

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Appeal No. 465/2013

Date of Institution ... 21.02.2013

Date of Decision ... 09.10.2017

Siraj-ul-Islam son of Masal Khan, R/O Haji Umar Khitab Kalay, Charsadda Ex-C
No. 63, Police Lines, Peshawar. ... (Appellant)

VERSUS

1. Superintendent of Police, FRP, Peshawar Range, Peshawar and 2 others.
... (Respondents)

MR. MUHAMMAD AMIN KHATTAK LACHI,
Advocate ---

For appellant.

MR. KABIRULLAH KHATTAK,
Addl. Advocate General ...

For respondents.

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

CHAIRMAN
MEMBERJUDGMENT

NIAZ MUIHAMMAD KHAN, CHAIRMAN.- Arguments of the learned
counsel for the parties heard and record perused.

FACTS

2. The appellant was removed from service on 24.10.2009. He was charged for involvement in a theft case of SMG Rifle. A criminal case was also registered against him in which he was acquitted on 13.11.2012. He filed departmental appeal on 16.11.2012 and when that was not responded to then the present appeal was filed on 21.2.2013.

ARGUMENTS

3. The learned counsel for the appellant argued that the delay in filing of present appeal was for the reason that the appellant was told by the department that his case would be decided and he would be informed accordingly. That acquittal in the criminal case is a proof of innocence of the appellant. That the department has not followed the proper procedure of enquiry. No charge sheet or statement of allegations were issued and served on the appellant. That no final show cause notice was given to the appellant. That the show cause notice is dated back to the enquiry report. That in view of judgment reported in 2012-SCMR-165 the limitation shall run from acquittal in criminal case.

4. On the other hand, the learned Addl. AG argued that the appeal is hopelessly time barred. That the departmental authority has decided the appeal on 14.4.2014 by clearly holding the departmental appeal as time barred. That in view of judgment reported as 2015-SCMR-165 when the departmental appeal is time barred then the service appeal is also time barred. He further argued that no application for condonation of delay has been filed by the appellant.

CONCLUSION.

5. The impugned order of removal from service of appellant was passed on 24.10.2009 and the departmental appeal was filed on 16.11.2012. The explanation given by the learned counsel for the appellant that the appellant was not informed about decision of his case is not plausible. How this Tribunal can accept this reason that the appellant was not in the knowledge of the impugned order for three years especially when he was not being paid salary throughout this period. No application for condonation of delay has been filed by the appellant. The judgment relied upon by the learned counsel for the appellant is not applicable to the present case as in the present case the departmental enquiry was concluded prior to the decision of the criminal case. Had the departmental enquiry been subject to the final outcome of the criminal case then surely

the appellant would have a cause of action from the date of his acquittal from the criminal court. But by now it is settled jurisprudential principle of administrative law that the outcome of criminal case has got no impact on the departmental proceedings and *vice versa*. Without adverting to the merits of the case this Tribunal reaches the conclusion that the present appeal is hopelessly time barred as departmental appeal was also time barred.

6. In view of the above discussion, the appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room


(GUL ZEB KHAN)
MEMBER


(NIAZ MUHAMMAD KHAN)
CHAIRMAN

ANNOUNCED
09.10.2017

465/2013

05.01.2017


Appellant with counsel and Assistant AG for the respondents present. One of the Member Judicial Mr. Ashfaque Taj is on leave therefore, bench is incomplete. To come up for arguments on 24.05.2017 before D.B.


MUHAMMAD AAMIR NAZIR
MEMBER

24.05.2017


Appellant in person present. Mr. Muhammad Jan Deputy District Attorney for the respondent present. Appellant requested for adjournment. Adjourned. To come up for arguments on 09.08.2017 before D.B.

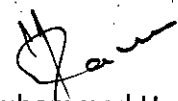

(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kundi)
Member

09.08.2017

Junior counsel for the appellant present. Mr. Ziaullah, Deputy District Attorney for the respondents present. Junior counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 09.10.2017 before D.B.


(Muhammad Amin Khan Kundi)
Member (J)


(Muhammad Hamid Mughal)
Member (J)

09.10.2017

Counsel for the appellant and Mr. Kabeerullah Khattak, Addl. AG alongwith Ihsanullah, H.C for the respondents present. Arguments heard and record perused.

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

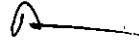

Member


Chairman

ANNOUNCED
09.10.2017

18.12.2015

Clerk of counsel for the appellant and Addl. AG for respondents present. Clerk of counsel for the appellant requested for adjournment. To come up for arguments on 16.5.2016.



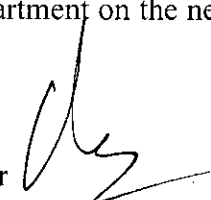
Member



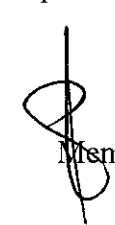
Member

16.05.2016

Counsel for the appellant and Ihsanullah, HC alongwith Assistant AG for respondents present. Copy of charge sheet statement of application on relevant documents produced by the responded-department on the next date. To come up for arguments on 7.10.2016.



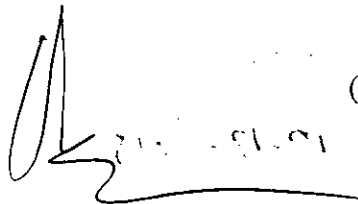
Member



Member

07.10.2016

Clerk to counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Clerk to counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on 05.01.2017.



(MUHAMMAD AAMIR NAZIR)
MEMBER



(PIR BAKHSH SHAH)
MEMBER

25.6.2014

Appellant in person and Mr.Ihsanullah, ASI (Legal) for respondents with Mr. Usman Ghani, Sr.G.P present. Written reply received on behalf of the respondents, copy whereof is handed over to the appellant for rejoinder on 24.10.2014.


Chairman

24.10.2014

Appellant in person and Mr. Muhammad Adeel Butt, AAG for the respondents present. Rejoinder has not been received, and request for further time made on behalf of the appellant. Another chance is given for rejoinder on 12.02.2015.


Chairman

12.02.2015

Appellant in person and Addl: A.G for respondents present. Rejoinder not submitted. The case is assigned to D.B. for rejoinder and final hearing for 23.07.2015


Chairman

23.07.2015

Clerk of counsel for the appellant and Mr. Ziaullah, GP with Ihsanullah, H.C for the respondents present. Request made on behalf of, the appellant for adjournment to file rejoinder. To come up for rejoinder and arguments on 18-12-2015.


MEMBER


MEMBER

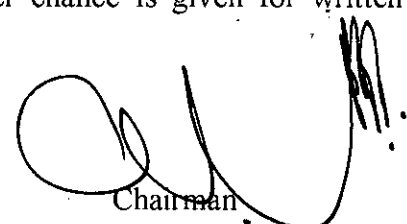
25.9.2013

Appellant in person and Mr. Ihsanullah, ASI(Legal) for respondents with AAG present. To come up for written reply/comments on 02.01.2014.


Chairman

02.01.2014

Counsel for the appellant (Arbab Saiful Kamal, Advocate) and Mr. Ihsanullah, ASI (Legal) for respondents with AAG present. Written reply has not been received and request for further time made on behalf of the respondents. Another chance is given for written reply/comments on 1.4.2014.


Chairman

01.4.2014

Appellant in person, M/S Yaseen Khan, Inspector and Ihsanullah, ASI(Legal) on behalf of respondents with AAG present. Written reply has not been received despite another chance given for the purpose on the previous date, and again request for further time made on behalf of the respondents. A last chance is given for written reply/comments on 25.6.2014.


Member



Appeal No. 465/2013,
Mr. Sirajul Islam.

17.4.2013

Appellant deposited
Security of process fee Rs 180/-
Bank with file
with receipt is attached
JW

Counsel for the appellant present and heard.
Counsel for the appellant argued that the appellant was involved in a criminal case and FIR was lodged against him. He was on that view removed from service. Latter on he was acquitted. After acquittal he filed departmental appeal; but that was rejected. The appellant was failed in lodging the appeal before this Tribunal because he was behind the Bar. When he was released, he completed all formalities within time. This in view, The case is admitted to regular hearing. The appellant is directed to deposit security amount and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 19.6.2013.


Member

17.4.2013

This case be put up Before the Final Bench
for further proceedings.


Chairman

19.6.13

The Honble bench is on
leave, therefore case is adjourned


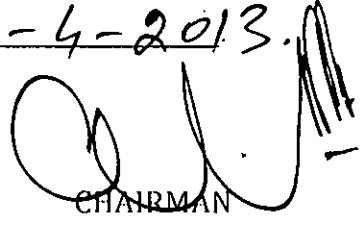

OB 28.9.13.


Bench

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 465/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	21/02/2013	<p style="text-align: center;">The appeal of Mr. Siraj-ul-Islam presented today by Mr. Muhammad Amin Khattak Lachi 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	27-2-2013	<p style="text-align: center;">This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>8-4-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3.	8-4-2013.	<p style="text-align: center;"><i>Munshi to counsel for the appellant present Request for adjournment. To come up for p.H. on 17-4-2013.</i></p> <p style="text-align: right;"> Member.</p>

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

S.A. No. 965/2013

Siraj-ul-Islam

Versus

Superintendent & others

I N D E X

S.No	Documents	Annex	P.No.
1.	Memo of Appeal		1-4
2.	FIR, 07.09.2009	"A"	5
3.	Enquiry Report, 23.10.2009	"B"	6-7
4.	Removal from Service, 24.10.2009	"C"	8
5.	Index of Enquiry Documents	"D"	9-10
6.	Judgment, 13.11.2012	"E"	11-18
7.	Representation, 16.11.2012	"F"	19

Dated. .02.2013

Through

&

Appellant

Saad Ullah Khan Marwat

Arbab Saif Ul Kamal

Advocates.

21-A Nasir Mension,
Shoba Bazar, Peshawar.

Ph: 0300-5872676

Muhammad Amin Khattak, Lachi,
Advocate, Supreme Court

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 965 /2013

Siraj-ul-Islam S/o Masal Khan,
R/o Haji Umer Khitab Kalay, Charsadda,
Ex-C.No.63, Police Line, Peshawar. Appellant

S.W.F Peshawar
482
21-2-13

Versus

1. Superintendent of Police, FRP,
Peshawar Range, Peshawar.
2. Commandant, FRP, KPK, Peshawar.
3. Provincial Police Officer , KPK,
Peshawar Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**APPEAL AGAINST OFFICE ORDER OB
NO.252, DATED 24.10.2009 OF
R.NO.1 WHEREBY APPELLANT WAS
REMOVED FROM SERVICE FROM THE
DATE OF HIS ABSENCE FOR NO
LEGAL REASON.**

[Handwritten signature]
21/2/13

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth;

1. That appellant was initially appointed as Constable on 11.01.2009. He was deputed first to Training Centre, Kohat and then to Training Centre, Hangu for Recruit Course.
2. That on 07.09.2009, FIR was lodged against appellant for theft of Kalashnikov from Hangu Training Centre and he was sent back to Police line, Peshawar and was then making attendance daily. (Copy as annex "A")

because he couldn't become substitute of anyone or if so, it was the sole responsibility of the Incharge Kot, PTC to ascertain in respect of recruits as to whether he is the real one to which ammunition is going to be handed over or otherwise.

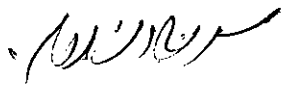

- b. That from the impugned order dated 24.10.2009, it is quite clear that this order was never dispatched to appellant as is evident from the Endorsement Numbers.
- c. That appellant was neither served with any Charge Sheet or Show Cause Notice for the commission of the alleged theft of Kalashnikov, being mandatory nor any enquiry was conducted. This fact can be easily ascertained from the documents/index of enquiry documents which nowhere bore/mention of documents of any Charge Sheet or Show Cause Notice with any Serial Number.
- d. That inquiry was not conduct as per the mandate of law as no statement of any concerned was recorded in presence of appellant nor he was afforded opportunity of cross examination, being mandatory as per Section 5 of the Removal from (Service Special) Power Ordinance, 2000.'
- e. That from the judgment dated 13.11.2012 the learned Senior Civil Judge, Hangu has discussed all the prosecution witnesses to be varied from each other, meaning thereby that the allegation tainted against appellant were frivolous and of no legal effect.
- f. That the matter was not dealt with as per the mandate of law and appellant was not provided fair opportunity of defence, service with Final Show Cause Notice and personal hearing, being mandatory in law.
- g. That whole of the proceedings carried out against appellant were baseless, based on malafide and one sided, so has no legal effect.

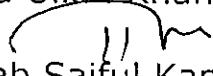
- h. That when appellant was acquitted by the competent Court of law from the charges leveled against him then there was no need to remove him from service under Ordinance, 2000 as per the verdict of the apex Courts.

It is, therefore, most humbly prayed that on acceptance of appeal, order dated 24.10.2009 of R.No.1 be set aside and appellant be reinstated in service with all back benefits, with such other relief as may be deemed proper and just in circumstances of the case.


Dated. .02.2013


Through


Appellant

Saad Ullah Khan Marwat


Arbab Saiful Kamal

&


Rubina Naz,
Advocates.


(Muhammad Amin Khattak Lachi)
Advocate, Supreme Court

ابتدائی اطلاع رپورٹ

کوٹہ

فائل م ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ 154 مجموعہ ضابطہ فوجداری

ضلع حنگو

خانہ چنگو

تاریخ و وقت وقوعہ 7/9/09 ، وقت 06-00 بجے

نمبر 578

1	تاریخ و وقت رپورٹ	7/9/09 وقت 16:00 بجے۔ چاکیدگی پر 9/9/09 وقت 16:30 بجے
2	نام و کونت اطلاع دہندہ و مستفیت	بابر خان علی 15/4، نائب کونت PTC حنگو۔
3	مختصر کیفیت جرم (معدومہ) حال اگر کچھ لیا گیا ہو	PPC 419/420/468/471/382
4	جائے وقوعہ فاصلہ خانہ سے اور سمت	کونت PTC حنگو جانب شرقی 2/3 فرلانگ از خانہ
5	نام و کونت ملزم	ریگروٹ سراج الاسلام عمر 36 امدہ ضلع CCP کونت درخان رازق کبھی PTC
6	کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں تاخیر ہو تو وجہ بیان کرو۔	بذریعہ رپورٹ پر صدمہ دیا گیا۔
7	خانہ سے روانگی کی تاریخ و وقت	بہ سبیل ڈاک

ابتدائی اطلاع نیچے درج کردہ مستفیت مندرجہ خانہ نمبر 2 مجا فرمایا تھا کہ رپورٹ کرتا ہے کہ مورخہ 7/9/09 بجے کونت PTC سے سرکاری اسکم ہرائے سیکورٹی ڈیوٹی ریگروٹس پر تقسیم کیا گیا تھا۔ بعد فراغت سیکورٹی ڈیوٹی ریگروٹس سے اسکم دراصل کونت کی گئی۔ جن میں سے ریگروٹ آصف جان نمبر 2937 پر ایک ضرب کلاشن کوف S762 7.62 بوری نمبر 350566 168 فم دو عدد میگزین مجموعہ 66 عدد کارٹوس بند ریگروٹس پر تقسیم کیا گیا تھا۔ نے دراصل نہ کی۔ کچھوں میں ریگروٹ مذکورہ بالا کے بارے میں معلومات کا مکہ نہیں نہ ہوا۔ افرکار ضعیف پتہ ہراری کی۔ معلوم ہوا کہ ریگروٹ سراج الاسلام 36 امدہ ضلع CCP پشاور خان رازق کبھی نے کونت سے اسکم مذکورہ بالا لیا تھا۔ اور اپنا نام دبیر علی بتلایا ہے۔ اسی روز سے معلومات میں مصروف تھا۔ اب تسلی ہوئی۔ کہ ریگروٹ سراج الاسلام مذکورہ سے دفعہ فراڈ کر کے سرکاری اسکم سرتم کیا ہے۔ کچھ خلاف معمول اریوں۔ اسکم کو متحفظ کارروائی خانہ صوبہ گفندہ سائل کار رپورٹ درج بالا ہو کر زیر رپورٹ خود دستخط و تفریزی ثبت کی۔ معنون رپورٹ سے صورت جرم بالا کی پائی جاتی ہے۔

بغرض تفتیش IBH حوالہ کی جاتی ہے۔ پر صدمہ گزارش ہے۔

Sd/-
SHO Hangu
10-9-09

ATTENDED

ملک
۸۲۲

ملک

۵۵-۵۵ سنہ ۲۰۰۲

یہ افسانہ سنہ ۲۰۰۲ء میں لکھا گیا ہے۔

۲۰۰۲ء سے ۲۰۰۳ء تک لکھا گیا ہے۔

۱۹۹۷ء سے ۲۰۰۲ء تک لکھا گیا ہے۔

۲۰۰۲ء سے ۲۰۰۳ء تک لکھا گیا ہے۔

۲۰۰۳ء سے ۲۰۰۴ء تک لکھا گیا ہے۔

یہ افسانہ سنہ ۲۰۰۲ء میں لکھا گیا ہے۔

۲۰۰۲ء سے ۲۰۰۳ء تک لکھا گیا ہے۔

یہ افسانہ سنہ ۲۰۰۲ء میں لکھا گیا ہے۔

یہ افسانہ سنہ ۲۰۰۲ء میں لکھا گیا ہے۔
۲۰۰۲ء سے ۲۰۰۳ء تک لکھا گیا ہے۔
۲۰۰۳ء سے ۲۰۰۴ء تک لکھا گیا ہے۔
۲۰۰۴ء سے ۲۰۰۵ء تک لکھا گیا ہے۔
۲۰۰۵ء سے ۲۰۰۶ء تک لکھا گیا ہے۔
۲۰۰۶ء سے ۲۰۰۷ء تک لکھا گیا ہے۔
۲۰۰۷ء سے ۲۰۰۸ء تک لکھا گیا ہے۔
۲۰۰۸ء سے ۲۰۰۹ء تک لکھا گیا ہے۔
۲۰۰۹ء سے ۲۰۱۰ء تک لکھا گیا ہے۔
۲۰۱۰ء سے ۲۰۱۱ء تک لکھا گیا ہے۔
۲۰۱۱ء سے ۲۰۱۲ء تک لکھا گیا ہے۔
۲۰۱۲ء سے ۲۰۱۳ء تک لکھا گیا ہے۔
۲۰۱۳ء سے ۲۰۱۴ء تک لکھا گیا ہے۔
۲۰۱۴ء سے ۲۰۱۵ء تک لکھا گیا ہے۔
۲۰۱۵ء سے ۲۰۱۶ء تک لکھا گیا ہے۔
۲۰۱۶ء سے ۲۰۱۷ء تک لکھا گیا ہے۔
۲۰۱۷ء سے ۲۰۱۸ء تک لکھا گیا ہے۔
۲۰۱۸ء سے ۲۰۱۹ء تک لکھا گیا ہے۔
۲۰۱۹ء سے ۲۰۲۰ء تک لکھا گیا ہے۔
۲۰۲۰ء سے ۲۰۲۱ء تک لکھا گیا ہے۔
۲۰۲۱ء سے ۲۰۲۲ء تک لکھا گیا ہے۔
۲۰۲۲ء سے ۲۰۲۳ء تک لکھا گیا ہے۔
۲۰۲۳ء سے ۲۰۲۴ء تک لکھا گیا ہے۔
۲۰۲۴ء سے ۲۰۲۵ء تک لکھا گیا ہے۔
۲۰۲۵ء سے ۲۰۲۶ء تک لکھا گیا ہے۔
۲۰۲۶ء سے ۲۰۲۷ء تک لکھا گیا ہے۔
۲۰۲۷ء سے ۲۰۲۸ء تک لکھا گیا ہے۔
۲۰۲۸ء سے ۲۰۲۹ء تک لکھا گیا ہے۔
۲۰۲۹ء سے ۲۰۳۰ء تک لکھا گیا ہے۔

یہ افسانہ سنہ ۲۰۰۲ء میں لکھا گیا ہے۔

۲۰۰۲ء سے ۲۰۰۳ء تک لکھا گیا ہے۔

۲۰۰۳ء سے ۲۰۰۴ء تک لکھا گیا ہے۔

۵۵-۵۵ سنہ ۲۰۰۲

Handwritten signature or mark at the bottom left.

دوران عدالت ریکورڈ سراج الاسلام نے اپنے بیان زیر دفعہ 161 صفحہ 75
 اور 76 اور اس سے حوض 10/09 کو ملنے ریکورڈ سراج الاسلام 63 جیل سے دے دیے ہیں

اس وقت دہلی ہائر کورٹ کا ریکورڈ/او ایچ ڈی ریکورڈ جو اعداد 32 اور 33 10/09 75
 جیل ہونے کے لیے 75/09/09 میں موجود ہے۔ اس کے علاوہ 75/09/09 میں ریکورڈ سراج الاسلام کی

تعمیراتی ریکورڈ میں موجود ہے۔ اس کے علاوہ 75/09/09 میں ریکورڈ سراج الاسلام کی
 ریکورڈ جیل ہونے کے لیے موجود ہے۔ اس کے علاوہ 75/09/09 میں ریکورڈ سراج الاسلام کی

10/09/09 میں ریکورڈ سراج الاسلام کی تعمیراتی ریکورڈ میں موجود ہے۔ اس کے علاوہ
 7226 جی میں 2BS 1PA کا رہنے والا ہے۔ اس کے علاوہ 10/09/09 میں ریکورڈ سراج الاسلام کی

تعمیراتی ریکورڈ میں موجود ہے۔ اس کے علاوہ 10/09/09 میں ریکورڈ سراج الاسلام کی
 ریکورڈ جیل ہونے کے لیے موجود ہے۔ اس کے علاوہ 10/09/09 میں ریکورڈ سراج الاسلام کی

تعمیراتی ریکورڈ میں موجود ہے۔ اس کے علاوہ 10/09/09 میں ریکورڈ سراج الاسلام کی
 ریکورڈ جیل ہونے کے لیے موجود ہے۔ اس کے علاوہ 10/09/09 میں ریکورڈ سراج الاسلام کی

تعمیراتی ریکورڈ میں موجود ہے۔ اس کے علاوہ 10/09/09 میں ریکورڈ سراج الاسلام کی
 ریکورڈ جیل ہونے کے لیے موجود ہے۔ اس کے علاوہ 10/09/09 میں ریکورڈ سراج الاسلام کی

تعمیراتی ریکورڈ میں موجود ہے۔ اس کے علاوہ 10/09/09 میں ریکورڈ سراج الاسلام کی
 ریکورڈ جیل ہونے کے لیے موجود ہے۔ اس کے علاوہ 10/09/09 میں ریکورڈ سراج الاسلام کی

ریکارڈ نمائندگی کے لیے ریکورڈ سراج الاسلام کی

21/12
 23-10-09



ALHID

Annex- C

8

24-10-09

ORDER

This office order will dispose off the departmental enquiry proceedings against Recruit Constable Siraj ul Islam No.63, for having involved in stolen of SMG Rifle at PTC Hangu.

He was issued Charge Sheet alongwith Summary of Allegations and FI FRP Peshawar Range was deputed as Enquiry Officer to conduct proper departmental enquiry against him under Removal from Service (Special Power) Ordinance 2000.

After completion of the enquiry, the enquiry officer submitted his findings recommending him for major punishment. Consequently he was issued Final Show Cause Notice with the direction to submit his written defense, if any, but he failed to submit his reply. He was called in Orderly Room but he did not turn up.

Keeping in view the above and having gone through available record, the undersigned has came to the conclusion that the delinquent officer had willfully stolen SMG Rifle. Moreover his retention in Police Department is a burden on public exchequer. Consequently I, Sher Akbar PSP, S.St. Superintendent of Police FRP Peshawar Range in exercise of the power conferred upon me awarded him major punishment of Removal from service from the date of his absence.

Order announced.

OB No. 252
Dated. 24 /10/09.

(SHER AKBAR)PSP, S.St.
Superintendent of Police, FRP,
Peshawar Range, Peshawar.

OFFICE OF THE SUPERINTENDE OF POLICE FRP, PESHAWA RANGE, PESHAWAR.

No. 750-54 /PA, dated Peshawar the 24 /10 /2009.

Copy of above is submitted to Commandant FRP N.W.F.P. Peshawar for favour of information please.

2. LO/ SRC /Acctt: & OSI for necessary action

→ Encl (45) Enquiry Papers.

ATTEST

(SHER AKBAR)PSP, S.St.
Superintendent of Police, FRP,
Peshawar Range, Peshawar.

سیارہ ریح

انڈس انکوائری کاغذات

R1

تعداد

تفصیل کاغذات

تعداد قطعہ

تعداد

1 12 10/09 رپورٹ مددگار روزنامہ لائسنس ایسٹریٹیویٹی آر

1 رپورٹ مندرجہ ذیل / اروا کی PTC ہنگو

1 رپورٹ مندرجہ ذیل مددگار روزنامہ PR 14 10/09

1 OSI متعلقہ ریکورڈ ٹرانزیکشن نمبر 63

2 جمعہ انڈسٹری مری 7226 مورخہ 9 10/09

1 جمعہ انڈسٹری مری 1389 مورخہ 15 10/09

1 جمعہ انڈسٹری کا نڈنڈ PTC

4 قطعہ انکوائری کاغذات

2 الف ایچ آر قلم ہنگو مورخہ 7 9/2009

5 قطعہ بیان مخرجات Asi، طفر علی He محمد مصطفیٰ He ناند کوٹ، محمد حنیف He باہر خان LHe ناند کوٹ

1 بیان رفیع اللہ AMHC متینہ فقہ

1 نقل ڈیوٹی ٹیکس 6 7 7/2009

1 رپورٹ مندرجہ ذیل مذکورہ کنسل

1 رپورٹ مندرجہ ذیل کوارٹر فارد مدد 3 8/9/09

1 بیان مشرق ریکورڈ خان رانج ستھہ مکنی

4 قطعہ بیان مشرق سٹیٹ ریکورڈ 1 مشرق 3469، 821، 821، 4007، 4007، 4007

ATTESTED

(4)

(2)

10

- 17 بیان ریکورڈ کنٹینر سراج الاسلام بڑی 1 قطعہ
- 18 انگریزی جی ٹی لمبزی 519 مورخ 14-9-09 1
- 19 انگریزی جی ٹی لمبزی 6699 مورخ 9-9-2009 1
- 20 ریلوے اسٹیشن کی اصلاحات ایچ اے کورٹ PTC 2 انگریزی
- 21 ٹھکانہ نمبر 75 مورخ 8-9-09 ٹھکانہ نمبر 2 PTC ہنگو
- 22 جی ٹی انگریزی لمبزی 285 مورخ 2-9-09 2
PA/11/19/19/19
از کی نارتھ PTC ہنگو 19/19/19


ATTES

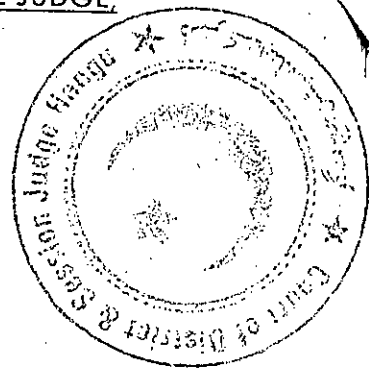
Amex-

E

11

13-11-12

IN THE COURT OF MR. ZIA-UR-REHMAN, SENIOR CIVIL JUDGE,
HANGU



CASE No. 284/2 of 2011.

Date of Institution: 25.11.2010

Date of decision: 13.11.2012

THE STATE (Complainant)

VERSUS

SIRAJ ISLAM S/O MASIL KHAN R/O VILLAGE UMAR KHITAB, CHARSADA

.....(Accused)

CASE FIR NO.578, DATED 10.09.2009, U/S 419-420-469-471-382 PPC,

OF PS HANGU.

JUDGMENT:

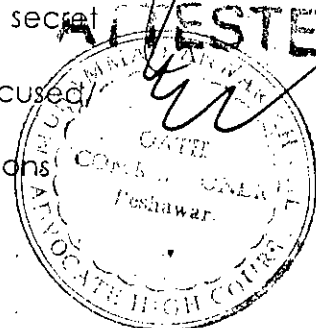
Brief facts are that complainant, Baber Khan, HC/Naib Court PTC Hangu, lodged the report that on 07.09.2009 at 06:00 hours, weapons were distributed amongst recruits of Police Training College Hangu for security duty and after duty recruits deposited their weapons, but one recruit namely Asif Jan (No.2937) did not deposit the kalashnikov, 5 MG 7.62 bore bearing No.350566168 and 2 magazines containing 60 rounds. Asif Jan recruit tried to be traced out, but in vain, and on secret information it came to know that it was accused/ petitioner, who received the above mentioned weapons.

CERTIFIED TO BE TRUE COPY

M. Saleh

EXAMINER
COPYING AGENCY HANGU

ATTESTED



Handwritten signature and notes in Urdu.

Vertical handwritten notes and signatures on the right margin.

by impersonating himself to be Asif Jan. It was the instant accused who collected the said weapon by falsely impersonating him to be Asif Jehan, hence instant case FIR No.578, dated 10.09.2009 U/s 419-420-468-471-382 PPC was registered at PS Hangu and investigation was conducted. Copy of FIR is on record Ex.PA, copy of Daily dairy No.75 Ex.PA/1, list of recipients of the weapon of Khan Raziq Company Ex.PD, Daily dairy No.49 about absence of the accused from duty Ex.PE, Daily dairy No.37 about arrival of accused on duty Ex.PF, Daily dairy No.38 about arrest of the accused Ex.PG, three day police custody was obtained but the accused did not confess his guilt. Site plan Ex.PW-4/1, recovery and identification memo's Ex.PC, Ex.PW-4/2 and Ex.PC/1, site plan of recovery and identification of the house of accused Ex.PW-4/3. Application for confessional statement and judicial remand order Ex.PW-4/4. He was released on bail on 05.10.2009 by learned the Additional District & Sessions Judge-II, Hangu.

Complete Challan was put in court on 25.11.2010. Copies U/s 241-A Cr.PC handed over to the accused on 10.01.2011. Formal charge U/s 419-420 PPC was framed on 17.01.2011, to which the accused denied his guilt and claimed trial. Prosecution evidence was summoned and out of seven PWs five were examined while PWs Raza-Khan S.I and Asif Ali No.332/FC were

CERTIFIED TO BE TRUE COPY

M. J. [Signature]
15/11/11
EXAMINER
COPYING AGENCY HANGU

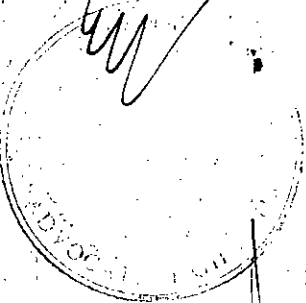
[Handwritten signatures and initials]

ATTESTED

5

[Handwritten mark]

ATTESTED



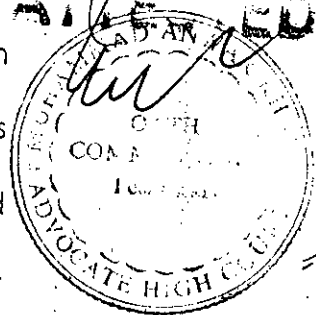
abandoned by SPP being unnecessary. Brief statements of the PWs are as under;

PW-1 is the statement of Nazeer Badshah, HC, who stated that he is the marginal witness of the recovery memo Ex.PC. He also admitted in his cross examination that no private or independent person was associated for the recovery proceedings.

PW-2, is the statement of Baber Khan, ASI, who is complainant of the case, reported the matter to SHO PS Hangu and narrated all the story before the court already mentioned in daily dairy No's.37,38 and 49. In his cross examination he admitted the fact that he did not brought recruit Kosar Ali for registration of the case against the accused facing trial.

PW-3, Muhammad Hayat Khan S.I, stated at the bar that he is the marginal witness of the recovery memo Ex.PC, Ex.PC/1. In his cross examination he denied the factum that any official of Charsada police was present at the time of recovery.

PW-4, Amanullah Khan ASI/IBH, stated that he investigated the instant case. He went to the spot and prepared site plan Ex.PW-4/1, drafted the sketch of recovery Ex.PW-4/2, drafted sketch of recovery memo on the pointation of accused Ex.PW-4/3, an application for recording statement of accused U/s 164/364 Cr.PC is Ex.PW-4/4, He also recorded the statement of accused U/s 161 Cr.PC. in his cross examination he admitted that



CERTIFIED TO BE TRUE COPY

15/11/12 EXAMINER
COPYING AGENCY HANGU

ATTESTE

Handwritten marks at the bottom of the page.

no police personal of Charsada District was present with them at the time of raid upon the house of accused. He also admitted that the said recovered weapon was not examined by any Armour after recovery. He did not record statement of any recruit of the said company of accused, that no search warrant was obtained for raiding the house of accused.

PW-5, Gul Jamal SHO PS City, stated that he lodged the instant FIR against the accused on 10.09.2009 on the statement of Baber Khan HC PS Hangu. FIR is in record and is Ex.PA. He also submitted complete Challan on 15.09.2009.

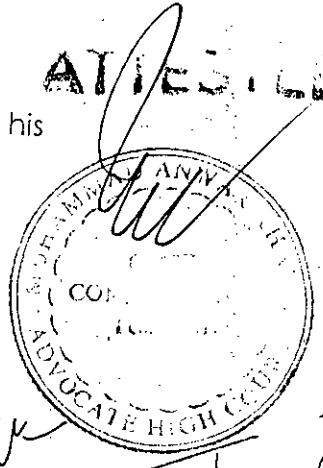
Prosecution evidence was closed on 24.07.2012 and after that statement of accused U/s 342 Cr.PC was recorded on the even date.

The learned District Public Prosecutor, Mr. Zubair Khan during the course of his arguments contended that recovery of the weapon from house of the accused and upon his own identification sufficiently establish his guilt and all the prosecution witnesses corroborate each other, so therefore he deserves no leniency and should be awarded exemplary punishment.

The learned defense counsel, however, on his turn strongly opposed averments of prosecution and

CERTIFIED TO BE TRUE COPY
M. J. Khan
15/11/12 EXAMINER
COPYING AGENCY HANGU

ATTESTED



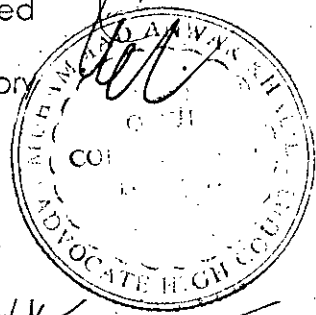
Handwritten signature and scribbles at the bottom of the page.

stated that prosecution case is full of short comings and discrepancies and therefore benefit of doubt has to be extended to the accused.

It is observed that complaint of the case Baber Khan reported the instant matter upon information received by Kosar Ali (Constable No.3769), but surprisingly the said official was not produced as a witness, nor cited in Challan and such course indeed has made the entire prosecution version doubtful and scanty. Similarly, PW Asif Ali and Raza Khan were abandoned without any reason, nevertheless they were witnesses of the identification of the spot/ house of the accused where from the alleged recovery of the weapon was effected and in their absence the sole statement of Muhammad Hayat ASI/PW-3 remains uncorroborated and legal requirements of Article 17, Qanoon-e-Shahadat Order, 1984 was also not complied with. Further, it is understandable and no plausible excuse could be furnished during evidence as well as arguments as to why the local police of Charsada was not associated while raiding house of the accused or why search warrant for that purpose was not obtained. In such circumstances, coupled with the fact of non association of any independent witness the alleged recovery loses its scanty and the mandatory requirements of section 103 Cr.PC was clearly violated.

CERTIFIED TO BE TRUE COPY

EXAMINER
COPYING AGENCY HANGU



ATTACHED



4

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15

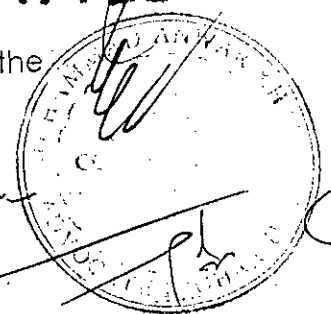
15/11/12

The Investigating Officer in his statement though claimed to have contacted the local police but he is not corroborated by any documentary or oral evidence. He also failed to record statement of any inmate of the house searched. It is also important to mention that the complainant /PW-2 himself did not utter this version that the accused fraudulently and by impersonation collected the weapon from him. Likewise, it is also unexplained as to why statements of other recruits of Raziq Khan Company were not recorded, which would have establish presence and roll of the accused on the eventful day. Further, there is no direct evidence in the shape of statement of the exact person who distributed the arms and ammunition. Another surprising aspect of the matte is that the event took place on 07.09.2009 but it was reported on the next day after alleged verification and satisfaction, nevertheless, it was mandatory for the concerned officials to report the matter on the same day, so delay casts further doubts upon prosecution story. The last but not the least factor going against the prosecution is that the recovered arm was not got examined from any armourer and such short coming happens to be fatal. In this regard reliance is placed upon PLD-2000 Pesh "Adam Khan Versus The State" page-3.

For the above reasons this court is of the
CERTIFIED TO BE TRUE COPY

M. Sale
15/11/14
EXAMINER
INVESTIGATING AGENCY HANGU
-6066/14/14

ATTACHED



2-10-14

view that prosecution failed to establish case against accused, so therefore the accused is acquitted from the charges leveled against him by extending benefit of the doubt. Bail bonds of the accused stands cancelled and sureties are discharged. Case property be returned to Police Training College Hangu in accordance with law.

File be consigned to record room after completion.

Announced
13.11.2012

Zia-ur-Rehman,
Senior Civil Judge,
Hangu

CERTIFICATE:

Certified that my this judgment consists of, seven pages, each has been checked & corrected where necessary.

Zia-ur-Rehman,
Senior Civil Judge,
Hangu

CERTIFIED TO BE TRUE COPY
17/11/12
15/11/12
EXAMINER
COPYING AGENCY HANGU

ATTESTE

2200
Date of presentation of application 13-11-12
Date on which copy completed 15/11/12
Date on which copy was attested 15/11/12
Number of Words 77
Urgent Fee
Name of Copyist
Copying Fee
Date of delivery 15/11/12

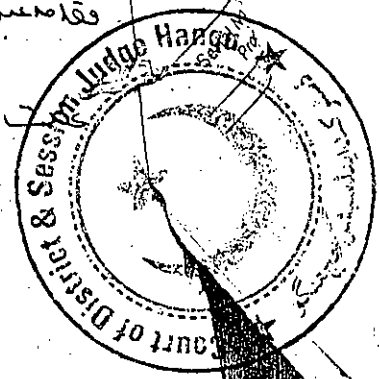
Handwritten signatures and notes at the bottom of the page.

کوالٹن سٹیٹ بار سینیئر سول جج صاحب ہنگو

13/11/12 قریب 25-11-10 رجوعہ 284 قاضی 2

سرکامیام - سراج اسلام 419,420 469,471 758 عورثہ 10-09-09

IN THE COURT OF MR. ZIA-UR-REHMAN, SENIOR CIVIL JUDGE, HANGU



ORDER No.30
13.11.2012

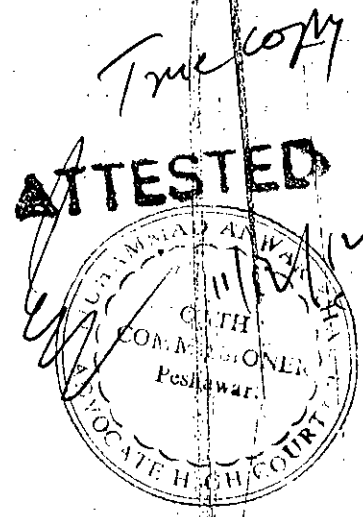
Accused on bail present. Defense counsel present. Public Prosecutor Farman Ullah present on behalf of state. Arguments heard and record perused.

Vide my detail judgment comprises of seven pages the accused is acquitted from the charges leveled against him by extending the benefit of doubt to him. The bail bonds of accused stands cancelled and sureties are discharged from their liabilities. Case property be returned to Police Training College Hangu in accordance with law.

File be consigned to record room after completion.

Announced
13.11.2012

Zia-ur-Rehman,
Senior Civil Judge,
Hangu



19
23-20
24-24
28-30
1-35
-42
-52
-59
کل قلم

2200
Date of presentation of appointment 13-11-12
Date on which copy completed 15/11/12
Date on which copy was attested 15/11/12
Number of Words 120
Original Fee NIL
Name of Copyist
Copying Fee
Date of delivery 15/11/12

CERTIFIED TO BE TRUE COPY
15/11/12
EXAMINER
COPYING AGENCY HANGU

ATTESTED

خدمتِ خدای تعالیٰ کے لیے جو ہرگز نہیں ہٹتا اور جو ہرگز نہیں ہٹتا

اصل لہجہ کی تلاوت

خدا تعالیٰ -

ذیل عرضِ حوالہ ہوں -

سائیل ٹورنٹ 11/09 کو ہوا۔ بعد ازاں سائیل کے لیے کواٹرز میں

اور اسکے بعد پولیس ٹریننگ سنٹر چھوڑ دیا گیا۔

چھوڑنے کے بعد عدالت چھوڑ کر سائیل گیا۔ جی کا ذمہ دار سائیل ہے

ڈالیا گیا۔ اور 7/09 کو سائیل سے عدالت 412 درج ہوا۔ سائیل کو پولیس

ان ٹریننگ لائنوں میں لے کر بھیجا گیا۔ جہاں پہ سائیل صفی کمرے تھا۔

ٹورنٹ 10/09 کے بعد سائیل کو لایا گیا کہ آپ نے آئیں۔ ہم آپ کو

الطبع لے آئے اور کیمپ دینے کے بعد وہاں سائیل کے عدالت درج شدہ عدالت

شروع ہوا۔ اور تمام برائیاں لکھیں کہ بعد سائیل کو ٹورنٹ 13/12 کو

الزام حوالی سے لہجہ لکھا گیا۔ ٹورنٹ 12/12 کو قید کا حکم مل گیا

کہ اور اگلے روز لائن میں صفی ہوا۔ سائیل لکھا گیا کہ آپ کو

ڈسپلینری ہے

سائیل کو برطرف کرنے کے لیے لکھی گئی چارج شیٹ اسٹریٹ ٹورنٹ دیا گیا ہے

یہاں کوئی انوائس لکھی ہے۔ جہاں کا قلم دیکھ کر برطرف کیا گیا ہے۔ جو قلم لکھا

ہے۔ بعد اس کے عدالت میں سائیل کو سروس لکھی تمام باقی حقائق کے ساتھ بیان کرنے کا

مکمل حوالہ لکھا گیا۔ جس میں کچھ اور لکھا گیا۔ ٹورنٹ 16/12

13/12

الفاظ

سراج الاسلام دہلی شامل خان سائیل کا جی ایم خطاب کے لیے جان

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.465/ 2013.

Ex-Constable Siraj -ur-Islam of FRP/Peshawar Range.....Appellant.

VERSUS

1. **Provincial Police Officer,**
Khyber Pakhtunkhwa, Peshawar.
2. **Addl: IGP/Commandant,**
Frontier Reserve Police,
Khyber Pakhtunkhwa, Peshawar.
3. **Superintendent of Police FRP,**
Peshawar Range Peshawar.....**Respondents**

WRITTEN REPLY ON BEHALF OF RESPONDENTS

RESPECTFULLY SHEWETH:-

PRELIMINARY OBJECTIONS

1. That the appeal is badly time barred.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has no cause of action.
4. That the appellant has not come to this Tribunal with clean hands.
5. That the appellant is estopped due to his own conduct to file the instant Service Appeal.

FACTS

1. Para No.1 pertains to the appellant record need no comments.
2. Correct to the extant that the appellant was involved in criminal case vide FIR No. 578 dated 10.09.2009 u/s 419,420,469,471,382, PPC Police Station Hangu. Therefore he was returned back by the commandant PTC Hangu as unqualified from recruit course: (FIR Annexed -A)
3. Incorrect, the appellant stole government SMG Rifle from Kot of PTC Hangu through means of impersonation, fraud and mis-representation etc. So the authority of PTC Hangu conducted a preliminary enquiry against the appellant. During the preliminary enquiry the appellant was found guilty of the charge leveled against him. Subsequently the SP, FRP/Peshawar Range Mr: Sher Akbar Khan Enquiry officer who conducted and completed the enquiry. The appellant was summoned time and again by the enquiry officer, but he did not appear before the enquiry officer to defend him self. After submitting the findings of enquiry officer on 20.10.2009, the competent authority served the appellant with final show cause notice but again he did not submit his reply or appeared before the competent authority to defend himself. (show cause annexed -B)
4. Incorrect, that the appellant was absented him self from lawful duties vide D.D report No. 49 dated 07.09.2009 PTC Hangu and D.D report No. 04 dated 14.10.2009 till the date of

- his removal from service with out prior permission of his superiors and after adopting of all codal formalities the competent authority removed him from service. (DDs. Annexed -C & D)
5. Incorrect, the version of appellant is false and baseless as the appellant remained absent from duty with effect from 14.10.2009 till to the date of his removal from service.
 6. Incorrect, that during the preliminary enquiry the statement of the appellant was recorded. Moreover, after submitting the findings of enquiry officer the competent authority served the appellant with final show cause notice but the appellant failed to submit his reply. However the index of enquiry documents prepared by the enquiry officer before the issuance of final show cause notice, therefore the show cause notice was not mentioned in the index of enquiry documents (copy of his statement and final show cause notice are attached as annexure E & F)
 7. Incorrect, that court proceedings and departmental proceedings are two different entities which can run side by side, while during departmental proceedings the appellant was found guilty of charges leveled against him, therefore, removed from service.
 8. This para is totally incorrect and manipulated and fabricated.
 9. Incorrect, that departmental appeal submitted by the appellant was thoroughly examined and rejected on sound grounds (copy of rejection order is attached as annexure- G)

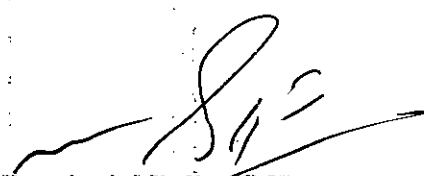
GROUNDS


- a. Incorrect, the appellant stole Govt: SMG Rifle from Kot of PTC Hangu through means of impersonation, fraud and mis-representation etc and during the periling enquiry he confessed the charged leveled against him vide his statement which is attached as "H"
- b. Incorrect, subsequently a copy of removal order was provided to the appellant.
- c. Incorrect, that after submitting the findings of enquiry officer the competent authority served the appellant with final show cause notice in which the allegations of stolen of government Rifle SMG along with ammunition are mentioned at S. No. 1 of section 1 (copy of final show cause notice is already attached with this reply as annexure -B) the remaining para has already explained in the proceeding para of facts.
- d. Incorrect, during the preliminary enquiry the statements of all concerned witness were recorded and the appellant was also confessed the allegations leveled against him in his statement and finally the appellant was served with final show cause notice but the appellant did not bother to submit the reply of show cause notice or avail the opportunity of cross examination which was already provided by the enquiry officer as the appellant was summoned time and again.
- e. Incorrect, the para has already explained in the preceding para No. 7 of facts.
- f. Incorrect, as the appellant was dealt with proper enquiry proceedings and an opportunity of defence was also provided to him as competent authority served with final show cause notice but the appellant was intentionally failed to submit his reply or appear before the competent authority to defend himself.
- g. Incorrect, that all the codal formalities were fulfilled during the enquiry proceedings as per law/Rules and the appellant was found guilty of the charges leveled against him, Therefore removed from service by the competent authority.

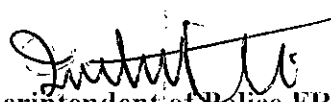
Incorrect, that criminal case/charges and departmental proceedings are two different entities which can run side by side. However, the appellant was found guilty of the charges leveled against him therefore removed from service on 24.10.2009. While the appellant acquitted from criminal case on 13.11.2012 after a lapse of three years almost.

PRAYERS:

Keeping in view of above mentioned facts/submission the instant appeal may very kindly be dismissed with cost.


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


Addl:IGP/Commandant,
Frontier Reserve Police
Khyber Pakhtunkhwa Peshawar.
(Respondent No. 2)


Superintendent of Police FRP,
Peshawar Range, Peshawar.
(Respondent No. 3)

ابتدائی اطلاع رپورٹ

کوئٹہ

انٹیلیجنس (ابتدائی اطلاع) نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ 154 مجموعہ ضابطہ فوجداری

خانہ مینگو

منجھل حنگو

نمبر 578

تاریخ دوست دوم 7/9، وقت 06-00 بجے

1	تاریخ دوست رپورٹ	7/9 10:00 وقت 16:00 بجے۔ چاکیدگی پر 9/9 10:30 وقت 16:30 بجے
2	نام دسکوت اطلاع دہندہ و مستفیت	بابر خان منجھل، نائب کورٹ PTC حنگو۔
3	مختصر کیفیت جرم (معلومہ) حال اگر کچھ لیا گیا ہو	PPC 419/420/468/471/382
4	جائے وقوعہ نامہ خانہ سے اور سمت	کورٹ ریلیم PTC منجھل جانب شرقی 2/3 فرلانگ از خانہ
5	نام دسکوت ملزم	ریکروٹ سراج الاسلام عمر 63 آمدہ ضلع CCP لنگ درخان رازق کینی PTC
6	کارروائی چولفتیش کے متعلق کیا گیا اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرے۔	بذریعہ رپورٹ درجہ دیا گیا۔
7	خانہ سے روانگی کی تاریخ و وقت	بہ سبیل ڈاک

ابتدائی اطلاع نیچے درج کردہ مستحکم مندرجہ خانہ نمبر 2 بجافری خانہ انکر رپورٹ کرتا ہے کہ مورخہ 7/9 بوقت 06:00 بجے کورٹ PTC سے سرکاری اسلمہ ہرائے سیکورٹی ڈیوٹی ریکروٹس پر تقسیم کیا گیا تھا۔ بعد فراغت سیکورٹی ڈیوٹی ریکروٹس سے اسلمہ دراصل کورٹ کی گئی۔ جن میں سے ریکروٹ آصف جان نمبر 2937 پر ایک ضرب کلاشن کوف SAG 7.62 لبر نمبر 350566 168 سے دو عدد میگزین مجموعہ 60 عدد کارتوس بند و لبر تقسیم کیا گیا تھا۔ نے دراصل نہ کی۔ کینیوں میں ریکروٹس مذکورہ بالا کے بارے میں معلومات کی گئی تھیں نہ پورا۔ افرکار ضمیمہ پتہ ہراری کی۔ معلوم ہوا کہ ریکروٹ سراج الاسلام عمر 63 آمدہ ضلع CCP لنگ درخان رازق کینی نے کورٹ سے اسلمہ مذکورہ بالا لیا تھا۔ اور اپنا نام و نمبر غلط بتلایا ہے۔ اسی روز سے معلومات میں مصروف تھا۔ اب تسلی ہوئی۔ کہ ریکروٹ سراج الاسلام مذکورہ اتے دفعہ فراڈ کر کے سرکاری اسلمہ سرتمہ کی ہے، کیخلاف دعویہ اریوں۔ اسلمہ مختصر کارروائی خانہ صوبہ گفٹہ سائیل کار رپورٹ درج بالا ہو کر زیر رپورٹ خود دستخط و نظریہ ثبوت کی۔ مضمون رپورٹ سے صورت جرم بالا کا پائی جاتی ہے۔

بغرض تفتیش IBH حوالہ کیا جاتی ہے۔ درجہ گزارش ہے۔

SHO Hangu
10-9-09

ATP

B 3 120

FINAL SHOW CAUSE NOTICE

I, Superintendent of Police FRP, Peshawar Range Peshawar, as competent authority under Removal from Service (Spl: Powers) Ordinance 2000, do hereby serve you Recruit Constable Siraj ul Islam No. 63, of FRP Peshawar Range Peshawar.

(1) (i). That consequent upon the completion of enquiry conducted against you by RI/FRP/PR, for which you were given full opportunity of hearing and.

(ii) On going through the findings and recommendation of the Enquiry Officer, the material available on record and other connected papers, I am satisfied that you have committed the following acts/omissions specified in section-III of the said Ordinance:-

WHEREAS you Recruit Constable Siraj ul Islam No.63 of FRP Peshawar Range remained involved in stolen of SMG Rifle during recruit course at PTC Hangu.

(2) As a result therefore, I, Sher Akbar PSP, S.St. Superintendent of Police FRP Peshawar Range, Peshawar as competent authority has tentatively decided to impose upon you Major/Minor Penalty including dismissal from service under section-III of the said Ordinance.

(3) You are therefore, require to Show Cause as to why the aforesaid penalty should not be impose upon you.

(4) If no reply to this Final Show Notice is receive within seven days of it delivered, in the normal course of circumstances, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

(5) The copy of the findings of the Enquiry Officer is enclosed.

سید شرف الدین
10-11-2009

~~Removed~~
Removed from
Service


Superintendent of Police, FRP,
Peshawar Range, Peshawar.

18
آر پی فضلوی
(24)

تعداد نمبر ۱۰۰

رد 49 ایورڈ میٹر حاضرہ عثمان خان بی بی خان رزاق شہید
گنتی فولڈر فولڈ 7/99 وقتہ 20-20

اس وقتہ ایگزیکیوٹس محمد ابراہیم 2528
301 صدر اعظم السلام 5-B

گنتی 301 صدر اعظم السلام 5-B صلح لیتا اور
ایورڈ میٹر حاضرہ دراع رزاق بی بی
کالی سے

ضابطہ عالی
لقل مطابقہ

Attested
Ri/PR

20-9-07
Inspector Police Station
Mangu
*
90-6-07

(7)

تقریر - روزنامه 10
14 / 2009

با وجود غیر قانونی بودن و عدم اعتبار وقت 08:40 در مورخ 14/10/09 این وقت
درج عقیده نسبت به سید احمد علی کوشا در شهر جازده نیابتاً به
مفوضان عدم موجودی است. این صرف و بجز غیر قانونی در روزنامه
در آن وقت و غیر این مقام ندارد و این اعتباری بالادست است و این
ارسال می شود

این کالی

نقل مطالب از 14/10/09

14/10/2009

Sgt. Jadhav Shikhar

14/10/09

Sgt. Jadhav Shikhar

12/11/2009
15/10/2009

بیان ازالہ سراج الاسلام نمبر 63

میری امت بیان کیا کہ میں ضلع لیٹاور ماہر قری شدہ ہوں۔ اور خطا مکمل ضلع طارندہ
 کارکن کی ہوں۔ لیٹاور پولیس میں میری پوزیشن کے لیے RTW کی آرڈر چھ ماہ تک
 عمل نہیں کیا گیا۔ آخری سہ ماہی میں PTC صدر آیا۔ اور ایک پریکٹس آرڈر
 میں 7 روزہ کو میری ڈیوٹی میں کئی مہینے میں اس کے تقسیم ہونے وقت
 کو PTC آیا۔ سال بہ رمضان 2014 میں جانے ماری بہ سیوریٹی اس کے تقسیم کر دیا
 میں بھی لائن میں ڈیوٹی کے ساتھ کر دیا۔ ماری نے یہ کہہ دیا کہ میں نے لائن بہ
 ایسا نام آصف سلطان شدہ جس نے مجھ پر ایک مکرشکوف نام کے عہدہ پر 6 ماہ تک
 7.6 لاکھ روپے کی شرح پر اور چھ ماہ تک کے آؤٹس کے تقسیم کیا۔ چھ ماہ کے دوران
 میں کوٹ سے لاکھ روپے میں اپنے الماری میں رکھا۔ پھر 14 ماہ کے دوران میں اپنے قری
 میں ڈال کر صرف 9 لاکھ روپے تقریباً 13.50 لاکھ میں PTC سے لے لیا اور پھر
 اپنے ماؤں حیدرآباد۔ چھ ماہ کے دوران میں نے دیکھ کر وہ میں نے دوست جیالہ
 کے گھر میں رکھا۔ اور پھر صرف 9 لاکھ روپے PTC صدر آیا۔ میں نے اس کے ساتھ
 میں اٹھایا۔ لیونہ حیری والدہ فوت ہمارے۔ اور آئے سید کے خرابی
 رقم میں۔ میرا ارادہ حکم اسلام ڈیوٹی میں لے کر فوت ہمارے۔ تاہم
 ای والدہ کا حکم حکم آسٹون - PTC صدر والی اور میرا حکم کے لڑتے
 کہنے لگا۔ اس کے بعد رمضان شریف کے باہر اتھینے میں اپنے پہلے نکل کا اور لگا۔
 آیا۔ جبکہ PTC میں ان کے ساتھ 14 ماہ کے دوران میں نے تیار میں سرورڈ لکھی
 میں اسلام ڈیوٹی میں رہنے والے علی غلامی کے۔ جس میں آصف
 ہوں۔ مجھے سبھی دعا ہے۔ چھ ماہ کے دوران میں سرکاری میں ان کے دوران
 میرا بیان ہے۔

سراج الاسلام نمبر 63

Attested
 [Signature]
 10/09

ORDER.



293 (10)

This order shall dispose off on appeal preferred by Ex-Recruit Constable Siraj-ul-Haq No. 63 of FRP against the order of SP FRP Peshawar Range.

Brief facts of the case are that he involved in stolen of SMG Rifle at PTC Hangu.. He was issued Charge Sheet/Statement of Allegations and RI/ FRP Peshawar Range was nominated as Enquiry Officer. After Enquiry, the EO Officer recommended the defaulter Constable for major punishment. He was issued Final Show Cause Notice but he failed to submit reply within stipulated period, but he failed to submit his reply. He was called in Orderly Room but he did not turn up. Keeping in view the above and having gone through available record the SP FRP Peshawar Range came to the conclusion that the delinquent had willfully stolen SMG Rifle. Moreover his retention in Police Department is a burden on Public exchequer, therefore, he was removed from service by SP FRP Peshawar Range vide his Endst: No. 750-54/PA dated 24.10.2009. His appeal is too time barred.

However from the perusal of record and finding of enquiry officer there is no cogent reason to interfere in the order of SP FRP Peshawar Range. Therefore his appeal is rejected.

Add: IGP/Commandant
Frontier Reserve Police

Khyber Pakhtunkhwa Peshawar

14-08-10/04/2014
14-11/12014. 24 July

No. 2851-62 /EC dated Peshawar the

Copy of above is sent to the Superintendent of Police FRP Peshawar Range for information w/r to his Memo: No.230/SRC dated 31.03.2014. His Fauji missal and departmental file are returned herewith.

2. Ex-Constable Siraj-ul-Haq S/o Masal Khan Village Umar Khitab Mara Turangzai Teh: & District Charsadda.

SRe

Dr. M. A.

2
ZAW
r SPFRP/PR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Case No.465/2013

Siraj-ul-Islam Appellant

Versus

Superintendent of Police, FRP, Peshawar Range,
Peshawar & others Respondents

= = = = =

REJOINDER ON BEHALF OF THE APPELLANT

= = = = =

Respectfully Sheweth:

Preliminary Objection:

1. All the preliminary objections are baseless and without any footing.
2. That appeal is within time and appellant has got prima facia case and dismissal of the appellant is totally illegal.

REPLY ON FACTS:

1. Para No.1 needs no reply.
2. Para No.2 of comments is not disputed.
3. Para No.3 is incorrect appellant never stolen the Government RIFAL, Ex-Party inquiry was conducted by the respondent & appellant was never associated with the departmental proceedings.
4. Para No.4 of comments is incorrect, appellant never remain absent, but the appellant was wrongly removed from service on 24.10.2009, and removal of the appellant is illegal.

5. Para No.5 of comments is incorrect, appellant was directed not to come to police line and will be informed if required.
6. Para No.6 of comments is incorrect, no show cause notice or charged sheet is given to the appellant and inquiry documents are self preferred by the respondent.
7. Para No.7 of comments is incorrect, appellant was acquitted in a criminal case and till then no departmental proceedings were conducted in which appellant were associated but Ex-Party proceedings were conducted.
8. Para No.8 of comments is incorrect, since the appellant was directed by the respondent not come to police line and when the appellant was acquitted in the criminal case then appellant handed over the acquitted judgment to the respondent and appellant was informed that he is dismissed from the service.
9. Para No.9 of comments incorrect, appellant representation is wrongly rejected.

GROUND:

- A. Ground A is totally incorrect, appellant never stolen Government weapon and appellant statement was never recorded, neither committed the alleged charge.
- B. Ground B is also incorrect, in this para the respondent him self admit that the removal order is provided to the appellant subsequently.
- C. Ground C of comments is totally incorrect, appellant was never served with any final show cause notice, which fact can be ascertained from the documents.
- D. Ground D of comments is incorrect, no regular proceedings were conducted under the removal ordinance 2000 and no opportunity was given to the appellant to associate the inquiry proceedings nor the statement of any witness were recorded in presence of appellant.
- E. Ground E is not contraverted.


- F. Ground F is totally incorrect, no departmental proceedings were carried out by the respondent against the appellant.
- G. Ground G is also incorrect, no coddle formalities were fulfilled by the department/ respondent before the removal of appellant.
- H. Ground H is incorrect, when the appellant acquitted from the charges then the respondent has got no reason to remove the appellant from his service.

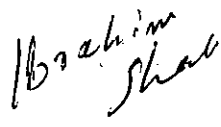
It is, therefore, prayed on acceptance of this rejoinder the appeal of appellant may be accepted.


Appellant

Through

Date:


Muhammad Amin Khattak Lachi
Advocate,
Supreme Court of Pakistan


Ibrahim Shah
Advocate, High Court,
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service/Case No. _____/

Service Case No.465/2013

Siraj-ul-Islam Appellant

Versus

Superintendent of Police, FRP, Peshawar Range,
Peshawar & others Respondents

A F F I D A V I T

I, Siraj-ul-Islam S/o Masal Khan R/o Haji Umer Khitab Kalay, Charsadda Ex-Constable No.63, Police Line, Peshawar, do hereby solemnly affirm and declare that the contents of the accompanying **rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this learned court.



[Handwritten signature]

Deponent

WAKALATNAMA

IN THE K.P.K. Service Tribunal Peshawar

Sirajul Islam

(Petitioner)
(Plaintiff)
(Applicant)
(Complainant)
(Appellant)
(Decree Holder)

VERSUS

Superintendent & Others

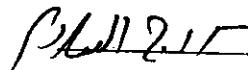
(Respondent)
(Defendant)
(Accused)
(Judgment Debtor)

I/We, Sirajul Islam s/o Masal Khan

in the
above noted S.A. No. — 13, do hereby appoint and constitute
Mohammad Amin Khattak Lachi Advocate, Peshawar to appear, plead,
act, compromise, withdraw or refer to arbitration to me/ us as my/ our
Counsel in the above noted matter, without any liability for their default and
with the authority to engage/ appoint any other Advocate/ Counsel at my/
our matter.

Attested & accepted

CLIENT/S



Mohammad Amin Khattak Lachi
Advocate, High Court, Peshawar
Cell: 0301-8904498

5. Para No.5 of comments is incorrect, appellant was directed not to come to police line and will be informed if required.
6. Para No.6 of comments is incorrect, no show cause notice or charged sheet is given to the appellant and inquiry documents are self preferred by the respondent.
7. Para No.7 of comments is incorrect, appellant was acquitted in a criminal case and till then no departmental proceedings were conducted in which appellant were associated but Ex-Party proceedings were conducted.
8. Para No.8 of comments is incorrect, since the appellant was directed by the respondent not come to police line and when the appellant was acquitted in the criminal case then appellant handed over the acquitted judgment to the respondent and appellant was informed that he is dismissed from the service.
9. Para No.9 of comments incorrect, appellant representation is wrongly rejected.

GROUND:

- A. Ground A is totally incorrect, appellant never stolen Government weapon and appellant statement was never recorded, neither committed the alleged charge.
- B. Ground B is also incorrect, in this para the respondent him self admit that the removal order is provided to the appellant subsequently.
- C. Ground C of comments is totally incorrect, appellant was never served with any final show cause notice, which fact can be ascertained from the documents.
- D. Ground D of comments is incorrect, no regular proceedings were conducted under the removal ordinance 2000 and no opportunity was given to the appellant to associate the inquiry proceedings nor the statement of any witness were recorded in presence of appellant.
- E. Ground E is not contravened.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

Service Case No.465/2013

Siraj-ul-Islam Appellant

Versus

Superintendent of Police, FRP, Peshawar Range,

Peshawar & others Respondents

= = = = =

REJOINDER ON BEHALF OF THE APPELLANT

= = = = =

Respectfully Sheweth:

Preliminary Objection:

1. All the preliminary objections are baseless and without any footing.
2. That appeal is within time and appellant has got prima facia case and dismissal of the appellant is totally illegal.

REPLY ON FACTS:

1. Para No.1 needs no reply.
2. Para No.2 of comments is not disputed.
3. Para No.3 is incorrect appellant never stolen the Government RIFAL, Ex-Party inquiry was conducted by the respondent & appellant was never associated with the departmental proceedings.
4. Para No.4 of comments is incorrect, appellant never remain absent, but the appellant was wrongly removed from service on 24.10.2009, and removal of the appellant is illegal.


- F. Ground F is totally incorrect, no departmental proceedings were carried out by the respondent against the appellant.
- G. Ground G is also incorrect, no coddle formalities were fulfilled by the department/ respondent before the removal of appellant.
- H. Ground H is incorrect, when the appellant acquitted from the charges then the respondent has got no reason to remove the appellant from his service.

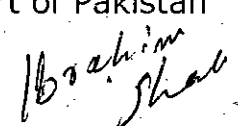
It is, therefore, prayed on acceptance of this rejoinder the appeal of appellant may be accepted:


Appellant

Through

Date:


Muhammad Amin Khattak Lachi
Advocate,
Supreme Court of Pakistan


Ibrahim Shah
Advocate, High Court,
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Case No. _____/

Service Case No.465/2013

Siraj-ul-Islam Appellant

Versus

Superintendent of Police, FRP, Peshawar Range,

Peshawar & others Respondents

A F F I D A V I T

I, Siraj-ul-Islam S/o Masal Khan R/o Haji Umer Khitab Kalay, Charsadda Ex-Constable No.63, Police Line, Peshawar, do hereby solemnly affirm and declare that the contents of the accompanying **rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this learned court.



Deponent