

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

SERVICE APPEAL NO. 1023/2013

Date of institution ... 01.07.2013

Date of judgment ... 10.08.2017

Muhammad Shakeel, Ex-Constable (Technical) No. 754,  
Special Branch, Khyber Pakhtunkhwa, Peshawar.

... (Appellant)

VERSUS

1. Provincial Police Officer (PPO) IGP Khyber Pakhtunkhwa Province,  
Central Police Office (CPO) Peshawar.
2. Additional Inspector General of Police Special Branch, Khyber Pakhtunkhwa,  
Peshawar.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER  
NO. 12412/E-11, DATED 31.05.2013 PASSED BY THE RESPONDENT  
NO. 1, COMMUNICATED TO/RECEIVED BY THE APPELLANT ON  
05.06.2013 WHEREBY THE DEPARTMENTAL REPRESENTATION OF  
THE APPELLANT WAS FILED AND THE ORDER OF REMOVAL  
FROM SERVICE PASSED BY THE RESPONDENT NO. 2 VIDE OB NO.  
13/SB AND DIARY NO. 526/EB DATED 28.01.2012 WAS UPHELD.

Mr. Rizwanullah , Advocate.

.. For appellant.

Mr. Kabirullah Khattak, Assistant Advocate General

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. MUHAMMAD HAMID MUGHAL

.. MEMBER (JUDICIAL)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - This appeal has been filed under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 28.01.2012 whereby the appellant was removed from service as well as against the order dated 31.05.2013 vide which his departmental appeal was rejected.

Facts of the case as per memo of the appeal are that the appellant was serving as Constable (Technical) in Special Branch Police Department and was posted to supervise/monitor and to keep maintenance of the CCTV cameras installed in the premises of the Peshawar High Court Peshawar. That all of sudden the appellant was suspended for misconduct. That during inquiry a case FIR No. 22 dated 18.11.2011 under sections 409/419/420/5(2) PC Act was also registered against him and the appellant was also sent to jail. That during the course of investigation a statement was also handed over to the appellant wherein due of the pay and allowances with effect from 26.06.2008 to 31.07.2011 were also shown as outstanding against him and he was directed to return the amount of received monthly salaries amounting Rs. 4,31,329/- in lump sum, otherwise he have to face the fatal fate. That later on the appellant was released on bail and the aforesaid FIR was also dropped by the Anti-Corruption authority. That in response to an official letter dated 21.05.2011 a Senior Manager (HR&A) PTCL Limited provided the service particulars to respondent No. 2 vide official letter dated 24.05.2011 and thereafter, the Senior Manager (HR&A) PTCL limited Telephone House-1, The Mall Peshawar Cantt was asked to take departmental action against the appellant which was resulted into the dismissal of his services. That the appellant also filed departmental appeal which was rejected and hence the present service appeal.

3. The respondents were summoned who contested the appeal by filing written reply/comments.

4. Learned counsel for the appellant contended that the appellant has not been treated in accordance with law and that the appellant has not been committed any offence. It was further contended that during inquiry no statement of the PW has been recorded and the appellant has never been given any chance of cross examination. It was further contended that the appellant has been penalized twice for the same alleged offence. It was further contended that the recovery of monthly salaries drawn by the appellant being regular employee of respondents No. 1 & 2 are also illegal and unlawful. It was further contended

that no regular inquiry was conducted. It was further contended that when the appellant was found in dual employment simultaneously i.e being Constable (Technical) and employee of Senior Manager (HR&A) PTCL Telephone House-1, The Mall Peshawar Cantt then the respondent No. 2 was under the legal obligation to ask for the option of the appellant that he should have resign either of the services and should keep continue one of the service of his choice. That the appellant has not handed over the impugned order therefore, he submitted application for obtaining the copy of the impugned order and after receiving the copy of impugned order he filed departmental appeal. That his departmental appeal is well within time. That the appellant has not been provided any opportunity of defence and personal hearing therefore, the impugned order is illegal and liable to be set-aside and prayed for acceptance of appeal

5. On the other hand, learned Assistant Advocate General Mr. Kabirullah Khattak opposed the contention of learned counsel for the appellant and contended that the appellant was regular employee of PTCL Limited in BPS-11 and during his service in PTCL Limited he also applied for the post of Constable (Technical) in Special Branch Police Department by using back door ways. It was further contended that he was also appointed in Special Branch Police Department by the competent authority and the appellant was serving fraudulently in both the department simultaneously. It was further contended that the appellant also fraudulently drawn salaries from both the department simultaneously and when it came to the notice of the respondents that the appellant is regularly serving in PTCL Limited as well as in Special Branch Police Department and also drawing salaries from both the department fraudulently simultaneously then a proper charge sheet statement of allegation was served on him and an proper inquiry was also conducted wherein he was found guilty of misconduct and he was rightly dismissed from service. It was also contended that departmental appeal of the appellant is also time barred and prayed for dismissal of appeal.

6. We have heard the arguments on both side and gone through the record available on file.

7. Perusal of the record reveals that the appellant was serving in Special Branch Police Department as Constable (Technical) and during his service it came to the notice of the respondents that the appellant is serving in Special Branch Police Department as well as in PTCL Limited and also drawing salaries from both the department fraudulently simultaneously then the appellant was charge sheeted for the misconduct for the aforesaid reason that he was serving in both the aforesaid departments and also drawing salaries simultaneously. The record further reveals that the appellant was also asked in charge sheet to submit written defence before the inquiry officer within stipulated period. The record further reveals that the appellant has also submitted written reply wherein he had not denied serving in both the department simultaneously and also drawing salaries from both the departments. Moreover a regular inquiry was also conducted by the inquiry committee wherein the inquiry committee also held that as per Senior Manager (HR&A) Northern Telecom, Region-1 Peshawar Letter No. S-III-8538 dated 24.05.2011 Mr. Shakeel Constable Technical No. 754/SB has been found a regular PTCL employee in BPS-11 and during his service he also applied for the post of Constable (Technical) in Special Branch by using back door ways therefore, he has been made fraud with the department. It was further held in the inquiry report that Mr. Shakeel appellant also admitted in reply to the charge sheet that he also serving in PTCL Limited for last 17 years. It was further held by the inquiry committee that the appellant has also admitted during inquiry that he is a regular employee of PTCL Limited and he has not obtained any approval from Head of the <sup>the department</sup> Inspector General of Police nor produced any documentary proof after joining the police service for continuation of his second job in the PTCL Limited and has violated the rules. Record further reveals that after inquiry the appellant was also given final show-cause notice to the effect that he was regular PTCL employee in BPS-11 and he applied for the post of Constable (Technical) in Special Branch Police Department by using back door ways and he committed fraud with the department and directed him in final show-cause that as to why a major penalty should not be imposed upon him but the appellant did not justify the aforesaid misconduct. Meaning thereby that a proper inquiry was conducted by

the inquiry committee against the appellant and he was given full opportunity of defence but the appellant has failed to justify his service and drawing the salaries from both the department simultaneously, therefore, the competent authority has rightly dismissed him from service. As such the appeal has no force which is hereby dismissed with no order as to costs. File be consigned to the record room.

ANNOUNCED  
10.08.2017

NDI)

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

**SERVICE APPEAL NO. 1023/2013**

Date of institution ... 01.07.2013

Date of judgment ... 10.08.2017

Muhammad Shakeel, Ex-Constable (Technical) No. 754,  
Special Branch, Khyber Pakhtunkhwa, Peshawar.

... (Appellant)

**VERSUS**

1. Provincial Police Officer (PPO) IGP Khyber Pakhtunkhwa Province,  
Central Police Office (CPO) Peshawar.
2. Additional Inspector General of Police Special Branch, Khyber Pakhtunkhwa,  
Peshawar.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER  
NO. 12412/E-11, DATED 31.05.2013 PASSED BY THE RESPONDENT  
NO. 1, COMMUNICATED TO/RECEIVED BY THE APPELLANT ON  
05.06.2013 WHEREBY THE DEPARTMENTAL REPRESENTATION OF  
THE APPELLANT WAS FILED AND THE ORDER OF REMOVAL  
FROM SERVICE PASSED BY THE RESPONDENT NO. 2 VIDE OB NO.  
13/SB AND DIARY NO. 526/EB DATED 28.01.2012 WAS UPHELD.

Mr. Rizwanullah , Advocate.

.. For appellant.

Mr. Kabirullah Khattak, Assistant Advocate General

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. MUHAMMAD HAMID MUGHAL

.. MEMBER (JUDICIAL)

**JUDGMENT**

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - This appeal has been filed under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 28.01.2012 whereby the appellant was removed from service as well as against the order dated 31.05.2013 vide which his departmental appeal was rejected.

2. Facts of the case as per memo of the appeal are that the appellant was serving as Constable (Technical) in Special Branch Police Department and was posted to supervise/monitor and to keep maintenance of the CCTV cameras installed in the premises of the Peshawar High Court Peshawar. That all of sudden the appellant was suspended for misconduct. That during inquiry a case FIR No. 22 dated 18.11.2011 under sections 409/419/420/5(2) PC Act was also registered against him and the appellant was also sent to jail. That during the course of investigation a statement was also handed over to the appellant wherein due of the pay and allowances with effect from 26.06.2008 to 31.07.2011 were also shown as outstanding against him and he was directed to return the amount of received monthly salaries amounting Rs. 4,31,329/- in lump sum, otherwise he have to face the fatal fate. That later on the appellant was released on bail and the aforesaid FIR was also dropped by the Anti-Corruption authority. That in response to an official letter dated 21.05.2011 a Senior Manager (HR&A) PTCL Limited provided the service particulars to respondent No. 2 vide official letter dated 24.05.2011 and thereafter, the Senior Manager (HR&A) PTCL limited Telephone House-1, The Mall Peshawar Cantt was asked to take departmental action against the appellant which was resulted into the dismissal of his services. That the appellant also filed departmental appeal which was rejected and hence the present service appeal.

3. The respondents were summoned who contested the appeal by filing written reply/comments.

4. Learned counsel for the appellant contended that the appellant has not been treated in accordance with law and that the appellant has not been committed any offence. It was further contended that during inquiry no statement of the PW has been recorded and the appellant has never been given any chance of cross examination. It was further contended that the appellant has been penalized twice for the same alleged offence. It was further contended that the recovery of monthly salaries drawn by the appellant being regular employee of respondents No. 1 & 2 are also illegal and unlawful. It was further contended

*M. Amin*  
*10.8.2017*

that no regular inquiry was conducted. It was further contended that when the appellant was found in dual employment simultaneously i.e being Constable (Technical) and employee of Senior Manager (HR&A) PTCL Telephone House-1, The Mall Peshawar Cantt then the respondent No. 2 was under the legal obligation to ask for the option of the appellant that he should have resign either of the services and should keep continue one of the service of his choice. That the appellant has not handed over the impugned order therefore, he submitted application for obtaining the copy of the impugned order and after receiving the copy of impugned order he filed departmental appeal. That his departmental appeal is well within time. That the appellant has not been provided any opportunity of defence and personal hearing therefore, the impugned order is illegal and liable to be set-aside and prayed for acceptance of appeal

5. On the other hand, learned Assistant Advocate General Mr. Kabirullah Khattak opposed the contention of learned counsel for the appellant and contended that the appellant was regular employee of PTCL Limited in BPS-11 and during his service in PTCL Limited he also applied for the post of Constable (Technical) in Special Branch Police Department by using back door ways. It was further contended that he was also appointed in Special Branch Police Department by the competent authority and the appellant was serving fraudulently in both the department simultaneously. It was further contended that the appellant also fraudulently drawn salaries from both the department simultaneously and when it came to the notice of the respondents that the appellant is regularly serving in PTCL Limited as well as in Special Branch Police Department and also drawing salaries from both the department fraudulently simultaneously then a proper charge sheet statement of allegation was served on him and an proper inquiry was also conducted wherein he was found guilty of misconduct and he was rightly dismissed from service. It was also contended that departmental appeal of the appellant is also time barred and prayed for dismissal of appeal.

6. We have heard the arguments on both side and gone through the record available on file.

*M. Anwar*  
10.8.2017



7. Perusal of the record reveals that the appellant was serving in Special Branch Police Department as Constable (Technical) and during his service it came to the notice of the respondents that the appellant is serving in Special Branch Police Department as well as in PTCL Limited and also drawing salaries from both the department fraudulently simultaneously then the appellant was charge sheeted for the misconduct for the aforesaid reason that he was serving in both the aforesaid departments and also drawing salaries simultaneously. The record further reveals that the appellant was also asked in charge sheet to submit written defence before the inquiry officer within stipulated period. The record further reveals that the appellant has also submitted written reply wherein he had not denied serving in both the department simultaneously and also drawing salaries from both the departments. Moreover a regular inquiry was also conducted by the inquiry committee wherein the inquiry committee also held that as per Senior Manager (HR&A) Northern Telecom, Region-1 Peshawar Letter No. S-III-8538 dated 24.05.2011 Mr. Shakeel Constable Technical No. 754/SB has been found a regular PTCL employee in BPS-11 and during his service he also applied for the post of Constable (Technical) in Special Branch by using back door ways therefore, he has been made fraud with the department. It was further held in the inquiry report that Mr. Shakeel appellant also admitted in reply to the charge sheet that he also serving in PTCL Limited for last 17 years. It was further held by the inquiry committee that the appellant has also admitted during inquiry that he is a regular employee of PTCL Limited and he has not obtained any approval from Head of the Inspector General of Police nor produced any documentary proof after joining the police service for continuation of his second job in the PTCL Limited and has violated the rules. Record further reveals that after inquiry the appellant was also given final show-cause notice to the effect that he was regular PTCL employee in BPS-11 and he applied for the post of Constable (Technical) in Special Branch Police Department by using back door ways and he committed fraud with the department and directed him in final show-cause that as to why a major penalty should not be imposed upon him but the appellant did not justify the aforesaid misconduct. Meaning thereby that a proper inquiry was conducted by

*M. Amin*  
10.8.2017

*in department*  
12

the inquiry committee against the appellant and he was given full opportunity of defence but the appellant has failed to justify his service and drawing the salaries from both the department simultaneously, therefore, the competent authority has rightly dismissed him from service. As such the appeal has no force which is hereby dismissed with no order as to costs. File be consigned to the record room.

ANNOUNCED  
10.08.2017

*Hamid*

(MUHAMMAD HAMID MUGHAL)  
MEMBER

*Muhammad Amin*  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

10.08.2017

Counsel for the appellant present. Mr. Javed, Sub-Inspector alongwith Mr. Kabirullah Khattak, Assistant Advocate General for the respondents also present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of five pages placed on file, the appeal has no force which is hereby dismissed with no order as to costs. File be consigned to the record room.

ANNOUNCED

10.08.2017

*Hamid*

(MUHAMMAD HAMID MUGHAL)  
MEMBER

*Muhammad Amin Khan Kundi*

(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

*M-Shakeel vs Govt*

20.01.2017 ✓

Appellant with counsel Mr. Rizwanullah, Advocate and Mr. Muhammad Asif, DSP (legal) alongwith Mr. Ziaullah, GP for respondents present. Representative of respondent-department submitted copy of inquiry report and copy handed over to learned counsel for appellant. Vide order sheet dated 23.08.2016 it was directed that instant appeal may be heard with identical service appeal No. 152/2016 of Shams-ur-Rehman and today calls were made for both the appeals but learned counsel for Mr. Shams-ur-Rehman is before the august Supreme Court of Pakistan in some cases so this appeal is adjourned with Mr. Shams-ur-Rehman appeal. To come up for arguments on 24.05.2017 before D.B with service appeal No. 152/2016.

Latter on Mr. Mohibullah, Advocate appeared and requested for arguments. Since respondents have left the Tribunal after taking next date of hearing, so he could not be heard in absence of other party. To come up on date already given above.


  
(AHMAD HASSAN)  
MEMBER

  
(ASHFAQUE TAJ)  
MEMBER

24.05.2017


Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for respondent present. Counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 10.08.2017 before D.B.

  
(Gul Zeb Khan)  
Member

  
(Muhammad Amin Khan Kundi)  
Member

23.08.2016

Appellant with counsel (Mr. Rizwanullah, Advocate) and Muhammad Asif, Inspector (legal) alongwith Mr. Usman Ghani, Sr.GP for respondents present. Appellant is directed to provide Member copy of the instant appeal. Learned counsel for the appellant submitted that identical appeal of one Shamsur-Rehman is fixed on 03.11.2016 and that the instant appeal may be fixed on the same date. Hence the same be fixed on the same date. To come up for arguments on \_\_\_\_\_ before D.B.

  
Member

  
Member

03.11.2016

Appellant with counsel (Mr. Rizwanullah, Advocate) and Mr. Muhammad Asif, DSP (legal) alongwith Mr. Muhammad Jan, GP for respondents present. During the course of arguments it was observed that report of the inquiry committee was not available on record. Learned GP requested for time to produce the same. To come up for inquiry report and further proceedings on 20-1-17 before D.B.

  
(ABDUL LATIF)  
MEMBER

  
(PIR BAKHSH SHAH)  
MEMBER

13.07.2015

Clerk of counsel for the appellant and Muhammad Asif, Inspector and Muhammad Jan, GP for the respondents present. Clerk of counsel for the appellant requested for adjournment due to non-availability of his counsel. Adjourned granted. To come up for arguments on 18-12-2015



Member



Member

18.12.2015

Appellant in person and Asst: AG for respondents present. Appellant requested for adjournment due to non-availability his counsel. Therefore, the case is adjourned to 10.5.2016 for arguments.



Member



Member

10.5.2016

Appellant with counsel (Mr. Rizwanullah, Advocate) and Mr. Muhammad Asif, Inspector (Legal) alongwith Addl. A.G for the respondents present. Newly engaged counsel for the appellant requested for adjournment. To come up for final hearing before D.B on 23.08.2016.




Member



Chairman

15.08.2014

Junior to counsel for the appellant, and Mr. Muhammad Jan, GP with Muhammad Asif, Inspector (Legal) for the respondents present and reply filed. Copy handed over to junior to counsel for the appellant. To come up for rejoinder on 5.11.2014.

  
MEMBER

5.11.2014.

Junior to counsel for the appellant and Mr. Muhammad Jan, GP with Muhammad Asif, Inspector (Legal) for the respondents present. Counsel for the appellant needs time. To come up for rejoinder on 31.12.2014.

  
MEMBER

31.12.2014

Junior to counsel for the appellant, and Mr. Muhammad Adeel Butt, AAG for the respondents. The Tribunal is incomplete. To come up for the same on 5.3.2015.

  
READER

20.02.2015

Appellant in person and Mr. Muhammad Jan, G.P for respondents present. Rejoinder submitted. Copy whereof is handed over to the learned G.P for arguments on 13.07.2015.

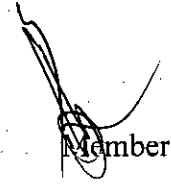
  
Member

Appeal No. 1023/2013  
Mr. Muhammad Shabeel

13.02.2014

No one is present on behalf of the appellant. Notices be

issued to the appellant/counsel for the appellant for preliminary hearing on 21.03.2014.

  
Member

21.03.2014

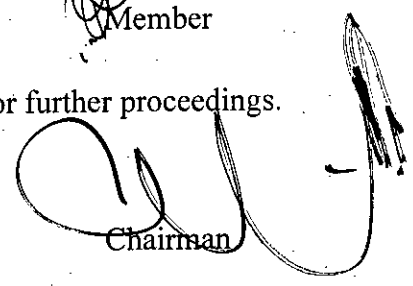
Counsel for the appellant present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the original order dated 28.01.2012, he filed departmental appeal on 03.05.2013, which has been rejected on 31.05.2013 as received to the appellant on 05.06.2013, hence the present appeal on 01.07.2013. He further contended that the impugned order dated 31.05.2013, has been issued in violation of Rule-5 of the Civil Servant (Appeal) Rules 1986. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents for submission of written reply/comments on 06.06.2014.

*Appellant deposited  
Process fee & security  
Rs. 160/- Bank Receipt  
attached with file.*

  
Member

21.03.2014

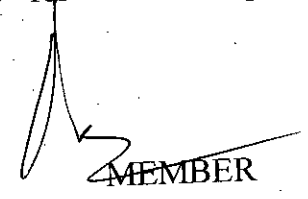
This case be put before the Final Bench II for further proceedings.

  
Chairman

6.6.2014

Appellant in person and AAG with Muhammad Asif, Inspector (Legal) for the respondents present and requested for time. To come up for written reply on 15.8.2014.

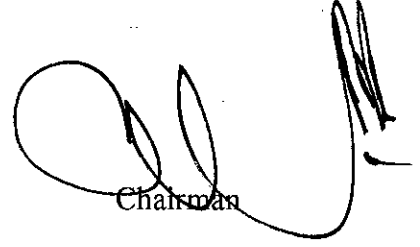
  
MEMBER

  
MEMBER



23.9.2013

Appellant in person present, and requested for adjournment due to strike of the Bar. To come up preliminary hearing on 24.10.2013.

  
Chairman

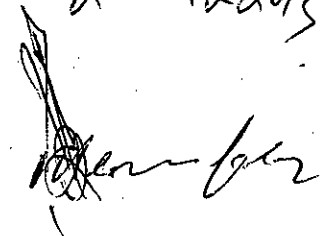
24.10.2013

Appellant in person present and requested for adjournment.

To come up for preliminary hearing on 15.11.2013.

  
Member

5  
18-11-2013 Since 15th November has been declared as public holiday on account of Moharram ul-Haram. To come up for p.h on 20-12-2013

  
Member

20.12.2013

No one is present on behalf of the appellant. To come up for preliminary hearing on 13.02.2014.

  
Member



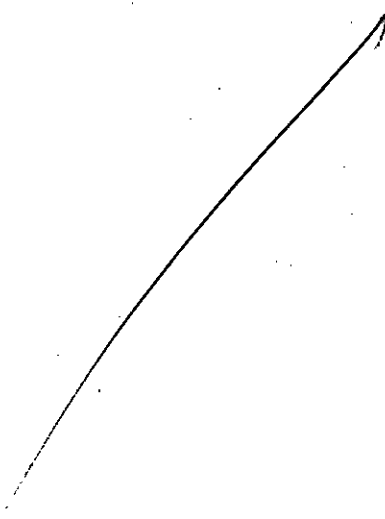
6

Form- A

FORM OF ORDER SHEET

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

Case No. 1023/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	01/07/2013	<p>The appeal of Mr. Muhammad Shakeel presented today by Mr. Muhammad Usman Khan Turlandi Advocate, may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	16-7-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>23-9-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> 

①

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

In Ref: to S.A No. 1023 of 2013.

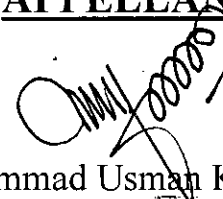
Muhammad Shakeel, EX-Constable.....**VERSUS**.....PPO & others.

**INDEX**

S.No.	DESCRIPTION OF DOCUMENTS	ANNEX	PAGE NO.
1.	Main Writ Petition.	----	1-9
2.	Affidavit.	----	10
3.	Addresses of Parties.	----	11
4.	Copy of suspension order/ <i>Charge Sheet etc.</i>	A.	12-14
5.	Copy of the reply to the charge sheet.	B.	15-17
6.	Copy of the representation.	C.	18
7.	Copy of Legal Action.	D.	19
8.	Copy of open enquiry.	E.	20-22
9.	Copy of FIR.	F.	23-24
10.	Statement of Monthly pay and allowances.	G.	25
11.	Copy of Press Information.	H.	26
12.	Copy of order, dropping the FIR.	I.	27
13.	Copy of official letter dated 24-05-2011.	J.	28
14.	Copy of dismissal order.	K.	29
15.	Application for obtaining Removal order.	L.	30
16.	Copy of Removal order.	M.	31
17.	Copy of Departmental Representation.	N.	32-34
18.	Copy of affidavit by appellant.	O.	35
19.	Copy of impugned order dated: 31-05-2013.	P.	36
20.	Vokatnama in original.	----	

**APPELLANT.**

Through;

  
Muhammad Usman K  
Turlandi  
Advocate Peshawar.

Dated:- 29/06/2013  
(Saturday)



**RESPECTFULLY SHEWETH:**

- 1) That the appellant was enlisted as Constable (Technical) and was posted to supervise/monitor and to keep maintenance of the CCTV cameras, installed in the premises of the Peshawar High Court Peshawar.
- 2) That the appellant used to perform his respective duties efficiently, honestly with full devotion and dedication and as such no complaint whatsoever has ever been assigned to him from any quarter.
- 3) That all of a sudden, the appellant was surprised to get a suspension order (Annexure "A") coupled with the charge sheet and statement of allegations, for which the appellant submitted his detailed reply. (Copy of the reply to the charge sheet is annexure "B").
- 4) That in the meanwhile the appellant was also forcibly stopped, not to attend the office and therefore the appellant preferred a representation before the respondent No.1 for grant of permission to join his duties which was marked to the respondent No.2 vide dairy No. 14353 dated 23-06-2011, awaiting still any response. (Copy of the representation is annexure "C").
- 5) That thereafter, a letter No.6470/ED dated 07-06-2011, Subject "Legal Action" (Annexure "D") was communicated to the Anti-corruption authority, whereas open enquiry was initiated against the appellant which resulted in the registration of the case vide FIR No.22 dated 18.11-2011 U/S 409/419/420/5(2) PC Act and the appellant was subjected to Judicial Lock-up. (Copy of the open enquiry and FIR are annexure "E" & "F" respectively).
- 6) That during the course of investigation in the case supra, a statement was handed over to the appellant wherein dues of pay

and allowances w.e.f. 26-06-2008 to 31-07-2011 were shown as outstanding, while the same were drawn by the appellant being a regular employee of the respondent No.1 & 2 and they were pressing hard the appellant, to return the amount of received monthly salaries amounting Rs. 4, 31,329/- in lump sum, otherwise he will have to face the fatal fate. (Copy of the statement of monthly pay and allowances is annexure "G").

- 7) That the parents of the appellant under severe compulsion, tension and mental torture, arranged the amount of rupees 4, 31,329/- and handed over to the IO of the case.
- 8) That the appellant was lying behind the bar while the departmental proceedings were kept continued on his back and press information was also published during this period and the appellant was kept unaware of the whole proceedings. (Copy of the press information is annexure "H").
- 9) That the appellant, eventually succeeded to get release on bail from this august Tribunal and thereafter, the FIR No.22 dated 18-11-2011, referred to above, was dropped and filed by the Anti-corruption authority. (Copy of the order of dropping the FIR, is annexure "I").
- 10) That in response to an official letter dated 21-05-2011, the Senior Manager (HR&A), PTCL Ltd, provided the service particulars to respondent No. 2 vide official letter dated 24-05-2011 (Annexure "J") and thereafter, the Senior Manager (HR&A), PTCL Ltd, Telephone House-1, The Mall Peshawar Cantt was asked to take departmental action against the appellant which was resulted into the dismissal of his services. (Copy of the dismissal order is annexure "K").

- 11) That the appellant, came to know that he has been removed from service, under NWFP (now KPK) Special Power Ordinance 2000, without any communication/information to the appellant and the appellant submitted an application for obtaining the copy of the removal order but was deprived of the same, whereas the appellant succeeded to get a copy whereof, through his private sources. (Copy of the application and Removal order is annexure "L" & "M" respectively).
- 12) That the appellant, thereafter, preferred departmental representation dated 26-03-2013 for his reinstatement in service, supported by an affidavit dated 22-03-2013. (Copy of the departmental representation and affidavit are annexure "N" & "O" respectively).
- 13) That the departmental appeal for his reinstatement was filed by the respondent No.1 vide impugned order dated 31-05-2013. (Copy of the impugned order dated 31-05-2013 is annexure "P").
- 14) That the appellant while aggrieved of the impugned order passed by the respondent No.1 dated 31-05-2013, communicated to/received by the appellant on 05-06-2013 and having no other adequate and efficacious remedy available in the circumstances of the case, is constrained to approach this august Tribunal, seeking his reinstatement in service with all consequential back benefits on the following amongst other grounds inter-alia.

**G R O U N D S.**

- a) That the impugned order passed by the respondent No.1 whereas the appeal of the appellant for his re-instatement in service was filed, is against the facts, circumstances and law on the subject.

- b) That the impugned order has been passed in the exercise of colorful authority which is unlawful, without lawful authority, without jurisdiction, un-Islamic, un-constitutional, against the norms of equity and natural justice.
- c) That admittedly the appellant has committed no offence whatsoever and to this extent the dropping of FIR is self-explanatory.
- d) That no statement of the PWs has been recorded on oath and the appellant has never been given a chance of cross examination and thus no credibility could be relied upon it, which has no value in the eyes of law.
- e) That the appellant has not been dealt with in accordance with law and has been penalized for the alleged offence, more than once, hitting the command of the constitution.
- f) That even otherwise, the recovery of monthly salary, drawn by the appellant being regular employee of the respondent No.1 & 2, is illegal, unlawful, unjustified, without lawful authority, without jurisdiction, un-Islamic, unconstitutional, against the law on the subject, against the law of the land and against the norms of natural justice, hence liable to be declared as such.
- g) That the respondents No.2 & Anti-corruption authority have exceeded their power beyond their jurisdiction, while making recovery of monthly pay and allowances, drawn by the appellant, being their regular employee, for the reason that the appellant has worked for that, and have served the department with the best of his ability, skill, regularly and punctually throughout the month during the span of three years and as such, the respondents No.2 & Anti-corruption establishment have no authority whatsoever, to recover monthly salary from the civil servant during the period he worked and performed duties. {Reliance 2007 SCMR 1835}.
- h) That the order of appointment as constable, which was allegedly incorrect, and recovery of amount paid on the basis of incorrect order and



appellant had received the same, on bonafide belief that he was entitled to get it. Payer was not entitled to recover the amount from the payee, during the period when incorrect order was in field and principle of locus poenitentiae, would be applicable to the case. {Reliance PLD 1992 SC 207}.

- i) That the appellant has not been dealt with in accordance with law and has illegally been put to, financial trouble and hardship in the prevailing circumstances of dearness, scarcity and uncertainty while the appellant being legally entitled to draw/receive his monthly salary being regular employee of the respondent No.1 & 2 who has worked and performed his duties during the entire period of about three years in question.
- j) That the respondent No.2 has exceeded his powers and jurisdiction by enjoying his own innovation and monopoly, creating problems for the entire family of the appellant, to recover the monthly salaries etc. in lump-sum and also terminating his services, which amount to deprive the large family of the appellant, including school going children from their breathing and livelihood which is unwarranted by the law.
- k) That the moment the appellant was found in double employment simultaneously i.e., being constable (Technical) and employee of the Senior Manager (HR&A), PTCL Ltd, Telephone House-1, The Mall Peshawar Cantt, then the respondent No.2 was under legal obligation to ask for, the option of the appellant, that he should have resign either of the services and should keep continue one of the service of his choice.
- l) The subsequent appointment order, as constable (Technical) if found illegal being second employment simultaneously, then the authority who can pass the illegal order, is also entitle to vary, amend, add to or to rescind that order but, here, the respondent No.2, for the reason best known to him, was bent upon not only to deprive the appellant of his legal and valuable rights, guaranteed by the constitution of the country and the command of the Almighty, but also pushed back and put the large family of the appellant, in-between two fires, on three counts

i.e. firstly recovering and snatching the total pay and allowances in lump-sum, paid to the appellant, during about three years of his active services, secondly, terminated his services and thirdly by virtue of his official capacity, illegally persuaded the Senior Manager (HR&A), PTCL Ltd, Telephone House-1, The Mall Peshawar Cantt to secure his dismissal from service.

- m) That the appeal of the appellant has been filed with a single stroke of pen and no speaking order has been passed so the fate of the appellant should not be left on the mercy of the respondents.
- n) That the respondent No. 2 while passing the impugned order has never bothered to requisition the service file of the appellant and at least should see the length of spot-less service for about 3 years rendered by the appellant and in such a circumstances the impugned order having no value in the eyes of law, is liable to be set-aside.
- o) That no chance of personal hearing has ever been given to the appellant either by the respondent No. 2 prior to the dismissal of the appellant from his services nor by the respondent No.1 before passing the impugned order which is mandatory one.
- p) That valuable right was accrued to the appellant whereas his fundamental valuable rights have been encroached by the respondents No.1 & 2 on their personal whims & wishes and such encroachment is hit by the command of the constitution of the Islamic Republic of Pakistan 1973.
- q) That the respondent No.2 has transgressed his power and the appellant has been denied the fundamental rights of being treated in accordance with law.
- r) That further submission will be advanced, at the time of hearing the appellant at the bar.

9

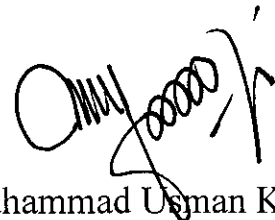
In view of the forgoing facts, circumstances and submissions, it is, therefore, humbly prayed that on acceptance of this writ petition, the respondents No.2 and Anti-corruption authority may be directed to return back, the total amount of Rs.4, 31,329/- which was received by the appellant on account of his monthly salaries being regular employee as Constable (Technical) No. 754 w.e.f 26-05-2008 to 31-07-2011, and which has forcibly been snatched away, in lump-sum from the appellant as per allegation of double employment and the grievances of the appellant be redressed accordingly.

Any other remedy if available may also be extended in favor of the appellant to meet the ends of justice.



APPELLANT.

Through;



Muhammad Usman Khan  
Turlandi  
Advocate Peshawar.

Dated:- 25/06/2013  
(Saturday)

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

In Ref. to S.A No. \_\_\_\_\_ of 2013.

Muhammad Shakeel, EX-Constable.....**VERSUS**.....PPO & others.

**AFFIDAVIT**

I, Muhammad Shakeel, EX-Constable (Technical) No. 754, Special Branch, Khyber Pakhtunkhwa Peshawar , do here by solemnly affirm and declare on oath that the contents of accompanying Service Appeal are true and correct to the best of my knowledge and belief and that nothing has been kept secret or concealed therein from this august Tribunal.

*Shakeel*

**IDENTIFIED BY :**

**DEPONENT**

NIC# \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

*Muhammad Usman Khan*

Muhammad Usman Khan  
Turlandi  
Advocate Peshawar



(11)

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

In Ref: to S.A No. \_\_\_\_\_ of 2013.

Muhammad Shakeel, EX-Constable.....**VERSUS**.....PPO & others.

**MEMO OF ADDRESSES.**

**APPELLANT.**

Muhammad Shakeel, EX-Constable (Technical) No. 754, Special Branch,  
Khyber Pakhtunkhwa, Peshawar.

**VERSUS**

**RESPONDENTS.**

1. Provincial Police Officer (PPO)/IGP Khyber Pakhtunkhwa Province,  
Central Police Office (CPO) Peshawar.
2. Additional Inspector General of Police Special Branch, Khyber  
Pakhtunkhwa, Peshawar.

**APPELLANT.**

Through;

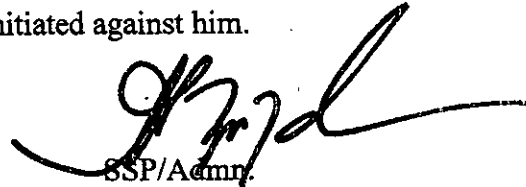
Muhammad Usman Khan  
Turlandi  
Advocate Peshawar.

Dated:- 29/06/2013  
**(Saturday)**

SUSPENSION ORDER

Constable Technical Muhammad Shakil No. 754/SB is hereby placed under suspension on a/o committing fraud/forgery with the Department.

Departmental proceedings are initiated against him.

  
SSP/Admn.  
Special Branch Khyber Pakhtunkhwa  
Peshawar

No. 4826-30/EB, Dated Peshawar the, 18/ 7 /2011  
Copy of above is forwarded to the:-

OK

1. Director Technical/SB
2. Incharge Technical/SB HQ
3. Acctt./SB
4. LO/SB
5. EA/SB

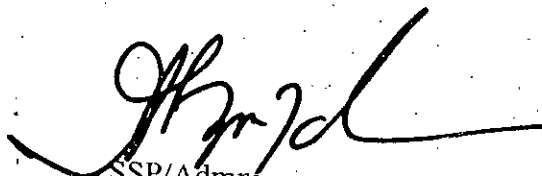
CHARGE SHEET

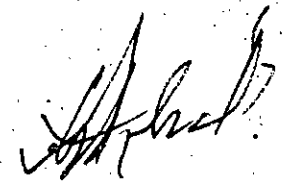
I, Abdul Ghafoor Afridi SSP/Admn: Special Branch Khyber Pakhtunkhwa Peshawar, as competent authority hereby charge you constable Technical Muhammad Shakil No.754/SB Special Branch Khyber Pakhtunkhwa Peshawar, as follows:-

That as per Senior Manager (HR &A) Northern Telecom, Region-1 Peshawar letter No. S-III-85/38, dated 24.05.2011 you have found regular PTCL employee in BPS-11. Being an regular employee of PTCL you applied for the post of constable Technical in Special Branch by using back door ways. Thus you have made fraud/forgery with the Deptt:

By reasons of the above you appear to be guilty of misconduct under section (3) of the NWFP, Removal from Service (Special Power) Ord:2000, and have rendered yourself liable to all or any of the penalties specified in section (3) of Ordinance ibid.

2. You are therefore, required to submit your written defence within 7 days of the receipt of this Charge Sheet to the Committee/Enquiry Officer as the case may be.
3. Your written defence if any should reach the Enquiry Officer/Committee within the specified period failing which it shall be presumed that you have no defence to put in and in that case, ex parte action shall follow against you.
4. Intimate whether you desire to be heard in person.
- 5 Statement of allegation is enclosed.

  
 SSP/Admn  
 Special Branch Khyber Pakhtunkhwa  
 Peshawar

Sig: 

of. MR. WAJID  
 F/O. MASHA. KHAL  
 Present

Recd. e. sheet of  
 MR. M. SHAKEEL ANSARI  
 on off. 11-08-11  
 at the time of 1. PM.

SUMMARY OF ALLEGATIONS

I, Abdul Ghafoor Afridi SSP/Admn: Special Branch Khyber Pakhtunkhwa Peshawar am of the opinion that constable Technical Muhammad Shakil No.754/SB of Technical Section Special Branch have rendered him self liable to be proceeded against as you committed the following acts/omissions within the meaning of section 3 of the NWFP Removal from Service(Special Power) Ordinance 2000.


STATEMENT OF ALLEGATIONS

That as per Senior Manager (HR &A) Northern Telecom, Region-1 Peshawar letter No. S-III-85/38, dated 24.05.2011 he has been found regular PTCL employee in BPS-11. Being a regular employee of PTCL he applied for the post of constable Technical in Special Branch by using back door ways. Thus you he as made fraud/forgery with the Deptt:

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations an Enquiry Officer, named below is appointed under section (3) of the Ordinance:-

- (i) Mr: Tauher Khan
- (ii) Mr: Prof H.C. Iqbal

3. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, Provide reasonable opportunity of hearing to the accused, record its findings and make within 25 days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

  
 SSP/Admn  
 Special Branch Khyber Pakhtunkhwa  
 Peshawar

No. 9912-14 /EB, Dated Peshawar the, 19/7 /2011.

Copy of above is forwarded to the:-

- 1. Enquiry Officers for initiating departmental proceedings against the accused under the provision of the NWFP Removal from Service (Special Power) Ord:2000.
- 2. Constable concerned with the direction to appear before the Enquiry Committee on the date, time and place fixed by the Committee for the purpose of the enquiry proceedings
- 3. Establishment Clerk with the direction to assist the Enquiry Committee during the enquiry proceedings.



BEFORE THE HONORABLE SSP ADMN SPECIAL BRANCH  
KHYBER PAKHTUNKHWA PESHAWAR.

Subject: REPLY TO THE CHARGE SHEET.

RESPECTED SIR:

With due respect I, the under signed in response to the charge sheet coupled with the summary of allegation vide office No.4912-14/EB dated Peshawar the 19-07-2011, received by me dated 01-08-2011 a.n, submit my submissions/reply as under:-

- 1) That admittedly I am the employee of PTCL Company, the then corporation for the last 17 years which has since been privatized and thus my job in the privatized company comes within the ambit of private job.
- 2) That since I was/am private employee of the PTCL Company, I joined the services as constable technical being a civil servant and performing my respective duty at evening times in the Peshawar High Court Peshawar with great zeal and enthusiasm and have never kept my self absent from duty even for a single day I have performed my duties dedicatedly, honestly and to the best satisfaction of my superior. No act whatsoever on my part to hinder smooth work of the esteemed department has ever been reported against me and thus the second employment in the PTCL company which was in morning hours have never hindered my duty/work interested to me at evening hours in the Peshawar High Court.

- 3) That it is evident from the duty roster/record that through out my service period in the PTCL Company, I was kept on duty at morning hours whereas I was posted as constable technical in the Peshawar High Court in the Evening hours.
- 4) That at the time of joining my services as constable technical, I have never concealed the fact regarding my first employment in the PTCL company and have clearly and specifically told verbally to the then appointing committee accordingly and that is why I was kept on duty in the evening hours at Peshawar High Court thus I have never used back door ways.
- 5) That as for as the word Fraud/Forgery as mentioned in the statement of allegation is concerned, I am really shocked of such remarks as I have never thought in my life of any fraud or forgery with the department.
- 6) That the second employment in the PTCL Company is concerned, there are proper rules contained U/S 16 (1) of the Conduct and Discipline Rules 1987 read with Rule 14.33 of Police Rule 1934 for joining second employment.
- 7) That I am the only back bone of my entire large family having to support my ailing parents who are standing on the verge of death and school going children and in case of any adverse action, it would severely affect/suffer the livelihood therefore deserving for sympathetic consideration.

8) That I wish to be heard in person if given a chance to explain the entire position.

In view of the facts, circumstances and submissions, it is humbly prayed that on acceptance of my reply, the show cause notice may very kindly be filed without any further action please.

Yours' obediently

*M. Shakeel*

Muhammad Shakeel  
Constable Technical (SB/FC-754)

Dated \_\_/08/2011

18

Annex - C

548  
4585  
24.6

Special Branch, Khyber Pak

BEFORE THE HON'ABLE PROVINCIAL POLICE OFFICER  
KHYBER PAKHTUNKHWA PESHAWAR

Subject: REPRESENTATION FOR PERMISSION, TO JOIN MY DUTY

Respected Sir,

With profound veneration, may I respectfully invite your kind and sympathetic consideration to the following few submissions:-

- 1) That since I have joined the force as Foot Constable in the Special Branch with my technical experience as to supervise/monitor/maintenance the CCTV cameras, I perform my duties efficiently, honestly and to the entire satisfaction of my superiors.
- 2) That I received verbal directions for about 10-days back to discontinue and stop my duties at my place or duty i.e Special Branch, for reason, not conveyed to me.
- 3) That under the prevailed laws, an official shall not be condemned unheard and to be given full opportunity for explanation but I have been stopped from technical work, without assigning any material reason and further that for any charge/allegation, a proper enquiry under the RSO 2000, section-11 is to be held which is mandatory.
- 4) That the competent authority has not passed any restraining orders in writing but I have been informed verbally to discontinue my duty and since then, I have been marking as absence, in the attendance register.
- 5) That I am young man with good physique and having vast family to look after for which I have joined this force to earn livelihood and to meet my necessities, for the members of my family.
- 6) There is nothing adverse or illegality on my part which could be the ground or base for stopping my duties, however if any, the same can be proceeded with under proper departmental enquiry and thereafter, a proper order against me, can be passed.

Foregoing in view it is humbly prayed that the competent authority of hierarchy of Special Branch, may please be directed to allow me, to join my duties.

I shall pray for the long life/prosperity of your good self, as well your family.

Addl C/SPB  
for Comments please

No 14353/HI dt 29-6-11

Obediently yours

*[Signature]*

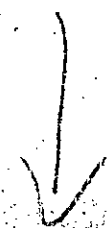
*[Signature]*

Constable Muhammad Shaki  
H.Qrs: office Special Branch  
Peshawar

PPC  
22/6

6490/SPB  
23/6/11

SE  
23/6



(19)

Amer-D

From: The Addl: Inspector General of Police,  
Special Branch, Khyber Pakhtunkhwa,  
Peshawar.

To: The Director Anti Corruption ✓  
Peshawar.

No. 6470 IEB: dated: 07/10/2011.

SUBJECT: LEGAL ACTION

Memo:

It is to inform you that Mr. Muhammad Shakeel S/O Khalid Pervez, R/O House No.-433, new Kakshal Wazirabad Peshawar City was appointed as Constable Technical vide appointment order No. 2146-51, dated 24.05.2008 in the Special Branch. He made his arrival report on dated 26.05.2008. His Service Roll was prepared and since then he has received his monthly salary. Later it was learnt that he is also employ<sup>ee</sup> of PTCL as Engineering Supervisor since 1995. At the time of appointment as Constable Technical, he deliberately concealed the fact of his PTCL employment to get benefits of double salary. To this effect, departmental enquiry has been initiated in the Special Branch as well as in the PTCL Northern Telecom Region-I Peshawar (HR&A). His this act is fraudulent and dishonest on his part and attracts the provisions of Anti Corruption laws.

It is requested that legal action under relevant Anti Corruption laws, may please be taken as he has caused financial loss to the provincial ex-chequer for wrongful gain to himself and has also indulged in cheating, fraud by concealing the fact about his first employment in the PTCL with dishonest intention.

*Signature* (SP Adm)

For Addl: Inspector General of Police  
Special Branch, Khyber Pakhtunkhwa  
Peshawar.

6563  
8-10-11

// open enquiry allowed

*Signature*

ADC-Pesh

DAC

*Signature*  
10/10/11

// O/E No. 07/2011 Police.

dt: 11.10.2011.

تھانہ ACE لٹاور۔

مدعا سائل رپورٹ

فصلیہ لٹاور

ادین انوار پٹری نیری 7/2011 - لکھنؤ

پر مہدف = سائیل فڈ ٹیل (سائیل) سٹیل برہم لٹاور ولد خالد خان سائیل  
سائیل لٹاور - (گورنر)

مناب عالی

حوالہ ادین انوار پٹری بالا میں مناب ایڈیشنل ایگزیکٹو سٹیل برہم

جسپر مختوخواہ لٹاور سے جی نمبری 6470/EB درجہ اول مرحلے میں الزامات ٹائٹ میں  
17.10.2011  
کہ فڈ ٹیل ولد خالد پرنسپل ایڈیشنل گورنر سائیل وزیر آباد سٹی جو ڈالہ ہر گورنر

51-2146 سٹیل برہم ٹیکسٹل میں بھرتی ہوئے ہیں۔ اور سٹیل برہم سے تعلق مختوخواہ  
24.5.2008

وصول کر رہے ہیں۔ بعد میں معلوم ہوئے کہ مذکورہ فڈ ٹیل ٹائٹ حکم ایف 2 میں رجسٹرڈ ہے۔  
میں بھی سال 1995 سے ملازمت کر رہا ہے۔ مذکورہ دونوں سرکاری حکم حمایت سے کہیں  
سرکاری ضابطہ سے ڈیل مختوخواہ وصول کر رہا ہے۔

درخواست نمبر 6470 پر مناب 2586 لٹاور ادین انوار پٹری بالا حکم ٹائٹ  
7.10.2011

مختوخواہ کی۔ انوار پٹری میں درجہ اول حکم جات کو لکھنؤ نمبر 510-13 جاری کر کے فوٹو سٹیل رکھا  
4.11.2011

مصدقہ حوالہ کر کے۔ انوار پٹری کے دوران فڈ ٹیل سائیل ٹیکسٹل ڈائری ٹائٹ  
سائیل انوار پٹری ڈسٹنس آیا گیا۔ جس پر تحریری بیان فارم (A) حوالہ کر کے سائیل  
سے بھرتی ہو کر بعد دیگر رکھا ڈو کی نوٹو سٹیل ایف 2 کا پتہ مقدمہ سٹیل ٹائٹ  
فوق مقدمہ آیا گیا ہے۔ اسی طرح سٹیل برہم - اسٹیشننگ سٹیل ٹائٹ ایف 2  
بھی بھرتی ہو کر سٹیل برہم و دیگر رکھا ڈو کی مقدمہ کا پتہ حاصل کر کے روپرو کوڈ  
ڈیل کے پر فوق مقدمہ کر کے سائیل انوار پٹری ہے۔

مذکورہ رکھا ڈو کے مقدمہ اور بیانات سے مارا جاتا ہے کہ فڈ ٹیل ولد خالد پرنسپل  
حکم نمبری 5-17-108/P-11 مورخہ 4 دسمبر 1994 کو ایف 2 میں سٹیل حکم ٹیکسٹل  
میں جو گورنر حوالہ لکھنؤ نمبر EXAMI-20 dt 13/75 جسٹس ایف 2 فوٹو سٹیل کی  
Accept حوالہ لکھنؤ نمبر 12/94 dt 13/75 R.R. 4-137-194 dt 13/75 منسوب کیا گیا ہے

اس وقت سے تا حال فوڈ کنٹریل وکم PACE میں سیکاری ملازمت کر رہے ہیں۔  
 اور اس وقت ریفرنسنگ سرٹیفیکیشن کے عہدے پر آرائش اسٹریٹس میں  
 سٹر PACE نشاہ کنٹ میں لگواتے ہیں۔ اور تقریباً 6 سال کی ملازمت  
 PACE میں پوری رکھتے ہیں۔

تین فوڈ کنٹریل شیٹ بریڈنگ کے آفیسر کے طور پر ہیں۔ اور  
 آرائش ملازمت ورن سے ایسڈ رکھا۔ اور اس کے شیٹ بریڈنگ  
 میں ٹائیل ٹیکنیکل ٹرینیڈیٹ کے لیے ہمیشہ امیدوار شریک کی۔ اور جوہلم اور  
 آڈریٹر S1-146 شیٹ بریڈنگ میں دعوہ سے اور آرائش ملازمت کے لیے  
 رکھ کر پوری ہوئے۔ اور صفحہ 26 سے حاضری کر کے تا حال ٹائیل ملازمت پر ہیں۔

اور ٹیس۔ دھوما اور غیر قانونی الریم لینی شیٹ بریڈنگ کے لیے حاضری  
 وصول کر رہے۔ جو اس کے اس کے لیے حاضری سے حاضری سے حاضری سے  
 شیٹ بریڈنگ PACE میں ہیں۔ 4313.91 نڈر ریپر نقصان یونٹ کے لیے  
 صفحہ 21 تک جوہلم PACE 402953 PACE فوڈ کنٹریل وصول رکھتے ہیں۔  
 7900106703 کوئی

میں ہیں اور تھوڑے سبک آف ایک حد اس فوڈ کنٹریل کے لیے  
 ہیں اور ہم علیہ فوڈ کنٹریل ٹائیل بریڈنگ کے لیے حاضری سے  
 اس کے خلاف قدم در رہتی اور شکاری کی حمایت کے لیے حاضری سے  
 ہیں اور تھوڑے سبک آف ایک حد اس فوڈ کنٹریل کے لیے

14/11/11

14/11/2011

The report of E.O. and  
 recommendation of Co-ACE

890

Resolutions are in detail are worth

Perusal. Permission for registration/inst  
of case against the above mentioned  
accuse may please be accorded.

MK

ADC - Jash  
14.11.2011

W/DACE

R/Sr,

Permission for registration of a case as  
recommended by the field staff, may be  
accorded, pl.

ADC - J

16/11/11

W/DACE, pl.

Yes A

16/11





ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دسمہ ۱۵۳ مجسمہ ضابطہ نوعداری

ضلع پشاور  
تاریخ ذراقت 24/5/2008 تا تاحال

ایڈیشن کریشن  
ملٹ نمبر 22

تاریخ و وقت رپورٹ	17/10/2011
نام و سکونت اطلاع دہندہ مستغیت	عبد المجید خان آفریدی SP (ایڈمن) سینٹریل پراجیکٹ پشاور
مختصر کیفیت جرم (معدومہ) حال اگر کچھ لیا گیا ہو	PRC 409/419/420/5(2) P.C Act
جائے وقوعہ فاضلہ تھانہ سے اور سمت	سینٹریل پراجیکٹ 2ء پشاور
نام و سکونت لازم	محمد شکیل ٹیکنیکل سینٹریل پراجیکٹ پشاور
کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو	کو الہ لیٹر نمبر 8962 مورخہ 18/4/2011 مجاریہ DAC صاحب پشاور مقدمہ درج رجسٹر کیا جاتا ہے۔
تھانہ سے روانگی کی تاریخ و وقت	

ابتدائی اطلاع نیچے درج کردہ: عبد المجید خان SP (ایڈمن) سینٹریل

پراجیکٹ کی وسالہ سے ایڈیشن 19 سپینل پراجیکٹ پشاور سے لیٹر نمبر 6470/ET مورخہ 17/10/2011 جناب DAC صاحب پشاور کو اس الزام کے تحت موصول ہوئی۔ کہ کانسٹیبل محمد شکیل ٹیکنیکل سینٹریل پراجیکٹ پشاور میں مورخہ 24/5/2008 کو کھرتی ہو چکا ہے۔ اور ابھی تک تنخواہ وصول کر رہا ہے۔ بعد میں معلوم ہوا کہ مذکورہ PTCL میں بھی 1995 سے بطور انجینئرنگ سپروائزر ڈیوٹی سرکاری آدے دیا ہے۔ جو کہ سرکاری خزانے سے ڈبل تنخواہیں وصول کر رہا ہے۔ جس پر اوپن انکوائری 7/2011 کا حکم ہو کر دونوں محکمہ جات سے فوٹو اسٹیٹ ریکارڈ حاصل کئے گئے ہیں اور بیانات بھی لئے گئے ہیں۔ ریکارڈ سے ثابت ہوا کہ واقعی محمد شکیل محکمہ PTCL میں سرکاری ڈیوٹی دینے کے باوجود سینٹریل پراجیکٹ پشاور کو ڈس، دھوکہ، غیر قانونی طور پر اندھیرے میں رکھ کر بطور کانسٹیبل ٹیکنیکل کھرتی ہو چکا ہے۔ اور اس طرح اس نے صوبائی حکومت کو تقریباً مبلغ 4,31,399 روپے۔ تنخواہ کی ذمہ میں غیر قانونی طور پر وصول کر کے نقصان پہنچایا گیا ہے۔ جس کا یہ فصل قابل مواخذہ ہے۔ انکوائری میں فائیل رپورٹ مرتب ہو کر بعد رائے و حسب اجازت جناب DAC صاحب پشاور کو الہ لیٹر نمبر 8962 مورخہ 18/11/2011 رقمہ برفلاف محمد شکیل ٹیکنیکل سینٹریل پراجیکٹ ولد خالد پرویز خان ساکن پشاور سے مقدمہ درج رجسٹر کیا جاتا ہے۔ اگر حوالان تفتیش کوئی اور شخص ملوث پایا گیا تو اسے برفلاف بھی قانونی کارروائی کی جائے گی۔ برصہ گزارش ہے۔ جہاں ذمہ بان اس کی مامور تفتیش کیا جاتا ہے۔

دستخط انگریزی CO/ACE 18-11-2011


(25)

Amey - 9

(31)

STATEMENT OF OUTSTANDING DUES OF PAY AND ALLOWANCE WITH EFFECT  
 26.5.2008 to 31.7.2011 IN R/O OF MUHAMMAD SHAHKEEL ARSHAD P-NO.402953

PERIOD	AMOUNT
26.05.2008 TO 31.05.2008	1078
01.06.2008 TO 30.06.2008	5572
01.07.2008 TO 31.07.2008	7504
01.08.2008 TO 30.08.2008	8269
01.09.2008 TO 30.11.2008	22512
01.12.2008 TO 30.06.2009	52528
01.07.2009 TO 30.11.2009	61595
01.12.2009 TO 30.06.2010	87577
01.07.2010 TO 30.11.2010	65055
01.12.2010 TO 31.01.2011	26406
01.02.2011 TO 28.02.2011	16543
01.03.2011 TO 30.06.2011	59492
01.07.2011 TO 31.07.2011	17198
Total	431329

  
 D.D.O/SB  
 D.D.O/Special Branch  
 Peshawar

Habib Bank Police Post Pesh. (0898)

A/c No: 7900/06703



From The Director,  
Anti-Corruption Establishment,  
Khyber Pakhtunkhwa,  
Peshawar.

To The Assistant Director Crimes,  
Anti-Corruption Establishment,  
Peshawar.

No. 1892 /ACE, dated 18/2/2012.

Subject: FIR No. 22, dated 18.11.2011, u/s 409/419/420/PPC/S(2), PC Act, PS/  
ACE, Peshawar against Muhammad Shakeel, Constable Technical District  
Peshawar.

Reference your report dated 16.2.2012, allied documents are returned  
herewith in original.

As per approval of Director, Anti-Corruption Establishment, Khyber  
Pakhtunkhwa, Peshawar, report of ADC, ACE, Peshawar and opinion of ADL-II, the  
subject FIR has been dropped. Record be completed accordingly.



(Sohail Afzal) ADL-II,  
Anti-Corruption Establishment,  
Khyber Pakhtunkhwa,  
Peshawar.

2  
c

No. 1893 /ACE, dated 18/2/2012.

Copy to SA, ACE, Peshawar.



(Sohail Afzal) ADL-II,  
Anti-Corruption Establishment,  
Khyber Pakhtunkhwa,  
Peshawar.

2  
c

0 1



Pakistan Telecommunication Company Ltd.  
Telephone House-1 The  
Peshawar Cantt.

No. S-III-85/38

Dated at Peshawar the. 24-05-2011

To,

The Deputy Inspector General of Police,  
Special Branch Khyber Pakhtunkhwa  
Peshawar.

SUBJECT:- SERVICE PARTICULAR OF MR. MUHAMMAD SHAKEEL E.S.

Reference: Your letter No.107/PA dated 21-05-2011.

Mr. Muhammad Shakeel S/O Khalid Pervez having CNIC No. 17301-7543912-7 resident of H/No. 433 Mohallah Sharif Abad New Kakshak Peshawar City is a regular PTCL Employee in BPS No. B-21 please.

- Add: I.G.P./SB
- DIG/SB
- DIG/CTD
- SSP/Admn:
- SSP/P
- SP/S
- SP/Survey
- SP/JIT
- SP/Int;
- RI/Acott:/EA
- SP/FRO
- Dir/Tech:

Senior Manager (HR&A)  
Northern Telecom. Region-1  
Peshawar.

SSP/P & A

*Handwritten note:*  
The above mentioned P.T.C.L employee Muhammad Shakeel has been detected as fraudster in the S.B & working as H.C in the last 03 years since he should be placed under suspension as he initiated app. w/ dept. of P.T.C.L.

(29)

**ANNEXURE - K**

ptcl

Pakistan Telecommunication  
Company Ltd.  
Telephone House-1 The Mall  
Peshawar Cantt.

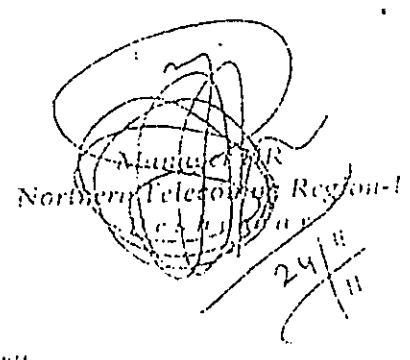
No. SA/Q-1443/43

Dated at Peshawar the 24-11-2011

**SUBJECT: PUNISHMENT NOTIFICATION**

On finalization of disciplinary proceeding against Mr. Muhammad Shakeel E.S EPI #10035249 under S.E Switching N/W Cantt Peshawar, the Authority is pleased to impose major penalty of "DISMISSAL FROM SERVICE" upon him under prevailing PTCL rules. His service particulars are as under please.

- |    |                     |   |                           |
|----|---------------------|---|---------------------------|
| 1. | Name                | : | Muhammad Shakeel          |
| 2. | Father Name         | : | Khalid Parvez             |
| 3. | Designation         | : | ES                        |
| 4. | Date of Birth       | : | 02-11-1976                |
| 5. | Date of Appointment | : | 19-02-1995                |
| 6. | Date of Dismissal   | : | 23-11-2011                |
| 7. | Reason              | : | Indiscipline & Misconduct |

  
 Northern Telecom Region-1  
 24/11/11

To  
Mr. Muhammad Shakeel (FS)  
O/O S.E. Switching N/W Cantt Peshawar.

- Copy to:
1. The GM (HR&A) North Islamabad.
  2. The GM HRA PTCL H/Q Islamabad.
  3. The SM Switching Peshawar.
  4. The S.E Switching N/W Cantt Peshawar.
  5. The Technical Officer (IT) Payroll Peshawar.
  6. Office copy.

Subject : APPLICATION FOR REMOVAL FROM  
SERVICE ORDERS COPY

Respected Sir,

It is come to my knowledge that my final show cause notice issued earlier is decided and my service is terminated.

It is requested that a copy of the removal from service order may please be provided to the undersigned.

Date: 14-3-2013

Yours Sincerely



M. Shakeel  
(Ex) Fc-754 SB(HQ)  
Peshawar.



(31)

Annex-M

754  
SS  
Jul 28

ORDER

Muhammad Shakil constable Technical No.754/SB was enlisted in this Estt on 26.05.2008; vide order Endst: No.2146-51/EB, dated 24.05.2008. Later on he was also found regular employee BPS-11 of PTCL, therefore he was suspended due to committing fraud/forgery with the Department, vide No.4826-30/EB, dated 18.07.2011.

To take proper action against the defaulter constable Technical a Charge Sheet with statement of allegations was issued vide this office endst: No.4912-14/EB, dated 19.07.2011 and served upon him, which was received by his father.

The defaulter constable Technical was directed so many time to appear before the enquiry committee to record his statement, vide this office memo No.5217/EB, dated 02.08.2011 and No.5623/EB, dated 22.08.2011, but he failed to appear before the enquiry committee and continuously ignoring the facts of his enlistment in Special Branch.


To get dig out the facts his case was referred to the Director ACE and an open enquiry No.07/2011 was conducted against the defaulter constable Technical as result he was arrested and case vide FIR No.22, dated 18.11.2011 u/s 409/419/420 PPC /5(2) Pc Act PS Anti corruption Peshawar was registered against him.

Hence from the perusal of enquiry file, it has been found that the above mentioned official accused were provided sufficient opportunities to give chance of defence in his favour through Final Show Cause Notice and advertisement in the press, grounds exist that he is willfully not responding to the calls as such, he is "Removed" from service under NWFP (Now Khyber Pakhtunkhwa) Special Power Ordinance 2000 for the allegations leveled against him in the charge sheet and statement of allegations and on the basis of Ex-Parte Proceeding/action.

Order announced

OB.No. 13 /SB

Dated 28/01/2012

  
SSP/Admn:  
Special Branch Khyber Pakhtunkhwa  
Peshawar

No. 526-30 /EB

Copy of above is forwarded for information and necessary action to all concerned in SB.

BEFORE THE HONOURABLE PROVINCIAL POLICE OFFICER, KHYBER PAKHTUNKHWA  
PESHAWAR

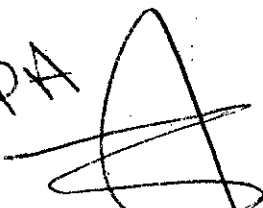
Subject: APPEAL/REPRESENTATION FOR REINSTATEMENT.

Respected Sir,

With profound veneration, I respectfully submit the following few justifications for your kind and sympathetic consideration:

- That I was enlisted as Foot Constable in the Special Branch on technical experience to supervise/monitor/maintenance the CCTV cameras.
  - I performed my duties efficiently, honestly and to the best satisfaction of my superiors. I never absented myself from my duty, neither any complaint for disinterest in my job was reported.
  - At the time of joining Police force, I was working as ES in the PTCL department, already privatized hence I had no interest to continue the said job thus without resignation, I quit the department.
  - That once I was received verbal orders to discontinue and stop my working in the Special Branch for showing no reason however subsequently unofficially knew that action was being initiated on my 2<sup>nd</sup> employment at PTCL. The action was unwarranted rather unjustified as I could not join and present myself for working and to continue my job at PTCL.
  - I tried my level best to continue my services at Special Branch and attended my office daily in routine but I was forcibly restrained from my duties.
  - That during this period, the authority registered case at PS Anti Corruption vide FIR No. 22 dated 18.11.2011 u/s 409/419/420-PPC r/w 5(2) PC Act however subsequently I was discharged from the case and the said case was cancelled, on account of my innocence.
- The competent authority SSP Admn Special Branch without any proper and legal enquiry, observing no codal formalities, I was removed confidentially, with no intimation to me, from service under the Special Power Ordinance 2000 vide OB No. 13 dated 28.01.2012.

Received on 26.03.2013 vide  
diary No. 2953/B11, dated above.  
Informed through Admn Special Branch ~~on~~ vide  
on 3.05.2013.

PA  
  
28/5/13

- That I repeatedly approached the office for final action against me and request to supply copy of order if any, for further course but I was kept in dark and ultimately from unofficial source, I obtained a copy of the order on 14.03.2013. Worth mentioning that all proceedings were conducted secretly without providing any chance or opportunity to me to join the enquiry proceedings and to this effect I submit an affidavit (copy attached).
- That the order of competent authority dated 28.01.2012 is without lawful authority, legally infirm and is liable to be set aside on the following grounds (copy of the order dated 28.01.2012 attached).

- That the Khyber Pakhtunkhwa RSO 2011 has been repealed earlier and vide order No. 349/Legal dated 24.01.2011, passed by the worthy Provincial Police Officer, Khyber Pakhtunkhwa, Police Disciplinary Rules 1975 was approved and introduced to be applicable to the officers upto the rank of Inspector. The proceedings thus having been conducted under repealed law (RSO 2000) are of no avail and considers to be void abinitio.
- I have not been associated with the enquiry proceedings, nor enquiry officer has followed theme of the provision, contained u/s 6(2) of the NWFP Police Rules 1975.
- I was removed from service by the PTCL department in the year 2011 while the removal order by the competent authority of Special Branch was passed on 28.01.2012 and as such I was awarded 02 punishments for the one and same charge which is against the norms of justice/law. This dual action/punishments have been strictly prohibited by Article 13 of the Constitution of Pakistan, Section 403 of the CrPC 1898, Section 26 of the General Clauses Act and Article 20(2) of the Indian Constitution.
- The case, registered u/s 409/419/420-PPC r/w 5(2) PC Act vide FIR No: 22 dated 18.11.2011 on the report of authority Special Branch was dropped/cancelled by the Anti Corruption Establishment vide letter No. 1893/ACE dated 18.02.2012. This cancellation clearly

A  
→

34

speaks and reflects my innocence, as the charge could not establish rather substantiated during course of investigation by Anti Corruption.

- That during my service at Special Branch, I performed my duties as Technical Hand man efficiently and to the best satisfaction of my superiors.
- That I am a young man with good physique and defendant of big family, comprising my wife, children and parents and removal from service has caused irreparable loss to me and my family.

Foregoing in view, it is humbly requested that I may kindly be reinstated on my post to meet the ends of justice. I shall pray for long life and prosperity of your good self as well your family.

Obediently yours,



**Muhammad Shakil**

Ex-Technical constable No. 754/SB

Special Branch Peshawar



(36)

Annex-P

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

To : The Addl: IGP/Special Branch,  
Khyber Pakhtunkhwa,  
Peshawar.

No. 12412 /E-II, dated Peshawar the 31 /5 /2013.

Subject: **APPEAL /REPRESENTATION FOR RE-INSTATMENT**

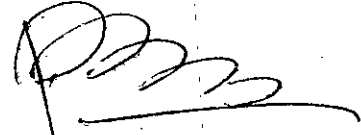
Memo :

Please refer to your office memo: No. 3584/EB, dated: 13.05.2013.

The appeal/representation of Ex-Constable Muhammad Shakeel No. 754/SB for re-instatement in service has been examined and filed by competent authority.

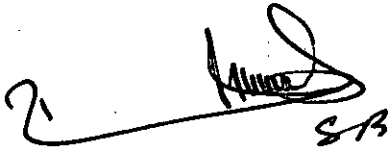
The relevant record/enquiry file containing 217 pages received with your memo under reference are returned herewith for record.

The applicant may be informed accordingly.



(MUHAMMAD FAYAZ KHAN)PSP  
AIG/Legal  
For Provincial Police Officer,  
Khyber Pakhtunkhwa  
Peshawar

Issued on 05-06-2013



1

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

**PESHAWAR**

Service Appeal No. 1023/2013.

Muhammad Shakeel Ex-Constable (Technical) No. 754, Special Branch, Khyber Pakhtunkhwa, Peshawar ..... (Petitioner)

Versus.

1. Provincial Police Officer, Central Police Office, Khyber Pakhtunkhwa, Peshawar.
2. Additional Inspector General of Police Special Branch, Khyber Pakhtunkhwa, Peshawar .....(Respondents)

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS No. 1 & 2:-**

**Preliminary Objections**

1. That the appeal is not maintainable in its present form.
2. That the appellant has got no cause of action.
3. That the appellant is estopped by his own conduct to file the present appeal.
4. That the appellant has not come to this Honorable Tribunal with clean hands and has concealed material facts.
5. That the appeal is bad for non joinder and misjoinder of necessary parties.
6. That the appeal is barred by law.
7. That the appeal is badly time barred.

**Facts**

- 1) Incorrect, Appellant committed fraud, misrepresentation, cheating and corrupt practices by joining Police Department as Constable Technical while at the time he was already serving as Engineering Supervisor PTCL (Pakistan Tele Communication Limited) right from the year since 1995. No law of the land allow and permit dual Government jobs without permission of competent Authority. Appellant denied the fact that he is an employee of the Respondents. During course of departmental proceedings, the appellant served/issued a legal notice to the Respondent and denied his service with

the Respondents. (Copy of legal notice addressed to DIG Special Branch from the Appellant is enclosed as Annexure "A").

- 2) Incorrect, Appellant was involved in corrupt practices by performing dual Government jobs and he was causing double losses to Government exchequer in pay. Similarly appellant denied his service with respondents in his legal notice dated 12.09.2011.
- 3) Correct to the extent that Senior Superintendent of Police Admin, Special Branch (not cited as Respondent) issued charge sheet on score of allegations that he being regular employee of Pakistan Tele Communication Limited (PTCL) joined the post of Constable Technical Special Branch and concealed his existing Government job. Proper enquiry was conducted into the charges leveled against the Appellant and in this regard Anti-Corruption Establishment was informed about the corruption and corrupt practices committed by the Appellant. The Departmental proceedings initiated against the Appellant culminated in passing the impugned order of removed from service.
- 4) Incorrect, Appellant was regular employee of PTCL Department and Senior Manager (HR&A) Northern Telecom Region 1, Peshawar vide letter No. S-III-85/38 dated 24.05.2011 confirmed that Appellant was regular employee of PTCL and the fact was concealed from the Respondents. (Copy of the letter enclosed as Annexure "B").
- 5) Para 5 of the appeal is correct to the extent of registration of criminal case.
- 6) Correct to the extent that the officials of Anti-Corruption Establishment made efforts for recovery of the embezzled amount from the Appellant.
- 7) Incorrect, recovery of the embezzled amount to the tune of Rs 431329/- was allegedly made from the Appellant by the Investigation Officer of Anti-Corruption Establishment.
- 8) Incorrect, Appellant avoided receipt of the charge sheet and therefore the charge sheet was served on him through his father which was replied by the appellant. (Copy of the charge sheet bearing token of receipt is enclosed as Annexure "C"). Copy of the reply submitted by the Appellant is enclosed as Annexure "D".
- 9) Pertains to record. This August Tribunal has no jurisdiction with respect to granting bail. Departmental proceedings and criminal proceedings are totally different in nature. Furthermore, Appellant returned the embezzled amount which support the charges leveled against the Appellant.



- 10) Correct to the extent that PTCL Department confirmed the dual job of Appellant and allegedly took action against the Appellant. Hence appellant admits his dual jobs in this Para.
- 11) Incorrect, charge sheet was served on Appellant through his father. He submitted reply in response to the charge sheet. Later on, Appellant avoided joining of associating the enquiry proceedings and avoided service of final show cause notice. Therefore, proclamation was published in Urdu Daily "AAJ" dated 10.01.2012 (Copy of proclamation advertised enclosed as Annexure "E").
- 12) Incorrect, the departmental appeal of Appellant was without any force and substance, therefore the same was filed. (Copy enclosed as Annexure-F).
- 13) Correct, the departmental appeal of Appellant was without any force and substance, therefore the same was filed.
- 14) Incorrect, Appellant avoided joining enquiry proceedings despite the fact proclamation was published in Urdu Daily "AAJ" dated 10.01.2012, therefore, his departmental appeal and service appeal at this belated stage was not sustainable.


### Grounds

- a. Incorrect, the departmental representation of the Appellant was without any force and substance, therefore the same was filed according to law and rules.
- b. Incorrect, all the procedural, legal and codal formalities were adopted before passing the impugned order which is very much legal.
- c. Incorrect, dropping of FIR registered against Appellant is no ground for exonerating the Appellant from the departmental charges.
- d. Incorrect, the double government employments on the part of Appellant was proved from the record. Again the Appellant himself admitted performing double government jobs in Para 10 of facts of the appeal. He also returned the embezzled amount. It is also well settled principle of law that facts admitted need not to be proved
- e. Incorrect, Appellant was treated in accordance with law and rules. Departmental and criminal proceedings can go side by side and different from each other..
- f. Incorrect, Appellant has allegedly returned voluntarily the embezzled amount, which proved the charge and the recovery is in accordance with law.


- g. Incorrect, the impugned order Removal from service was passed by Senior Superintendent of Police Admin, Special Branch and not by Respondent No. 2. Appellant has not cited SSP Admin, SB as party, therefore the appeal is not maintainable. As regard to the recovery of embezzled amount by the Anti-Corruption Authority, it is worth mentioning that the Anti-Corruption Authorities has not been cited as party in the service appeal.
- h. Incorrect, as per Paras mentioned above.
- i. Incorrect, as per Paras mentioned above.
- j. Incorrect, as per Para "g" of the grounds.
- k. Incorrect, Appellant has admitted that he was performing dual government employments which is purely against law and the appellant deserve no leniency.
- l. Incorrect, Appellant joined Police department as Constable Technical through back doors and committed fraud and cheating. An illegal act cannot become legal and confer no rights.
- m. Incorrect, there was no force and substance in the departmental appeal of the Appellant, therefore the appeal was filed.
- n. Incorrect, the order was passed after fulfilling the legal, procedural, codal formalities and conducting proper enquiry in accordance with law.
- o. Incorrect, Appellant was avoiding associating the enquiry proceedings and did not appear for personal hearings even after publishing proclamation in Urdu Daily "AAJ" dated 10.01.2012.
- p. Incorrect, as per Para "i" of the grounds.
- q. Incorrect, Respondent No. 2 has not issued the order instead it was passed by the SSP Admn, Special Branch who is not party in the appeal and the order is very much legal.
- r. That the respondents may also be allowed to raise other points during the course of arguments.

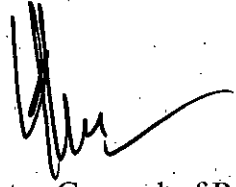
Prayer

It is therefore prayed that the appeal being baseless and untenable may be dismissed with Special costs as envisaged in Civil Procedure Code.

  
Provincial Police Officer,

Khyber Pakhtunkhwa, Peshawar.

  
(Respondent No. 1)

  
Additional Inspector General of Police,

Special Branch, Khyber Pakhtunkhwa, Peshawar.

(Respondent No. 2)

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

Service Appeal No. 1023/2013.

Muhammad Shakeel Ex-Constable (Technical) No. 754, Special Branch, Khyber  
Pakhtunkhwa, Peshawar ..... (Petitioner)

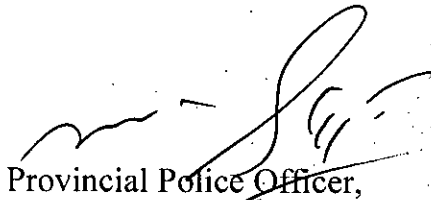
Versus

1. Provincial Police Officer, Central Police Office, Khyber Pakhtunkhwa, Peshawar.
2. Additional Inspector General of Police Special Branch, Khyber Pakhtunkhwa,  
Peshawar .....(Respondents)


**AFFIDAVIT**

We the deponents do hereby declare that the contents of the written reply is true and correct to the best of our knowledge and nothing has been concealed from this Honourable Tribunal.

Deponents

  
Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.

(Respondent No. 1)

  
Additional Inspector General of Police,  
Special Branch, Khyber Pakhtunkhwa, Peshawar.  
(Respondent No. 2)

Dated: 12-09-2011

Muhammad Shakeel

To ✓ D.I.G. Police (Special Branch)  
Khyber Pakhtunkhwa.

SSP ADMIN (Police Special Branch)  
Khyber Pakhtunkhwa

**Subject: LEGAL NOTICE**

In connection with Letter No.4345/EB Dated: 28-06-2011 It is to inform you that I Muhammad Shakeel s/o Khalid Pervez Age 35 years Engineering Supervisor PTCL is an employee of PTCL since 1995.

That I have performing my duties in the said department to entire satisfaction of my high officers.

That vide letter No.4345/EB Dated:28-06-2011 all of sudden it was conveyed to my department (PTCL) that I have joint the services of police department as constable.

That it is inform you that I have never applied for or being recruited or appointed on the said post in your department.

If it is so it is an act of mala fide and has done with the collusion of the members of staff in your department.

That all the above incidents in show cause notice at 09-07-2011 which has properly been replied copy of my reply is attached. After that now I have received Final Show Notice at 07-09-2011 copy attached.

That I have no nexus with such post of your department hence it is to notify that you may enquire the matter in order to sort out the real culprits in the matter how ever I reserve the right of stringent legal against your department and the responsible/concerned person involved in the matter.

That PTCL again and again confirm the nature of my employment but the truth was concealed every time and imbued the reply with new allegation. Me and my family is suffering due to these action and my future is at stake.

It is there requested that reply to the instant notice within the period of forth night otherwise we should involve Honorable court of law for judgment of realities.

Copy To:

- 1. Home Department Khyber Pakhtunkhwa
- 2. SM HR & A.
- 3. Office Concerned.

SP/Survey  
TO W Smeals

Muhammad Shakeel  
Signature

EB/  
GTE P.P.S  
23-9-11



ptcl 3

Annexure "B"

Pakistan Telecommunication  
Company Ltd.  
Telephone House-1 The Mall  
Peshawar Cantt.

No. S-III-85/38

Dated at Peshawar the. 24-05-2011.

To,

The Deputy Inspector General of Police,  
Special Branch Khyber Pakhtunkhwa  
Peshawar.

**SUBJECT;- SERVICE PARTICULAR OF MR.MUHAMMAD SHAKEEL E.S.**

Reference: Your letter No.107/PA dated 21-05-2011.

Mr.Muhammad Shakeel S/O Khalid Pervez having CNIC No. 17301-7543912-7  
resident of H/No. 433 Mohallah Sharif Abad New Kaksiak Peshawar City is a  
regular PTCL Employee in BPS No. B-XI please.

Add: LGP/SB  
DIG/SB  
DIG/CTD  
SSP/Admn:  
SSP  
SP/B  
SP/Survey

Senior Manager (HR&A)  
Northern Telecom. Region-1  
Peshawar.

102 A

55

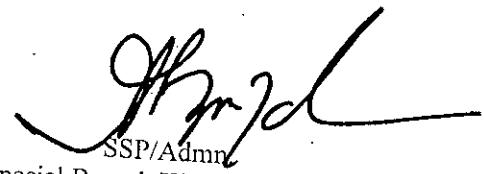
CHARGE SHEET

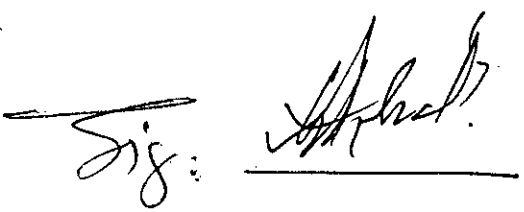
I, Abdul Ghafoor Afridi SSP/Admn: Special Branch Khyber Pakhtunkhwa Peshawar, as competent authority hereby charge you constable Technical Muhammad Shakil No.754/SB Special Branch Khyber Pakhtunkhwa Peshawar. as follows:-

That as per Senior Manager (HR &A) Northern Telecom, Region-1 Peshawar letter No. S-III-85/38, dated 24.05.2011 you have found regular PTCL employee in BPS-11. Being an regular employee of PTCL you applied for the post of constable Technical in Special Branch by using back door ways. Thus you have made fraud/forgery with the Deptt:

By reasons of the above you appear to be guilty of misconduct under section (3) of the NWFP, Removal from Service (Special Power) Ord:2000, and have rendered yourself liable to all or any of the penalties specified in section (3) of Ordinance ibid.

2. You are therefore, required to submit your written defence within 7 days of the receipt of this Charge Sheet to the Committee/Enquiry Officer as the case may be.
3. Your written defence if any should reach the Enquiry Officer/Committee within the specified period failing which it shall be presumed that you have no defence to put in and in that case, exparte action shall follow against you.
4. Intimate whether you desire to be heard in person.
5. Statement of allegation is enclosed.

  
 SSP/Admn  
 Special Branch Khyber Pakhtunkhwa  
 Peshawar

Sig: 

of. MR WAJID  
 F/O. Nisha Koral  
 Arand

Recd. e. sheet of  
 Mr. M. Shakil Arand  
 on off. 4-08-11  
 at The time of 1-PM.

Annexure 'D'  
59

**BEFORE THE HONORABLE SSP ADMN SPECIAL BRANCH**  
**KHYBER PAKHTUNKHWA PESHAWAR.**

Subject: **REPLY TO THE CHARGE SHEET.**

RESPECTED SIR:

With due respect I, the under signed in response to the charge sheet coupled with the summary of allegation vide office No.4912-14/EB dated Peshawar the 19-07-2011, received by me dated 01-08-2011 a.n, submit my submissions/reply as under:-

- 1) That admittedly I am the employee of PTCL Company, the then corporation for the last 17 years which has since been privatized and thus my job in the privatized company comes within the ambit of private job.
- 2) That since I was/am private employee of the PTCL Company, I joined the services as constable technical being a civil servant and performing my respective duty at evening times in the Peshawar High Court Peshawar with great zeal and enthusiasm and have never kept my self absent from duty even for a single day I have performed my duties dedicatedly, honestly and to the best satisfaction of my superior. No act whatsoever on my part to hinder smooth work of the esteemed department has ever been reported against me and thus the second employment in the PTCL company which was in morning hours have never hindered my duty/work interested to me at evening hours in the Peshawar High Court.



- 3) That it is evident from the duty roster/record that through out my service period in the PTCL Company, I was kept on duty at morning hours whereas I was posted as constable technical in the Peshawar High Court in the Evening hours.
- 4) That at the time of joining my services as constable technical, I have never concealed the fact regarding my first employment in the PTCL company and have clearly and specifically told verbally to the then appointing committee accordingly and that is why I was kept on duty in the evening hours at Peshawar High Court thus I have never used back door ways.
- 5) That as for as the word Fraud/Forgery as mentioned in the statement of allegation is concerned, I am really shocked of such remarks as I have never thought in my life of any fraud or forgery with the department.
- 6) That the second employment in the PTCL Company is concerned, there are proper rules contained U/S 16 (1) of the Conduct and Discipline Rules 1987 read with Rule 14.33 of Police Rule 1934 for joining second employment.
- 7) That I am the only back bone of my entire large family having to support my ailing parents who are standing on the verge of death and school going children and in case of any adverse action, it would severely affect/suffer the livelihood therefore deserving for sympathetic consideration.

8) That I wish to be heard in person if given a chance to explain the entire position.

In view of the facts, circumstances and submissions, it is humbly prayed that on acceptance of my reply, the show cause notice may very kindly be filed without any further action please.

Yours' obediently

*M. Shakeel*

Muhammad Shakeel

Constable Technical (SB/FC-754)

Dated \_\_/08/2011



36

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

To : The Addl: IGP/Special Branch,  
Khyber Pakhtunkhwa,  
Peshawar.

No. 12642 /E-II, dated Peshawar the 31 /5 /2013.

Subject: APPEAL /REPRESENTATION FOR RE-INSTATMENT


Memo :

Please refer to your office memo: No. 3584/EB, dated: 13.05.2013.

The appeal/representation of Ex-Constable Muhammad Shakeel No. 754/SB for re-instatement in service has been examined and filed by competent authority.

The relevant record/enquiry file containing 217 pages received with your memo under reference are returned herewith for record.

The applicant may be informed accordingly.

  
(MUHAMMAD FAYAZ KHAN)PSP  
AIG/Legal  
For Provincial Police Officer,  
Khyber Pakhtunkhwa  
Peshawar

1

IL

PT

3 -

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.**

In Ref: to S.A No. 1023/ of 2013.

Muhammad Shakeel, EX-Constable.....**VERSUS**.....PPO & others

**REJOINDER ON BEHALF OF THE APPELLANT.**

RESPECTFULLY SHEWETH;

**REPLY TO THE PRELIMINARY OBJECTIONS;**

- 1) Incorrect. The appeal is maintainable
- 2) Incorrect. The appellant has got a good cause of action and locus-standi.
- 3) Incorrect. No rule of estoppel is applicable and attracted while filing the instant appeal.
- 4) Incorrect. As a basic fundamental right of legal profession is denied to the appellant hence no question of not coming with clean hands is arisen.
- 5) Incorrect. All the necessary parties have properly been arrayed as respondents.
- 6) A service appeal of a civil servant having the constitutional force under valuable constitutional rights has been filed for the redressal of legal grievances and thus, this august Tribunal has the jurisdiction to adjudicate upon the matter.
- 7) Incorrect. The appeal is well within time. Furthermore in case of void order on one hand and on the other hand, continuous injury to a civil servant does not attract the bar of limitation.

## **FACTS:-**

- 1) Being admitted and pertains to the record that the appellant was enlisted as Constable (Technical) and was posted to supervise/monitor and to keep maintenance of the CCTV cameras, installed in the premises of the Peshawar High Court Peshawar.
- 2) Incorrect. Being admitted and while pertains to the record, needs no reply. However no loss whatsoever has ever been caused to the government Exchequer as the appellant has worked for/served the department and thus he was entitled for his monthly salary.
- 3) Incorrect. The appellant was forcibly and illegally pushed to the Anti-Corruption authority and was kept behind the bar and illegally the monthly salaries were recovered from the appellant while the so-called departmental enquiry was kept continued on the back of the appellant.
- 4) Incorrect. Para-4 is fully explained in detail in Para 2 & 3 above.
- 5) Incorrect. Being admitted and while pertains to the record, needs no reply.
- 6) Incorrect. Para-6 is fully explained in detail in Para 2 & 3 above.
- 7) Incorrect. No embezzlement whatsoever has ever been made by the appellant except his monthly salary for which he had worked in the department but illegally the total salaries were recovered from the appellant by putting him behind the bars.
- 8) Incorrect. During the course of the so-called enquiry, the appellant was confined behind the bars thus refusal of charge sheet does not arise.
- 9) Incorrect. The word "Tribunal" is a clerical mistake. Actually the appellant was granted bail by the High court. Moreover the appellant has never returned his salaries but he was pressurized by implicating him in illegal case and sending him behind the bars and during his confinement, the total monthly salaries were recovered from the appellant.
- 10) Incorrect. The appellant has never asked about the dual job and when the dual jobs were detected, it was mandatory to ask the appellant that which of the job has to keep continue and which of

the job has to be abandoned. But the appellant was kicked out from both the jobs and by registering a criminal case under Anti-Corruption laws, sent him behind the bars and illegally recovered all the salaries from the appellant. Hence for a single fault, the appellant was penalized thrice which is illegal.

- 11) Incorrect. Detailed reply has been given in Para-8 above.
- 12) Incorrect. The departmental appeal has illegally been filed for the reason that the respondents had taken illegal action against the appellant.
- 13) Detailed reply has been given in Para-12 above.
- 14) Incorrect. Detailed reply has been given in Para-3 & 8 above.

**GROUND S:-**

- a) Incorrect. Detailed reply has been given in Para-3 & 8 of the facts above.
- b) Incorrect. No procedural, legal or codal formalities has ever been adopted and the appellant has been condemned unheard. Moreover reply to Para-10 of the facts is self-explanatory.
- c). Incorrect. Admittedly the appellant has committed no offence whatsoever and to this extent the dropping of FIR is self-explanatory.
- d) Incorrect. Detailed reply has been given in Para-10 of the facts above.
- e). Incorrect. Detailed reply has been given in Para-b above.
- f) Incorrect. Detailed reply has been given in Para-10 of the facts above.
- g) Incorrect. Para-g pertains to record.
- h,i&j Para h, I & j are incorrect. Detailed reply has been given in Para-g above.
- k) Incorrect. Detailed reply has been given in Para-10 of the facts above.
- l) Incorrect. The appellant has committed no offence whatsoever and has joined the services through back door and if the back door if any is admitted by the respondents then the respondents are equally involve in the alleged fraud.
- m) Incorrect. Detailed reply has been given in Para-12 of the facts above.
- n) Incorrect. Detailed reply has been given in Para-b above.

- o) Incorrect. Detailed reply has been given in Para-3 & 8 of the facts above.
- p) Incorrect. Detailed reply has been given in Para-i above.
- q) Incorrect. The impugned order is not legal one. Moreover all the necessary parties have properly been arrayed as party.
- h). Legal: Hence no reply.

In view of the foregoing facts and grounds in shape of the rejoinder on behalf of the appellant, it is therefore humbly prayed that the appeal of the appellant may graciously be allowed enabling the appellant to get the redressal of his grievances.

APPELLANT.



Through;

Muhammad Usman Khan  
Turlandi  
Advocate Peshawar.

Dated;-05/11/2014

OFFICE: Flate # C-1 Haji Murad Plaza Dalazak Road Peshawar City

Cell#:0333-9153699/03005895841



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

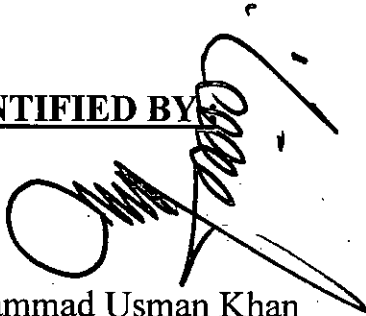
In Ref: to S.A No. 1023/ of 2013.

Muhammad Shakeel, EX-Constable.....**VERSUS**.....PPO & others.

**AFFIDAVIT**

I, Muhammad Shakeel, EX-Constable (Technical) No. 754, Special Branch, Khyber Pakhtunkhwa Peshawar, do here by solemnly affirm and declare on oath that the contents of accompanying rejoinder are true and correct to the best of my knowledge and belief and that nothing has been kept secret or concealed therein from this august Tribunal.

**IDENTIFIED BY**



Muhammad Usman Khan  
Turlandi  
Advocate Peshawar

**DEPONENT**

NIC#. 17301-7543912-7



**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.**

In Ref: to S.A No. 1023/ of 2013.

Muhammad Shakeel, EX-Constable.....**VERSUS**.....PPO & others

**REJOINDER ON BEHALF OF THE APPELLANT.**

RESPECTFULLY SHEWETH;

**REPLY TO THE PRELIMINARY OBJECTIONS;**

- 1) Incorrect. The appeal is maintainable
- 2) Incorrect. The appellant has got a good cause of action and locus-standi.
- 3) Incorrect. No rule of estoppel is applicable and attracted while filing the instant appeal.
- 4) Incorrect. As a basic fundamental right of legal profession is denied to the appellant hence no question of not coming with clean hands is arisen.
- 5) Incorrect. All the necessary parties have properly been arrayed as respondents.
- 6) A service appeal of a civil servant having the constitutional force under valuable constitutional rights has been filed for the redressal of legal grievances and thus, this august Tribunal has the jurisdiction to adjudicate upon the matter.
- 7) Incorrect. The appeal is well within time. Furthermore in case of void order on one hand and on the other hand, continuous injury to a civil servant does not attract the bar of limitation.



ایڈووکیٹ/دستخط  
بار کونسل ابار ایسوسی ایشن پشاور  
رابطہ نمبر: 0300-596-5843



50093

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

BEFORE HON'BLE SERVICE TRIBUNAL ICPK, PESH. بعدالت جناب:

<p>APPELLANT:</p> <p style="text-align: center;">MUSHAMMAD SHAKHEEL</p> <p style="text-align: center;">بنام</p> <p style="text-align: center;">PROVINCIAL POLICE OFFICER &amp; others</p>	<p>دعوی: SERVICE APPEAL</p> <p>موضوع: NIL</p> <p>جرم: NIL</p> <p>تھانہ: NIL</p>
---	---

بابت تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ

آن مقام پشاور کے اقرار کیا جاتا ہے کہ صاحب موضوع کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز صاحب کو راضی نامہ کرنے و تقریر جات و فیصلہ برصفت دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا تاخیر کی صورت میں یا اہل کی برآمدگی اور منسوخی نیز دائر کرنے اہل نگرانی و نظریاتی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے قرار کا اختیار ہو گا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساتھ ہی درخواست منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جہان التوائے مقدمہ کے سبب سے ہوگا وہ وکیل موضوع و متول کے لئے کا حقدار ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم: 6. صحت. 2016

الع \_\_\_\_\_ بد \_\_\_\_\_ واد شد \_\_\_\_\_ بد \_\_\_\_\_

مقام پشاور کے لئے منظور ہے۔

17

Annex  
"C"

Office of the District Education Officer (Male) Swabi

Notification: -

Consequent upon the recommendation/suggestion of the Enquiry Officer Government Shaheed Basit Ali Sardar School Shewa District Swabi. Mr. Shamsur Rehman PSHT GPS No.2 Maini (District Swabi) is hereby degraded from BPS-15 to BPS-12 till the retirement as per Efficiency and Disciplinary Rules 1973 with immediate effect in the best interest of public service.

Note: -

1. Entry to this effect should be made in his service book.
2. Rupees 292324/= received by the official concerned on account of salaries/benefits from SNGPL Lahor must be returned in 36 monthly installments to the concerned company through their Bank Account under intimation to this office.
3. A statement/surety Bond duly attested from the Oath Commissioner along with witness may be obtained from the official concerned that he will pay the installments in-time and will not submit any appeal/case against the mentioned charges to the high ups/court.
4. The official concerned is hereby strictly warned to be careful in future and the SDEO concerned is directed to keep him under observation.

(JEHAN MUHAMMAD)  
DISTRICT EDUCATION OFFICER  
(MALE) SWABI

Endst: No. 15956-64 /P.File Shamsur Rehman, PSHT Dated Swabi the 27/11/2015

Copy of the above is forwarded for information and necessary action to the: -

1. Secretary E & SE Department Khyber Pakhtunkhwa Peshawar.
2. Director Elem: & Secy: Education Khyber Pakhtunkhwa Peshawar w/r to his No. 24/F.No. 123/Vol: VI/PST (M) Swabi, Dated Peshawar the 03-08-2015.
3. District Accounts Officer Swabi.
4. Deputy Commissioner Swabi.
5. District Monitoring Officer Swabi.
6. General Manager (HR) for Managing Director SNGPL Lahor Gas House 21 Kashmir Road PO Box 55, Lahor Pakistan with the request to provide your company A/C No. on which the recovery/payment could be made to the company by the official concerned.
7. Sub-Divisional Education Officer (M) Topi with the remarks to provide the vacant post of BPS-12 for the adjustment of the teacher concerned.
8. ASDEO concerned.
9. Official concerned.

  
DY: DISTRICT EDUCATION OFFICER  
(MALE) SWABI

## ENQUIRY

### Allegations

As per Senior Manager (HR&A) Northern Telecom, Region-1. Peshawar letter No.S-III-8538, dated 24.5.2011 Mr. Shakeel constable Technical No. 754/SB has been found a regular PTCL employee in BPS-11. Being a regular employee of PTCL he applied for the post of constable Technical in Special Branch by using back door ways. Thus he has made fraud/forgery with the department.

### Probe

An enquiry was conducted into the above allegations which revealed that:

Mr. Shakeel was served with charge sheet on 19.7.2011. In reply to the charge sheet he admitted that he is serving in PTCL for the last 17 years however claimed that as the PTCL has been privatized so his nature of job has also been changed.

In his replay he has quoted Article 14.33 of Police Rule 1934 in support of his second employment whereas the said Article forbids a police official to second employment without the prior permission of the head of the department i.e. Inspector General of Police. Furthermore Article 10 of Police Act 1861 also makes all police officials bound to seek permission for second employment.

Similarly Article 17 of the Police Order 2002 envisage that

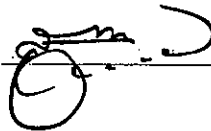
*"No police officer shall engage in any private employment while he is a member of the Police establishment"*

**Findings**

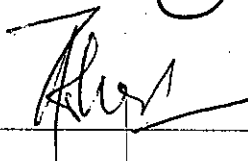
The matter reveals that the official under enquiry admitted that he is regular employee of PTCL. Moreover he has neither sought any approval from the head of the department i.e. Inspector General of Police nor produced any documentary proof in this regard after joining the police service for continuation his second job i.e. in the PTCL. This exhibits violation of the above rules and other departmental norms.

The case is submitted for further necessary action.

Mohammad Iqbal Khan, DSP HQRs



Johar Ali, Director Technical



By/Date to  
SS/Conty on  
29.11.2011

**FINAL SHOW CAUSE NOTICE**

I, Abdul Majeed Khan Afridi SSP/Admn: Special Branch Khyber Pakhtunkhwa Peshawar, as competent authority under Removal from service (Special Power) Ordinance 2000, do hereby charge you constable Muhammad Shakil No.754/SB of Technical Section Khyber Pakhtunkhwa Peshawar on the following omission/commission.

That as per Senior Manager (HR &A) Northern Telecom, Region-1 Peshawar letter No. S-III-85/38, dated 24.05.2011 you have found regular PTCL employee in BPS-11. Being an regular employee of PTCL you applied for the post of constable Technical in Special Branch by using back door ways. Thus you have made fraud/forgery with the Deptt:

i. That consequent upon the completion of enquiry conducted against you by Director Technical and DSP/HQ Special Branch and you were given full opportunity of hearing, but you could not be advanced any cogent reason in your self defence. Hence the charges leveled against you were proved beyond any shadow of doubt.

ii. After going through the finding and recommendation of the Enquiry Officer, the material available on record and other connected papers, I am satisfied that you have committed the omission specified in section (3) of the said Ordinance. As a result thereof, I Abdul Majeed Khan Afridi SSP/Admn: Special Branch Khyber Pakhtunkhwa Peshawar as competent authority has tentatively decided to impose upon you Major penalty of Removal from service under section (3) of the said Ordinance

3. You are therefore, directed through Final Show Cause with in 15 days as to why the aforesaid penalty should not be imposed upon you.

4. In case your reply is not received with in stipulated period, it shall be presumed that you have no defense to put, in that case an exparte action shall be taken against you.

Also state as to whether you desire to be heard in person.

5. The copy of the finding of the Enquiry Officer is enclosed.

(Constable Technical Muhammad Shakil No.754/SB)

No. 7488/EB

DR 29-11-2011

(ABDUL MAJEED KHAN AFRIDI)  
SSP/Admn:  
Special Branch Khyber Pakhtunkhwa  
Peshawar

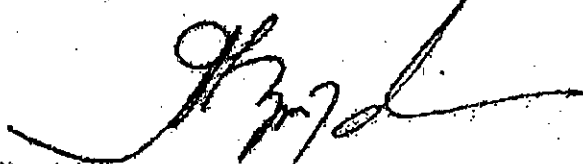
پتہ :- محمد شکیل ولد خالد پرویز  
ھاوس نمبر 433 سٹریٹ نمبر 1 (سارودھ)  
شرف آباد راجہ

Subject:- ENQUIRY

An Enquiry Committee comprising the following officers has been constituted to dig out the charges leveled against you.

1. Mr. Johar Ali (Director Technical/SB)
2. Mr. Muhammad Iqbal (DSP/11Q/SB)

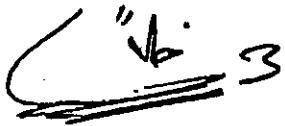
You constable Technical Muhammad Shakeel No.754/SB s/o Khalid Pervez r/o Moh: Sadwan Andronj Kabli Gate is hereby directed to appear before the Enquiry Committee on 03.08.2011 at 10:00 hours to record your statement about the allegations.

  
For Addl: Inspector General of Police  
Special Branch Khyber Pakhtunkhwa  
Peshawar

Thought AGO/SB

No 5217/EB Date 2-8-2011

ENG. Information  
Recd on 02-08-11  
at the time of 5-AM.  
by The Hissni Zinda constable.

 3  
KHALID. F/O  
M. SHAKED. ASKED



BEFORE THE HONORABLE SSP ADMN SPECIAL BRANCH  
KHYBER PAKHTUNKHWA PESHAWAR.

Subject: REPLY TO THE CHARGE SHEET.

RESPECTED SIR:

With due respect I, the under signed in response to the charge sheet coupled with the summary of allegation vide office No.4912-14/EB dated Peshawar the 19-07-2011, received by me dated 01-08-2011 a.n, submit my submissions/reply as under:-

- 1) That admittedly I am the employee of PTCL Company, the then corporation for the last 17 years which has since been privatized and thus my job in the privatized company comes within the ambit of private job.
- 2) That since I was/am private employee of the PTCL Company, I joined the services as constable technical being a civil servant and performing my respective duty at evening times in the Peshawar High Court Peshawar with great zeal and enthusiasm and have never kept my self absent from duty even for a single day I have performed my duties dedicatedly, honestly and to the best satisfaction of my superior. No act whatsoever on my part to hinder smooth work of the esteemed department has ever been reported against me and thus the second employment in the PTCL company which was in morning hours have never hindered my duty/work interested to me at evening hours in the Peshawar High Court.

- 3) That it is evident from the duty roster/record that through out my service period in the PTCL Company, I was kept on duty at morning hours whereas I was posted as constable technical in the Peshawar High Court in the Evening hours.
- 4) That at the time of joining my services as constable technical, I have never concealed the fact regarding my first employment in the PTCL company and have clearly and specifically told verbally to the then appointing committee accordingly and that is why I was kept on duty in the evening hours at Peshawar High Court thus I have never used back door ways.
- 5) That as for as the word Fraud/Forgery as mentioned in the statement of allegation is concerned, I am really shocked of such remarks as I have never thought in my life of any fraud or forgery with the department.
- 6) That the second employment in the PTCL Company is concerned, there are proper rules contained U/S 16 (1) of the Conduct and Discipline Rules 1987 read with Rule 14.33 of Police Rule 1934 for joining second employment.
- 7) That I am the only back bone of my entire large family having to support my ailing parents who are standing on the verge of death and school going children and in case of any adverse action, it would severely affect/suffer the livelihood therefore deserving for sympathetic consideration.

8) That I wish to be heard in person if given a chance to explain the entire position.

In view of the facts, circumstances and submissions, it is humbly prayed that on acceptance of my reply, the show cause notice may very kindly be filed without any further action please.

Yours' obediently

M. Shakeel

Muhammad Shakeel  
Constable Technical (SBFC-754)

Dated 11/08/2011

254. Jahan S.E  
S.S.

ORDER

Muhammad Shakil constable Technical No.754/SB was enlisted in this Estt on 26.05.2008, vide order Endst: No.2146-51/EB, dated 24.05.2008. Later on he was also found regular employee BPS-11 of PTCL, therefore he was suspended due to committing fraud/forgery with the Department, vide No.4826-30/EB, dated 18.07.2011.

To take proper action against the defaulter constable Technical a Charge Sheet with statement of allegations was issued vide this office endst: No.4912-14/EB, dated 19.07.2011 and served upon him, which was received by his father.

The defaulter constable Technical was directed so many time to appear before the enquiry committee to record his statement, vide this office memo No.5217/EB, dated 02.08.2011 and No.5623/EB, dated 22.08.2011, but he failed to appear before the enquiry committee and continuously ignoring the facts of his enlistment in Special Branch.


To get dig out the facts his case was referred to the Director ACE and an open enquiry No.07/2011 was conducted against the defaulter constable Technical as result he was arrested and case vide FIR No.22, dated 18.11.2011 u/s 409/419/420 PPC /5(2) Pc Act PS Anti corruption Peshawar was registered against him.

Hence from the perusal of enquiry file, it has been found that the above mentioned official accused were provided sufficient opportunities to give chance of defence in his favour through Final Show Cause Notice and advertisement in the press, grounds exist that he is willfully not responding to the calls as such, he is "Removed" from service under NWFP (Now Khyber Pakhtunkhwa) Special Power Ordinance 2000 for the allegations leveled against him in the charge sheet and statement of allegations and on the basis of Ex-Parte Proceeding/action.

Order announced . . .

OB.No. 13 /SB

Dated 28/01/2012

  
SSP/Admn:  
Special Branch Khyber Pakhtunkhwa  
Peshawar

No. 526-30 /EB

in SB.

Copy of above is forwarded for information and necessary action to all concerned



SUMMARY OF ALLEGATIONS

I, Abdul Ghafoor Afridi SSP/Admn: Special Branch Khyber Pakhtunkhwa Peshawar am of the opinion that constable Technical Muhammad Shakil No.754/SB of Technical Section Special Branch have rendered him self liable to be proceeded against as you committed the following acts/omissions within the meaning of section 3 of the NWFP Removal from Service(Special Power) Ordinance 2000.

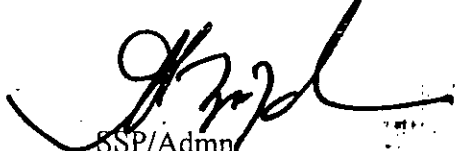
STATEMENT OF ALLEGATIONS

That as per Senior Manager (HR &A) Northern Telecom,,Region-1 Peshawar letter No. S-III-85/38, dated 24.05.2011 he has been found regular PTCL employee in BPS-11. Being a regular employee of PTCL he applied for the post of constable Technical in Special Branch by using back door ways. Thus you he as made fraud/forgery with the Deptt:

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations an Enquiry Officer, named below is appointed under section (3) of the Ordinance:-

- i) Mr: Jauher Khan
- ii) Mr: Asif H.B. Iqbal

3. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, Provide reasonable opportunity of hearing to the accused, record its findings and make within 25 days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

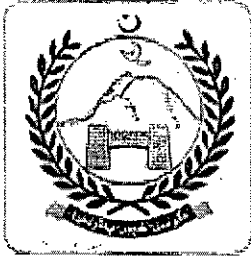


SSP/Admn  
Special Branch Khyber Pakhtunkhwa  
Peshawar

No. 4912-19 /EB, Dated Peshawar the, 19/7 /2011.

Copy of above is forwarded to the:-

- 1. Enquiry Officers for initiating departmental proceedings against the accused under the provision of the NWFP Removal from Service (Special Power) Ord:2000.
- 2. Constable concerned with the direction to appear before the Enquiry Committee on the date, time and place fixed by the Committee for the purpose of the enquiry proceedings
- 3. Establishment Clerk with the direction to assist the Enquiry Committee during the enquiry proceedings.



**KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL, PESHAWAR**

No. 2026 /ST Dated: 31 / 8 /2017

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

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


To,

The Inspector General Police,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

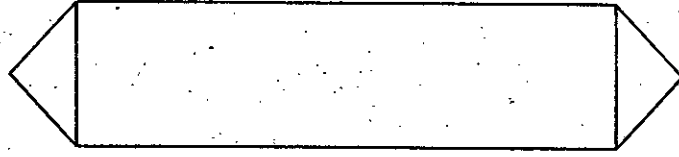
Subject: - **JUDGMENT IN APPEAL NO. 1023/2013, MUHAMMAD SHAKEEL.**

I am directed to forward herewith a certified copy of judgment dated 10/08/2017 passed by this tribunal on the above subject for strict compliance.

**Encl: as above**

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR

بعدالت خیرہ تختوخوا سرویس ٹریبونل



ایس ایس ڈی  
P.P.O

2013ء پنجاب

بنام

محمد کسیر  
سابقہ کانسٹیبل (ٹیکنکل)  
SB  
سائینس ایس ایس ڈی  
باعث تحریر آنکہ

مورخہ

مقدمہ

دعویٰ

جرم

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

M. Usman Khan Turlandi

M. A. LL. B Advocate

Peshawar

آن مقام KPK-ST کیلئے

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی

اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت

مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے

تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے

اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے

سبب سے دہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں

گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

ATTESTED  
&  
ACCEPTED

2013

ماہ جون

المرقوم اذنتیس

محمد کسیر  
ایڈووکیٹ  
عدنان سٹیشنری  
پوسٹ مشنری پشاور شی فون: 2220193  
Mob: 0345-9223239

العبد العبد

کے لئے منظور ہے۔

مقام KPK-ST

Hakeel