

S.No	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	06.09.2016	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>PESHAWAR.</u></p> <p style="text-align: center;"><b>APPEAL NO. 1069/2014</b> (Muhammad Sohail-vs- Inspector General of Police Khyber Pakhtunkhwa Peshawar and others).</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>PIR BAKHSH SHAH , MEMBER:</u></p> <p>Counsel for the appellant (Mr. Akbar Khan, Advocate) and Mr. Sattar, S.I alongwith Mr. Muhammad Jan, GP for respondents present.</p> <p>2. Recruited as Constable in the police department, the appellant was dismissed from service vide impugned order dated 03.04.2014 on the ground of absence from duty w.e.f 29.05.2013. The charged against the appellant given in the charge sheet reproduced below <del>which</del> is as follows:</p> <p style="padding-left: 40px;">“That you were posted in the office of DSP/Legal CPO, to work as Computer Operator wherefrom you absented yourself without seeking any permission w.e.f 29.05.2013 and hence DSP/Legal CPO reported the matter accordingly”.</p> <p>His departmental appeal seems to have been rejected by <sup>an</sup>undated order of the authority, after institution of this service appeal, instituted under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.</p> <p>3. Arguments heard and record perused.</p>

S.No	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	06.09.2016	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>PESHAWAR.</u></p> <p style="text-align: center;"><b>APPEAL NO. 1069/2014</b> (Muhammad Sohail-vs- Inspector General of Police Khyber Pakhtunkhwa Peshawar and others).</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>PIR BAKHSH SHAH , MEMBER:</u></p> <p>Counsel for the appellant (Mr. Akbar Khan, Advocate) and Mr. Sattar, S.I alongwith Mr. Muhammad Jan, GP for respondents present.</p> <p>2. Recruited as Constable in the police department, the appellant was dismissed from service vide impugned order dated 03.04.2014 on the ground of absence from duty w.e.f 29.05.2013. The charged against the appellant given in the charge sheet reproduced below which is as follows:</p> <p style="padding-left: 40px;">“That you were posted in the office of DSP/Legal CPO, to work as Computer Operator wherefrom you absented yourself without seeking any permission w.e.f 29.05.2013 and hence DSP/Legal CPO reported the matter accordingly”.</p> <p>His departmental appeal seems to have been rejected by <sup>an</sup>undated order of the authority, after institution of this service appeal, instituted under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.</p> <p>3. Arguments heard and record perused.</p>

4. Learned counsel for the appellant submitted that charge against the appellant is that of absence but absence of the appellant was not willful. That the absence reason was a false involvement of the appellant in a baseless and concocted case in which the appellant was behind the Bar at the relevant time. He further submitted that the same criminal case has not yet been decided and it is evident that without giving of any opportunity of being heard and defended the appellant has been unlawfully dismissed from service. He stated that the penalty is too harsh and the dismissal order is not a lawful order, hence on acceptance of this appeal, original dismissal order as well as the appellate order, both may be set aside.

5. This appeal was resisted by learned GP on the ground that the appellant was involved in a criminal case of the stolen car which car was recovered from his possession. He also submitted that proper enquiry was conducted by a committee and in the light of that report the appellant was dismissed from service. He stated that the appeal may be dismissed having no merits in it.

6. We have carefully perused the record and have heard pro & contra arguments. A careful perusal of the enquiry report would show that the subject of inquiry is not in conformity with the allegations of the charge leveled against the appellant which charge is about absence from duty. To this charge reply of the appellant is that he was maliciously involved in a criminal case and his plea is that he was behind the bar at that case. The enquiry report does not show that the appellant was summoned from the judicial lockup to participate in the inquiry proceedings. It is thus clear that no chance of the defense has been given to the appellant. This is also worth mentioning that the criminal case against the appellant has not yet been decided. When the subject of enquiry is not in conformity with the charge of absence leveled against the appellant nor it was the

charge that the appellant was involved in the offence of having possession of the stolen car which is the subject of inquiry, it is thus obvious that the proceedings against the appellant are not in accordance with rules and further that full opportunity of defense was not available to the appellant. In such a situation, the Tribunal is constrained to set aside the impugned orders. The same are set aside. The respondents are directed to put appellant to face proceedings *de-novo* in which full opportunity of defense be provided to the appellant. For the purpose of fresh proceedings, the appellant is reinstated into service. The proceedings shall be completed within a period of one month after receipt of this judgment. The matter of back benefits will be subject to the outcome of the *de-novo* proceedings. The appeal is disposed of in the above terms. Parties are left to bear their own cost. File be consigned to the record room.


  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

  
(PIR BAKHSH SHAH)  
MEMBER

ANNOUNCED  
06.09.2016

17.05.2016

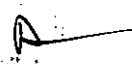
Counsel for the appellant and Mr. Usman Ghani, Sr. GP  
for respondents present. Counsel for the appellant submitted fresh  
Wakalat Nama. To come up for arguments on 6.9.2016.

  
Member

  
Member

25.05.2015

Appellant in person and Mr. Rizwanullah, Junior Clerk alongwith Asstt: AG for the respondents present. Representative of the respondents requested for further time for submission of written reply/comments. To come up for written reply/comments on 01.07.2015 before S.B.

  
Member

01.07.2015

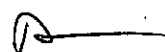
Counsel for the appellant and Mr. Muhammad Ayaz, S.I alongwith Addl: A.G for respondents present. Comments submitted. The appeal is assigned to D.B for rejoinder and final hearing for 24.11.2015.

  
Chairman

24.11.2015

Counsel for the appellant and Mr. Rizwanullah, Junior Clerk, and Mr. Ameer Hamza, SI alongwith Mr. Muhammad Jan, GP for respondents present. Rejoinder submitted on behalf of the appellant which is placed on file. To come up for arguments on

31/3/16

  
Member

31.03.2016

Junior to counsel for the appellant alongwith appellant and Mr. Ziaullah, GP for respondents present. Junior to counsel for the appellant requested for adjournment. To come up for arguments on 17.05.2016.

  
MEMBER

  
MEMBER

Appeal No. 1069/2014  
Mr. Muhammad Sohail

6. 25.02.2015

Counsel for the appellant and Asst: AG for the respondents present. Preliminary arguments heard and case file perused.

Through the instant appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, the appellant has impugned order dated 03.04.2014, vide which the major penalty of dismissal from service has been imposed upon the appellant. Against the above referred impugned order appellant filed departmental appeal on 30.04.2014 which was not responded within the statutory period of 90 days, hence the instant appeal on 22.08.2014.

The learned AAG while assisting the Court was of the view that the instant appeal is not maintainable. All the codal formalities have been adopted and the appellant has been dismissed from service in accordance with law. He requested that the instant appeal may be dismissed in limine.

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. To come up for written reply/comments on 21.04.2015.

  
Member

21.04.2015

Appellant in person and Mr. Sayar Khan, Inspector with Asstt: AG for the respondents present. Representative of the respondents needs time to submit written reply/comments. To come up for ~~written reply~~ <sup>comments</sup> on 25.05.2015 before S.B.

  
Member

Appellant deposited process fee & security

3.

22.09.2014

Appellant in person present. Preliminary arguments partly heard. The matter required further elucidation, therefore, pre-admission notice be issued to the learned AAG/GP to assist the Tribunal. To come up for preliminary hearing on 10.11.2014.

  
Member

4.

Reader Note:

10.11.2014

Clerk of counsel for the appellant and Mr. Kabirullah Khattak, Asst: AG for the respondents present. Since the Tribunal is incomplete, therefore, case is adjourned to 15.12.2014 for preliminary hearing.

  
Reader

5.

Reader Note:

15.12.2014

Appellant in person and Mr. Kabirullah Khattak, Asst: Advocate General for the respondents. Since the Tribunal is incomplete, therefore, case is adjourned to 25.02.2015 for the same.


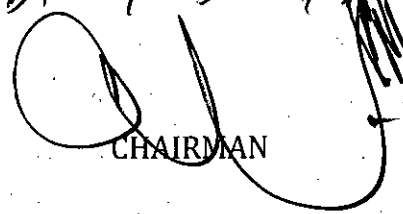
  
Reader



Form- A  
FORM OF ORDER SHEET

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

Case No. 1069/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	22/08/2014	<p>The appeal of Mr. Muhammad Sohail resubmitted today by Mr. Akbar Khan Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	26-8-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>29-9-2014</u></p> <p style="text-align: right;"> CHAIRMAN</p>


This is an appeal filed by Mr. Muhammad Sohail today on 24/07/2014 against the order dated 03.04.2014 against which he preferred/made a departmental appeal on 30.04.2014 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority reported as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action and also removing the following deficiencies.

- 1- Annexures of the appeal may be attested.
- 2- Appeal may be page marked according to the index.
- 3- Wakalat Nama is unsigned which may be got signed.

No. 1148 /ST,


Dt. 25/7 /2014

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Akbar Khan Adv. Pesh.

NOTE: NOW The Instant Appeal is mature.

Date: 22/8/2014

  
AHMAD KHAN  
Advocate Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.

Service Appeal No. 1069 /2014.

Muhammad Sohail ex-Constable No. 87/Computer Operator Investigation Wing  
Central Police office, Peshawar ... .. Appellant.

Versus

1. Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. Deputy Inspector General of Police Headquarters (Investigation) Khyber  
Pakhtunkhwa Central Police Office Peshawar.
3. Senior Superintendent of Police Investigation Wing Central Police Office  
Peshawar. ... .. Respondents.

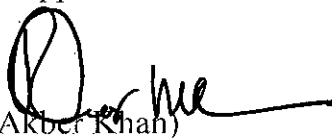
**INDEX.**

S.No.	Description of Documents	Annexure	Pages
1.	Service Appeal	-	1 - 5
2.	Affidavit	-	6
3.	Memo of Addresses	-	7
4.	Stay Application	-	8 - 9
5.	Impugned order	A	10
6.	FIR -	B	11 - 14
7.	Charge Sheet	C	15
8.	Disciplinary Action	D	16
9.	Reply to show cause notice	E	17
10.	Application for joining the duty	F	18
11.	Final Show cause notice	G	19
12.	Reply final show cause notice	H	20 - 21
13.	Departmental appeal	I	22

*Order of*

Through:

Appellant

  
(Akber Khan)

Advocate High Court,  
Peshawar.

03059480143

(1)

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

Service Appeal No. 1069 /2014.

**[Stamp]**  
No. 1020  
24-7-2014

Muhammad Sohail ex-Constable No. 87/Computer Operator Investigation  
Wing Central Police office, Peshawar ... Appellant.

Versus

1. Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. Deputy Inspector General of Police Headquarters (Investigation)  
Khyber Pakhtunkhwa Central Police Office Peshawar.
3. Senior Superintendent of Police Investigation Wing Central Police  
Office Peshawar. ... Respondents.

**[Signature]**  
29/7/14

---

APPEAL UNDER SECTION 4 OF THE NWFP (KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE  
ORDER OF RESPONDENT NO. 3 DATED 03.04.2014 VIDE WHICH  
APPELLANT WAS DISMISSED FROM SERVICE: AND RESPONDENT  
NO. 2 TO WHOME APPEAL WAS PREFERRED BUT NO REPLY SO  
FAR.

Re-submitted to **[Stamp]**  
and filed:

**[Signature]**  
22/8/14

(2)

**Prayer: -** On acceptance of this Service Appeal the impugned order may be set aside and appellant may be re-instated in service with all back benefits.

---

**RESPECTFULLY SHEWETH:**

**Facts leading to the instant service Appeal are as follows: -**

1. That appellant was recruited as constable (Computer Operator) in the then Crime Branch now Investigation Wing Central Police Office Peshawar.
2. That in year 2010, appellant was posted as Computer operator in the office of Deputy Superintendent of Police Legal Central Police office Peshawar. The appellant has rendered services for 13/14 years to the entire satisfaction of Senior's & Superiors and there is no adverse entry in his record.
3. That the same Police officers eventually implicated the appellant in false, concocted and fabricated criminal case vide FIR No. 463 dated 03.06.2013 under section 411 PPC Police Station Chamkani Peshawar. Copy of FIR is enclosed as Annexure-B.
4. That the appellant was marked absent from duty and charge sheet and statement of allegation only based on charges of absence from duties was issued to appellant. Copy of charge sheet and statement of allegation are enclosed as Annexure-C & D respectively.
5. That appellant submitted reply in response to the charge sheet to the effect that appellant was not absent from duty but was confined in judicial lock in the above mentioned criminal case. Copy of reply is enclosed as Annexure-E.
6. That appellant succeeded in getting bail in the above mentioned criminal case and joined duty soon after release from the lock-up. Copy of application is enclosed as Annexure-F.

7. That departmental enquiry against appellant was entrusted to Mirza Ali Inspector and appellant noticed that the enquiry officer was not conducting enquiry impartially therefore appellant submitted an application for transfer of enquiry which annoyed the authority.
8. That another officer conducted ex-parte so-called enquiry proceedings against appellant. Final show cause notice and finding of enquiry officer was issued to appellant. Appellant submitted reply and raised objections against the enquiry proceedings. Copy of final show cause notice and reply of appellant are enclosed as Annexure-G and H respectively.
9. That Respondent No. 3 issued dismissal order from service against appellant. Copy already enclosed as Annexure-A.
10. That appellant submitted departmental appeal before Respondent No. 2 but the same was not responded within statutory period of Ninety (90) days. Copy of departmental appeal is enclosed as Annexure-I.
11. That appellant submits the instant service appeal on the following grounds.

**GROUND:** -

- A). That the impugned order of the Respondent No. 3 is against Law and facts on record. Copy of the order is enclosed as Annexure-A.
- B). That the Respondent No. 3 has not properly appreciated the evidence brought on record.
- C). That the Respondent No. 3 misread and non read the evidence which was placed on record.
- D). That Respondent No. 3 has passed the impugned order without evaluating facts and evidence on record. Appellant was charge sheeted only on score of allegations of absence from duty while the impugned order has been based on charges alien to the charge sheet. Under the law and rules the authority will not travel beyond the charges leveled in the charge sheet and as such the order is not maintainable in the eyes of law.

- E). That the alleged absence of appellant from duty was not wilfull and deliberate rather inevitable. Appellant explained in reply to the charge sheet that he was behind the bar in judicial lock-up and joining duty was beyond his control. The authority instead of accepting the genuine defense offered by appellant but did not take it into consideration.
  
- F). That the impugned order has been based on involvement of appellant in criminal case which is still pending institution with police due to lack of evidence. Therefore the observations of the authority amount to pre-empting and prejudicing the merit of criminal trial if instituted.
  
- G). That enquiry officer has allegedly made recommendations for adjourning the departmental proceeding till disposed of the criminal case but the authority brushed aside the opinion of enquiry officer without advancing any reasons.
  
- H). That neither any witness was examined in support of the charges nor opportunity of cross-examining the witness and defense was provided to appellant. Therefore the entire departmental proceedings is conducted in violation of law and rules.
  
- I). That appellant was not treated in accordance with law and rules. The criminal case is still pending trial and the authority wrongly based the impugned order on criminal charge against appellant.
  
- J). That the defense of appellant was neither considered nor enquire into and the impugned order was passed at the back of appellant.
  
- K). That appellant was implicated in false criminal case. The authority without waiting for the fact of criminal case as recommended by enquiry officer passed the impugned order in deviation of well settled principles of law.
  
- L). That it is natural justice that the accused must be presumed innocent prior to his conviction by a competent court. Thus the Respondent No. 3 has violated the principal of natural justice.
  
- M). That it is a rule that the salary of accused must be paid to the accused in jail or to the hire of the accused but he cannot be deprived of the salary till conviction by the competent court.
  
- N). That the order of Respondent No. 3 without jurisdiction because there is no provision of law which the proceeding has taken place.

- O). That the Respondent No. 3 has violated the mandatory provision of law.
- P). That the appellant will also raise others grounds at the time of hearing of case.

It is therefore, prayed that by accepting of this appeal the impugned order of the Respondent No. 3 may very kindly be set aside and service of the appellant may kindly be restored. Any other relief though not mentioned specifically as for the court deem it proper in the circumstance of the case may also be granted. The impugned order may please be set aside with costs also.

Appellant

*Sohail*  
 Muhammad Sohail,  
 Ex-Constable/Computer Operator,  
 DSP/Legal CPO, Peshawar.

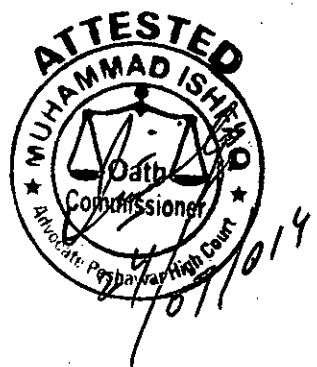
Through:

*Akber Khan*  
 (Akber Khan)  
 Advocate High Court,  
 Peshawar.

*Ahmad Khan*  
 (Ahmadyar Khan)  
 Advocate Peshawar.

**CERTIFICATE:**

Certified that as per instructions of my client, no such Service Appeal on behalf of the appellant has earlier been filed in this Honorable Tribunal on the subject matter.



*Akber Khan*  
 (Akber Khan)  
 Advocate High Court,  
 Peshawar.



6

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

Service Appeal No. \_\_\_\_\_/2014.

**AFFIDAVIT.**

I, Muhammad Sohail ex-Constable No. 87/Computer Operator Investigation Wing Central Police office, Peshawar, resident of Mohallah Bahar Gari Village Maryamzai Tehsil & District Peshawar, do hereby solemnly affirm and declare that the contents of the accompanying Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

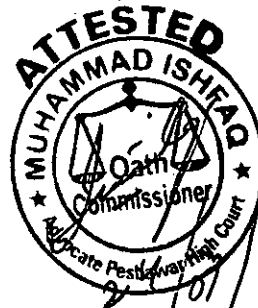
Deponent

*Sohail*

**IDENTIFIED BY:**

*(Signature)*

(Akber Khan)  
Advocate High Court,  
Peshawar.



7

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

Service Appeal No. \_\_\_\_\_/2014.

Muhammad Sohail ex-Constable No. 87/Computer Operator Investigation Wing  
Central Police office, Peshawar ... Appellant.

Versus

4. Inspector General of Police Khyber Pakhtunkhwa Peshawar.
5. Deputy Inspector General of Police Headquarters (Investigation) Khyber Pakhtunkhwa Central Police Office Peshawar.
6. Senior Superintendent of Police Investigation Wing Central Police Office Peshawar. ... Respondents.

**MEMO OF ADDRESSES**

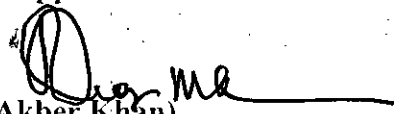
Muhammad Sohail ex-Constable No. 87/Computer Operator Investigation Wing  
Central Police office, Peshawar ... Appellant.

Versus

7. Inspector General of Police Khyber Pakhtunkhwa Peshawar.
8. Deputy Inspector General of Police Headquarters (Investigation) Khyber Pakhtunkhwa Central Police Office Peshawar.
9. Senior Superintendent of Police Investigation Wing Central Police Office Peshawar. .... Respondents.

Through:

Appellant

  
(Akber Khan)

Advocate High Court,  
Peshawar.

8

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.

Service Appeal No. \_\_\_\_\_/2014.

Muhammad Sohail ex-Constable No. 87/Computer Operator Investigation Wing  
Central Police office, Peshawar ... .. Appellant.

Versus

1. Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. Deputy Inspector General of Police Headquarters (Investigation) Khyber  
Pakhtunkhwa Central Police Office Peshawar.
3. Senior Superintendent of Police Investigation Wing Central Police Office  
Peshawar. ... .. Respondents.

APPLICATION FOR THE GRANT OF TEMPORARY INJECTION TO THE  
EFFECT THAT THE DISMISSAL ORDER DATED 03.04.2014 OF THE  
SSP/INVESTIGATION WING CENTRAL POLICE OFFICE, PESHAWAR  
MAY KINDLY BE SUSPENDED AND THE APPLICANT BE DIRECTED  
TO RESUME/ PERFORM DUTIES WITH IMMEDIATE EFFECT.

RESPECTFULLY SHEWITH: -

1. That the applicant has filed the accompanying appeal in this Honorable  
Tribunal today in which no date of hearing has yet been fixed.
2. That the grounds taken in the main appeal may also be considered as part  
and parcel of this application.
3. That appeal of the appellant is prima facie and there is every hope of its  
success.

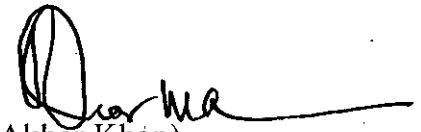
9

4. That the balance of convenience is in favour of the applicant because the criminal case against the applicant is still to be decided by the competent court.
5. That if temporary injections was not granted there will be irreparable loss to the applicant.

It is, therefore prayed that on acceptance of this application, the dismissal order dated 03.04.2014 of SSP/Investigation wing CPO may kindly be suspended and the applicant may be directed to perform/resume his duties.

Appellant

Through:



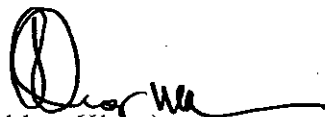
(Akber Khan)

Advocate High Court,  
Peshawar.

AFFIDAVIT.

I, Muhammad Sohail ex-Constable No. 87/Computer Operator Investigation Wing Central Police office, Peshawar, resident of Mohallah Bahar Gari Village Maryamzai Tehsil & District Peshawar, do hereby solemnly affirm and declare that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

IDENTIFIED BY:



(Akber Khan)  
Advocate High Court,  
Peshawar.



Deponent



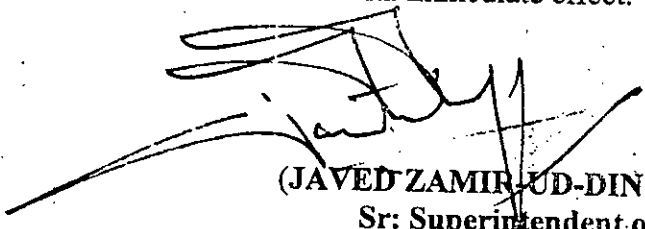
**ORDER**

10

OB No. 15/2me:  
dated: 4-4-014

Annex "A"

1. This order will disposed off the departmental enquiry against Constable/Computer Operator Muhammad Sohail No. 87 of Computer Section Investigation Unit CPO Peshawar.
2. The defaulter Constable/Computer Operator Muhammad Sohail No. 87 of Computer Section Investigation Unit CPO Peshawar while posted in the office of DSP Legal CPO remained absent from duty without seeking any permission w.e. from 29.05.2013 and hence the DSP/Legal CPO reported the matter accordingly. Subsequently it was learnt that the above named official had been charged in a criminal case vide FIR No. 463 dated 03.06.2013 U/S 411-PPC PS Chamkani Peshawar, allegedly being in possession of stolen vehicle and subsequently on his pointation two more vehicles were also recovered. All the three recovered vehicles from the possession of accused official were allegedly stolen away from Punjab and Sindh (Provinces).
3. A departmental enquiry was initiated against the accused/official. He was served with charge sheet and summary of allegations. The Enquiry Officer i.e. Muhammad Ajmal Yousafzai DSP Investigation in his findings held the accused official guilty of the charges keeping in view the available substantial evidence against him but the Enquiry officer also suggested that *"since the case is subjudice in the competent court which is yet to be decided therefore the present enquiry may be kept pending till the decision by the court"*
4. DSP Legal was consulted who submitted his opinion that it depends upon the competent authority after keeping in view the nature of crime to keep the enquiry pending till adjudication of criminal case from the trial court. As far as merits of the enquiry in hand are concerned, substantial evidence against Muhammad Sohail Constable exists on record.
5. The defaulter official was heard in person and cross examined as well, but he failed to prove his innocence. Even in reply to the Final Show Cause Notice, he did not advance any plausible reply, which depicts guilty on his part.
6. In the light of above, the undersigned has reached to the conclusion that charges on the part of defaulter official i.e. Constable Muhammad Sohail No. 87 are serious in nature. He is a stigma on the forehead of Police department. His further retention in Police department would be tantamount to detrimental and will tarnish the image of disciplined force, hence I, the undersigned being competent authority hereby dismiss him from the service under Police Rules 1975 with immediate effect.
7. Order announced.



(JAVED ZAMIR UD-DIN FAROOQI)  
Sr: Superintendent of Police  
Investigation CPO

**ATTESTED**  
Ahmad SAR KHAN  
Advocate

2747-51 /EC, dated Peshawar, the 03 /04/2014:

Copies are forwarded to the:-

1. DIG/Hqrs;/Investigation CPO Peshawar.
2. Director I.T CPO Peshawar,
3. DSP Admn; SHO Investigation Unit CPO
4. PA to Addl:IGP/Investigation KPK Peshawar.
5. Accountant Investigation.

# ابتدائی اطلاعی رپورٹ

ATTESTED

Muhammad Ali Khan  
Advocate

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ بر دفعہ 152 مجموعہ ضابطہ نو جداری

وقت رپورٹ	مخت اطلاع دہنہ مستغیث	مخت جرم (معدومہ) حال اگر کچھ لیا گیا ہو۔	قولہ فاصلہ تھانہ سے اور سمت	نوٹ لازم
وقت 4:15 بجے	تاریخ 13	وقت 3:15 بجے	محمد سعید انصاری SHO	
وقت 4:15 بجے	تاریخ 13	وقت 3:30 بجے	محمد سعید انصاری SHO	
			بھول گئی، حوالہ گزرتے سے ضرر سے نام لیا جاتا ہے	
			بہ سبب رپورٹ کر	

ابتدائی اطلاع نیچے درج کرو۔

حوالہ کار نمبر 194  
 NRE 140-200006  
 خان محمد ساجد ولد عبدالغنی ساکن چانگی آباد کوٹلی کے قریب سے زبردستی چھینا گیا  
 قصبہ پولیس میں اطلاع کو مخم لاہ صرف ترکانا تھا جو کچھ کار سے نسبت صورت ہوا۔  
 محمد ساجد ساجد کوٹلی سے زبردستی سے سرچرنگ لکھڑا کوٹلی  
 حوالہ کار نمبر 23  
 PPE 157-3511A  
 محمد ساجد ساجد کوٹلی سے زبردستی سے سرچرنگ لکھڑا کوٹلی  
 حوالہ کار نمبر 36  
 CHK 36  
 خان محمد ساجد کوٹلی سے زبردستی سے سرچرنگ لکھڑا کوٹلی  
 حوالہ کار نمبر 523  
 خان محمد ساجد کوٹلی سے زبردستی سے سرچرنگ لکھڑا کوٹلی  
 حوالہ کار نمبر 523  
 خان محمد ساجد کوٹلی سے زبردستی سے سرچرنگ لکھڑا کوٹلی

بارتھ میں گھڑی کے کڈے اور اجازت دینے کے لئے...  
پندرہ دیا ہے جواب دہی... 2119... 1986

... E 117-5201333... PR 11-5203311...  
... 5080... 523

... جہازت پر چھوڑ دیں...  
... 1550...  
... 156

ماہر باقاعدہ دریافت کی اجازت علامہ جسٹس کے حاصل کریں

ضابطہ  
تخلیعیات اصل کے

SAH PS CHIL

3-6-13

...  
...  
...

# Annex "B" ابتدائی اطلاعی رپورٹ

BETTER COPY

کوئٹہ

(ڈیپٹی ایجوکیشن آفیسر کے نام پر) ابتدائی اطلاعی رپورٹ شدہ زیر نمبر 504 نمبر سب ڈیپارٹمنٹ

تعداد ۲ جملہ  
نمبر 463

نقل کی مورخہ 3/6/13 وقت 15:15 بجے  
تاریخ و وقت ڈرامہ 3/6/13

1	تاریخ و وقت رپورٹ	3/6/13 وقت 19:30 بجے
2	نام و سکونت اطلاع دہندہ و مستفید	عبدالحمید خان SH 540
3	مختصر کیفیت جرم (مہمہ دفعہ) حال اگر کوئی گیا ہو	411 PP
4	جائے وقوعہ نامہ تہاڑہ سے اور سمت	تہاڑہ اور باجھان جہاں وقوعہ پیش آیا ہے
5	نام و سکونت ملزم	محمد حسین ولد عبدالغنی مکنہ حاجی ابار کوئٹہ
6	کارروائی جو تفتیش کے نتیجے میں اطلاع دہن کرنے پر قائم ہو اور تاویل بیان کرے	لہذا کی معلومات کے تحت قانع کیا جاتا ہے۔
7	تہاڑہ سے روانگی کی تاریخ و وقت	پسیل ڈرامہ

ابتدائی اطلاع دہن کرنے کے لئے جو اب نمبر 464 زیر نمبر 504 نمبر سب ڈیپارٹمنٹ میں  
 مورخہ 18/4/13 کو مروا گیا ہے جس کی کاپی 13/4/13 کو  
 495  
 محمد حسین ولد عبدالغنی مکنہ حاجی ابار کوئٹہ کو بھیجی گئی ہے جس کی کاپی 23/5/13 کو  
 قیصر پولیس قسطنطنیہ کو بھیجی گئی ہے۔ اسی طرح 5/6/13 کو قیصر پولیس قسطنطنیہ کو بھیجی گئی ہے۔  
 55  
 مورخہ 15/7/13 کو مورخہ 23/5/13 پر (PP 381-457) تہاڑہ کنٹریکٹ روڈ کوئٹہ میں واقعہ  
 شدہ کھڑی ہوئی ہے۔ مورخہ 15/7/13 کو مورخہ 23/5/13 پر (PP 381-457) تہاڑہ کنٹریکٹ روڈ کوئٹہ میں واقعہ  
 کا تہاڑہ کنٹریکٹ روڈ سے منسلک ہے۔ مورخہ 15/7/13 کو مورخہ 23/5/13 پر (PP 381-457) تہاڑہ کنٹریکٹ روڈ کوئٹہ میں واقعہ  
 AS 1  
 کوئٹہ میں واقعہ ہے۔ مورخہ 15/7/13 کو مورخہ 23/5/13 پر (PP 381-457) تہاڑہ کنٹریکٹ روڈ کوئٹہ میں واقعہ  
 تہاڑہ کنٹریکٹ روڈ سے منسلک ہے۔ مورخہ 15/7/13 کو مورخہ 23/5/13 پر (PP 381-457) تہاڑہ کنٹریکٹ روڈ کوئٹہ میں واقعہ  
 540 SH کوئٹہ میں واقعہ ہے۔ مورخہ 15/7/13 کو مورخہ 23/5/13 پر (PP 381-457) تہاڑہ کنٹریکٹ روڈ کوئٹہ میں واقعہ  
 18/4/13 کو مورخہ 15/7/13 کو مورخہ 23/5/13 پر (PP 381-457) تہاڑہ کنٹریکٹ روڈ کوئٹہ میں واقعہ  
 495  
 مورخہ 15/7/13 کو مورخہ 23/5/13 پر (PP 381-457) تہاڑہ کنٹریکٹ روڈ کوئٹہ میں واقعہ  
 540 SH کوئٹہ میں واقعہ ہے۔ مورخہ 15/7/13 کو مورخہ 23/5/13 پر (PP 381-457) تہاڑہ کنٹریکٹ روڈ کوئٹہ میں واقعہ  
 18/4/13 کو مورخہ 15/7/13 کو مورخہ 23/5/13 پر (PP 381-457) تہاڑہ کنٹریکٹ روڈ کوئٹہ میں واقعہ  
 495  
 مورخہ 15/7/13 کو مورخہ 23/5/13 پر (PP 381-457) تہاڑہ کنٹریکٹ روڈ کوئٹہ میں واقعہ  
 540 SH کوئٹہ میں واقعہ ہے۔ مورخہ 15/7/13 کو مورخہ 23/5/13 پر (PP 381-457) تہاڑہ کنٹریکٹ روڈ کوئٹہ میں واقعہ  
 18/4/13 کو مورخہ 15/7/13 کو مورخہ 23/5/13 پر (PP 381-457) تہاڑہ کنٹریکٹ روڈ کوئٹہ میں واقعہ  
 495

ATTESTED

Ahmad Khan Advocate



دو سرچ کاغذوں جو مختلف ادقات میں جاری عرفان مکتبہ نے تحریر کیے ہیں۔

پہلا سرچ کاغذ ہے۔ یہاں مختلف واقعات جاب لکھیے جہاں سے اس کاغذ کی

کاپی تیار ہوئی ہے۔ دوسرا سرچ کاغذ ہے۔ یہاں سے اس کاغذ کی کاپی تیار ہوئی ہے۔

پر دو سو نو سو کاغذ ہیں۔ 249 سندھ ہائیڈرو پاور کانسٹریکشن کمپنی 1996ء

1997ء 486  
5201333-517 (2) سو سو نو سو کاغذ 8080 ہائیڈرو پاور کانسٹریکشن کمپنی

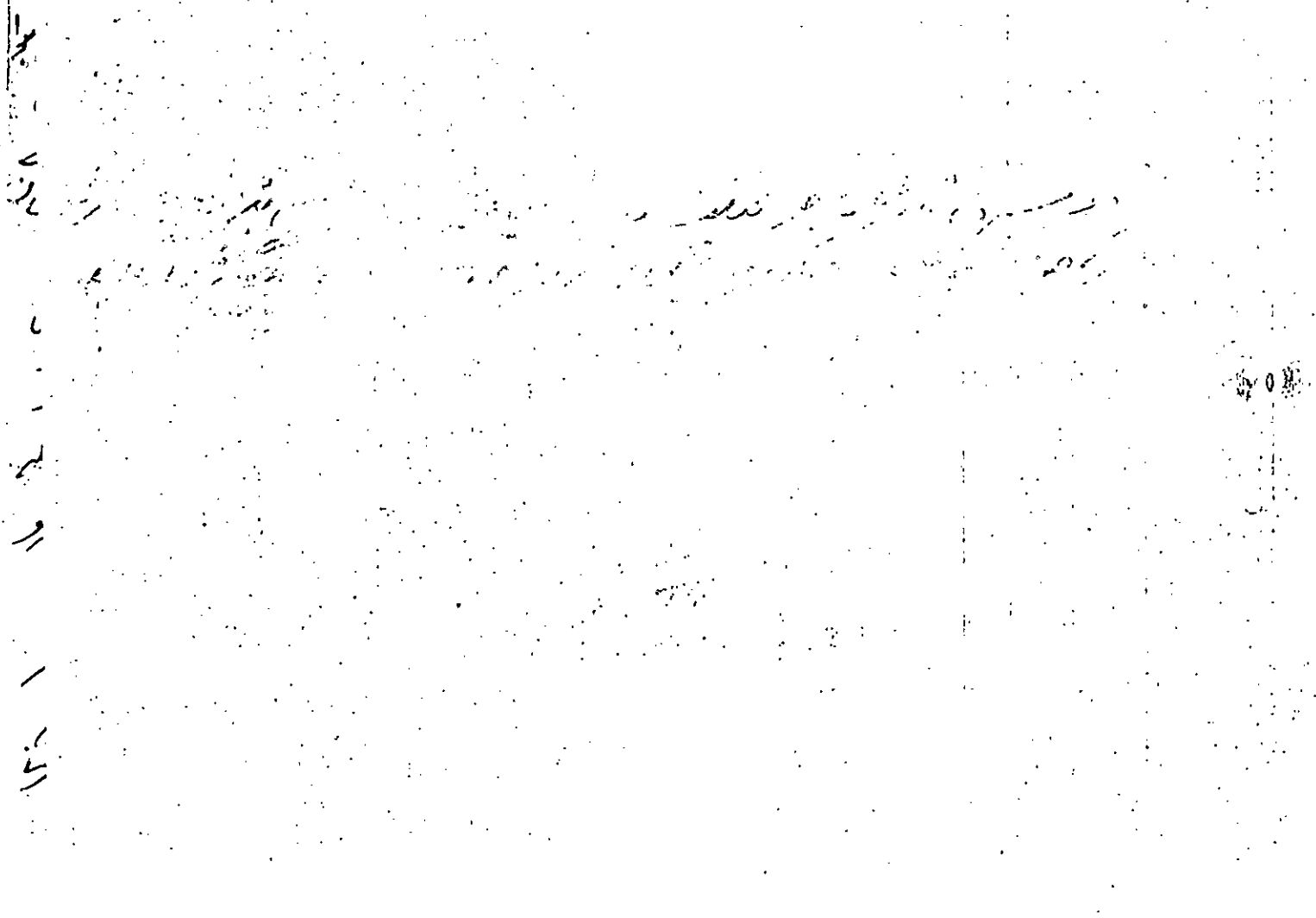
1995ء  
520334-4-4-4 ہائیڈرو پاور کانسٹریکشن کمپنی

مکتبہ کے دیگر کاموں کے بارے میں اس کاغذ میں اس کاغذ کی کاپی تیار ہوئی ہے۔

520334-4-4-4 ہائیڈرو پاور کانسٹریکشن کمپنی

520334-4-4-4 ہائیڈرو پاور کانسٹریکشن کمپنی

520334-4-4-4 ہائیڈرو پاور کانسٹریکشن کمپنی



**CHARGE SHEET**

15

**ATTESTED**  
Ahmad  
SAR KHAN  
Advocate

Annex "C"

I, Javed Zamir-ud-Din Farooqi SSP/Investigation, CPO Peshawar being competent authority, hereby charge you Constable/Computer Operator Muhammad Sohail No. 87 of Computer Section Investigation Unit CPO as follows:-

*That you were posted in the office of DSP/Legal CPO, to work as Computer Operator wherefrom you absented yourself without seeking any permission w.e. from 29.05.2013 and hence DSP/Legal CPO reported the matter accordingly.*

By reasons of the above, you appear to be guilty of misconduct under Police Rules 1975 and have rendered yourself liable to all or any of the penalties specified in the above mentioned Rules.

You are therefore, required to submit your written defence with in seven days of the receipt of this Charge Sheet to the Enquiry Officer (s)/Committee, as the case may be.

Your written defence if any should reach the Enquiry Officer (s)/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 be taken against you.

Intimate whether you desire to be heard in person or otherwise.

A statement of allegations is enclosed.

7/0 43 12-13/8e  
17/6/13.



(JAVED ZAMIR-UD-DIN FAROOQI)  
Senior Superintendent Police,  
Investigation CPO KPK,  
Peshawar

13/6  
I have read the charge sheet  
and find it correct  
Ri. Adma  
17-6-2013

16

ATTACHED

Ahmed SAR KHAN

Annex "D"

Advocate

**DISCIPLINARY ACTION**

I Javed Zamir-ud-Din Farooqi SSP/Investigation, CPO Peshawar being competent authority am of the opinion that you Constable/Computer Operator Muhammad Sohail No. 87 of Computer Section Investigation Unit CPO have rendered yourself liable to be proceeded against, as you have committed the following acts of omissions/commissions under Police Rules 1975.

**STATEMENT OF ALLEGATIONS**

- i. *That you were posted in the office of DSP/Legal CPO, to work as Computer Operator wherefrom you absented yourself without seeking any permission w.e. from 29.05.2013 and hence DSP/Legal CPO reported the matter accordingly.*
- ii. *The above act depicts your inefficiency, disobedience, indiscipline attitude and lack of interest in the official duty which is tantamount to grave misconduct on your part warranting stern disciplinary action.*

For the purpose of scrutinizing the conduct of the said officer with reference to above allegations, Mr. Mirza Ali Khan Muf is hereby nominated as Enquiry Officer in the matter under Rule-5 of the said Rules.

The Enquiry Officer shall, in accordance with the provisions of said Rules, provide reasonable opportunity of hearing to the accused officer, record and submit its finding within 10-days of the receipt of this order and his recommendations as to punishment or other appropriate action against the accused official.

**(JAVED ZAMIR-UD-DIN FAROOQI)**

Senior Superintendent Police,  
Investigation CPO KPK,  
Peshawar

13/6

17

Annex "E"

The SSP  
Investigation CPO  
Peshawar

Subject: SHOW CAUSE NOTICE

**ATTESTED**  
Ahmad Sarkhan  
Advocate.

Respected Sir,

Kindly refer to show cause notice No. 4312-13 dated 17.06.2013.

My reply to show cause notice is submitted as under:

That I have falsely been implicated in a concocted criminal case vide FIR No. 463, dated 03.06.2013 U/s 411 PPC by Police Station Chamkani (Copy attached) and presently confined in Central Jail Peshawar and I am trying for bail. There is no evidence or other circumstances which could ensure my conviction. There is every likelihood of my Honourable acquittal and bail. At present i am confined to Jail and therefore unable to make my proper defense.

Yours Obediently,

*Sohail*  
**Muhammad Sohail**  
Constable  
(Computer Operator No. 87)

*Handwritten notes in Urdu:*  
میں نے اس کی کاپی لے لی ہے  
اور اسے اپنے پاس رکھ لی ہے  
اس کی کاپی اس کے پاس ہے  
اس کی کاپی اس کے پاس ہے  
R. Adana  
26.8.2013

Annex "F" جناح عالی (18)

گزارش حضور اورھیں سائل کو عورہ جو فون کو سائل کو دفتر نڈا سے غیر حاضر  
 ہے۔ درجہ سائل کو تھانہ پکھانے کے ہیں بے سبب اور غلط طور پر  
 FIR میں جانفین کی سارن پر دفعہ 144 میں ناخاطر گزارنے کے  
 حوالہ دتے ہیں بند کر دیا گیا۔ بعد ازاں سائل کو جو ڈیشن لاک اپ میں لیا  
 گیا۔ چوتھے سائل جو ڈیشن لاک میں تھا۔ وہ 4 سے سائل دفتر  
 نڈا سے غیر حاضر رہا۔  
 جناح عالی

سائل کی مائیکروٹ میں عورہ جو پولی کو ضمانت دے کر آیا گیا سائل  
 عورہ جو پولی دفتر نڈا میں حاضر ہوئے تھے حافر سے یہ سہرا پائی فرما کر  
 ہماری غیر حافی کو صبح کر کے حافر کی گرت سائل کو دفتر نڈا میں  
 رکھ کر ان کی اجازت عطا فرما کر مشورہ فرمائیں۔

**ATTESTED**

Ahmad Khan  
 Advocate

کریم جو پولی 2013

القاضی

آپ کے پاس سائل کیس اور رپورٹیں ہیں دفتر جناب ڈی آئی جی ریلنگ سیکرٹری

8/7/2013  
 DSP/ Legal CP. 0 / EC

Add: Inspector General of Police.  
 Investigation  
 Khyber Pukhtunkhwa, Peshawar.

میں دفتر ایس آئی جی او ایس آئی جی ریلنگ سیکرٹری  
 9-7-2013

FINAL SHOW CAUSE NOTICE

(19) ATTESTED

Ahmad Ali Khan  
Advocate.

Annex "G"

1. WHEREAS, you, Constable/Computer Operator Muhammad Sohail No. 87 posted in the office of DSP Legal CPO, committed gross misconduct, as defined in Rule of 3 Police Rules 1975 that ***you absented yourself without seeking any permission w.e. from 29.05.2013 and hence DSP/Legal CPO reported the matter accordingly and subsequently you were also learnt to have been charged in a criminal case vide FIR No. 463 dated 03.06.2013 U/S 411-PPC PS Chamkani Peshawar.*** Resultantly you were issued charge sheet with summary of allegations. Enquiry Committee consisting of Inspector Mirza Ali of was constituted to enquire into the matter.
2. WHEREAS, the Enquiry Officer finalized the enquiry proceeding by giving you full opportunity of defence as well as cross examination and the statements of all PWs have been recorded in your presence. Consequent upon completion of enquiry proceedings, the Enquiry Committee held you guilty of the charges levelled against you. A copy of the Enquiry Committee's report is enclosed herewith.
3. AND WHEREAS, on going through the Findings and recommendation of the Enquiry Committee, material placed on record and other connected papers including your defence before the Enquiry Committee, I am satisfied that you have committed the misconduct and are guilty of the charges levelled against you as per statement of allegations already conveyed to you which stands proved and render you liable to be awarded punishment under the said Rules.
4. NOW THEREFORE, I, Javed Zamir-ud-Din Farooqi SSP/Investigation CPO Peshawar competent authority have tentatively decided to impose upon you, any one or more penalties including the penalty of "Dismissal from Service as defined in the said Rule.  
You, are, therefore, required to submit reply to this Show Cause Notice within Seven days of the receipt of this notice, as to why the aforesaid penalty should not be imposed upon you, failing which it shall be presumed that you have no defence to offer and an exparte action shall be taken against you. In the meantime also intimate as to whether you desire to be heard in person or otherwise.

No 5848/2e  
Dt: 22/7/2013



(JAVED ZAMIR-UD-DIN FAROOQI)  
Senior Superintendent of Police,  
Investigation CPO Khyber Pakhtunkhwa  
Peshawar 25000

20

Annex "H"

Reply to Show Cause Notice No. 5848/EC dated 22.07.2013

**ATTESTED**

Ahmad Sar Khan  
Advocate

Respected Sir,

It is most humbly submitted that I was charged in a concocted case and went to jail as per law vide FIR mentioned in the final show cause notice. It is pertinent to note that while a person is charged in a criminal case wrongly on rightly he will have to face the process of law. As mentioned above the case against me is false, concocted and absolutely without any evidence. The case was registered against me by a police officer on personal grudge which I will explain before your honour verbally.

That this final show cause notice has been served upon me without the enquiry committee report and in absence of that report I would be unable to defend myself properly in accordance with law.

That the enquiry has conducted in my absence. Neither any notice as required under the law has been issued to me by the Enquiry Officer nor any opportunity of cross examination was given to me. It is wrongly mentioned in the enquiry report and final show cause notice that I was given opportunity of defense and cross examination. If the enquiry committee has given this impression in its finding, that is totally incorrect and wrong and not binding upon me because I was in jail for some time and through that I can prove that the enquiry report is one sided biased and this portion of the enquiry is absolutely incorrect, wrong and having no footing to stand upon in the eyes of law.

That the enquiry is one sided and therefore any finding derived on the basis of its evidence cannot be acted upon.

(21)

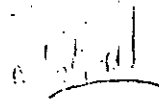
Annex "H"

That the balance of evidence in the criminal case registered against me is in my favour as there is no evidence at all in the said case and therefore there is every likely hood of my acquittal and in such case the acquittal will be the most important defense. That without conclusion or disposal of that criminal case my trial in this case would be a double jeopardy which is against the law and practice. Police Rules 16-2 and 16-3 is clears in this regard and can be construed in this regard.

That the enquiry officer has conducted the enquiry in my absence and has given wrong impression that I was present during the course of enquiry which speaks volumes of his impartiality and bias towards me, I therefore have no confidence on him and request the authority that the enquiry may please be conducted by an impartial official of the department so that I may be provided justice in accordance with the law and rules.

Submitted please for sympathetic consideration.

Yours obediently



Muhammad Sohail

No. 87 Constable / Computer Operator  
Investigation CPO  
Khyber Pakhtunkhwa, Peshawar

Dated: 29.07.2013

**ATTESTED**

Ahmad Khan  
SAR KHAN  
Advocate.

Received & Order on 29/7/13

29/7/13



22

Annex "I"

BEFORE THE DEPUTY INSPECTOR GENERAL OF POLICE HQRS/  
INVESTIGATION, KHYBER PAKHTUNKHWA PESHAWAR.

Appeal against the order of Senior Superintendent of Police Investigation, CPO, dated 03.04.2014 vide which the appellant was dismissed from Service on flimsy grounds:

Respected Sir,

The appellant most respectfully submitted the following few lines in support of the appeal.

1. That the appellant was implicated in a false case of recovery of stolen vehicle u/s 411 PPC vide FIR No. 463 dated 03.06.2013, Police Station Chamkani.
2. That the case of the appellant is under trial in the Court of competent Jurisdiction and has to be decided in near future.
3. That the case is false, frivolous and concocted which is made on the advice of Mr. Shukat DSP Police Station Chamkani who is annoyed with me on having some information for the arrest of a dangerous criminal of Police Station Badabeera of which I was unable to provide.
4. That I have not been provided the copies of relevant record for my defence.
5. That I have not been provided the opportunity of final hearing and the order has been announced in my absence.
6. That the provision of Police Rules 16.3 has been violated which provide punishment to official of Police after the decision of the case by the Court of Law.
7. That there is no evidence in the case against me and there is likely hood of my acquittal but due to the departmental punishment I will bear double jeopardy which is against the norms and constitution.

PRAYER:

Keeping in view the above reasons, it is most humbly prayed that the order of SSP/Investigation CPO may please be set aside and the appellant be reinstated in service with back benefit.

Dated: 30.04.2014.

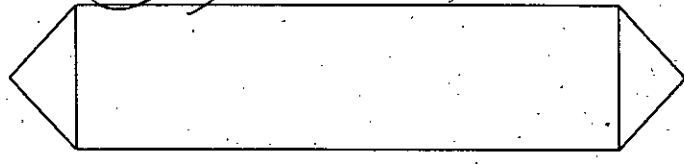
(Dismissal order is enclosed herewith)

*Sohail*  
Muhammad Sohail,  
Ex: Constable/Computer Operator,  
CPO, Peshawar.  
(Appellant)

**ATTESTED**  
*Shamshad Sar Khan*  
Advocate.

30/4/2014  
taken

بعدالت سروریں شریعتی ضمیمہ مختصر خواہ لکھو



مورخہ  
مقدمہ  
دعوی  
جرم

2014ء پنجاب مدعی

محمد کسیر بنام ۲۶۱ ضمیمہ مختصر خواہ لکھو

سروریں

### باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام 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 پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

Accepted by

Advocate

Advocate.

2014

۱۱

ماہ

24

المرقوم

محمد کسیر

العبد گواہ العبد

کے لئے منظور ہے۔

۱۱

مقام

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

Service appeal No. 1069/2014

Muhammad Sohail..... (Appellant)

**VERSUS**

Inspector General of Police

and two others .....(Respondents)

**WRITTEN REPLY TO THE COMMENTS**  
**OF RESPONDENTS ON BEHALF OF**  
**APPELLANT MUHAMMAD SOHAIL.**

**Respectfully Sheweth:**

**Preliminary Objections:-**

- a. Para No. "a" is incorrect.
- b. Para No. "b" is incorrect and formality only.
- c. Para No. "c" is absolutely incorrect and based on imagination and quoted without calculation and consideration of period provided for appeal by law.
- d. Para No. "d" is incorrect. P.P.O and D.I.G investigation and S.S.P investigation are necessary parties and they have been made party accordingly.

- e. Para No. "e" is incorrect. Nothing has been concealed from the august tribunal and the appeal is supported by an affidavit which is self-explanatory for clean hands

**Facts:**

1. Para No. 1 is correct.
2. Para No.2 is incorrect. The appellant has a long service of 13 years in which the appellant has not availed any earned leave and absence of 31 days can be easily adjusted from earned leave of 13 months. The allegation of dealing in stolen vehicles is totally incorrect as because the local police is unable to forward the challan of case to court due to non-availability of evidence. What happened to the recovered cars. Where are these cars and what is the fate of that recovery which is still shrouded in mystery.
3. Para No.3 incorrect. The appellant has expressly mentioned and explained in his statement to the show cause notice that the then D.S.P chamkani was compelling the appellant for becoming witness against one Irfan and this fact has been admitted by the inquiry officer in his inquiry report which is annexed to the comments of respondents. Furthermore the local police is unable to forward challan against the appellant due to deficiency of evidence. The fate of the three recovered vehicles is also not known.
4. Para No. 4 of the appeal has been admitted by the respondents. In fact charge sheet was given to the

appellant under one head and he was punished under another head, thus the appellant was deprived of his right of defence which is universally recognized right and its denial vitiate the inquiry or trial ab-initio. No punishment can be passed on defective charge and the punishment awarded to the appellant deserves to be set aside on this clear admission of the department.

5. Para No. 5 is absolutely incorrect. Police rules 1934 is clear on the question of concealment or otherwise which is Section 13 chapter No. 26 provides the provision of arrest of government servant. Under these rules it is the responsibility of the I.O. to inform the department concerned before or after the arrest of the government servant. This rule has been violated by the IO which indicate the malafide of police for false involvement of the appellant in the instant case.
6. Para No. 6 has been admitted by the respondents which substantiate the entire contents of the appeal and strengthen the case of the appellant.
7. Para No. 7 is an admission of the respondents which clearly indicate that the authorities were on one pitch for the dismissal of the appellant and change of enquiry officer provides no justice to him due to the D.S.P Chamkani who was with malice to the appellant.
8. Para No. 8 is incorrect. The inquiry officer failed to follow the rules of inquiry as laid down in 1975 police rules. Ex-parte proceeding has been carried out but no warning or

notice has been served upon the appellant before opting for ex-parte proceeding. The inquiry and its final report is full of flaws. The enquiry has been conducted by two officers whereas there is no permission for enquiry by two officers in 1975 police rules. It clearly shows that the inquiry has been conducted under an abrogated law of Removal From Services (Special Powers) Ordinance 2000. The enquiry report is clear on the facts of the case U/S 411 PPC. Which admitted the doubt about signature on recovery memos and says that it might have been done by the accused. If the accused is allowed to do so, what is the job of I.Os and court staff, what will be the fate of cases of heinous nature and why the accused are languishing in jails. These are lame excuses advanced by the enquiry officer. The enquiry officer has also referred to the finding of the officer who was changed on application of the appellant. He based their finding on the enquiry of that biased officers which is not relevant under the law. In short the enquiry officers have criticize the case U/S 411 PPC to the extent that there is no case and that is why the local police is unable to challan the case to court till now. The absence of the appellant was not intentional but under compulsion and the involvement of the appellant in criminal case has been proved due to malice of someone by the report of the enquiry officers as they have pointed many flaws in the case which render it to a case of deficient evidence and when there is deficient evidence the accused becomes entitle to be released U/S 169 CrPC.

9. Para No. 9 is correct to the extent of issuing of dismissal order but the order is neither legal nor speaking.

10. Para No.10 is incorrect. Annexure (B) does not bear any O.B number or date. The date under the signature is also reflects some cutting. No order for information to the appellant or others is there in the foot<sup>note</sup> which shows that the order has not been communicated to the appellant nor to the office of the respondent no. 3 which seems a latest action at the time of submission of reply.
11. Para No. 11 is incorrect. Plausible grounds have been advanced in the appeal which are supported by cogent evidence and reasons.

**GROUND:**

- A. Para No. (a) is incorrect. The order has not been passed in accordance with the law. Enquiry order has been passed under the Removal From Services (Special Powers) Ordinance 2000 an abrogated law as there is no provision of two officers for inquiry under, 1975 police rules and the punishment was awarded under 1975 police rules which action is quite illegal.
- B. Para (b) is incorrect. The respondent No.3 has passed an order of dismissal against the findings of the enquiry committee. The enquiry committee has proposed that the decision on the inquiry may be postponed till the decision of the case by the competent court of law but respondent No.3 acted upon the legal opinion of an irrelevant employee because after promulgation of N.W.F.P

prosecution act 2005, D.S.P legal stands nowhere to give legal opinion.


- C. Para (c) is absolutely incorrect. The authority has badly failed to go through the inquiry report which says there is doubt in the signatures on the recovery memo, the chokidar of the place from where recovery is made do not wish to bear evidence. The appellant had challenged the integrity of the previous inquiry officer on which application he was changed but still his finding was accepted by the inquiry committee but the authority did not take any notice of this irregularity.
- D. Para (d) is incorrect. The authority would have framed a charge other charges and summary of allegation of intended punishment but nothing was done to regularized the proceedings. The final charge sheet is given on the conclusion of enquiry and therefore no opportunity of defense was given and on this score alone the proceedings becomes viated.
- E. Para (e) is incorrect. Under the law as provided in the Punjab Police Rules 1934 which governs the police department, the police officer who is arresting the government employee is responsible to inform senior officers of the arrested employee before his arrest or if it is impossible the senior officer be inform after the arrest by the same police officer. Police rules chapter 26-13 is clear on the subject.



- F. Para (f) is incorrect no one can be blamed for an offence unless he is proved guilty or that offence in the Court of law is proved mere allegations in the F.I.R or otherwise cannot make a person guilty of the offence alleged against him. In the instant case the appellant has proved his innocence before the police during investigation and that is why the police is unable to forward challan against him. This is a matter of consideration that the local police has failed to submit challan against the appellant of a simple case in a long period of 2 years and 6 months.
- G. Para (g) is incorrect. The authority has not agreed with the opinion of the inquiry committee. In that case the authority would have referred the case to another inquiry officer, but he was not authorize to pass order contrary to the findings of the inquiry committee.
- H. Para (h) of the reply is incorrect. The appeal has been given a severe punishment for absence of lesser period than of the earned leave of the appellant which 13 moths on the leave account of the appellant.
- I. Para (i) is incorrect. There is no weight in the evidence of the prosecution and section 169 Cr.PC is there which comes to rescue the innocent persons. When prosecution has no evidence why they are not releasing the appellant u/s 169 Cr.PC. The malafdie of the police is that they have kept pending investigation for a long period of 2 years and 6 moths. The mandatory provision of the Cr.PC u/s 173 is that the case shall be forwarded to Court within 15 days or at least within 18 days, after seeking

permission of the Court. The police is unable to explain as to why they have defeated this mandatory provision of law.

- J. Para (j) is incorrect. The appellant was ready to lead defence but no opportunity was given to the appellant. Even watchman Saiful Malook S/o Ziarat Gul who has given a clear statement is sufficient for the defence of the appellant.
- K. Para (k) and (l) has already been replied vide paras (i) and (j).
- L. Para (m), (n), and (o) are incorrect. Proper procedure of inquiry against the appellant has not been adopted as no suspension order of the appellant has been passed during confinement in jail then the inquiry was conducted in the absence of suspension order till the dismissal order the appellant performed duties but a single penny has not been paid for the whole period.
- M. The appellant will raise other grounds during the hearing of the appeal.

Appellant   
**Muhammad Sohaid**  
**Ex- Constable**  
**K.P.O. D.S.P. Legal**  
**C.P.O. Peshawar.**

Through

Dated: 23/11/2015

**Akbar Khan**  
Advocate High Court,  
Peshawar.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

**PESHAWAR.**

**Service appeal No. 1069/2014**

Muhammad Sohail \_\_\_\_\_ (Appellant)

**VERSUS**

Inspector General of Police and two other \_\_\_\_\_ (Respondents)

Subject: **COMMENTS/REPLY ON BEHALF OF RESPONDENTS.**

Preliminary objections:-

- a) The appeal has not been based on facts.
- b) The appeal is not maintainable in the present form.
- c) The appeal is barred by law and limitation.
- d) The appeal is bad for mis-joinder and non-joinder of necessary parties.
- e) The appellant has not come to the tribunal with clean hands.

**Respectfully Sheweth!**

**FACTS:-**

1. Needs no comment as it pertains to the service record of appellant.
2. Correct to the extent of appointment of appellant. The remaining Para is denied because appellant not only absented himself for long period but was also found involved in dealing stolen property. Three stolen vehicles were recovered from the possession of appellant and he is still facing trial on the above charges; therefore his further retention in police department was not justified.
3. Incorrect, appellant has not pointed any malice on the part of Police in registration of criminal case against him. Furthermore, the guilty conscious of appellant led to registration of the case and according to investigation of the case three stolen vehicles were recovered from his possession.
4. Correct to the extent that appellant was found absent from duty for long time therefore charge sheet based on allegation of absence from duty was issued to him.
5. Incorrect, appellant concealed his involvement and arrest in criminal case and remained absent and he pointed such facts in his reply. The reply of appellant was found unsatisfactory therefore departmental proceedings were conducted into the charges leveled against appellant.
6. Correct to the extent of grant of bail to appellant.

7. Correct to the extent that the enquiry officer was changed on the application of appellant which establishes the bona fide of respondents.
8. Incorrect, enquiry officer provided chance of defence to appellant but appellant failed to advance plausible explanation in response to his absence from duty and involvement in dealing stolen vehicles. He failed to rebut the charges leveled against him. Copy of enquiry report is enclosed as Annexure "A" which is explanatory on the matter.
9. Correct to the extent that respondent No. 3 issued dismissal from service order of appellant vide speaking order.
10. In correct, the departmental appeal of appellant has been rejected by the DIG, HQrs: Investigation copy of order is enclosed as Annexure "B".
11. In correct, the appeal of appellant is not sustainable on the grounds advanced in the appeal.

#### **GROUND**

- A. Incorrect, the impugned order is just, legal and was passed in accordance with law after thorough evaluation of facts and evidence on record.
- B. Incorrect, proper speaking order has been passed on the departmental proceedings initiated against appellant.
- C. Incorrect, the impugned order was passed after thorough examination of the record, facts and evidence placed on file.
- D. Incorrect, appellant was charge sheeted on the score of allegation of will-full and deliberate absence from duty and he himself pointed out his involvement in criminal case. Such facts were converged to appellant in final show cause notice and he failed to rebut the charges.
- E. Incorrect, appellant concealed his involvement in criminal case and absented himself willfully and deliberately from duty.
- F. Incorrect, criminal proceedings and departmental proceedings are distinct in nature and can go side by side. Appellant being member of Police was involved in dealing in stolen vehicles therefore; his retention in Police was not justified.
- G. Incorrect, enquiry officer found appellant guilty of the charges and suggested that the departmental proceedings may be kept pending till final decision of the criminal case.

However, the authority did not agree with the suggestion of the enquiry officer and issued final show cause notice to the appellant. Appellant was also heard in person however, appellant failed to submit plausible explanation and defence in rebuttal of the charges leveled against him.

- H. Incorrect, appellant was unable to establish his long absence from duty and involvement in dealing in stolen vehicles.
- I. Incorrect, appellant himself has admitted that he was initially charge sheeted on the score of allegations of absence from duty. During departmental proceedings it came to light that he was also involved in criminal charges. Therefore, there was no justification in keeping the departmental proceedings pending till final decision of the criminal case.
- J. Incorrect appellant failed to advance any plausible defence.
- K. Incorrect this Para is mere repetition of Para (1) of the ground of appeal.
- L. Incorrect the impugned order was passed in departmental proceedings initiated against appellant. The criminal court will hold its own opinion on conclusion of trial.
- M. Incorrect, appellant salary was properly paid to appellant for the period he performed duties
- N. Incorrect the impugned order was passed by the competent authority.
- O. Incorrect the impugned order was passed after adopting all the legal and procedural formalities.
- P. The respondent may also be allowed to raise other grounds during hearing of the case.

It is therefore, prayed that the appeal may be dismissed with costs.

**PROVINCIAL POLICE OFFICER,**  
Khyber Pakhtunkhwa,  
Peshawar.  
(Respondent No.1)

**Deputy Inspector General of Police,**  
Inv: HQrs: Khyber Pakhtunkhwa,  
Peshawar.  
(Respondent No. 2)

**Senior Superintendent of Police,**  
Investigation wing CPO,  
Peshawar.  
(Respondent No.3)

28/6/15

Fel, Sing

(3)

Annexure "A"

فائل رپورٹ محکمانہ انکوائری

(23)

برخلاف محمد سہیل کانشیپیل نمبر 87 کمپیوٹر آپریٹر دفتر ڈی ایس پی لیگل سی پی او پشاور۔

بحوالہ چارج شیٹ محررہ 13.6.2013 مجاریہ دفتر جناب ایس ایس پی صاحب انوسٹی گیشن خیبر پختون خواہ سی پی او پشاور۔

مقدمہ علت 463 مورخہ 3.6.2013 جرم 411/420/468/471 تپ تھانہ چکنی ضلع پشاور۔

جناب عالی!

بحوالہ چارج شیٹ نمبری 4312-13/EC محررہ 13.6.2013 برخلاف کانشیپیل محمد سہیل نمبر 87 کمپیوٹر آپریٹر دفتر

DSP لیگل سی پی او پشاور جناب ایس ایس پی صاحب نے انسپکٹر میرزا علی خان کو انکوائری پر مامور کیا تھا۔ جس پر مذکورہ بالا کانشیپیل

نے عدم اعتماد کا اظہار کر کے بحوالہ حکم نمبری: 245/PA/SSP/inve مورخہ 25.10.2013 مجاریہ از دفتر ایس ایس پی

صاحب انوسٹی گیشن سی پی او انکوائری ہذا من ڈی ایس پی محمد اجمل خان اور انسپکٹر اکبر خان کو محکمانہ کارروائی کے لیے حوالہ کی گئی ہے۔

جواب پروانہ بشکل درخواست محمد سہیل کانشیپیل نمبر 87 کمپیوٹر آپریٹر جو میرزا علی خان انسپکٹر پر انکوائری کرنے کا عدم اعتماد ظاہر کیا ہے۔

حکم متذکرہ کے ساتھ انسپکٹر میرزا علی خان کی طرف سے فائل رپورٹ محکمانہ انکوائری نوٹسٹیٹ تین اوراق، نوٹو کا پی نقل ایف آئی آر

علت 463 مورخہ 3.6.2013 جرم 411 تھانہ چکنی، کا پی چارج شیٹ دو قطعاً، نقل ایف آئی آر کا پی علت 1049 سال

2012 جرم A-381 تھانہ لیاقت آباد لاہور، بیانات سیراج نبی نمبر 3623 کانشیپیل تھانہ چکنی، محمد زاہد نمبر 968 کانشیپیل متعینہ

حال رپیس لائن پشاور، پروانہ اردو مجاریہ ریڈر ڈی ایس پی انوسٹی گیشن مورخہ 14.10.2013 جس میں محمد سہیل کانشیپیل نمبر 87

کو مورخہ 23.10.2013 کو برائے انکوائری انسپکٹر میرزا علی خان نے طلب کیا تھا۔ پروانہ مجاریہ محمد اجمل خان ڈی ایس پی انوسٹی

گیشن مورخہ 2.12.2013 جس میں محمد سہیل کانشیپیل کو برائے انکوائری مورخہ 6.12.2013 طلب کیا تھا میرے حوالہ کی۔ متن

جواب پروانہ محمد سہیل کانشیپیل ذیل ہے۔

جناب بحوالہ پروانہ منجانب انسپکٹر صاحب میرزا علی خان برائے مورخہ 23.10.2013 طلبیدہ سلسلہ از سر نو انکوائری برخلاف من

سائل اجروض ہوں کہ میں نے فائل شوکا ز نوٹس مورخہ 22.10.2013 کے جواب میں عرض کیا تھا کہ انکوائری ایفسر پر اسے

انصاف کرنے کا اعتماد نہیں ہے۔ اس پر جناب نے از سر نو انکوائری شروع کر کے اسی انکوائری ایفسر کو دوبارہ مقرر کر کے انکوائری حوالہ

ہوئی۔ جناب اسی افسر نے پہلے سے اُس کے خلاف یکطرفہ انکوائری پر رائے قائم کر کے اُسے قصور وار ٹھہرایا تھا۔ لہذا اس انکوائری افسر

کو اپنے ذہن میں اسی رائے پر قائم کرنے کا قوی امکان ہے۔ لہذا اُسے اب اس انکوائری ایفسر پر منصفانہ اور غیر جانبدارانہ انکوائری

کرنے کا اعتماد نہیں۔

لہذا استدعا ہوئی کہ اُس کی انکوائری کسی دوسرے افسر کو مارک فرمائی جائے۔ دعا گور ہوگا۔ العارض محمد سہیل کانشیپیل نمبر 87

کمپیوٹر آپریٹر انوسٹی گیشن آفس پی ڈی ایس پی سی پی او پشاور۔ نقل جناب میرزا علی خان انسپکٹر صاحب انکوائری افسر انوسٹی گیشن سی پی

او پشاور۔ برائے اطلاع۔

اس حکم انکوائری کے سلسلہ میں ذیل کارروائی کی گئی۔

مورخہ 2.12.2013 بحوالہ پروانہ مجاریہ ڈی ایس پی انوسٹی گیشن، کانٹریبل نمبر 87 محمد سہیل مورخہ 6.12.2013 مورخہ دفتر انوسٹی گیشن ہو کر تحریری بیان دو قطععات پیش کر کے لف شامل انکوائری ہیں۔

مورخہ 17.12.2013 انکوائری ہذا کے سلسلہ میں بحوالہ نمبر 5 روزنامہ 17.12.2013 عبدالحمید SHO، کانٹریبلان انکوائری کے سلسلہ میں برائے مورخہ 18.12.2013 طلب کیے مگر حاضر نہ آئے۔

مورخہ 18.12.2013 بحوالہ مد 6 روزنامہ 18.12.2013 تھانہ انوسٹی گیشن عبدالحمید SHO، کانٹریبلان برائے مورخہ

19.12.2013 طلب کیے اسی روز انسپکٹر معہ امیر حمزہ سب انسپکٹر تھانہ چکنی جا کر تھانہ چکنی سے ذیل کاغذات نقل نمبر 18

روزنامہ 3.6.2013 بابت روانگی گشت SHO معہ کانٹریبلان، نقل نمبر 46 روزنامہ 3.6.2013 واپسی رپورٹ SHO

جس میں تین عدد موٹر کار ذیل قبضہ پولیس کیں۔ نقل ایف آئی آر علت 463 مورخہ 3.6.2013 جرم

411/420/468/471 تھانہ چکنی، رجسٹر نمبر 19 مال مقدمات کی کاپی جو سلسلہ 282/2013 پر تینوں موٹر کار کا اندراج

ہوئی ہے۔ اور نقل نمبر 45 مورخہ 20.6.2013 جس میں موٹر کار بمقدمہ علت 463/13 تھانہ چکنی تنویر محمد ASI تھانہ واہ کینٹ

ہو کر یہ موٹر کار 184 AGS بمقدمہ علت 157 مورخہ 23.5.2013 جرم A-457/381 تھانہ واہ کینٹ میں مطلوب تھا۔

حوالہ تنویر محمد ASI تھانہ واہ کینٹ کیا گیا ہے۔ اور نقل نمبر 41 روزنامہ 8.7.2013 تھانہ چکنی جس میں موٹر کار نمبر AB-8090

AAR 504 جو بمقدمات علت 526/2011 مقدمہ علت 1049/2012 بجرائم A-381 تھانہ لیاقت آباد لاہور چوری

شدہ تھی حوالہ عباس خان سب انسپکٹر ABLs کینٹ لاہور ہوئے ہیں۔ اور رجسٹر نمبر 6 متفرق کی فوٹو کاپی جس میں متذکرہ دو عدد موٹر

کار کا اندراج ہے اور انکوائری (3) 156 نواب گل خان سب انسپکٹر کے پاس تھی کی کاپی حاصل کر کے لف شامل انکوائری ہے۔

مورخہ 19.12.2013 گواہان حاضر نہ آئے انکوائری کے سلسلہ میں معہ اکبر خان، امیر حمزہ سب انسپکٹر حاجی آباد بلڈنگ کوہاٹ روڈ

جا کر جہاں پر محمد سہیل کانٹریبل کرایہ پر رہائش پذیر ہے کالونی میں چوکیدار سیف الملوک ولد زیارت گل قوم آفریدی بمر 60 سال

سکنہ حال ہی نظام پورا کوڑہ خٹک کے ساتھ گفت، شنید ہو کر اولاً کسی قسم کا بیان دینے کو تیار نہیں تھا صرف اتنا کہا کہ پولیس، کالونی سے دو

عدد موٹر کار لے گئے تھے اور ان کو یہ علم نہیں ہے کہ یہ موٹر کار چوری کے تھے یا نہیں۔ لیکن جب سہیل کانٹریبل نے کسی کے کہنے پر سمجھا کر

بعدہ بیان کے لیے پیش ہوا اور اپنے بیان میں کہا کہ محمد سہیل کانٹریبل کو جو اولاً اُس نے کوارٹر سے بلوا کر اندرون کوارٹر سے

معلوم ہوا کہ خانہ خود میں نہیں ہے اور بعدہ اتر کر پولیس اپنے ساتھ لے گیا۔ جو بعد میں ضمانت پر رہا ہوا ہے۔ لیکن تحریری بیان میں

دوبارہ موٹر کار دو عدد جو پولیس اپنے ساتھ لے گئے تھے۔ یہ نہیں بتلایا کہ یہ موٹر کاریں کس کی ملکیت تھیں۔

مورخہ 20.12.2013 عبدالحمید خان انسپکٹر SHO چکنی حال بھانہ ماڑی انکوائری کے سلسلہ میں حاضر دفتر ہو کر سابقہ

بیان ملاحظہ کرنے پر اپنے سابقہ بیان کی تائید کی۔ جس پر محمد سہیل کانٹریبل نے جرح کر کے لف شامل انکوائری ہے۔ اسی روز محمد سہیل

کو فائل مقدمہ کی فوٹو سٹیٹ کاپی پیش کرنے کے لیے کہا جس نے فرد مقبوضگی کا فوٹو کاپی پیش کر کے شامل انکوائری ہذا ہے۔

مورخہ 26.12.2013 سیراج نبی کانٹریبل طلبیدہ حاضر آ کر سابقہ بیان کی تائید کرتے ہوئے اس کانٹریبل پر محمد سہیل نے جرح

کرنے کے بعد لف شامل انکوائری ہے۔ اور مورخہ 27.12.2013 کو زاہد خان نمبر 968 کانٹریبل اور مظفر خان کانٹریبل

نمبر 136 طلبیدہ حاضر آ کر ان کے بیانات لیے گئے ہیں۔ جن پر کراس سوالات محمد سہیل کانٹریبل کر کے بیانات لف شامل انکوائری

محمد سہیل کا نشیمل کو اسی روز زبانی ہدایت ہوئی کہ اپنی صفائی کے بارے میں گواہان پیش کرے۔ اور بعدہ بحوالہ نمبر 8 روزنامہ 13.1.2014 بحوالہ نمبر 9 روزنامہ 8.1.2014 بحوالہ نمبر 10 روزنامہ 10.1.2014 بحوالہ نمبر 10 روزنامہ 13.1.2014 بحوالہ نمبر 7 مورخہ 20.1.2014 بحوالہ نمبر 19 مورخہ 23.1.2014 بار بار اطلاعیاتی کے متعلق روزنامہ میں رپورٹ تحریر شدہ ہفت انکوائری ہذا ہے۔ لیکن سہیل کا نشیمل ابھی تک انکوائری کے سلسلہ میں دفتر ہذا حاضر نہیں آیا اور نہ کوئی گواہ پیش کر سکا۔

مورخہ 31.12.2013 دفتر ڈی ایس پی لیگل جا کر محرر ٹیلیفون طارق زیب نے رجسٹر حاضر ماہ جولائی 2012، جون 2013 کی فوٹو کاپی دیکر شامل انکوائری ہذا ہے۔ پڑتال رجسٹر ہذا ہو کر جولائی 2012 تا جون 2013 رجسٹر حاضری میں محمد سہیل کا نشیمل کا نام درج نہیں ہے۔

مورخہ 30.1.2014 کو تفتیشی افسر مقدمہ مندرجہ صدر واقعہ خان ASI حال گلبرگ پشاور محکمانہ کورس اسلام آباد سے آ کر جس نے اپنا تحریری بیان پیش کر کے بیان کیا کہ مقدمہ مندرجہ صدر میں مورخہ 20.6.2013 کو چالان دیا جا چکا ہے شامل انکوائری ہے۔ اسی طرح مثل مقدمہ مقامی پولیس سے منگوا کر پڑتال کرنے پر فرادات مقبوضگی مرتبہ 3.6.2013 پر دستخط ثبت شدہ مشکوک معلوم ہوتے ہیں۔ جب تفتیشی افسر سے اس بارے میں پوچھا گیا تو اس نے کہا کہ مثل مقدمہ بعد چالان مرتب کرنے مختلف عدالتوں میں آتا جاتا رہا۔ شاید ملزم کا نشیمل نے اس میں کچھ رد و بدل کیا ہو۔ مورخہ 31.1.2014 کو دو عدد موٹر کاریں بحوالہ نمبر 46 مورخہ 3.6.2013 عبد الحمید خان SHO صاحب تھانہ چکنی نے حوالہ کر کے جس پر زبردفعہ (3) 156 ض ف انکوائری کی گئی تفتیشی افسر کا تحریری بیان لیا گیا ہے۔

مختصر حالات انکوائری ہذا یوں ہیں کہ کا نشیمل متذکرہ بالا دفتر خود مورخہ 29.5.2013 سے غیر حاضر رہ کر جناب ایس ایس پی صاحب انوسٹی گیشن سی پی او پشاور نے متذکرہ کا نشیمل کے نام چارج شیٹ جاری کر کے جس پر کا نشیمل مذکورہ نے میرزا علی خان انسپٹر صاحب کے انکوائری افسر مقرر ہونے پر عدم اعتماد کا اظہار کر کے انکوائری ہذا من DSP محمد اجمل خان یوسفی اور انسپٹر اکبر خان کو کا نشیمل محمد سہیل کے خلاف منصفانہ اور غیر جانبدارانہ انکوائری کے لیے حوالہ کی گئی۔ انکوائری کے دوران پڑتال ریکارڈ سے معلوم ہوا کہ سابقہ انکوائری افسر نے کافی ثبوت بر خلاف ملزم کا نشیمل صفحہ فائل برلا کر موجود ہیں۔ مزید عرض ہے کہ انسپٹر اکبر خان نے میری زیر نگرانی میں انکوائری ہذا مامور ہو کر جس نے تھانہ کار ریکارڈ چیک کیا اور متعلقین کے بیانات لیکر صفحہ فائل برلا کر موجود ہیں انکوائری کے دوران معلوم ہوا ہے کہ مذکورہ کا نشیمل کے قبضہ سے مورخہ 3.6.2013 کو بحوالہ نمبر 46 ایک موٹر کار نمبر 184 AGS عبد الحمید خان SHO تھانہ چکنی نے برآمد کر کے جو 523/550 ض ف کے تحت قبضہ پولیس کر کے کا نشیمل مذکورہ کو زبردفعہ 54 ض ف گرفتار کر کے انٹارویٹ کیا گیا۔ مذکورہ نے انٹارویٹیشن پر دو مزید موٹر کارز کی نشاندہی کر کے جو کہ SHO عبد الحمید خان نے ملزم کا نشیمل کی نشاندہی پر برآمد کر کے قبضہ پولیس کئے ہیں۔ جن کے نمبرات 249/ABG ہنڈا سیوک ماڈل 1996/97 دوسرا موٹر کار نقلی نمبر 8090/AB جس کا اصل نمبر 0603/AB ہے۔ مذکورہ کا نشیمل کے قبضہ سے برآمد شدہ موٹر کار اور بعد میں انٹارویٹیشن کے دوران مزید دو عدد موٹر کارز برخطابق ریکارڈسز شدہ پائے گئے۔ جو کہ اس وقت صوبہ سندھ اور پنجاب کے حوالہ کیے جانا بیان ہوئے ہیں۔ مذکورہ کا نشیمل نے اپنے بیان میں اپنے اوپر الزامات کو مسترد کرتے ہوئے بتلایا کہ اس کا اپنے نام سے گم ماموں گان کے ساتھ جائیداد کا تنازعہ بتلا کر اس کو ملوث کرنا بیان کیا ہے۔ لیکن اس بارے مذکورہ نے کوئی ثبوت جائیداد وغیرہ



پیش نہ کر سکا۔ اور مزید بتلایا کہ ایک شخص حاجی عرفان سکنہ بڈھ بیر جس کا اس مقدمہ میں ذکر ہونا بیان کیا کہ اُس کے خلاف مذکورہ کو گواہی دینے پر مجبور کر رہا تھا لیکن وہ گواہی دینے پر راضی نہ ہو سکا۔

نیز مذکورہ حاجی عرفان کا ذکر گاڑیوں کی رکھوالی سے متعلق ذکر ضرور موجود ہے لیکن مقامی پولیس کا مزید ریکارڈ خاموش ہے۔ ازسرنو انکوآری کے دوران تھانہ ریکارڈ چیک کیا گیا ہے۔ کانٹیبیل مذکورہ بمطابق ریکارڈ مقدمہ علت 463 مورخہ 3.6.2013 جرم 411 تپ تھانہ چمکنی حسب ضابطہ گرفتار ہو کر ضمانت کنفرم ہوا ہے۔ ملزم کانٹیبیل سے حسب ضابطہ نشاندہی موقع روبرو گواہان کرایا گیا ہے۔ حراست پولیس سات یوم لکھ کر عدالت مجاز سے ایک یوم حراست پولیس منظور کی گئی۔ عدالت مجاز میں اقبالی بیان زبردفعہ 164/364 ض ف کے لیے پیش کیا جا کر عدالت میں مذکورہ اپنے بیان سے منحرف سے ہو چکا ہے اور اسی روز ڈسٹرکٹ جیل منتقل ہو چکا ہے جو کہ اب عدالت سے بر ضمانت ہے۔ ملزم کانٹیبیل کے خلاف گواہان اور دیگر متعلقین کے بیانات لئے جا کر صفحہ مثل، فائل انکوآری پر موجود ہیں۔ مقدمہ مندرجہ صدر میں زبردفعہ 173 ض ف چالان بر خلاف ملزم محمد سہیل دیا جا چکا ہے۔ مذکورہ کانٹیبیل سے جو سرتہ شدہ گاڑیاں برآمد ہوئی ہیں اُن میں صوبہ خیبر پختون خواہ کے علاوہ دیگر صوبوں کو بھی ملزم مذکورہ مطلوب رہا ہے۔

حالات واقعات، تھانہ ریکارڈ اور مذکورہ کانٹیبیل کا دفتر خود سے غیر حاضری ریکارڈ اور گواہان کے بیانات، ملزم کانٹیبیل سے حسب ضابطہ نشاندہی موقع کرانے سے تھانہ چمکنی کے مقدمہ ہذا پر تفتیشی افسر کے صفحہ مثل پر فراہم کردہ شہادت اور سابقہ انکوآری افسر انسپٹر میرزا علی خان کے مرتب شدہ فائل رپورٹ محررہ 5.7.2013 اور من ڈی ایس پی کی زیر نگرانی انسپٹر اکبر خان مروت کا ازسرنو انکوآری کرنے سے اور ملزم کانٹیبیل کا اپنے بے گناہی ثابت کرنے کے لیے کوئی ٹھوس ثبوت پیش نہ کر سکنے کی وجہ سے یہ بات ثابت ہو چکی ہے۔ کہ مذکورہ ملزم کانٹیبیل پولیس ملازمت میں ہوتے ہوئے ایسی قبیح جرم میں ملوث رہا ہے۔ تفتیشی افسر نے بھی مثل مقدمہ پر مذکورہ کے خلاف کافی ثبوت مہیا کر کے مقدمہ چالان عدالت کیا ہے۔

نیز سابقہ انکوآری افسر پر ملزم کانٹیبیل نے جو عدم اعتماد ظاہر کیا ہے اس میں کوئی صداقت نہیں پائی جاتی ہے۔ سابقہ انکوآری افسر کی انکوآری رپورٹ سے میرا اتفاق ہے۔

تاہم کانٹیبیل مذکورہ کے خلاف مقدمہ ہذا عدالت مجاز میں زیر سماعت ہے جس کا فیصلہ تادم تحریر نہیں ہوا۔ لہذا بمطابق پولیس رولز 16.3 کسی بھی قصور وار ملازم پولیس کی انکوآری کا فیصلہ تادم فیصلہ عدالت انتظار کرنا چاہیے۔ اندر میں بارہ حکم افسران بالا افضل ہوگی۔

رپورٹ انکوآری مرتب ہو کر گزارش ہے۔

(محمد اجمل خان یوسفزئی)

ڈی ایس پی انوسٹی گیشن یونٹ سی پی او پشاور

3/21

DSP/Legal Inv.

For Commitments under the Law.

[Signature]

920/9

انسپٹر اکبر خان

انوسٹی گیشن یونٹ سی پی

3/21


Annexure "B"

ORDER

This order is passed on departmental appeal of Muhammad Sohail Ex-Constable wherein he has challenged the order of Senior Superintendent of Police investigation CPO vide which he was dismissed from service.

The relevant record gone through which revealed that all legal and codal formalities were adopted before passing the impugned order. Proper chance of defense was provided to appellant but he failed to rebut the serious charges of dealing in stolen property. No infirmity and legal lacuna has been pointed out in the impugned order and no fresh ground has been brought on record.

In view of the above the appeal as rejected being without any force and substance.

  
Deputy Inspector General  
Of Police Headquarters -  
Investigation CPO

قیمت  
10 روپے



52562

ایڈووکیٹ / دستخط: **عبد الصفا خان**  
بار کونسل ابار ایسوسی ایشن  
رابطہ نمبر: 03005956376

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: **سروس ٹریڈ سنٹرل صاحبہ محترمہ خوالہ**

منجانب: <b>سائل / ایڈووکیٹ</b>  <b>محمد سائل</b> پشاور	دعویٰ: <b>سائل / ایڈووکیٹ</b> علت نمبر: <b>سائل / ایڈووکیٹ</b> مورثہ: <b>سائل / ایڈووکیٹ</b> جرم: <b>سائل / ایڈووکیٹ</b> تھانہ: <b>سائل / ایڈووکیٹ</b> 
<b>بابت تحریر آنکہ</b>	

Acceptance  
[Signature]

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ **ایڈووکیٹ / دستخط: عبد الصفا خان** کو ذیل مقرر  
 آن مقام **ایڈووکیٹ / دستخط: عبد الصفا خان** کو ذیل 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 تقریر نمائندگی و فیصلہ برصفت دینے جو اب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق  
 زریں بدستخط کرنے کا اختیار ہوگا، نیز ہر صورت میں پیروی و جواب دہی کی ذمہ داری یا اپیل کی زبردستی اور منسوخی، نیز  
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بیحد ضرورت مقدمہ مذکورہ کے کل یا جزوی  
 کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہو گا اور صاحب  
 مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ماخذ مذکورہ منظور و قبول ہوگا دوران مقدمہ  
 میں جو خرچہ ہر جہان التوائے مقدمہ کے کسب سے ہوگا وہ وکیل موصوف و بیٹن کے لئے کار حقدار ہوگا کوئی تاریخ پیشی مقام  
 دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی و جواب دہی کی ذمہ داری، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم: 17-5-016

بند \_\_\_\_\_ واہ شد \_\_\_\_\_ بند \_\_\_\_\_  
 مقام **کسب عد** کے لئے منظور ہے۔

سروس ٹریڈ سنٹرل صاحبہ محترمہ خوالہ

[Signature]

محمد سائل خان  
 عدالت مندرجہ بالا  
 87 اویسی کی وکالت کسب عد  
 (سائل / ایڈووکیٹ)

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

No. 1481 /ST

Dated 9 / 9 / 2016


To

The Senior Superintendent of Police,  
Investigation Wing Central Police Peshawar.

Subject: - **JUDGMENT**

I am directed to forward herewith a certified copy of Judgement dated 06 .09.2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.