

1

BEFORE THE HONOURABLE SERVICE
TRIBUNAL, KPK PESHAWAR

Appeal No. 881/2018



Riaz Shah, SI Police Training Station
Hangu.....Appellant

VERSUS

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1147

Dated 11-7-2018

1. District Police Officer, Mansehra.
2. Regional Police Officer, Hazara Region,
AbbottabadRespondents.

**SERVICE APPEAL UNDER SECTION 4
OF KPK SERVICE TRIBUNAL ACT,
1974 AGAINST THE ORDER DATED
28.12.2017 PASSED BY THE
RESPONDENT NO.1 WHEREBY ONE
YEAR ANNUAL INCREMENT OF THE
APPELLANT WAS STOPPED WITH
ACCUMULATIVE EFFECT AND
AGAINST THE ORDER BEARING
NO.2580/PA DATED 11.06.2018 PASSED
BY THE RESPONDENT NO.2
WHEREBY THE ORDER DATED
28.12.2017 WAS UPHELD.**

Filed to-day

Registrar

11/7/18

PRAYER: -

On acceptance of the instant appeal,
the impugned orders passed by both
the respondents may please be set
aside and one year annual increment

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
AT CAMP COURT, ABBOTTABAD**

Service Appeal No. 881/2018

Date of Institution ... 11.07.2018
Date of Decision ... 30.09.2021



Riaz Shah, S.I Police Training Station, Hangu.

... (Appellant)

VERSUS

District Police Officer, Mansehra and one another.

... (Respondents)

Shad Muhammad Khan,
Advocate

... For appellant.

Muhammad Riaz Khan Paindakheil,
Assistant Advocate General

... For respondents.

AHMAD SULTAN TAREEN
ROZINA REHMAN

... CHAIRMAN
... MEMBER (J)

JUDGMENT

ROZINA REHMAN, MEMBER (J): The relevant facts leading to filing of instant appeal are that appellant while posted in Police Station Baffa as Investigation Officer, conducted faulty investigation in Seven cases registered U/S 9-C of CNSA, therefore, he was given show cause notice and was awarded major punishment of reduction in pay for one stage. Feeling aggrieved, he filed departmental appeal which was rejected, hence, the present service appeal.

2. We have heard Shad Muhammad Khan Advocate for appellant and Muhammad Riaz Khan Paindakheil, learned Assistant Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

3. Shad Muhammad Khan Advocate learned counsel appearing on behalf of appellant, inter-alia, argued that both the orders are against law and facts because the appellant was never issued any charge sheet or statement of allegations and that no regular inquiry was conducted. He submitted that in order to arrive at a logical conclusion, specific procedure has been laid down by law which is mandatory in nature but no such procedure was followed in the instant case and the appellant was condemned unheard.

4. Conversely, learned A.A.G submitted that while posted as Investigation Officer, appellant conducted poor and faulty investigation in Seven cases of narcotics. He contended that appellant failed to recover contraband on the pointation of accused and also failed to file revision before the proper court for Police custody due to which, benefit of doubt was extended to the accused during trial.

5. From the record, it is evident that Seven cases were registered U/s 9-C of CNSA at Police Station Baffa vide F.I.R No.305, 306, 307, 311, 312, 314 and 316. The present appellant while posted as Investigation Officer of Police Station Baffa, conducted investigation of the aforementioned cases. As per his reply to the show cause notice, all Seven cases were registered by the S.H.O who had made the alleged recovery and after arrest of the accused, case was handed over to the appellant for investigation. It was mentioned by the appellant that most of the accused nominated in the above-mentioned

ATTESTED cases F.I.Rs, were addicts who were weak, feeble and further recovery of narcotic from their possession was next to impossible.

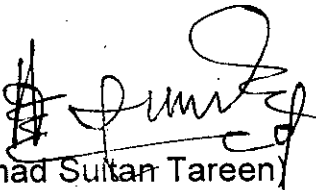
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

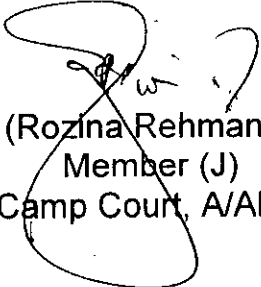
Similarly, Bail cancellation applications were filed in the august High Court in two cases, whereas, revision was filed in case F.I.R No.314.

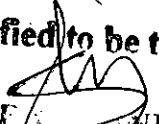
The reply to show cause notice is satisfactory and comprehensive which was not taken into consideration by the competent authority and instead of conducting proper inquiry against the appellant, impugned order was passed. Record shows that neither charge sheet nor statement of allegations were served upon appellant. He was not given the opportunity of defense. He was also not heard in person and in the absence of any cogent and reliable evidence, impugned order was passed.

6. For what has been discussed above, the impugned orders are set aside and appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
30.09.2021


(Ahmad Sultan Tareen)
Chairman
Camp Court, A/Abad


(Rozina Rehman)
Member (J)
Camp Court, A/Abad

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 07-10-2021
Number of Words 1600
Copying Fee 18/-
Urgent _____
Total 18/-
Name of _____
Date of Completion of Copy _____
Date of Delivery of Copy _____

(1)

BEFORE THE HONOURABLE SERVICE TRIBUNAL, KPK PESHAWAR



Appeal No. 881/2018

Riaz Shah, SI Police Training Station Hangu.....Appellant

VERSUS

Khyber Pakhtunkhwa Service Tribunal

Diary No. 1147

Dated 11-7-2018

- 1. District Police Officer, Mansehra.
- 2. Regional Police Officer, Hazara Region, AbbottabadRespondents.

SERVICE APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 28.12.2017 PASSED BY THE RESPONDENT NO.1 WHEREBY ONE YEAR ANNUAL INCREMENT OF THE APPELLANT WAS STOPPED WITH ACCUMULATIVE EFFECT AND AGAINST THE ORDER BEARING NO.2580/PA DATED 11.06.2018 PASSED BY THE RESPONDENT NO.2 WHEREBY THE ORDER DATED 28.12.2017 WAS UPHELD.

Filed to-day
Registrar
11/7/18

PRAYER: -

On acceptance of the instant appeal, the impugned orders passed by both the respondents may please be set aside and one year annual increment

ATTESTED

[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

of the appellant may please be restored.


Respectfully Sheweth!

1. That, the appellant was posted as S.I in police station Baffa. The appellant was issued a show cause notice stating therein that the appellant conducted investigation in seven case of police Station Baffa under section 9C-CNSA but the appellant failed to recover charas on pomale of accused nor my appeal was submitted in court for further custody.
2. That, on the basis of show cause notice, the impugned order was passed and the appellant was reduced in pay for one stage.

(Copy of show cause notice and order are annexed as annexure "A" & "B").

3. That, the appellant being aggrieved from the order of DPO submitted an appeal before respondent No.2, who while upholding the order of respondent No.1 dismissed the appeal of the appellant.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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(Copy of the appeal and order are annexed as annexure "C" & "D").

4. That, the appellant being aggrieved from the impugned orders, seeks the gracious indulgence of this Honourable Court, inter alia, on the following grounds: -

GROUNDS

- a. That, the order passed by District Police Officer, Mansehra is against facts, law and not maintainable in the eyes of law.
- b. That, the appellant was never issued any charge sheet nor statement of allegation and impugned order was passed even without giving a show cause to appellant.
- c. That, had a regular inquiry being initiated, the entire facts would have been brought on record but in absence of any evidence, findings of the inquiry officer, the order is not maintainable in the eye of law.


ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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- d. That, although a reference has been made to the lacunas during investigation of case but there is no any findings that infact there was a lacuna or not as the same could have been established during inquiry by providing a night to appellant to subject the witness into cross examination.
- e. That, in order to arrive at a logical conclusion, a specific procedure has been laid down by law which is mandatory in nature but in this particular case no such procedure was followed and hence the order is not maintainable in the eyes of law.
- f. that, no doubt that the appellant made every effort to make further recovery but the accused therein did not volunteer. No doubt it was the bounden duty of public prosecutor to submit an appeal/revision before Sessions Judge, who could have granted further custody had there been any worth in ground taken for further police custody.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

5

.....PRAYER.....

It is, therefore, most humbly prayed that on acceptance of the instant appeal, the impugned orders passed by both the respondents may please be set aside.

Dated 09.07.2018

Riaz Shah
...Appellant

Through

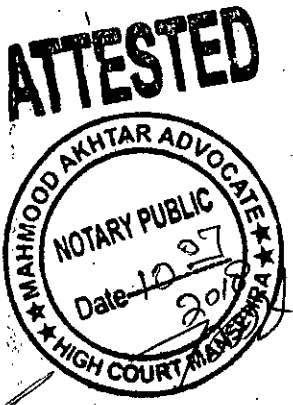
SHAD MUHAMMAD KHAN,
Advocate Supreme Court,
Of Pakistan.

AFFIDAVIT.

I, Riaz Shah, SI Police Training Station Hangu, **Appellant**, do hereby solemnly affirm and declare on oath that the contents of the foregoing service appeal are true and correct and nothing has been concealed fro this Honourable Tribunal.

Dated 09.07.2018

Riaz Shah
(DEPONENT)



Date of Presentation of Application 07-10-21

Number of Words 2000

Copying Fee 22/-

Urgent -

Total 22/-

Name of Copyist -

Date of Delivery of Copy -

Certified to be true copy

MAHMOOD AKHTAR
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

6

**BEFORE THE HONOURABLE SERVICE
TRIBUNAL, KPK PESHAWAR**

Riaz Shah.....Appellant

VERSUS

District Police Officer, Mansehra and others
.....Respondents

SERVICE APPEAL

CORRECT ADDRESSES OF THE PARTIES

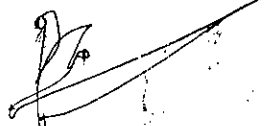
APPELLANT

Riaz Shah, SI Police Training Station Hangu.

RESPONDENTS


1. District Police Officer, Mansehra.
2. Regional Police Officer, Hazara Region,
Abbottabad.

Dated 09.07.2018



Riaz Shah
...Appellant

Through



SHAD MOHAMMAD KHAN,
Advocate Supreme Court,
Of Pakistan.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

PESHAWAR.

SERVICE APPEL NO. 881/2018.

Riaz ShahAppellant

VERSUS

District Police Officer Mansehra & Others.

..... Respondents

Parawise Comments On Behalf Of Respondents

RESPECTFULLY SHEWETH:-

PRELIMINARY OBJECTION:-

- a) The appeal is not based on facts and appellant has got no cause of action or locus standi to file the instant appeal.
- b) That appeal is not maintainable in the present form.
- c) The appeal is bad for non-joinder of necessary and mis-joinder of unnecessary parties.
- d) The appellant is estopped by his own conduct to file the appeal.
- e) The appeal is barred by the law and limitation.
- f) The appellant has not come to the Honorable Tribunal with clean hands.
- g) That the competent authority has passed the order after fulfillment of all the codal formalities hence the appeal is liable to be dismissed without any further proceeding.


FACTS:-

1. The appellant while posted as investigating officer police station Baffa has conducted the poor and faulty investigation in the following cases.

S No.	CASE FIR
1.	305 dated 25-11-2017 u/s 9CNSA PS Baffa
2	306 dated 25-11-2017 u/s 9CNSA PS Baffa
3	307 dated 25-11-2017 u/s 9CNSA PS Baffa
4	311 dated 01-12-2017 u/s 9CNSA PS Baffa
5	312 dated 01-12-2017 u/s 9CNSA PS Baffa
6	314 dated 05-12-2017 u/s 9CNSA PS Baffa
7	316 dated 06-12-2017 u/s 9CNSA PS Baffa

He failed to recover the contraband on the pointation of accused and also failed to file revision before the proper Court for police custody due to which benefit extended to the accused involved in the above cases during the trial.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

2. The appellant was served with a show cause Notice which he replied but his reply to the show cause notice was not satisfactory due to which he was awarded punishment of reduction in pay for 01 stage Vide OB No. 214 dated 28-12-2017.
3. The appellant filed appeal against the order of respondent No. 01 before the respondent No. 02 which was rejected, punishment being genuine vide dated 11-06-2018.
4. The appeal is not maintainable on the following ground:-

GROUNDS:-

- A. Incorrect. The order of the respondents is in accordance with law facts and is maintainable.
- B. Incorrect.
- C. Incorrect. The initiation of proper departmental enquiry was no necessary in the appellant case. However he has been proceeded under Police rules 1975.
- D. Incorrect.
- E. Incorrect. After following the proper procedure laid down in Police Rules 1975, the appellant was awarded punishment.
- F. Incorrect. The appellant failed to make any effort regarding recovery of chas from the accused involved in the aforementioned cases.

PRAYER:

In view of the above mentioned facts, the appeal in hand may kindly be dismissed being devoid of any legal force.

Certified to be true copy

E. JINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

District Police Officer
Mansehra
(Respondent No. 1)

Date of Presentation of Application 07-10-21
Number of Copies 800
Cost of Copy 10/-
Up to _____
To 10/-
Number of Copies _____
Date of Delivery of Copy _____

Regional Police Officer
Hazara Region Abbottabad
(Respondent No. 2)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
AT CAMP COURT, ABBOTTABAD

Service Appeal No. 881/2018

Date of Institution ... 11.07.2018
Date of Decision ... 30.09.2021

Riaz Shah, S.I Police Training Station, Hangu.

(Appellant)

VERSUS

District Police Officer, Mansehra and one another.

(Respondents)

Shad Muhammad Khan,
Advocate

For appellant.

Muhammad Riaz Khan Paindakheil,
Assistant Advocate General

For respondents.

AHMAD SULTAN TAREEN
ROZINA REHMAN

... CHAIRMAN
... MEMBER (J)

JUDGMENT

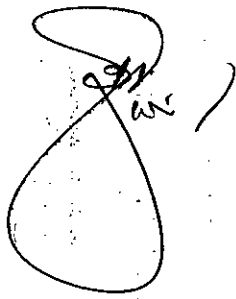
ROZINA REHMAN, MEMBER (J): The relevant facts leading to filing of instant appeal are that appellant while posted in Police Station Baffa as Investigation Officer, conducted faulty investigation in Seven cases registered U/S 9-C of CNSA, therefore, he was given show cause notice and was awarded major punishment of reduction in pay for one stage. Feeling aggrieved, he filed departmental appeal which was rejected, hence, the present service appeal.

2. We have heard Shad Muhammad Khan Advocate for appellant and Muhammad Riaz Khan Paindakheil, learned Assistant Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

3. Shad Muhammad Khan Advocate learned counsel appearing on behalf of appellant, inter-alia, argued that both the orders are against law and facts because the appellant was never issued any charge sheet or statement of allegations and that no regular inquiry was conducted. He submitted that in order to arrive at a logical conclusion, specific procedure has been laid down by law which is mandatory in nature but no such procedure was followed in the instant case and the appellant was condemned unheard.

4. Conversely, learned A.AG submitted that while posted as Investigation Officer, appellant conducted poor and faulty investigation in Seven cases of narcotics. He contended that appellant failed to recover contraband on the pointation of accused and also failed to file revision before the proper court for Police custody due to which, benefit of doubt was extended to the accused during trial.

5. From the record, it is evident that Seven cases were registered U/s 9-C of CNSA at Police Station Baffa vide F.I.R No.305, 306, 307, 311, 312, 314 and 316. The present appellant while posted as Investigation Officer of Police Station Baffa, conducted investigation of the aforementioned cases. As per his reply to the show cause notice, all Seven cases were registered by the S.H.O who had made the alleged recovery and after arrest of the accused, case was handed over to the appellant for investigation. It was mentioned by the appellant that most of the accused nominated in the above-mentioned cases F.I.Rs, were addicts who were weak, feeble and further recovery of narcotic from their possession was next to impossible. Similarly, Bail cancellation applications were filed in the august High Court in two cases, whereas, revision was filed in case F.I.R No.314.



The reply to show cause notice is satisfactory and comprehensive which was not taken into consideration by the competent authority and instead of conducting proper inquiry against the appellant, impugned order was passed. Record shows that neither charge sheet nor statement of allegations were served upon appellant. He was not given the opportunity of defense. He was also not heard in person and in the absence of any cogent and reliable evidence, impugned order was passed.

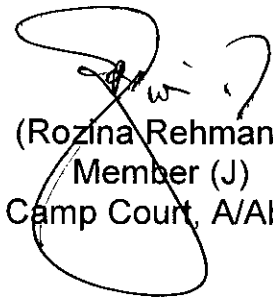
6. For what has been discussed above, the impugned orders are set aside and appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

30.09.2021



(Ahmad Sultan Tareen)
Chairman
Camp Court, A/Abad



(Rozina Rehman)
Member (J)
Camp Court, A/Abad

Order

30.09.2021

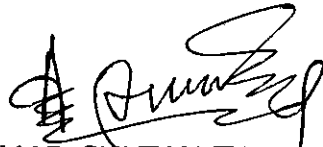
Appellant present through counsel.

Muhammad Riaz Khan Paindakheil, learned Assistant Advocate General for respondents present. Arguments heard. Record perused.

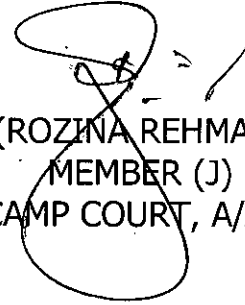
Vide our judgment of today of this Tribunal placed on file, the impugned orders are set aside and appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

Announced.

30.09.2021



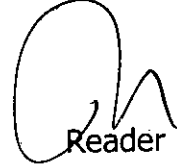
(AHMAD SULTAN TAREEN)
CHAIRMAN
CAMP COURT, A/ABAD



(ROZINA REHMAN)
MEMBER (J)
CAMP COURT, A/ABAD

14.12.2020

Due to Covid-19, case is adjourned to 15.03.2021 for the same as before.



Reader


15.03.2021

Appellant in person present.

Riaz Khan Paindakheil learned Assistant Advocate General for respondents present.

Former made a request for adjournment as his counsel is not available today. Adjourned. To come up for arguments on 16/06/2021 before D.B at Camp Court, Abbottabad.


(Atiq ur Rehman Wazir)
Member (E)
Camp Court, A/Abad


(Rozina Rehman)
Member (J)
Camp Court, A/Abad

16-06-2021 Due to non-availability of the Bench, case is adjourned to 30-09-2021 for the same as before.


Reader

17-2-20

Due to covid ,19 case to come up for the same on 13/4/20
at camp court abbottabad.

Reader

Due to summer vacation case to come up for the same on 10/1/20 1/19
at camp court abbottabad.




Reader

19.10.2020


Representative of appellant on behalf of appellant
present.

Usman Ghani learned District Attorney for respondents
present.

Lawyers are on general strike therefore case is adjourned.
To come up for arguments on 14.12.2020 before D.B at Camp
Court, Abbottabad.



(Atiq ur Rehman Wazir)
Member (E)
Camp Court, A/Abad



(Rozina Rehman)
Member (J)
Camp Court, A/Abad

20.08.2019

Appellant in person present. Written reply not submitted. Muhammad Nazeer Assistant representative of the respondent department present and seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 22.10.2019 before S.B at Camp Court, Abbottabad.



Member
Camp Court A/Abad

22.10.2019

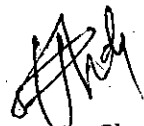
No one is present for the appellant. Mr. Usman Ghani, District Attorney present. Mr. Haq Nawaz, ASI for the respondents present. Representative of the respondents has furnished parawise comments on behalf of the respondents. Placed on record. To come up for rejoinder if any, and arguments on 18.12.2019 at Camp Court, Abbottabad.



Member
Camp court, A/Abad

18.12.2019

Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Mr. Ahsan Shah, Assistant for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 17.02.2020 for rejoinder if any, and arguments before D.B at Camp Court Abbottabad.



(Hussain Shah)
Member
Camp Court Abbottabad



(M. Amin Khan Kundi)
Member
Camp Court Abbottabad

16.04.2019

Counsel for the appellant present.


Contends, inter-alia, that the appellant was issued only a show cause notice and after submission of its reply the impugned penalty was imposed upon the appellant in terms of reduction of pay for one stage. His departmental appeal was also rejected on 11.06.2018. He further states that no regular enquiry was conducted in order to probe the allegations of in-efficiency and misconduct against the appellant.

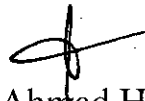
The points agitated warrant admission of instant appeal for regular hearing. Admit. he appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 19.06.2019 before S.B at Camp Court Abbottabad.

Amount Deposited
Security & Process Fee

19.06.2019

Counsel for the appellant and Mr. Muhammad Bilal, DDA alongwith Mr. Muhammad Nazeer, Assistant for respondents present. Written reply on behalf of respondents not submitted. Requested for adjournment. Adjourned. Case to come up for written reply/comments on 20.08.2019 before S.B at camp court Abbottabad.


Chairman
Camp court, A/Abad


(Ahmad Hassan)
Member
Camp Court A/Abad

17.01.2019 Junior to counsel for the appellant present and seeks adjournment. Adjourn. To come up for preliminary hearing 22.02.2019 before S.B at Camp Court Abbottabad.

Member
Camp Court A/Abad

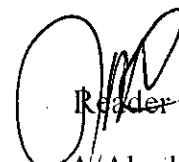
22.02.2019 Counsel for the present and requested for adjournment. Adjourned to 16.04.2019 for preliminary hearing before S.B at Camp Court Abbottabad.

(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad

Handwritten notes and scribbles, possibly including the number '21570' and other illegible markings.

14.11.2018




None for the appellant and S Hujjaj shah PST present. Due to retirement of the Hon'ble Chairman the Service Tribunal is incomplete. Tour to Camp Court Abbottabad has been cancelled. To come up for the same on 17.01.2019 at camp court Abbottabad.


Reader
A/Abad

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 881/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/07/2018	<p>The appeal of Mr. Riaz Shah received today by post through Mr. Shad Muhammad Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 11/7/18</p>
2-	13-7-2018	<p>This case is entrusted to touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>21-09-2018</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	19.09.2018	<p>Since 21st September, 2018 has been declared as public holiday on account of Moharram, therefore, case is adjourned to 14.11.2018 for preliminary hearing before the S.B at camp court, Abbottabad.</p> <p style="text-align: right;"> Chairman Camp court, A/Abad</p>

**BEFORE THE HONOURABLE SERVICE
TRIBUNAL, KPK PESHAWAR**

Appeal No. 881/2018

Riaz Shah.....Appellant

VERSUS

District Police Officer, Mansehra and others
.....Respondents

SERVICE APPEAL

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3	Copy of show cause notice.	"A"	7 to 8
4	Copy of order.	"B"	9
5	Copy of the appeal.	"C"	10, 11
6	Copy of the order.	"D"	12
7	Wakalat Nama.	13

Dated 09.07.2018

Riaz Shah
...Appellant

Through

Shad Muhammad Khan
SHAD MUHAMMAD KHAN,
Advocate Supreme Court,
Of Pakistan.

①

**BEFORE THE HONOURABLE SERVICE
TRIBUNAL, KPK PESHAWAR**

Appeal No. 881/2018

Riaz Shah, SI Police Training Station
Hangu.....Appellant

VERSUS

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. *1147*

Dated *11-7-2018*

1. District Police Officer, Mansehra.
2. Regional Police Officer, Hazara Region,
AbbottabadRespondents.

**SERVICE APPEAL UNDER SECTION 4
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28.12.2017 WAS UPHELD.**

Filed to-day

Registrar

11/7/18

PRAYER: -

On acceptance of the instant appeal,
the impugned orders passed by both
the respondents may please be set
aside and one year annual increment

2

of the appellant may please be restored.

Respectfully Sheweth!

1. That, the appellant was posted as S.I in police station Baffa. The appellant was issued a show cause notice stating therein that the appellant conducted investigation in seven case of police Station Baffa under section 9C-CNSA but the appellant failed to recover charas on pomale of accused nor my appeal was submitted in court for further custody.
2. That, on the basis of show cause notice, the impugned order was passed and the appellant was reduced in pay for one stage.

(Copy of show cause notice and order are annexed as annexure "A" & "B").

3. That, the appellant being aggrieved from the order of DPO submitted an appeal before respondent No.2 who while upholding the order of respondent No.1 dismissed the appeal of the appellant.

3

(Copy of the appeal and order are annexed as annexure "C" & "D").

4. That, the appellant being aggrieved from the impugned orders, seeks the gracious indulgence of this Honourable Court, inter alia, on the following grounds: -

GROUND

- a. That, the order passed by District Police Officer, Mansehra is against facts, law and not maintainable in the eyes of law.
- b. That, the appellant was never issued any charge sheet nor statement of allegation and impugned order was passed even without giving a show cause to appellant.
- c. That, had a regular inquiry being initiated, the entire facts would have been brought on record but in absence of any evidence, findings of the inquiry officer, the order is not maintainable in the eye of law.

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- d. That, although a reference has been made to the lacunas during investigation of case but there is no any findings that infact there was a lacuna or not as the same could have been established during inquiry by providing a night to appellant to subject the witness into cross examination.
- e. That, in order to arrive at a logical conclusion, a specific procedure has been laid down by law which is mandatory in nature but in this particular case no such procedure was followed and hence the order is not maintainable in the eyes of law.
- f. that, no doubt that the appellant made every effort to make further recovery but the accused therein did not volunteer. No doubt it was the bounden duty of public prosecutor to submit an appeal/revision before Sessions Judge, who could have granted further custody had there been any worth in ground taken for further police custody.

5

.....PRAYER.....

It is, therefore, most humbly
prayed that on acceptance of the
instant appeal, the impugned orders
passed by both the respondents may
please be set aside.

Dated 09.07.2018

Riaz Shah
...Appellant

Through

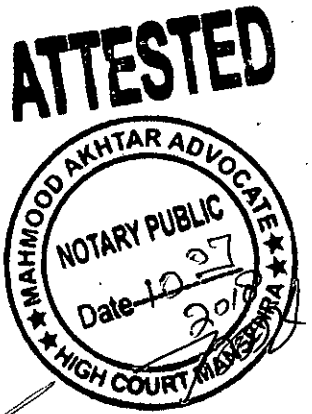
SHAD/MUHAMMAD KHAN,
Advocate Supreme Court,
Of Pakistan.

AFFIDAVIT.

I, Riaz Shah, SI Police Training
Station Hangu, **Appellant**, do hereby
solemnly affirm and declare on oath
that the contents of the foregoing
service appeal are true and correct and
nothing has been concealed fro this
Honourable Tribunal.

Dated 09.07.2018

Riaz Shah
(DEPONENT)



ATTESTED



6

**BEFORE THE HONOURABLE SERVICE
TRIBUNAL, KPK PESHAWAR**

Riaz Shah.....Appellant

VERSUS

District Police Officer, Mansehra and others
.....Respondents

SERVICE APPEAL

CORRECT ADDRESSES OF THE PARTIES

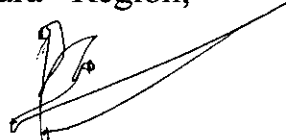
APPELLANT

Riaz Shah, SI Police Training Station Hangu.

RESPONDENTS

1. District Police Officer, Mansehra.
2. Regional Police Officer, Hazara Region,
Abbottabad.

Dated 09.07.2018



Riaz Shah
...Appellant

Through



SHAD MUHAMMAD KHAN,
Advocate Supreme Court,
Of Pakistan.

ANNE X = 1st A₂

OFFICE OF THE DISTRICT POLICE OFFICER MANSEHRA

SHOW CAUSE NOTICE

(Under Rules 5(3) KPK Police Rules, 1975)

R- (circled) 7 (circled)

That you SI Riaz Shah while posted as IO PS Baffa has rendered yourself liable to be proceeded under Rule 5(3) of Khyber Pakhtunkhwa Police Rules, 1975 for the following misconduct:

You SI Riaz Shah while posted as IO PS Baffa conducted poor and flawed investigation of following cases.

S No	Case FIR No.
1.	305 dated 25/11/2017 U/S 9 CNSA PS Baffa
2. ✓	306 dated 25/11/2017 U/S 9 CNSA PS Baffa
3.	307 dated 25/11/2017 U/S 9 CNSA PS Baffa
4. ✓	311 dated 01/12/2017 U/S 9 CNSA PS Baffa
5.	312 dated 01/12/2017 U/S 9 CNSA PS Baffa
6. ✓	314 dated 05/12/2017 U/S 9 CNSA PS Baffa
7.	316 dated 06/12/2017 U/S 9 CNSA PS Baffa

You neither recovered the chars on the pointation of accused nor submit revision appeal in the Court. It shows extreme negligence and inefficiency on your part. It amounts to gross misconduct.

- That by reason of above, as sufficient material is placed before the undersigned, therefore, it is decided to proceed against you in general police proceeding without aid of enquiry officer;
- That the misconduct on your part is prejudicial to good order of discipline in the Police Force.
- That your retention in the police force will amount to encourage in efficient and unbecoming of good Police officers;
- That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action against you by awarding one or more of the kind punishment as provided in the rules.
- You are, therefore, called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 for the misconduct referred to above.
- You should submit reply to this show cause notice within 07 days of the receipt of the notice falling which an ex parte action shall be taken against you.
- You are further directed to inform the undersigned that you wish to be heard in person or not.
- Grounds of action are also enclosed with this notice.

(Syed Shahzad Nadeem Bukhari) PSP
District Police Officer,
Mansehra

No 5022 /PA Dated Mansehra the 21/12 /2017

Attested,
SHAD MUHAMMAD KHAN
ADVOCATE
SUPREME COURT OF PAKISTAN

Handwritten signatures and notes, including 'Si/ati /BAFFA' and '29-12-17'.

جواب شہوکار ٹوشس بری - 5022 جاریہ جراب DPO PA

صیاب عالی! معروض بیرونہ کوالر تقریرات عدلت عبارت 305 306 307 (3) 311 312 314 316 جبرائلم qensa تمام پنج میں تقریرات درج
 حصہ بیوٹر لٹریچر تقریر میں حوالہ دیئے گئے تقریرات میں تقیات وہی مہذب نے آرم
 کر کے رقم اشارہ شروع طور پر حوالہ دیا ہے ہم مقررین کو لکھ کر جن میں بیوٹر آکر ان تقریرات
 کو سنا تھا پراسیکیوشن حوالہ دیا ہے کہ یہ تقریرات میں حوالہ دیا گیا
 نہیں علی تقریرات سے مل آتا ہے کہ مقررین عادی بیوٹر میں ٹوشس ہے جو تقریراتی اور غیر
 اور گہر اور ہے جن میں آکر ان کے متعلق یہ منسلک نام لکھ کر ہے جس میں تقریرات عدلت نمبر 312
 اور 316 میں تقریرات جیسا کہ ٹوش BCA ٹکائی ہوئی ہے اور عدلت نمبر 314 میں
 کو سنا تھا پراسیکیوشن Reyon دربار کی تقریر ہے سائین نے جان لیا ہے کہ کوئی ایک
 نہیں تھوڑے اور زیادہ ہی تقاطر ہوں گا
 اس لئے شہوکار ٹوشس درج ذیل تقریروں کا جواب
 آؤ تقریرات کی فوری کتابیاں پوراہ جراب شہوکار ٹوشس کے قابل عدلت ہیں۔

[Handwritten signature]

ای ریاض شاہ نے تمام پنج حال سے تمام صدر مالک

المقررین 12/17

Attested.

OFFICE OF THE DISTRICT POLICE OFFICER MANSEHRA

ORDER ANNEX-B

SI Riaz Shah while posted as IO PS Baffa conducted poor and flawed investigation of following cases.

S No	Case FIR No.
1.	305 dated 25/11/2017 U/S 9 CNSA PS Baffa
2.	306 dated 25/11/2017 U/S 9 CNSA PS Baffa
3.	307 dated 25/11/2017 U/S 9 CNSA PS Baffa
4.	311 dated 01/12/2017 U/S 9 CNSA PS Baffa
5.	312 dated 01/12/2017 U/S 9 CNSA PS Baffa
6.	314 dated 05/12/2017 U/S 9 CNSA PS Baffa
7.	316 dated 06/12/2017 U/S 9 CNSA PS Baffa

P-9

He neither recovered the chairs on the pointation of accused nor submit revision appeal in the Court. In this regard a show cause notice was also issued to the delinquent officer but his reply was found unsatisfactory. It shows that he is irresponsible and incompetent police Officer and are not taking interest in the discharge of official duty.

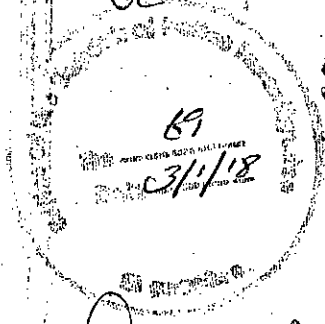
Therefore I the District Police Officer, Mansehra being a competent authority award major punishment of "Reduction in Pay for 01 stage" to SI Riaz Shah under Police Disciplinary Rule 1975.

District Police Officer, Mansehra

OB No 214

Dated 28-12-2017

District Police Officer, Mansehra



SHAD MUHAMMAD
ADVOCATE
SUPREME COURT OF PAKISTAN

SRc
For m'a

Superintendent of Police
Investigation Mansehra
3-1-18

Entered

ANNEX = C

BEFORE THE DEPUTY INSPECTOR GENERAL
OF POLICE, HAZARA DIVISION,
ABBOTTABAD

R-10

Subject: APPEAL AGAINST ORDER PASSED
BY THE DISTRICT POLICE
OFFICER, MANSEHRA DATED
28.12.2017 VIDE WHICH THE
APPELLANT WAS AWARDED
PUNISHMENT OF REDUCTION OF
PAY FOR ONE STAGE IN THE LIGHT
OF POLICE RULES, 1975.

Respected Sir,

1. That, the appellant was issued a show cause notice showing therein that 07 cases were registered under section 9C-CNSA at police Station Baffa by SHO. The investigation of the cases was entrusted to the appellant by the concerned official. The appellant on taking investigation, submitted application before Judicial Magistrate for police custody but the request for further police custody was declined and the court ordered for sending the accused to judicial lockup. As per order of the court, the accused stood remanded to judicial lockup.
2. That, so far as, further recovery from the accused is concerned, it

Attested.
SHAD MUHAMMAD KHAN
ADVOCATE
SUPREME COURT OF PAKISTAN

11

could have been affected as the learned court did not grant police custody and such further probe could not be made by the appellant, there is absolutely no fault nor any inefficiency on the part of the appellant.

.....PRAYER

It is, therefore, most humbly requested that on acceptance of the instant appeal, the punishment awarded to the appellant by District Police Officer, Mansehra may please be set aside.

Dated 06.01.2018

RIAZ SHAH,
S.I PTC Hangu.

Accepted

**SHAD MUHAMMAD KHAN
ADVOCATE
SUPREME COURT OF PAKISTAN**

ANNEX - 1st D

Office of the District Magistrate
 Hazara Region Abbottabad
 No. 6056
 Date 7-7-18
 21-6-18

12

ORDER

This order is hereby passed to dispose off departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules 1975 submitted by *SI Riaz Shah No: 104/H* Mansehra District against the order of punishment i.e. *Reduction in pay for 01 stage* awarded to him by the DPO Mansehra his OB No: 214, dated 28.12.2017.

Facts leading to punishment awarded to him a he while posted as Investigation officer PS Baffa conducted poor and flawed investigation in following cases. He neither recovered the chars on the pointation of accused nor submit revision appeal in the Court.

S.No	Cases FIR Nos.
1	305 dated 25/11/2017 U/S 9 CNSA PS Baffa
2	306 dated 25/11/2017 U/S 9 CNSA PS Baffa
3	307 dated 25/11/2017 U/S 9 CNSA PS Baffa
4	311 dated 01/12/2017 U/S 9 CNSA PS Baffa
5	312 dated 01/12/2017 U/S 9 CNSA PS Baffa
6	314 dated 05/12/2017 U/S 9 CNSA PS Baffa
7	316 dated 05/12/2017 U/S 9 CNSA PS Baffa

After receiving his appeal, comments of DPO were obtained which were perused. The undersigned called appellant in O.R on 06.06.2018 where he failed to explain any plausible reason in his defence. Therefore the punishment awarded to him by DPO Mansehra i.e. *Reduction in pay for 01 stage* seems to be genuine, which is held and his appeal is *filed*.

REGIONAL POLICE OFFICER
 Hazara Region Abbottabad

No. 2580 /PA Dated Abbottabad the 11/6 /2018.

Copy of above is forwarded to the District Police Officer, Mansehra vide his office Memo: No: 7204/GB dated 31.05.2018 for information and necessary action.

Service Record & Fauji Missal containing enquiry file is returned herewith for your office record.

gri
 For ma
 19/6'

REGIONAL POLICE OFFICER
 Hazara Region Abbottabad

Attest
 District Police Officer
 Mansehra

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

PESHAWAR.

SERVICE APPEL NO. 881/2018.

Riaz ShahAppellant

VERSUS

District Police Officer Mansehra & Others.

..... Respondents

Parawise Comments On Behalf Of Respondents

RESPECTFULLY SHEWETH:-

PRELIMINARY OBJECTION:-

- a) The appeal is not based on facts and appellant has got no cause of action or locus standi to file the instant appeal.
- b) That appeal is not maintainable in the present form.
- c) The appeal is bad for non-joinder of necessary and mis-joinder of unnecessary parties.
- d) The appellant is estopped by his own conduct to file the appeal.
- e) The appeal is barred by the law and limitation.
- f) The appellant has not come to the Honorable Tribunal with clean hands.
- g) That the competent authority has passed the order after fulfillment of all the codal formalities hence the appeal is liable to be dismissed without any further proceeding.

FACTS:-

1. The appellant while posted as investigating officer police station Baffa has conducted the poor and faulty investigation in the following cases.

S No.	CASE FIR
1	305 dated 25-11-2017 u/s 9CNSA PS Baffa
2	306 dated 25-11-2017 u/s 9CNSA PS Baffa
3	307 dated 25-11-2017 u/s 9CNSA PS Baffa
4	311 dated 01-12-2017 u/s 9CNSA PS Baffa
5	312 dated 01-12-2017 u/s 9CNSA PS Baffa
6	314 dated 05-12-2017 u/s 9CNSA PS Baffa
7	316 dated 06-12-2017 u/s 9CNSA PS Baffa

He failed to recover the contraband on the pointation of accused and also failed to file revision before the proper Court for police custody due to which benefit extended to the accused involved in the above cases during the trial.


2. The appellant was served with a show cause Notice which he replied but his reply to the show cause notice was not satisfactory due to which he was awarded punishment of reduction in pay for 01 stage Vide OB No. 214 dated 28-12-2017.
3. The appellant filed appeal against the order of respondent No. 01 before the respondent No. 02 which was rejected, punishment being genuine vide dated 11-06-2018.
4. The appeal is not maintainable on the following ground:-

GROUND:-

- A. Incorrect. The order of the respondents is in accordance with law facts and is maintainable.
- B. Incorrect.
- C. Incorrect. The initiation of proper departmental enquiry was not necessary in the appellant case. However he has been proceeded under Police rules 1975.
- D. Incorrect.
- E. Incorrect. After following the proper procedure laid down in Police Rules 1975, the appellant was awarded punishment.
- F. Incorrect. The appellant failed to make any effort regarding recovery of chads from the accused involved in the aforementioned cases.

PRAYER:

In view of the above mentioned facts, the appeal in hand may kindly be dismissed being devoid of any legal force.


District Police Officer
Mansehra
(Respondent No. 1)


Regional Police Officer
Hazara Region Abbottabad
(Respondent No. 2)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

PESHAWAR.

SERVICE APPEL NO. 881/2018.

Riaz ShahAppellant


VERSUS

District Police Officer Mansehra & Others.

..... Respondents

AFFIDAVIT

We respondents do solemnly affirm and declare that the contents of the reply/comments are true and correct to our knowledge and belief and that nothing has been concealed from this Honorable tribunal.


District Police Officer
Mansehra
(Respondent No. 1)


Regional Police Officer
Hazara Region Abbottabad
(Respondent No. 2)



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No. 2041 /ST

Dated: 12/10 /2021

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

To

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

Subject: JUDGMENT IN APPEAL NO. 881/2018 MR. RIAZ SHAH.

I am directed to forward herewith a certified copy of Judgement dated 30.09.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR

KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

وکالت نامہ

13

بعدالت جناب جسٹرس مین صاحب سرسٹریٹ نمبر ۲۰۰ کالونی کراچی

ریاض شاہ
 دعوی یا جرم
 منجانب ایڈووکیٹ
 باعث تحریر آنکہ

مندرجہ بالا عنوان میں اپنی طرف سے بیرونی و جوابدہی بمقام ایڈووکیٹ ریاض شاہ

شاد محمد خان ایڈووکیٹ سپریم کورٹ آف پاکستان

بدیں شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختیار خاص رو برو عدالت حاضر ہوتا ہوں گا۔ اور بوقت پکارے جانے وکیل صاحب موصوف کو اطلاع دے کر حاضر کروں گا۔ اگر کسی پیشی پر مظہر حاضر نہ ہو اور غیر حاضری کی وجہ سے کسی طور پر مقدمہ میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ کسی اور جگہ یا پکھری کے مقررہ اوقات سے پہلے یا بروز تعطیل بیرونی کرنے کے مجاز نہ ہوں گے۔ اگر مقدمہ مقام پکھری کے کسی اور جگہ سماعت ہونے پر یا بروز پکھری کے اوقات کے آگے یا پیچھے ہونے پر مظہر کو کوئی نقصان پہنچے تو ذمہ دار یا اس کے واسطے کسی معاوضہ ادا کرنے پر اختیار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھے کل ساختہ پرواختہ صاحب مثل کردہ ذات خود منظور قبول ہوگا۔ اور صاحب موصوف کو عرضی دعوی اور درخواست اجرائے ڈگری و نظر ثانی اپیل نگرانی دائر کرنے، نیز ہر قسم کی درخواست پر دستخط تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرانے اور ہر قسم کا روپیہ وصول کرنے اور رسید دینے اور داخل کرانے کا ہر قسم بیان دینے اور سپرد تالیفی و رضی نامہ فیصلہ بر خلاف کرنے و اقبال دعوی کا اختیار ہوگا اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم اتتامی یا ڈگری قبل از فیصلہ اجرائے ڈگری بھی صاحب موصوف کو بشرط ادا تالیفی علیحدہ بیرونی اختیار نامہ کرنے کا مجاز ہوگا اور بصورت ضرورت اپیل اور اپیل کے واسطے کسی دوسرے وکیل یا پیرسٹر کو بجائے اپنے ہمراہ مقرر کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے صاحب موصوف کو، پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی بیرونی نہ کریں اور ایسی حالت میں میرا مطالبہ صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا اختیار نامہ لکھ دیا ہے کہ سندر ہے۔

مضمون اختیار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

المرقوم

ATTESTED & ACCEPTED
 SHAD MUHAMMAD KHAN,
 Advocate Supreme Court,
 of Pakistan.
SHAD MUHAMMAD KHAN
 ADVOCATE
 SUPREME COURT OF PAKISTAN.

ریاض شاہ کی محمد یونس مالک