ طرفہ کاروائی عمل میں لاتے ہوئے کنٹریل مذکورہ کو محکمہ پوسٹ میں
برخواست کرنے کی اور ایام غیر حاضری بلڈ تنخواہ کی سفارش کی جاتی ہے۔

انکوائری رپورٹ طلبہ دفنا سبب حکم کر اس میں ہے۔


CO/inw-Tank
291

حساب جاری

حوالہ حکم 4886-99 عمارت حساب DPD صاحب ٹانک خارج سٹیٹ بینک کینسل خورد شیر 312
04.11.13

جو کہ دفعہ 75 پوسٹ ریٹرن اس پر کزن ایڈریسیشن ان فیٹیسی انفرم ہے برائے انکوٹری من ص کو حوالہ
کئی ہے۔ انکوٹری محل میں لائے ہوئے تحریر کیا جاتا ہے کہ


کینسل خورد شیر 312 نے اپنے اوپر گائے کے التفات کی تردید کرتے ہوئے تحریر کیا کہ وہ ضلع ٹانک میں
تینوں تھاہات سے تعینات رہا ہے اور تھاہ ملگڑی میں بطور DFC بھی تعینات رہا ہے۔ بدوران تعیناتی تھاہ ملگڑی
بذرا زمانہ عثمان شتباری مسلم نذیر مسلم مضر صفت خان، سیران، زنگ، گل بادشاہ مجاہد 302 اور اسکی
انعامتین برضا ہو کر تحریر کئے ہیں اور ساتھ ہی اخبارات تراشے بھی بطور کارکردگی شامل بیان کئے ہیں
جو لو انکوٹری ہیں۔ لیکن سرورس ریکارڈ برائے کے مطابق تھاہ محل میں آٹا براحد کر کے 2008ء میں مبلغ 159 روپے
انعام اور III ما اندراج پایا گیا ہے۔ اسکے علاوہ کوئی اور Good Entry موجود نہیں۔ برائے
ریکارڈ سے انعام ہوں ہے۔

① تاریخ جبری 18.10.2004
② غیر حاضری بلا تنخواہ 89 یوم
③ غیر حاضری بطور کینسل 31 یوم
④ ایک سہ ماہی 01 یوم

⑤ کوڈ کارڈ 01 یوم
⑥ جبرانہ مبلغ 200 روپے
فمنٹری چیک بوسٹ ڈروٹی کے دوران غفلت ہے احتیاجی

کرنے سے مطلع کیا گیا۔ 31 05 13 سے شکایتی طور پر ضلع Dikhan آن ہون تبدیل ہے کینسل
مذکورہ کی سرورس ریکارڈ خارج ڈروٹ کے علاوہ اسکی سہرت بھی اچھی نہیں۔ حالانکہ اس سلسلہ
میں کوئی شخص تحریری طور پر بیان دئے کو شمار نہیں ہے۔ اور اسی وجہ سے ضلع تھاہ سے ضلع ڈروٹ پر عمل
خان تبدیل ہو چکا ہے۔ ضابطہ سہرا کی سفارش کی جاتی ہے۔

انکوٹری ریورٹ ممبر دفاتر حکم نذیر اس ہے


CO/Inv - Tank
25/11/2013

جاب عالی

مہوار حکم 4686-99 مورخہ 11/11/2013ء محاورہ جاب DPO صاحب ٹانک، خارج

سیٹ سبام کنٹریل عالمگیر جو زیر دفعہ 75 پولیس رول اس پر کرپشن، ایڈیویشن اور ان افشن کا الزام ہے۔ برائے انٹرنیٹ من 50 کو حوالہ کیا گیا ہے۔ انٹرنیٹ عمل میں لاتے ہوئے تحریر کیا جاتا ہے۔

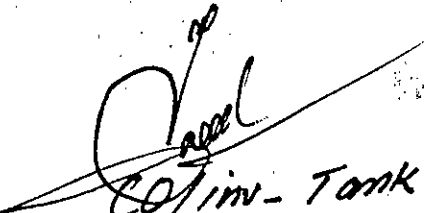
① کنٹریل مذکورہ نے خارج سیٹ کے جواب میں الزامات کی تردید کرتے ہوئے لکھا ہے کہ الزامات کو رد کیا ہے۔ جو اس سلسلہ میں عوامی سطح پر چھان بین کی گئی۔ عوام الناس میں اسکی کوئی شکوہ شکایت نہیں ہے۔ اسی طرح رشوت خوری کے متعلق کوئی شکایت موصول نہیں ہوئی ہے البتہ اپنے پولیس ڈیوٹی کی فرائض انجام دی وغیرہ میں بعد پرنال ریکارڈ بہتر طور پر ڈیوٹی کی انجام دی میں کوئی مہارت طلب رہا ہے۔ جو پرنال ریکارڈ کے مطابق اسکی سرورس ریکارڈ ذیل ہے۔

- ① تاریخ بھرتی 18.07.2007
- ② غیر حاضری بعد تنخواہ 376 روپے
- ③ غیر حاضری بطور عیال 48 روپے

اور مہوار آرڈر نمبر 588 مورخہ 06/10/04 کو سلسلہ غیر حاضری (08/09 تا 06/10) ملازمت سے برخصت بھی کیا گیا ہے۔

اسکے بعد یعنی مہالی کے بعد بھی غیر حاضری سلسلہ جاری رکھا ہے۔ جو تقریباً مختلف اوقات میں (16) یوم غیر حاضری رکھا ہے۔ جو غیر حاضری کا عادی ہے۔ لیکن قدرے بہتری آئی ہے۔

لہذا استدعا ہے کہ کنٹریل عالمگیر نمبر 74 کو مناسب سنرا اور آئندہ نئے محسوس ہونے کی اور سرورس پرنال کرنے کی سفارش کی جاتی ہے۔ انٹرنیٹ رپورٹ زاریں ہے۔


CO/inv - Tank
25.11.13

حصہ عالی

جوائنٹ انکوائری رپورٹ نمبر 642-43 سبام Asi سید بادشاہ شاہ، SANA ٹانک جوہر ایف انکوائری

11-05-12

میر کے حوالے ہوئی ہے۔ انکوائری عمل میں لائے ہوئے ٹھہرا گیا جاتا ہے

کہ محالہ عدہ عدلت نمبر 01/2008 ج 01 نمبر 324 شاہ، ٹانک Asi سید بادشاہ شاہ جوہر ایف انکوائری میں سبام میں
تعمیرات ہے نے عدہ کی تفتیش عمل میں لگا کر احادیث عداوت بھجوا یا جو نمبر 02/23 کو سبام نمبر تفتیش

کی بنیاد پر بری ہو چکا ہے

عدہ عدلت نمبر 01/2008 ج 01 نمبر 324 شاہ، ٹانک Asi سید بادشاہ شاہ جوہر ایف انکوائری میں سبام میں
لگا کر ایڈیشنل سبام نے جو نمبر 02/14 کو ایڈیشنل سبام عداوت بھجوا یا۔ ایڈیشنل سبام میں سبام

پولیس سے ریٹائر ہو چکا ہے

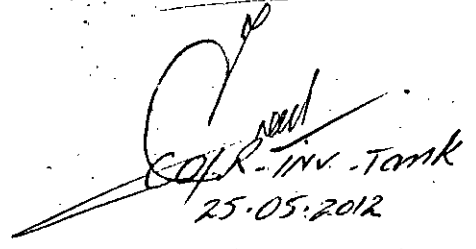
جو نمبر 04/17 کو سبام ظاہر شاہ اقتدار پور Asi سید بادشاہ شاہ نے سبام کا دو نمبر 02/20 کو سبام ریٹائر ہو چکا ہے
حاکم کے ایڈیشنل سبام نے سبام میں سبام کے سبام میں سبام کے سبام میں سبام کے سبام میں سبام کے سبام میں سبام کے سبام میں
عدالت جوڈیشل بھجوا یا گیا جبکہ عدالت جوڈیشل سبام نے سبام کے سبام میں سبام کے سبام میں سبام کے سبام میں سبام کے سبام میں
عدالت بھجوا یا گیا جو نمبر 02/23 کو عدالت سبام جج صاحب سے شکر کی بنیاد پر بری ہو چکا ہے

عدہ عدلت نمبر 01/2008 ج 01 نمبر 324 شاہ، ٹانک Asi سید بادشاہ شاہ جوہر ایف انکوائری میں سبام میں
Asi سید بادشاہ شاہ نے سبام کے سبام میں سبام کے سبام میں سبام کے سبام میں سبام کے سبام میں سبام کے سبام میں سبام کے سبام میں

عدالت نے بھی اسکی بیان میں سبام میں سبام میں سبام میں سبام میں سبام میں سبام میں سبام میں سبام میں سبام میں

انکوائری سے سبام میں سبام میں سبام میں سبام میں سبام میں سبام میں سبام میں سبام میں سبام میں سبام میں

اس ہے۔ Asi سید بادشاہ شاہ ہے۔ انکوائری رپورٹ نمبر 642-43 سبام سبام سبام سبام سبام سبام سبام سبام سبام سبام سبام


SADR-INV-Tank
25-05-2012

فائنل رپورٹ

انڈیا کی ازاں کانٹری فنڈیشن 87 سٹڈی ٹائمنس

370

ضابطہ نمبر 1

کانٹری فنڈیشن 87 سٹڈی ٹائمنس جو بحوالہ مذکورہ 26⁸/₁₃ سندھ 15⁹/₁₃ تا 9⁹/₁₃ تا 10⁹/₁₃ تا 27⁹/₁₃ تک
 مذکورہ 18⁹/₁₃ اور سندھ 22⁹/₁₃ تا 24⁹/₁₃ تک 19⁹/₁₃ غیر ملکی پر کانٹری فنڈیشن مذکورہ 8⁹/₁₃ تا 27⁹/₁₃ تک
 جاری شدہ کیا گیا تھا جو کانٹری فنڈیشن کے مرضی 27⁹/₁₃ کو جاری شدہ وصول کیا۔ لیکن بحال جاری
 شدہ ماحول میں دیا۔ کانٹری فنڈیشن مذکورہ سالانہ رپورٹ کے مطابق غیر ملکی ماحولی پر کیا گیا
 جس کا سالانہ رپورٹ انڈیا کی فنڈیشن 87 کے مرضی 12⁹/₁₃ تک کو روک
 INEFFICIENCY رقم سے دیکھیں کیا گیا

کانٹری فنڈیشن کے لئے رقم ہدیہ جو اے میں دیا۔ کانٹری فنڈیشن ممبر علیہ علیہ 8⁹/₁₃ تا 9⁹/₁₃ اور
 1554⁹/₁₃ ، 6⁹/₁₃ تا 8⁹/₁₃ جو اے ممبر 1830⁹/₁₃ ، 10⁹/₁₃ تا 12⁹/₁₃ ، 1466⁹/₁₃ ، 2⁹/₁₃ تا 2⁹/₁₃ ، 23-10-13
 13-12-0
 1827⁹/₁₃ ، 24⁹/₁₃ تا 2¹⁰/₁₃ جو اے ممبر 1468⁹/₁₃ ، 23-02-13
 13-12-13

حکومتی رپورٹ نمبر 10/14
 30/01/14
 10.1.14

عائیدہ بیگم راجپوت انٹرنی

ازمنہ ۱۲۱ رقم شفیق ۱۳۱

حصہ عالی

حوالہ حکم انگریزی نمبر ۸۵ - ۴۶۷۴ - ۱۱ - ۱۳ جاریہ صفا۔ ۵۰۱ صفا ٹانگہ جارج سنڈ

ازمنہ ۱۲۱ رقم شفیق ۱۳۱ حوالہ سوانحہ انٹرنی عمل میں لگایا جاوے گا جارج سنڈ صفا ۱۲۱

ذکرہ پر کوشش۔ ایڈووکیٹین اور ان ایجنسی کے انعامات لگانے کے ہیں

۱۲۱ ذکرہ نے جارج سنڈ کا جواب دیا ہے کہ ختم ہوا ہے وہ ۱۳۰۶ کا ہے تو وہ

1995

۱۲۱ ذکرہ سے لکھیں کہ کونسا کونسا ترقی پاتا ہے ۱۳/۳ کو انٹرنی سڈ کے کورس پاس کیا

اس سروس کے دوران انڈین باکس کے عوام کی طرف سے کئی زبانیں پڑھ کر شکایتیں حاصل
ہوئی ہیں اور انہیں اس نے انڈین باکس کے شکایت کا موقع دیا ہے

۱۲۱ ذکرہ کے بارے میں پتہ چکانے کے لیے اس کے حوالے کیے گئے ہیں۔ کہ اگر عوام میں

کئی شکایتیں ہو تو وہ ان کو زبانیں پڑھ کر شکایت کر سکتے ہیں۔ لیکن کئی شکایتیں

شکایتیں کی گئی ہیں آج تک۔ جہاں تک ریکارڈ لکھتے ہیں ۱۲۱ ذکرہ کا سروس ریکارڈ

چیک کیا گیا ہے۔ جس کے نتیجے میں یہ ہے۔

تاریخ مہینہ	عہدہ غیر حالی	غیر حالی عہدہ	بیماری عہدہ	بیماری عہدہ	بیماری عہدہ
13.6.95	۱۱ نوم	۹۱ نوم	400 مار	۱ مار	3 مار

حوالہ DB نمبر ۱۱۶۵ صفحہ 44/58 وارنڈ دی جاوے گا سروس پر بحال کیا گیا ہے

انٹرنی راجپوت مدار خدائے حکم مذکورہ

Signature
Sd/-

برصغیر: شیرباد شاہ اسٹنٹ سب انسپکٹر

بنتاب سال:

بحوالہ لیٹر نمبر 16-4700 مورتنہ 01/11/2013 بتاریخ 01/11/2013

Statement of DPO اسٹنٹ سب انسپکٹر شیرباد شاہ کے خلاف

Corruption - 1, ill-reputation - 2, inefficiency کے

بجائے کے تحت مذکورہ کے خلاف مجھے انکوائری تفہیم مقرر کیا۔ یعنی مذکورہ اسٹنٹ سب

انسپکٹر پر الزامات ہیں کہ وہ 1- کرپشن ہے۔ 2- اسکی ill-reputation ہے۔ 3- اور وہ inefficient ہے۔

ASI محمد اسحاق نے چارج شیٹ کا جواب داخل کیا۔ اور من مرف ان الزامات کی تردید

کرتے ہوئے کہا اپنے آپ کو بے گناہ بتایا۔

بمطابق ریکارڈ SRC مذکورہ ASI سال 1986 میں بھرتی ہو کر مذکورہ کے اسمال ٹائم

میں 8 Good Entries ہیں۔ جبکہ بسلسلہ فیہر حاضری بحوالہ OB نمبر 1091 مورتنہ

04/05/88 (33) یوم کو رازر کارڈ مع 03 یوم ایکسٹرا ڈس کا سبزیاب ہوا۔ اسی طرح بسلسلہ فیہر

حاضرین بحوالہ OB نمبر 767 مورتنہ 12/02/1992 کو مہینہ 50 روپے جرمانہ مع 05 یوم

اسٹنٹ انزل کا سبزیاب ہوا۔ اس کے علاوہ بحوالہ لیٹر نمبر 1113 1083 بتاریخ 01/11/2013

انڈیا ایس ڈی ایس ایس کی کمیشن پیش اور FSI رپورٹ بروقت من پیشیانے پر Warning دی گئی۔ اور برائے

آئندہ وقت طر بننے کا ہدایت دی گئی۔

مذکورہ پر لگانے کے الزامات کے سلسلہ میں اس کے خلاف معلومات ہتھانے کے ملازمی، گھل

بازار کے ذریعے مسات میں وسن پیمانے پر مشتمل کرائی گئی DFCS کے بیانات قلمبند کئے

گئے۔ بعد مشتمل تینوں محتانوں کے خلاف شے نمونہ بھی شخص مذکورہ کے خلاف کسی قسم کی

تعمیرات و زبانی شکایت کیلئے زیر دستخطی کو پیش نہ ہوا۔ تاہم مذکورہ معلومات پر مذکورہ کی

جملہ مسات میں اچھی شہرت نہ پائی جاتی ہے۔

اسی طرح مذکورہ ASI کے خلاف ثبوت فراہم کرنے کے سلسلہ میں ریڈر DPO

کی ایک تحریری طور پر لکھا گیا۔ کہ اگر مذکورہ کے خلاف کسی قسم کی درخواست ہائے کمیٹی

اور درخواست پائی گئی ہو تو زیر دستخطی کو اس کا ریکارڈ فراہم کیا جائے۔ جنہوں نے تحریری طور پر زیر دستخطی کو

آگاہ کیا کہ اس کے خلاف کوئی درخواست کی گئی نہیں ہے۔

ان کی طرف سے بھی مذکورہ کے متعلق تحریری رپورٹ طلب کی گئی۔ کہ مذکورہ کی
سازش میں کسی شہرت سے۔ جس نے خفیہ پتہ براری پر مذکورہ کی رپورٹس اور
درمیان میں پتہ اس اچھی نہ بتلائی۔ اور بتلایا کہ کوئی شخص تحریری طور پر بیان دینے سے تیار نہیں
تاہم سلاٹ کے لوگب مذکورہ کے رویے سے شک ہونا بتلائے۔ جس سے مذکورہ کی ان ایشیوں پر
حیاتی ہے۔

مذکورہ ASI کا البقہ ریکارڈ بھی درست نہ ہے۔ اور کافی سزاؤں کا مستحق قرار
پایا گیا ہے۔ محکمہ میں بھی مذکورہ کی شہرت کچھ اچھی نہیں ہے۔ اور عداوت میں بھی اس کی
رپورٹیشن ٹیمیک نہیں ہے۔

مذکورہ پر لگائے گئے ایذاہات کافی حد تک ثابت ہو رہے ہیں۔ اسکے مناسب سزا کی سفارش کی
جاتی ہے جس کا انکو آری بعض فرض مناسب حکم ارسال خدمت ہے۔
مزید حکم انرا ان بالا افضل ہوگا۔

سپرینٹنڈنٹ
انوسٹی گیشن ٹانک
پولیس

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 2133 /ST

Dated 28 / 12 / 2016

To


The District Police Officer,
Government of Khyber Pakhtunkhwa,
Tank.

Subject: -

JUDGMENT

I am directed to forward herewith a certified copy of Judgement dated 19.12.2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.