

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

**SERVICE APPEAL NO. 1207/2014**

Date of institution ... 01.10.2014

Date of judgment ... 02.11.2017

Miraj Habib S/o Habib Gul  
R/o Mughal Kot, District Swabi  
Ex-I.H.C Police Department Mardan.

... (Appellant)

VERSUS

1. Government of KPK through Secretary Home, Civil Secretariat, Peshawar.
2. Deputy Inspector General of Police, Mardan.
3. District Police Officer, Mardan.

... (Respondents)

SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE  
ORDER DATED 15.08.2014 WHEREBY APPELLANT WAS  
DISMISSED FROM SERVICE AND ORDER DATED 12.09.2014 OF  
RESPONDENT NO. 2 WHEREBY DEPARTMENTAL APPEAL OF  
APPELLANT WAS DISMISSED WHICH ARE ILLEGAL AGAINST  
THE LAW AND FACTS.

Mr. Amjad Ali

.. For appellant.

Mr. Kabirullah Khattak, Additional 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 by the appellant under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 15.08.2014 passed by District Police Officer Mardan whereby he dismissed the appellant from service on the allegation that FIR No. 646 dated 23.06.2014 under sections 3/4 PO/15AA Police Station City, Mardan was registered against him and in the departmental proceedings the appellant

*M. Amin*  
2.11.2017

was found guilty. The appellant also filed departmental appeal on 23.08.2014 which was rejected on 12.09.2014 hence, the present service appeal on 01.10.2014.

2. Learned counsel for the appellant contended that the appellant was appointed as Constable in the Police Department on 25.03.1994 and was promoted to the post of I.H.C vide order dated 05.01.2005. It was further contended that the appellant was serving in the police department to the satisfaction of <sup>his</sup> the superior. It was further contended that during service he was departmentally proceeded on the basis of aforesaid criminal case but neither charge sheet was framed against the appellant nor the appellant was associated with the inquiry proceedings nor any opportunity of cross examination was provided to the appellant. It was further contended that report of alleged departmental inquiry was also not handed over to the appellant at the time of alleged show cause notice to the appellant. It was further contended that the appellant was given show cause notice on 22.05.2014 and 25.06.2014 and the appellant also submitted reply to the aforesaid show cause notices but the inquiry report was prepared on 17.07.2014. It was further contended that the appellant has also been acquitted in the aforesaid criminal case therefore, the impugned order is illegal and liable to be set-aside and prayed for acceptance of appeal.

3. On the other hand, learned Additional Advocate General Mr. Kabirullah Khattak, opposed the contention of learned counsel for the appellant and contended that the appellant was involved in criminal case vide FIR No. 646 dated 23.06.2014 under sections 3/4 PO/15AA Police Station City, Mardan. It was further contended that incriminating recovery were affected from the personal possession of the appellant. It was further contended that a proper inquiry was conducted wherein the inquiry officer also recorded the statement of witnesses and after recording the statement of witnesses the inquiry officer came to the conclusion that the appellant was found guilty and on the basis of the inquiry report proper show cause notices was given to the appellant but the appellant failed to satisfy the competent authority therefore, the competent

*M. Amin*  
2.11.2017

authority has rightly dismissed the appellant from service and prayed for dismissal of appeal.

4. Perusal of the record reveals that the appellant was serving in Police Department since 25.03.1994 and during service he was involved in a criminal case vide FIR No. 646 dated 23.06.2014 under sections 3/4 PO/15AA Police Station City, Mardan. The record further reveals that on the basis of said FIR a departmental proceeding was initiated against the appellant but neither charge sheet was framed nor the same is available on record. Furthermore the inquiry officer has recorded the statement of the witnesses in the inquiry proceedings and it has also been mentioned in para-2 of inquiry report that he has recorded the statement of investigation officer as well as eye witnesses but neither the appellant was provided opportunity of cross examination nor defence nor he was provided opportunity of personal hearing. Furthermore the record reveals that the appellant has submitted reply to show cause notice dated 22.05.2014 and 25.06.2014 where as the inquiry report was finalized on 17.07.2014 which also shows that the show cause notice was issued to the appellant before finalizing the inquiry report by the inquiry officer which also rendered the whole proceedings illegal vide ab-initio. Therefore, we are constrained to accept the appeal set-aside the impugned order and reinstate the appellant in service. However, the department is at liberty to conduct a proper de-novo inquiry in the mode and manner prescribed by law within four months from the receipt of this judgment and in case of de-novo inquiry the issue of back benefits will be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
02.11.2017


  
(MUHAMMAD HAMID MUGHAL)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

28.09.2017

Counsel for the appellant Ms. Roecda Khan, Advocate present and submitted fresh Wakalatnama. Mr. Ziaullah, Deputy District Attorney alongwith Mr. Atta-ur-Rehman, S.I (legal) for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 02.11.2017 before D.B.

  
(Gul Zeb Khan)  
Member

  
(Muhammad Amin Khan Kundi)  
Member

02.11.2017

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Atta-ur-Rehman, S.I for the respondents also present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of three pages placed on file, we are constrained to accept the appeal set-aside the impugned order and reinstate the appellant in service. However, the department is at liberty to conduct a proper de-novo inquiry in the mode and manner prescribed by law within ~~four~~ <sup>from the receipt of this judgment</sup> months and in case of de-novo inquiry the issue of back benefits will be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
02.11.2017

  
(MUHAMMAD HAMID MUGHAL)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

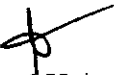
24.02.2017


Appellant in person and Mr. Atta ur Rehman, SI (Legal) alongwith Assistant AG for respondents present. Arguments could not be heard ~~due to~~<sup>as</sup> learned Member (Judicial) is on leave. To come up for arguments on 12.05.2017 before D.B.

  
(AHMAD HASSAN)  
MEMBER

12.05.2017

Clerk to counsel for the appellant and Mr. Atta ur Rehman, SI alongwith Assistant AG for the respondents present. Clerk to counsel for the appellant requested for adjournment. To come up for arguments on 10.08.2017 before D.B.


  
(Ahmad Hassan)  
Member

  
(Muhammad Amin Khan Kundi)  
Member

10.08.2017

Appellant in person present. Mr. Atta-ur-Rehman, S.I (legal) alongwith Mr. Kabirullah Khattak Assistant AG for the respondents present. Appellant seeks adjournment on the ground that his counsel is not available today. Adjourned. To come up for arguments on 29.11.2017 before D.B.

  
(Muhammad Amin Khan Kundi)  
Member (J)

  
(Muhammad Hamid Mughal)  
Member (J)

11.5.2016

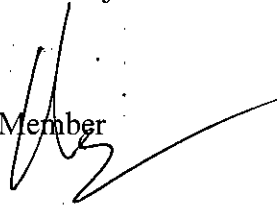
Junior to counsel for the appellant and Mr. Ziaullah, GP alongwith Muhammad Ghani, S.I for the respondents present. Learned counsel for the appellant is stated busy before the august Supreme Court of Pakistan. Adjourned for final hearing to 05.09.2016 before D.B.

  
Member

  
Chairman

05.09.2016

Appellant in person and Mr. Muhammad Ghani, S.I alongwith Mr. Usman Ghani, Sr.GP for respondents present. Due to strike of the Bar learned counsel for the appellant is not available today before the Court, therefore, case is adjourned for arguments to ~~27-12-16~~ before D.B.

  
Member

  
Member

27.12.2016

counsel for the appellant and Muhammad Shafiq, Inspector (Legal) alongwith Mr. Ziaullah, GP for respondents present. Arguments could not be heard due to incomplete bench. Case adjourned to 24.02.2017 for arguments before D.B.

  
Chairman

5 17.04.2015

Appellant in person, M/S Muhammad Ghani, S.I (legal) and Muhammad Shafique, Inspector (legal) alongwith Additional Advocate General for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 26.10.2015.

  
Chairman

26.10.2015

Appellant with counsel and Mr. Muhammad Ghani, SI (Legal) alongwith Addl: AG for respondents present. Arguments could not be heard due to learned Member (Judicial) is on official tour to D.I Khan. Therefore, the case is adjourned to

9/3/16 for arguments.

  
Member

Member

09.03.2016

Agent to counsel for the appellant and Mr. Muhammad Ghani, SI (Legal) alongwith Asst: AG for respondents present. Due to general strike of the bar, counsel for the appellant is not available. Therefore, the case is adjourned to 11.05.2016 for arguments.

  
Member

  
Member

Appeal No. 1207/2014  
Mr. Miraj Habib

Reader Note:

22.12.2014

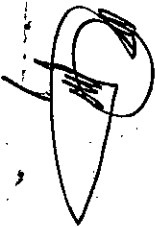
appellant in person present. Since the Tribunal is incomplete, therefore, case is adjourned to 24.02.2015 for the same.



Reader

24.02.2015

Appellant Deposited  
Security & Process Fee



Counsel for the appellant 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 15.08.2014, 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 23.08.2014, which was rejected vide order dated 12.09.2014, hence the instant appeal on 01.10.2014.

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 17.04.2015.



Member

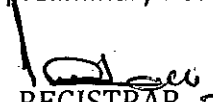
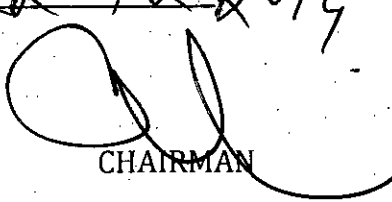


Form-A

FORM OF ORDER SHEET

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

Case No. 1207 /2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	01/10/2014	<p>The appeal of Mr. Miraj Habib presented today by Mr. Amjid Ali 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	3-10-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <del>22-12-2014</del></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

Service Appeal No. 1207 /2014

Miraj Habib.....Appellant

VERSUS


Govt. of KPK through Secretary Home, and others.....Respondents

I N D E X

S.No.	Description of documents.	Annexure	<del>Page</del>
1.	Memo of appeal with affidavit.		1-5
2.	Copy of enquiry report	A	6-12
3.	Copy of show cause notice and reply to show cause notice	B-C	13-21
4.	Copy of order of respondent No.3 dated 15.08.2014	D	22
5.	Copy of Departmental Appeal is and order dated 12.09.2014 of respondent No.3	E-F	23-26
6.	Copy of FIR is Annexure "G" and Bail order	G-H	27-28
7.	Wakalatnama		29

Appellant 

Through

  
Amjad Ali  
Advocate Supreme Court  
At Mardan  
Cell: 0301-8197006

Dated: 1-10-2014

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

Service Appeal No. 1207/2014

1239  
01-10-2014

Miraj Habib S/o Habib Gul  
R/o Mughal Kot, District Swabi  
Ex-I.H.C Police Department Mardan.....Appellant

VERSUS

1. Govt. of KPK through Secretary Home, Civil Secretariat, Peshawar
2. Deputy Inspector General of Police, Mardan
3. District Police Officer, Mardan..... Respondents

*SERVICE APPEAL U/S 4 OF SERVICE TRIBUNAL  
ACT, 1974 AGAINST THE ORDER OF  
RESPONDENT NO.3 DATED 15.08.2014,  
WHEREBY APPELLANT IS DISMISSED FROM  
SERVICE AND ORDER DATED 12.09.2014 OF  
RESPONDENT NO.2, WHEREBY DEPARTMENTAL  
APPEAL OF APPELLANT IS DISMISSED WHICH  
ARE ILLEGAL AGAINST LAW AND FACTS.*

Respectfully Sheweth:-

Appellant humbly submits as under

- 1) That appellant was appointed as constable vide order dated 25.03.1994 and promoted vide order dated 05.01.2005 as I.H.C

- 2) That appellant has got unblemished record of service.
- 3) That no charge sheet has been served upon the appellant.  
In fact there is no charge sheet in entire record.
- 4) That in so-called enquiry, appellant was neither associated with any inquiry, nor any opportunity of cross-examination given to appellant. (Copy of enquiry report is Annexure "A")
- 5) That show cause notice is served upon the appellant, which is properly relied. (Copy of show cause notice is Annexure "B", while reply to show cause notice is Annexure "C")
- 6) That appellant is dismissed from service vide order dated 15.08.2014, which is illegal against law and facts. (Copy of order of respondent No.3 dated 15.08.2014 is Annexure "D")
- 7) That appellant filed departmental appeal, which is dismissed vide order dated 12.09.2014 by respondent No.3. (Copy of Departmental Appeal is Annexure "E", while order dated 12.09.2014 of respondent No.3 is Annexure "F")
- 8) That impugned orders are illegal against law and facts on following grounds:-

  GROUNDS  

A. Because appellant is innocent and falsely charged.  
 Because appellant is only charged, which means allegation  
 and as per law appellant is presumed to be innocent?

- C. Because the alleged recovery of 12 bottles of wine from my possession is false, frivolous, concocted and baseless the said recovery allegedly shown in FIR mentioned above is steered by ulterior motive and malafide intention and just damage my flourishing future.
- D. Because so far as the recovery of the pistol is concern, the pistol is properly licensed in the name of appellant and is in possession of valid license.
- E. Because the motorcycle is also appellant's personal property and has been given to appellant by the court on superdari and nothing has been recovered from Motorcycle as well.
- F. Because the alleged amount shown in FIR is also appellant's personal and is nothing to do with the allegation in FIR.
- G. Because the accused/ appellant is totally innocent, that's why he was released on bail.
- H. Because the appellant has been victimized due to unwarranted concocted allegation leveled in the FIR.
- I. Because the appellant is a dutiful person previously not involve in such like cases and his service record is blameless.
- J. Because the allegation of transportation of wine and possession of pistol is false and concocted, which fact is evident from the fact that inspite of prior information no independent witness has supported the version and no test purchase has been affected.

- K. Because the allegation/ occurrence as per FIR is allegedly taken place on the main road but no independent witness was cited from the public.
- L. Because all the witnesses are police official and due to hidden ulterior motive, appellant have been indulged in the instant case.
- M. Because as the case is pending and the trial is yet to be commenced, which would determine the fate of appellant, that whether appellant has committed the offence or not and imposing penalty without waiting for the decision of competent court would amount to imposing/ awarding punishment without trial.
- N. Because neither charge sheet nor statement of allegation given to appellant.
- O. Because appellant is neither associated with the inquiry nor any witness examined in presence of appellant.
- P. Because appellant is not given any opportunity of cross-examination.
- Q. Because appellant is bailed out in FIR and as per relevant provision of C.S.R appellant should have been taken on duty. (Copy of FIR is Annexure "G" and Bail order is Annexure "H")
- R. Because appellant has not been given any opportunity of personal hearing.
- S. Because appellant is jobless.

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It is therefore, humbly prayed, on acceptance of this appeal the order dated 15.08.2014 and order dated 12.09.2014 may please be set-aside and appellant may please be re-instated in service with all back benefits.

Any other relief which this Hon'ble court deems appropriate in the circumstances of the case though not specifically asked for may kindly also be granted.

Dated:

*[Handwritten signature]*

Appellant

Through

*[Handwritten signature]*

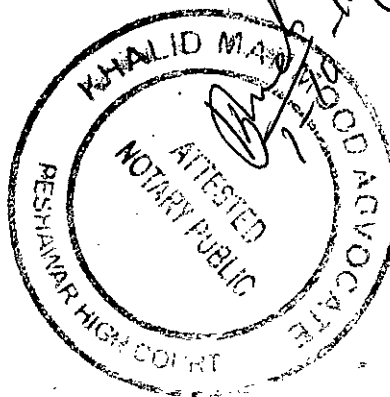
Amjad Ali  
Advocate Supreme Court  
At Mardan

AFFIDAVIT

I, do hereby affirm and declare on oath that the contents of the appeal are true and correct to the best of my knowledge and belief and nothing material has been concealed from this Hon'ble Tribunal.

*[Handwritten signature]*

Deponent



6

Ann A

From: The Superintendent of Police,  
Investigation Wing, Mardan.

To: The District Police Officer,  
Mardan

No. 135 / Inv: dated Mardan, the 8 : 8 /2014.

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Subject: ENQUIRY AGAINST HEAD CONSTABLE MAIRAJ HABIB NO.2348.

Memo:

It is submitted that Head Constable Mairaj Habib No. 2348 while posted as Gurd Commander of Investigation Bureau, ASI Taimor Khan PS City recovered 12 bottles wine, one Pistol 30 bore with 20 rounds, one Motor Cycle and amount Rs. 3000/- selling amount of wine from his possession and registered case vide FIR No. 646 dated 23.06.2014 u/s 3/4 PO/15AA PS City against him. Therefore he was suspended and proper charge sheet and summary of allegation was also served upon him and deputed Mr. Bacha Said Khan CO HQ for conducting departmental inquiry.

The enquiry officer finalized the enquiry proceedings, giving him full opportunities of defence but he failed. Consequent upon the completion of enquiry proceedings, the enquiry officer held him guilty of the charges leveled against him as per charge sheet. Final show cause notice was served upon him on 23.07.2014. His reply received but not found satisfactory.

Keeping in view the above discussion, the undersigned reached to the conclusion that ASI Taimor Khan recovered 12 bottles wine etc from the possession of Head Constable Mairaj Habib No.2348 and registered case FIR No. 646 dated 23.06.2014 u/s 3/4 PO/15AA PS City against him. He was challaned to court but on 25.06.2014 he released on bail. His this act is against the rules and bad named all the Police Force. It is therefore recommended that he may be awarded major punishment, so that the other Police Force should learn lesson from him please.

Enclosed: (38 Sheets).

Superintendent of Police,  
Investigation Wing, Mardan

*On light of the above / enquiry, he is dismissed of / from service*

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برابر دیکھتی ہے۔ اور اس میں مزید مددگار کو یاد دلائی جائے۔  
سینکھتی ہے۔ تو کیا وہ برابری کے لوگوں سے ہے۔ اور کیا اس کا  
لحاظ ہے۔

دی میں مذکورہ نے اپنے جواب میں یہ واضح نہیں کیا ہے کہ دیگر  
کیوں اس کو بار بار شراب کے ساتھ کھاتا ہے۔ اگر اسے دکاندار  
ذاتیان میں تو واضح کرنا چاہیے تھا۔ مگر لاہور میں ہے۔

(6) H.C. مذکورہ کے پولیس میں لیٹھوں میں کئی اور کئی اور  
میں تھپتاتی ہے۔ اور میں گھنٹے بنگار کھاتا ہے۔ اور  
دفتروں اور کئی کئی دیکھو حال اور کئی اس کی رخ دار  
مذکورہ نے اپنی تمام تر رخ داروں کو یاد دلائی اور  
کو شراب سے متعلق کئی کئی رخ داروں کا ایک اور  
دکاندار

(7) میں مذکورہ کے پاس اپنی منگنی میں کئی واضح دکاندار  
اپنے جواب میں بیان کرتا ہے۔

گوانا کے بیانات اور واقعات کو یاد رکھتے ہیں۔  
کئی پولیس کی عین کا خیال رکھتے ہیں۔ کئی عوام  
مذکورہ دفتروں کو تاریخ۔ کئی اس میں کئی کئی  
بیراخی کا ایک یا دو دھم کئی کئی کو شکر ہے۔ مذکورہ  
ہے۔ انکوائری کے لئے میری بیگنہ دکاندار ہے۔

INSI  
17-7-2014

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پان سو چالیس سو اسی روپے کی مقدار نے میاں والا

موجود 25 کو روپے 1600 میں ایک دیگر لغوی اور ایک بیٹا نام گورنر اور  
14  
7B میناں مانڈی کے 4 سو روپے کا۔ اور جو سٹاک سہارا حوالہ میں ہے  
سے سٹور سے مہالی حال مقدار میں ڈال کر اور کھلے آسنے قسم سے ہے اور  
میں ایک اور میں یا ندری میں جو سٹاک سہارا کے کیریاں اور آگے ہوئے  
جس کا حوالہ قدسی لغوی اس کے لئے ہے اور 3 سو روپے کا ہے اور اس کے  
کروڑوں اور رقم میں 3000 روپے کا ہے اور اس کے حوالہ میں  
اور جو سٹور میں ہے اور اس کے حوالہ میں ہے

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Pass/B-9  
9-7-14

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Pass/B-9  
9-7-14

بیان ازان محمد اقبال خان ASI شہر کونسل کھارکھڑا جڑان

نے بیان کیا ہے جو ان کے حوالے سے 466 روپے خرچ 23/14 23/14 ISAA 5/4 کا کارڈ ہے  
دلچسپ ہے کہ ان کے حوالے سے خرچہ موصولی حالت میں وہ سب کو روٹ لگاوا کر  
عدرو کوکل شراب اور الیٹریٹ والے ڈسکوں کو کھینچ کر 30 روٹ لگاوا کر ان کو  
پیس پیس کرنا۔ ان کے حوالے سے جو کی لگاوا کر ان کو عام فون میں دیکھ کر پانچ عدرو لگا کر  
اور ناپا سات عدرو کوکل شراب خرچ کرنا کے لیے

ان کے حوالے سے ان کے حوالے سے ان کے حوالے سے ان کے حوالے سے ان کے حوالے سے  
کو مدد خرچ کرنا جب کوکل لگاوا کر ان کے حوالے سے ان کے حوالے سے  
حالیہ حالت میں ان کے حوالے سے ان کے حوالے سے ان کے حوالے سے  
ان کے حوالے سے ان کے حوالے سے ان کے حوالے سے ان کے حوالے سے  
جس کے حوالے سے ان کے حوالے سے ان کے حوالے سے ان کے حوالے سے  
دیئے گئے ہیں۔ ان کے حوالے سے ان کے حوالے سے ان کے حوالے سے

محمد اقبال خان ASI کھارکھڑا جڑان  
10/07/014

Attested  
10/07/014

مجموعہ ASI کے ساتھ فرج 13/14 کو میں ڈیگنٹ لپوس کے تحت  
 آج رہی دوڑ تاکہ نہری پر وجود ہے کہ اسی دوران ایک ٹرسٹ  
 اگر جنٹو کھڑا کرنا مجموعہ ASI نے ٹرسٹ اسٹیل متذکرہ کے پچھلے  
 پلاسٹک کی بورڈ باندھی بیوٹی سے 21 جول سے اب برآمد کر کے  
 میں رکے اسکے ملازم مذکورہ شخص کی تلاش لینے ہر ایک کو  
 20 ستمبر 2000 سے کارروائی برآمد کر کے ہر ایک کو  
 جلد کارروائی میں بروہو محل میں لائنیں ہے یہ میں بیان ہے جو

Handwritten signature or mark.

Handwritten signature or mark.

Attested  
 [Signature]  
 13/11/14

شعبہ ضابطہ ASI کسانہ لورم 23<sup>06</sup>/<sub>14</sub> کو میں عاصم و دیگر لوگوں کو لیسہ کے مقام کو دیکھ کر  
 دوڑنا کے لیے لورم پر موجود تھے۔ اسی دوران ایک ٹریک سائیکل آر کومپارٹمنٹ کے نیچے  
 2 ٹریک سائیکل متذکرہ کے پچھلے سٹیج پر بائیں پہلو بلاسٹنگ گا لوری کو چیک کر کے  
 12 توکل سٹراب ہر آمڈرک ہر ٹی فز قیصر نو لیسہ گاڈ۔ اس کے علاوہ ہر ٹریک کے  
 کئی ٹلاشی کے لیے 1 عدد بٹنول 30 لورم 3 عدد پیرا پور 30 عدد کارٹونس اور  
 ریز گاڑی فتح مبلغ 30000 لے کر ریلوے فونڈ نوٹ لے کر آکر کر کے ہر ٹی فز قیصر  
 نو لیسہ لے کر۔ عمل کارروائی میں جو لوگوں نے عمل میں لائی گئی تھیں۔ یہ میرا بیان ہے جو کہ

درست ہے۔  
 11/7/14

Attested  
 11/7/14

IIC Mairaj Habib

Bureau Investigation Mardan.

No. 28 / 10A

Dated 25 / 6 / 2014.

Aug, B

(13)

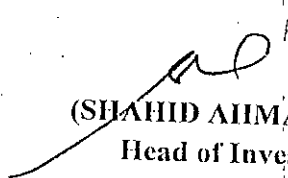
Subject:



SHOW CAUSE NOTICE.

WHEREAS you while posted as Guard Commander of Investigation Bureau Guard, ASI Taimor Khan PS City recovered 12 bottles wine, one Pistol 30 bore with 20 rounds, one Motor Cycle and amount Rs. 3000/- selling amount of wine from your possession and registered case vide FIR No. 646 dated 23.06.2014 u/s 3/4PO/15AO PS City against you. All this is your negligence and misconduct and render you liable for punishment under the KPK Police Rules, 1975.

THEREFORE, I, Shahid Ahmad Khan Head of Investigation, Mardan hereby call upon you to explain your position as to why you should not be punished under the above mentioned Rules.

Your reply should reach this office within seven days of the receipt of this notice.

  
(SHAHID AHMAD KHAN)  
Head of Investigation,  
Mardan



21

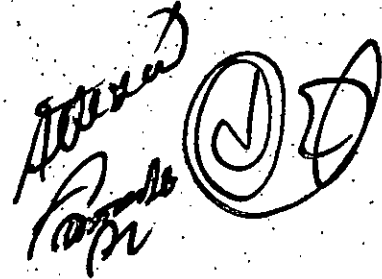
Aux, C

(14)

To,

The Head of Investigation,  
Mardan.Subject: - Reply to show cause Notice

*Attested*  
*Copy*



Sir,

My this reply is with reference to your show cause Notice vide dated 25-06-2014, wherein through F.I.R No. 646 dated 23-06-2014, I was charged for the recovery from my possession the following four items namely,

- A- 12 bottles of wine.
- B- One pistol 30 bore with 20 rounds.
- C- One motor bike: And
- D- Amount of Rupées 3000.00

The allegation which was made basis of FIR is wrong, illegal, against law and facts on the following grounds inter alia:-

- 1- That the allegation of the recovery of 12 bottles of wine from my possession is incorrect, false and baseless. The said contraband item has spuriously been shown in the FIR to be recovered from me with mala fide intention and for ulterior motive.
- 2- That of the recovered Pistol I am the bona fide owner and legal License holder (copy of the License is annex)
- 3- That the motor bike is also my personal property and competent court of law has also handed over / entrusted custody of the vehicle to me being the actual owner. (copy of the Order dated -05-2014)
- 4- That the amount shown is also my personal has nothing to do with the allegations as leveled in the FIR.



(15)

- 5- That I have also secure a bail from the competent court of law.(copy of the order dated 05-2014 )
- 6- That I have been victimized due to the unwarranted assertions leveled in the FIR against me.
- 7- That I am a dutiful person and my service record is blameless.
- 8- That the allegation of transportation of wine and possession of unlicensed pistol is false and bogus; which is evident from the fact that despite prior information against me no independent wittiness has supported the version of the FIR.
- 9- That the alleged occurrence as per the FIR has taken place on the main road no independent wittiness were record to have seen it.
- 10- That the wittiness shown in the FIR are all police officials and due to some ulterior motive reason best known by them I have been dragged in the alleged occurrence.

In view of these facts and circumstances it is graciously requested that the allegations leveled against me may kindly be dropped and i may be exonerated from it and obliged.

Dated.02-07-2014

Yours faithfully



MirajHabib

IC Mairaj Habib

No. 2348 at Police Line Mardan

No.

125 1PA

Dated

22 15 /2014.

161

Subject:

FINAL SHOW CAUSE NOTICE

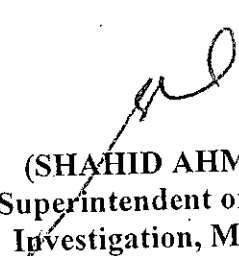
WHEREAS you while posted as Guard Commander of Investigation Bureau Guard, ASI Taimor Khan PS City recovered 12 bottles wine, one Pistol 30 bore with 20 rounds, one Motor Cycle and amount Rs. 3000/- selling amount of wine from your possession and registered case vide FIR No. 646 dated 23.06.2014 u/s 3/4PO/15AO PS City against you. Therefore you were suspended and proper Charge Sheet and Summary of Allegation were also served upon you and deputed Mr. Bacha Said Khan CO HQr for conducting departmental inquiry.

WHEREAS, enquiry officer finalize the enquiry proceedings, giving you full opportunities of defence. Consequent upon the completion of enquiry proceedings, the enquiry officer held you guilty of the charges leveled against you as per charge sheet.

AND WHEREAS, on going to the finding and recommendation of enquiry officer, the material placed on record, I am satisfied that you have found guilty of the charges leveled against you as per statement of allegations conveyed to you, which stand proved and render you liable to be awarded punishment under Police Rules 1975 NWFP (K.P.K).

NOW, THEREFORE, I, Mr. Shahid Ahmad Superintendent of Police, Investigation, Mardan, as competent authority have tentatively decided to imposed upon you any one are more penalties of dismissal from service under the said Rules.

You are therefore, required to show cause within 07 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 ex-parte action shall be taken against you. Meanwhile, also intimate whether you desired to be heard in person or otherwise.

  
(SHAHID AHMAD)  
Superintendent of Police,  
Investigation, Mardan

(17)

To

The Superintendent of Police  
Investigation Mardan .

Subject: WRITTEN REPLY T FINAL SHOW CAUSE NOTICE DATED 22-05-2014

Sir,

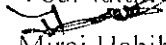
Written reply on behalf of the undersign in reference to your find show cause notice vide dated 22-05-2014 wherein through alleged FIR No.646 dated 23-06-2014 the undersign was charged for the offense U/S 3/4PO/15AO of Police station city Mardan. All the allegation leveled against me are false frivolous against facts and circumstance on the following grounds.

Grounds:

1. That the alleged recovery of 12 booths of wine from my possession is false frivolous , concocted and baseless the said recovery allegedly shown in FIR mentioned above is steered by ulterior motive and malifide intention and just damage my flourishing future.
2. That so far as the recovery of the pistol is concern ,the pistol is properly licensed in the name of undersign and he is in possession of valid license (License is annexed)
3. That the motorcycle is also my personal property and has been given to me by the court on superdari and nothing has been recovered from motorcycle as well.
4. That the alleged amount shown in FIR is also my personal and is nothing to do with the allegation in FIR.

5. That the accused / petitioner is totally innocent that's why I have been released on bail.
6. That I have been vletimized due to unwarranted, concocted allegation leveled in the FIR.
7. That I am a dutiful person previously not involved in such like and my seryice record is blameless.
8. That the allegation of transportation of wine and possession of pistole is false and concocted which fact is evident from the fact that inspite of prior information no independent writness has supported the version and no test purchase has been affected.
9. That the alleged occurance as per FIR is taken place on the main road, but no independent witness was cited from the public.
10. That all the witnesses are police official, and due to hidden ulterior motive I have been indulge in the instant case.
11. That as the case is pending and the trail is yet to be commenced, which would determine the fate of undersign that whether I have committed the offense or not, and putting penalty whithout waiting to the decision of competent court would amount to inflicting / awarding punishment without trail.

So, in view of the facts and circumstances mentioned above it is humbly prayed that the inquiry may kindly be set aside or be delayed till the decision of court.

Your faithfully  
  
Miraj Habib

Dated: 02-07-2014

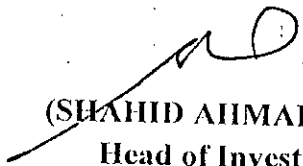
SUMMARY OF ALLEGATIONS

191

It is alleged that you while posted as Guard Commander of Investigation Bureau Guard, ASI Taimor Khan PS City recovered 12 bottles wine, one Pistol 30 bore with 20 rounds, one Motor Cycle and amount Rs. 3000/- selling amount of wine from your possession and registered case vide FIR No. 646 dated 23.06.2014 u/s 3/4PO/15AO PS City against you.

All this amounts to misconduct on your part and warrant proper departmental enquiry as defined in the KPK Police Rules, 1975.

Insp: Bacha Said Khan, Circle Officer Head Quarter, Mardan is hereby appointed to conduct formal departmental enquiry into the allegations and submit findings within 15 days positively.

  
(SHAHID AHMAD KHAN)  
Head of Investigation,  
Mardan

(20)

To,

The Head of Investigation,  
Mardan.

**Subject: - Reply to summary of Allegations**

Sir,

My this reply is with reference to your summary of allegation, wherein through F.I.R No. 646 dated 23-06-2014, I was charged for the recovery from my possession having four items namely, 12 bottles of wine, One pistol 30 bore with 20 rounds, One motor bike and Amount of Rupees 3000.00 .

These allegation are wrong, illegal, against law and facts on the following grounds inter alia:-

- 1- That the allegation of the recovery of 12 bottles of wine from my possession is incorrect, false and baseless. The said contraband item has spuriously been shown in the FIR to be recovered from me with mala fide intention and for ulterior motive.
- 2- That of the recovered Pistol I am the bona fide owner and legal License holder (copy of the License is annex)
- 3- That the motor bike is also my personal property and competent court of law has also handed over / entrusted custody of the vehicle to me being the actual owner. (copy of the Order dated -05-2014)
- 4- That the amount shown is also my personal has nothing to do with the allegations as leveled in the FIR.
- 5- That I have also secure a bail from the competent court of law.(copy of the order dated 05-2014 )
- 6- That I have been victimized due to the unwarranted assertions leveled in the FIR against me.

(21)

- 7- That I am a dutiful person and my service record is blameless.
- 8- That the allegation of transportation of wine and possession of unlicensed pistol is false and bogus; which is evident from the fact that despite prior information against me no independent witness has supported the version of the FIR.
- 9- That the alleged occurrence as per the FIR has taken place on the main road no independent witness were record to have seen it.
- 10- That the witness shown in the FIR are all police officials and due to some ulterior motive reason best known by them I have been dragged in the alleged occurrence.

In view of these facts and circumstances it is graciously requested that the allegations leveled against me may kindly be dropped and I may be exonerated from it and obliged.


Dated 02-07-2014

Yours faithfully



MirajHabib

Aux - 1



22

ORDER

This order will dispose off inquiry against IHC Mairaj Habib No. 2348, while posted as Gurd Commander of Investigation Bureau, Mardan committed the following act, which is are grass misconduct on his part as defined in Rules 02 (iii) of Police Rules 1975.

That IHC Mairaj Habib No. 2348, while posted as Gurd Commander of Investigation Bureau, Mardan, ASI Taimur Khan PS City recovered 12 bottles wine, one Pistol 30 bore with 20 rounds, one Motorcycle and amount of Rs 3000/-selling amount of wine from his possession and registered case vide FIR No. 646 dated 23.06.2014 u/s 3/ PO/15AA PS City against him.

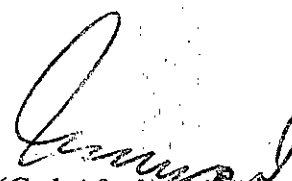
In this connection, IHC Mairaj Habib No. 2348, was served Final Show Cause vide Investigation office No. 125/PA, dated 22.07.2014 and he was also proceeded against departmentally through Mr: Shahid Ahmad Khan SP/Investigation Mardan, who after fulfilling necessary process, submitted his findings to the undersigned vide his office endorsement No. 135/Inv: dated 08.08.2014, as the allegation has been established against him.

After going through Inquiry file the undersigned agree with the findings of enquiry officer and the alleged IHC Mairaj Habib No. 2348, is hereby dismissed from service in exercise of the power vested in me under the Police rules 1975.

Order announced

O.B No. 1727

Dated 15/8 /2014

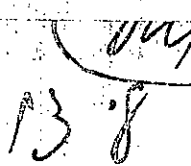


(Gul Afzal Afridi)  
District Police Officer,  
Mardan.

No. 8499-8505/R dated Mardan the 18-8 /2014

Copy for information and necessary action to:-

1. The Deputy Inspector General of Police Mardan Region-1, Mardan.
2. The S.P Investigation Mardan.
3. The S.P Operations, Mardan.
4. The DSP/HQrs Mardan.
5. The Pay Officer (DPO) Mardan.
6. The E.C (DPO) Mardan.
7. The OASI (DPO) Mardan.





To

*Amir* (1) (2) *Amir E*  
(23)  
The Deputy Inspector General  
Of Police.  
Mardan

**Sub:-** Departmental Appeal against the order dated 15/08/2014, communicated to appellant vide letter andst: No. 8499-8505/R DI Mardan 18/08/2014, wherein appellant is dismissed from service which is illegal, against law and facts, of superintendent District Jail Mardan.

On acceptance of this appeal, order dated 15/08/2014 may please be set aside and appellant may please be re-instated in service with all back benefits.

Respected Sir,

Appellant Humbly submits as under

1. That appellant was appointed as constable vide order dated 25/03/1994 and promoted vide order dated 05-01-05 as I.H.C.
2. That appellant has got unblemished record of service.
3. That impugned order is illegal, against law and facts on the following grounds.

**GROUND**

- A. Because appellant is innocent and falsely charged.
- B. Because appellant is only charged which means allegation and as per law appellant is presumed to be innocent.
- C. Because the alleged recovery of 12 bootless of wine from my possession is false frivolous,

concocted and baseless the said recovery allegedly shown in FIR mentioned above is steered by ulterior motive and malafide intention and just damage my flourishing future.

D. Because so far as the recovery of the pistol is concern, the pistol is properly licensed in the name of undersigned and is in possession of valid license. (Copy is Annexed herewith).

E. Because the motorcycle is also my personal property and has been given to me by the court on superdari and nothing has been recovered from Motorcycle as well.

F. Because the alleged amount shown in FIR is also my personal and is nothing to do with the allegation is FIR.

G. That the accused/petitioner is totally innocent that's why I have been released on bail.

H. Because I have been vletimized due to unwarranted concocted allegation leveld in the FIR.

I. Because I am a dutiful person previously not involved in such like cases and my service record is blameless.

J. Because the allegation of transportation of wine and possession of pistol is false and concocted which fact is evident from the fact that inspite of prior information no independent witness has supported the version and no test purchase has been affected.

K. Because the allegation /occurrence as per FIR is *allegedly* taken place on the main road but no independent witness was cited from the public.

L. Because all the witnesses are police official and due to hidden ulterior motive, I have been indulged in the instant case.

25

M. Because as the case is pending and the trial is yet to be commenced, which would determine the fate of undersigned that whether I have committed the offence or not and imposing penalty without waiting for the decision of competent court would amount to imposing/awarding punishment without trial.

*So it is very humbly prayed, that on acceptance of this departmental appeal, order dated 15/08/2014 may please be set aside and appellant may please be re-instated in service with all back benefits. I shall pray for your long life.*

*Your's obediently,*



Miraj Habib S/o Habib Gul R/o  
Mughal Kot Dist: Swabi  
(I.H.C police Department Mardan)

23/8/2014

ORDER.

*Handwritten initials and numbers: (26) and (26) and signature.*

*Handwritten: Aux-F*

This order will dispose-off the appeal preferred by ~~Ex-IC~~ **HC Miraj Habib No. 2348** of Mardan District Police against ~~the~~ order of District Police Officer, Mardan, wherein he was dismissed from service vide ~~district Police Officer, Mardan~~ OB: No. 1727 dated 15.08.2014.

Brief facts of the case are that he ~~is~~ *is* posted as Guard Commander of Investigation Wing Bureau, ASI Taimoor ~~KHAN~~ recovered 12 bottles wine, one Pistol 30 bore with 20 rounds, one Motorcycle and ~~amount~~ *amount* of Rs. 3000/- selling amount of wine from his possession and registered case vide ~~o. 646~~ *o. 646* dated 23.06.2014 u/s  $\frac{3}{4}$  PO/15AA Police Station City, Mardan against him. In ~~connection~~ *connection* he was served with Final Show Cause Notice and also ~~proce~~ *proceeding* against departmentally through Superintendent of Police Investigation, Mardan, ~~ter~~ *after* fulfilling necessary process, submitted his findings to District Police Officer, and the allegations were established against him, therefore he was dismissed service.

I have perused the record and also heard the appellant in Orderly Room held in this office on 10.09.2014. He failed to justify his innocence and could not advance any cogent reason in his defence. Therefore, I **MUHAMMAD SAEED** Deputy Inspector General of Police, Mardan Region-I, Mardan in exercise of the powers conferred upon me reject the appeal, not interfere in the order passed by the competent authority, thus the appeal is filed.

ORDER ANNOUNCED.

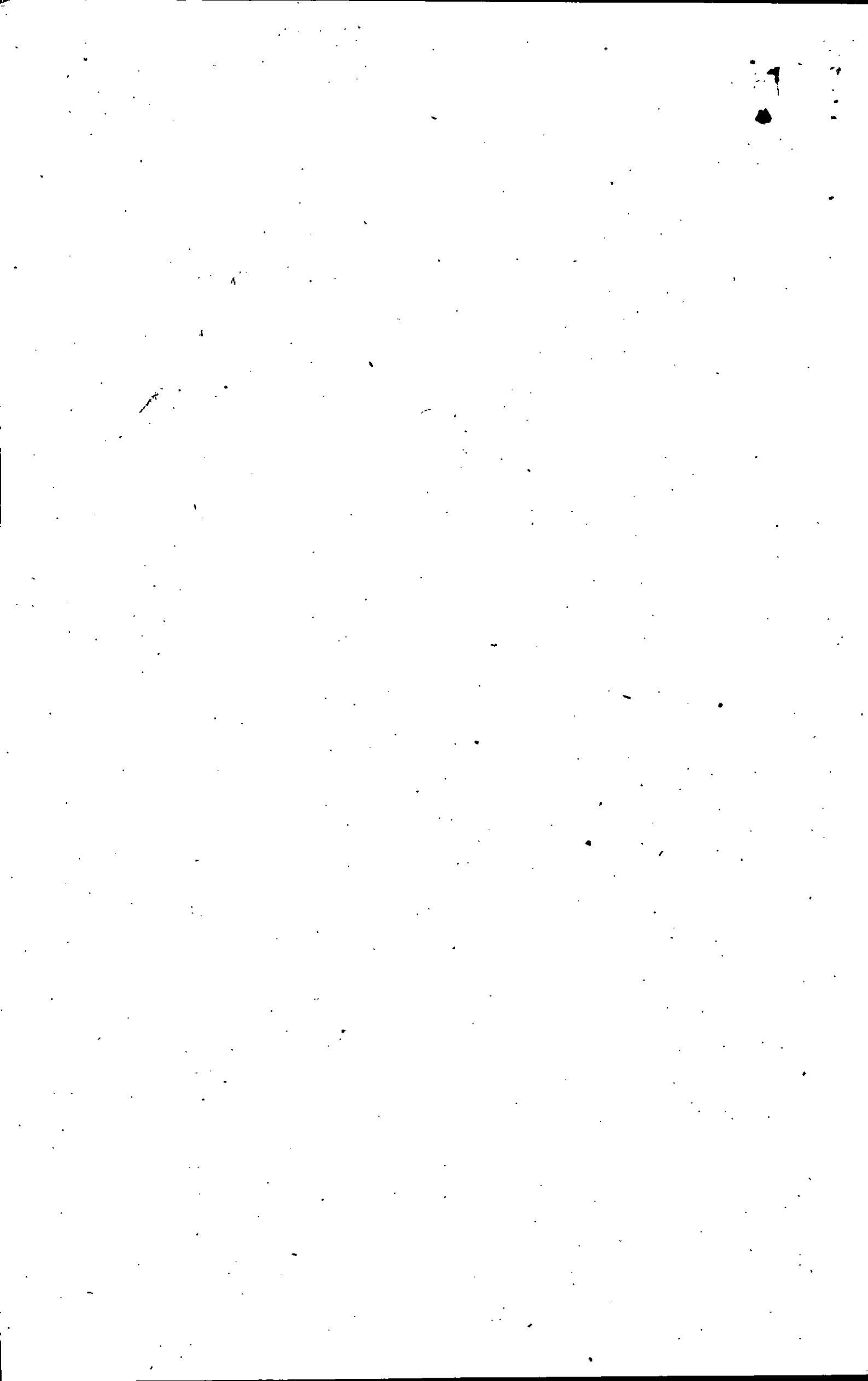
*Signature*  
(**MUHAMMAD SAEED**)PSP  
Deputy Inspector General of Police,  
Mardan Region-I, Mardan.

No. 6169 /ES, Dated Mardan the 12/09 /2014.

Copy to District Police Officer, Mardan for information and necessary action w/r to his office Memo: No. 732/LB dated 02.09.2014.

His service record is returned herewith.

(\*\*\*\*\*)



تعمیرات کے لئے

16202-0945575-9

تاریخ 15-11-14

ابتدائی اطلاع رپورٹ

Handwritten notes and stamps

Aux, G

Handwritten notes and signatures

حکومت

646

Handwritten notes

(27)

تاریخ وقت رپورٹ	23/11/14 16:30	23/11/14 17:00
نام و سکنیت اطلاع دہندہ مستفید	سیخ مورخان	
تفصیلی کیفیت جرم (معدولہ) حال اگر کچھ لیا گیا ہو	ISRA 3/4	Handwritten notes
جائے وقوع نامہ مکان سے اور سمت	گھر ٹرہی روڈ نزد TB شمال لنگڑا	
نام و سکنیت لازم	حورج صوبہ ولد صوبہ گل ندر	محل کھورہ ضلع صوبہ حال راہ سکون روڈ لنگڑا
کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا تو ذکر بیان کرو		رہنما حورج صدر لنگڑا صاحب لال
تعمیر سے ہوا ان کی تاریخ و وقت		ہل ڈرائ

ابتدائی اطلاع نیچے درج کرو۔ لنگڑا حورج ایک قریبی صوبہ صاحب قریبی  
 گھر ٹرہی روڈ نزد TB شمال لنگڑا  
 حورج صوبہ ولد صوبہ گل ندر  
 محل کھورہ ضلع صوبہ حال راہ سکون روڈ لنگڑا  
 رہنما حورج صدر لنگڑا صاحب لال

ابتدائی اطلاع نیچے درج کرو۔ لنگڑا حورج ایک قریبی صوبہ صاحب قریبی  
 گھر ٹرہی روڈ نزد TB شمال لنگڑا  
 حورج صوبہ ولد صوبہ گل ندر  
 محل کھورہ ضلع صوبہ حال راہ سکون روڈ لنگڑا  
 رہنما حورج صدر لنگڑا صاحب لال

ابتدائی اطلاع نیچے درج کرو۔ لنگڑا حورج ایک قریبی صوبہ صاحب قریبی  
 گھر ٹرہی روڈ نزد TB شمال لنگڑا  
 حورج صوبہ ولد صوبہ گل ندر  
 محل کھورہ ضلع صوبہ حال راہ سکون روڈ لنگڑا  
 رہنما حورج صدر لنگڑا صاحب لال

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23/11/14

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IN THE COURT OF AFTAB IQBAL JUDICIAL MAGISTRATE (J.M.)  
MARDAN

(28) Aux H  
 OFFICE OF THE DISTRICT & SESSIONS JUDGE  
 MARDAN

State vs. 2008/2014  
 FIR No. 601 dated 23-6-14 U/S 24-6-14  
 P.S. 74

74-6-14

Bail application filed by the petitioner. Be entered in the relevant register. Notice for record and complainant be summoned for 26-6-14

(Aftab Iqbal)  
 J.M. Mardan

Or...02

25.06.2014

APP for State present. Petitioner through counsel present. Record received.

Petitioner Miraj Halib seeks her post arrest bail in case FIR No.646 dated 23.06.2014 u/s 3/4 PO/15 AA P.S. City, Mardan.

Arguments heard and record perused.

Perusal of the record reveals that the present accused/petitioner has been charged for alleged transportation of wine and possessing unlicensed pistol. Despite of prior information no independent private witness is available on record. FSL report is also not available on file. In the case of absence of FSL report the case is open to further probe and inquiry. Furthermore, punishment for the offence does not falls within the ambit of prohibitory clause of section 497 Cr.P.C and in such like cases grant of bail is a rule whereas its refusal is an exception.

In the circumstances accused/petitioner is entitled for the concession of bail, application in hand is therefore allowed subject to furnishing of bail bonds to the tune of Rs.60,000/- with two sureties each in the like amount. Record be returned and file be consigned. Copy of this order be placed on Judicial file as well as on police file.

Announced  
 25.06.2014

Handwritten notes in Urdu script.

(Aftab Iqbal)  
 J.M. Mardan

Name of accused	
Date of Present	No. 91898/28-14
Date of Bail	30-6-14
Date of Court	30-6-14
Magistrate	P-3
Signature	[Signature]

30-6-14

Certified to be True Copy  
 EXAMINER  
 Copying Department  
 Sessions Court Mardan

14  
مخبرہ منجانب اسپرائڈ

11/10/2014

مورخہ:

مقدمہ:

دعویٰ:

جرم:

بنام:

مہراج بیب

مہراج

باجت تحریر آئیڈ

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

آئن مقام کیلئے امجد علی ایڈووکیٹ، سپریم کورٹ آف پاکستان اسلام آباد

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا مکمل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء و وصولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زاریں 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 نظرنانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختیار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخست منظور قبول ہوگا دوران مقدمہ میں جو خرچہ و جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہوا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سنڈ رہے۔

المرقوم:

1 تا 1

العبد

گواہ

العبد

بمقام کے لیے منظور ہے۔

Amjad Ali  
Amjad Ali  
Amjad Ali

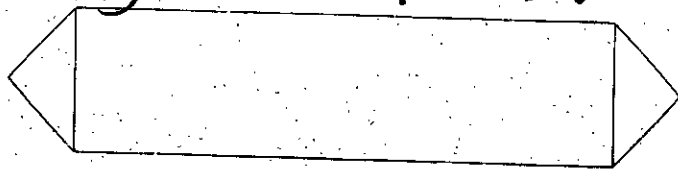
Amjad Ali  
Amjad Ali

امجد علی ایڈووکیٹ سپریم کورٹ آف پاکستان، ڈسٹرکٹ کورٹس، مردان

0321-9882434 0321-9870175



بعد الت جناب موصوف



سجاد الواسع و مسانيد

2017ء منجانب

صدا جيب بنام

مورخہ

مقدمہ

دعویٰ

جرم

### باعث تحریر آنکہ

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

انصاف و عدالت

سجاد

کیلئے روئیدہ مناد، انصاف و عدالت، ایشیا، پاکستان  
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 تقررت ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائس پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی براندگی 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 تقریر 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 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۔

صدا جيب بنام

Accepted

Signature

Signature

2017

ماہ

28

المرقوم

العبد گواہ العبد

کے لئے منظور ہے۔

سجاد

مقام

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,  
PESHAWAR.

Service Appeal No. 1207/2014.

Miraj Habib s/o Habib Gul r/o Mughal Kot, District Swabi Ex-I.H.C Police Department  
Mardan..... Appellant.

VERSUS.

1. Govt. of Khyber Pakhtunkhwa through Secretary Home, Civil Secretariat, Peshawar.
2. Deputy Inspector General of Police, Mardan Region-I, Mardan.
3. District Police Officer, Mardan..... Respondents.

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:-

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

REPLY ON FACTS:-

1. Pertains to record. Hence, no comments.
2. Incorrect. The appellant's record is filled a series of red/bad entries.  
(Copies are attached as annexure- A)
3. Incorrect. Proper Show Cause Notice and Final Show Cause Notice coupled by summary of allegations issued to the appellant.  
(Copies are attached as Annexure- B, C & D)
4. Incorrect. The appellant was provided full opportunity of defence during inquiry proceedings but he could not defend himself reasonably.  
(Copy of Enquiry as Annexure-E)
5. Correct. No comments.
6. Correct to the extent of dismissal vide order dated 15.08.2014, however, rest of the Para is incorrect for reasons: the appellant has committed misconduct under rule 2 (iii) of the Police Rules, 1975 & has been punished as such.  
(Copy of Rules is attached as Annexure-F)
7. Correct. Hence, no comments.
8. Incorrect. The impugned orders are in accordance with law & based on facts.

REPLY ON GROUNDS:-

- A. Incorrect. The appellant has been arrested red-handed with the recovery of case property, detailed in FIR. (Copy of FIR is attached as Annexure-G)
- B. Incorrect. Already replied in Para-A above.
- C. Incorrect. The appellant was caught red-handed & the alleged bottles of wine & other articles have been recovered from his bike/vehicle & his person as well & there is no malafide on the part of respondents.
- D. Pertains to record. Hence, no comments.
- E. Incorrect. Pertains to record. Hence, no comments.
- F. Incorrect. Pertains to record. Hence, no comments.

The case is still pending before trial Court however, copy of recovery memo is attached as Annexure-H.

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

**Service Appeal No. 1207/2014.**

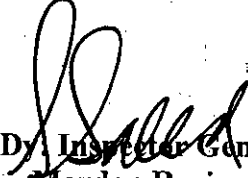
Miraj Habib s/o Habib Gul r/o Mughal Kot, District Swabi Ex-I.H.C Police Department  
Mardan..... Appellant.

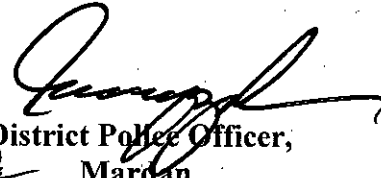
**VERSUS.**

1. Govt. of Khyber Pakhtunkhwa through Secretary Home, Civil Secretariat, Peshawar.
2. Deputy Inspector General of Police, Mardan Region-I, Mardan.
3. District Police Officer, Mardan..... Respondents.

**COUNTER AFFIDAVIT.**

We, the respondents No. 02 & 03 do hereby declare and solemnly affirm on oath that the contents of the Para-wise comments in the service appeal cited as subject are true and correct to the best of our knowledge and belief and nothing has been concealed from this Honourable Tribunal.

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

  
District Police Officer,  
Mardan.  
(Respondent No. 3)

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

**Service Appeal No. 1207/2014.**


Miraj Habib s/o Habib Gul r/o Mughal Kot, District Swabi Ex-I.H.C Police Department  
Mardan..... Appellant.

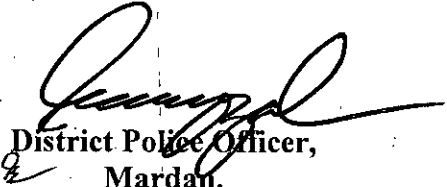
**VERSUS.**

1. Govt. of Khyber Pakhtunkhwa through Secretary Home, Civil Secretariat, Peshawar.
2. Deputy Inspector General of Police, Mardan Region-I, Mardan.
3. District Police Officer, Mardan..... Respondents.

**AUTHORITY LETTER.**

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

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

  
District Police Officer,  
Mardan.  
(Respondent No. 3)

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA  
SERVICES TRIBUNAL PESHAWAR**

In Re Service Appeal 422 /2014

Ex-Constable Saeed ullah

**VERSUS**

Capital City Police, Peshawar and others

**APPLICATION FOR CONDONATION OF DELAY**

***Respectfully Sheweth,***

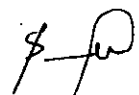
Petitioner submits as under:

1. That the above mentioned appeal is filing before this Hon'ble Tribunal in which no date is fixed for hearing so far.
2. That due to long sickness the Petitioner/appellant remained in Hospital at post Graduate Medical Institute, Lady Reading Hospital, Peshawar.(Copy of Medical Report is attached with the main appeal).

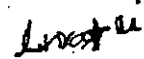
***Grounds:***

- A. That the impugned orders are void order and no limitation run against the void orders.
- B. That there are number of precedents of the Supreme Court of Pakistan which provides that the cases shall be decided on merits rather than technicalities.

**It is, therefore, requested that the limitation period (if any) may kindly be condone in the interest of justice.**

  
*Appellant*

Through

  
**Ashraf Ali Khattak**  
Advocate, Peshawar.

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA  
SERVICES TRIBUNAL PESHAWAR**

In Re Service Appeal 422 /2014

Ex-Constable Saeed ullah

**VERSUS**

Capital City Police, Peshawar and others

**APPLICATION FOR CONDONATION OF DELAY**

***Respectfully Sheweth,***

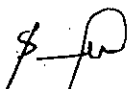
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***Grounds:***

- A. That the impugned orders are void order, and no limitation run against the void orders.
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**It is, therefore, requested that the limitation period (if any) may kindly be condone in the interest of justice.**

  
*Appellant*

Through

  
**Ashraf Ali Khattak**  
Advocate, Peshawar.

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

In Re: Service Appeal No 1207 of 2014

Miraj Habib.....(Appellant)

V E R S U S

Police Department.....(Respondent)

REJOINDER ON BEHALF OF APPELLANT IN RESPONSE TO THE  
REPLY SUBMITTED BY THE RESENDENTS

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS:-

- A) All the preliminary objections raised by the Respondents are incorrect, baseless and in accordance with law and rules; rather the Respondents are estopped due to their own conduct to raised any objection at this stage of the appeal.

ON FACTS:-

- 1) Para No 1 of the appeal is correct.
- 2) Para No 2 of the reply is incorrect, while para No 2 of the appeal is correct.
- 3) Para No 3 of the reply is correct to the extent of their show cause notice was received by the Appellant, but the Appellant denied the allegation levelled against him by replying written reply of the show cause notice.

- 4) Para No 4 of the reply is incorrect, while para No 4 of the appeal is correct.
- 5) Correct, already explained in para No 3 of the reply.
- 6) Para No 6 of the reply is incorrect, while para No 6 of the appeal is correct.
- 7) Correct.
- 8) Para No 8 of the reply is incorrect, while para No 8 of the appeal is correct.

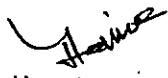
GROUNDS:-

- A) Ground A of the reply is incorrect, while Ground A of the appeal is correct.
- B) Ground B of the reply is incorrect, while Ground B of the appeal is correct.
- C) Ground C of the reply is incorrect, while Ground C of the appeal is correct; because of alleged recovery of 12 bottles wine from personal possession is false, frivolous, concocted and baseless, the said recovery allegedly shown in FIR mentioned above is steered by the ulterior motives and mala-fide intention and just damage the appellant flourishing future.
- D-F) Grounds 'D to F' of the appeal are correct.
- G) Ground 'G' is incorrect, while Ground 'G' of the appeal is correct.
- H) Ground 'H' is incorrect of the reply, while Ground 'H' of the appeal is correct.



- I) Ground 'I' of the appeal is correct.
- J) Already explained in Grounds D to F of the appeal.
- K) Ground 'K' is incorrect of the reply, while Ground 'K' of the appeal is correct.
- L) Ground 'K' of the appeal is correct.
- M) In response of the Ground 'M' of the reply, that the Appellant has already acquitted by the Court and every acquittal is honourable acquittal. (Copy of the judgment of Trial Court is attached herewith).
- N) Ground 'N' of the appeal is correct.
- O-S) Grounds 'O to S' are incorrect, already explained in above grounds

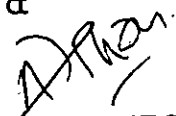
It is, therefore, humbly prayed that on acceptance of this Rejoinder, the appeal of the Appellant may be accepted in favour of the Appellant.

  
Appellant  
(Miraj Habib)

Through:

  
(ROEEDA KHAN)

&

  
(AFSHAN MANZOOR)  
Advocates,  
High Court, Peshawar

Dated: -02-11-2017