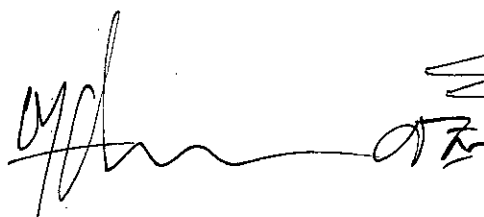


S.No	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	16.05.2016	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>PESHAWAR.</u></p> <p style="text-align: center;">APPEAL NO.524/2013</p> <p style="text-align: center;">(Raz Muhammad -vs-District Police officer, Mardan and others).</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>PIR BAKHSH SHAH , MEMBER:</u></p> <p>Appellant with counsel (Fazal Shah Mohmand, Advocate) and Mr. Muhammad Ghani, SI alongwith Mr. Ziaullah, GP for respondents present.</p> <p>2. On the charges of his alleged involvement in immoral activities, the appellant was dismissed from service vide order dated 11.12.2012 and his departmental appeal was also rejected vide order dated 04.02.2013, hence this service appeal under Section -4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.</p> <p>3. Arguments heard and record perused available on file.</p> <p>4. Learned counsel for the appellant submitted that charge against the appellant is false and there is no evidence on record in its proof but appellant has been unlawfully dismissed from service. He further submitted that no charge sheet, show cause notice or enquiry was conducted in the case and no opportunity of personal hearing was provided to the appellant, therefore, the impugned orders are against the concept of natural justice. He placed reliance on 1997 PLC (C.S) 693 and submitted that this appeal may be allowed, the impugned orders may be set aside and the appellant may be reinstated into service with all back benefits.</p>

5. This appeal was resisted by learned Government Pleader on the ground that the appellant was in probation, therefore, no formal disciplinary proceedings were required under the law. He further submitted that daily report vide daily dairy dated 29.11.2012 PS, Parhoti shows illicit relations of the appellant with one Mst. Fareeda, therefore, he was rightly dismissed from the Police Service.

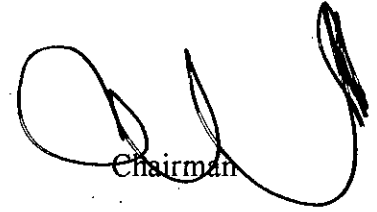
6. We have carefully perused the record and have heard pro & contra arguments. It was found that no charge sheet, show cause notice or enquiry proceedings have been conducted against the appellant and opportunity of defense has not been provided to the appellant. SHO is the author of the report of the daily dairy who, in the interest of justice, was required to have been examined in support of the contents of daily diary and the appellant should have been given an opportunity of cross examination on him. The Tribunal is of the considered view that since requirement of the natural justice of defense and hearing to the appellant are lacking in this case, therefore, the Tribunal is constrained to set aside the impugned orders and to remit the case to the respondent-department for *de-novo* proceedings strictly in accordance with law and rules and to give him ample opportunity of defense and hearing. Hence the appeal is decided in the above terms. Needless to mention that for the purpose of *de-novo* proceedings, the appellant is reinstated into service. The issue of back benefits will be subject to outcome of the *de-novo* proceedings. Parties are left to bear their own cost. File be consigned to the record room.

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

  
(PIR BAKHSH SHAH)  
MEMBER

29.8.2014

Appellant with counsel and Mr. Muhammad Shafique, Inspector Legal with Mr. Usman Ghani, Sr. GP for the respondents present. Arguments could not be heard due to incomplete bench. To come up for arguments on 26.2.2015.

  
Chairman

26.2.2015

Counsel for the appellant and Ziaullah, GP with Muhammad Shafiq, Inspector (Legal) for the respondents present. Counsel for the appellant requested for adjournment. Therefore, case is adjourned to 20.8.2015 for arguments.



MEMBER



MEMBER

20.08.2015

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Learned counsel for the appellant requested for adjournment. Therefore, case is adjourned to 13.01.2016 for arguments.



Member



Member

13.01.2016

Appellant with counsel and Addl: A.G for respondents present. Since the learned Member (Judicial) is on leave therefore, case is adjourned to 16.5.16 for the same.

  
Reader

5.7.2013

Appellant with counsel and Mr. Abdul Aziz, Inspector (Legal) for respondents with Mr. Muhammad Jan, GP present. Written reply on behalf of respondents received, copy whereof is handed over to the appellant for rejoinder on 7.11.2013.

Chairman

07.11.2013

Appellant with counsel and Mr. Muhammad Shafique, SI ( Legal) for respondents with AAG present. Rejoinder received on behalf of the appellant, copy whereof is handed over to the learned AAG for arguments on 21.4.2014.

Chairman

21.4.2014

Appellant in person and Mr. Muhammad Ghani, ASI on behalf of respondents with Mr. Usman Ghani, Sr. GP present. The learned Sr. GP requested for adjournment in order to prepare arguments in the light of impugned order whereby services of the appellant have been dispensed with under rule 12-21 of Police Rules. To come up for arguments on 29.8.2014.

Chairman

Appeal No. 524/2013.  
Mr. Raiz Muhammed,

3. 6.5.2013

Counsel for the appellant present and heard.

Appellant deposited  
security & process fee  
Rs 180/- Bank receipt  
is attached with  
file

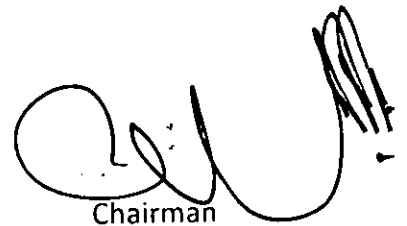
Contended that the appellant was appointed as constable on 1.1.2012. He has been dismissed from service vide the impugned order dated 11.12.2012 without observing the legal procedure. He preferred a departmental appeal on 1.1.2013 but the same has been filed on 4.2.2013 received by the appellant on 27.12.2012, hence the present appeal has been filed on 5.3.2013. Points raised need consideration. The appeal is admitted to regular hearing, subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notices be issued to the respondents. Case adjourned to 5.7.2013 for submission of written reply.



Member.

4. 6.5.2013

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


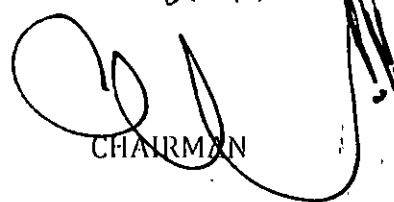


Chairman

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 524/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	11/03/2013	<p>The appeal of Mr. Raz Muhammad resubmitted today by Mr. Fazal Shah Mohmand Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	18-3-2013	<p>This case is entrusted to primary Bench for preliminary hearing to be put up there on <u>6-5-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Raz Muhammad Ex-recruit constable received today i.e. on 05/03/2013 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Appeal may be page marked according to the index of the appeal.
- 2- Affidavit may be got attested by the Oath Commissioner.
- 3- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 383 /S.T,  
Dt. 5/3 /2013.

*Leo*  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

MR.FAZAL SHAH MOHMAND ADV; PESH.

*Sir,*  
Re-submitted *if necessary*  
Completion  
*ceul* Adv  
8-3-2013

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No 524/2013

Raz Mohammad Ex. Recruit Constable..... Appellant

**VERSUS**

DPO Mardan and two others .....(Respondents)

**INDEX**

S. No	Description of documents	Annexure	Page No
1.	Service appeal with affidavit		1-3
2.	Copy of DD no 5 dated 29-11-2012	A	4
3.	Copy of application and order dated 11-12-2012	B & C	5-6
4.	Copy of departmental appeal and order dated 04-02-2013	D & E	7-8
5.	Wakalat Nama		9

Dated: 04-03-2013

Appellant 

Through

  
Fazal Shah Mohmand  
Advocate, Peshawar

**OFFICE:-**

Cantonment Plaza Flat 3/B

Khyber Bazar Peshawar

Cell # 0301 8804841



**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No 524/2013

Raz Mohammad Ex. Recruit Constable No 1362 of District Police Mardan S/O  
Nek Mohammad R/O Baghicha Dheri Tehsil and District Mardan.....Appellant

**VERSUS**

1. District police Officer Mardan.
2. Deputy Inspector General of Police Mardan Region-1 Mardan.
3. Provincial Police Officer KPK, Peshawar.....Respondents

**P.W.F. Peshawar**  
**Case No. 531**  
**05/3/2013**

APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974  
AGAINST THE ORDER DATED 11-12-2012 PASSED BY  
RESPONDENT NO 1 WHERE BY THE APPELLANT HAS BEEN  
DISMISSED FROM SERVICE UNDER POLICE RULES 12-21 OF  
POLICE RULES 1975 WITH IMMEDIATE EFFECT AND AGAINST  
THE ORDER DATED 04-02-2013 PASSED BY RESPONDENT NO 2  
WHEREBY APPEAL OF THE APPELLANT HAS BEEN FILED.

**PRAYER:-**

On acceptance of this appeal the impugned orders dated 11-12-2012 of respondent No 1 and order dated 04-03-2013 of respondent No 3 may kindly be set aside and the appellant may kindly be ordered to be reinstated in Service with all back benefits.

**Respectfully Submitted:-**

1. That the appellant joined the respondent Department as Constable on 01-01-2012 and since then performed his duties honestly and with full devotion.
2. That on 29-11-2011 the appellant while posted to police lines Mardan, an incorrect report was entered by the SHO of Police Station Par Hoti Mardan in daily Diary vide DD No 05 alleging that the appellant is involved in Immoral activities and that he had illicit relations with some woman. (Copy of the DD is enclosed as Annexure A).
3. That the appellant was kept in quarter guard for eleven days and was there after on duty when he was informed on 27-12-2012 that he has been

**5/3/13**

**re-submitted to file and filed.**

**11/3/13**

2

dismissed from service on 11-12-2012 where after he requested for copy of the dismissal order on 27-12-2012 and on the following day he was provided with the copy. (Copy of application and dismissal order is enclosed as Annexure B and C).

4. That there after the appellant submitted departmental appeal before respondent No 2 on 01-01-2013 which was filed vide order dated 04-02-2013. (Copy of appeal and order are enclosed as Annexure D and E).
5. That both the impugned orders dated 11-12-2012 of respondent No 1 and order dated 04-02-2013 of respondent No 2 are against the law, facts and principles of justice on grounds inter alia as follows:-

**GROUND:**

- A. That the impugned orders are illegal and void ab-initio.
- B. That the appellant has not been treated in accordance with law and mandatory provisions of law have been violated by the respondents while taking action against the appellant.
- C. That no inquiry was conducted to had found out the true facts and circumstances and to prove or disprove the allegations leveled against the appellant.
- D. That charge sheet and show cause notice were never communicated to the appellant.
- E. That the appellant was also not afforded the opportunity of personal hearing.
- F. That the allegations against the appellant are totally false and baseless and the appellant was never involved immoral activities nor ever had any illicit relations with any one.
- G. That the malafide is proved from the fact that the appellant was neither informed nor was even provided with the copy of impugned order.
- H. That the impugned order is not maintainable because the same has been passed under law which is not applicable and has been condemned by the Courts.
- I. That the appellant has been punished on the basis of unfounded allegations which were never tried to prove or even inquired into criminally.

J. That the appellant has been subjected to two punishments he was kept in quarter guard and has also been dismissed from service which is not maintainable in the eyes of law.

K. That the appellant seeks the permission of this honorable tribunal for further/additional grounds at the time of arguments.

It is therefore prayed that on acceptance of this appeal, the impugned order Dated 11-12-2012 of respondent No 1 and order dated 04-02-2013 of respondent No 3 may kindly be set aside and the appellant may kindly be ordered to be reinstated in service with all back benefits.

Dated: 04-03-2013

*راز*  
Appellant

Through

*راز*  
Fazal Shah Mohmand  
Advocate Peshawar

**AFFIDAVIT**

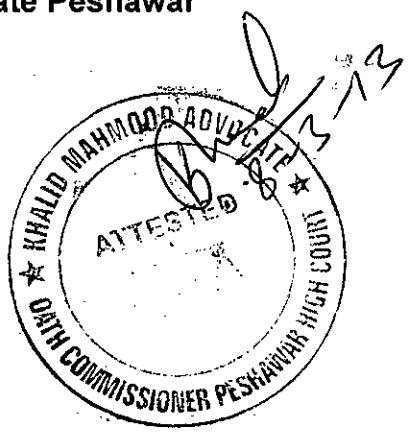
I, Raz Mohammad Ex. Recruit Constable No 1362 of District Police Mardan S/O Nek Mohammad R/O Baghicha Dheri Tehsil and District Mardan, do hereby solemnly affirm and declare on oath that the contents of this Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

Identified by *راز*

*راز*  
DEPONENT

Fazal Shah Mohmand

Advocate Peshawar



تقدم کے لئے فرنا ہم 29/12

خانہ عدوان

نوٹ والی بیار علی خان انسپکٹر 440 وقت 21-15 کی طرح 29/12  
 میں مع صبر انہیں رفتہ جو ہم عد فرنا ہم سزا شدہ بعد از نشست  
 والی ہوا عدوان نشست حسب اطلاع رنگ نوڈ پمیشنل رازنگ 1362  
 منقسم لو سکا جس عدوان سنم باجیم ڈھیرہ علاقہ معوضہ بیان  
 سزا سنم آمنتب میں سماء فریڈہ زوم اسم نامعلوم سنم آمنتب  
 جسکے ساقہ میں تعلقات میں ہے یا انہما بقا جب میں وہاں سے وہی  
 ارفاقا تو اسی عدوان راجا زولا نامعلوم سنم یا تو میں مجھے بیکر  
 ساقہ روانہ کیا اور مجھے ایسا رقم کو میں نے میں بھا بنا اتقا اسم  
 خم میں انہیں آوگے تقریباً تو فلائنگ اگر ارضیات انہما مجھے  
 لے جا کر مجھے ایسا کہ سیر کے آتارو میں نے جسے آتارو تو مذکورہ  
 نے بہتوں نقال کر جسکے ساقہ میں اٹارہ بہ منساد جو اٹارہ  
 مجھے یا تو لورنگ لرون سیر و استوں سے عاٹا ہے میں نے راہ فرار اختیار  
 کر کے رنگ نوڈ کو نکلا رنگ نوڈ سیر آت 440 میں علاقہ فریڈہ وقوع  
 معزانی اطلاع دیا ہوں ہم حالات واقعات انہما مالک فوشی  
 میں لا جا جا کر دیگر فریب یہی رساکہ بعد انہما سے داخل ملک انہوں

خا - 440

نقل عطا فرما لیں  
~~Handwritten signature~~  
 desi PHOTO

31-12-12

جواب عالی

مورد مذکورہ گزارش ہے کہ مسائل بحوالہ آرڈر ایک

نمبر 3286 مورخہ 11/12/2012 نوٹری سے درخواست ہو چکا

ہے۔ جسے مسائل کو تاحال اس بارے میں کوئی اطلاع دینا

نہیں دی ہے۔ اور مسائل تاحال پوسٹ لائن میں ڈھونڈا جا رہا ہے۔

دے رہا ہے۔

بذریعہ درخواست استرجاع کے مسائل کو آرڈر کا پی

اڈیشنل ایف ایف جی کے ذریعہ فراہم کیا گیا ہے۔

عین گزارش کی ہے۔  
مورخہ 27-12-2012

الکھارین

مسائل Ex - کانٹریکٹ راز نمبر 1362

EC  
Form/Action  
ms  
HC  
27/12/12

Sen

He was dismissed from  
Service due to his disloyal  
activities under this office  
3286 dt. 11-12-12. He has not  
obtained his dismissal order  
copy plz

Allisted  
celling  
Ado

ایف ایف جی ایس آر آر  
28-12-12

Issue

Malam  
EC 27/12/12

D.P. Malwa

C/O

DISMISSAL ORDER

~~Recruit~~ Constable Raz Muhammad No. 1362, while posted at Police Lines, has been found involved in immoral activities by having illicit relations with one Mst: Farida wife of unknown resident of Oach ~~Exdt~~ who himself admitted his such illegal act by making a report to SHO Par Hoti on Ring Road vide DD report No. 05 dated 29.11.2012 Police Station Par-Hoti.

~~From~~ the perusal of his service record, he was found enlisted in Police Force on 01.10.2012.

Keeping in view his short duration of service and involvement in such shameful activities, would certainly affect the moral of his other colleagues of the force, besides adversely affect the integrity of the entire Police Force in the eyes of general masses; therefore he is awarded major punishment of dismissal from Police Force with immediate effect, in exercise of the power vested in me under Rules 12-21 of Police Rules 1975.

Order announcedO.B No. 3286Dated 11/12 /2012.

*[Signature]*  
District Police Officer,  
Mardan

No. 7881-84 /PADated 17/12 /2012.

Copy for information and necessary action to:-

1. The ~~SP HQs~~ Mardan.
2. The ~~Pay Office~~ (DPO) Mardan.
3. The ~~EC (DPO)~~ Mardan.
4. The ~~OAS (DPO)~~ Mardan with ( ) enclosures.

*All had  
call  
C Ad*

(7) B

**BEFORE THE HONARABLE DEPUTY INSPECTOR GENERAL OF**  
**POLICE MARDAN REGION-I, MARDAN.**

Prayers: **APPEAL AGAINST THE ORDER OF DISMISSAL VIDE OB NO. 3286, DATED 11.12.2012.**

Honorable Sir,

With profound regards it is humbly submitted that I have been dismissed from service vide OB No. 3286 dated 11.12.2012, without issuing show cause notice/ charge sheet or holding proper departmental enquiry and that is why the order of dismissal is illegal and contrary to the existing rules.

However my parawise submission are as follow:-

1. That I was enlisted in Police force on 01.10.2012.
2. That up till now I have did my responsibilities efficiently.
3. That the report entered in daily dairy No. 05 dated 29.11.2012 by the SHO PS Par Hoti is incorrect and against the facts.
4. That actually I had proceeded to "Oach Erab" to meet my friend namely Parvez. On return I came across with person later on known as Ejaz. The said person asked me as to why I had come to the house of a lady namely Mst. Farida. I replied that I had come to see my friend Parvez. On this we exchanged hot word. He took out pistol and fired a shot just to pressurize me. However he then went on. Meanwhile Inspector Nihar Ali SHO/PS Par Hoti came in a private vehicle to whome I narrated the whole facts. The SHO entered the report contrary to the facts.
5. The matter was required to be probed into u/s 156(2) or 156(3) CrPC as well as proper departmental inquiry was required to be conducted so that the facts should brought on file.
6. That I was on duty when on 11.12.2012 I was dismissed from service, whereas I was performing my duties till 28.12.2012 and no one informed me about my dismissal from service.
7. That I have been given two punishment i.e kept in Quarter Guard for (11) days and thereafter dismissed from service.
8. That it is not only against the law, but also contrary to the principles of justice that an official is punished on hearsay allegations. Besides, the superior Courts have also held that major punishment should be awarded after conducting proper departmental inquiry.

So it is therefore very humbly requested that keeping in view the above cited facts, the order of the District Police Officer, Mardan my kindly be setaside and I reinstated in service. My entire family shall pray for you.

*Allyed*  
*side*  
*AA*

Yours most obediently,  
(Raz Mohammad)  
Ex-Constable No. 1362.of  
Mardan. 01/01/2013

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No 524/2013

Raz Mohammad Ex. Recruit Constable No 1362 of District Police Mardan S/O  
Nek Mohammad R/O Baghicha Dheri Tehsil and District Mardan.....Appellant

**VERSUS**

1. District police Officer Mardan.
2. Deputy Inspector General of Police Mardan Region-1 Mardan.
3. Provincial Police Officer KPK, Peshawar.....Respondents

**P. W. F. DEPARTMENT**  
**Case No. 531**  
**05/3/2013**

APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974  
AGAINST THE ORDER DATED 11-12-2012 PASSED BY  
RESPONDENT NO 1 WHERE BY THE APPELLANT HAS BEEN  
DISMISSED FROM SERVICE UNDER POLICE RULES 12-21 OF  
POLICE RULES 1975 WITH IMMEDIATE EFFECT AND AGAINST  
THE ORDER DATED 04-02-2013 PASSED BY RESPONDENT NO 2  
WHEREBY APPEAL OF THE APPELLANT HAS BEEN FILED.

**PRAYER:-**

On acceptance of this appeal the impugned orders dated 11-12-2012 of respondent No 1 and order dated 04-03-2013 of respondent No 3 may kindly be set aside and the appellant may kindly be ordered to be reinstated in Service with all back benefits.

**Respectfully Submitted:-**

1. That the appellant joined the respondent Department as Constable on 01-01-2012 and since then performed his duties honestly and with full devotion.
2. That on 29-11-2011 the appellant while posted to police lines Mardan, an incorrect report was entered by the SHO of Police Station Par Hoti Mardan in daily Diary vide DD No 05 alleging that the appellant is involved in Immoral activities and that he had illicit relations with some woman. (Copy of the DD is enclosed as Annexure A).
3. That the appellant was kept in quarter guard for eleven days and was there after on duty when he was informed on 27-12-2012 that he has been

re-submitted to [unclear] and filed.

*[Signature]*  
11/3/13



S.No	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	16.05.2016	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>PESHAWAR.</u></p> <p style="text-align: center;">APPEAL NO.524/2013</p> <p style="text-align: center;">(Raz Muhammad -vs-District Police officer, Mardan and others).</p> <p><u>JUDGMENT</u></p> <p><u>PIR BAKHSH SHAH , MEMBER:</u></p> <p>Appellant with counsel (Fazal Shah Mohmand, Advocate) and Mr. Muhammad Ghani, SI alongwith Mr. Ziaullah, GP for respondents present.</p>
		<p>2. On the charges of his alleged involvement in immoral activities, the appellant was dismissed from service vide order dated 11.12.2012 and his departmental appeal was also rejected vide order dated 04.02.2013, hence this service appeal under Section -4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.</p> <p>3. Arguments heard and record perused available on file.</p> <p>4. Learned counsel for the appellant submitted that charge against the appellant is false and there is no evidence on record in its proof but appellant has been unlawfully dismissed from service. He further submitted that no charge sheet, show cause notice or enquiry was conducted in the case and no opportunity of personal hearing was provided to the appellant, therefore, the impugned orders are against the concept of natural justice. He placed reliance on 1997 PLC (C.S) 693 and submitted that this appeal may be allowed, the impugned orders may be set aside and the appellant may be reinstated into service with all back benefits.</p>

5. This appeal was resisted by learned Government Pleader on the ground that the appellant was in probation, therefore, no formal disciplinary proceedings were required under the law. He further submitted that daily report vide daily diary dated 29.11.2012 PS, Parhoti shows illicit relations of the appellant with one Mst. Fareeda, therefore, he was rightly dismissed from the Police Service.

6. We have carefully perused the record and have heard pro & contra arguments. It was found that no charge sheet, show cause notice or enquiry proceedings have been conducted against the appellant and opportunity of defense has not been provided to the appellant. SHO is the author of the report of the daily diary who, in the interest of justice, was required to have been examined in support of the contents of daily diary and the appellant should have been given an opportunity of cross examination on him. The Tribunal is of the considered view that since requirement of the natural justice of defense and hearing to the appellant are lacking in this case, therefore, the Tribunal is constrained to set aside the impugned orders and to remit the case to the respondent-department for *de-novo* proceedings strictly in accordance with law and rules and to give him ample opportunity of defense and hearing. Hence the appeal is decided in the above terms. Needless to mention that for the purpose of *de-novo* proceedings, the appellant is reinstated into service. The issue of back benefits will be subject to outcome of the *de-novo* proceedings. Parties are left to bear their own cost. File be consigned to the record room.

  
(MUHA)

ORDER.

My this order will dispose off the appeal preferred by Ex- Recruit Constable Raz Muhammad No. 1362 of Mardan District Police against the order of dismissal issued by the District Police Officer, Mardan vide OB: No. 3286 dated 11.12.2012.

Facts of the case are that he while posted at Police Lines, Mardan was found involved in immoral activities by having illicit relations with one Mst: Farida wife of unknown resident of Oach Erab, who admitted his illegal act. SHO Police Station Par Hoti incorporated the said report in DD vide No. 05 dated 29.11.2012.

From the perusal of his service record, he was found enlisted in Police force on 01.10.2012.

So keeping in view his short duration of service and involvement in such like shameful acts, his retention in Police Service shall certainly affect the dignity and image of Police Force as well as his colleagues. Therefore the competent authority dismissed him from service under Police 12.21, the appellant then lodged the instant appeal.

I have perused the service record and also heard the appellant in person in Orderly Room on 23.01.2013 but failed to justify his innocence and could not produce any cogent reason about his innocence. Therefore, I **ABDULLAH KHAN KHAN (PSP)** Deputy Inspector General of Police, Mardan Region-I, Mardan in exercise of the powers confined upon me rejected the appeal and do not interfere the order passed by the competent authority issued vide OB: No. 3286 dated 11.12.2012, hence the appeal is filed.

ORDER ANNOUNCED.

  
(**ABDULLAH KHAN**)PSP  
Deputy Inspector General of Police,  
Mardan Region-I, Mardan.

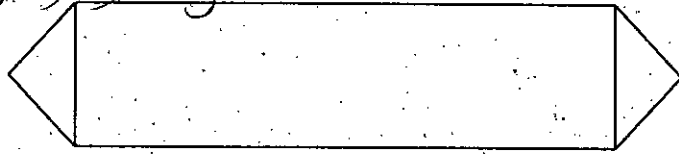
No. 388 /ES, Dated Mardan the 9/2 /2013.

Copy to District Police Officer, Mardan for information and necessary action w/r to his office memo: No. 27/LB dated 16.01.2013. He may be informed accordingly

His Service Record are returned herewith.

(\*\*\*\*\* S. Roll, P.M.)

# بعدالت سردس سرسول حسن کٹر خاں



اسپر  
مردن

2013ء منجانب

5 مارچ

مورخہ

بنام DP

راز نمبر سے تعلقہ 1362 ہر دون

مقدمہ

دعویٰ

جرم

## باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام کے لیے حاصل شدہ حتمی حکم کے مطابق مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کلکوائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

2013ء

ماہ مارچ

5

المرقوم

Accepted

کے لئے منظور ہے

مقام

عدنان  
چک مشہور

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

**Service Appeal No. 524/2013.**

Raz Muhammad Ex-Recruit Constable No. 1362 of District Police Mardan s/o Nek Muhammad  
r/o Baghicha Dheri Tehsil and District Mardan .....Appellant.

**VERSUS.**

1. District Police Officer, Mardan.
2. Deputy Inspector General of Police, Mardan Region-I, Mardan.
3. Provincial Police Officer, Khyber Pakhtunkhwa,  
Peshawar.....Respondents.

**Respectfully Sheweth:**

**PRELIMINARY OBJECTIONS**

1. That the appellant has not come with clean hands to this Honourable Tribunal.
2. That the appellant has got no cause of action.
3. That the appellant has concealed material facts from this Honourable Tribunal.
4. That the appellant is estopped by his own conduct, by law to bring the instant appeal.
5. That the present appeal is bad in its present form hence not maintainable and liable to be dismissed.

**Para-wise comments by respondents are submitted as below:-**

1. Incorrect. The appellant was enlisted as Constable on 01.10.2012 in the Police Department and not on 01.01.2012.
2. Correct to the extent that being recruit constable, the appellant was posted at Police Lines Mardan. However, it is incorrect that wrong/false report was incorporated against him in Daily Diary by the SHO of Police Station Par Hoti, Mardan. Actually, the appellant himself reported the matter to SHO Police Station Par Hoti at Ring Road which was correctly entered in the Daily Diary dated 29.11.2012 at serial No. 5 Police Station Par Hoti, Mardan. He categorically admitted his illicit relations with Mst: Farida w/o not known r/o Oach Erab, Mardan.

**(Copy of D.D dated 29.11.2012 serial No. 5 is enclosed as Annexure "A")**

3. Pertains to record. However according to Rule 5.5 of the NWFP Police Rules 1975, the authority can award one or more of major or minor punishments as deemed necessary.

**(Copy is enclosed)**

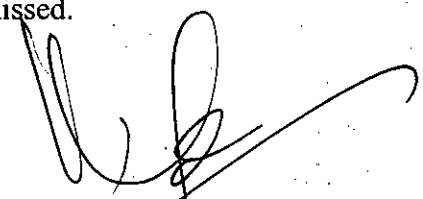
4. Correct. Pertains to record.
5. Incorrect. The order dated 11.12.2012 passed by respondent No. 1 and order dated 04.02.2013 passed by respondent No. 2 respectively, are in consonance with law. The appellant was provided opportunity of personal hearing by the respondent No. 2 in Orderly Room held on 23.01.2013 but failed to justify his innocence.

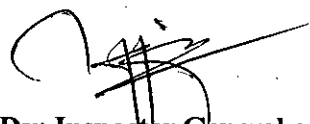
**(Copy of order dated 04.02.2013 is enclosed as Annexure "B")**

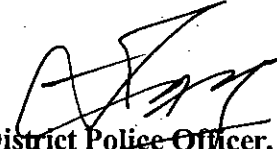
**COMMENTS ON GROUNDS**

- A) Incorrect. The orders dated 11.12.2012 and 04.02.2013 passed by the respondents No. 1 & 2 respectively are in accordance with law, quite legal and based on facts as well as law/rules.
- B) Incorrect. The appellant was treated in accordance with law and no provision of law has been violated by respondents.
- C) Incorrect. As stated above, proper opportunity of defence was provided to the appellant.
- D) Incorrect. All codal formalities were complied with.
- E) Incorrect. The orders passed by respondents No. 1 & 2 are justified under the law. As stated in Para No. 5, the appellant was given opportunity of personal hearing by respondent No. 2.
- F) Incorrect. As evident from Daily Diary dated 29.11.2012, serial No. 5, Police Station Par Hoti, Mardan, the appellant himself reported the matter to SHO PS Par Hoti, Mardan which was correctly entered in Daily Diary at serial No. 5. He has categorically admitted his illicit relations with one Mst: Farida.
- G) Incorrect. As replied in above Paras.
- H) Incorrect. The appellant being recruit constable got two months and ten days service in the Police Department. During his short period of service and involvement in immoral/shameful activities which would certainly affect the moral of his colleagues in the Police Force besides, adversely affect the integrity of the Police Force in the eyes of general public, he was rightly dismissed from service under the Police Rules 12.21.
- I) Incorrect.
- J) Incorrect. The respondent act under the cover of law and the punishment awarded to appellant is in accordance with law.
- K) The respondents may also be allowed for further/additional grounds at the time of arguments.

In the above circumstances, it is humbly prayed that the appeal of the appellant being baseless and devoid of legal force, may kindly be dismissed.

  
Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.  
(Respondent No. 3)

  
Dy: Inspector General of Police,  
Mardan Region-I, Mardan.  
(Respondent No. 2)

  
District Police Officer,  
Mardan.  
(Respondent No. 1)

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

**Service Appeal No. 524/2013.**


Raz Muhammad Ex-Recruit Constable No. 1362 of District Police Mardan s/o Nek Muhammad  
r/o Baghicha Dheri Tehsil and District Mardan .....Appellant.

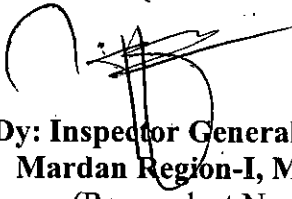
**VERSUS.**

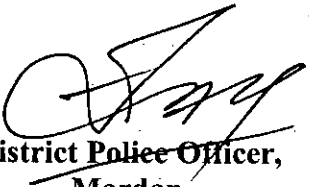
1. District Police Officer, Mardan.
2. Deputy Inspector General of Police, Mardan Region-I, Mardan.
3. Provincial Police Officer, Khyber Pakhtunkhwa,  
Peshawar.....Respondents.

**AUTHORITY LETTER.**

Mr. Abdul Aziz Inspector Legal, (Police) Mardan is hereby authorized to appear before the Honourable Service Tribunal, Khyber Pakhtunkhwa, Peshawar in the above captioned service appeal on behalf of the respondents. He is also authorized to submit all required documents and replies etc. as representative of the respondents through the Addl: Advocate General/Govt. Pleader, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

  
**Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.**  
(Respondent No. 3)

  
**Dy: Inspector General of Police,  
Mardan Region-I, Mardan.**  
(Respondent No. 2)

  
**District Police Officer,  
Mardan.**  
(Respondent No. 1)

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

**Service Appeal No. 524/2013.**

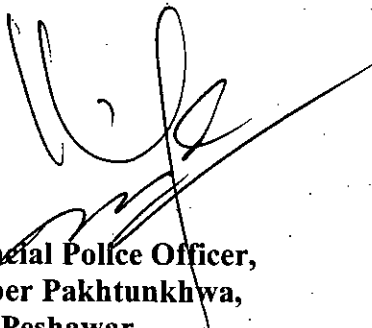
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r/o Baghicha Dheri Tehsil and District Mardan .....Appellant.

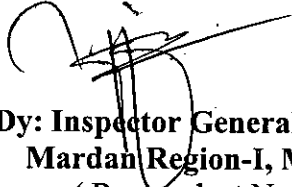
**VERSUS.**

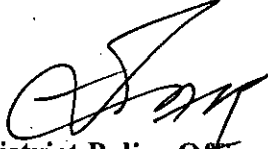
1. District Police Officer, Mardan.
2. Deputy Inspector General of Police, Mardan Region-I, Mardan.
3. Provincial Police Officer, Khyber Pakhtunkhwa,  
Peshawar.....Respondents.

**COUNTER AFFIDAVIT.**

We, the respondents do hereby declare and solemnly affirm on oath that the contents of the Para-wise comments in the service appeal cited as subject are true and correct to the best of our knowledge and belief and nothing has been concealed from this Honourable Tribunal.

  
**Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.**  
(Respondent No. 3)

  
**Dy: Inspector General of Police,  
Mardan Region-I, Mardan.**  
( Respondent No. 2)

  
**District Police Officer,  
Mardan.**  
(Respondent No. 1)



تعلقہ پار حوالی

نقل پر 5 رقبہ 11/29

صفحہ 117

نہ 5 والی ہمارے گھاسا لنگر 450 وقت 15.21 بجے صبح 29/12  
 میں سے پورے پیمانے رقبہ جو ہم نے 29 رقبہ 11/29 میں  
 دریا کے دوران کھیت صبح اٹھ بجے روک دیا اور اس وقت  
 کھیت کے رقبہ 1367 مربع فٹ میں اس کے دوران سے باغیچہ وغیرہ  
 ملنے والی کھیت پر پیمانے اور کھیت میں سے کھیت پر پیمانے  
 سے اوج اہراب کے ساتھ ساتھ کھیتوں میں سے کھیت پر پیمانے  
 سے کھیت پر پیمانے والی کھیت پر پیمانے اور کھیت پر پیمانے  
 میں سے کھیت پر پیمانے کے ساتھ ساتھ کھیتوں میں سے کھیت پر پیمانے  
 آرا کھیتوں کے ساتھ ساتھ کھیتوں میں سے کھیت پر پیمانے  
 قصص آرا کھیتوں کے ساتھ ساتھ کھیتوں میں سے کھیت پر پیمانے  
 جوا کھیتوں کے ساتھ ساتھ کھیتوں میں سے کھیت پر پیمانے  
 راہ کھیتوں کے ساتھ ساتھ کھیتوں میں سے کھیت پر پیمانے  
 چور و قوع کھیتوں کے ساتھ ساتھ کھیتوں میں سے کھیت پر پیمانے  
 ٹوٹوں میں سے کھیتوں کے ساتھ ساتھ کھیتوں میں سے کھیت پر پیمانے

خط عالی

نقل پر  
 12

## N.W.F.-P. POLICE RULES, 1975

(1) When information of misconduct, or any act of omission or commission on the part of a Police officer liable for punishment provided in these rules is received by the authority, the authority shall examine the information and may conduct or cause to be conducted quick brief inquiry, if necessary, for proper evaluation of the information and shall decide whether the misconduct or the act of omission or commission referred to above should be dealt with in a Police Summary Proceedings, in the Orderly Room or General Police Proceedings :

(2) In case the authority decides that the misconduct is to be dealt with in Police Summary Proceedings he shall proceed as under :—

- (i) The accused officer liable to be dealt with in the Police Summary Proceedings shall be brought before the authority in an Orderly Room.
- (ii) He shall be apprised by the authority orally the nature of the alleged misconduct, etc. The substance of his explanation for the same shall be recorded and if same is found unsatisfactory, he will be awarded one of the minor punishments mentioned in these rules.
- (iii) the authority conducting the Police Summary Proceedings may, if deemed necessary, adjourn them for a maximum period of 7 days to procure any additional information.

(3) If the authority decides that the misconduct or act of omission or commission referred to above should be dealt within General Police Proceedings he shall proceed as under :—

- (a) The authority shall determine if in the light of facts of the case or in the interests of justice, a departmental inquiry, through an inquiry officer is necessary. If he decides that it is not necessary, he shall ;
- (b) by order in writing, inform the accused of the action proposed to be taken in regard to him and the grounds of the action ; and
- (c) give him a reasonable opportunity of showing cause against the action :

Provided that no such opportunity shall be given where the authority is satisfied in the interest of a security of Pakistan or any part thereof it is not expedient to give such opportunity.

(4) If the authority decides that it is necessary to have departmental inquiry conducted, through an inquiry officer, he shall appoint for this purpose an inquiry officer, who is senior in rank to the accused.

(5) On receipt of the findings of the inquiry officer, or where no such officer is appointed, on receipt of the explanation of the accused, if any, the authority shall determine whether the charge has been proved or not. In case the charge is proved the authority shall award on or more of major or minor punishments as deemed necessary.

**6. Procedure of Departmental Inquiry.**—Where an Inquiry officer is appointed the authority shall—

- (a) frame a charge and communicate it to the accused together with statement of the allegations explaining as the charge and of any other relevant circumstances which are proposed to be taken into consideration ;

(d) is engaged, or is reasonably suspected of being engaged, in subversive activities or is reasonably suspected of being associated with other engaged in subversive activities or is guilty of disclosures of official secrets to any unauthorised person, and his retention in service is, therefore, prejudicial to national security, the authority may impose on him one or more punishments.

4. **Punishment.**—(1) The following are the minor and major punishments, namely :—

(a) **Minor punishments**—

- (i) Confinement of constables and head constables for 15 days to Quarter Guards ;
- (ii) Censure ;
- (iii) Forfeiture of approved service upto 2 years ;
- (iv) Withholding of promotion upto one year ;
- (v) Stoppage of increment for a period not exceeding 3 years with or without cumulative effect ;
- (vi) Fine upto Rs. 1,000.

(b) **Major Punishments**—

- (i) Reduction in rank/pay.
- (ii) Compulsory retirement ;
- (iii) Removal from service ; and
- (iv) Dismissal from service.

(2) (a) Removal from service does not, but dismissal from service does, disqualify for future employment.

(b) Reversion from an officiating rank is not a punishment.

(3) In this rule, removal or dismissal from service does not include the discharge of a person—

- (a) appointed on probation, during the period of probation, or in accordance with the probation or training rules applicable to him ; or
- (b) appointed, otherwise than under a contract, to hold a temporary appointment on the expiration of the period of appointment ; or
- (c) engaged under a contract, in accordance with the terms of the contract.

4-A. In case a Police Officer is accused of subversion, corruption or misconduct, the Competent Authority may require him to proceed on leave or suspend him.

5. **Punishment proceedings.**—The punishment proceedings will be of two kinds *i.e.* (a) Summary Police Proceedings ; and (b) General Police Proceedings and the following procedure shall be observed when a Police Officer is proceeded against under these rules :—

ORDER.

My this order will dispose off the appeal preferred by Ex- Recruit Constable Raz Muhammad No. 1362 of Mardan District Police against the order of dismissal issued by the District Police Officer, Mardan vide OB: No. 3286 dated 11.12.2012.

Facts of the case are that he while posted at Police Lines, Mardan was found involved in immoral activities by having illicit relations with one Mst. Farida wife of unknown resident of Oach Erab, who admitted his illegal act. SHO Police Station Par Hoti incorporated the said report in DD vide No. 05 dated 29.11.2012.

From the perusal of his service record, he was found enlisted in Police force on 01.10.2012.

So keeping in view his short duration of service and involvement in such like shameful acts, his retention in Police Service shall certainly affect the dignity and image of Police Force as well as his colleagues. Therefore the competent authority dismissed him from service under Police 12.21, the appellant then lodged the instant appeal.

I have perused the service record and also heard the appellant in person in Orderly Room on 23.01.2013 but failed to justify his innocence and could not produce any cogent reason about his innocence. Therefore, I **ABDULLAH KHAN KHAN (PSP)** Deputy Inspector General of Police, Mardan Region-I, Mardan in exercise of the powers confined upon me rejected the appeal and do not interfere the order passed by the competent authority issued vide OB: No. 3286 dated 11.12.2012, hence the appeal is filed.

ORDER ANNOUNCED.

*(Signature)*  
(ABDULLAH KHAN)PSP  
Deputy Inspector General of Police,  
Mardan Region-I, Mardan.

No. 388 /ES, Dated Mardan the 4/2 /2013.

Copy to District Police Officer, Mardan for information and necessary action w/r to his office memo: No. 27/LB dated 16.01.2013. He may be informed accordingly

His Service Record are returned herewith.

(S. R. K. P. M.)  
(\*\*\*\*\*)

161  
7/2/13

EC/OAS  
For retention

DPO Mardan  
6/2/13

In Re: SERVICE APPEAL NO: 524/2013

Raz Muhammad .....v/s.....D.P.O Mardan etc.

REJOINDER ON BEHALF OF THE APPELLANT.

Reply to preliminary objection:

1. The appellant have got a valid cause of action, the present appeal is not bad in its present form and is maintainable too.
2. That the appellant has come to this Hon'able Tribunal with clean hands, have concealed nothing from this Hon'able Tribunal and is not estopped by his conduct to bring the present appeal.

REPLY TO FACTS/GROUNDS

All the objections raised by the respondents are incorrect and thus denied. The respondents have not denied the pleas taken by the appellant. Even the comments of respondents are full of contradiction thereby admitting the appellant version. The respondents have admitted that mandatory provision of law have been violated by them, and no charge sheet, show cause notice were issued to the appellant. They have also admitted that no inquiry in the matter was conducted and that the action was taken under Police Rule 1975 which is not maintainable in law the impugned order <sup>is</sup> as such void abinitio.


The respondents have also admitted that the action against the appellant is based on malafide.

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

  
Appellant,

Through:

Dated: 07.11.2013

  
(FAZAL SHAH MOHMAND)  
Advocate, Peshawar.

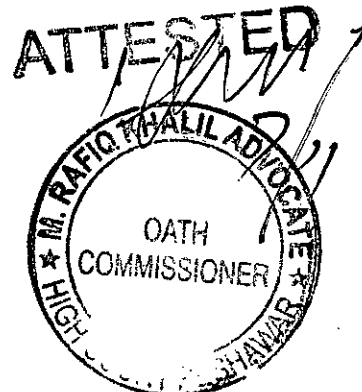
AFFIDAVIT

It is solemnly affirm and declare on Oath that the contents of the instant rejoinder are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'able Tribunal.

Dated: 7.11.2013

  
DEPONENT.

Raz Muhammad  
Ex-Constable No. 1362  
(Appellant)



In Re: SERVICE APPEAL NO: 524/2013

Raz Muhammad .....v/s.....D.P.O Mardan etc.

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

  
Appellant.

Through:

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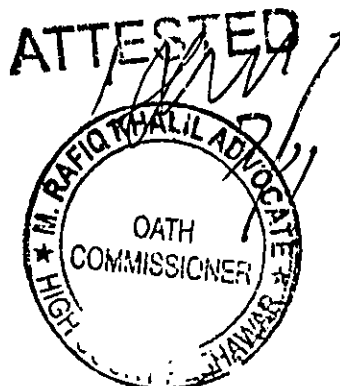
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Dated: 7.11.2013

  
DEPONENT.

Raz Muhammad  
Ex-Constable No. 1362  
(Appellant)





In Re: SERVICE APPEAL NO: 524/2013

Raz Muhammad .....v/s.....D.P.O Mardan etc.

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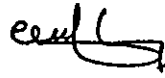
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It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for.

  
Appellant,

Through:

Dated: 07.11.2013

  
(FAZAL SHAH MOHMAND)  
Advocate, Peshawar.

AFFIDAVIT

It is solemnly affirm and declare on Oath that the contents of the instant rejoinder are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'able Tribunal.

Dated: 7.11.2013

  
DEFONENT.

Raz Muhammad  
Ex-Constable No. 1362  
(Appellant)

ATTESTED



In Re: SERVICE APPEAL NO: 524/2013

Raz Muhammad .....v/s.....D.P.O Mardan etc.

REJOINDER ON BEHALF OF THE APPELLANT.

Reply to preliminary objection:

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All the objections raised by the respondents are incorrect and thus denied. The respondents have not denied the pleas taken by the appellant.

Even the comments of respondents are full of contradiction thereby admitting the appellant version.

The respondents have admitted that mandatory provision of law have been violated by them, and no charge sheet, show cause notice were issued to the appellant.

They have also admitted that no inquiry in the matter was conducted and that the action was taken under Police Rule 1975 which is not maintainable in law the impugned order as such void abinitio.


The respondents have also admitted that the action against the appellant is based on malafide.

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

  
Appellant,

Through:

Dated: 07.11.2013

  
(FAZAL SHAH MOHMAND)  
Advocate, Peshawar.

AFFIDAVIT

It is solemnly affirm and declare on Oath that the contents of the instant rejoinder are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'able Tribunal.

Dated: 7.11.2013

  
DEPONENT.

Raz Muhammad  
Ex-Constable No. 1362  
(Appellant)

ATTESTED



**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

No. 849 /ST

Dated 20/5/2016

To


The DPO,  
Mardan.

Subject: -

**JUDGMENT**

I am directed to forward herewith a certified copy of Judgement dated 16 .5.2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.

1997 P L C (C. S.) 693

[Service Tribunal Punjab]

Before Safdar Hussain Shah Jafri, Member-I

**RASHID ALI**

versus

**SUPERINTENDENT OF POLICE, HEADQUARTERS, LAHORE  
and 2 others**

Appeal No. 1408 of 1994, decided on 24th October, 1996.

**Police Rules, 1934---**

----R. 12.21---Punjab Police (Efficiency and Discipline) Rules, 1975,  
R.6---Discharge from service---Civil servant who was police constable  
was discharged from service on allegations that he quarrelled with a Head  
Constable and also absented himself from duty for about six  
months---Civil servant conceded that he quarrelled with Head Constable  
as he had lost temper when Head Constable insulted him, but he asserted  
that penalty of "discharge" from service could have legally be imposed on  
him only if his work and conduct remained unsatisfactory during three  
years period of his probation---Civil servant had further contended that  
provision of R. 12.21 of Police Rules, 1934 could not legally be invoked in  
his case when a specific charge of misconduct had been brought against  
him in which procedure laid down under Punjab Police (Efficiency and  
Discipline) Rules, 1975 alone could have been followed---Contention of  
civil servant having force, penalty of discharge from service imposed on  
him could not be sustained in law--Civil servant was ordered to be  
re-instated, but in view of allegation of misconduct, penalty of forfeiture of  
two years' approved service was imposed on him.

Muhammad Yasin Bhatti for Appellant. Manzoor Hussain Bhatti, District  
Attorney for Respondents.

Date of hearing: 17th September, 1996.

## **JUDGMENT**

The appellant was discharged from service under Rule 12.21 of the Punjab  
Police Rules, 1934 as he had served for a period of less than 3 years when,  
according to the statement of the respondents, he was involved in a quarrel  
with a Head Constable, the rifle in his custody fell down and fired although  
the Head Constable luckily escaped. He also absented himself from duty

from 25-7-1992 till he was discharged from service vide order dated 31-1-1993 passed by the Superintendent of Police (Hqs.), Lahore. His appeal was rejected by the D.I.-G. of Police, Lahore Range on 3-10-1993 and his revision petition met the same fate on 15-9-1994 at the hands of the Additional I.-G. Police, Punjab, Lahore.

2. The appellant conceded in the course of hearing of the instant appeal that he had lost temper as the Head Constable Qurban Ali had insulted him. The appellant recants but asserts that the penalty of "discharge" from service could have legally been imposed on the appellant had his work and conduct remained unsatisfactory during the 3 years period of his probation; that the provisions of Rule 12.21 of the Police Rules could not have legally been invoked in the instant case in which a specific charge of misconduct was brought against the appellant as in that case, the procedure laid down under the Punjab Police (Efficiency and Discipline) Rules, 1975 alone could have been followed if it was intended to clothe the proceedings against the p appellant with any semblance of legality.

3. In view of the foregoing, I am of the considered view that the penalty imposed on the appellant could not be sustained in law. However, the fact remains that the appellant had misconducted himself even if it is assumed that he was driven to a state of mind by the given circumstances. The mischief of the moment must be discounted while the appellant should be appropriately reprimanded so that it continues to remind him of the consequences of the loss of self-control on his part.

4. In view of the foregoing, I accept the appeal, set aside the impugned orders and reinstate the appellant in service with the stipulation that the penalty of forfeiture of 2 years' approved service shall be imposed on the appellant. The period during which he has remained out of service since he was discharged till he resumes duty shall be treated as leave subject to title.

5. The parties are left to bear their own costs.

H.B.T./524/Sr.P  
accepted.

Appeal