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MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:

Counsel for the appellant and Mr.Pervaiz Khan, Inspector (legal) alongwith Mr. Muhammad Zubair, Senior Government Pleader for respondents present.

2. Khalid Khan, hereinafter referred to as the appellant, has preferred the instant appeal under section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against order dated 23.01.2013, whereby departmental appeal of the appellant was dismissed by respondent No.1, D.I.G of Police, Malakand at Swat and impugned order dated 26.11.2012 of respondent No.2, Head of Investigation (S.P) Buner was maintained.

3. Brief facts giving rise to the present appeal are that the appellant was serving as HC at P.S Gagra Buner when assigned with investigation of two cases registered vide FIR No. 153 dated 10.3.2011 under section 337-F(2)/54 PPC and FIR No. 297 dated 24.4.2011 under section 337-H/PPC read with 13-AO. That after conclusion of that the accused ware acquitted by the learned Judicial Magistrate and, consequently, show chuse notice and statement of allegations were served upon the appellant for failure to recover the weapon of offence (sickle) in case of FIR No. 158 dated 10.3.2011 and failure to seal

weapon of offence (pistol) in case FIR No. 297 dated 24.4.2011. The appellant denied the allegations and contested the charge and vide impugned order dated 26.11.2012 penalty in the shape of forfeiture of two years service was awarded where-against appellant preferred departmental appeal which was dismissed vide order dated 23.01.2013 and hence the instant service appeal on 28.2.2013.

4. Learned counsel for the appellant argued that the appellant was neither negligent in investigating the said cases nor any such charge was proved against him in the inquiry which was not conducted in the prescribed manners as appellant was not associated with the same. That the accused in the said criminal cases were acquitted on other charges and no lapses on the part of appellant were recorded by the Trial Court.

5. Learned Senior Govt. Pleader argued that the deposition of marginal witness of the recovery memo Constable Muhammad Naeem would clearly indicate that the appellant did not seal the weapon of offence (pistol) in parcel and that due to his negligence in the other criminal case the sickle was not recovered. He supported the impugned order and argued that the appeal is devoid of merits and therefore liable to dismissal.

··· p. 16

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

7. Perusal of certified copy of judgment of the Court of learned Judicial Magistrate/Illaqa Qazi Buner dated 29.6.2012 would reveal that accused in case FIR No. 297 dated 24.4.2011 registered under sections 337-H/13-AO was acquitted on the ground that the section of law i.e. 337-H/PPC read with section-80 PPC were not applicable to the case of the accused. There are no observations in the said judgment to the effect that the accused was acquitted due to any lapses in investigation rather it has been observed that accused has inadvertently injured himself with the pistol meaning thereby

that the evidence regarding weapon of offence i.e pistol was not discarded by the learned Trial Court. Even otherwise it has not been established during inquiry that the deposition of the said Constable Muhammad Naeem was true as the other marginal witness of the recovery memo Constable Habib was neither examined in the Court nor before the Inquiry Officer with the object to ascertain that the deposition of Constable Muhammad Naeem was true and that the pistol was not sealed by the appellant as I.O in the prescribed manners.

8. So far as criminal case registered vide FIR No.158 dated 10.3.2011 under section 337-F(II)/34 PPC P.S Gagra is concerned, the same was finally decided by the learned Judicial Magistrate/Illaqa Qazi Buner vide judgment dated 24.5.2012. A careful perusal of the judgment would reveal that according to Medical Officer (PW-1) the injuries were fresh and age of the same was about two hours. The injured was examined on 8.3.2011 while the occurrence was that of 7.3.2011 as observed by the learned Trial Court meaning thereby that the occurrence has not taken place on 7.3.2011 as alleged by the complainant and as such story narrated by complainant in FIR was untrue and no adverse role could therefore be attributed to the appellant for non-recovery of the weapon of offence i.e. sickle as case property.

01.02.16

9. It is observed with great concern that the inquiry officer in his report has considered the appellant guilty as, according to findings of the said inquiry officer, appellant was in a position to purchase a sickle from the market for planting the same against the accused as weapon of offence which would have helped the prosecution in proving the case against the said accused. The astonishing aspect of the case is that the concerned Head of Investigation (S.P) Buner as well as D.I.G Malakand Range had endorsed the dishonest approach of the inquiry officer and had imposed and endorsed penalty against the appellant. Such state of affairs must be taken note of by the high-ups. Let a copy of this judgment be sent to the Provincial Police Officer, Khyber Pakhtunkhwa for taking note of such affairs and proceeding with the same in accordance with law.

10. Since the imposed penalty was neither warranted by law nor any lapses on the part of the appellant were established in the inquiry proceedings and the same are based on findings of inquiry officer giving dishonest and offending opinion as such the penalty imposed against the appellant vide impugned orders dated 26.11.2012 passed by respondent No.2 and dated 23.01.2013 passed by respondent No.1 are set aside. The appeal is accepted in the above terms. Parties are, however, left to bear their own costs. File be consigned to the record room.

Auhammad Azim Khan Afridi) Chairman

(Abdul Latif) Member

ANNOUNCED 01.02.2016

July 3, 3, 00 116 pge 25 10 2.6.11.2012 OA appel dies on 23-01-2013 page q. Tober 7 acquitted 29.6.12 Discorpency in Edince. pefe 31 cross x p page 11 Togel->(Page13) page 21 - page 22

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Right & Definite Final Show Case notice aging proceed for mat allocated

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	£3.	EIGHT (08) POSTS OF MALE SERVEYOR IN MINES AND MINERALS DEPTT:
		QUALIFICATION: F.SC Pre Engineering or equivalent qualification from recognized Board of Intermediate and Secondary Education with (a) Mine Surveyor Competency Certificate under Mines Act 1923 and (b) Certificate in Auto cad from a recognized institute
>	70.	AGE LIMIT: 18 to 30 years. PAY SCALE: BPS-11 ELIGIBILITY: Male ALLOCATION: Two each to Zone-1,2,3 and One each to Zone-4 & 5. THREE (03) POSTS OF COMPUTER OPERATOR IN DIRECTORATE
	GENERAL OF TECHNICAL EDUCATION AND MANPOWER TRAINING	
		<u>QUALIFICATION</u> : (a) Bachelor Degree from a recognized University and (b) Diploma of one year duration in Information Technology from a recognized Institute.
		AGE LIMIT: 20 to 32 years: <u>PAY SCALE:</u> BPS-11 ELIGIBILITY: Male ALLOCATION: One each to Zone-1, 2 and 3.
		PUBLIC HEALTH ENGINEERING DEPTT:
,	71.	TWO (02) POSTS OF RESEARCH OFFICER/ HYDRO-GEOLOGIST.
•	-	QUALIFICATION: Second Division MSc (Hydro-Geology) OR B.Sc (Civil/ Agriculture Engineering) with two years relevant experience Or Second Division M.Sc (Water Resources/ Civil Engineering) from a recognized University.
•		AGE LIMIT: 21 to 32 years. <u>PAY SCALE:</u> BPS-17 <u>ELIGIBILITY:</u> Both Sexes <u>ALLOCATION:</u> One each to Merit and Zone-1.
	72.	EIGHTEEN (18) POSTS OF ASSISTANT SOCIAL ORGANIZER.
		QUALIFICATION: Second Class Master Degree in Social Sciences from a recognized University.
		AGE LIMIT: 21 to 30 years. PAY SCALE: BPS-16 ELIGIBILITY: Both Sexes ALLOCATION: Five to Merit, Three each to Zone-1, 2, 3 and Two each to Zone-4&5.
	73.	TWO (02) POSTS OF ASSISTANT SOCIAL ORGANIZER (WOMEN QUOTA).
		QUALIFICATION: Second Class Master Degree in Social Sciences from a recognized University.
		AGE LIMIT: 21 to 30 years. PAY SCALE: BPS-16 ELIGIBILITY: Female ALLOCATION: Merit.
	74.	SEVEN (07) POSTS OF ASSISTANT RESEARCH OFFICER (WATER QUALITY).
		QUALIFICATION: Second Division B.Sc (Microbiology or Chemistry) from a recognized University.
		AGE LIMIT: 21 to 30 years. PAY SCALE: BPS-16 ELIGIBILITY: Both Sexes. ALLOCATION: One each to Merit, Zone-2, 3, 4, 5 and Two to Zone-1

2.6.2015

Counsel for the appellant and Mr.Pervaz Khan, Inspector alongwith Mr.Anwar-ul-Haq, G.P for respondents present. The Court time is over. Adjourned for final hearing before D.B to 4.8.2015 at camp court Swat.

Swat

4.8.2015

Appellant in person and Mr. Pervaiz Khan, Inspector alongwith Mr. Muhammad Zubair, Sr.GP for respondents present. Due to non– availability of D.B, appeal adjourned to 3.11.2015 for final hearing before D.B at Camp Court Swat.

03.11.2015

Appellant in person and Mr. Pervaiz Khan, Inspector (legal) alongwith Mr. Muhammad Zubair, Sr.GP for respondents present. Arguments could not be heard due to non-availability of D.B. To come up for final hearing before D.B on 1.2.2016 at Camp Court Swat.

Ch**a**irman Camp Court Swat

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Camp Court Swat

14.10.2014

Appellant in person and Mr. Imranullah, S.I (legal) on behalt of respondents with Mr. Muhammad Zubair, Sr.G.P present. Arguments could not be heard due to non-availability of learned counsel for the appellant and incomplete Bench. To come up for arguments at camp court Swat on 06.01.2015.

camp court swat counsel four the oppellant d. G. P four respondents present. The Triburt is meanothet. To come up four argument and at comp count sweet an 7-4-15.

Counsel for the appellent and Mr.Pervais Kaan, Inspector for respondents alongwith Mr.Muhammad Zubair, Sr.GP present. Arguments could not be heard due to non-availability of D.B. To come up for final hearing before D.B on 2.0.2015 at camp court Swat.

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8.4.2014

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8.7.2014

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Counsel for the appellant and Imranullah, S.I(legal) on behalf of respondents with Mr.Amir Qadir, G.P present. Rejoinder received on behalf of the appellant, copy whereof is handed over to the learned G.P for arguments at camp court Swat on 8.4.2014

hairman Camp Court Swat No one is present on behalf of the appellant. Mr. Muhammad Zubair, Sr.GP for the respondents present. Arguments could not be heard due to strike of the Bar. To come up for arguments at camp an articular commander and instance court Swat on 8.7.2014p most

Chairman. Camp Court Swat

2014

Clerk of soundel for the appellant and Mr. Muhammad Zubair, Sr.G.P for the respondents present. Arguments could not be heard due to nonavailability of appellant/counsel for the appellant and incomplete Bench. To come up for arguments at camp court Swat on 14.10.2014.

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Cnai Camp Court Swat

13.06.2013

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Counsel for the appellant (Ms.Sabiha Iqbal, Advocate) present. Respondents are absent despite their service through registered post/concerned official. However, Mr. Usman Ghani, Sr.GP is present and would be contacting the respondents for written reply/comments on 02.10.2013.

02.10.2013

Counsel for the appellant and Mr. Imranullah, SI (Legal) for respondents with AAG present. Written reply has not been received, and request for further time made on behalf of the respondents. Another chance is given for written reply/comments at camp court Swat on 4.11.2013.

4.11.2013

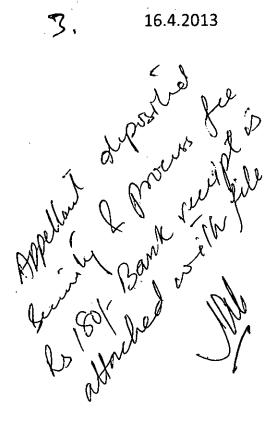
Appellant with counsel and Mr.Imranullah,

S.I(legal) for respondents present. Written reply on behalf of the respondents received, copy whereof is handed over to the learned cannel for the appellant for rejoinder at camp court Swat on 2.12.2013.

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Chail Camp Court Swat

16.4.2013



Mr. Khalid Khan unsel for the appellant present heard. Counsel for the appellant argued that the appellant was serving

ppeal No. 501/2013

sistant Sub Inspector in Police Department He had as

tigated in the case, FIR 🔂 No. 158 dated 10 3.2011 inv 37-Fi (2)/34 PPC of Police Station, Gagra, District

Bunner The investigation was elegantly substandard

and resultantly the case was acquitted. The appellant

was penalized vide order dated 23.1.2013 by Deputy

Inspector General, Investigation, Malakand, Swat. The

present appeal, the just decision of the case requires

inquiry and perusal of the record. Hence,

admitted to regular hearing. The appellant is directed to deposit security amount and process fee within 10

Thereafter, notices be issued to the respondents

suomission reply/comments of written on 13.06.2013.

case be put up Before the Final Bench

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for further proceedings.

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Form- A

FORM OF ORDER SHEET

Court of_____

,	Case No	501/2013
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	28/02/2013	The appeal of Mr. Khalid Khan resubmitted today by Mr. Mushtaq Ahmad Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.
2	1-3-2013	This case is entrusted to Primary Bench for preliminary hearing to be put up there on $16 - 9 - 3013$. CHAIRMAN
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K- Contain The appeal of Mr. Khaled Khan HC 260 Police Station Jowar Buner received today i.e. on f /02/2013 is incomplete on the following scores which is returned to the counsel for the appellant for pletion and resubmission within 15 day. Address of respondent No.4 is incomplete which may be completed according to Khyber Pakhtunkhwa Service Tribunal rules 1974. Annexure-B of the appeal is incomplete which may be completed. Annexures of the appeal may be attested. Copy of departmental appeal is not attached with the appeal which may be placed on I t. λο _{JS.T,} /2013. い見ご掛けま SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR. AHMAD KHAN BUNERY ADV. RICT COURT BUNER AT DAGGAR. Re. Submetter Alir

BEFORE THE KHYBER PAKHTOONKHWA SERVICE TRIBUNAL PESHAWAR

Khalid Khan HC 260 Police Station Jowar Buner.....(Petitioner)

VS

Deputy inspector General of Police, investigation, Malakand at Swat and others (Respondents)

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2	Service Card	Α	8
3	Judgment in Case FIR No. 297 Dated 24-04-2011	В	. 9-10
4	Judgment in Case FIR No. 158 Dated 10- 03-2011	С	11-14
5	Showcase Notice in Case FIR No. 158	D	15
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11	Finding Report in Case FIR No. 158	Н	21-22
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Appellant Through:

M (Mushtaq Ahmad Khan) Bunery & Sabiha Iq Advocates, Sale Man District Courts Buner at Daggar. Cell No. 0346-9014199

BEFORE THE KHYBER PAKHTOONKHWA SERVICE TRIBUNAL PESHAWAR

Khalid Khan HC 260 Police Station Jowar Buner.....(Petitioner)

- V/S
- 1. Deputy inspector General of Police, investigation, Malakand at Swat.
- 2. Head of investigation (S.P) Buner.
- 3. Additional Inspector General of Police, Investigation Khyber Pakhtoonkhwa Peshawar.
- 4. Mr. Bakht Zamin Khan C.O circle Daggar (Inquiry Officer).

APPEAL U/S 4 OF KHYBER PAKHTOONKHWA SERVIC TRIBUNAL ACT 1974 AGAINST THE ORDER DATED 23-01-2013 OF THE RESPONDENT NO. 1 WHEREBY HE DISMISSED THE APPEAL OF THE APPELLANT AND MAINTIONED THE IMPUGNED ORDER DATED 26-11-2012 OF THE RESPONDENT NO. 2

(Respondents)

Respectfully Sheweth:-

The appellant submits as follows:

That the appellant was enlisted in the police Department a constable in 1991. he passed the lower collage course on 31-03-2000, inter collage course on 31-03-2012 from the police training collage Hangu and since his enrolment is serving the police Department efficiently, honestly, with great care of duty and in such a style to dignify the police in the estimation of Public, (service card attached as Annexure A)

and filed.

I 12. That During the days of posting in the police station Gagra Buner, the appellant was assigned with the investigation of case F.J.R No 158 Dated 10-03-2011 U/S 337 Superified to -428
F(2)/34 PPC and case F.I.R No 297 Dated 24-04-2011 of police station Gagra.

728/2/1

3. That the appellant, among other cases also investigated the two case mentioned in the preceding para, with Full spirit and devotion but the learned Judicial Magistrate Buner acquitted the accused on varies Factual and technical grounds. (Judgments in case F.I.R No 297 Dated 10-03-2011 and case F.I.R No 158, Dated 24-04-2011 of P.S Gagra are attached as Annexure "B" & "C")

(2)

- 4. That the respondent No 2 served the appellant with a show case notice and statement of allegations alleging therein his Failure to recover the weapon of offence (i.e Seikle) in the case F.I.R No 158 Dated 10-03-2011 and failure to seal the weapon of offence (Pistol) in the case F.I.R No 297 Dated 24-04-2011 to which the appellant submit his reply. (Show case notice and statement of allegations in relation to case F.I.R No 158 Dated 10-03-2011 and F.I.R No 297 Dated 24-04-2011 are attached as Annexure D,D1,E,E1, and reply thereto is attached as Annexure "F"&"G" respectively)
 - That a Department inquiry was conducted against the appellant and the inquiry officer without giving opportunity of hearing and defense to the appellant submitted his report with the recommendation that minor penalty be awarded to the appellant (inquiry repots in both case attached as Annexure "H: & "I")
- 6. That pursuance to the recommendation of the inquiry officer the appellant was awarded with penalty of forfeiter of Two years approved service vide OB No 68 Dated 26-11-2012 (order dated 26-11-2012 of the respondent No 2 attached as Annexure "J")
- 7. That aggrieved from the above order the appellant preferred an appeal before the respondent No 1 but the same was dismissed (appellant order Dated 23-01-2013 attached as Annexure "K") and Departmenter $Americ An \times -k1$

8. That the appellant Now approached this worthy tribunal for the ventilation of his grievances on the following grounds inter alia.

(3)

GROUNDS:

- a. That the departmental proceedings initiated and the order dated 26-11-2012 of the respondent No 2 and order dated 23-01-2013 of the respondent No 1 are against the law, and per-incurim Coram non Judice.
- b. That the appellant has not at all been associated with the inquiry proceedings and the principle of natural justice " audi alterem portem" has been grossly violated.
- c. That the allegation of misconduct against the appellant is baseless and the finding report of the inquiry officer is based on unilateral and unsubstantiated contents which is a blur on the departmental proceedings. Neither non sealing of the weapon of offence in case F.I.R No 297 dated 24-04-2011 has been proved according to law nor non recovery of the sickle" in the F I R No 158 dated 10-03-2011 could be made a legal ground for initiating of departmental proceeding in the facts and circumstances of that very case the remarks of the inquiry officer in the last para of his report that "Sickle" was not available article which the appellant could have purchased with his own pocket money and could have planted against the accused for the success of the case" is nothing more then compelling the appellant for dishonest, unfair and partial investigation (Recovery memo in the case F.I.R No 158 attached as Annexure "L & "M)
- d. That the appellant was not issued with a final show case notice along with the finding report which is against law and set principal of natural justice.

- e. That the enquiry conducted against the appellant in his absence is void abinitio, partial and not in consonance with law and natural justice more over neither the statement of appellant has been recorded nor any witnesses or evidence has been produced or brought on record for the substantiation of allegation leveled against the appellant in the departmental proceedings. No right of defense and cross examination has been given to the appellant on which score alone the proceeding are illegal.
- f. That the appellant has been roped in the departmental proceedings with in ulterior motive, a concealed design and the proceedings initiated were tented with malafide and the signature of the appellant on the inquiry report is false and fabricated one. (Sworn Affidavit of the appellant attached as Anx "N"
- g. That the punishment warded to the appellant is harsh, against law and natural justice.
- h. That the appellant seeks the permeation of this worthy tribunal to relay on additional grounds at the time of arguments.

Prayer

It is therefore kindly requested that on acceptance of this appeal the order dated 23-01-2013 of the respondent No 1 and order dated 26-11-2012 of the respondent No 2 be set aside and the forfeited 2 year approved service of the appellant as a result of the above mentioned order may kindly be restored.

Secondly, It is prayed that the proceedings of the inquiry officer be declared illegal and not in consonance with the settled law.

(4)

Thirdly, the appellate order do not mentioned the reasons for the dismissal of the appeal hence be declared a non speaking and illegal order.

Fourthly, any other relief not specifically prayed for may also be granted in favor of the appellant.

Through

Mushtaq Ahmad Khan Buneri Advocate

Appellant

Note:-

No such like appeal has earlier been filled before this worthy Tribunal in the captioned matter

(5)

List of books: (1). Constitution of Islamic Republic of Pakistan. (2). Service laws

ADVOCATE

BEFORE THE KHYBER PAKHTOONKHWA SERVICE TRIBUNAL PESHAWAR

100

Appeal No...../2013

Khalid Khan HC 260 Police Station Jowar Buner.....(Petitioner)

VŚ

Deputy inspector General of Police, investigation, Malakand at Swat and others (Respondents)

AFFIDAVIT

I, Mr. Mushtaq Ahmad Advocate do hereby solemnly affirm and declare on oath that the contents of the instant service appeal are true and correct to the best of my knowledge and belief and that nothing has been concealed from this worthy Tribunal.

Date: /02/2013

Mushtaq Ahmad Khan Advocate



BEFORE THE KHYBER PAKHTOONKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No...../2013

Khalid Khan HC 260 Police Station Jowar Buner.....(Petitioner)

VŠ

Deputy inspector General of Police, investigation, Malakand at Swat and others (Respondents)

ADDRESSES OF PARTIES

PETITIONER

Khalid Khan HC 260 Police Station Jowar Buner Resident of Banr Hujra Shalbandi P.O & Tehsil Daggar, District Buner. CNIC No. 15101-3155386-1 & Cell No. 03429866693 **RESPONDENTS:**

- 1. Deputy inspector General of Police, investigation, Malakand at Swat.
- 2. Head of investigation (S.P) Buner.
- 3. Additional Inspector General of Police, Investigation Khyber Pakhtoonkhwa Peshawar.
- 4. Mr. Bakht Zamin Khan C.O circle Daggar (Inquiry Officer)

Appellant Through:

(Mushtaq Ahmad) Bunery Advocate District courts Buner at Daggar

"A" Anx 8 ATTES 9 Ń POLICE Khyber Pukhtoon Khwa District Bunde 94/INV S.No. Khalid Khan Head Constable No. 260 S.P. Investigation, Buner. . . - 1



BUNER

F/Name: Sher Ali Khan NIC No: 15101-3155386-1 Tell: No: 0342-988 6693 D.O.Birth: 02.02.1973 D.O.Appo: 01.04.1991 Blood G: A+ Height: 5'9 Eyes: Black D.O.Iscue: 27.02.2011D.O.Exp: 26.02.2014

Address: Village Shal Bondi P/S Gogra Tehsil Gagra Distt: Buner.

Anx ديقى جولاًيشل مجستريت. 11 /علاقه قاط تحکم ہٰذا کے ذیر یعے درخواست زُنر دفعہ A-249 ض ف کا تصفیہ کر نامقصود ہے۔ سائل رملزم برضانت حاضر۔ 29.06.2012 SPP برائے سرکار حاضر۔ بحث بر درخواست زیر دفعہ Cr. PC 249-A پہلے سے ساعت شدہ ہے۔ مسل ملزم نے درخواست زیریجکم زیر دفعہ Cr.PC 249-A گزاری۔اس نسبت نوٹس وکیل سرکارکودیا گیا۔ بحث بر در فُواست بہلے سے ساعت ہو کرمسل کا بغور ملاحظہ کیا گیا۔ ملاحظہ سل نے واضح ہے کہ ملزم کے خلاف مقارمہ بہ علت نمبر 297 مورخہ 11 20-44 جرم زیردفعہ /PPC 337H تھانہ گاگرہ میں جاک کیا گیا ہے۔لیکن مقدمہ میں بعدازاں جرم زیرد فعہ 13ÅO کی ایزاد گی کی گئے۔ مخضراً حالات و واقعات مقدمه کچهه یون میں کیلزم رمستغیث بروز وقوعداین پستون صاف کرر ہاتھا اور اچا نگ پیتول چل کر فائر ہوا۔ جس سے مستغیث رملزم با کیں ران پرلگ کر زخمی ہوا۔ مستغیث نے وقوعہ اپنی غلیطی کی کارستانی بتلا کر ر پورٹ درج کرائی ہے۔اورمستغیث رملزم نے وقوعہ اہل خانہ کا چشمد ید بتلایا جس کی بنیاد پر مکزم کے خُلاف مقدمہ بیعلت _297 مورجہ 2011-04-24 ج زیردفعہ 337H/13AO قصانہ کا گرہ میں جاک کیا گیا ہے۔ مقدمہ میں پیچل تفتیش پر جالان کمل داخل عدالت کیا گیا۔اورملزم کوحسب ضابطہ طلب کر کیے بعد از فراہم کرنے لات زیرد نعه 241-A Cr.PC برخلاف ملزم فرد جرم عائد کیا گیا۔ جس میں ملزم جرم خود یے انکاری ہوکر مقدمہ کیلئےاستدعا کی۔ استغانة کوشہادت بیش کرنے کی اجازت دی گئی۔جس سے فائدہ اُٹھا کرستار خان ASI لبطور `PW-1 ، ڈاکٹر سید بخطرعلی SMO بطور PW-2 ، زرولی Casualty DHQ ASI میتال ڈگر بطور PW-3 ، خورشید انور خان SHO فقانه گاگره بطور PW-4 ، محد نعیم کنسٹیبل بطور PW-5 اور خالد خان IHC بطور PW-6 حاضر عدالت ہوکر بیانات قلمبند کیئے۔ جبکہ بقایا گواہان کووکیل سرکار نے بوجہ غیرضر دری ہونے ترک کیئے۔اورمسل مقد مہ میں بیان ملزم قلمبند کرنا باقی تھا۔ کہاس دوران وکیل ملزم نے درخواست زیر دفعہ A Cr. PC دائر کرتے ہو پنج مؤقف اختیار کیا کہ شہادت قلم بند شدہ کی روشن میں ملزم کا مقدمہ ہذا میں سزایا ب ہونا تمکن نہ ہے اور مزید مقدمہ چلا نا عدالت کے قیمتی وقت کے ضیاع کے مترادف ہوگا۔ فاضل وکیل ملزم نے مزید مؤقف اپنایا کہ گواہان استغاثہ کے قلمبندہ شدہ بیانات کی روشن میں ملزم کے خلاف جرم عائد شدہ کا ثابت ہونا محال ہے۔اورایسے حالا کہ میں اگر بیان ملزم بھی قلمبند کی جائے تو تب بھی ملزم کی سزایا بی کا کوئی امکان موجود نہ ہے۔اور یوں وکیل ملزم نے بریت ملزم کیلئے استدعا کی۔ حسب قانون دفعہ 337H ت پ کی رو ہے اگر کوئی شخص بے احتیاطی یا غفلت کی وجہ ہے کہتی کو زخمی کرے ۔ تو وہ ارش يا دمن حسب زخم يا ميعادتين سال قيد محض كيليح سزاياب كياجاتا ب، اسى طرح زيرد فعه PPC (2) 337H اگركوئي شحض بے احتیاطی اور عفلت سے کسی کی زندگی کوخطرے میں کڑیل دے تو وہ تا میعاد 3مینے قید یالجرمانہ لیادونوں کیلئے سزایا ب كياجاسكتاب-EXAMENTER المشيط وسيان سالك ما

مقدمہ زیر تجویز میں مسلمہ طور برملزم رمستغیث اپنا پستول صاف کررہاتھا۔ جو کہ اچا تک چل کر فائر کے بنتیج میں خود کو جاري زخمی ہونے کے بناء ملزم تھہرایا گیا ہے۔فاضل وکیل صفائی نے درخواست زیر کیم کے تائید میں بحث کرتے ہوئے مزید مؤقف اُٹھایا ہے۔ کہ مزم کے خلاف 337H PPC کا اطلاق ایسی صورت میں نہیں ہوتا۔ کیونکہ ملزم نے نہ تو کسی کو ضرر پہنچایا ہے اور نہ کسی کے زندگی کوخطرہ میں ڈالا ہے۔ بلکہ ملزم کا بیمل ایک اتفاقی امرتھا جو کہ دفعہ PPC ¹ 80 کے تحت کوئی جُرم نہیں ہے۔ فاضل دکیل نے مزید مؤقف اُٹھایا ہے کہ ملزم کے خلاف کسی چشمد ید گواہ نے بیان قلمبند نہیں کیا ہے۔ اور نہ ہی نقشہ موقع مرتب شدہ ہے۔اور نہ الہ ضرر (پینول) کی برآمدگی از اں ہلڑم ہوئی ہے۔ بوجو ہات بالا دکیل ملزم رسائل نے ملزم کی بریت م کیلئے استدعا کی ہے شیمادت استغابته اور ریکار ڈکی روشی میں بیدامرمسلمیڈ ہے کہ ملزم اپنا پستول صاف کرتے ہموئے پیکتول اسکے ہاتھ میں چل کر فائر کے نتیجہ میں المائل رملزم خود زخمی ہوا ہے جوملزم ایک عاقل اور بالغ شخص ہے۔اور کوئی ُجاقل بالغ شخص اپنے اپ کو یصد اعمد اخطرہ میں نہیں ڈالنا اور نہا ہے اپ کو ضرر پہنچانا جا ہتا ہے ۔مسلمہ طور پر پستول سائل رملز ہم سے اتفا قاً چل کر فائز سے المرم کے خلاف دفعہ PPC 337H کا اطلاق نہیں ہوتا۔اوراس طرح زیر دفعہ PPC 80 PP کوئی بھی اتفاق ے میں نہیں آتا۔مقدمہ زیریجو پزمیں چونکہ ملزم کاعمل بھی ایک اتفاقی امرتھا ۔لہذا ہے کوئی جرم قرار نہیں ستغانہ سے میہ بھی واضح ہے کہ ملزم کے خلاف کوئی چشمد بدگواہ پیش نہیں ہوا ہے۔اور چالان کمل میں درج چې مدید گواېان پیش نہیں کی گئی ہے۔علاوہ ازین نہ تو نقشہ موقع موجود ہے اور نہ براہ راست برآ مد گی از ال ملز مثمل میں لائی گئی ہ ہے۔ لہٰذا سائل رملزم کا زیر دفعہ 13AO سزایاب ہونا بھی ممکن نیہ ہے۔ مندرجہ بالا بحث کی روشیٰ میں قرار دیاجا تاہے۔ کہلزم کے خلاف مقدمہ زیر تجویز میں لگائے گئے الزامات حسب قانون وضابطه ثابت شدہ نہیں ہیں۔ نیز ملزم کے خلاف دفعہ 337H کا اطلاق بھی نہیں ہوتا۔اور نہ ہی دفعہٰ 13AO کے تحت ملزم کے سزایا ب ہوناممکن ہے۔ حسب قانون وضابطه ملزم کی بریت کیلیے کوئی ایک ہی معقول شک کافی ہوتا ہے۔لہذا ملزم کو مقدمہ مذامین شک کا فائدہ دیاجا کراختیارات زیردفعہ A-249 ض ف کوبروٹنے کارلاتے ہوئے ملزم کومقد مہ ہذا میں بری کیاجا کرضا منان ملزم کوبار حنانت ہے مبرا کلیا جاتا ہے۔ مال مقد مہ بعدازیدت اپیل رنگرانی تجق سرکا رضبط ہو۔ مسل بعداز ترتیب وشکیل کے داخل دفتر ہو۔ حکم سنایا گیا۔ 29/06/2012 ٥ المنتابة والمنتقظ الماني المناجد المراجع المحر RB Buner at Daggar. TRUE COPY Date of application-13-2--/ Date of receipt filet 7-1 EXAMINER District & Session Judge Bugger' And beized under 1 1. a ino- Uni ison

Urgent fee Date of delivery 13 - 2 - 13 Signature

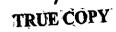
Anx المج بعدالت عبدالقيوم صديتي جوديش مجسشريت العلاقه قاضي بونير بمقام ذكر تاريخرجوعه الم تاريخ فيصلير. 24/05/2012..... عل<u>ت ثمبر،</u>/158 مورخه: 10/03/2011 <u>جم 337F(II)/34 PPC تھان</u> کا گرہ سركار (بذريعها) بخت نظير شاه ولد داصل شاه سكنه متواني Court of Distle & (۱)اورنگ زیب ولد نیک زاده (۲) خان زاده ولدصاحب زاده سا کنان مٹوانی بخصیل ڈ کر ضلع بو نیر۔....(ملزمان) َ ملزمان اورنگ زیب اور اُخانزادہ نے مقدمہ علت نمبر 158 زیرد فغہ 337F(II)/34 24-05-2012 PPC تھانہ گاگرہ ضلع بو نیر کے تحت عدالت مذامیں مقادمہ کا سامنا کیا۔ مخصر حالات مقدمہ بچھ یوں ہیں کہ استغیث بخت نظیر شاہ نے بردئے نقل مد 10 روز نامیہ 03-2011 قانه گاگرہ میں رپورٹ درج کرائے ہوئے بتایا کہ کل مورخہ 2011-03-07 کووہ بوقت شام ويليها بني اراضي الموسومه كولامثواني موجودتها كهاس دولإان ملزمان اونكزيب ولدنيك زاده اورخان زاده ولدصاحب زادہ نے آگراسکے ساتھ تکرارشروع کی۔جس دوران کمی اورنگ زیب نے اس پر درانتی سے وارکر کے مستغیث کو بائیں ران پر زخمی کر کے گر پڑا۔ جبکہ سمی خانزادہ نے الٰ پر لاتوں اور کمھوں سے گز ارات شروع کیئے ۔جس ہے وہ دائیں آنکھ پر نیلگوں اور دیگر بدن پر در دمند ہوا۔ اُس دادران مسمیان واجدعلی، حید رعلی پسران بخت آمین شاہ نے آگر النکےخلاصی کرائی اوروقو عہا نکا چشمد بد ہے۔ TRUECOPY EXAMINER District & Session Judge Buner Authorized under 187 of BUN9-10 of 1984

مىغەرد 🗧

مستغیث نے وجہ عناد تنازعہ جائیداد بتایا ہے جبکہ رپورٹ میں تاخیر کی وجہ شران خود سے صلاح ومشورہ بیان کیا ہے۔مستغیث نے مجروحیت خودوذ دکو بی کا برخلاف ہر دوملز مان بالا دعو بیداری کی ۔ مقامی پولیس نے مجروح کا نقشہ ضرر مرتکب کر کے مجروح زیر خفاظت کنسٹبل گل زیلین شاہ نمبر 534 DHQ ہیتال ڈ گر بھوایا طبی رپوٹ کی وصول پر مقد مہ علت نمبر 158 زیر دفعہ PPC (۱۱) جا 337 چاک کیا گیا۔

ملزمان كومورخد 2011-03-10 كو سب ضابطة گرفتار كيا گيا۔ جو مقامی پوليس كوا يک دن حراست پوليس پر حواله كئے گئے _بعد از ان ملزمان بروئے تحكم محرر با 2012-03-17 صانت پر رہا كئے گئے -10 نے نقر مدقع جارک ملزمان اور گواہان پشمد يد كے بيانات قلمبند كيئے _اور بعد از تحيل تفتيش جالا بن محمل مورخہ تيار كرك ملزمان كوداخل عدالت كيا گيا۔ ملزمان كو سب ضابطه كيا بعد از تحميل زيرد فله A-241 ض ف ملزمان پر فرد جرم عائد كيا گيا۔ جس سي مراح

انکاری ہوکرمقد مہ چلالیے نے کی استدعا کی۔



Bistrict & Session Judge Buner Authorized under 187 of BU No-10 of 1984

گوا ہ مزید بیانی ہے کہ طبی رائے کی موصولی پر اُس نے FIR بد نمبر 158 مورجہ 11'20-03-10 كوزيرد فع PPC 337F(II)/34 PPC درج كياب - جس يراسكا دستخط درست طور يرشبت شده اور Ex.PW-3/3 ے۔مستغیث بخت نظیر شاہ کابیان بطور 4-PW قلمبند کیا گیا جس نے فقل مدنمبر 10 اور FIR کی تائید کی ہے۔جبکہ ک گواہ چشمد ید حید علی بطور 5-PW نے برخلاف ملز مان مقدمہ ریورٹ مستغیث کی تائید کی ہے۔ جملہ گواہان پر فاضل وکیل صفائی نے جرح کرکے کچھ حقائق سامنے لائے ہیں۔استغاثہ کے قلمبندی بیانات کے اختیا لم پر بیانات ملز مان زیرد نعہ 342 ض ف قلمبند کیئے گئے۔جس میں ملزمان نے ایک بار پھراپنے خلاف لگے ہوئے الزامات کی ترد پر بلاگ<mark>ا اہ اس</mark> ہے۔تاہم ملز مان نے نہ تو دفاع میں شہادت پیش کرنے کی خواہش کی ہیں۔اور نہ ہی برخلف بیان دیکنا کھ میں نے فاضل وکلا ۔فریقین کوغور سے سُنا ہےاوہ پسل کابغور جائزہ لیا ہے۔ مقدمہ ہٰذا میں ملز مان کوزیر دفعہ (II) 337F لیے پ نامز د کیا گیا ہے ۔مستغیث نے الزام لگا کا میں کر کمبز م ادرنگزیب نے اُس پر درانتی سے گز ارکر کے اُس کو با کیں ران پر ذخمی کیا ہے جبکہ ملزم خانزادہ نے اسکولاتوں اور کمھوں سے مارا ہے۔ ڈاکٹر متعلقہ نے اگر چہ بطور PW-1 حاضر عدالت ہوکرا بینے رائے کی تائیڈ کی سے کیکن بدوران جرح بپانی ہے کہ بوقت معالنہ زخم تازہ اور تقریباً کھنٹہ پہلے کالگاہوا تھا۔حسب ریکارڈ رپورٹ مستغنیت بشکل نقل مدنمبر 10 محررہ 2011-03-08 درج ہوا ہے جو کہ Ex.PW-3/1 ہے۔اور وقو یہ سلمہ طور 2011-03-07 کا ہے۔ أورمستغیث کو 2011-03-08 کوطبی معائنہ کیلئے بھیجا گیاہے۔جبکہ طبی ریورٹ 2011-03-09 کی ہے۔لہذا ریکارڈ اور بیان PW-1 میں کافی تضادیا یا جاتا ہے۔ای طرح گواہ BW-3 نے بدوران جرح بیددرست تسلیم کیا ہے که نجروح مستغیث کی بوفت قلمبندی ریورٹ اسکے کپڑوں پرخون موجودنہیں تھا۔گواہ چشمد پدابتدائی بیان میں گویا ہے کہ مع برا درخود داجدعلی اراضی خو دالموسو مہ کولا سے دالیس روانا ہو کر جب جائے وقوعہ پہنچے تو دیکھا کہ ملز مان اورنگزیب اورخانزادہ مستغیث کو مارر ہے تھے۔جبکہ بدوران جرح بیانی ہے کہ وہ اور مجروح اپنے کھیت میں کام کرر ہے تھے۔ اس طرح مستغنيت بد دران جرح بياني ہے کہ وہ بعداز دقوعہ سپيدھا گھرخود چلا گيا۔جبکہ گواہ چشمد يد بياني ہے کہ بروز دقوعہ بعداز وقوعهاس نے مجروح کواُٹھا کر گھرخودلایا۔اور دوسر کے دن اسکا چچاہ سپتال لے گیا۔لہذا گواہ چشمد یداور مستغیث کے بیانات میں کافی تضادات پائے جاتے ہیں۔جس سے مقدمہ کمزوراور مشکوک ہوجا تا ہے اور اسی طرح نقشہ بلاسکیل سے بھی مقدمہ کی تائیدنہیں ہوتی۔ کیونکہ حسب نقشہ Ex.PW-2/1 بوقت وقوعہ ملزم اورنگزیب مستغیث

TRUE COPY

EXAMINER District & Session Judge Burer Authorized under 187 of F.O No-10 gf 1984

\$ 4:4-7i کے قریب بجانب شرق موجود ہونا خاہر کیا ہے۔جبکہ گواہ چشمد بیر بدوران جرح بیانی ہے کہ ملزم اور نگزیب بوقت وقوعہ مستغیث کے جانب غرب تھا۔ مسلمہ طور پرملز مان سے الہ ضرر کی برآ مدگی نہیں ہوئی ہے اور نہ ہی انہوں نے ا قبال محرم کیا ہے۔ جملیہ شہادت اور ریکارڈ کو ملاحظہ کرکے پایا جاتا ہے کہ ملز مان سے برآ مدگی الہ ضرر نہیں ہوئی گئے۔مستغیث اور گوالٰان چشمد ید کے بیانات میں کافی تضادات پائے جاتے ہیں جس سے سہ ثابت نہیں ہونا کہ ملزمان نے جارحت لے مستغیث کو مارا بیٹا ہے۔نقشہ موقع سے بھی مقدمہ کی تا سَدِنہیں ہوتی ۔العرض برخلاف ملز مان مقد <u>میکا نی کمز و</u> out of Disti: & ادر مُشْلُوك نظراً تا ہے اور موجودہ شہادت كى روشنى ميں ملز مان كا سراياب ہوناممكن نہيں ۔ مقدمہ لٰبلا شک وشبہ ثابت کرنے میں ناکام رہاہے۔لہذا ملز مان کو شک کا فائدہ دیاجا کر الزامات السے بری کیئے جاتے ہیں۔ چونکہ ملز مان پہلے سے ضمانت پر ہیں۔اسلئے انکے ضامنان ا کیئے جاتے ہیں۔ م اس بعداز ترتیب ونکمیل کے داخل دفتر ہو۔ تحكم سنايا كياك عبر القير الله Siddique 24.05.2012 Buner at Daggar. 24.06.2012 تصدیق کیجاتی کہے کہ فیصلہ ہٰذاکل (4)صفحات پرمشتل ہے ادر ہرصفحہ میراامل کردہ اور بعد انصح کرنے دستخط کردہ ہے Abdul Qayum Siddique? ณพิลิธนิตยูล คนส์เดล์ ฟิลปูเรล ใน TRUE COPY Buner at Daggar. 24.05.2012 EXAMINER 818 District & Sessian Judge Buner Date of application-13-Authorized under 187 of 2-1 Date of receipt file 8-6-12 Word - P.D. RO No-10 01 1984 Urgent fee Date of delivery 13 cignature-

[HC Khalid Kha This order wi Anx "D.3 6-945 SHOW CAUSE NOTICE ESTEN WHEREAS, you IHC Khalid Khan while posted at PS Gagra had investigated case FIR No. 158 dated 10.03.2011 U/S 337 F (2) / 34 PPC of Police Station Gagra. Because of your poor investigation the accused were acquitted by the Judicial Magistrate-II / Illaga Qazi Buner on 24.05.2012. The ground for acquittal was pointed as weapon of offence sickle was not recovered This amount to gross misconduct on your part and render you liable to be proceeded against departmentally under Police Rules 1975. You are hereby called upon to show cause as to why proper departmental action under the above rules should not be taken against you. If your-reply to this notice is not received within 7 days of receipt of this notice, it will be presumed that you have nothing to put in your defence and an exparte action will be taken against you.

No. 1066-68/Invest: Dated Daggar the 17-7Copy forwarded to the:

1. Additional Inspector General of Police, Investigation, Khyber Pakhtunkhwa, Peshawar.

/2012.

2. District Police Officer, Buner.



Head of Investigation, Buner.

Head of Investigation, Buner.

OBRICKISK OBRICKS

16 ATIESTED DISCIPLINARY ACTION

I, Muhammad Zahir Shah Head of Investigation, Buncr as competent authority, is of The opinion that you Mr. Khalid Khan IHC while posted at Police Station Gagra have render yourself liable to be proceeded against departmentally as you have committed the followi acts / omission as defined in Rule 2 (iii) of Police Rules 1975.

····s order will

STATEMENT OF ALLEGATION

That it has been reported against you IHC Khalid Khan while posted at I Gagra had investigated case FIR No. 158 dated 10.03.2011 U/S 337 F (2) / 34 PPC Police Station Gagra. Because of your poor investigation the accused were acquitted by the Judicial Magistrate-II / Illaqa Qazi Buner on 24.05.2012. The ground for acquittal was pointed as weapon of offence sickle was not recovered.

Which is a gross misconduct on his part as defined in Rule 2 (iii) of Police Rules 1975 For the purpose of scrutinizing the conduct of said officer with reference to the abov allegations Mr. Bakht Zamin Khan CO Circle Daggar is appointed as enquiry officer.

The Enquiry officer shall conduct proceedings in accordance with provision of Police Rule 1975 and shall provide reasonable opportunity of defense and hearing to the accused officer record his findings and make within twenty five (25) days of the receipt of this order recommendation as to punishment or other appropriate action against the accused officer. The accused officer shall join the proceeding on the date, time and place fixed by the Enquiry

officer.

No. 1447-49_/EC,

2.

3.

4.

Dated <u>19.09 - /2012</u>.

1. Enquiry officer for initiating proceeding against the accused officer namely under Police Rules 2. Defaulter concerned.

Head of Investigation, Buner.

of Investigation,

Buner.

Head-

SHOW CAUSE NOTICE.

WHEREAS, you <u>IHC Khalid Khan</u> while posted at PS Gagra has investigated case FIR No. 297 dated 24.04.2011 U/S 337 H / 13 AO of Police Station Gagra. You have not sealed the recovered weapon of offence into parcel, despite clear instruction issued from this office.

All these amount to gross misconduct on your part and render you liable to be proceeded against departmentally under Police Rules 1975.

You are hereby called upon to show cause as to why proper departmental action under the above rules should not be taken against you. If your reply to this notice is not received within 7 days of receipt of this notice, it will be presumed that you have nothing to put in your defence and an exparte action will be taken against you.

ATTESTED

Head-of Investigation, Buner.

No. 22° -22Invest: Dated Daggar the 19° -2012. Copy forwarded to the:

- 1. Additional Inspector General of Police, Investigation, Khyber Pakhtunkhwa, Peshawar.
- 2. District Police Officer, Buner.



19-6-2-012

Head of Investigation, A Buner.

DISCIPLINARY ACTION

I, Muhammad Zahir Shah Head of Investigation, Buner as competent authority is of The opinion that you Mr. Khalid Khan IHC while posted at Police Station Gagra have render yourself liable to be proceeded against departmentally as you have committed. The Following acts / omission as defined in Rule 2 (iii) of Police Rules 1975.

tra E

Head of Arvestigation, Buner.

Head of Investigation, Buner.

STATEMENT OF ALLEGATION

That it has been reported against you IHC Khalid Khan while posted at PS Gagnatic investigated case FIR No. 297 dated 24.04.2011 U/S 337 H / 13 AO of Police Station Gagratic You have not sealed the recovered weapon of offence into parcel, despite clear instruction issued from this office.

Which is a gross misconduct on his part as defined in Rule 2 (iii) of Police Rules 1975. For the purpose of scrutinizing the conduct of said officer with reference to the above allegations Mr. Bakht Zamin Khan CO Circle Daggar is appointed as enquiry officer.

The Enquiry officer shall conduct proceedings in accordance with provision of Police Rules 1975 and shall provide reasonable opportunity of defense and hearing to the accused officer, record his findings and make within twenty live (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused officer.

The accused officer shall join the proceeding on the date, time and place fixed by the Enquiry officer.

No. 1450-52./EC,

2.

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4.

Dated <u>19.09-</u>/2012.

ATTESTED

- 1. Enquiry officer for initiating proceeding against the accused officer namely under Police Rules 1957.
- 2. Defaulter concerned.

Airx F?, 19 مول سمول سرماز نوش مرف 2012 . 7. 7 حارم جار هداف الرزي Neto م) :) در و ی انتشا من من من من من من اور ایا نداری ماجد. و فرع حذامین ماریان ی دمور فرو من می در آی تر) می تى تى الجارة رالى فاكر ليفويشر وم لغاكما ماس برايان جمر مر ع بالا - من عند مع تع من . مازمان فر قر ندام كر فر واست مزمين سي ميزن مرام الم عدان موت مراب مواس الوسين منهوري . مريان مامرين سے واقف انتحال جادات رور فارتع - جرامی برم وام می بوسی میں راه راست برلانادین م فا ممزمان مرمر مراست ومس سط بستان موالت ر م عرالان م ای نے در سر پورس سے درالات جرو شرل دستال کیے تکر - س نابور ی را روی در مین رست کان ، عب مرا مر ب فحفات مناعل بين سے - استر ما حد ب سر کا زيون بالا من اوا کی فأسل الم ما مرما در مزما وسل junds p8 DODar. ATTESTED Mon

fins "G ? ! de ch? توالے تہوکا نوٹ مری 188 - 880 می - طا_ plan ر الوشي تسل ملح الو من معروى محدمة الم من الم محت ما ا حام كاكر من مند عديد 29 مرجم 4 مي بعد معد 29 مرجم 4 مي بعد حرم 330 | 4 75 قفا 2 م كره مى تعاش كرت موت المحرر ما تما عدة طور ما رسل سي ستر كر 2 ملا حول محرر منعة ما ما در ی تھی بن الل او بعد کی تعبیب ہو ی رہا بداری ہے کر تے حارون مكن ١٦٦ صفر م د بخط مروار واحل عدول كر حط مون ر کی ال کا حد شرحار نے کے تعد ت مالی نے سے سرا ے وطرا ر BAIBIT) عداللو با مو شق ترج مس سل لو ت و عامو ف (س من مل کو کی معکود سی چی جمو کان تو کی بلا دی الح ی کا ش قدمار طروع PS Sms Daggar 07.08.201L (1) ATTESTED M

21) by disting And H? $\frac{158}{100} = 10^{03} - 10^{03} - 10^{03} - 158 - 10^{03} - 10^{$ العالد - لنه بچوال کو سیلنوی کاردائی حط مربع (4.9 - 441 - رکبر یا غرات انکوائری بو خداف خاليطان مالا معروف حدمت مون مرد و م 19, مادر - مادران - 2 اعتد مد توره بالاس الرصور درائی برامد ند مرا ما الرام ما بر كا ب حدى وحد سے عدالت محرر نے ملکم کو مور حکم 120. 05. 24 کو شک کی ما د بر معدی زائے مرى كما ي أوراك صاحان الم اس المع الكواتري الحر حور كرا الم تحر تر مرما ما الم الكوارى كاغذان . سطى شرد كا غران كا مطالعا موكر بالأرا كر مشقت ف نظر شاہ نے برو نے نقل مد بر 10 ورزما ہے کہ 20 قائر کا گر میں نظر شاہ نے برو نے نقل مد بر 10 ورزما ہے العد یوتی درج سرائے ہو کے کہا کہ مل ہوجہ - 67 کو وہ یوفق کا کر ولے سر انها این الهو سرمه خون مشوای موجور تها که اس روزن ملزمان اورنگرین ول مك زار م 2 اس بو درانى م وارسر منعت موالك ان رز در ماكر تر ال جبتم میں ہر تکریم ی ترادہ نداس پر لانوں کھوں سے تران شروع کی حب سے عده طالبي آنكو بر سلكون اور دكير جن يو درد ستر موا ١٠ مي دوران مسان واحد على ، حد رعلى بيران حب آ من شا ه غدا كر الح خلاج كرانى اورو توع أنكا محصد مع منعت تد وجه عناد تنا زه ما تراد ترلال حکم راول مس یا حز سی وجب مشرات خود سے صلاح مشہورہ کرا یا ن کیا ہے ، نشخیت نے بخو جن تود تدوروى محا برخلاف مرد د مدران الادعو بالرى كى بعرد ح كا هت طر مرتب مود دومر می از تخیل کل من به 534 DHQ میکال تر بی جارا، طی لوگ مول مور روحا از تخیل کل من به 534 FCII میکال تر بی جارا، طی لوگ مول مور عدم مدین 158 مرض الحد می 34 (CII) تک 34 کو می کار دوران ابكوا كرى تا عدان - ديني كا تعور مطالع مركر ال قا- كه عدال معزار ف مناب ی برت چذر نکات کا اور عل س لای (_ يوث ك المدارج مي تاخر ATTESTED تحوار حجر رو اور منطبة عر سايات سي كافي تعا دات m القشر ہو ہو ہو لکی ہے تی اور 2 کی ا سر ہ ہو ا 6 مسلم طورير ملذمان مح آلم صرد کی وآ برگی ۲۰ مونا 3 حد القشد موقع وقد وقوم مدم ورنگز بن تفت ع قريب ما بن شرق مرجا برا ⊕ (\mathfrak{F}) كار ما ع مكر تواه وتحديد مدورات و 2 كافي محمد ملزم اورتا ب

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۲ ی مدن سا اور احرم نه کرنا ورج نکاتے میں راور کی کا ضربی تعلق تشعیت سے ہے ، دیکی وضادت تنقیت نے اس مور مس کی ہے کہ وہ ایج تون سے صلاح شروہ کررا تھا عام. بانات اورانکواتری محاقدات مے علی میں کہ بلزمان سے برآ مرگ سی برگاء المربي الملع فالدفان اللوكار الى على قلب مري فل الى يركون كروران ان نے کیا، کہ مدخان تو برائے حصرل دات ہولی پیش سالت کے لیے تع تكن مدلة حضور معزمان عرف مو حات ولي د في عار والات جدُنَى بحري الإ الم معرمان مع آلد صور دراس كار آلد كا مكن الك كر المذمان مذ أكر اف 24 تعني حاثرا فسر الحراث مي الم تع XXX × - عَنَادَ عَلَمَ مَدْمَانَ كُو عَانَ لَا يَ جَانَ مَرْ يَ عَلَى مَر مَارَدَ سَبِ المي تي تح مد جرمات ما الكاك تع من ومدار ولي ما نلح کی صرف رس آکی اور دو سرے دن تھے ان میٹر ان کو عمالت وتر بغرض معول وات البجارة برا، تستن وات يولي "م ملم : ایک طرف میں سا مدکی نہ ہونا معدے کو کانی کرور کرر آئی سے تو روس 1816-h طرف کوران حیث در اور شغبت سر سایا ت مس تصادیمانی می ری سی تس دوری تررش عدلت نه منعل میں زیارہ ، زور تحدیان مجموع اور شخب کر سانا کے س

علات نے منعلے میں زبارہ ورور تورانان حجود اور تحقی کہ اور کار نصاد جانی توریا ہے ، کواہ حتمہ و ہد اور نکریت کو حاد جاتی کی کہ وہ جانب موقع سی جانبہ توقع ظامر کیا ہے دلکن تواہ حضور پر نے نصاد جاتی کی کہ وہ جانب عد تحقا انکوائری انرا میں خالیخان ملاو اس حد تک وغور والہ ہے کہ درانبی انکوائری انرا میں خالیخان ملاو اس حد تک وغور والہ ہے کہ درانبی انکوائری انرا میں خالیخان ملاو اس حد تک وغور والہ ہے کا ما مرحانا اور ملذمان سل سے نہ کہ دلین جب تک خالیخان مااو کا مرحوف کہ اے حالہ ولیں مدر مان سن ملی دلو محلہ تحقی حالہ ولی احساری کو ولی کا دیا احداث ولیں مدر مان سن ملی دلو محلہ تحقی حالہ ولی احساری کو ولی کا دیا ہے کہ دلیا مدر مان سن ملی دلو محلہ تحقی حالہ ولی احساری کو ولی کا دیا ہے کہ دلیا مدر مان سن ملی دلو محلہ تحقی حالہ ولی احساری کو ولی کا دیا ہے کہ دلیا مدر مان سن ملی دلو محلہ تحقی حالہ ولی احساری کو ولی کا دیا ہے کہ دلیا ہے کہ موقی کہ ایک دلیا ہے کہ دلیا ہے کا دلیا ہے کہ دلیا ہے دلیا ہے کہ دلیا ہے دلیا ہے کہ دلیا ہے دلیا ہے کہ دلیا ہے دلیا ہے کہ دلیا ہے دلیا ہے دلیا ہے دلیا ہے کہ دلیا ہے کہ دلیا ہے دلیا ہے دلیا ہے دلیا ہے دلیا ہے کہ دلیا ہے دلیا ہے دلیا ہے کہ دلیا ہے دلیا ہے دلیا ہے کہ دلیا ہے د

23 - ye di nie Aux I فن م - حاسر حان عاد ما حاكر محال بر رفضة كلان الالد م الم حوالہ انضاطی کا روائی خط عبریء=S2 - S2 - L. ریگر کاغذات انکوائری برخلاف خالد خان عال معروض خرمت بون. که مذکوع بالاستره میں برخلاف خالد خان عال معروض خرمت بون. که مذکوع بالاستره میں خاند خان مالا نے نفشن ستدھ کرتے ہوئے پہنول 30 بور نظور الہ ضرر قبضہ دیں سی ترکے باوجود واضح برایات کے سنز سم یا رسل بسی کی تھی جس کے سا د پو یو - معذر عبدالفتوم صدیقی مادی جود شل محبور او بر دگر نے سر حمد 20 . بر عالی معذر عبدالفتوم صدیقی مادی جود شل محبور ا موملوم کوشک محافاً دلاد عکر مری کا ہے ، اس سلط میں آ ج صاحا ن نے مح اس بارسد مار مروسین ا فسو - وخلاف انکولوی محاحکم تحریر فرسال سے دوران الكواري متل مقدم اور منصلي شرب كاغذات كا مطالعه موكر بالكيا ، كم ملز م الورملى ولا حقيظ ١٠ تن كليا رى اينى لينول 30 بورصاف كررا ها كرا جانك ملزم كانكلي مراجع المان ما المربعة المربعة ورفع المرابع وربع رحمو المربعة من كلا الحالد خان ما ال مرجع المرجع ، فاحمان مرح موليد خالد خان عالم في عالم من تو ترفاركا. يستول 30 بور تبو مديد حوالي مرجع الماري موليد خالد خان عالم في ترفاركا. يستول 36 بور تبو م عدر کار اوس قد عن میں کی . تعلق سے اختسام یو مقدم مذکور مالا میں برخداف ملز م مر الذي مرود من محرف وروش من سماعت موكر مر من 29 29 مو ملز م الورعيلى عرابت جود شن محرف وركر بوش من سماعت موكر مر من 2012 بالان تمل در که ولد يت إطال من تحليا "رى كو مقد مريد اسي شك كافا بدلا دما جا كرا خليا ات ريود عند 4.94 صف وسیس از ایس میں دیا ہے ، عدالت معنوز نے اپنی صادر کرد سیس میں دین نکا ۔ سو بر میں کا تو بر بری کا تی ، عدالت معنوز نے اپنی صادر کرد میں بی میں دین نکا ۔ ينون في رآمر تي مذم م مري م بيتول مد م بارل بن في تي حكا بدوران فلسدى تواري فريعيم فريعيم في 436 قارة كرد حال قام ير بالي اللي نورس ند مى بيول مند مرا خارک ہے جن سے سلیم میں Dpp حامہ ہوئو نے خط مری 15 م یں معکدہ اور سی مدم کی برت سے دو وجو بات سے ارے تکانیے کا ہے۔ ایک نسی ور تھی 36 سی معکدہ بد سائی اور تعلق افسر سما بیشوں مذر سریا رس نہ کرنا سى تعليد بالى اور تعدينى افسر كما يستول شريب با بس مريا . دوران الكوارى مدرم بوليي افسر خالد خان كا بيان فلمبر بوكراس سيحيع برين ك دور با الحران المران عالم ممال من ورتضي 436 مضور وار با لا له يس المالة مردونيو بي الحران عالم المران ممال من ممال ISPICO | Dagger 07.11.2012 ATTESTED M

سان خاند فان ته و ده يوم منظور شر، رفعت ا بمانی مون. کم معدم علی جوی مور می ۲۰۹۰ مرد مان ۲۵ نما کم کم مرد. سیانی مون. کم معدم علی اور می ۱۹۰۷ مرد می ۱۹۹۰ مرد کم مان کم کم مرد. سی تعالی میں باری تھی ، دوران تعالی مرد می ۱۹۰۱ و دیگر نوری سے سمراه . ابۇرىكى سے كھر پر جھا يەر ئى موكرملزم انورىملى عدم مو دور بالاكلا . جىكر دالد. حت رضا نه الله عدر بستول 30 بورمزى 847 دليم ما فت معم جا حر محموا جہ عدر کار تو س بیش کر کے بیانی ہوا کہ سا وہ دیثول سے ، حکو صاف کرتے ہو کو ، النوريساني مي أحكى مو مكر سي سائد مك كروس سي فأكر موكر وه خود أب أرجبي بواس مدم تو ترمارتر منت ممن تر جالان Stto ما سے دیکھ کرما ترحالان عال مدم تو ترمارتر منت ممن تر جالان کا ما سے دیکھ کرما ترحالان عال کا جہ سی نے دوری (مارالی) ما بان کی ۔ سی بان ہو تری تھا ہے (بوخي حرب معزر عدات سي كوا، فريضي له 436 نه واشكا ف العاط $\times \times \times$ خرد مفرضًا حد معل ما نكارك م آراحان نظر كارد ما كا -مر نیش کان سی تھی جب کر آیے۔ ند موقع ولیوں کو سر بر بارس سر میر ک سب نے واقع بیثول موقع و نبر بربارس بن کی تھی۔ عرف موقع وقبط دِ کیلی تھی۔ **مواہد** مزر مقبو منگی سی موقع ہو مذہ سربارس مکھنا نخر برکتا تھا -------×



Order

This order will dispose off departmental enquiry initiated against IHC Khalid Khan and Muhammad Naeem No. 436. It was alleged that IHC Khalid Khan had investigated case FIR No. 158 dated 10.03.2011 u/s 337-F(2)/34 PPC of PS Daggar, and case FIR No. 297 dated 24.04.2011 u/s 337-H PPC/13AO, of PS Gagra. During the investigation of the first mentioned case he failed to recover the weapon of offence, sickle, and remained condescend to the accused while during the last mentioned case he failed to seal the recovered pistol into parcel which is clear from the recorded statement of constable Muhammad Naeem No. 436 vide order sheet of the Judicial magistrate -II, Illaga Qazi Buner dated 05.06.2012. The constable Muhammad Naeem No. 436 categorically stated that he was neither the marginal witness of the alleged recovered pistol nor he had proceeded to the spot. He added in his statement that the pistol weapon of offence was in open condition. To probe into the matter an enquiry was initiated through Bakht Zamin Khan C.O Daggar against both the defaulter officers who reached to the conclusion that both the officers are liable to be awarded minor punishment. Thus two years approved service of both the officials is hereby forfeited. Order announced.

ESTED

Head of Investigation, Buner

Aux

0B-NO. 68 26-11-012

Annex NK1

ATTESTED

The Deputy Inspector General of Police, Malakand Region, Swat.

Subject: -

To,

DEPARTMENTAL APPEAL AGAINST THE ORDER OF HEAD OF INVESTIGATION BUNER OB NO. 68 DATED 26.11.2012 WHEREBY TWO YEARS APPROVED SERVICE OF THE APPELLANT WAS FORFEITED

Respected Sir,

The Appellant respectfully submits as under:-

- 1. That the Appellant was enlisted in Police as constable in 1991, passed the Lower college course on 31.03.2000 and inter college course 31.03.2012 from Police Training College Hangu.
- That the Appellant was assigned with investigation of case FIR No. 158 dated 10.03.2011 U/S 337-F(2) / 34 PPC of Police Station Gagra and Case FIR No. 297 dated 24.04.2011 of Police Station Gagra.
- 3. That the Appellant investigated both the case with full spirit and devotion, but the learned Judicial Magistrate Buner acquitted the accused in case FIR No. 158 on 24.05.2012 and in case FIR No. 297 on 29.06.2012, on various technical and factual grounds.
- 4. That the Head of Investigation Buner served show cause notice and statement of Allegation to the Appellant, alleging therein failure, to recover the weapon of offence in one case and failure to seal the pistol into parcel in another case, to which the Appellant submitted reply.
- 5. That a departmental enquiry was conducted against the Appellant, by the enquiry officer who submitted his report with the recommendations that minor punishment be awarded to the Appellant and thus the Appellant was awarded with penalty of forfeiture of two years approved service vide OB No. 68 dated 26.11.2012. Hence the instant departmental appeal, inter alia on the following grounds:-

Grounds:-

E:\ROUTINE\SI LEGAL\Appeal of Khalid Khan HC.0

(a). That the Appellant has not committed any act of commission or omission which constitute any misconduct under Police Rules 1975 or any other relevant law.

12/6/2012



- (b). That the Appellant was not associated with the enquiry proceedings and the principle of Natural Justice "Audi Alterm Partem" has been violated.
- (c). That the enquiry conducted against the Appellant is void abinitio, for no statement of the Appellant has been recorded. Neither the Appellant was given opportunity to defend himself nor the opportunity of cross examining the witnesses was afforded.
- (d). That the enquiry officer conducted the enquiry in absence of the Appellant. Furthermore, the enquiry officer relied only on judicial documents, while the departmental and judicial proceedings shall have no bearing on each other. The departmental proceedings must not be dependent on the judicial proceedings alone.
- (e). That the Appellant was not heard in person. The Appellant was not issued with a Final Show Cause Notice alongwith the finding report, which is against law, Rule and the set principles of Natural justice.
- (f). That the finding report of the enquiry officer is based on unilateral and unsubstantial contents which is a blur on the departmental proceedings. In the last Para of the finding report the enquiry officer writes that "sickle is not a valuable Article which the Appellant could purchase with his own pocket money to make the case successful", which finding is pushing the Appellant into false implications.
- (g). That the punishment awarded to the Appellant is harsh against Facts, illegal and not warranted by law.

Prayer:-

Keeping in view the above facts and grounds, your good self is requested to kindly set aside the impugned order of Head of Investigation Buner OB No. 68 dated 26.11.2012, whereby the Appellant was awarded with penalty of forfeiture of 2 years approved service, and restore the forfeited 2 years approved service to the Appellant, please.

PPELLANT

12/6/2012

HC KHALID KHAN NO. 260 POLICE STATION JOWAR, BUNER.

Anx مال تأد فرد مقبوض آلم مانز بتول ٥٤ در (24/04 is 297 un 337H $\stackrel{\text{def}}{\longrightarrow} \frac{1}{2} = 1 \left[\frac{1}{2} \left(\frac{1}{2} - \frac{1}{2} \right) + \frac{1}{2} \left$ رومرد محواجان ذيل مندم عنوان هوم بال من والدمان في وس اس عدد طرف محولم في عد عدف م مردان ملاف في فرق مشر ظر کیا کم یہ وہ می تول مے جا دریم ہے۔ او علی الا علی ال يواقع مرده مستول ٥٥ در ست طرح بع في عدد القد مرده بعور الم فالرقع شوت جم برف فرد قبة بولى من تسر مرد مرتبه سرقوف برا تدامین مرد س (تمیس) مرد سیم - ول بولدت تر مرفع Buy in a star and and and and and itteline /po Cogra 25/04/012-438 juin 984 15010 :=== H Parderts 1/2 281 - 292 - 20 Spo 6112 056 pls TRUECOPY EXAMINER District & Session 1 يور مير من منه که ان منه مي

Marg BNIN 11 3. Ogucke Arix M" Pw. 2-17, 1. 2 24 Fr Me ndin leiden فيظلمان المحانية المحانية فارهال لولي ブショービリ برجدف بيار كما تر مقرمه بدا تحد لفنش مير فرواله برا م حاق و فع جار من ز لفته موفر براسی المسل هب نشاند به اور توبان وشعر برمر بس به بن من أ مب جا بعلی تر فشار کر نے کار ڈ تر فشاری الاسم. x ت جاری تى جەددان ترفتارى مىن ادرتىز بى تى داد كومى ن بينكل أنبل مرمور في المحد 10.3.20 الم ي الم الم الم الم الم اورافت فررمرت کے ڈاکٹر کے والہ کی ہے مواقع (العظ Je- ile 20, El- 12, 20214 - 12, 22 - 2 - 2 توليح بحكى كرف مدالت فارتك ومت لولت في التحرد وفر والمع المرج من خصرمان الد القياى بان ع بن عدالت مي ترك فوان كارى بورىدالت في فوديش ورال تر بعجوان مترمريزا م متلا تريان يتانات ذيرد فن ١٦/ فن ف فكينه كي في في مكي روز بر のうじっしららHの、 いの、 いい、 いっちょう いろ いっちょう しょう فورشهالوزخان ناسل حظمس كرجالان فارم مكل تكداض ومالي كي ج سي فور شمالوركان ملاك وسخد / إ $\mathbf{IKU}_{\mathcal{C}} = \mathcal{C}_{\mathcal{C}} = \mathcal{C}_{\mathcal{C}}$ S. <

Dw2 28.9.11 civilities FIR \$ 10-3.11 en XX مسرع حوالم من بن - مردس ج کی تغیین حوال les ulti les le crie d' b. 6 2 2.8 2 conde ége تر ماريخ والت ماري من كما ع - مررست المرور فعتنا معنوات مي شرع كالم بر بر از قرری کر منون می مادر این منزم نا لی در فی از ار مزر مردن فل ی کی ن لی فی مرسی وج علم بای موا کر آلہ عبر کا سے مری شرین ع مردست محر نسب ور بر م فيرسي في لقن حرا، FIR المدر المحالم مرقي م لفت فرایان فی در ادر مری مشرع یا ن مری برمن ک مردرس في في رمر قوري فسوت مح في المان . م در س محر مح محر مح من م در س مند من م در س المح الواه مح طريم في نس له ج - سينا ط ج مي AUE COPY 11/19/86 acin ching



<u>AFFIDAVIT</u>

I, Mr. Khalid Khan HC 260 Police Station Jower Buner, solemnly affirm and declare on oath that in the departmental inquiry initiated against me in Case FIR No.158 Dated 10-03-2011 and FIR No. 237 Dated 24-04-2011 of P.S Gagra by the Head of Investigation. I have not at all been associated in departmental inquiry by the inquiry officer Mr. Bakht Zamin Khan (C.O) Daggar nor my statement has been recorded nor any opportunity of defense has been given to me and the statement recorded in the finding report by the afore mentioned inquiry officer has falsely been attributed to me and also my signatures has been falsely, fraudulently imposed and or wholly false and fabricated one.

That the above statement are rue and correct to the best of my knowledge and nothing has been concealed in the affidavit.



ponent

Mr. Khalid Khan CNIC No. 15101-3155386-1

وكالت نامه myew in veil) an rei joe's, بعدالث الورش ترتى ولالمتدوكر ه فالرفال _____ بنام في النكو منجان<u> سایتل</u> مسروس مقدمه مندرجه بالاعنوان میں اپنی طرف ہے داسطے ہیروی دجوابد ہی بمقام میشیا 9 رہے مشاق احمد حان المروكيف مان كورم كورين شرط دليل مقرر كياب ميں ہريش پر خود پیزر بعد مخذار خاص روبر دعدالت حاضر ہوتار ہوں گااور بر دفت پکارے جانے مقدمہ دکیل صاحب موصوف کواطلاع دے سال میں اس کروں گا۔اگر بیش پڑین مظہر حاضر نہ ہوااور مقد سہ میری غیر حاضری کی وجہ سے سی طور پر میرے برخلاف ۔ ہو گیا تو صاحب موصوف اس کے سی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام کچہری کے سی ادر جگہ یا کچھڑی کے مقررہ اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے۔اگر مقدمہ علاوہ صدر مقام کچہری کے سی اور جگہ ہاعت ہونے یا بروز تعطیل یا کچہری کے اوقات کے آگے بیچھے بیش ہونے پر من مظہر کوکوئی نقصان ببنج تواس کی ذمہ داریاس کے داسطے سی معاد سلکہ کے ادا کرنے یا مختانہ داپس کرنے کے بھی صاحب موصوف ذ مہدار: ،، وں گے۔ مجھ کوکل ساختہ پر داختہ صاحب موصوف مثل کر دہ ذات خود منظور وقبول ہوگا اور صاحب موصوف کر عرضی دعوے دجواب دعویٰ اور درخواست اجرائے ڈگری دنظر ثانی اپیل ونگرانی ہرشم کی درخواست پر دستخط وتصدیق کرنے کا بھی اخذیار ہوگا اور کسی عظم یا ڈگری کے اجرا کرانے اور ہوشم کارو پیدوصول کرنے اور رسید دینے اور داخل کرنے اور ہوشم کے بیان دینے اور سپر د ثالثی وراضی نامہ کو فیصلہ برخلاف کرنے ،اقبال دعویٰ دینے کا بھی اختیار ہوگا اور بصورت اپیل و برآمدگی مقدمه پامنسوخی ڈ گری، یکطرفه درخواست حکم امتناعی یا قرقی پا گرفتاری قبل از اجراء ڈ گری بھی موصوف کو بشرط إدائيكى عليجه ومخنانيه پيروى كااختيار ہوگا،ادربصورت ضردرت صاحب موصوف كوبھى اختيار ہوگا، يا مقدمہ مذكور ہيااس يح کسی جز دکی کاردائی کے داسطے یا بصورت اپیل ، اپیل کے دانسطے سی دوسرے وکیل یا بیرسٹر کو بجائے اپنے یا اپنے ہمراہ مقرر کر بن،ادرایسے شیر فانون کو ہرامر میں وہی اور ویسے ہی اختیارات حاصل ہوں گے، جیسے کہ صاحب موصوف کو حاصل بإبراورد دران مقدمه میں جو پچھ ہرجانہ التواء پڑے گا دہص احب موصوف کو پورااختیار ہوگا کہ مقدمہ کی پیروی نہ کریں، رایبی صورت میں میراکوئی مطالبہ بھی صاحب موضوف کے برخلاف نہیں ہوگا۔لہٰذا یہ پختار نامہ ککھ دیا تا کہ سندر ہے۔ مورخہ۔ چی ہے کہ کے کر کھر مضمون مختار نامہ تن لیاہے،اوراحیمی طرح سمجھ کیا ہے اور منظور ہے AHesteil mughtar Almelildhe Accepta Bimer y? at / 19/ba Mab 100346-941199

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 501/2013

Khalid Khan HC No. 260 Police Station Jowar Buner (Appellant)

VERSUS

1. The Deputy Inspector General Of Police, Investigation, Malakand at Swat

2. The Head of Investigation (SP), Buner.

- 3. The Additional Inspector of Police, Investigation Khyber Pakhtunkhwa, Peshawar.
- 4. Mr. Bakht Zamin Khan CO Circle Daggar (Enquiry Officer).

..... (Respondents)

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Head of Investigation,

Buner. (Respondent No. 2)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

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- 4. Mr. Bakht Zamin Khan CO Circle Daggar (Enquiry Officer).

..... (Respondents)

Parawise comments on behalf of Respondents

Respectfully Sheweth

Preliminary Objections:-

1. That the current appeal is time barred.

2. That the current appeal is not maintainable.

3. That the currant appeal is bad due to misjoinder and non joinder of necessary parties.

4. That the order of the competent authority has got finality and cannot be challenged.

5. That the appellant has no cause of action against the respondents.

6. That the appellant has no locus standi to file the current appeal.

7. That the appellant is estopped due to his own conduct.

8. That the appeal is bad in the present form and is liable to be dismissed.

9. That the appellant has not come to this Honorable Tribunal with clean hands.

ON FACTS

- 1. Para No. 1 of the Appeal relates to the service record of appellant, therefore need no comments.
- 2. Para No. 2 of the appeal is admitted.
- 3. Para No. 3 of the appeal is admitted to the extent that the appellant investigated cases FIR No. 297 dated 10.03.2011 and 158 dated 24.04.2011. The rest is denied. Accused in both the aforementioned cases were acquitted by the Court due to poor

investigation conducted by the appellant. The appellant did not carry out the investigation honestly and resulted in acquittal of the accused.

- 4. Para No. 4 of the appeal is admitted.
- 5. Para No. 5 of the appeal is admitted to the extent that proper departmental enquiry was conducted against the appellant. The rest is denied. The appellant was given full opportunity for defending himself but he failed to produce any cogent reason in his defense vide show cause notice in case FIR No. 158 as annex: "A" and show cause notice in case FIR No. 158 as annex: "A" and show cause 158 as annex: "C" and statement of allegation in case FIR No. 297 as annex: "D".
- 6. Para No. 6 of the appeal is admitted. The appellant was found guilty; therefore, he was awarded with minor punishment i.e forfeiture of 2 years approved service vide finding report in case FIR No. 158 as annex: "E", finding report in case FIR No. 297 as annex: "F" and order of the respondent No. 2 as annex: "G"
- 7. Para No. 7 of the appeal is also admitted. The departmental appeal was dismissed being devoid of substantial reasons vide comments to the departmental appeal of the appellant as annex: "H" and order of the appellate authority as annex: "I".
- 8. Para No. 8 of the appeal needs no comments.

On Grounds:

- A. Incorrect. The appellant was properly proceeded against departmentally and no provision of law / rules has been violated so far.
- B. Incorrect. The appellant was fully associated with departmental proceedings and the principle of Audi Alterm Partem has been adhered to.
- C. Incorrect. The appellant willfully defaulted in recovery of weapon of offence and too defaulted in sealing the recovered weapon of offence which is a mandatory requirement under police rules 25-41.
- D. Incorrect. The appellant was properly issued with show cause notice. The principles of natural justice have fully been abode by.
- E. Incorrect. The departmental proceedings were conducted in due course of law / rules.The appellant was given full opportunity of hearing.

- F. Incorrect. The respondents had no ulterior motive against the appellant. The punishment awarded was on account of poor investigation based on proper departmental proceedings.
- G. Incorrect. The punishment awarded to the appellant is appropriate in circumstances.
- H. The respondents also seek the permission of this Honorable Tribunal to adduce more grounds / points at the time of arguments.

<u>Prayer:</u>

Hence in view of the above comments the respondents respectfully pray form this Honorable Service Tribunal, that the appeal of the appellant may graciously be dismissed with costs.

hand

Deputy Inspector General of Police, Investigation Malakand at Swat. (Respondent No. 1) Deputy Inspector General of Police, INVESTIGATION, Malakand At Swat.

Head of Investigation,

Buner. (Respondent No. 2)

dom

Addl: IGP, Investigation, Khyber Pakhtunkhwa, Peshawar (Respondent No. 3)

Bakht Zamin Khan,

Bakht Zamin Khán, Circle Officer, Daggar. Now SHO PS Totalai. (Respondent No. 4)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 501/2013

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- 3. The Additional Inspector of Police, Investigation Khyber Pakhtunkhwa, Peshawar.
- 4. Mr. Bakht Zamin Khan CO Circle Daggar (Enquiry Officer).

..... (Respondents)

<u>Affidavit</u>

We the above Respondents do hereby solemnly affirm and declare on oath that the contents of the parawise comments submitted in reply to Service Appeal No. 501/2013 titled as above are correct to the best of our knowledge and belief and nothing has been concealed from the Honorable Khyber Pakhtunkhwa, Service Tribunal.

tant

Y Deputy Inspector General of Police, Investigation Malakand at Swat. (Respondent Polof Police, INVESTIGATION, Malakand at Swat.

f-Investigation,

Buner. (Respondent No. 2)

Addl: IGP, Investigation, Khyber Pakhtunkhwa, Peshawar (Respondent No. 3)

Bakht Zamin Khan, Circle Officer, Daggar. Now SHO PS Totalai. (Respondent No. 4)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

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- 4. Mr. Bakht Zamin Khan CO Circle Daggar (Enquiry Officer).

...... (Respondents)

Authority Letter.

We the above Respondents do hereby authorize and allow Mr. Imran Ullah Sub- Inspector (Legal) Buner to attend the Honorable Service Tribunal on our behalf in connection with Service Appeal No. 501/2013 titled as above and do whatever is needed in the court.

the second

✓ Deputy Inspector General of Police, Investigation Malakand at Swat. (Respondent No. 1) Deputy Inspector General of Police, INVESTIGATION, Malakand at Swat.

Head of Investigation,

Buner. (Respondent No. 2)

Addl: IGP, Investigation, Khyber Pakhtunkhwa, Peshawar (Respondent No. 3)

Bakht Zamin Khan, Circle Officer, Daggar. Now SHO PS Totalai. (Respondent No. 4)

SHOW CAUSE NOTICE.

alid K<u>h</u>a

WHEREAS, you IHC Khalid Khan while posted at PS Gagra had investigated case FIR No. 158 dated 10.03.2011 U/S 337 F (2) / 34 PPC of Police Station Gagra. Because of your poor investigation the accused were acquitted by the Judicial Magistrate-II / Illaqa Qazi Buner on 24.05.2012. The ground for acquittal was pointed as weapon of offence sickle was not recovered.

This order w

This amount to gross misconduct on your part and render you liable to be proceeded against departmentally under Police Rules 1975.

You are hereby called upon to show cause as to why proper departmental action under the above rules should not be taken against you. If your reply to this notice is not received within 7 days of receipt of this notice, it will be presumed that you have nothing to put in your defence and an exparte action will be taken against you.



10-945/XAD

Anx D?

Head of Investigation, Buner.

No. 1066-68/Invest: Dated Daggar the 17 - 7 /2012. Copy forwarded to the:

1. Additional Inspector General of Police, Investigation, Khyber Pakhtunkhwa, Peshawar.

2. District Police Officer, Buner.

ATTESTE Super tion Buz

Head of Investigation, Buner.

OBN: as 201, -

SHOW CAUSE NOTICE.

WHEREAS, you <u>IHC Khalid Khan</u> while posted at PS Gagra has investigated case FIR No. 297 dated 24.04.2011 U/S 337 H / 13 AO • of Police Station Gagra. You have not sealed the recovered weapon of offence into parcel, despite clear instruction issued from this office.

All these amount to gross misconduct on your part and render you liable to be proceeded against departmentally under Police Rules 1975.

You are hereby called upon to show cause as to why proper departmental action under the above rules should not be taken against you. If your reply to this notice is not received within 7 days of receipt of this notice, it will be presumed that you have nothing to put in your defence and an exparte action will be taken against you.

Head-of Investigation,

-Annea-

No. 22° -22Invest: Dated Daggar the $(9^{\circ} \circ 6)$ /2012. Copy forwarded to the:

Additional Inspector General of Police, Investigation, Khyber Pakhtunkhwa, Peshawar.
District Police Officer, Buner.

Buner.

Head of Investigation, Buner.

19-6-2-012

ATTESTED n/theng

DISCIPLINARY ACTION

1

2.

3.

4.

I. Muhammad Zahir Shah Head of Investigation, Buner as competent authority, is of \mathcal{T}_{Le} opinion that you Mr. Khalid Khan IHC while posted at Police Station Gagra have render yourself liable to be proceeded against departmentally as you have committed the followi acts / omission as defined in Rule 2 (iii) of Police Rules 1975.

16

order win

thney.

Head of investigation,

Investigation.

Buner.

Buner.

Head of

STATEMENT OF ALLEGATION

That it has been reported against you <u>IHC Khalid Khan</u> while posted at I Gagra had investigated case FIR No. 158 dated 10.03.2011 U/S 337 F (2) / 34 PPC Police Station Gagra. Because of your poor investigation the accused were acquitted by the Judicial Magistrate-II / Illaqa Qazi Buner on 24.05.2012. The ground for acquittal was pointed as weapon of offence sickle was not recovered.

Which is a gross misconduct on his part as defined in Rule 2 (iii) of Police Rules 1975 For the purpose of scrutinizing the conduct of said officer with reference to the abov allegations Mr. Bakht Zamin Khan CO Circle Daggar is appointed as enquiry officer.

The Enquiry officer shall conduct proceedings in accordance with provision of Police Rule 1975 and shall provide reasonable opportunity of defense and hearing to the accused officer record his findings and make within twenty five (25) days of the receipt of this order recommendation as to punishment or other appropriate action against the accused officer. The accused officer shall join the proceeding on the date, time and place fixed by the Enquiry officer.

No. 1447-49 /EC, Dated 19-09 - /2012.

Enquiry officer for initiating proceeding against the accused officer namely under Police Rules
Defaulter concerned.

ATTESTED nvestigation Buner.

DISCIPLINARY ACTION

I, Muhammad Zahir Shah Head of Investigation, Buner as contact authority is of The opinion that you Mr. Khalid Khan IHC while posted at Police Station Gagra have render yourself liable to be proceeded against departmentally as you have committed. The Following acts / omission as defined in Rule 2 (iii) of Police Rules 1975.

STATEMENT OF ALLEGATION

That it has been reported against you IHC Khalid Khan while posted at PS Gagan, investigated case FIR No. 297 dated 24.04.2011 U/S 337 H / 13 AO of Police Station Gagran You have not sealed the recovered weapon of offence into parcel, despite clear instruction issued from this office.

Which is a gross misconduct on his part as defined in Rule 2 (iii) of Police Rules 1975. For the purpose of scrutinizing the conduct of said officer with reference to the above allegations Mr. Bakht Zamin Khan CO Circle Daggar is appointed as enquiry officer.

The Enquiry officer shall conduct proceedings in accordance with provision of Police Rules 1975 and shall provide reasonable opportunity of defense and hearing to the accused officer, record his findings and make within twenty five (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused officer.

The accused officer shall join the proceeding on the date, time and place fixed by the Enquiry officer.

Heart of Anvestigation, Buner.

Head of Investigation,

thnex A DE

No. 1450-52/EC,

2.

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4.

Dated 19-09- 12012.

- Enquiry officer for initiating proceeding against the accused officer namely under Police Rules 1957.
- 2. Defaulter concerned.

ATTESTED

ntendent of Police

Investigation former.

Annex-E" ، ، ، برنگ _ بو-توالى مغرف عام 158 من من 10°3 من 10°3 من 158 من من 15° من 6月日前 シオレ ひらいら -: ドル مِنا ب مالى ! حوال که سیلنوی کاردانی حط مربع (9 ۲۰۹۹ - رکبر کا عزات انکواری و خدان خاليان مالا معروف شب مون حرم و المالوم - مادمان ل ستر مد مذکورہ بالا میں آلہ صور در سی سرامد نہ کرنے کا الرام ما بکر کا ہے ، جب ک وحد سے عدالت معترر ند مدم مو مور حد 20، 20، 24. کو شک کی شا و بر مدم ابرائے مری کیا ہے۔ اپر آب صاحبان نے اس سلط میں تھے انکوالوی اعثر معزر ارت بی دیکم تحر و فرمانا ب الكوارى كاغذات ، سطى شر كاغران كا مطالعا موكر بابا كار متعناف نظر آبا بر نے برد کے نقل مد بنر ۱۵ ورز نا بیما 20 80 قائر کا گر مس نظر آبا بر نے برد کے نقل مد بنر ۱۵ ورز نا بیما 20 1100 رولی درج سرا تے ہو کے نیا ا کہ مل مرحما - 67 کو وہ ہوت شام ولے رولی درج سرا تے ہو کہ ا یت این المر مرم حول مثوان او حور تحار کداس دوران ملامات اورنگریت ول ان الم الم الم و درای م وارس منعن موالی ان رز دم ترع تر ال میں میں ہر تکریم کا ترارہ نے اس پر لائوں کھوں سے کرال تو وع کی جس سے ٥٠ والتي ٦ تكه ير سلكون اور دكير حان يو درد ستر موا ١٠ في دوران مسر ف واحد على ، حدر على بيران حد آسن شاه فراكر المرحلا مى كرائى اورو توع أنكا متحمد مع منعت ند وجه عناد ما رح م مواد ملال جم رود مس نا حز سی وص مشران خود سے صلاح مشہورہ کرا . یا ن کا ہے . مشخبت کے محروض بدور از دو توبی کا برخلاف بر د دمد ان الا دعو باری کی تعرد ج کا تقت ضرب را روتر زمر مفاطّ تنبل کل من ، A S34 DHQ متال کر بعیون طی روش مول بو - - رَ المحالي المرض الحد و جرم (FCII) 735 كَانَ مَرَاحَ رَضَرَكَ كَانَ بو محدد علي 158 مرض الحد م 34 (Re 1 20) 34 دوران ریکوا کری تھ عدات - صفح کا تقور مطالع مور ایا گیا- کہ عدالت معزر نے مناب ی بت چند نکات کا مار رعل س لاک ک ATTESTED اليوث كالدارج من تاجر تحوار حثمر بد اور متحت سر بالمات سي كافي تضارات Superintendent of Police \mathfrak{G} العشر موج بر کس می می حد 2 ی ا سر م مونا Θ سلم طور بد مد ان ب آلد مرد کی وا مرکی م 3 حد كَفَتْ موقع وقتى وقوع مدرم أوركر بن تفت كافريك ما باتر فا مرجو مرا ⊕ كار مواج جا، حكاره حيص بد والد حد كمانى عامر ملام اورتكري \mathfrak{T} (G, En

P-N لوقت و فوع متحت حما مح في خر- تما ی مزین ما اطل حرم نہ کر ا درج نکاتے میں رکورٹ کی کا ضرب تعلق مشقیق سے سے ، حسک وطادن منفیتہ نے اس موج میں کی ہے کہ وہ الج مخران سے صلاح محمورہ کر با تھا تمام. برائات اور الکوالری محافرات محمان ، من کم ملزمان سے سرآ مرگا شوا مرکا اندرى كارمان ١٩٦ كالمان كا خلار كا كاراس روران رئی نے کا کہ مدان تو رائے حصرل دات ہولی بیش سالت کے تی تع ديكي مدلة معرر مدرسان كردى مو دار ولن و في كر مار والا ورُضَ بحروات برب وحرمدن م آدمز دراس کی رآ بر کا مکن برکی كر مذمان مذ أكر ما في 48 تعني حاكر الفسار م حراث مي نه تع ؟ XXX الم - عَنَادَ عَدِ مَدْ مَانَ تَوَ حَانَ الآَثِ تَاعَةِ مَرْسِ المَارِدْتِ مي تي نع مكر جم ماني ماريكاري تع من ده مرا ولي ما نکے کی صرف جن آکی اور دو رے دن مجان ملز ان کو عمالت ر تر بنرص وحول دارت لایجا ما برا. تستی دارت بولس نه مه م - - . ایک طرف میں سا مرکی نہ ہونا سورے کو کافی کرورکرد کی سبھ تو روس 1812-10 طرف تجرابان حيث در أوروتيفت سر بنايات مس تصاديدان مح ربي سي تسويوى كرر سي مد مر من رماده رور تورین فتی در اور شخت کر مانا – میں عالت نے منطح میں زماده فتر وران فتی میں اور نارین کو کا رمان سالا نے نفشہ تضاد برای موریا ہے ، کواہ فتی وران اور نارین کو کا رمان سالا نے نفشہ موقع سي عاني ترقيع ظاركم ب تلكي تواه في ومراني كي كم وه عان الكور ماندا مي خالد فان ما ١٩٩ اس حد تك فقور وار بي ،كم دراس انی زارہ خرب کی جرب سے آثر اپنے جب سے حربر 2 کو مقدم کا سا - مرحاما اور مذمان سل الم من يحي المتن حي تك خالد فان ١٩ و كام مرفق مرا م ور مدر مان من ملی - لو 48 مفتح حالے ہولی اختیاری تو ولی کا (کرا خلیا ر سے ور السر أ مر حيا ما المر في مرا مر في مر ما في من المر عمال في مدال لا بر ت م ر تكر مردا سر المربع المربي المربي والمربع المواحق ما بال TTESTED المربع المربع المربع المربع المربع المربع المربع المربع D See Son & Ky Con Lin Supervisendent of Police INSP. CO. Daggar.

Annex-F فاسر بك ربوب فينام: - خالبرخان عالم تعاسم تكاكر معال بر رخص كلان ! داد به بحوالم انضاطی کا روانی خط میری= S2 - S2 - I - ریگو کاغذات انکوائری ر خلاف خالد خان HC معروض خرمت بون. کر مذکوع بالاسترمس خا لدمان ملاو نے تعلقہ کرتے ہوئے پیشول 30 ہور لطور الد ضرر قبضہ يوني ميں كرك باوجود واضح برايات كرمنز م بارل ميں كى تھى. حس كر با د بر عدان معزر حد العبوم صد يعى مان جود نشل محموم الوير دكر فر مرحم -9 المدر م موشک ما فا مدلاد عکر بری کما ہے ، اس سلط میں آ ہے ماما ن نے بھے مو ملز م کوشک ما فا مدلاد عکر بری کما ہے ، اس سلط میں آ ہے ماما ن نے بھے اس بارس مدرم بولسين ا فسو ٦ خلاف انكوالوى محا حكم تحوير فوسال مع دوان انكوارى منك معندم اور منصلى شرب كاغدات كا مطالعه موكر بالكيا كم ملر م انور على ولد تقت صاراً من تحليا رى التي لينول 30 بورصاف كررا ها كرا جانك ملرم كي أنكل ارت المنتي كيل المراج الم الود رومى موا. معتر مردر حرمو موكر لمنتي كيل خالد خان مااو مرحد مر بی . نونش کرت مولد خاندخان عالد مار مر مو گرفار کا. بیشول ٥٤ بور لیمو مد حوالے مو بی . نونش کرت مولد خاندخان عالد کا مار مر مو گرفار کا. بیشول ٥٤ بور لیمو کھ عدر کارٹوس قدیف سی کی . تعلین سے اختساح یو مقدم مذکور بالا میں برطراف ملز م مان جود فرن محرف وروس ساعت مور مرحما 20 ومدر م الورسلى عدالت جود فر فن م الورسلى جالان ململ دما کیا . ور جن والما من محلياً رى كو مقد مرابد اس شك كافا مدة دياجا كرا خدارت ريود عن ٨-٩٩ هن ما ذکر کیا ہے، وہ سی سی کہ معدم ادا میں اعتب ہو قدح مرتب کیا کیا ہے ، نی المصرر ينول تى جآمر كى مار م م موى م يتول مدر م بارل بن مى مى مى حكا دوران بہوں دی جز سر ی سر ا علینری شادت خیس محد محم ، 364 ما سر کا کر محال عام بر بال اللی نورس ند میں بیول ملیز بر پارس نہ کرنا ظارکتا ہے ، حی سے لیے سی Dpp ما دی ہونو نے خط مر ی 20.0 مذہب پارس نہ کرنا ظارکتا ہے ، حی سے لیے سی مرکز اے کا ہے ، کا ہے ، کا ہے ، کا د مد ہوتے ہوتے ہوتے ہوتے سے دو وجوبات سے ارم شکاری کیا ہے ، ایک نس در ایک ہوتے ، ایک میں مفد مرابط سی مدرم کی برشی سے دو وجوبات سے ارم شکاری کیا ہے ، ایک نس در العظم کے سی تصادیا بی اور تعنینی افسر کا بیشوں شر سیا سل سر کر دوران انكوا مرى مدرم بولين افسر خالد خان ما سان خلير موكراس سيجمع بر بينجا مون. كم دور مراف کا در کا ن مالا جر تی ور تعلیم کا که مصور وار نا لے لیے ہیں ، خالع مرد بولی افسوان کا در کا ن مالا جر تی ور تعلیم کا کھ ج مربع بر بی از بر با بر بر با بر به بر بن کا تعا، آور نی هر نعیم به 43 نه مدان میں متاا و ل بو فع بر بر با بر بر با بر به بو بن کا تعا، آور نی هر نعیم به 43 له عدان میں رہی فدا لغن سفی سے جن کر بیا ن دیا ہے ، جر دو توں یولی افسران آگر شوائح ما بل بنی ، س المد ما مل كرفت طرور مين ، مبدل معولي زا د مرى مارس كماتى بر. Le T Daggar nvestigation Bu

Order

This order will dispose off departmental enquiry initiated against IHC Khalid Khan and Muhammad Naeem No. 436. It was alleged that IHC Khalid Khan had investigated case FIR No. 158 dated 10.03.2011 u/s 337-F(2)/34 PPC of PS Daggar, and case FIR No. 297 dated 24.04.2011 u/s 337-H PPC/13AO, of PS Gagra. During the investigation of the first mentioned case he failed to recover the weapon of offence, sickle, and remained condescend to the accused while during the last mentioned case he failed to seal the recovered pistol into parcel which is clear from the recorded statement of constable Muhammad Naeem No. 436 vide order sheet of the Judicial magistrate –II, Illaqa Qazi Buner dated 05.06.2012. The constable Muhammad Nacem No. 436 categorically stated that he was neither the marginal witness of the alleged recovered pistol nor he had proceeded to the spot. He added in his statement that the pistol weapon of offence was in open condition. To probe into the matter an enquiry was initiated through Bakht Zamin Khan C.O Daggar against both the defaulter officers who reached to the conclusion that both the officers are liable to be awarded minor punishment. Thus two years approved service of both the officials is hereby forfeited. Order announced.

Anner-G"

Head of Investigation, Buner

0B-NO. 68 26-11.012

ATTESTED endent al police Investigation Buner

Head of Investigation, Buner

The

The Deputy Inspector General of Police, Investigation - I, Northern Districts, Malakand Swat.

/Invest: dated Daggar the 16 /01 /2013.

DEPARTMENTAL APPEAL AGAINST THE ORDER OF HEAD OF INVESTIGATION, BUNER OB NO.68 DATED 26.11.2012 WHEREBY TWO YEARS APPROVED SERVICE OF THE APPELLANT WAS FORFEITED.

Kindly refer to your good office memo: No. 17/PA/ Inv-I, dated 10.01.2013, on the subject cited above.

Sir,

Memo:-

Because of poor investigation in the following cases a minor punishment of forfeiture of 2 years of service was awarded to the I.O Khalid Khan HC No. 260 of Investigation Wing Buner.

1. Case FIR No. 297 dated 24.04.2011 u/s 337-H PPC/13AO of PS Gagra.

2. Case FIR No. 158 dated 10.03.2011 u/s 337-F(2)/34 PPC of PS Gagra.

Both the cases were registered at PS Gagra and investigated by IHC Khalid Khan of investigation wing of PS Gagra.

In the first mentioned case a written complaint against the I.O Khalid Khan was received to this office from District Public Prosecutor, Buner vide letter No. 320 /DPP dated 15.06.2011 upon which show cause notice was issued to IHC Khalid Khan vide No. 880-881 dated 19.06.2012. On 09.08.2012 he submitted his written reply after a considerable delay of two months i.e. beyond the stipulated period. The statement was not satisfactory and a charge sheet was issued to him vide this office No. 1201/E dated 10.08.2012. The delinquent officer did not submit his reply in the stipulated period. A proper departmental enquiry was initiated against him through Bakht Zamin Khan C.O Investigation Daggar. During the course of enquiry he was cross examined and when he was asked by the E.O as to why had he not sealed the pistol, weapon of offense on the spot, he replied that actually he had not sealed the pistol as weapon of offence into parcel on the spot but had mentioned in the recovery

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Superintendent of Police Investigation Buger

ATTESTED

emo. The enquiry officer concluded the enquiry with the recommendations of awarding him a minor punishment.

The second mentioned case was also assigned to IHC Khalid Khan for investigation and complete challan against the accused was submitted to court. The accused were tried in court where from they were acquitted. The grounds given for acquittal by the court were (1) weapon of offence was not recovered.(2) No confession of accused. (3) Contradiction in statements (4) Weak case against accused. Because of his poor investigation he was issued a show cause notice No. 1066-68 /Invest: dated 17.07.2012. He submitted his reply without covering the stipulated period on 01.08.2012. The statement of the defaulter officer was not satisfactory and he was served with a charge sheet No. 1200/E, dated 08.10.2012. He did not bother to submit his reply. A proper departmental enquiry was initiated against him through Bakht Zamin Khan C/O Investigation Daggar vide No. 1447-49/EC. The E.O summoned the defaulter officer for recording his statement on 07.11.2012. He submitted written reply stating therein that he had investigated the case honestly and fairly, recorded statements of the witnesses, arrested the accused and obtained one day custody on their behalf but the accused were acquainted with law and did not confess their guilt. He added that one day police custody was granted but the following day when he produced the accused for securing further police custody on their behalf, the court sent them to judicial lock-up and thus no recovery of weapon of offence, sickle, could have been affected. He was summoned for cross examination but he did not attend office of the E.O. On cell phone a single question and its reply was made, reproduced by the E.O in his findings. The E.O reached to the conclusion that the delinquent officer had rendered himself liable for punishment and was then recommended for minor punishment. A minor punishment of forfeiture of 2 years service was awarded to him vide OB No. 68 dated 26.11.2012.

Para wise comments are submitted as under:-

- a) Not true. He has conducted investigation in haphazard manner, as a result accused were acquitted.
- b) On 01.08.2012 he produced written reply to the show cause notice No. 1066-68/Invest: dated 17.07.2012. He was fully aware of the process and did not bother even to appear before the undersigned.

03-Oct-12

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VSuperintendent of Polise

The defaulter officer produced his written statement in office if the E.O. (statement attached). For cross examination he was summoned through his cell phone No. 03429866693 but he did not attend office of the enquiry officer in the enquiry of case FIR No. 158. However in the enquiry of case FIR No. 297, he was cross examined on 6.11.2012.

-16

- d) Enquiry was conducted keeping in view the poor investigation conducted by the defaulter officer. Judicial papers fully support the decision of the enquiry officer.
- e) The defaulter officer in spite of repeated calls did not attend office of the enquiry officer. No final show cause notice in the minor punishment is required otherwise it would have been given. In show cause notices followed by charge sheets, the defaulter officer was clearly asked to appear before the undersigned if he wanted to have been heard in person but he ignored the directions and did not appear before the undersigned.
- f) The finding report of the enquiry officer is not based on unilateral and unsubstantial contents, but contrary the defaulter officer, while conducting investigation of both the cases, seems to be under some extra departmental pressure because of which he did not recover weapon of offence and has thus spoiled the case.
 - In the second case the defaulter officer failed to seal the recovered pistol into a parcel on the spot. Constable Muhammad Naeem No. 436, supported the version. The defaulter officer while drawing the site plan, violated provision of police rules 25-13 as he gave point to accused Aurang Zeb towards east from the complainant while PWs stated him to be on the western side. Referring the last Para of the finding report of the enquiry officer about purchase of sickle as weapon of offence form his pocket money, was only a presumption expressed by the E.O after the court decision and not before or during investigation that could have pushed the defaulter officer towards false implications in the case.
- g) The defaulter officer has spoiled 2 cases with his poor investigation and the punishment awarded to him was far less than the fault he committed.

Submitted, please.



ATTESTED

ySuperintendent of Police Investigation Buner.

24 Jan. 2013 10:01Ah

ORDER.

ESTIGATIO, SWAT

This order will dispose off departmental appeal preferred by HC. Khalid Khan No. 260 of P.S Jowar, Buner against the order of Head of Investigation Buner vide OB No. 68, dated 26.11.2012 whereby two years approved service of the appellant was forfeited.

FRA HO.

I have gone through the relevant papers of departmental enquiry well as report of SP Investigation, Buner. I have noticed some lacunas in the process of investigation conducted by the appellant HC Khalid Khan No. 260 and his appeal against the order of Head of Investigation, Buner is hereby dismissed. The order of Head of Investigation, Buner is hereby

> (SAJID ALTKHAN) Deputy Inspector General of Police, Investigation, Malakard at Swat.

No. 63 - 65 /PA/Inv, Dated Swat, the 23 /01/2013.

Copy for information and necessary action to the:-

- Additional Inspector General of Police, Investigation Khyber Pakhtunkhwa, Peshawar w/r to his Dy: No. 9648, dated 20.12.2012
- 2. Head of Investigation Buner.
- U 3. HC Khalid Khan No. 260. L_
 - 4. Office Copy.

BEFORE THE KHYBER PAKHTOONKHWA SERVICE TRIBUNAL,

PESHAWAR

Rejoinder in service appeal No. 501/2013

..... (Appellant) Khalid Khan H.C 250 Police Station Jowar

Verses

- 1. The deputy inspector General of Police investigation, Malakand, Swat.
- 2. The Head of investigation (S.P) Buner.
- 3. The additional inspector of police, investigation Khyber Pakhtoonkhwa.
- 4. Mr. Bakht Zamin Khan CO Circle Daggar (inquiry officer).......(Respondents)

REJOINDER TO THE COMMITS OF RESPONDENTS.

Respectfully Shewth:-

On preliminary objections

A. Preliminary objections as raised in para 1,2,3,4,5,6,7,8 and 9 in the reply are incorrect and misconceived.

On Facts

- 1. Para 1 of the appeal has been admitted by the respondents.
- 2. Para2 also admitted by respondents.
- 3. Para 3 of the appeal is correct and reply thereto is misconceived.
- 4. Para 4 of appeal has been admitted by the respondents.
- 5. Para 5 of the appeal is correct and reply thereto is misconceived and incorrect.
- 6. Para 6 has been admitted.
- 7. Para 7 of the appeal has been admitted by the respondent.

Grounds

- a. Para "a" of the grounds of appeal is correct and reply thereto is totally wrong.
- b. Para "b" of the grounds of appeal is correct and reply thereto is only an
 - evasive Denial without any cogent evidence. The appellant has affixed sworn affidavit that he has not been associated with the departmental proceedings as per law.
- c. Para "c" of the appeal is correct and reply thereto is incorrect, improper and incomplete.
- d. Para "d" of the appeal is correct and reply thereto is misconceived.
- e. Para "e" and "f" of the appeal are correct, reply thereto is incorrect, improper, incomplete and without any supportive evidence, the appellant has given sworn affidavit in respect of assertions made in these paras of the service appeal.

f. Para "g" and "h" of the service appeal is correct and reply thereto is misconceived and incorrect.

Dated $2 / \frac{12}{2013}$

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

Appellant Through

2/12/0/3

Mushtaq Ahmad Khān Advocate

BEFORE THE KHYBER PAKHTOONKHWA SERVICE TRIBUNAL, PESHAWAR

Rejoinder in service appeal No. 501/2013

Verses

- 1. The deputy inspector General of Police investigation, Malakand, Swat.
- 2. The Head of investigation (S.P) Buner.
- 3. The additional inspector of police, investigation Khyber Pakhtoonkhwa.
- 4. Mr. Bakht Zamin Khan CO Circle Daggar (inquiry officer)..........(Respondents)

AFFIDAVIT

I, Mr. Mushtaq Ahmad Khan Advocate (as per instruction of my client) do hereby solemnly affirm and declare on oath that the contents of the instant Rejionder are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honrable Court.

Dated:30-11-2013

Deponent

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 501/2013

Khalid Khan, Head Constable Police Department Buner......(Appellant)

VERSES

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

2. Deputy Inspector General of Police, Malakand Region, Swat.

3. The District Police Officer, Buner.....Respondents

Subject :- <u>Authority Letter</u>

I District Police Officer, Buner do hereby authorize and allow Mr. Pervaiz Khan Inspector Legal; Buner to attend the court on each date fixed in the titled Appeal on my behalf and on behalf of all other respondents and do whatever is needed in the Court.

OFFICER, DISTRIC ER (Respondent No.3)

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 173

8 L Dated_ _/2016

The Provincial Police Officer, KPK, Peshawar.

Subject:-

То,

APPEAL NO. 501/2013 KHALID KHAN VS PPO AND OTHERS.

I am directed to forward herewith a certified copy of order/judgement dated 1.2.2016 passed by this Tribunal in the subject appeal for size compliance and further necessary action.

Encl: As above

REGISTRAR

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. <u>249</u> ST

Dated 16 / 2 / 2016

To .

The D.I.G of Police Investigation, Malakand at Swat.

Subject: - Judgement.

I am directed to forward herewith certified copy of Judgement dated 1.2.2016 passed by this Tribunal on subject for strict compliance.

Encl: As above

REGISTRAR

KEUISTKAK KHYBER PAKHTUNKHWA SERVICE TR'IBUNAL PESHAWAR.