

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	25.01.2016	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>CAMP COURT D.I KHAN.</u></p> <p style="text-align: center;">APPEAL NO.949/2013</p> <p style="text-align: center;">(Sana Ullah-vs- District Police Officer, D.I. Khan and others.)</p> <p style="text-align: center;"><u>ORDER</u></p> <p style="text-align: center;"><u>PIR BAKHSH SHAH, MEMBER:</u></p> <p>Counsel for the appellant (Mr. Abdul Rashid Khan, Advocate) and Mr. Farhaj Sikandar, GP for respondents present.</p> <p>2. The instant appeal has been filed by the appellant under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act-1974 against the impugned orders/decisions of respondent No.3 dated 15.03.2013, respondent No.2 dated 01.08.2012 and respondent No.1 dated 06.04.2012, whereby appellant was reverted from the post of Head Constable to Constable. He has prayed that on acceptance of this appeal the impugned orders/decisions of respondent No.1 to 3 may be set aside and the appellant may kindly be restored to his original post as Head Constable with full back benefits since from date of his reversal.</p> <p>3. During the course of arguments it was resolved that as time ^{period} for the impugned reversion of the appellant from the post of Head Constable to Constable has not been expressly mentioned as per F.R.29, therefore, the</p>

may
impugned order ~~be~~ modified so that the period may be fixed. Accordingly,
the demotion period is fixed for three years effective from the date of
passing of the original impugned order. Appeal is disposed of accordingly.
Parties are left to bear their own costs. File be consigned to the record.



(ABDUL LATIF)
MEMBER



(PIR BAKHSH SHAH)
MEMBER

ANNOUNCED
25.01.2016

949/13

25.05.2015

Junior to counsel for the appellant and Mr. Farhaj Sikandar, GP for the respondents present. Due to general strike of the legal fraternity, counsel for the appellant is not available. To come up for arguments at camp court, D.I.Khan on 27.10.2015 at camp court, D.I.Khan.



MEMBER
Camp court, D.I.Khan

27.10.2015

Appellant with counsel and Mr. Farhaj Sikandar, GP with Attaullah, SI (Legal) for the respondents present. The Bench is incomplete, therefore, case to come up for arguments at camp court, D.I.Khan on 25-1-16.



MEMBER
Camp court, D.I.Khan

27-5-2014. Appellant in person and Nazir Ahmed
H.C. for respondents with G.P. present. Reply
received copy whereof is handed over to
appellant for rejoinder, if any. To come up for
rejoinder on 30-9-2014 at Camp Court, D.I.K.

Member
Camp Court, D.I.K.

30-9-14. Counsel for the appellant present.
Nazir Ahmed, H.C. for respondents with G.P. present.
Case adjourned to 24-11-2014 for rejoinder at
Camp Court, D.I.Khan.

Leahy
Registrar
Camp Court, D.I.K.

24-11-14.

Appellant in person and Nazir Ahmed, H.C.
for respondents with G.P. present. Since the Libramal
is incomplete, therefore, this case is adjourned to
23-2-15 for rejoinder at Camp Court, D.I.K.

Leahy
Registrar
Camp Court, D.I.K.


23-2-15.

Present as before i.e. 24-11-2014. Rejoinder filed.
Copy whereof is handed over to G.P. for argument.
To come up for argument on 25-5-2015 at Camp
Court, D.I.Khan.

Member
Camp Court, D.I.K.

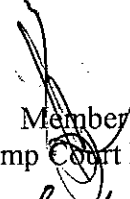
16.01.2014

Counsel for the appellant present and submitted an application for early hearing. Case file requisitioned. Preliminary arguments heard. During the course of arguments the learned counsel for the appellant filed an application for condonation of delay. He requested for adjournment and stated that the instant appeal may fix for preliminary hearing at camp court D.I. Khan. To come up for preliminary hearing at camp court D.I. Khan on 24.02.2014.



Member

24.2.2014

Appellant with counsel present and heard. The learned counsel argued that appellant has not been treated in accordance with law. Points raised in the memo of appeal would require consideration. Admit. Process fee and security within 10 days. Thereafter, notices to the respondents for submission of written reply on 24.3.2014 Camp Court D.I.Khan.


Member
Camp Court D.I.Khan

Counsel for the appellant and Nazir Ahmad H.C. with G.P. for respondents present. No written reply not received. To come up for written reply on 27-5-2014 at Camp Court, D.I. Khan.


Member
Camp Court, D.I.K.

Appellant deposited security of process fee amounting to Rs. 180/- in the State Bank of Pakistan, Pakistan.

24-3-2014

FORM "A"

FORM OF ORDER SHEET

Court of.....

Case No. 949/2013 of.....

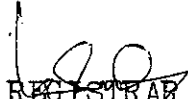
Serial No. of Order or Proceedings 1	Date of Order or Proceedings 2	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary 3
1-	06/06/2013	<p>The appeal of Mr. Sannaullah resubmitted today by Mr. Abdur Rashid Khan Advocate, may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2-	27-8-2013	<p>This case is entrusted to touring Bench D.I.Khan for preliminary hearing to be put up there on <u>24-9-2013</u></p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>
3-	24-9-2013	<p>Counsel for the appellant present and requested for adjournment. To come up for preliminary hearing on <u>26-11-2013</u> at camp court, D.I.Khan.</p> <p style="text-align: right;"><i>[Signature]</i> Member Camp Court, D.I.Khan</p>
4-	26-11-2013	<p>Tour to D.I.Khan has been discontinued vide order dated 31-10-2013. Therefore notice be issued to the appellant/counsel for preliminary hearing on <u>20-1-2014</u> at Peshawar.</p> <p style="text-align: right;"><i>[Signature]</i> Registrar</p>

Serial No. of Order or Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3

The appeal of Mr. Sana Ullah son of Muhammad Ramzan received today i.e. on 06/06/2013 is returned to the counsel for the appellant for completion and resubmission within 15 days:-

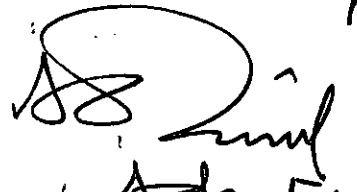
Copy of departmental appeal mentioned in the memo of appeal is not attached with the appeal which may be placed on it.

NO. 862/S.T.,
Dt. 06/06/2013.


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

ABDUL RASHEED KHAN ADV.

Sir, At the time of presentation of appeal, appellant has not retained copy with him however after the dismissal of appeal when appellant applied for the attested copies of the record the office of the P.P.O. issued only copy of order of the respondent No. 2 as such I can not provide the copy of appeal which is to be filed later on after the appearance of the respondent.


Advocate
6-6-13

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

Service Appeal No. 949 /2013

Sana Ullah

VERSUS

The D.P.O etc

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Your Humble Appellant


Sana Ullah

Through counsel


ABDULRASHID KHAN

Advocate Supreme Court
of Pakistan.

Dated: 05/06/2013

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

Service Appeal No. 949/2013

1015
06-0-13

Sana Ullah S/o Mohammad Ramzan caste Gager R/o Village Paroa, Presently Constable No. 676 Police Station Daraban District Dera Ismail Khan.

.....(Appellant)

VERSUS

1. The District Police Officer, Dera Ismail Khan.
2. The Deputy General of Police D.I.Khan range, D.I.Khan.
3. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

.....(Respondents)

**APPEAL U/S 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL
ACT, 1974, AGAINST THE IMPUGNED
ORDERS/DECISIONS OF RESPONDENT
NO. 3 DATED 15/03/2013,
RESPONDENT NO. 2 DATED
01/08/2012 AND RESPONDENT NO. 1
DATED 06/04/2012 WHEREBY
APPELLANT WAS REVERTED FROM
HEAD CONSTABLE TO CONSTABLE.**

Respectfully sheweth:-

1- That appellant was appointed as constable in the year 1991, in D.I.Khan and was performance his duties with great zeal and due to his good performance he was promoted as head constable in the year 1999 and was performing his duties on Police Station Chowdhwan.

Hand to file
6/6/13

2- That during the course of his entire service of 20 years. There was no complaint against him, but unfortunately when he was posted at Police Station Chowdhwan as head constable on 09/11/2011 Ex.S.H.O of Police Station Chowdhwan namely

Re-submitted to file
and filed.

6/6/13

Fazal Raheem Khan impounded a Parado Jeep bearing Registration No. SX-393/Islamabad, engine No. SVZ-1676393 and chases No. VZ1120-0004222 U/S 523, 550 Cr.P.C and during its investigation appellant was given a verification letter No. 1721/MB dated 15/11/2011 in order to get verified the said registration of the above vehicle from the office of E.T.O Islamabad.

- 3- That appellant after getting the verification letter from E.T.O Islamabad in respect of the above stated vehicle handed it over to the S.H.O, being not satisfied with said report, the S.H.O obtain the second opinion from the E.T.O Islamabad and according to which the concern authorities declared the first verification of the said vehicle as bogus, but instead of taking any inquiry in respect thereof, the S.H.O concerned namely Fazal Khan who was not in good terms with the appellant submitted a report to the high-up's for initiating Departmental Action against the appellant.
- 4- That in connection of Departmental proceedings on 23/01/2012 appellant was conveyed with a charge sheet as well as statement of allegations wherein appellant was directed to appear before D.S.P Paroa / Inquiry Officer in respect of Departmental Inquiry, as such the appellant appeared before the inquiry Officer within stipulated period and submitted his written reply. Copies of charge sheet, statement of allegations and written reply on behalf of appellant are attached as **Annexure "A to A/2"**.
- 5- That the said inquiry officer without touching the merit of the case and without giving opportunity of proper hearing to the appellant prepared his report after calling the formal witnesses wherein appellant was held responsible for the said negligence and submitted it to respondent No.1 who vide his impugned order dated 06/04/2012 while exercising his powers under KPK removal from service (special powers) Ordinance, 2000 amendment Act, 2005, by awarding major punishment reverted the appellant from head constable to constable. Copy of order dated

06/04/2012 of respondent No.1 conveyed to the appellant on 20/04/2012 is attached as **Annexure "B"**.

6- That aggrieved from the impugned order dated 06/04/2012 of respondent No.1 appellant preferred an appeal to respondent No.2 which also met the same fate vide order dated 01/08/2012 of respondent No.2. Copy of impugned order dated 01/08/2012 conveyed to the appellant on 13/09/2012 is enclosed as **Annexure "C"**.

7- That not satisfied with the orders of respondent No.2 appellant was obliged to seek indulgence of respondent No.3 being the provincial head and therefore preferred review petition against both the impugned orders of respondent No.1 and 2 who vide his order dated 15/03/2013 rejected the same by holding that there is no provisions in rules regarding mercy petition. Copies review petition and order dated 15/03/2013 respondent No.3 conveyed to the appellant on 29/04/2013 is enclosed as **Annexure "D & D/1"**.

8- That feeling aggrieved from the impugned orders / decisions of the Departmental authorities i.e respondent No.1 to 3 of imposition of major penalty of reverting from the rank of head constable to constable, the appellants has no other way except to knock the doors of this Honourable Tribunal enter alia on the following grounds:-

GROUND:-

a) That all the proceedings initiated by respondent No.1 under the provisions of KPK removal from service (Special Power) ordinance 2000, read with amendment Act 2005 are illegal, unconstitutional, malafidy, arbitrary, void abinitio, without lawful authority, without jurisdiction and inoperative upon the rights of appellant as the appellant was an employee of discipline force called and known as Police force and if he has to be proceeded then the proper course was to take Departmental Action Under the provision of KPK Police Service Rules, 1975.

- b)** That it is a settled principle of law that when special law is available then the General law has no applicability and it must be displaced beside this respondent No. 1 used the words "Reversion" instead of reduction in his order. The reversion from offgg; rank is no punishment under the category of punishment. Hence the order of respondent No.1 is also be liable to set-aside on this count to.
- c)** That the impugned actions / order of reversal from head constable to constable of appellant and dismissal of appeal as well as representation and review petition by the respondents are against the law, justice and facts as the appellant was condemned on heard from beginning to the end.
- d)** That the impugned decision / orders of respondents are not sustainable under the law as no Govt; Servant can be punished without holding regular inquiry and without providing an opportunity of personal hearing but the appellant was punished without observing all these legal and mandatory formalities as required by law.
- e)** That the appellant has been matted out discriminatory treatment and has not been treated under the law as required under the provisions of fundamental rights guaranteed by the constitution of Islamic Republic of Pakistan.
- f)** That the order of respondent No.1 to 3 are against law and facts as neither the appellant was associated in the so-called inquiry proceedings nor the witnesses were examined in his presence, beside all these illegalities appellant was panelized by awarding major punishment and was reverted to constable.
- g)** That this Honourable Tribunal is creation of constitution under which fundamental rights of the citizens are protected and having vast constitutional powers is competent to correct failure, dereliction of duty, latches, defects in jurisdiction, denial of justice, bias or disability and to set-aside/struck down all illegal and without

lawful authority orders of the Departmental authorities including the respondents.

- h) That it is also settled principle of law that when the initial order is void then the superstructure built thereon shall have to fall on the grounds automatically.
- i) That counsel for the appellant may please be allowed to raise additional grounds during the course of arguments.

It is, therefore, humbly prayed that on acceptance of the instant appeal, this Honourable Tribunal may very graciously be set-aside all the impugned orders/decisions of respondent No.1 to 3 and the appellant may kindly be restored to his original post as head constable with full back benefits since from date of his reversal. Any other relief deemed appropriate in the prevailing circumstance may also be granted.

Your Humble Appellant



Sana Ullah


Through counsel

Dated: 05/06/2013


ABDUL RASHID KHAN
Advocate Supreme Court
of Pakistan.

AFFIDAVIT:

I **Sana Ullah** S/o Mohammad Ramzan R/o Dera Ismail Khan, do hereby solemnly affirm declared on oath that contents of the above **Appeal** are true and correct to the best of my knowledge and belief nothing has been concealed from this Honourable Tribunal.


k. s.
SAEIM BALOCH ADV.
R.O & A.C.
Oath Commissioner D.I. Khair
05-6-2013


Deponent

Annex A
Page 6

CHARGE SHEET

I, SOHAIL KHALID, District Police Officer, DIKhan as competent authority, hereby charge you HC Sana Ullah, 676 as follow:

You while posted at Police Station Choudhwan DIKhan, deputed to EDO Office Islamabad for verification of vehicle No. SX-393/Islamabad on 14.11.2011 and you brought a bogus report which was later-on confirmed from the quarter concerned. This act on your part amounts to gross misconduct which is punishable under the rules.

2. By reasons of the above, you appear to be guilty of misconduct and negligence under section-3 of the Khyber Pakhtunkhwa, Removal from Service (Spl. Power) Ord: 2000 (Amendment Act 2005), and have rendered yourself liable to all or any of the penalties in section-3 of the Ordinance ibid.

3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the Enquiry Officer/Committee, as the case may be.

4. Your written defence, if any, should reach the enquiry office/committee within the specified period, failing which it shall be presumed that you have no defence to put in and that in case exparte action shall follow against you.

5. Intimate whether you desire to be heard in person.

6. A statement of allegations is enclosed

District Police Officer,
Dera Ismail Khan
[Signature]

*Attnal
S. Sanyal*

Forwarded for
Enquiry

[Handwritten notes and signatures]

3
6
1/2

DISCIPLINARY ACTION

Annexure A/1
Page 2

I, **SOHAIL KHALID**, District Police Officer, Dera Ismail Khan as a competent authority am of the opinion that you **HC Sara Ullah, 676** are liable to be proceeded against and committed the following acts/omissions within the meaning of section 3 of the Khyber Pakhtunkhwa Removal from Service (Spl. Power) Ord: 2000 (Amendment Act 2005).

STATEMENT OF ALLEGATION

You while posted at Police Station Choudhwan DIKhan, deputed to EDO Office Islamabad for verification of vehicle No. SX-393/Islamabad on 14.11.2011 and you brought a bogus report which was later-on confirmed from the quarter concerned. This act on your part amounts to gross misconduct which is punishable under the rules.

Hence the statement of allegation.

- For the purpose of scrutinizing the conduct of the said defaulter with reference to the above allegation **Mr. DSP / 20022** Dera Ismail Khan is appointed as enquiry officer to conduct proper departmental enquiry under section-3 of the ordinance.
- The enquiry officer shall in accordance with the provision of the ordinance, provide reasonable opportunity of the hearing to the defaulter, record its findings and make, within twenty-five days of the receipt of this order recommendations as to punishment or other appropriate action against the defaulter.
- The defaulter and a well conversant representative of the department shall join the proceedings on the date time and place fixed by the enquiry officers.

District Police Officer,
Dera Ismail Khan

2473-24

Dated DIKhan the 25 - 11 - 2012

- Copy to: **DSP / 20022** Dera Ismail Khan. The enquiry officer for initiating proceeding against the defaulter under the provision of Khyber Pakhtunkhwa Removal from Service (Special Powers) Ord: 2000 (Amendment Act 2005). Enquiry papers containing _____ pages are enclosed.
- HC Sara Ullah, 676** with the direction to appear before the E.O on the date, time and place fixed by the E.O, for the purpose of enquiry proceeding.

District Police Officer,
Dera Ismail Khan

[Handwritten signature]

Forwarded for
departmental Enquiry

[Handwritten notes]
May 15/16 Change Sheet

چارج شیڈیا، نمبر 74-2473 مورسی 25.1.2012 مشورہ معروض ہوں کہ سائل کی 20 سال سروس ہو رہی ہے۔ عرصہ 8 ماہ سے بطور IHC تھانہ بدھوان میں تعینات ہوں۔ مورخہ 9.11.11 کو سابقہ SHO فضل الرحیم خان نے بدوران گشت ایک پاراڈو جیپ نمبر 393/SX مشن ہر تہہ پاکر زیر قبضہ 523/550 ض۔ ف قبضہ پولیس کر کے پر دریافت شروع کی۔ متذکرہ گاڑی کی IETO اسلام آباد سے ویری فیکیشن کے لیے لیٹر میرے حوالے کیا۔ جس پر میں دفتر IETO اسلام آباد پہنچ کر لیٹر اگلے حوالے کیا۔ جنہوں نے بحوالہ لیٹر نمبر 1721/MV مورسی 15.11.11 میرے حوالے کی۔ جس پر جیپ پر لاڈوالال 2003 سروس نمبر 0004222-120-VZ1 انجن نمبر SVZ-1676393 ڈسٹریکشن نمبر SX393/Islamabad IETO اسلام آباد پر لاڈوالال کو SHO صاحب کوشش کیا۔ جنہوں نے دوبارہ تہہ کے لیے خود متعلقہ دفتر سے تصدیق کرائی۔ لہذا ہمیں نے رجسٹریشن کو بوجس تحریر کر دیا۔ جس پر SHO فاضل خان نے میرے خلاف رپورٹ افسران بالا کو بھجوائی۔ جس پر میرے خلاف محکمہ کارروائی کا حکم ہوا۔

1. یہ کہ سائل صاحب الحکم افسران بالا متذکرہ جیپ کی ویری فیکیشن کے لیے IETO اسلام آباد جا کر لیٹر اگلے حوالے کیا۔ جنہوں جو رپورٹ میرے حوالے کی وہ میں نے واپس آکر SHO صاحب و پیش کر دی۔
2. یہ کہ رپورٹ اگر غلط اور بوجس ہے تو آئیں جس نے مجھے رپورٹ دی تھی وہ ذمہ دار ہو سکتا ہے۔ اس میں میرا قصور تو نہیں میں لاعلم ہوں۔ اور بے گناہ ہوں۔

3. یہ کہ میری 20 سال سروس ہو رہی ہے اس قسم کی بددیانتی کر کے اپنی سروس کو داؤ پر نہیں اگا سکتا اور نہ ہی غلط کام کر سکتا ہوں۔ لاعلم اور بے گناہ ہوں۔

4. یہ کہ IETO دفتر نے جعلی رپورٹ جو میرے حوالے کی ہو سکتا ہے کہ مالک جیپ الزام علیہ دفتر ETO سے زابطہ کیا ہو اور انہوں نے مجھے جعلی رپورٹ میرے حوالے کی ہو۔ اس میں لاعلم اور بے گناہ ہوں۔

5. یہ کہ چاہیے یہ ایفا کہ متعلقہ اہلکار دفتر ETO کے خلاف کارروائی کی جاتی جس نے غلط رپورٹ تحریر کی ہے۔ مجھے بے گناہ ثابت کیا گیا جس سے میں لاعلم ہوں۔

یہ کہ مجھے ہاتھ نہیں تھا کہ مجھے غلط اور جعلی رپورٹ حوالے لگی گئی۔ ملتا رپورٹ دینے والا ذمہ دار ہو سکتا ہے۔

مافیہ ذہ!

میری گناہی نہ دس ہو چکی ہے۔ آج تک میں نے اپنی سروس میں کسی قسم کی کوتاہی یا غلط کام نہیں کیا۔ ریکارڈ صاف ظاہر ہے۔ خداوند کریم کو داخل جان کر اپنی بے گناہی کی صفائی پیش کر رہا ہوں۔ مجھے کسی قسم کا علم نہیں تھا کہ متعلقہ انچارج جعلی رپورٹ دے رہا ہے میں اس معاملہ میں بے گناہ ہوں۔ اپنی ہر قسم کی صفائی پیش کرنے کو تیار ہوں۔ میرے خلاف چارج ٹیٹ بنا اہل مزید کارروائی داخلی دفتر کرنے کا حکم صادر فرمایا جاوے۔

جنسور کی عین ماتحت پروری ہوگی۔

شاء اللہ 676/IHC متعینہ تھانہ چو ڈھران ڈیرہ اسماعیل خان

سید
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Annexure B
Page 9

ORDER

This order is aimed to dispose off the department proceeding against Head Constable Sana Ullah No. 676 on the charges that he while posted at PS/Choudhwan DIKhan, deputed to EDO Office Islamabad for verification of vehicle No. SX-393/Islamabad on 14.11.2011 and he brought a bogus report which was later-on confirmed from the quarter concerned.

The defaulter Head Constable was served with charge sheet/statement of allegations. An enquiry was conducted into the matter through Mr. Bahawal Khan, DSP/Paroa DIKhan. The Enquiry Officer in his finding the defaulter Head Constable found guilty of the charges levelled against him His reply to the charge sheet was received and placed on record.

In the light of above, I, SOHAIL KHALID, District Police Officer DIKhan in exercise of powers conferred upon me under the KPK Removal from Service (Spl: Powers) Ord: 2000, Amendment Act-2005, awarded against Head Constable Sana Ullah No. 676 Major punishment reverted from the rank of Head Constable to Constable with immediate affect.

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ORDER ANNOUNCED

Dated 06.04.2012

Ali...
6/4
District Police Officer,
Dera Ismail Khan

OB 753 ✓
DT 16-04-12

OFFICE OF THE DEPUTY INSPECTOR GENERAL OF POLICE

DERA ISMAIL KHAN:

APPELLATE AUTHORITY

Amir C¹
Page 10

ORDER:

This order is meant to dispose off the appeal preferred by Constable Sanaulah No.676 of DIKhan District against the order of major punishment i.e., reduction in rank, awarded to him by DPO DIKhan vide OB No.753 dated 16.04.2012. He was proceeded against on the basis of allegation that he while posted at Police Station Chaudhwan deputed to Excise & Taxation Office, Islamabad for verification of vehicle No. SX-393/Islamabad on 14.11.2011 and he brought a bogus and fictitious report which was later on confirmed as fake from the quarters concerned. DSP/Paroa DIKhan was appointed as Enquiry Officer, who after recording the statements of the concerned official found him guilty of the charges. The DPO/DIKhan awarded him a major punishment of reversion from the rank of Head Constable to Constable on the recommendation of Enquiry Officer.

The appellant Constable Sanaulah No.676 preferred the instant appeal against the order of DPO/DIKhan.

The perusal of the record shows that the appellant was deputed to Excise & Taxation Officer, Islamabad for the verification of vehicle No. SX-393/Islamabad. Interestingly, he came back with a report that the vehicle was genuine. On this, the concerned officers investigating the case got suspicious and sent it again for verification and got a report that the earlier report procured by the appellant was bogus. The fact that the appellant procured a bogus report gives rise to strong presumption that he was in league with some corrupt elements and managed to procure a false and fictitious report. Being a responsible officer, he should have gone to the ETO, Islamabad and should have got the vehicle checked as per rules and should have got a valid report but he instead fell play to some ulterior motives and managed a bogus report. The production of bogus report by him convincingly establishes that he was in league with authors/manufacturers of this bogus report.

Therefore, I QAZI JAMIL UR-REHMAN, Dy: Inspector General of Police, DIKhan Region in exercise of the power, conferred upon me and being a competent appellate authority find no substance in appeal, hold that DPO has correctly passed this order and therefore, this appeal is dismissed and filed.

Attested
(Signature)

(Signature)
(QAZI JAMIL UR-REHMAN)
Deputy Inspector General of Police
Dera Ismail Khan Region

No. 7015 IES, Dt: 08-08-2012

Copy to the District Police Officer, DIKhan for information with reference to his office Memo No. 97 Bred 29.05.2012.

Application presented on 26/12
Charge sheet submitted on 15-8-12
Judgment sent for copying on 13-9-12
Copy delivered on 13-09-12
Copy received on 13-09-12
Copy received on 13-09-12

Attested

(Signature)
Distt; Police Officer
Dera Ismail Khan

(Signature)
(QAZI JAMIL UR-REHMAN)
Deputy Inspector General of Police
Dera Ismail Khan Region

Annexure D
Page (11)

To: The Inspector General of Police K.P.K.

Subject: CONSTITUTION REVIEW PETITION AGAINST THE ORDER OF DPO DIKHAN VIDE OB NO.753 DATED 06/04/2012.

Sir,

Respectfully I beg to say the following few lines for your favorable and sympathetic consideration.

- i. I was appointed as constable in D.I.Khan District Police w.e from 07/08/1991 and qualified the recruit, Lower & Intermediate Course from the Police Training Collage Hangu with the entire satisfaction of my superiors.
- ii. While posted at PS/Chaudhwan, I was deputed to Islamabad with letter No.15747 dated 14/11/2011 issued from the office of D.P.O D.I.Khan to verify the Registration Book of Prado vehicle No. SX-393 from the office of Excise & Taxation Office Islamabad. The said letter of D.P.O D.I.Khan was handed over to the clerk concerned of the office of E.T.O Islamabad, who after checking the record or not given me a letter No.1721/MV dated 15/11/2011. I brought this letter to D.I.Khan and handed over to SI Fazal Rahim Khan at paroa. In the said letter the vehicle was shown as genuine according to record.
- iii. SI Fazal Rahim Khan found this letter as suspicious and again sent the letter to E.T.O Islamabad through investigating officer No.SX-393 was allotted to one Mehran Suzuki Motorcar and the letter brought by petitioner was not issued from the office of E.T.O Islamabad and is Bogus.
- iv. SI Fazal Rahim Khan sent report showing the above facts against me to the officers, on which I was charge sheeted. I submitted my reply that I am innocent in this case because I produced the letter of D.P.O D.I.Khan to the concerned clerk of the office of E.T.O Islamabad, who in turn given me the letter No.1721/HV dated 15/11/2011 which was brought by me and handed over to SI Fazal Rahim Khan.
- v. In pursuance of my above reply the D.P.O D.I.Khan appointed Mr. Bhawal Khan S.D.P.O Paroa for proper enquiry who after recording the statement of local officers/officials and found me guilty of the charge. The worthy D.P.O D.I.Khan on the basis of enquiry report awarded me Major punishment of reversion from the rank of Head Constable vide order dated 06/04/2012. I preferred an appeal to the worthy D.I.G D.I.Khan which was rejected.
- vi. According to my service record I was promoted as offg: Head Constable on two year probation vide OB No.459 dated 24/05/2007. In case I was promoted as HC on 2-yaers probation. I should have been confirmed as Head Constable from the date of probation, but no confirmation order

[Handwritten signature]

(12)


was issued by D.P.O D.I.Khan and therefore the order of D.P.O D.I.Khan regarding reversion of the rank of constable is null & void and ultra wire, discriminating and arbitrators on the following grounds:-

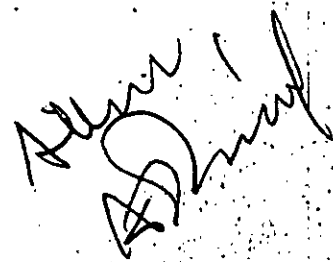
- a. The D.P.O D.I.Khan has used the word "Reversion" instead of reduction in his order. The reversion from offgg: rank is no punishment under the category of Major Punishment.
- b. The inquiry officer has not taken trouble to record the statement of clerk of the office of E.T.O Islamabad who was given by me the latter of D.P.O D.I.Khan and received a reply from him. I can identify that person to the E.O.
- c. The fictitious letter received by me might have been typed in the office of E.T.O Islamabad and type wording can we compared through the forensic science laboratory Peshawar.
- d. I have qualified the intermediate class course and my name exists in promotion list D.

It is therefore, requested that the order of D.P.O D.I.Khan may kindly be set aside and order from denove proceeding through the same inquiry officer.

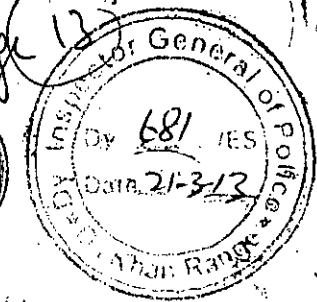
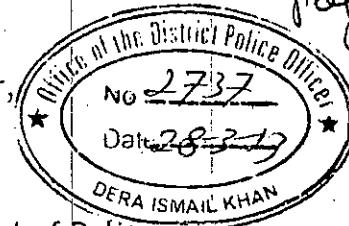
Thanking you in anticipation.

Yours obediently,


Constable Sanaulah No. 676
Police lines D.I.Khan.



Quarter D/13
Page 13



From : The Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.

To : The Deputy Inspector General of Police,
DIKhan Region.

No. 6432 /E-II dated Peshawar the 15 /3 /2013.

Subject: MERCY PETITION

Memo:

Sir,
PPs attached

Please refer to your office Memo: No. 510/ES dated: 06.02.2013.

The mercy petition of Constable Sanaullah No. 676 of District Police DIKhan for restoration to his original rank of HC has been examined and filed by this office as there is no provision in rules regarding mercy petition, he may be informed accordingly.

J

21/3

(Signature)
(JAVED IQBAL)
Registrar

For Provincial Police Officer,
Khyber Pakhtunkhwa
Peshawar

(Signature)
for action.

No. 975/ES dt. 22.3.2013

Copy to DPP DIKhan

for information w.r to his office memo:
No. 1958 dt. 28/1/13. The applicant
may be informed accordingly.

Distt. Police Officer
Dera Ismail Khan

20/3

PK
File SRC 9/4

(Signature)
D/G/O...
22/3

وکالت نامہ

قیمتی ایک روپیہ		کورٹ فیس
--------------------	--	-------------

بعدالت
 سر سید سید نور محمد
 منجانب
 نام D.P.O
 دعویٰ یا جرم
 تفصیل دعویٰ یا جرم

باعث تحریر آنگہ

مقدمہ مندرجہ بالا افغان میں اپنی طرف واسطے بیرونی و غیر بیرونی برائے پیشی یا تفسیر مقدمہ بنام **سید سید نور محمد** کیلئے

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں پیشی پر خود یا بڑا بڈریو روز بردہ معاملات حاضر ہونا کہوں گا اور ہر وقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا اگر پیشی پر مظہر حاضر نہ ہو اور مقدمہ بیرونی غیر حاضری کی وجہ سے کسی طور میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام چکھری کے علاوہ یا چکھری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل بیرونی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ صدر مقام چکھری کے علاوہ اور جگہ ساحت ہونے یا بروز تعطیل یا چکھری کے اوقات کے آگے یا پیچھے پیش ہونے پر مظہر کوئی نقصان پہنچے تو اس کے ذمہ دار یا اسکے واسطے کسی معاوضہ کے ادا کرنے یا محنت نہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے مجھ کو کل ساختہ پر داخستہ صاحب موصوف مثل کردہ ذات خود منظور قبول ہو گا اور صاحب موصوف کو عرض دعویٰ یا جواب دعویٰ یا درخواست اجراء اسمائے ذگری نظر ثانی اپیل گمرانی و ہر قسم درخواست ہر قسم کے بیان دینے اور پر ثانی یا راضی نامہ و فیصلہ برطرف کرنے اقبال دعویٰ کا بھی اختیار ہو گا اور بصورت مقرر ہونے تاریخ پیشی مقدمہ مذکور بیرون از چکھری صدر بیرونی مقدمہ مذکور نظر ثانی اپیل و گمرانی و برآمدگی مقدمہ یا منسوخی ذگری یک طرفہ یا درخواست حکم امتناعی یا قرتی یا گرفتاری نقل از فیصلہ اجراء ذگری بھی صاحب موصوف کو بشرط ادا نگلی علیحدہ مختصم بیرونی کا اختیار ہو گا اور تمام ساختہ پر داخستہ صاحب موصوف مثل کردہ از خود منظور و قبول ہو گا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہو کہ مقدمہ مذکورہ یا اس کے کسی جزو کی کارروائی یا بصورت درخواست نظر ثانی اپیل گمرانی یا دیگر معاملہ و قدمہ مذکورہ کسی دوسرے وکیل یا بیرسٹر کو اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے مشیر قانون کو بھی ہر امر میں وہی اور دیے اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا وہ صاحب موصوف کا حق ہو گا مگر صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہو گا کہ مقدمہ کی پوری نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا

لہذا وکالت نامہ لکھ دیا ہے تاکہ سند رہے
 مورخہ 6 مارچ 2013
 مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے

العبد
 سید نور محمد
 Acceptance
 حسن کا بیڑ سٹرائیڈ لون سن زرار کیٹ بالقائل جائز ہوں ڈیرہ اسماعیل خان فون: 714812

Regd

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR. *PH*

No.

949

13

APPEAL No..... of 20

Sana Ullah

Appellant/Petitioner

Versus

DPO DI Khan.

RESPONDENT(S)

Counsel

Abdul Rashid Khan.

Notice to Appellant/Petitioner

*Adv. Supreme Court of
Pakistan DI Khan.*

Take notice that your appeal has been fixed for Preliminary hearing, replication, Affidavit/counter affidavit/record/arguments/order before this Tribunal on *20/11/14* at *8:00 AM*

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

Fixed at Peshawar.



Registrar

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

Regd
No.

PH

APPEAL No. 949 of 2013

Sana Ullah

Appellant/Petitioner

Versus

D P O Dikhan

RESPONDENT(S)

✓
Notice to Appellant/Petitioner Sana Ullah s/o Mohammad
Ramzan # caste Gager R/o village Parod
Presently Constable No 676 Police Station Darban
DIST D I Khan.

Take notice that your appeal has been fixed for Preliminary hearing,
replication, affidavit/counter affidavit/record/arguments/order before this Tribunal
on 20/12/2014 at 8:00 AM

You may, therefore, appear before the Tribunal on the said date and at the said
place either personally or through an advocate for presentation of your case, failing
which your appeal shall be liable to be dismissed in default.

Fixed at Peshawar

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Before the Honorable Member Service Tribunal Reston
Samalleh vs District Police officer

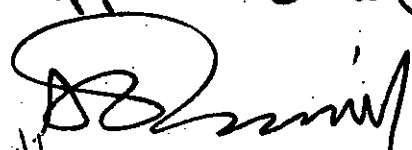
Application for fixation of above titled Appeal
for today due to non-availability of Appeal Council
on 20-1-14.

Respected Sir,

- 1) That the above titled appeal is pending before this Honorable Tribunal, the date of which is fixed on 20-1-14.
- 2) That on the date fixed by the Council of the appellant is engaged in case titled Haji Saimee vs KPIK, KPIK vs Haji Saimee, Sate vs Kamean before the Honorable High Court Bench D.I. Kame.
- 3) That in such like situation I can not appear before this Honorable Tribunal on the date fixed, as such this Honorable Tribunal has got the vast power to fix the above appeal today for Preliminary hearing instead of 20-1-14.

It is, therefore, humbly prayed that on acceptance of application the above titled Appeal may kindly be fixed today for Preliminary hearing for today before Honorable Tribunal

dated 16-1-14
File may be registered
for PH to day.

Appeal Council

Abdur Rashid
Advocate Supreme Court.

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

C.M No. _____/2013

Sana Ullah

VERSUS

The D.P.O etc

**PETITION U/S 5 OF THE LIMITATION
ACT CONTAINING THE REQUEST FOR
CONDONATION OF DELAY IN FILING
OF APPEAL.**

Respectfully sheweth:-

- 1-** That the appellant filed the above noted service appeal in this learned Tribunal which is fixed for preliminary hearing today on / /2013.
- 2-** That the impugned order of reversal from head constable to constable was passed on 06/04/2012 but was not communicated the appellant. Even then the Departmental appeal preferred by the appellant within time. However, the Review Petition was also filed within time brief facts are available in the main petition.
- 3-** That all the orders though was not communicated to the appellant officially but after obtaining the copies of which appellant filed Departmental appeal as well as review petition which are self explanatory. However, instead of filing appeal before this Honourable Tribunal appellant approached respondent No.3 by filing review petition as respondent No.3 is the highest Departmental authority in the Police hierarchy and the right and remedy of review is also provided Under the Civil Servant Act & K.P.K rules Police 1975. As such the appellant filed the review petition before the provincial head of Police being fully competent to redress the grievances of the petition.
- 4-** That if this learned Tribunal considers the appeal of the appellant is barred by time then keeping in view the circumstances and situation explained above, the delay

if any may please be condone in the interest of justice and fair play.

In view of the submissions made above it is therefore, humbly prayed that this Honourable Tribunal may very graciously be pleased to condone the delay if any in filing of appeal in the interest of justice.

Your Humble Appellant

Sana Ullah

Sana Ullah

Through counsel

Dated: 05/06/2013

ABDUL RASHID KHAN

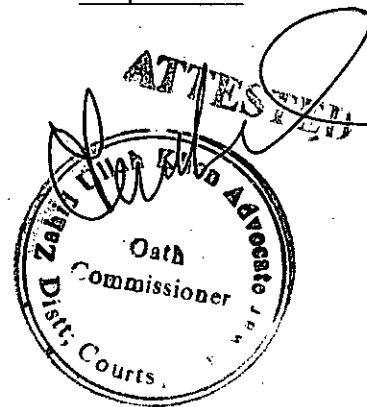
Advocate Supreme Court
of Pakistan.

AFFIDAVIT:

I **Sana Ullah** S/o_Mohammad Ramzan R/o Dera Ismail Khan, do hereby solemnly affirm declared on oath that contents of the above **Application** are true and correct to the best of my knowledge and belief nothing has been concealed from this Honourable Tribunal.

Sana Ullah

Deponent



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

C.M No. _____/2013

Sana Ullah

VERSUS

The D.P.O etc

**PETITION U/S 5 OF THE LIMITATION
ACT CONTAINING THE REQUEST FOR
CONDONATION OF DELAY IN FILING
OF APPEAL.**

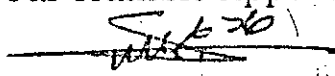
Respectfully sheweth:-

- 1-** That the appellant filed the above noted service appeal in this learned Tribunal which is fixed for preliminary hearing today on 26/11/2013.
- 2-** That the impugned order of reversal from head constable to constable was passed on 06/04/2012 but was not communicated to the appellant. Even then the Departmental appeal preferred by the appellant within time. However, the Review Petition was also filed within time brief facts are available in the main petition.
- 3-** That all the orders though was not communicated to the appellant officially but after obtaining the copies of which appellant filed Departmental appeal as well as review petition which are self explanatory. However, instead of filing appeal before this Honourable Tribunal appellant approached respondent No.3 by filing review petition as respondent No.3 is the highest Departmental authority in the Police hierarchy and the right and remedy of review is also provided Under the Civil Servant Act & K.P.K rules Police 1975. As such the appellant filed the review petition before the provincial head of Police being fully competent to redress the grievances of the petition.
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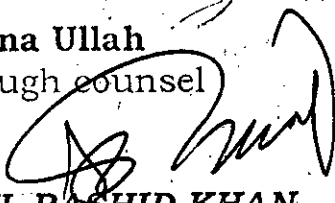
In view of the submissions made above it is therefore, humbly prayed that this Honourable Tribunal may very graciously be pleased to condone the delay if any in filing of appeal in the interest of justice.

Your Humble Appellant


Sana Ullah

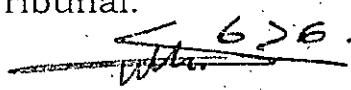
Through counsel

Dated: 05/06/2013


ABDUL RASHID KHAN-
Advocate Supreme Court
of Pakistan.

AFFIDAVIT:

I **Sana Ullah** S/o Mohammad Ramzan R/o Dera Ismail Khan, do hereby solemnly affirm declared on oath that contents of the above **Application** are true and correct to the best of my knowledge and belief nothing has been concealed from this Honourable Tribunal.


Sana Ullah
Deponent

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

C.M No. _____/2013

Sana Ullah

VERSUS

The D.P.O etc

**PETITION U/S 5 OF THE LIMITATION
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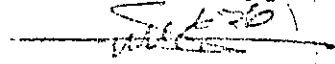
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- 2-** That the impugned order of reversal from head constable to constable was passed on 06/04/2012 but was not communicated to the appellant. Even then the Departmental appeal preferred by the appellant within time. However, the Review Petition was also filed within time brief facts are available in the main petition.
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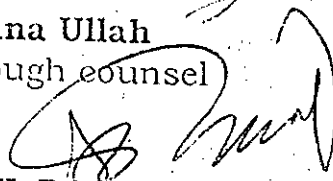
if any may please be condone in the interest of justice and fair play.

In view of the submissions made above it is therefore, humbly prayed that this Honourable Tribunal may very graciously be pleased to condone the delay if any in filing of appeal in the interest of justice.

Your Humble Appellant



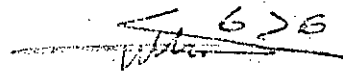
Sana Ullah
Through counsel


ABDUL RASHID KHAN
Advocate Supreme Court
of Pakistan.

Dated: 05/06/2013

AFFIDAVIT:

I Sana Ullah S/o Mohammad Ramzan R/o Dera Ismail Khan, do hereby solemnly affirm declared on oath that contents of the above **Application** are true and correct to the best of my knowledge and belief nothing has been concealed from this Honourable Tribunal.

 626

Deponent

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

C.M No. _____/2013

Sania Ullah

VERSUS

The D.P.O etc

**PETITION U/S 5 OF THE LIMITATION
ACT CONTAINING THE REQUEST FOR
CONDONATION OF DELAY IN FILING
OF APPEAL.**

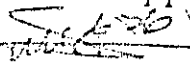
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- 1-** That the appellant filed the above noted service appeal in this learned Tribunal which is fixed for preliminary hearing today on 26/11/2013.
- 2-** That the impugned order of reversal from head constable to constable was passed on 06/04/2012 but was not communicated to the appellant. Even then the Departmental appeal preferred by the appellant within time. However, the Review Petition was also filed within time brief facts are available in the main petition.
- 3-** That all the orders though was not communicated to the appellant officially but after obtaining the copies of which appellant filed Departmental appeal as well as review petition which are self explanatory. However, instead of filing appeal before this Honourable Tribunal appellant approached respondent No.3 by filing review petition as respondent No.3 is the highest Departmental authority in the Police hierarchy and the right and remedy of review is also provided Under the Civil Servant Act & K.P.K rules Police 1975. As such the appellant filed the review petition before the provincial head of Police being fully competent to redress the grievances of the petition.
- 4-** That if this learned Tribunal considers the appeal of the appellant is barred by time then keeping in view the circumstances and situation explained above, the delay

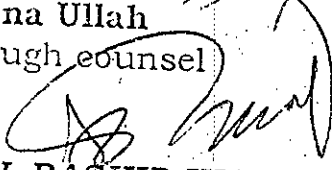
If any may please be condone in the interest of justice and fair play.

In view of the submissions made above it is therefore, humbly prayed that this Honourable Tribunal may very graciously be pleased to condone the delay if any in filing of appeal in the interest of justice.

Your Humble Appellant



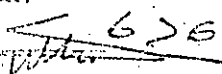
Sana Ullah
Through counsel


ABDUL RASHID KHAN
Advocate Supreme Court
of Pakistan.

Dated: 05/06/2013

AFFIDAVIT:

I Sana Ullah S/o Mohammad Ramzan R/o Dera Ismail Khan, do hereby solemnly affirm declared on oath that contents of the above **Application** are true and correct to the best of my knowledge and belief nothing has been concealed from this Honourable Tribunal.



Deponent

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

Service Appeal No. 949/2013

Sana Ullah s/o Muhammad Ramzan Caste Gazer r/o Village Prova, Presently
Constable 676 Police Station Daraban District Dera Ismail Khan
.....(Appellant)

Versus

1. The District Police Officer, Dera Ismail Khan
2. The Regional Police Officer (DIG), Dera Ismail Khan
3. The Provincial Police Officer (IGP), Khyber Pakhtunkhwa Peshawar.
.....(Respondents)

WRITTEN REPLY ON BEHALF OF RESPONDENTS.

PRELIMINARY OBJECTIONS

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

BRIEF FACTS

1. Pertains to record.
2. Incorrect. Infact the appellant while posted at PS Chaudhwan was deputed for verification of vehicle Parado Jeep bearing registration No. SX-393 Islamabad Engine No. SVZ-1676393 and chases No. VZ1120-0004222 impounded u/s 523/500 CrPC. He was malafide brought a fake and bogus verification report allegedly from concerned E.T.O Office.
3. Correct to the extent that the appellant handed over the verification letter to SHO who did not satisfy with said report and obtained subsequent opinion from the office of ETO Islamabad. According to the second opinion, the verification papers submitted by appellant was declared bogus. The remaining portion of the

Govt: Peshawar
Dera Ismail Khan

para is incorrect. A proper departmental enquiry was initiated on the above mentioned professional misconduct.


4. Pertains to record.
5. Incorrect. Infact a proper departmental enquiry was initiated through a senior officer of the rank of DSP. The appellant was given proper opportunity of defence. The enquiry was concluded purely on merit. The enquiry officer held him guilty. Therefore, major punishment of reduction in rank was awarded by the competent authority.
6. Pertains to record.
7. As stated above.
8. The appeal of the appellant may be treated as per law & rules.

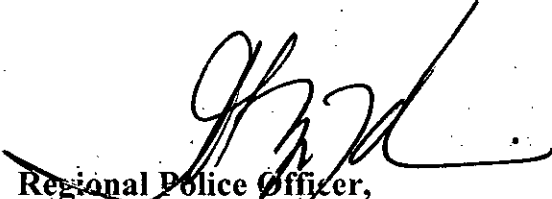
GROUNDS


- a) Incorrect. Infact at the time of departmental proceeding initiated against the appellant, KPK Removal from Service (Special Power) Ordinance 2000 read with amendment 2005 was in existence and its repeal was conveyed after the proceeding. **Copy enclosed as Annex 'A'**.
- b) Incorrect. The order was passed after proper departmental proceeding under the law exist at the time of proceeding.
- c) Incorrect. A proper departmental proceeding were initiated under the law and rules and appellant by given proper opportunity of defence including personal hearing.
- d) Incorrect. All the legal formalities have been observed by conducting proper departmental enquiries and giving opportunity of defence to the appellant before passing the order of punishment.
- e) Incorrect. No discriminatory treatment has been made nor fundamental rights of the appellant have been violated. Infact an impartial enquiry was initiated totally on merit and appellant was held guilty.
- f) Incorrect. A proper departmental inquiry was initiated under the law and rules and he was held guilty.
- g) The order of departmental punishment was passed by the competent authority after departmental enquiry conducted through a senior officer of the rank of DSP and appellant was held guilty. The appeal of the appellant may be treated as per the law & rules.
- h) Incorrect.
- i) May be treated under the law and rules.

PRAYER


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


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


Regional Police Officer,
Dera Ismail Khan
(Respondent No.2)


District Police Officer,
Dera Ismail Khan
(Respondent No.1)

Vetted


Govt: Pleader
Dera Ismail Khan

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

Service Appeal No. 949/2013

Sana Ullah s/o Muhammad Ramzan Caste Gazer r/o Village Prova, Presently Constable
676 Police Station Daraban District Dera Ismail Khan

.....(Appellant)

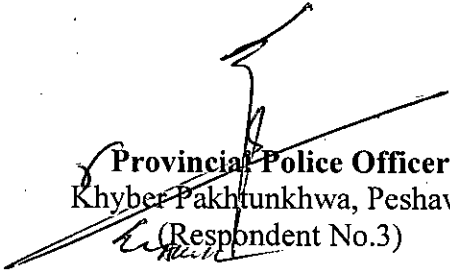
Versus

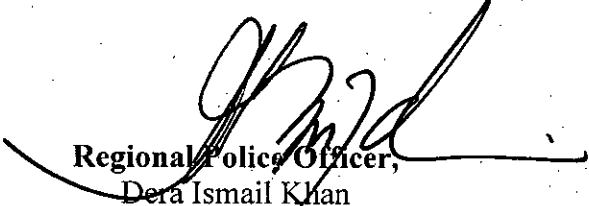
1. The District Police Officer, Dera Ismail Khan
2. The Regional Police Officer (DIG), Dera Ismail Khan
3. The Provincial Police Officer (IGP), Khyber Pakhtunkhwa Peshawar.

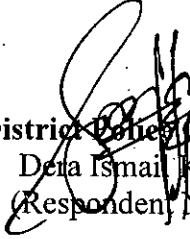
.....(Respondents)

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS

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


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


Regional Police Officer,
Dera Ismail Khan
(Respondent No.2)


District Police Officer,
Dera Ismail Khan
(Respondent No.1)

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

Service Appeal No. 949/2013

Sana Ullah s/o Muhammad Ramzan Caste Gazer r/o Village Prova, Presently Constable 676
Police Station Daraban District Dera Ismail Khan

.....(Appellant)

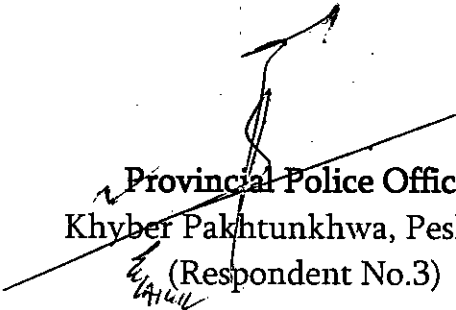
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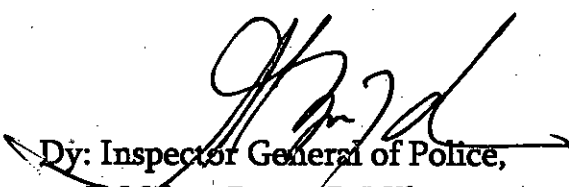
1. The District Police Officer, Dera Ismail Khan
2. The Regional Police Officer (DIG), Dera Ismail Khan
3. The Provincial Police Officer (IGP), Khyber Pakhtunkhwa Peshawar.


.....(Respondents)

A U T H O R I T Y

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


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


Dy: Inspector General of Police,
D.I.Khan Range D.I.Khan
(Respondent No.2)


District Police Officer,
Dera Ismail Khan
(Respondent No.1)

Annex A

From: - The Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.

To: - 1. The Addl: IGP Investigation,
Khyber Pakhtunkhwa Peshawar.

2. The Addl IGP Special Branch,
Khyber Pakhtunkhwa Peshawar.

3. The Addl: IGP/Commandant FRP,
Khyber Pakhtunkhwa Peshawar.

4. The Addl: IGP/Commandant,
Elite Force KPK Peshawar.

5. The DIG Inquiry and Inspection,
Khyber Pakhtunkhwa Peshawar.

6. The CCPO Peshawar.

7. The Commandant PTC Hangu.

✓ 8. The All Regional Police Officers in
Khyber Pakhtunkhwa Peshawar.

16

718
8-2-12
Attention to
DSP/Legal

No. 349 /Legal Dated Peshawar the, 24/01 2011.

Subject:- THE KHYBER PAKHTUNKHWA PESHAWAR
REMOVAL FROM SERVICE (SPECIAL POWERS)
REPEAL ACT, 2011.

Memo:-

Kindly refer to this office letters No. 3027-62/Legal dated 19.11.2011 and 3083-115/Legal dated 24.11.2011 on the case noted above in the subject.

1 The W/PPO has approved that in case of departmental action, proceedings may be conducted under Police Disciplinary Rules, 1975 against police officials up to the rank of inspector while that of other officers may be dealt with under civil servants (Efficiency & Disciplinary) Rules, 2011 please.

No. 864-65 dt: 08-2-2012.
Copy to DPO, D.I. Khan
and for necessary action

(MOHAMMAD FAYAZ KHAN)
AIG/LEGAL
For Provincial Police Officer
Khyber Pakhtunkhwa, Peshawar.

[Handwritten initials]
2/11

No. _____ /Legal Dated Peshawar the, 24/01 2011.

Copy of the above is forwarded for information please to the:-

1. Additional IGP Operation Khyber Pakhtunkhwa Peshawar.
2. Additional IGP Headquarters Khyber Pakhtunkhwa Peshawar.
3. PSO to DPO Khyber Pakhtunkhwa Peshawar.

(MOHAMMAD FAYAZ KHAN)
AIG/LEGAL
For Provincial Police Officer
Khyber Pakhtunkhwa, Peshawar.

**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR, CAMP DERA ISMAIL KHAN.**

Service Appeal No. 949/2013

Sana Ullah

VERSUS

D.P.O D.I.Khan etc

REJOINDER ON BEHALF OF PETITIONER.

Respectfully Sheweth:-

REPLY TO PRELIMINARY OBJECTIONS:-

- 1-** Contents of Para No. 1 to 8 are incorrect, thus denied.

REPLY ON FACTS:-

- 1-** No reply is needed.
- 2-** Incorrect, thus denied. Appellant relies on his averments in corresponding of appeal.
- 3-** Needs no reply, except that the proceeding held by authorities have no legal sanction and appellant relies his contention contained in corresponding para of appeal.
- 4-** Needs no comments.
- 5-** Incorrect and denied, appellant relies on his averment in corresponding para of appeal.
- 6-** Needs no reply.
- 7-** Needs no reply.
- 8-** Needs no reply.

GROUND:-

- A.** Incorrect, thus denied.
B. Incorrect, thus denied.
C. Incorrect, thus denied, appellant also relies on his averment in corresponding para of appeal.
D. Incorrect thus denied.
E. Incorrect. Appellant relies on his contentions in corresponding para of appeal.
F. Incorrect, thus denied.
G. Incorrect, thus denied.
H. Incorrect, thus denied.
I. Needs no reply.

It is, therefore, requested that on gracious on acceptance of prayer as per main appeal appellant may kindly be restored to his original post as head constable with full back benefits since from his date of reversal.

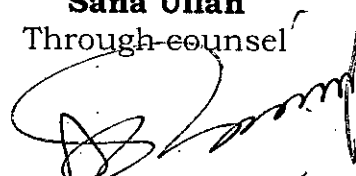
Your Humble Petitioner



Sana Ullah

Through-counsel

Dated: /11/2014



ABDUR RASHID KHAN
Advocate Supreme Court.

AFFIDAVIT:

I **Abdur Rashid Khan Advocate Supreme Court of Pakistan**, counsel for the petitioner, do hereby solemnly affirm declared on oath that contents of the above **Rejoinder** are true and correct to the best of my knowledge and nothing has been concealed from this Honourable court.




DEPONENT

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 258 ST

Dated 17 / 2 / 2016


To

The DPO,
D.I. Khan.

Subject: - Judgement.

I am directed to forward herewith certified copy of Judgement dated 25.1.2016 passed by this Tribunal on subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

It is hereby enacted as follows:

1. Short title and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Removal from Service (Special Powers) (Repeal) Act, 2011.

(2) It shall come into force at once.

2. Repeal of the Khyber Pakhtunkhwa Ord. No. V of 2000.---(1) The Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 (Khyber Pakhtunkhwa Ord. No. V of 2000) is hereby repealed.

(2) For removal of doubts, it is hereby provided that all proceedings pending immediately before the commencement of this Act, against any person in Government service or corporation service, under the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 (Khyber Pakhtunkhwa Ord. No. V of 2000), and rules made thereunder, shall continue under the said repealed law and rules in the manner provided thereunder.

(3) Subject to sub-section (2), on the repeal of the said Ordinance, all disciplinary matters relating to persons in Government service, to whom the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Act No. XVIII of 1973) and the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 1973, apply, shall be governed under the aforesaid Act and the rules made thereunder and persons in corporation service shall be governed under the law applicable to them and rules and by-laws made thereunder.

THE END

2011 NATIONAL LAW REPORTER [PUNJAB STATUTES]

Volume XXXIV

Citation: NLR 2011 Punjab Statutes

The Punjab Local Government (Amendment)
Act, 2011.

ACT NO. IV OF 2011

[Gazette of Punjab, Ext. 114/2011]

An Act further to amend the Punjab Local Government
Ordinance, 2011

No. PAP-Legis-2(67)/2011/374.---The Punjab Local Government (Amendment) Bill 2011, having been passed by the Provincial Assembly of the Punjab on 31st March, 2011, and assented to by the Governor of the Punjab on 9th April, 2011, is hereby published as an Act of the Provincial Assembly of the Punjab.

Preamble:---Whereas it is expedient further to amend the Punjab Local Government Ordinance, 2001 (XIII of 2001), for purposes hereinafter appearing;

**The Kyber Pakhtunkhwa Local Government
(Amendment) Act, 2011**

ACT NO. IX OF 2011, DATED 18.5.2011

*An Act further to amend the Khyber Pakhtunkhwa Local
Government Ordinance, 2001.*

Preamble.---WHEREAS it is expedient to further amend
the Khyber Pakhtunkhwa Local Government Ordinance, 2001
(Khyber Pakhtunkhwa Ord. No. XIV of 2001) for the
purposes hereinafter appearing;

It is hereby enacted as follows:--

1. **Short title and commencement.**---(1) This Act
may be cited as the Khyber Pakhtunkhwa Local Government
(Amendment) Act, 2011.

(2) It shall come into force at once.

2. **Amendment of section 120B of Khyber
Pakhtunkhwa Ordinance No. XIV of 2001.**---In the Khyber
Pakhtunkhwa Local Government Ordinance, 2001 (Khyber
Pakhtunkhwa Ord. No. XIV of 2001) in section 120B, in sub-
section (1), for paragraph (c), the following shall be
substituted, namely:--

(c) three Members of the Provincial Assembly of
Khyber Pakhtunkhwa nominated by Minister for
Local Government, Khyber Pakhtunkhwa.

**The Provincial Motor Vehicles (Khyber Pakhtunkhwa)
(Amendment) Act, 2011**

KHYBER PAKHTUNKHWA ACT NO. X OF 2011,
DATED 9.5.2011

*An Act further to amend the Provincial Motor Vehicles
Ordinance, 1965*

Preamble.---WHEREAS it is expedient further to amend
the Provincial Motor Vehicles Ordinance, 1965 (W.P. Ord.
No. XIX of 1965), for the purposes hereinafter appearing.

It is hereby enacted as follows:--

1. **Short title and commencement.**---(1) This Act
may be called the Provincial Motor Vehicles (Khyber
Pakhtunkhwa) (Amendment) Act, 2011.

(2) It shall come into force at once.

2. **Amendment in the W.P. Ord. No. XIX of
1965.**---In the Provincial Motor Vehicles Ordinance, 1965
(W.P. Ord. No. XIX of 1965), hereinafter referred to as the
said Ordinance, in the First Schedule, in Form J,--

(a) after the entry "signature thumb-impression of the
offender" wherever occurring a new entry may be
inserted as follows:

"Name of the Police Officer -----

Signature of the Police Officer"

(b) the words "any branch of the National Bank of
Pakistan/Bank of Khyber wherever occurring in the
Note and occurring once in sub-section (3) of
section 116A of the said Ordinance may be
substituted by the words "Any branch of the
National Bank of Pakistan/Bank of Khyber/Habib
Bank"; and

(c) the word "Particular" in the First Schedule in
Form J be substituted by the word "Nature".

**The Khyber Pakhtunkhwa Removal from Service
(Special Powers) (Repeal) Act, 2011**

ACT XIV OF 2011, DATED 15.9.2011

*An Act to repeal the Khyber Pakhtunkhwa Removal from
Service (Special Powers) Ordinance, 2000.*

WHEREAS it is expedient to repeal the Khyber
Pakhtunkhwa Removal from Service (Special Powers)
Ordinance, 2000 (Khyber Pakhtunkhwa Ord. No. V of 2000),
for the purpose hereinafter appearing.

BEFORE THE SERVICE TRIBUNAL, KHAYTER PAKHPUNKHWA,
PESHAWAR

Service Tribunal Appeal No. 540 / of 2012.

Service Tribunal

No. 540
Dated 15/5/12

Mir Chaffar, Ex-HC now
Constable No. 794 of the office of
District Police Officer, D.I. Khan.

... Appellant.

Versus

1. Deputy Inspector General of Police,
D.I. Khan Range, D.I. Khan.

2. District Police Officer,
D.I. Khan.

... Respondents

Service Appeal against the order dated
20/4/2012, passed by the worthy Deputy Inspector
General of Police, D.I. Khan, Region, in appeal,
vide which the appeal of the Appellant against
the order dated 25/1/2012 of the District Police
Officer, Dara Ismail Khan issued vide OB No. 182
dated 28/1/2012, was dismissed and filed.

Prayer:-

On acceptance of the instant appeal
to set aside the impugned orders of
both the forums below and to
re-instate and re-designate the
Appellant to the rank of Head
Constable with all back benefits.

15/5/12

15/5/12

Sr. No.	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
	09.09.2015	<p style="text-align: center;">KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, <u>PESHAWAR.</u></p> <p style="text-align: center;">Service Appeal No. 540/2012</p> <p style="text-align: center;">Mir Ghaffar Versus Deputy Inspector General of Police, D.I.Khan Range. D.I.Khan etc.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>PIR BAKHSI SHAH, MEMBER.</u> - Appellant with counsel (Mr. Asghar Khan Kundi, Advocate) and Government Pleader (Mr. Muhammad Jan) with Mr. Attaullah, S.I (Legal) for the respondents present.</p> <p>2. One Naveed Iqbal was fired at on 07.6.2011 near New Bannu Chungi, D.I.Khan check post. The appellant being Head Constable was on duty along with Constables Ziaullah, Ibrahim and Muhammad Khalid at the relevant time. On the escape of the assailant they were proceeded against on the charge that because of their cowardice and negligence, the assailant fled away from them and that they did not try to arrest the assailant. Consequently, the appellant was dismissed from service vide order dated 23.06.2011. The appellate authority vide his order dated 20.8.2011 set aside the said order, reinstated the appellant into service and directed for proceedings denovo. On 01.11.2011, charge sheet and statement of allegations were issued to the appellant. Mr.</p>

Abdul Hayee, DSP Canit. D.I.Khan conducted the enquiry and found the appellant guilty. The competent authority vide his impugned order dated 25.1.2012 reverted the appellant to the rank of Constable on list JC/1. His departmental appeal was also rejected by the appellate authority vide his order dated 25.4.2012. The appellant has filed the instant appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

3. Arguments heard and record perused.

4. The learned counsel for the appellant submitted that the enquiry was not conducted in a legal manner and there is contradiction in the statements of the witnesses. It was further submitted that the appellant was not given chance of cross-examination over the witnesses. It was further submitted that the whole proceedings have been completed under the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 but at the relevant time this law was not in the field. He maintained that aforementioned two constables Ziaullah and Muhammad Khalid who were also on duty with the appellant were also dismissed from service and their appeals were accepted by this Tribunal vide its order dated 26.12.2012 in Service appeal No. 1703/2011. The learned counsel lastly stated that the appeal may be accepted and the penalty of reversion may be removed.

5. The appeal was resisted by the learned Government Pleader on the ground that all cogal formalities have been complied with and the enquiry officer also found the appellant as guilty. That at the time of initiation of departmental proceedings, Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance 2000 was in the field and the subsequent proceedings were kept continued in the light of the said law. It was further submitted that cases of Constables namely Ziaullah and Muhammad Khalid were different from the instant case for the reason that enquiry in two cases has been conducted by different officers. Lastly it was submitted that the appeal may be dismissed.

6. After considering submissions of the learned counsel for the appellant and learned Government Pleader for the respondent/department and perusal of the entire record with their assistance, one of the big legal flaw found in the impugned order dated 25.1.2012 of the competent authority was that no time has been specified by the competent authority for reversion of the appellant. It is evident that the appellant cannot be left in the reverted rank for indefinite period. This decision being in conflict with F.R-29 is therefore, defective. In the circumstances of the case, the Tribunal would like to modify the punishment of

(1)

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____ of 2015

Noor Zaman S/o Sher Zaman R/o Dheri Julegram,
Malakand Agency.

... Appellant

VERSUS

1. The Government of Khyber Pakhtunkhwa through Secretary Health Services, Peshawar.
2. The Director Health Services Khyber Pakhtunkhwa, Peshawar.
3. The District Health Officer Malakand at Batkhila.

... Respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER OF RESPONDENT NO. 3 BEARING NO. 1700-09/ DATED 03-04-2014, WHEREBY THE APPOINTMENT ORDER OF THE APPELLANT WAS CANCELLED AGAINST THE LAW, RULES AND SHARIAH THUS LIABLE TO BE SET ASIDE. THE APPELLANT FILED A DEPARTMENTAL APPEAL AGAINST THE ORDER OF THE RESPONDENT NO. 3 WHICH ALSO REJECTED BY THE RESPONDENT NO. 2 VIDE ORDER NO. 4174-78/PERSONNEL DATED 13-04-2015 AGAINST THE LAW, RULES AND SHARIAH HENCE BOTH THE ORDERS IMPUGNED ARE LIABLE TO BE SET