

Malik Jan

Vs

The Provincial Police Officer KP etc.

**Judgment/Order**

12. 03.08.2017

Learned counsel for the appellant and Mr. Zia Ullah, learned Deputy District Attorney for the respondent present.


Malik Jan Assistant Sub-Inspector has filed the present appeal against Provincial Police Officer, Khyber Pakhtunkhwa Peshawar and other Police functionaries, wherein he made impugned order dated 27.07.2014 issued by Superintendent of Police (Respondent No. 4) whereby after the departmental proceedings against the appellant on the charge of negligence/poor investigation/misconduct, he was awarded minor penalty of stoppage of three annual increments with accumulative.

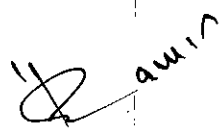
Arguments of learned counsel for the appellant and learned Deputy District Attorney heard. File perused.

Learned counsel for the appellant confined her arguments to the extent of legality of the impugned penalty on the ground that the punishment of stoppage of increments with accumulative is illegal in as much as the authority should have stated the period for which the penalty of stoppage of increments shall remain effective. Learned Deputy District Attorney conceded the argument of learned counsel for the appellant. Resultantly the present appeal is partially accepted and while keeping in view the circumstance of the case, the imposed penalty of stoppage of three annual increments shall be for a period of three years. Parties are left to bear their own costs. File be consigned to the record room.

**ANNOUNCED**

**03.08.2017**

  
(Gul Zeb Khan)  
Member

  
(Muhammad Hamid Mughal)  
Member

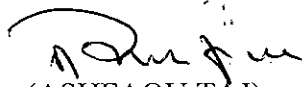
30.08.2016

Clerk to counsel for the appellant and Mr. Farmanullah, ASI alongwith Usman Ghani Sr. GP for respondents present. Arguments could not be heard due to incomplete bench. To come up for arguments on 14.12.2016 before D.B.

  
Chairman

14.12.2016

Counsel for the appellant and Mr. Farman Ali, ASI alongwith Addl:AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 25.04.2017 before D.B.

  
(ASHFAQU TAJ)  
MEMBER

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

25.04.2017

Counsel for the appellant and Mr. Mukamal Khan, ASI alongwith Mr. Muhammad Jan, Government Pleader for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned for final hearing to 03.08.2017 before D.B.

  
Member

  
Chairman

18.06.2015

Appellant with counsel and Mr. Habib Khan, PSI alongwith Asstt: AG for the respondents present. Written reply on behalf of the respondents submitted. The appeal is assigned to D.B for rejoinder and final hearing on 11.12.2015.



Member

11.12.2015

Counsel for the appellant (Ms. Uzma Syed, Advocate) and Mr. Muhammad Jan, GP for respondents present. Counsel for the appellant submitted fresh Wakalat Nama as well as rejoinder copy of which is placed on file. To come up for arguments on 6.5.2016

  
Member  
Member

06.05.2016

Counsel for the appellant and Mr. Usman Ghani, Sr.GP for respondents present. Learned counsel for the appellant requested for adjournment. Adjourned for arguments to 30.8.16 before D.B.

  
Member  
Member

Appeal No. 1236/2014

Mr. Malik Jam

3.  
Reader Note:

30.12.2014


Clerk of counsel for the appellant present. Since the Tribunal is incomplete, therefore, case is adjourned 02.03.2015 for the same.

  
Reader

4.  
02.03.2015

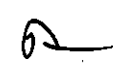
Counsel for the appellant and Asst: AG for the respondents present. Preliminary arguments heard and case file perused. Through the instant appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, the appellant has impugned order dated 27.07.2014, vide which the penalty of stoppage of three annual increments with accumulative effect was imposed on appellant. Against the above referred impugned order appellant filed departmental appeal, which was rejected on 17.09.2014 and hence the instant appeal on 15.10.2014.

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 29.04.2015.

  
Member

29.04.2015

Appellant in person and Mr. Habib Khan, PSI alongwith Asstt: AG for the respondents preset. Representative of the respondents requested for time to submit written reply/comments. To come up for written reply/comments on 18.06.2015 before S.B.



  
Member

Appellant deposited security amount

Form- A  
FORM OF ORDER SHEET

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

Case No. 1236/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	15/10/2014	<p>The appeal of Mr. Malik Jan presented today by Mr. Ashraf Ali Khattak 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	21-10-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>30-12-2014</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 1236/2014

Malik Jan Assistant Sub-Inspector Karak Bureau of Investigation'...(Appellant)


Versus

Provincial Police Officer Khyber Pakhtunkhwa, Peshawar and others

(Defendants)

INDEX

S.No.	Description of Documents	Annex	Pages
1.	Memo of Appeal.	-	1-4
2.	Affidavit	-	5
3.	Copy of impugned order passed by Respondent No. 4. dtd: 24.07.2014.	A	6-7
4.	Copy of impugned order passed by Respondent No. 2. dtd: 17.09.2014	B	8
5.	Copy of charge sheet.	C	9
6.	Copy of statement of allegations. dtd: 4-7-2014	D	10
7.	Copy reply in response to charge sheet. dtd: 8/7/14	E	11
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Malik Jan Assistant Sub-  
Inspector Karak Bureau of  
Investigation

BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR.

①

Service Appeal No 1236 /2014

1264  
15-10-2014

Malik Jan Assistant Sub-Inspector Karak Bureau of  
Investigation .....(Appellant)

Versus

1. Provincial Police Officer Khyber Pakhtunkhwa,  
Peshawar.
2. Deputy Inspector General of Police Kohat Region  
Kohat.
3. District Police Officer, Karak.
4. District In-charge Investigation <sup>Police</sup> Karak  
S.P investigation Karak. (Defendants)

Subject:-

AN APPEAL UNDER SECTION 4 OF THE  
NWFP (KPK) SERVICE TRIBUNAL ACT  
1974 AGAINST THE ORDER OF  
RESPONDENT NO. 4 DATED 27.07.2014  
VIDE WHICH PENALTY OF STOPPAGE OF  
THREE ANNUAL INCREMENTS WITH  
ACCUMULATIVE EFFECT WAS IMPOSED  
ON APPELLANT AND ORDER OF  
RESPONDENT NO.2 DATED 17.09.2014  
VIDE WHICH DEPARTMENT APPEAL OF  
APPELLANT AGAINST THE ORDER OF  
RESPONDENT NO. 4 WAS REJECTED.  
COPIES OF THE IMPUGNED ORDERS ARE  
ENCLOSED AS ANNEXURE-A & B.

15/10/14

Prayer:-

On acceptance of the Service Appeal, the  
impugned orders passed by Respondents No. 2  
and 4 may be set aside with all back and  
consequential benefits.

Respectfully Sheweth!

Facts giving rise to the Service Appeal are  
follows:-

1. That appellant is serving district Karak Police in  
the rank of Assistant Sub-Inspector and is



posted in Investigation wing. Appellant while posted in Police Station Karak conducted investigation in case FIR No. 242/2014 dated 08.06.2014 under section 223, 224, 225 A & B PPC Police Station Karak.

2. That the above cited criminal case was registered against Police Officers and others. According to the contents of report Abdul Haleem alias Leemy under trial prisoner admitted to district headquarters hospital made good his escape from the custody of Police guard.
3. That during course of investigation it came to light that the said Abdul Haleem alias Leemy had managed his admission to hospital with connivance of two medical officers for facilitating his escape.
4. That appellant was charge sheeted on the score of allegations that appellant failed to bring on record the guilt of the said two medical officers. Copy of the charge sheet and statement of allegations are enclosed as Annexure-C & D.
5. That appellant submitted plausible reply in response to the charge sheet. Copy of the reply is enclosed as Annexure-E.
6. That Respondent No.4 passed the impugned order dated 24.07.2014. Copy already enclosed as Annexure-A. In the same vein Respondent No. 2 rejected the departmental appeal of appellant vide order dated 17.09.2014. Copy of order is already enclosed as Annexure-B and copy of departmental is enclosed as Annexure-F.
7. That appellant submits Service Appeal against the impugned orders on the following grounds.

GROUND:-

- a) That the impugned order of Respondent No. 4 is illegal and void ab-initio. Under the law and rules, appointing authority is competent authority of disciplinary action against subordinate officer/officials. According to Article



23 of Police Order 2002, District Police Officer is appointing authority of junior rank Police officers. (Constable to Inspector). The impugned order has been passed by Deputy Superintendent of Police (BPS-17) working on acting charge basis as district in-charge investigation Karak.

- b) That annual increments with accumulative effect has been stopped without specifying period therefore the impugned orders have been passed contrary to the bar contained in FR-29.
- c) That respondent No. 2 rejected the departmental appeal of appeal without taking into account the ground realities and patent legal and factual lacunas existing on the record of departmental file against appellant.
- d) That the enquiry officer conducted enquiry without associating appellant in the enquiry proceedings. No one was examined as a witness in the support of the charges leveled against appellant and based his opinion on assessment.
- e) That the medical officers were serving in BPS-18 and the alleged offence was committed in official capacity. Therefore the appellant brought their involvement on record of case diaries and did not make attempt of their arrest without obtaining proper permission and the authority wrongly took adverse notice of the legal proceedings being conducted by appellant. Later on both the medical officers were arrested.
- f) That the progress of investigation in the case was brought in the notice of Respondent No. 4 orally as well as in written in shape of case diaries but Respondent No. 4 malafidely passed the impugned order.
- g) That supervisory officer (Respondent No. 4) was under legal obligation to guide the appellant during course of investigation but he

made interference in the investigation and discourage the appellant by imposing impugned penalty on appellant.

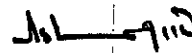
- h) That the authority travelled beyond the charge sheet as there is difference of allegations leveled in the charge sheet and mentioned in the impugned order.
- i) That the appellant may be allowed to raise other grounds during arguments.

It is therefore, prayed that on acceptance of the service appeal the impugned orders may be set aside with back benefits.



Malik Jan ASI, (Appellant)

through



Ashraf Ali Khattak Advocate

Counsel

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

5

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

Malik Jan Assistant Sub-Inspector Karak Bureau of Investigation  
.....(Appellant)


Versus

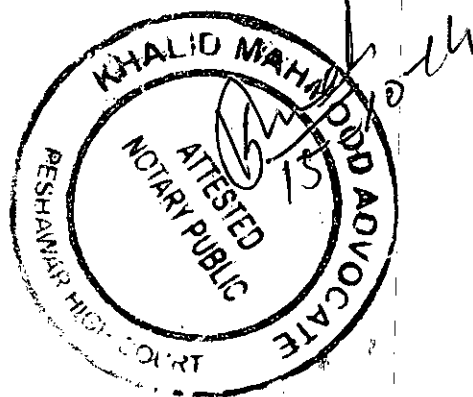
Provincial Police Officer Khyber Pakhtunkhwa, Peshawar and others (Defendants)

AFFIDAVIT

I, Malik Jan Assistant Sub-Inspector Karak Bureau of Investigation do here by solemnly affirm on oath that the contents of accompanying Service Appeal are correct to the best my knowledge and belief. Nothing has been concealed from this Honorable Tribunal.

DEPONENT

  
Malik Jan Assistant Sub-Inspector  
Karak Bureau of Investigation



Anx: A

6

ORDER.

This order will dispose of departmental proceeding initiated against ASI Malik Jan of KBI Staff of Police Station Karak.

The above named ASI was charge sheeted for the allegation that: -

ALLEGATION :-

Accused Abdul Haleem alias Leemy son of Umer Gul resident of Karak was arrested and confined in District Jail Karak vide in case FIR No.283/2013 U/s 365-A/302/353 /109 Police Station Yaqoob Khan Shaheed case FIR No.515 dated 7.12.2013 U/s 419/420 PPC Police Station Karak and case FIR No.316/2013 U/s 381-A/401 PPC Police Station Industrial Area Islamabad .

On 4.06.2014 Dr. Shahzad Gul visited the jail for examination of ailing prisoners whereas the said accused was also examined by him and ear disease was diagnosed. On 7.06.2014 the said accused was referred to KDA Hospital Karak for examination of ENT; but the said accused went before Surgical Specialist Doctor Muhammad Ijaz instead of ENT. Whereas he was declared as patient of Kidney and was admitted in Hospital. It is astonishing to say that no entry regarding the said accused of his medical examination was existed in official register. Later on the accused fled away from the custody of Police in the Hospital with the alleged joined hands of medical officer. There was a great contradiction in the statement of medical officers pertaining to medical examination of the said accused. On which case FIR No.242 dated 03.06.2014 U/s 223/224/225-A(B) Police Station Karak was registered and investigation of the case was assigned to you ASI Malik Jan. Perwana No.175/R dated 20.06.2014 No.159/R dated 09.06.2014 and No.184/R dated 11.06.2014 were issued to dig out the record and involvement of the Doctors in the escape of the accused. The said ASI I.O of the case badly failed to determine the negligence of medical officers in fled away of the accused and contradiction in their statement in respect of the accused examined by them. The said ASI/ I.O of the case have neither taken interest in investigation nor made close liaison with DPP.

In this connection, the said ASI was time and again directed to take legal action against the Doctors Shahzad Gul and Muhammad Ijaz who allegedly involved in the escape of accused Abdul Haleem alias Leemy. Besides this the worthy DIG Investigation South at CPO Peshawar vide his office memo: No. 130 /DIG -B dated 12.06.2014 has issued instructions regarding the negligence and

AHec

Attested  
The copy  
Advocate

involvement of the above named Doctors in the case. The said letter was marked to the I.O ASI Malik Jan for compliance; but he failed to comply the instructions.

The said letter was sent to defaulter ASI on 12.06.2014 but he failed to take action against the Doctors as a result, Doctor Shahzad Gul made bail before arrest on 12.07.2014 and Doctor Ijaz Ahmed on 15.07.2014. The I.O produced both the Doctors on the same days to the court and they succeeded to confirm their Bails. The arrested Doctors were given protocol by the said ASI and they were not properly interrogated.

DEPARTMENTAL PROCEEDING:-

He was charge sheeted vide this office No. 2734-35/Inv: dated 04.07.2014 and Inspector Khalid Usman Circle Officer Takht-e-Nasrati was appointed as enquiry officer. The enquiry officer submitted his finding report on 19.07.2014. In his finding report he declared the above named ASI guilty of the charges.

The ASI Malik Jan was heard in person in the Orderly Room hold in the office of the undersigned on 22.07.2014. but his written and verbal reply was not found satisfactory. Therefore, he is awarded Minor Punishment of Stoppage of 03(three) annual increment with accumulative

O.B.NO. 72/Inv:  
Dated 24.07/2014

*Attested*

*Muhammad*

(Hameedullah Baloch)  
Superintendent of Police,  
Investigation Wing, Karak

**Attested**

To be true copy  
Advocate

**Anx: B**

**(B)**

ORDER.

This order is passed on departmental appeal, preferred by ASI Malik Jan of KBI Staff, district Karak against the punishment order of SP KBI Karak vide O.B No. 72/Inv: dated 24.07.2014, whereby he was awarded minor punishment of stoppage of three annual increments with accumulative effect.

Facts of the case are that accused Abdul Haleem alias Leemy s/o Umer Gul r/o Karak was arrested and confined in district Jail Karak vide case FIR No. 283/2013 U/S 365-A/302/353/109 PS Y.K.Shaheed and FIR No. 515, dated 07.12.2013 U/S 419-420/PPC PS Industrial Area Islamabad. The said accused was examined by the Dr. Shahzad Gul at district Jail Karak and found ear patient. On 07.06.2014, accused Abdul Haleem went to Surgical Specialist instead of ENT Specialist, wherein kidney disease was diagnosed. It was come to notice that no entry regarding medical examination of accused was made in official register. Resultantly, accused fled away from the custody of Police. Proper case vide FIR No. 242, dated 08.06.2014 U/S 223/224/225-A(B) PS Karak was registered and the defaulter official was assigned the duty to dig-out the record and involvement of the doctors in escape of accused, but he badly failed to determine the negligence / fix responsibility on the part of doctors, which speaks of negligence, poor investigation, non-professionalism, negligence and amounts gross misconduct on his part.

Charge sheet alongwith statement of allegations was issued to him and Inspector Khalid Usman Circle Officer, Takht-e-Nasrati was appointed as enquiry officer. The E.O in his finding, found guilty of the charges leveled against him. Resultantly, he was awarded a minor punishment of stoppage of three annual increments with accumulative effect.

Aggrieved from the said punishment order, he preferred the instant appeal for setting aside the said order. Record requisitioned and the matter was perused by the undersigned.

He was called in Orderly Room held in this office on 17.09.2014, but he did not submit any plausible explanation in his defense and could not satisfy the undersigned.

Therefore, going through the available record, the undersigned came to the conclusion that the punishment order passed by the SP KBI Karak is justified, accordance with law / rules, which is upheld. Hence, appeal is rejected.

**ANNOUNCED.**  
**17.09.2014**



**(DR. ISHTIAQ AHMAD MARWAT)**  
Dy. Inspector General of Police,  
Kohat Region, Kohat.

/EC, dated Kohat the 18/9 /2014.

Copy to the Superintendent of Police, Investigation Wing information w/r to his office Memo: No. 5267/Inv: dated 05.09.2014 & ated 15.09.2014. His service record is enclosed herewith.

**Attested**  
*Handwritten signature*  
**To be true copy**  
**Advocate**

**(DR. ISHTIAQ AHMAD MARWAT)**  
Dy. Inspector General of Police,  
Kohat Region, Kohat.

CHARGE SHEET

Anx: C

9

I Hamid Ullah Baloch Superintendent of Police, Investigation Wing Karak as competent authority hereby charged you ASI Malik Jan of Police Station Karak as follow:

" Accused Abdul Haleem alias Leemy son of Umer Gul resident of Karak was arrested and confined in District Jail Karak vide in case FIR No.283/2013 U/s 365-A/302/353 /109 Police Station Yaqoob Khan Shaheed case FIR No.515 dated 7.12.2013 U/s 419/420 PPC Police Station Karak and case FIR No.316/2013 U/s 381-A/401 PPC Police Station Industrial Area Islamabad . On 4.06.2014 Dr. Shahzad Gul visited the jail for examination of ailing prisoners whereas the said accused was also examined by him and ear disease was diagnosed. On 7.06.2014 the said accused was referred to KDA Hospital Karak for examination of ENT. But the said accused went before Surgical Specialist Doctor Muhammad Ijaz instead of ENT. Whereas he was declared as patient of Kidney and was admitted in Hospital. It is astonishing to say that no entry regarding the said accused of his medical examination was existed in official register. Later on the accused fled away from the custody of Police in the Hospital with the alleged joined hands of medical officer. There was a great contradiction in the statement of medical officers pertaining to medical examination of the said accused. On which case FIR No.242 dated 08.06.2014 U/s 223/224/225-A(B) Police Station Karak was registered and investigation of the case was assigned to you ASI Malik Jan. Perwana No.175/R dated 20.06.2014 ,No.159/R dated 09.06.2014 and No.164/R dated 11.06.2014 were issued to dig out the record and involvement of the Doctors in the escape of the accused. You I.O badly failed to determine the negligence of medical officers in fled away of the accused and contradiction in their statement in respect of the accused examined by them. You I.O have neither taken interest in investigation nor made close liaison with DPP.

Your this act is against grass misconduct on your part and negligence in official work which render you liable for department action under the aforesaid Rules"

2. By reason of above your appear to be guilty of miss-conduct Under section-4 of the Police Rules 1975 and have rendered your self liable to all or any of the penalties specified in Section -4 of the disciplinary rules.

3. You are therefore required to submit your written defense with 07 days of the receipt of this charge sheet to the enquiry Officer Inspector Khalid Usman Circle Officer Takht-e-Nasrati.

17. Your written defense if any should reach the Enquiry Officer within the specified period. Falling which it shall be presumed that you have no defense to offer, and in that case ex-parte action will be taken against you. Intimate whether you desire to be heard in person:

18. A Statement of allegation is enclosed.

**Attested**  
*Handwritten signature*  
To be true copy  
Advocate

*Handwritten signature*  
( HAMEED ULLAH BALOCH )  
Superintendent of Police,  
Investigation Wing Karak:

DISCIPLINARY ACTION

Hameed Ullah Baloch Superintendent of Police, Investigation Wing Karak as competent authority is of the opinion that you ASI Malik Jan of KBI Staff of Police Station Karak has rendered himself liable to be proceeded against departmentally. He committed the following acts/ omissions within the meaning of section -4 Police Rules 1975.

STATEMENT OF ALLEGATIONS

\* Accused Abdul Haleem alias Loomy son of Umer Gul resident of Karak was arrested and confined in District Jail Karak vide in case FIR No.283/2013 U/s 365-A/302/353 /109 Police Station Yaqoob Khan Shaheed case FIR No.515 dated 7.12.2013 U/s 419/420 PPC Police Station Karak and case FIR No.316/2013 U/s 381-A/401 PPC Police Station Industrial Area Islamabad . On 4.06.2014 Dr. Shahzad Gul visited the jail for examination of ailing prisoners whereas the said accused was also examined by him and ear disease was diagnosed. On 7.06.2014 the said accused was referred to KDA Hospital Karak for examination of ENT. But the said accused went before Surgical Specialist Doctor. Muhammad Ijaz instead of ENT. Whereas he was declared as patient of Kidney and was admitted in Hospital. It is astonishing to say that no entry regarding the said accused of his medical examination was existed in official register. Later on the accused fled away from the custody of Police in the Hospital with the alleged joined hands of medical officer. There was a great contradiction in the statement of medical officers pertaining to medical examination of the said accused. On which case FIR No.242 dated 08.06.2014 U/s 223/224/225-A(B) Police Station Karak was registered and investigation of the case was assigned to you ASI Malik Jan. Perwana No.175/R dated 20.06.2014 No.159/R dated 09.06.2014 and No.164 dated 11.06.2014 were issued to dig out the record and involvement of the Doctors in the escape of the accused. You I.O badly failed to determine the negligence of medical officers in fled away of the accused and contradiction in their statement in respect of the accused examined by them. You I.O have neither taken interest in investigation nor made close liaison with DPP.

For the purpose of scrutinizing the conduct of said officer with reference to the above allegation. Inspector Khalid Usman Circle Officer Takhte-e-Nasrati is appointed as enquiry officer.

The enquiry officer shall conduct proceeding an accordance with provision of 1975 Rules and may provide reasonable opportunity of defense and hearing to the accused officer, record its finding and make within 25-days of the receipt of this order; recommendation as to punishment or other appropriate action against the accused officer.

The defaulter officer shall join the proceeding on the date, time and place fixed by the enquiry officer.

*[Handwritten Signature]*

(Hameed Ullaha Baloch)  
Superintendent of Police,  
Investigation Wing Karak

*[Handwritten Signature]*

Copy submitted to :

- 1 Enquiry officer, Inspector Khalid Usman Circle Officer Takht-e-Nasrati for initiating proceeding against the above named police officer under the provision of Police disciplinary rules 1975.

*[Handwritten Signature]*

*[Handwritten Signature]*  
4/7/2014

**Attested**  
*[Stamp]*  
the copy  
date

*[Handwritten Signature]*

Hameed Ullaha Baloch)  
Superintendent of Police,  
Investigation Wing Karak

*[Handwritten Signature]*



بحوالہ منقولہ چارج لٹریچر افیسری 35/1114-2734-3131 SP صلا الخویشیت  
2014-7-7

اگر حضور میں ہوں کہ میں نے ڈاکٹر عبدالمان کا مقدمہ عدالت 2/24/2014

8/14 دفعہ 223/224 لٹریچر افیسری کے غیر قانونی کا اہمیت سے

تعمدہ ذکر کیا ہے۔ لیکن افسر ان کا ڈاکٹر عبدالمان کے گرفتاری

اور ان کے مقدمہ میں تعمدہ وقوع کرنے کے لیے قحی الیواثر کی قسم

دی گئی ہے۔ اور نہ ہی کوئی خاص یہاں تک ہے

چارج لٹریچر افیسری کے الزامات کو لیور نے افسر سے لیتے افسر کو

ترسیل کرنے چاہئے ہے۔ جس آفسی افسر کی فوجا اقتدار کے بجائے

دل شکنی کی جارہی ہے۔

صاحب عالی میں کے مطالعہ کے واقع ہے۔ جس آفسی افسر نے یو ایس آر کے

افسر ڈی ایچ کے ساتھ تعلقہ خریدی اور الیواثر ہے۔ لیکن افسر

نے دائرہ اس بار اٹھ لیتے کے زالی انکار کیا ہے۔

میں نے جو بیان نے قحی نے ضابطہ ڈاکٹر عبدالمان کے مقدمہ کے کتاب سے

میں نے افسر کے ساتھ کرنے کے لیے صحت قائم ہے۔ ڈاکٹر عبدالمان کے

میں نے افسر کے بارے میں صحت کو ثابت کیا ہے اور اس کے ساتھ افسر

لیے جو مقدمہ ڈاکٹر الیواثر ہے۔ صحت کو ڈاکٹر الحجاز کے

ان کا راجہ مقدمہ میں اللہ والی صحت کو ثابت کرنے کے لیے افسر کے

کی کافی کو لیتے ہے۔ مگر افسر نے اس کے الحجاز میں صحت کو

کام لپوں سمیت اپنی زندگی کے لیے جو دیکھنے کے لیے  
 خود دیکھنے کے لیے کاروبار کی آگے بڑھنے کے لیے  
 1967، 1968 کے لیے اگر آئی ہو تو اسے اپنے کاروبار کی  
 ان کے کاروبار کے لیے لپوں کی حالت کی حالت میں  
 ان کے کاروبار کے لیے لپوں کی حالت کی حالت میں  
 ان کے کاروبار کے لیے لپوں کی حالت کی حالت میں  
 ان کے کاروبار کے لیے لپوں کی حالت کی حالت میں

جو دیکھنے کے لیے ان کے کاروبار کے لیے لپوں کی حالت  
 ان کے کاروبار کے لیے لپوں کی حالت کی حالت میں  
 ان کے کاروبار کے لیے لپوں کی حالت کی حالت میں  
 ان کے کاروبار کے لیے لپوں کی حالت کی حالت میں  
 ان کے کاروبار کے لیے لپوں کی حالت کی حالت میں

HST  
 KPM  
 ان کے کاروبار کے لیے لپوں کی حالت کی حالت میں

Anx: F

12

To,

The Deputy Inspector General of Police  
Kohat Region, Kohat.

THROUGH PROPER CHANNEL

Subject:- REPRESENTATION

Respectfully Shewith,

With due respect and humble submission appellant submits the representation against the order of learned Superintendent of Police, Investigation Karak bearing OB No.72/Inv: dated 24.07.2014 vide which penalty of stoppage of three annual increment with accumulative effect was imposed on appellant.

FACTS.

1. That appellant is posted in investigation wing police station Karak and investigation in case FIR NO.242 dated 08.06.2014 under section 223,224,225-A,225-B PPC Police Station Karak was entrusted to me.
2. That Abdul Haleem alias leemay under trial prisoner admitted to civil Hospital escaped from custody therefore the above mentioned case was registered against the police officers members of the guard on duty and the said Abdul Haleem alias leemay.
3. that during course of investigation all the accused Police Officers were arrested and challaned to court and it also came to light that the under trial prisoner managed his admission to hospital with connivance of Medical Officers. This fact was duly brought on record vide case Diaries report serial No.07 dated 16.06.2014, No.09 dated 20.06.2014, No.12 dated 25.06.2014, No.14 dated 04.07.2014 and No.16 dated 10.07.2014.
4. That eventually both the accused officers were duly arrested and challaned to court.
5. That charge sheet based on allegations of passive action against the medical officers was issued to appellant.
6. That appellant submitted detail and plausible reply, however, the departmental proceedings culminated in passing the impugned order, hence this representation on the following grounds.

GROUND.

- a. That the impugned order has been passed without taking into account the ground realities.

Attested  
True copy  
Advocate

- b. That ex-parte enquiry was conducted as neither any witness was examined in support of the charges nor chance of cross-examination of witnesses was provided to appellant.
- c. That the medical officers were serving in BBPS-18 and the alleged offence was committed in official capacity, therefore the appellant brought their involvement on record in case diaries reports and made attempt of their arrest with out obtaining proper permission and the authority wrongly took adverse notice of the legal proceedings being conducted by appellant.
- d. That on receipt of charge sheet, both the medical officers were contacted to surrender themselves to police and according by both voluntarily appeared and were arrested.
- e. That both the accused medical officers were serving in BPS-18, therefore appellant tried to handle them in legal way to avoid chance of complaint to doctors community and the authority wrongly held the legal act in of appellant as undue favour to medical officers.
- f. That the authority has traveled beyond the allegation leveled in the charge sheet therefore the order is not sustainable.
- g. That the enquiry officers did not associate in the enquiry proceedings. Furthermore, the authority did not take notice of the favourable finding of enquiry officers.
- h. That under the law as provided under F-R 29 the authority will specify period of penalty, therefore penalty of stoppage of increments with accumulated effect is against spirit of F.R 29.
- i. That the supervisory officers is requested to guide the investigation officer and the impugned section against appellants amounts to interference in investigation.
- j. That appellant submitted written application before District Public Prosecutor for guidance but he was not co-operating with the appellant. This facts was also brought on record in case diary. Again the matter was brought in the notice of authority, therefore the allegations with regard to non co-operation with DPP are wrong and false.
- k. That the whole departmental file was prepared in violation of law and rules and facts on record.

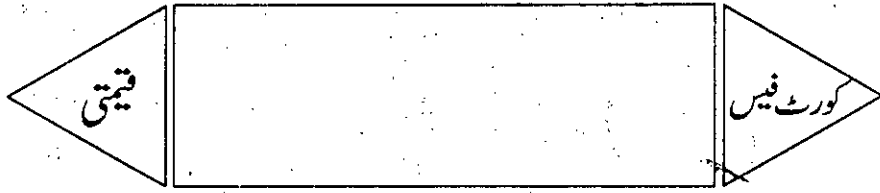
It is therefore prayed that by accepting the present representation the impugned order may be set aside with all back benefits.

**Attested**  
*Majik Jan*  
 To be true copy  
 Advocate

Your's Truly

*Majik Jan*  
 (Majik Jan)  
 ASI KBI PS Karak.

# وکالت نامہ



Khayber Pakhtunkhwa Service Tribunal, Peshawar  
بعدالت جناب

Provincial Police Officer بنام ASI Malik Jan

Service Appeal دعویٰ یا جرم Appellant منجانب

## باعث تحریک آنکہ

مقدمہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوابدہی برائے پیشی یا بمقام پشاور  
اشرف علی خٹک ایبند نوار خٹک

ایڈوکیٹ ہائی کورٹ - سپریم کورٹ - نمبر ڈسٹرکٹ بار ایسوسی ایشن

کیلئے سب ذیل شرائط پر وکیل کیا ہے۔ کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو بروعدالت حاضر ہوتا رہوں گا اور بروقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کرونگا۔ اگر پیشی پر مظہر نہ ہوا اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح پر ذمہ دار نہ ہونگے نیز وکیل صاحب موصوف صدر بمقام پکھری کے علاوہ کسی جگہ سماعت یا بروز تعطیل یا پکھری کے اوقات کے آگے پیچھے پیش ہونے پر مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اسکے واسطے کسی معاوضہ کے ادا کرنے یا مختار نہ کے واپس کر نیکی بھی صاحب موصوف ذمہ دار ہونگے۔ مجھ کو کل ساختہ پرواختہ صاحب موصوف مثل کردہ ذات منظور و مقبول ہوگا اور صاحب موصوف کو عرضی دعوے یا جواب درخواست اجراءے ڈگری و نظر ثانی اپیل نگرانی و ہر قسم درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کرانے پر ہر قسم کارروپیہ وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور اس پر ثالثی و راضی نامہ و فیصلہ برحلف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا اور بصورت جانے بیرون جات از پکھری صدر اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یا یکطرفہ درخواست حکم اتناعی یا قرتی یا گرفتاری و اجراءے ڈگری بھی صاحب موصوف کو آدائیگی علیحدہ مختار پیروی کا اختیار ہوگا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکور یا اس کے کسی جزو کی کاروائی کے یا بصورت اپیل کسی دوسرے وکیل یا بیرسٹر کو اپنے بجائے یا اپنے ہمراہ مقرر کریں۔ اور ایسے مشیر قانون کو بھی ہر امر میں وہی اور ایسے ہی اختیارات حاصل ہونگے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر جانہ التوا پڑیگا وہ صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے آدائیں کرونگا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی پیروی نہ کریں۔ اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

2014

اکتوبر

14

مورخہ:

لہذا وکالت نامہ لکھ دیا یکہ سندر ہے

Attested & Accepted

Advocate

مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے

ASI Malik Jan

2 Malik

اشفاق فوٹو سٹیٹ سروس سیشن کورٹ کرک فون نمبر: 0334-9290874  
0331-8786805

ASIR

**BEFORE THE SERVICE TRIBUNAL KP, PESHAWAR**

Appeal No. 1236/2015.

Malik Jan Assistant Sub Inspector .....Appellant

VS

1. Provincial Police Officer, Khyber Pakhtunkhwa Peshawar
2. Dy: Inspector General of Police Kohat Region Kohat
3. District Police Officer, Karak
4. Superintendent of Police Investigation Wing Karak

Subject:-

**REPLY ON BEHALF OF RESPONDENTS**

Facts giving rise to the instant reply are as follow:-

Preliminary Objection:-

1. That the appeal has no locus standi to file the appeal
2. Appellant has got no cause of action to file the present appeal
3. The appeal is time barred.
4. The appeal is not maintainable in the present form
5. The appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.

**FACTS**

1. It pertains to record
2. Correct, needs no comments
3. Correct, needs no comments
4. Correct appellant was served with proper statement of allegation and charge sheet. Copy of which is enclosed as Annexure A&B.
5. Incorrect, the reply submitted by appellant in response to the statement of allegation and charge sheet was found unsatisfactory.
6. Correct, it pertains to record.

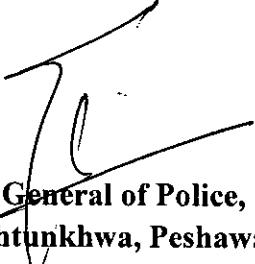
**GROUND:-**


- a. Incorrect, respondent No. 04 is the competent authority.
- b. Incorrect, three annual increments with accumulative effect was imposed on appellant
- c. Incorrect, respondent No. 2 rightly uphold the punishment of respondents No. 4
- d. Incorrect, proper departmental enquiry was initiated against the appellant and Inspector Khalid Usman Circle Officer (Investigation Wing) Karak was appointed as a enquiry officer. The E.O submitted enquiry report and found the appellant guilty of the charges leveled against the appellant. The E.O in his finding report recommended for minor punishment. In the light of above finding respondent

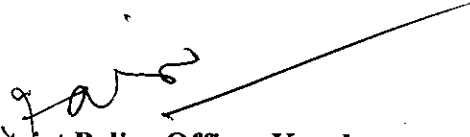
the appellant. The E.O in his finding report recommended for minor punishment. In the light of above finding respondent No. 4 awarded the appellant a minor punishment of stoppage of three annual increment with accumulative effect.


- e. Incorrect, applicant in spite of clear direction regarding the investigation of the case but appellant failed to arrest the accused in case FIR NO. 242 dated 08.06.2014 u/s 223,224,225A&B PS Karak
- f. Incorrect, as discussed in Para No. E above.
- g. Incorrect, Sp Investigation being incharge of the investigation Wing Karak has been strict direction regarding the investigation of the case. But again appellant was failed to achieve the said target in the above criminal case (Copy of FIR enclosed is annexure-C.
- h. Incorrect, needs no comments.
- i. All other relevant record / documents shall be provided before the Honorable Service Tribunal if required.

It is therefore, requisitely prayed that the appeal of the applicant may kindly be dismissed with cost.

  
**Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar  
Respdt: No.1**

  
**Deputy Inspector General of Police  
Kohat Region Kohat  
Respdt: No.2**

  
**District Police Officer Karak  
Respdt: No. 3 /**

  
**Superintendent of Police,  
Investigation Wing, Karak  
Respdt: No. 4**

**BEFORE THE SERVICE TRIBUNAL KP, PESHAWAR**

Appeal No. 1236/2015.

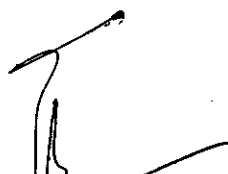
Malik Jan Assistant Sub-Inspector..... (Appellant)


Versus

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar
2. Deputy Inspector General of Police, Kohat Region Kohat.
3. District Police Officer, Karak
4. Superintendent of Police, Investigation Wing, Karak.


Subject: **AUTHORITY**

We the respondents in the above cited service appeal do hereby authorize Habib Ullah PASI Legal Branch of district Karak to represent us in the above cited service appeal. They are also authorized to submit comments etc on our behalf before the Service Tribunal Khyber Pakhtunkhwa, Peshawar.

  
Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar  
Respdt: No.1

  
Deputy Inspector General of Police  
Kohat Region/Kohat  
Respdt: No.2

  
District Police Officer Karak  
Respdt: No. 3

  
Superintendent of Police,  
Investigation Wing, Karak  
Respdt: No. 4



**BEFORE THE SERVICE TRIBUNAL KP, PESHAWAR**

Appeal No. 1236/2015.

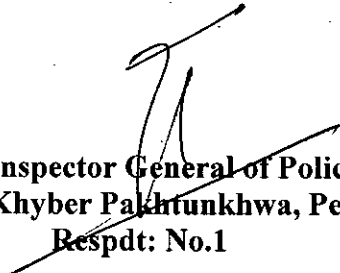
Malik Jan Assistant Sub-Inspector..... (Appellant)


Versus

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar
2. Deputy Inspector General of Police, Kohat Region Kohat.
3. District Police Officer, Karak.
4. Superintendent of Police, Investigation Wing, Karak

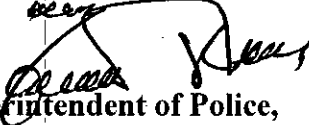
Subject: **AFFIDAVIT**

We the respondents in the above cited service appeal do hereby affirm on oath that the contents of comments prepared in response to the above titled service appeal are true and correct to best of our knowledge and belief.

  
Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar  
Respdt: No.1

  
Deputy Inspector General of Police  
Kohat Region Kohat  
Respdt: No.2

  
District Police Officer Karak  
Respdt: No. 3

  
Superintendent of Police,  
Investigation Wing, Karak  
Respdt: No. 4

# بعدالت سرویس ٹریبونل پشاور

Appeal No. 1236/2014

2015ء پنجاب مسائل

ملک جان بنام PPO

موزخہ  
مقدمہ  
دعویٰ  
جرم

## باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ اینڈ فائنل میر  
آن مقام پشاور کیلئے عظمیٰ سید رائد و کسٹ پشاور  
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
دکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از اس وقت ضرورت مقررہ مذکورہ  
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 ساتھ  
پر و اختہ 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 لکھنیا کہ سندر ہے۔

المرقوم 11 ماہ 2 ستمبر 2015

واہ الع

کے لئے منظور ہے۔

بمقام

Niam

**BEFORE THE SERVICE TRIBUNAL KP PESHAWAR.**

Appeal No 1236/2015

Malik Jan

VERSUS

Police

**REJOINDER ON BEHALF OF APPELLANT IN  
RESPONSE OF THE RESPONDENTS  
REPLY/COMMENTS**

**Preliminary Objections:-**

(1 to 5)

**R/ Submitted:**

All the four preliminary Objections are illegal & incorrect. No reason in support of the same is ever given as why the appellant has no file the present appeal. Time barred and appellant has not come to Hon'ble Tribunal with clean hands & concealed material facts.

**On FACTS**

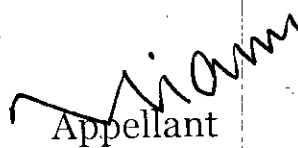
1. Admitted correct need no comments
2. Admitted correct, needs no comments
3. Admitted correct, needs no comments

4. Admitted correct, needs no comments
5. Para No 5 of the reply is incorrect and Para of the appeal are correct.
6. Admitted correct, needs no comments

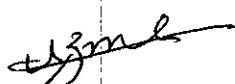
### **ON GROUNDS**

Grounds (A to I) taken in the memo of appeal are legal & will be substantiated at the time of hearing of the appeal. However the all replies submitted to the grounds are incorrect false & misleading on the appellant has not been treated in accordance with Law/Rules & procedure hence, his rights are body violated the order of his stoppage of three annual increments is illegal and not tenable in eye of Law.

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

  
Appellant

Through

  
**UZMA SYED**  
Advocate, Peshawar

**BEFORE THE SERVICE TRIBUNAL KP PESHAWAR.**

Appeal No 1236/2015

Malik Jan

VERSUS

Police

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RESPONSE OF THE RESPONDENTS  
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1. Admitted correct need no comments
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It is therefore, humbly prayed that the appeal of the appellant may kindly be accepted as prayed for.

Appellant

Through

  
**UZMA SYED**

Advocate, Peshawar

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1897 /ST Dated 17 / 8 / 2017

To.


The Superintendent of Police Investigation Wing,  
Government of Khyber Pakhtunkhwa,  
Karak.

Subject: -

JUDGMENT IN APPEAL NO. 1236/2014, MR. MALIK JAN.

I am directed to forward herewith a certified copy of Judgement dated 3.08.2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.