

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

**SERVICE APPEAL NO. 1080/2013**

Date of institution ... 11.07.2013

Date of judgment ... 06.11.2017

Mohammad Shuaib Ex-Constable No. 331

P.S Haved, Bannu

... (Appellant)

**VERSUS**

1. The Provincial Police Officer, Khyber Pakhtunkhwa; Peshawar.
2. The Regional Police Officer, Bannu Range Bannu.
3. The District Police Officer Bannu.

... (Respondents)

SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE  
ORDER DATED 21.05.2013 WHEREBY THE APPELLANT HAS BEEN  
DISMISSED FROM SERVICE AND AGAINST THE FINAL REJECTION  
ORDER DATED 12.06.2013 WHEREBY THE DEPARTMENTAL APPEAL  
OF THE APPELLANT WAS REJECTED.

Mr. M. Asif Yousafzai, Advocate.

.. For appellant.

Mr. Usman Ghani, District Attorney

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. GUL ZEB KHAN

.. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Our this

judgment shall dispose of aforementioned service appeal as well as Service Appeal No. 1081/2013 titled "Nasir Zaman-Versus-The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others, as the aforesaid service appeals have been filed against the order dated 21.05.2013 whereby the competent authority (District Police Officer) have imposed major penalty upon the appellants and dismissed them from service on the allegations that they alongwith others were deputed for

*Mr Amin  
6.11.2017*

Naka bandi duty with SI Imam Hassan Shaheed, the then SHO PS Haved District Bannu, and proclaimed offender namely Amin Shah started firing upon the then SHO in the area of Skiekh Fareed Baba resultantly he sustained injuries and died, whereas the accused decamped from the scene after occurrence without any hindrance of the appellants and other as they became a silent spectator. Thus they have ceased to become good police officials as well as guilty of misconduct. The appellants also filed departmental appeal which was rejected vide order dated 12.06.2013 hence, the present service appeal.

2. Learned counsel for the appellants argued that the impugned order as well as the order passed by the departmental authority are against the law, rules and norms of justice. It was further contended that neither proper inquiry was conducted nor proper opportunity of personal hearing and defence were provided to the appellants, even show-cause notice was not issued to the appellants before passing the impugned order therefore, the orders passed by the competent authority as well as the departmental authority are illegal and void ab-initio. It was further contended that the occurrence has not taken place in the mode and manner alleged by the respondents. It was further contended that neither the statements of the witnesses were recorded during inquiry in the presence of the appellants nor they were given opportunity of cross examination. It was further contended that five other police officials namely Rizwanullah etc were also dismissed from service on the same allegations but their departmental proceeding were conducted separately. It was further contended that in the present inquiry proceedings the other police officials namely Rizwanualh etc were also charge sheet <sup>m</sup><sub>ed</sub> alongwith the present appellants and after conducting inquiry the competent authority also dismissed the present appellants alongwith five other police officials namely Rizwanullah etc vide order dated 21.05.2013. Although a separate departmental inquiry was also conducted against the five other police officials and they were dismissed from

*M. Amin*  
6.11.2017

service vide order dated 28.02.2014 which have rendered the inquiry proceedings illegal and liable to be set-aside.

3. On the other hand, Mr. Usman Ghani learned District Attorney opposed the contention of learned counsel for the appellants and contended that the appellants were charged sheeted on the allegations that they alongwith five others police officials namely Rizwanullah etc were on duty with SI Imam Hassan Shaheed, the then SHO PS Haved district Bannu, and proclaimed offender namely Amin Shah started firing upon the then SHO in the area of Skiekh Fareed Baba resultantly he sustained injuries and died, whereas the accused decamped from the scene after occurrence without any hindrance of the appellants as they became a silent spectator. Thus they have ceased to become good police officials as well as guilty of misconduct. It was further contended that proper charge sheet was framed, statement of allegations was served upon the appellants and proper inquiry was initiated wherein statement of the appellants alongwith other officials were recorded and after recording evidence the inquiry officer recommended them for major penalty. It was further contended that appellants were also provided opportunity of personal hearing and defence but they have failed to satisfy the high-ups therefore, the competent authority has rightly dismissed them from service.

4. We have heard the arguments on both side and gone through the record.

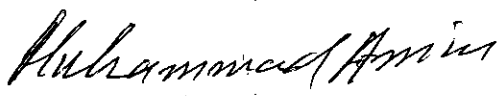
5. Perusal of the record reveals that the appellants were charge sheeted on the allegations that on 13.01.2013 they alongwith five other police officials were deputed for Naka bandi duty with SI Imam Hassan Shaheed, the then SHO PS Haved district Bannu and proclaimed offender namely Amin Shah started firing upon the then SHO in the area of Skiekh Fareed Baba resultantly he sustained injuries and died, whereas the accused decamped from the scene after occurrence without any hindrance of the appellant as they became a silent spectator. Thus they

*M. Usman Ghani*  
6.11.2019

have ceased to become good police officials as well as guilty of misconduct. The record further reveals that the departmental proceedings were initiated against the appellants alongwith five other officials namely Muhammad Rizwanullah etc. The record further reveals that during inquiry, statements of some other officials have been recorded but there is nothing on record to show that the appellants were provided opportunity of cross examination on the said witnesses. Furthermore, after completion of inquiry proceeding the competent authority was ~~not~~<sup>not</sup> bound to provide copy of inquiry proceeding to the appellants with show cause notice but there is nothing on the record to show that before imposing major punishment the copy of inquiry proceeding were handed over to the appellants. Even a show-cause notice was not issued to the appellants before imposing the major punishment which have rendered all the inquiry proceeding illegal and liable to be set-aside. Therefore, we are constrained to accept the present appeals, set-aside the impugned order and reinstate the appellants in service. However, the respondent-department is at liberty to conduct a de-novo inquiry in the mode and manner prescribed by rules against the appellants within a period of three months from the date of receipt of this judgment. In case the de-novo inquiry is conducted the issue of back benefits of intervening period 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  
06.11.2017

  
(GUL ZEB KHAN)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

06.11.2017

Appellant with counsel present. Mr. Usman Ghani, District Attorney alongwith Mr. Asghar Ali, Head Constable for the respondents also present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of four pages placed on file, we are constrained to accept the present appeals, set-aside the impugned order and reinstate the appellant in service. However, the respondent-department is at liberty to conduct a de-novo inquiry in the mode and manner prescribed by rules against the appellant within a period of three months from the date of receipt of this judgment. In case the de-novo inquiry is conducted the issue of back benefits of intervening period 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

06.11.2017

  
(GUL ZEB KHAN)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

17.03.2017

Appellant in person and Addl: AG alongwith Mr. Muhammad Shiraz, H.C and Mr. Asghar Ali, H.C for respondents present. Appellant requested for adjournment. To come up for arguments on 08.06.2017.



(ASHFAQUE TAJ)  
MEMBER



(MUHAMMAD AAMIR NAZIR)  
MEMBER

08.06.2017

Clerk of the counsel for appellant and Mr. Sheraz Khan, HC alongwith Mr. Muhammad Adeel Butt, Additional AG for the ~~for~~ respondents present. Clerk of the counsel for appellant requested for adjournment. Adjourned. To come up for arguments on 03.10.2017 before D.B.



(Gul Zeb Khan)  
Member



(Muhammad Amin Khan Kundi)  
Member

03.10.2017

Appellant in person and Asst: AG alongwith Mr. Muhammad Farooq, Inspector (Legal) for respondents present. Appellant seeks adjournment as his counsel is not in attendance. Adjourned. To come up for arguments on 06.11.2017 before D.B.



(AHMAD HASSAN)  
MEMBER

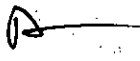


(MUHAMMAD HAMID MUGHAL)  
MEMBER

28.07.2016

Counsel for the appellant and Mr. Yaqoob Khan, Naib Court alongwith Assistant AG for respondents present. Learned counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on 29-8-16 before D.B alongwith connected appeals.

  
Member

  
Member

29.08.2016

Appellant with counsel and Mr. Javed Iqbal, DSP (legal) alongwith Additional AG for respondents present. Due to non-availability of D.B comprising of Mr. Pir Bakhsh Shah, Learned Member (Judicial) and Mr. Abdul Latif, Learned Member (Executive) today the instant appeal be placed before said Bench.

In view of the order dated 15.06.201 office is directed to place the instant service appeal alongwith other identical appeals before the said bench for final hearing for 01.12.2016.

  
Member

  
Chairman

01.12.2016

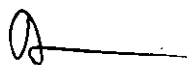
Counsel for the appellant and Mr. Javed Iqbal, Inspector alongwith Mr. Ziaullah, GP for respondents present. The D.B is incomplete due to relinquishment of charge by Judicial Member. To come up for arguments on 17-3-17

  
Member

02.12.2015

Counsel for the appellant and Mr. Javed Iqbal, Inspector (Legal) alongwith Asst: AG for respondents present. During course of arguments copy of enquiry report was not found on record. Representative of the respondent-department is directed to produce the same on next date. To come up for arguments on

11.2.2016



Member



Member

11.02.2016

Counsel for the appellant and Mr. Muhammad Jan, Government Pleader with Javed Iqbal, DSP for the respondents present. Since the Court time is over, therefore, arguments could not be heard. To come up for arguments on

28.4.16



MEMBER

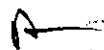


MEMBER

28.04.2016

Agent of counsel for the appellant and Mr. Javed Iqbal, Inspector (legal) alongwith Mr. Muhammad Jan, 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

15.6.16



Member



Member



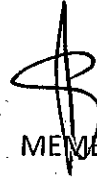
09.04.2015

Appellant with counsel Addl: A.G for respondents present.  
Arguments partly heard.

It transpired that the inquiry officer in his inquiry report referred to criminal proceedings against the appellant, which are not available on the file. Learned Addl: A.G submitted that on the next date record pertaining to the criminal case will be produced in the light of which decision of the case will be facilitated. Hence to come up for said record. To come up for further arguments on 4.8.2015:



MEMBER



MEMBER

4.08.2015

Junior to counsel for the appellant and Addl. AG with Mir Faraz Inspector (Legal) for the respondents present. Counsel for the appellant was stated to be busy in hon'ble Darul Qaza. Therefore, case to come up for requisite record and further arguments on 8-10-2015.



MEMBER



MEMBER

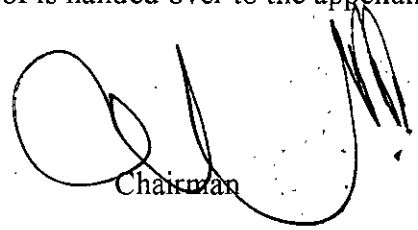
08.10.2015

Counsel for the appellant and Mr. Mir Faraz, Inspector (legal) alongwith Addl: A.G for respondents present. The Bench is incomplete therefore, case is adjourned to 2-12-15 for arguments.

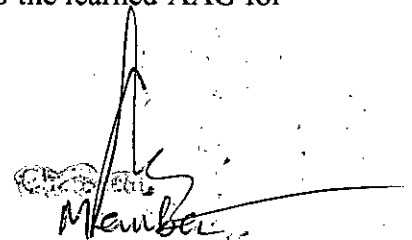


MEMBER

30.01.2014 Appellant in person and Mr. Mir Faraz Khan, Inspector (legal) for respondents with Mr. Usman Ghani, Sr. GP present. Written reply received on behalf of the respondents, copy whereof is handed over to the appellant for rejoinder on 30.4.2014.

  
Chairman

29.4.2014 Appellant with counsel and Mr. Mir Faraz, Inspector Legal for respondents with AAG present. Rejoinder received on behalf of the appellant, copy whereof is handed over to the learned AAG for arguments on 29.9.2014.

  
Member

29.09.2014 Appellant with counsel and Mr. Mir Faraz, Inspector (Legal) on behalf of respondents with Mr. Muhammad Adeel Butt, AAG present. Arguments could not be heard due to incomplete Bench. To come up for arguments on 10.03.2015.

  
Member

10.3.2015 Counsel for the appellant and Mr. Ziaullah, GP with Mir Faraz, Inspector (Legal) for the respondents present. It came to know that in cases of similar nature in Service Appeal No. 675/2014, Shaista Khan etc, have been heard and fixed for order on 09.4.2015. Therefore, this case is also adjourned to 09.4.2015 for arguments.

  
MEMBER

  
MEMBER

Appeal No. 1080/2013.  
Mr. Muhammad Shafiq.

3  
3.10.13

Counsel for the appellant present and heard on preliminary. Contended that the appellant has not been treated in accordance with the law. He further contended that proceedings against the appellant initiated under wrong law. Hence the impugned order is illegal. Points raised need consideration. The appeal is admitted to regular hearing, subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply on 19.12.2013.

Appellant deposited  
P.P. Process fee & Security  
Rs. 180/- Bank Receipt  
attached with file

MEMBER

4  
3.10.13

This appeal is entrusted to Final Bench I

for further proceedings.

CHAIRMAN

19.12.13



The Hon'ble Bench 3 on Petition  
Dispute, case is referred to 30-1-14

Sy  
Reed

Form- A  
FORM OF ORDER SHEET

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

Case No. 1080/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	11/07/2013	<p>The appeal of Mr. Muhammad Shuaib presented today by Mr. Mr. Muhammad Asif Yousafzai Advocate, may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	16-7-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>3-10-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.**

APPEAL NO. 1080 /2013.

Mohammad Shuaib. VS Police Deptt:


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APPELLANT

MOHAMMAD SHOAB

THROUGH:

  
M.ASIF YOUSAFZAI

ADVOCATE.

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.**

APPEAL NO. 1880 /2013.

Mohammad Shuaib Ex-Constable NO.331

P.SHaved, Bannu.....Appellant.

11/7/13

VERSUS

- 1- The provincial Police Officer KPK Peshawar.
- 2- The Regional Police Officer, Bannu Range Bannu.
- 3- The Distt: Police Officer Bannu.

.....Respondents.

**APPEAL UNDER SECTION 4 OF THE  
KPK SERVICE TRIBUNALS ACT 1974  
AGAINST THE ORDER DATED.  
21.5.2013 WHEREBY THE APPELLANT  
WAS DISMISSED FROM SERVICE AND  
AGAINST THE FINAL REJECTION  
ORDER DATED. 12.6.2013 WHEREBY  
THE DEPARTMENTAL APPEAL OF THE  
APPELLANT WAS REJECTED.**

11/7/13

**PRAYER:**

*That on acceptance of this appeal the order dated. 12.6.2013 and 21.5.2013 may be set-aside and the appellant may be re-instated with all back benefits. Any other remedy which is not specifically prayed for that may also be awarded in favour of appellant.*

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.**

APPEAL NO. 1080 /2013.

Mohammad Shuaib Ex-Constable NO.331

P.SHaved, Bannu.....Appellant.

**P.W.F. Province**  
**1128**  
**11/7/13**

VERSUS

- 1- The provincial Police Officer KPK Peshawar.
- 2- The Regional Police Officer, Bannu Range Bannu.
- 3- The Distt: Police Officer Bannu.

.....Respondents.

**APPEAL UNDER SECTION 4 OF THE  
KPK SERVICE TRIBUNALS ACT 1974  
AGAINST THE ORDER DATED,  
21.5.2013 WHEREBY THE APPELLANT  
WAS DISMISSED FROM SERVICE AND  
AGAINST THE FINAL REJECTION  
ORDER DATED, 12.6.2013 WHEREBY  
THE DEPARTMENTAL APPEAL OF THE  
APPELLANT WAS REJECTED.**

**[Signature]**  
11/7/13

**PRAYER:**

*That on acceptance of this appeal the order dated. 12.6.2013 and 21.5.2013 may be set-aside and the appellant may be re-instated with all back benefits. Any other remedy which is not specifically prayed for that may also be awarded in favour of appellant.*

**R.SHEWETH.**

- 1) That the appellant joined the police force in the year 2004 and completed various courses successfully and also has good service record. The appellant as per court judgments and definition was a civil servant of the Province of KPK.
- 2) That the appellant was charge sheeted under Police Rules 1975 for not properly performing his duty while on *gasht* with the then SHO Imam Hassan Shaheed on 13.1.2013. The P.IBannu was also nominated as inquiry officer in the statement of allegations. Copies of the charge sheet and statement of allegations are attached as Annexure – A & B.
- 3) That the appellant filed reply to the charge sheet and denied all the allegations with proofs. Copy of the reply to charge sheet is attached as Annexure – C.
- 4) That then the inquiry was conducted and statements of all the accused constable were recorded but the statements of other officials were not recorded in presence of appellant nor they were put to cross examination. However the inquiry officer held the appellant guilty and recommended for major punishment. Copy of the inquiry report is attached as Annexure – D.
- 5) That thenafter the inquiry on 21.5.2013 the appellant was dismissed from service. The appellant filed departmental appeal against the penalty order but the same was also rejected by the appellate authority on 12.6.2013. Copies of order, appeal and rejection order are attached as Annexure – E, F&G.
- 6) That now the appellant comes to this august Tribunal on the following grounds amongst the others.



**GROUNDS:**

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- A) That the order dated.12.6.2013 and 21.5.2013 are against the law, rules ,norms of justice and material on record. Therefore not tenable.
- B) That no final show cause notice was issued to appellant which is the violation of law and as such the whole action of the respondents became liable to be set-aside.
- C) That no chance of personal hearing was provided to appellant and as such the appellant was condemned unheard which is the violation of principles of Audi AltramPartem.
- D) That none of the other official's statement was recorded in presence of appellant nor were they put to cross examination, which is also the violation of law and rules.
- E) That the appellant never shown any cowardice and fought for long time nor left the premises. That was also reported by the other officials in their diaries. That aspect was not considered by the inquiry officer.
- F) That the appellant was a civil servant of the province and he was to be dealt according to E&D Rules 2011, but in the instant case the appellant was dealt under Police Rules 1975 which is gross illegality.
- G) That the appellant was punished for no fault on his part and the given penalty is also very harsh.
- H) That the appellant has not been treated according to law and rules.
- I) That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.

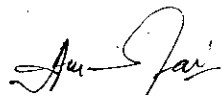
APPELLANT



MOHAMMADSHOAIB

4

THROUGH:



M.ASIF YOUSAFZAI  
ADVOCATE.

5 A

CHARGE SHEET.

WHEREAS I am satisfied that a formal enquiry as contemplated in the NWFP, Police Rules, 1975 is necessary and expedient.

AND WHEREAS, I am of the view that the allegations if established would call for a major penalty as defined in Rules 4(b) of the aforesaid Rule.

NOW, THEREFORE, as required in 6-1 (a) of the aforesaid Rule I, ABDUL GHAFUOR KHAN AFRIDI District Police Officer, Bannu, as competent authority, hereby charge them: FC Umer Jan 2342/EF, FC Rizwan Ullah 2345/EF, FC Imtiaz 1625/EF, FC Nasib Ullah 4072/EF, FC Fawad 379/EF of Platoon No.55 and FC Nasir Zaman 1469, FC Shoaib 331 DFC for the allegations, attached with this charge sheet.

AND I direct you further under rules 6-1 (b) of the aforesaid Rules to put in written defense within 7 days of the Receipt of this Charge sheet as to whether major OR Minor punishment as defined in Rules 4-1(a)-(b) should not be awarded to you. Also state at the same time whether you desire to be heard in person.

In case, your reply is not received within the prescribed period without sufficient reason, it would be presumed that you have nothing to say in your defence and the undersigned would be at liberty to take ex-parte action straight away against you.

District Police Officer,

Bannu.

11/04/2013

*[Handwritten signature and notes in Urdu]*

*[Handwritten signature and date: 11-4-2013]*

ATTESTED

*[Handwritten signature/initials]*

6 B SRC 42

SUMMARY OF ALLEGATIONS.

they FC Umer Jan 2342/EF, FC Rizwan Ullah 2345/EF, FC Imtiaz 1625/EF, FC Nasib Ullah 4072/EF, FC Fawad 379/EF of Platoon No. 55 and FC Nasir Zaman 1469, FC Shoaib 331 DFC while posted to PS Haved, Bannu was found to indulge in misconduct under the following allegations:

• That after conducting preliminary Enquiry by DSP/HQrs and SDPO Rural they while posted to PS Haved were found negligence and cowardice

• That on 13-01-2013, they were deputed for Naka bandi duty with SI Imam Hassan Shaheed the then SHO PS Haved, 01 accused namely Amin Shah started firing upon SI Imam Hassan Shaheed in the premises of Sheikh Farid Baba. Resultantly, he was sustained injured and after then he got embraced martyrdom.

• The accused decamped from the scene after the commission of offence without any hindrance while they have become a silent spectator. Thus they have ceased to become good police officials as well as guilty of misconduct.

• That they have ceased to become good police officials by committing the above commission/omissions.

DSP/ P. Legal of Bannu District is appointed to hold departmental proceedings and submit his findings to the undersigned after observing legal formalities.

District Police Officer,

Bannu

11/04/2013

**ATTESTED**

*A*

جنوب مشرق میں ہے، چاروں طرف سے زمین کی طرف سے ہوا لگتی ہے۔

مشورہ کہ آیات وقوع ہزار میں تمام ہوں یعنی ہوا کی طرف سے ہوا لگتی ہے۔

علاوہ نفی کی نفی تھی نہ ہوا ہر طرف سے لگتی ہے، انکار ہوا ہر طرف سے لگتی ہے۔

مشورہ 2 یہ کہ عرض حال جنوری سال 1917ء میں ہوا کی طرف سے ہوا لگتی ہے۔

یہ نشان دہا کرتی ہے، ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

یہ ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

صاحب امام حسن خان صاحب نے ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

تجربہ مد مشورہ درج روزنامہ صبح پانچ بجے ہوا کی طرف سے ہوا لگتی ہے۔

مشورہ 3 بدوران گفت جب نبرد مشرقیہ ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

نزدیکی مکان کے جانب ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

ناہر ترخان کے ہوتے ہیں ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

میں درخت ہوتے ہیں، ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

شخص کو ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

یہ اس مشورہ کے سرور اور ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

ہس مشورہ صاحب تک کر درخت ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

کرنے کیلئے اس مشورہ کے کوئی ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

کے سرور اور ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

مشورہ 4 مشورہ بیس منٹ ایک فائبر مشورہ کے سرور اور ہوا کی طرف سے ہوا لگتی ہے۔

یہ روک تھام کے حامل یعنی مشورہ کے سرور اور ہوا کی طرف سے ہوا لگتی ہے۔

فائبر مشورہ صاحب کے تقسیم میں آج کل ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

فعلیہ کیلئے فائبر مشورہ کے سرور اور ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

مشورہ 5 اس دوران آتیا ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

آمین شہادہ کو کہا، تم باسرف ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

میرزا پھر کہتے ہیں، ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

مشورہ 6 مشورہ دیر کے بعد ہم نے نیگل ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

اس کے سرور اور ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

اچھا اور دیر کے ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

قریب آئے اور ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

میرزا میں شہادہ کو کہتے ہیں، ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

وہی تھا، جس پر ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

مشورہ 7 مشورہ میں وہی ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

میرزا مشورہ کے ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

میرزا مشورہ کے ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

مشورہ 8 مشورہ میں دوران میں کوئی ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

یہ ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

مشورہ 9 مشورہ میں دوران میں کوئی ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

یہ ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

مشورہ 10 مشورہ میں دوران میں کوئی ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

یہ ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے، ہوا کی طرف سے ہوا لگتی ہے۔

۱۱ صاب جو گھر کے باہر لگی سیڑھی سے گرنے سے بچنے کے لیے اسے پکڑ لیا۔ اور وہ جیسے پلیر بن گیا۔ وہ اس وقت تک زمین پر نہیں گرا۔ وہ اس وقت تک زمین پر نہیں گرا۔ وہ اس وقت تک زمین پر نہیں گرا۔

۱۲ صاب کے پاس ایسا ہی تھا۔ فائبر سے بنے ہوئے ایک بوتل سے اسے پکڑ لیا۔ وہ اس وقت تک زمین پر نہیں گرا۔ وہ اس وقت تک زمین پر نہیں گرا۔ وہ اس وقت تک زمین پر نہیں گرا۔

۱۳ آٹھ گھنٹے کے بعد پورے ٹیبلو کے لوگوں نے اسے پکڑ لیا۔ وہ اس وقت تک زمین پر نہیں گرا۔ وہ اس وقت تک زمین پر نہیں گرا۔ وہ اس وقت تک زمین پر نہیں گرا۔

۱۴ یہ کہ میں نے وہی ڈوٹی انتہائی اہمیت رکھتی ہے۔ اس لیے اسے پکڑ لیا۔ وہ اس وقت تک زمین پر نہیں گرا۔ وہ اس وقت تک زمین پر نہیں گرا۔ وہ اس وقت تک زمین پر نہیں گرا۔

۱۵ صدر عاصیہ چارج شیٹ بلا وزیر کاہر روٹی داخل دیکھ کر اسے پکڑ لیا۔ وہ اس وقت تک زمین پر نہیں گرا۔ وہ اس وقت تک زمین پر نہیں گرا۔ وہ اس وقت تک زمین پر نہیں گرا۔

نوٹ: دیگر نظریات جو وہی ان کے واسطے کی تھیں اس سے بچنے کے لیے اسے پکڑ لیا۔ وہ اس وقت تک زمین پر نہیں گرا۔ وہ اس وقت تک زمین پر نہیں گرا۔ وہ اس وقت تک زمین پر نہیں گرا۔

شیر شعیب مشیر  
رہائے پورے ملک کے لوگوں کے لیے

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## INQUIRY FINDINGS REPORT

This findings report is the result of departmental probe against police officials namely:-

FC Umer Jan No.2342/EF, FC Rizwan Ullah No.2345/EF, FC Imtiaz No.1625/EF, FC Nasib Ullah No.4072/EF, FC Fawad No.379/EF of Platoon No.55, FC Nasir Zaman No.1469 and FC Shoaib No.331 DFC while posted to PS Haved were found to indulge in misconduct under the following allegations:

- That after conducting preliminary inquiry by DSP/HQrs and SDPO, Rural-I they while posted to PS Haved were found negligence and cowardice.
- That on 13.01.2013, they were deputed for Naka Bandi duty with SI Imam Hassan Shaheed the then SHO PS Haved, 01 accused namely Amin Shah started firing upon SI Imam Hassan Shaheed in the premises of Sheikh Farid Baba. Resultantly, he was sustained injured and after then he got embraced martyrdom.
- The accused decamped from the scene after the commission of offence without any hindrance while they have, became a silent spectators. Thus they have ceased to become good police officials as well as guilty of misconduct.
- That they have ceased to become good police officials by committing the above commission/ omissions.

Charge sheets with summary of allegations to all the aforesaid officials were issued on 11.04.2013 by worthy DPO Bannu and the undersigned was appointed as inquiry officer to hold department proceedings against the accused officials.

Prior to the issuance of above, preliminary inquiry through DSP/HQ and SDPO Rural-I was conducted and the above mentioned officials were held responsible for cowardice and negligence during the encounter with the militant/ PO Amin Shah.

On receipt of the papers from the dealing hands SRC, all the accused officials were summoned and copy of charge sheet with summary of allegations were supplied to them for reply and explanation. Their replies to charges received, placed on file and reproduced below.

### 1) REPLY OF CONSTABLE UMER JAN NO.2342/EF.

He explained that he had accompanied the SHO Imam Hassan Shaheed for patrolling in area Sheikh Farid. SHO stopped the mobile in front of one house and asked him, Fawad and Rizwan to stand alert with the mobile vehicle while he along with other strength entered the house. After some while, firing and two blasts were made in side the house. Imtiaz constable came out hurriedly and told about the injury of SHO. Shoaib DFC present inside the house called him (Umerjan) to enter the house for shifting injured Imam Hassan outside the house. He went inside the house and firing was made at him but escaped unhurt. He has not witnessed any accused nor identified. He blamed the SHO for getting some illegal gratification from the accused and scribed/ prepared wrong report for his martyrdom.

### 2) REPLY OF CONSTABLE FAWAD:-

He stated that in fact SHO Imam Hassan had gone to the house of PO Amin Shah for getting illegal monthly gratification and due to non paying the same wrong FIR was made. He with Rizwan and Umer Jan were standing alert with the mobile vehicle while SHO with other police entered the house. After some while firing was heard. SHO Imam Hassan in injured condition was brought and thereafter shifted to hospital. Due to spread of evening darkness, the accused decamped from the spot.

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3) REPLY OF CONSTABLE RIZWAN NO.2345/EF.

He explained that mobile vehicle stopped in front of one house. He constables Fawad and Umerjan were asked by SHO Imam to stand alert with vehicle while SHO with other police entered the house. Firing was heard. SHO Imam in injured condition was brought and shifted to hospital. At the spreading of evening darkness, police nafri reached and searched the house but no accused was found. He blamed the SHO for getting illegal gratification from the PO/Amin Shah and prepared wrong statement/ report for his getting package of martyred. He used derogatory words for the SHO Imam Hassan.

4) REPLY OF CONSTABLE NASIB ULLAH NO.4072/EF

He stated that he with SHO Imam, Imtiaz, Nasir, and Shoaib DFC entered the house. Meanwhile burst fire was made from the room, SHO Imam Hassan was hit and injured. Two bombs were blasted. Due to smoke, nothing was visible. After sufficient time, injured SHO was shifted to hospital and passed away. He blamed that the FIR of SHO Imam was wrong and his intention was not to arrest the PO but to receive/ get illegal gratification from the PO Amin Shah.

5) REPLY OF CONSTABLE NASIR ZAMAN NO.1469/FC:

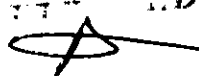
He stated that he with SHO Imam, Imtiaz, Nasir, and Shoaib DFC entered the house. Meanwhile burst fire was made from the room, SHO Imam Hassan was hit and injured. Two bombs were blasted. Due to smoke, nothing was visible. After sufficient time, injured SHO was shifted to hospital and passed away. He blamed that the FIR of SHO Imam was wrong and his intention was not to arrest the PO but to receive/ get illegal gratification from the PO Amin Shah.

6) REPLY OF CONSTABLE IMTIAZ ALI NO.1625/EF

He stated that on the day of occurrence, he along with other constables accompanied the late Imam Hassan ex-SHO PS Haved to the house of accused Amin Shah. As they entered into the house, firing was made from the room. Resultantly SHO was hit and fell on the ground. Two blasts were also made. Due to heavy smoke, nothing was visible. At the evening darkness time police nafri came and the injured SHO was shifted to the hospital where he passed away. He blamed SHO and DFC Shoaib for the alleged incident. He was unaware about the area and did not know for what purpose the SHO had gone to the house of accused. However, it was rumored that the SHO had gone to the house for the purpose of getting illegal monthly gratification from the accused. He claimed himself to be innocent in the incident.

7) REPLY OF FC MUHAMMAD SHOAIB NO.331 DFC PS HAVED.

He stated that he along with late Imam Hassan SHO PS Haved and other police party were on patrol duty in area of Sheikh Farid Baba. When they reached to the place of Sheikh Farid Baba, SHO deboarded from the official vehicle and set out on foot to the nearby house. Constable Naseeb Ullah, Imtiaz, Nasir Zaman and he accompanied the SHO. They entered into the house. In the courtyard one person was searched and they were entering into a room, abrupt firing was made from the room. Resultantly SHO was hit and fell on the ground. He and other constables took the position near the corner as well as on the roof of the room. They made firing with the accused for about 15 minutes. After sufficient time, constable Umer Jan was directed to shift the injured SHO to the official vehicle. During this process, Amin Shah threw hand grenades which was blasted. He along with other constables retaliated the accused for sufficient time. At about 8:45 hrs, police nafri with army reached to the spot and started firing. Due to night darkness, the accused had decamped from the spot. He explained that he has performed his duty honestly and actively.

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EVIDENCE:

(1) STATEMENT OF MURAD ALI INSPECTOR INVESTIGATION OFFICER PS HAVED::

He has conducted investigation of case FIR No.09 dated 13.01.2013 u/s 302,324,34 PPC/.7ATA PS Haved. He prepared site plan on the pointation of eye witnesses and recorded statement of eye witnesses namely constable Nasir Zaman, Shoaib DFC, Naseeb Ullah, Imtiaz, Umer Jan, Rizwan Ullah, Fawad Khan, Hayat Ullah and driver Hamid Khan under 161 CrPC. As per the statement of witnesses the occurrence has taken place in the street outside the house. He has also collected blood stained earth from the place of deceased Imam Hassan, empty shells from the places of accused and police constable who had fired in self defense. 5 spent bullets from the wall of once Sabir Shah and taken into possession. He also recovered one liver of hand grenades from the gate of accused Amin Shah. After completion of investigation, he submitted complete challan against the accused for 512 CrPC proceedings.

(2) STATEMENT OF UMER KHETAB ADDL: SHO PS HAVED:

He stated that on receipt of information regarding the incident, he along with police party went to the spot in a private vehicle and sieged the place of occurrence. Meanwhile DSP Rural Musanif Shah with police party also reached to the spot. Injured Imam Hassan SHO was found in the street near the house of accused Amin Shah and shifted to the hospital. He along with nafri of SHO Imam Hassan started search of the accused in the surrounding area but due to darkness, they had decamped from the spot.

(3) STATEMENT OF FAYAZ ALI SHAH IHC EMERGENCY STAFF DISTRICT HEAD QURTER HOSPITAL BANNU.

He stated that late Imam Hassan ex-SHO PS Haved in injured condition was brought to the emergency and was able to speak. The report of Imam Hassan was recorded in shape of murasla which was read and signed by him. Imam stated in his report that during patrolling when he reached to the thoroughfare of village Sheikh Farid where accused Amin Shah along with unknown accused duly armed with Kalashnikov made firing at police party and also threw hand grenades. Resultantly he was hit and got injured. Imam Hassan had received different fire arms injuries on his body and due to said injuries, he passed away in Peshawar hospital. In a cross examination, he (Fayaz Ali Shah) refused the suggestions of accused officials that he has not written the murasla report nor signed the same from Imam Hassan.

4) STATEMENT OF MUHAMMAD IBRAHIM IHC EX-MUHARRER PS HAVED.

He explained that the book of Roznamcha was in his possession and all the entries of departure and arrival of officials were used to made by himself or through Addl: Muharrer. Daily diary report No.12 dated 13.01.2013 PS Haved wherein SHO Imam Hassan along with constable Nasir Zaman, Haya Ullah, Shoaib DFC, Rizwan, Umer jan, Imtiaz, Naseeb Ullah, Fawad and driver Hamid in official vehicle had departed for patrolling and naka bandi in the area. All the officials were equipped with official rifles, bullet proof jackets and helmets.

He received information through wireless that firing had taken place between terrorist Taliban and police in the area Sheikh Farid Baba. Addl; SHO Umer Khetab along with police party departed to the spot while information were conveyed to high ups. Daily dairy report No.19 dated 14.01.2013 with nafri of SHO has returned to PS Haved. Attested copies of all the DD reports were produced and placed on file. In a question, he explained that police party had fired 1023 rounds of 7.62 Bore in an encounter with the terrorists but no single empty shell produced to him.

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(5) STATEMENTS OF ACCUSED CONSTABLES:

All the accused constables relied on their written reply already submitted and they did not wish to produce any defense witness in support of their plea.

CONCLUSION:

Careful study of statements of witnesses/ accused officials, replies of accused officials and record of case FIR No.9 dated 13.01.2013 u/s 302,324,34 PPC/7ATA PS Haved reveals that late Imam Hassan SHO Haved along with police party / constables namely FC Umer Jan No.2342/EF, FC Rizwan Ullah No.2345/EF, FC Imtiaz No.1625/EF, FC Nasib Ullah No.4072/EF, FC Fawad No.379/EF of Platoon No.55, FC Nasir Zaman No.1469, FC Shoab No.331 DFC and driver Hamid in official vehicle were on patrol duty in the area when they reached to the thoroughfare village Sheikh Farid Baba where accused Amin Shah with unknown accused duly armed with Kalashnikovs and hand grenades made firing and threw hand grenades over them resultantly, Imam Hassan was hit, fell on the ground and remained there for sufficient time. On the arrival of police nafri from the station, he was taken and shifted to hospital where his report as dying declaration was recorded by Fayaz Ali Shah IHC Emergency Staff Civil Hospital Bannu. The accused officials have stated in their statements recorded by the Investigating Officer under 161 CrPC that the occurrence has taken place in the street supporting the version of complainant late Imam Hassan but their replies to the charge sheets were contradictory to the above statements and they had stated that the occurrence has taken place inside the house of PO Amin Shah and they (except DFC Shoab) blamed Imam Hassan for getting monthly illegal gratification from the accused and lodging wrong report with the intention to get package from the Government. The Investigating Officer has explained categorically that the occurrence has taken place in the street from where he has collected blood stained earth, empty shells of 7.62 Bore and liver of hand grenade etc.

In view of the dying declaration statement of Imam Hassan Shaheed coupled with statement of Investigating Officer, Murad Ali Inspector, Fayaz Ali Shah IHC and report of preliminary inquiry, the self defense plea of the accused officials is incorrect, frivolous and based on mala fide in order to conceal their cowardice and negligence while facing the militant accused who martyred the Imam Hassan Ex-SHO PS Haved in their presence. During the incident neither the accused officials have received any fire arms/ bomb blasts injury nor injured/ killed the accused Amin Shah or his colleague which clearly speaks their cowardice, inefficiency and negligence. The charges leveled against the accused officials are established and they are found guilty.

Submitted for orders pl.  
Both the constables F.C Shoab 331  
and F.C Naseer Zaman are  
herby dismissed from service  
and the while the remaining  
Elite Force constables, the Commandant Elite Force is  
with the report that the each page is signed by me  
be amended Major Mansoor  
Dismissed from service.

Mir Faraz Khan  
Inspector  
Inquiry Officer

07-05-2013

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ORDER:

My this order will dispose of departmental proceedings initiated under police rules 1975 against FC Umer Jan 2342/EF, FC Rizwan Ullah 2345/EF, FC Imtiaz 1625/EF, FC Nasib Ullah 4072/EF, FC Fawad 379/EF of Platoon No.55 and FC Nasir Zaman 1469, FC Shoaib 331/118 BBI DFC PS; Haved on the following allegations.

- That after conducting preliminary Enquiry by DSP/HQrs and SDPO, Rural-I they while posted to PS Haved have been found negligence and cowardice.
- That on 13-01-2013, they have been deputed for Naka bandi duty with SI Imam Hassan Shaheed the then SHO PS Haved, 01 accused namely Amin Shah started firing upon SI Imam Hassan Shaheed in the premises of Sheikh Farid Baba. Resultantly, he was sustained injured and after then he got embraced martyrdom.
- The accused decamped from the scene after the commission of offence without any hindrance while they have been, become a silent spectator. Thus they have ceased to become good police officials as well as guilty of misconduct.

Proper charge sheet based upon summary of allegations were issued and the enquiry papers were entrusted to Mr Mir Faraz Khan PI Legal, DPO, Office, Bannu for enquiry and report, who (Enquiry Officer) conducting proper departmental enquiry, the Enquiry Officer submitted his findings wherein he recommended that the allegations leveled against the accused officials are stand established and they are found guilty.

Keeping in view the recommendation of Enquiry officer, I, ABDUL GHAFUOR KHAN AFRIDI, District police officer, Bannu, being a competent authority, in exercise of the power vested in me under police rules 1975, hereby award them Major Punishment of Dismissal from Service to Constable Muhammad Shoaib No. 331/118 BBI and Constable Nasir Zaman No. 1469 /5868 with immediate effect.

OB No. 575  
Dated 21-05-2013

District Police Officer,  
Bannu.

No. 6356-64 /SRC dated Bannu, the 21-5 /2013.

Copy of above is submitted to :

1. The Provincial Police Office: Khyber Pakhtunkhwa, Peshawar with the request that Commandant Elite Force be directed to award them Major punishment of Dismissal to the accused officials of Elite Force please.
2. The Commandant Elite Force Khyber Pakhtunkhwa, Peshawar along with Preliminary Enquiry file /complete departmental enquiry file i.e ( pages) with the request that the above mentioned Elite Force Constables be awarded Major punishment of Dismissal from Service under intimation to all concerned please.
3. The Regional Police Officer, Bannu Region, Bannu for favour of information please.
4. SI Investigation, Bannu for favour of information and necessary action please.
5. SP/FRP, Bannu Region, Bannu with the direction and necessary action that the pay of the said constable Nasir Zaman No. 1469 /5868 has been drawn from FRP Establishment.
6. Pay Officer, SRC and OASI R.I Police Line for necessary action and completion of record.

District Police Officer,  
Bannu.

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**BEFORE THE WORTHY REGIONAL POLICE OFFICER BANNU  
REGION, BANNU**

**Subject:-** Departmental appeal / Representation against the dismissal order OB No.575 dt: 21-05-2013 passed by the District Police Officer Bannu wherein the appellant was dismissed from Service without any legal / valid grounds / justifications.

**Respectfully Sheweth**

1. That the appellant was enlisted as Constable in Police Deptt: on 02-01-2004, passed Elite Course in year 2008 and qualified Drill Courses in year 2009, subsequently he passed basic lower School Course in year 2011.
2. That he served in various Police Station actively and on account of best performance Worthy-Inspector General Police KPK Peshawar awarded good performance Certificate and Cash award Rs.500 /- and SP FRP awarded Commendation Certificate in year 2008. Photo copies are enclosed as annexure "A&B"
3. That he was posted in Distt: Lakki Marwat and arrested a Proclaimed Officer after in encounter and sustained injury. Photo Copy of FIR enclosed as Annexure "C".
4. That the allegation leveled against the appellant in charge Sheet are based on Surmises , conjectures and wrong. Infact he alongwith other Constables accompanied the Late SHO P.S Haved Imam Hassan for patrolling in the area Sheikh Farid Baba , when police party reached to the thoroughfare , suddenly Proclaimed offender Amin Shah (Terrorist ) and his colleagues attacked at Police Party by throwing a hand garnade which was blasted and started firing resultantly Imam Hassan (Shaheed) S.H.O was hit and injured who was then shifted to District head Quarter Hospital Bannu. Where he made the report in which he clearly mentioned timely action

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by firing of Police Party at the P.O & his companions for long time. But due to darkness of evening the miscreants made good their escape from the spot.

5. That due to our timely retaliation no further heavy loss was caused to Police except the first sudden attack of militants in which SHO Imam Hassan was injured, shifted to District Head Quarter hospital for treatment and then shifted to Peshawar for better treatment but he could not survive.

6. That the appellant has not committed any negligence nor shown Cowardice but timely and actively by making firing at the militants as evident from the daily diary report and intelligence special reports. Photo Copies are enclosed as relation annexure D,E & F

**Prayer:-**

Keeping in view the above stated facts and circumstances it is humbly prayed the impugned order 21-05-2012 of District Police Officer Bannu may kindly be set aside and the appellant being trained / Senior Officer may please be Re-instated into service with all back benefits.

I will pray for your long life and prosperity.

Dated:- 4 -06-2013

Your Obediently

Mohammad Shoib S/O Haji Akber Zaman

R/O House No. 104 / E Muhallah Munshian Bannu City

Ex Constabulary No.331 / 118 BBI District Police Bannu

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ORDER

My this order will dispose off the appeal in respect of Ex: LHC Mohammad Shoib No. 331 of Bannu District Police against the order of Major punishment of dismissal from service, passed by DPO/Bannu vide OB: NO. 575 dated 21.5.2013 for committing of the following omissions:-

- That on 13.1.2013, he along with other Police officials were deputed for Naka bandi duty with SI Imam Hassan shaheed, the then SHO PS: Haved, one accused namely Amin Shah started firing upon SI Imam Hassan shaheed in the premises of Sheikh Farid Baba. Resultantly, he was sustained injuries and after then he got embraced martyrdom. The accused decamped from the scene after the commission of offence without any hindrance, while they including appellant became silent spectators. Thus they including appellant ceased to become good police officials as well as guilty of misconduct.

The appellant was properly proceeded against departmentally. Mr. Mir Faraz Khan Inspector Legal DPO-Office, Bannu was appointed as enquiry officer, who conducted proper departmental proceedings and submitted his findings, wherein, the delinquent Police official was found guilty. After proper departmental proceedings, the delinquent Police official was awarded the aforementioned punishment (dismissal from service) by DPO/Bannu vide OB: No. 575 dated 21.5.2013.

The appellant appeared in orderly room on 11.6.2013 and personally heard. After personal interview, the undersigned can not be persuaded by the appellant about his innocence. Therefore, I Azad Khan Regional Police Officer, Bannu Region, Bannu in exercise of the powers vested in me under Police Rules, 1975 can not interfere in the order passed by DPO/Bannu vide OB: No. 575 dated 21.5.2013, being one, in consonance with law and hereby file the subject appeal of Ex: LHC Mohammad Shoib o. 331.

Order announced.

(Azad Khan), TST, PSP  
Regional Police Officer,  
Bannu Region, Bannu.

No. 1372 /EC, dated Bannu the 12 / 06 / 2013.

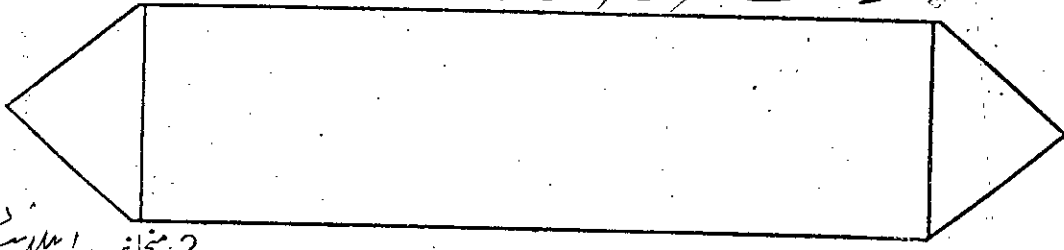
Copy to the District Police Officer, Bannu for information w/r to his office Memo: No. 7097 dated 10.6.2013.. His S: Roll along with departmental proceedings file received with the above quoted reference are sent herewith for record.

ATTESTED  
A

(Azad Khan), TST, PSP  
Regional Police Officer,  
Bannu Region, Bannu

12/6/13

## بعد الت رس ل قبول ل شمار



2 منجانب اس ل شمار

بنام  
حکمہ لکھنؤ

محمد سب

مورخہ  
مقدمہ  
دعویٰ  
جرم

### باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
آن مقام لکھنؤ کیلئے محمد آصف یوسف زئی ایڈووکیٹ

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 تقرراتالہ فیصلہ برحلقہ دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ عرضی 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 منسوخ

نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار 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

پرواختہ منظور 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۔

المرقوم \_\_\_\_\_ ماہ \_\_\_\_\_ 20

\_\_\_\_\_ گ \_\_\_\_\_ واہ الع

کے لئے منظور ہے۔

بمقام

Accepted by

M. Asif Yousafzai

M. Asif Yousafzai  
Advocate High Court Peshawar.  
Room No FR-8, Fourth Floor  
Salour Plaza Peshawar Saddar  
Cell: 9333-9103240

محمد سب

محمد سب

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No.1080/2013

Muhammad Shoaib Ex-Constable No.331,  
Police Station Haved Bannu

(Appellant)

**Versus**

- 1) The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar
- 2) The Regional Police Officer, Bannu Region, Bannu
- 3) The District Police Officer, Bannu (Respondents)

**PARAWISE REPLY BY THE RESPONDENTS**

**Respectfully Sheweth:**

**PRELIMINARY OBJECTIONS:**

- 1) That the appellant has approached the Honourable Tribunal with unclean hands
- 2) That the appellant is estopped to file the appeal due to his own conduct.
- 3) That the appeal is bad due to mis-joinder and non-joinder of necessary parties.
- 4) That the appellant has concealed the actual facts from the Honourable Tribunal.
- 5) That the appeal of appellant is not maintainable.
- 6) That the instant appeal is barred by law.

**OBJECTIONS ON FACTS:**

- 1) Pertains to record, hence no comments.
- 2) Correct. Pertains to record.
- 3) Correct to the extent that the appellant has simply denied the allegations and no proof was produced therefore, his reply was found unsatisfactory.
- 4) Incorrect. Statements of material witnesses were recorded in presence of appellant and his other colleagues and they were provided opportunity of cross examination. The allegations of cowardice, negligence etc against the appellant were established during the departmental probe.
- 5) Pertain to record, hence no comments.
- 6) The appellant cannot challenge the valid and legal orders of the respondents through unsound reasons.

**OBJECTIONS ON GROUNDS:**

- A) Incorrect. The orders of the respondents are based on facts, justice and in accordance with law and rules.
- B) Incorrect. All the codel formalities were fulfilled by the respondents. After finalization of inquiry, the appellant being lower subordinate was heard in person and thereafter order was passed by the respondents.
- C) Incorrect. The appellant was heard in person by the respondents while announcing the order/ rejection of departmental appeal.
- D) Incorrect. All the material witnesses were examined in presence of appellant and he was provided opportunity of cross examination.




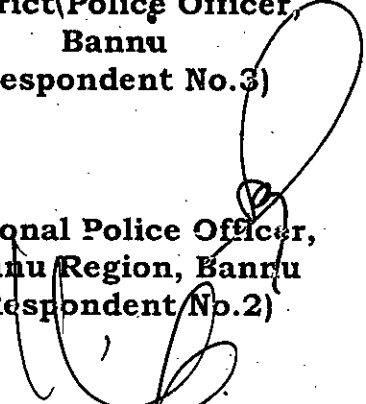
Signature of appellant was taken/ available on all the statements of witnesses.

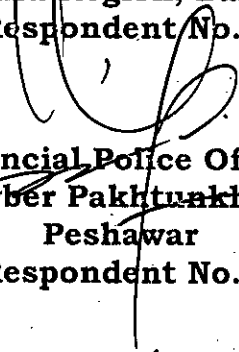
- E) Incorrect. The appellant and his colleagues badly failed to over power or kill the proclaimed offender during the incident despite the facts that their commander late Imam Hassan was got martyred by the militants. The appellant and his colleagues remained spectators on spot with out showing any bravery.
- F) Incorrect. Police officers/ officials up to the rank of Inspector are dealt departmentally under the Police Rules 1975.
- G) Incorrect. After observing all the legal formalities the charges of cowardice, negligence and inefficiency were established against the appellant and appropriate punishment was given by the competent authority.
- H) Incorrect. He was dealt in accordance with law and rules. The whole action/ proceeding against the appellant and his colleagues were taken on merits and without any malafide.
- I) That the respondents may be permitted to add or produce any proof etc at the time of hearing of appeal.

**PRAYER:**

In view of the above stated facts, it is humbly prayed that the appeal of appellant being devoid of legal force, may kindly be dismissed with costs.

  
District Police Officer,  
Bannu  
(Respondent No.3)

  
Regional Police Officer,  
Bannu Region, Bannu  
(Respondent No.2)

  
Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar  
(Respondent No.1)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No.1080/2013

Muhammad Shuaib Ex-Constable No.331,  
Police Station Haved Bannu

(Appellant)

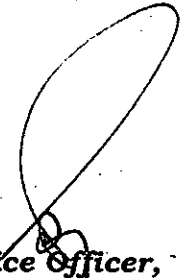
**Versus**

- 1) The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar
  - 2) The Regional Police Officer, Bannu Region, Bannu
  - 3) The District Police Officer, Bannu
- (Respondents)

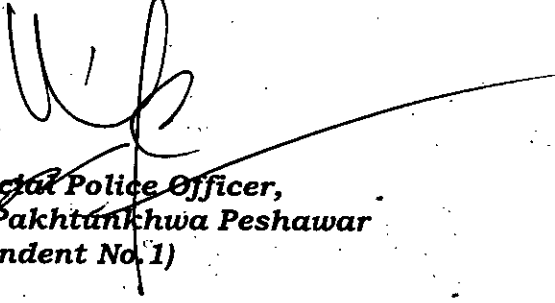
**AUTHORITY LETTER.**

Mr. Mir Faraz Khan Inspector Legal Bannu is hereby authorized to appear before The Service Tribunal Khyber Pakhtunkhwa Peshawar on behalf of the undersigned in the above cited case.

He is authorized to submit and sign all documents pertaining to the present appeal.

  
**Regional Police Officer,  
Bannu Region, Bannu  
(Respondent No.2)**

  
**District Police Officer,  
Bannu  
(Respondent No.3)**

  
**Provincial Police Officer,  
Khyber Pakhtunkhwa Peshawar  
(Respondent No.1)**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No.1080/2013

Muhammad Shuaib Ex-Constable No.331,  
Police Station Haved Bannu

(Appellant)

**Versus**

- 1) The Provincial Police Officer; Khyber Pakhtunkhwa Peshawar
- 2) The Regional Police Officer, Bannu Region, Bannu
- 3) The District Police Officer, Bannu

(Respondents)

**COUNTER AFFIDAVIT**

We, the respondents do hereby solemnly affirm and declare that the contents of the attached para wise comments are true and correct to the best of our knowledge and belief and nothing has been withheld or concealed from this Honorable Tribunal.



(Deponent)  
**Provincial Police Officer**  
**Khyber Pakhtunkhwa, Peshawar**  
**(Respondent No.1)**



(Deponent)  
**Regional police Officer**  
**Bannu Region, Bannu**  
**(Respondent No.2)**



(Deponent)  
**District Police Officer,**  
**Bannu**  
**(Respondent No.3)**

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

Service Appeal No. \_\_1080/2013

Mr. Muhammad Shoaib                      V/S                      PPO, KPK & Others.

.....

**REJOINDER ON BEHALF OF APPELLANT**

.....

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

(1-7) All objections raised by the respondents are incorrect. Rather the respondents are estopped to raise any objection due to their own conduct.

**FACTS:**

- 1 Admitted correct by the respondents, so no comments. Moreover, the Para-1 of the appeal is self explanatory.
- 2 Incorrect. The appellant was charge sheeted due to not properly performing his duty.
- 3 Incorrect. The appellant himself denied all allegations with proofs.
- 4 Incorrect. The appellant was not treated in accordance with law during the enquiry proceedings.
- 5 Admitted correct by the respondents, so no comments. Moreover, the Para-1 of the appeal is self explanatory.
- 6 Legal.

**GROUND:**

- A) Incorrect, while Para-A of appeal is correct.
- B) Incorrect. All actions by the respondents were against the law and rules.
- C) Incorrect. As explained in Para-B above.
- D) Incorrect, while the contents of Para-D of appeal are correct.
- E) Incorrect. The appellant has not been dealt in accordance with law and rules.
- F) Incorrect. The contents of Para-F of the Ground of Appeal are correct. Moreover, the appellant was a civil servant of the province and he was to be dealt according to E&D Rules, 2011.
- G) Incorrect, while Para-G of Appeal is correct.
- H) Incorrect, while Para-E of Appeal is correct.
- I) Incorrect, while Para-I of Appeal is correct.
- J) Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

*M. Asif Yousafzai*

APPELLANT

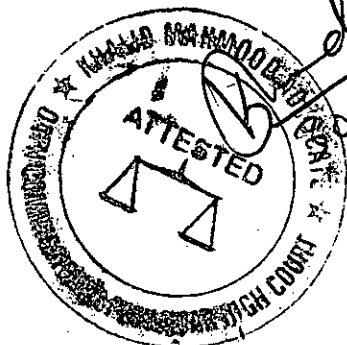
Through:

*M. Asif Yousafzai*

( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

**AFFIDAVIT**

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.



*Asif*

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

No 2530 /ST

Dated 22 /11/2017

To

The District Police Officer,  
Government of Khyber Pakhtunkhwa,  
Bannu.

Subject: **JUDGEMENT IN APPEAL NO. 1080/13 MR. MUHAMMAD SHUAIB  
AND OTHERS.**

I am directed to forward herewith a certified copy of Order dated  
06/11/2017 passed by this Tribunal on the above subject for strict compliance.

**Encl: As above**

*dc*  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.