

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
SALAH UD DIN ... MEMBER (JUDICIAL)

Service Appeal No.4972/2021

Tasawar Zia Ex-LHC No. 23, Police Lines Abbottabad. R/O Saghdar Dakhl, Post Office Ghari Habib Ullah, Tehsil Balakot, District Mansehra.

.....(*Appellant*)

Versus

1. **Inspector General** of Police, Khyber Pakhtunkhwa, Peshawar.
2. **Regional Police Officer**, Hazara Region, Abbottabad.
3. **District Police Officer**, Police Lines, Abbottabad.
4. **District Police Officer**, Police Lines, Abbottabad.

.....(*Respondents*)

Present:

Malik Waheed Akhtar,
Advocate.....For appellant.

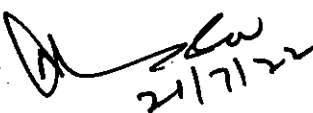
Kabirullah Khattak,
Additional Advocate GeneralFor respondents.

Date of Institution.....28.04.2021
Dates of Hearing.....21.07.2022
Date of Decision.....21.07.2022

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 TO DECLARE THE IMPUGNED ORDER NO. S/1034/21, DATED 10.03.2021 AS ILLEGAL, UNLAWFUL, UNCONSTITUTIONAL AGAINST THE POLICY, DISCRIMINATORY AND PERVERSE AS APPELLANT DESERVES TO BE REMAINED AT HIS ORIGINAL POSITION AS HC. NO.23, OF DISTRICT ABBOTTABAD. PUNISHMENT AS TIME SCALE CONSTABLE FOR TWO YEARS IS IN VIOLATION OF ARTICLE 10-A OF CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973 WITH THE PRAYER THAT THE RESPONDENTS MAY BE DIRECTED TO RESTORE THE APPELLANT TO HIS ORIGINAL POSITION AS HC NO. 23 FROM THE DUE DATE AND GRANT HIM HIS PREVIOUS SALARY AND ALL BENEFITS.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN.: The facts surrounding the appeal are that the appellant was serving as Head Constable in the respondent-department; that the appellant was charged in criminal case FIR No. 173/19 dated 13.09.2019 under section 3/4,11/14,15AA (2) PS Muzaffarabad; that the appellant was issued charge sheet, statement of allegations and after conducting the enquiry, he was dismissed from service vide order OB No. 248 dated 01.11.2009 by respondent No.3; that the appellant filed representation against his dismissal order on 12.11.2019 to respondent No.2 which was partially allowed vide order dated 22.06.2020 by reinstating the appellant in service, punishment of dismissal from service was converted into major punishment of time scale constable with immediate effect; that the appellant was still aggrieved of the said order, filed revision petition under Rule 11-A of Khyber Pakhtunkhwa Police Rules 1975 (amended 2014) to respondent No.1 which was also decided on 10.03.2021 by agreeing with the decision of respondent No.2, however, the punishment of time scale was fixed for two years, compelling the appellant to file this appeal on 28.04.2021.


2. On receipt of the appeal and its admission to full hearing, the respondents were summoned, who, on putting appearance, contested the appeal by filing written reply raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellant.

3. We have heard learned counsel for the appellant and learned Additional Advocate General for the respondents.

4. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned AAG controverted the same by supporting the impugned order.

5. Admittedly the appellant was an accused in a criminal case registered in FIR No. 173/19 dated 13.09.2019 under section 3/4,11/14,15AA (2) PS Muzaffarabad which is a case of moral turpitude. In reply to show cause notice the appellant in paragraph-3 has admitted his presence within the jurisdiction of Police Chowki Bararkot district Muzaffarabad and thus he admitted his absence from duty which absence could not be justified nor any application for leave was placed on file or for that matter. Not a single word regarding absence from duty and/or leave or permission to leave the station was uttered anywhere in the reply to show cause notice as well as in the departmental appeals and so much so in this appeal even for the date of registration of criminal case against the appellant. The appellant was dismissed by the District Police Officer, Abbottabad vide order dated 01.11.2019 and on appeal the Regional Police Officer, Hazara Division Abbottabad, the appellate authority, keeping in view prolong service of the appellant, took lenient view and reinstated the appellant converting the punishment of dismissal from service into major punishment of time scale with immediate effect. The period during which the appellant remained out of service and absent was treated as leave without pay.

21/7/22

Against the order of the Regional Police Officer, the appellant preferred a revision petition under Rule 11-A of Khyber Pakhtunkhwa Police Rules 1975 (amended 2014) which was decided in manner that the period of punishment awarded by the Regional Police Officer was converted into period of two years.

6. In view of the above discussion the order passed by the RPO, Hazara Range Abbottabad, whereby already the lenient view had been taken, and that of the IGP, KP limiting the punishment for two years seem quite justified and reasonable which need not interference.

7. As a resultant consequence, this appeal being groundless is dismissed. Costs shall follow the event. Consign.

8. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 21st day of July, 2022.*



KALIM ARSHAD KHAN
Chairman
Camp court Abbottabad

SALAH UD DIN
Member (Judicial)
Camp court Abbottabad

ORDER

21st July, 2022

1. Counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Shamraiz Khan, ASI (Legal) for respondents present.
2. Vide our detailed judgement of today placed on file (containing 04 pages), this appeal being groundless is dismissed. Costs shall follow the event. Consign.
3. *Pronounced in open court in Abbottabad and given under our hands and seal of the Tribunal on this 21st day of July, 2022.*



**(KALIM ARSHAD KHAN)
CHAIRMAN.
Camp Court Abbottabad**

**(SALAH UD DIN)
MEMBER(Judicial)
Camp Court Abbottabad**

(1)

ADDITIONAL TEHSIL COURT NO. 1 OF CRIMINAL
JURISDICTION MUZAFFARABAD

File No: 42

Date of institution: 12.10.2019

Date of decision: 30.09.2021

State through Basharat Hussain Sub-Inspector
Chowki Braarkot/ Police Station Saddar.

[Non-Applicant]

Versus

Khanzaib s/o Muhammad Maskeen caste Pathan
R/o Abbotabad, Proceeded u/s 512 of Cr.P.C
2- Tassawar Zia S/o Ghulam Sarwar Caste
Swati R/o Tehsil Balakot District Mansehra.

[Applicant/Accused]

An Application under Section 249-A of Cr. P. C

FIR No.173/19, Offences Under Sections
3/4,11/14 of Prohibition (Enforcement of
Hadood Act) & In Offences Under Section
13(2) of Arms Amendment Act of 2015.

Present: Raja Aftab Ahmed Advocate Counsel for the
applicant/accused Tasawwar Zia
Prosecuting Inspector for the state

Judgment: (Abdul Malik - Tehsil Qazi/ Judicial Magistrate)

1. The facts spell out from the prosecution
story are that the complainant along with
Police party was busy in patrolling and
routine checking, at barrier of Choki Police

Bararkot, when they were informed by the official of Lohar Gali Police Check post that a white coloured Carry Van No. RI-618 was, when stopped, instead of stopping, the driver ran away in a suspicious way. On 13.09.2019 at 8:45 P.M that Carry Van was stopped at Barrier of Choki Bararkot, the driver again tried to escape from that spot, who was taken into custody. Another person was sitting in the car with the driver. Both persons were taken into custody and their names and addresses were asked. A smell of alcohol was coming from the mouths of both accused persons, and both were talking irrelevant talks. On a reasonable suspicion the Van was searched out, and it was found that 22 bottles of alcohol were placed in cotton, which, were recovered in the presence of witnesses. When the body clothes of accused were searched out, a 30 Bore Pistol with magazine was found, and was recovered from accused Khan Zaib. Both the accused were brought before the Medical Officer for medical checkup and confirmation of drinking alcohol etc..

2. A case No. 173/19 was registered against both the culprits in offences under Section 3/4/11/14 of The Prohibition (Enforcement of Hudood) Act and in offences under Section 13(2) of Arms Amendment Act of 2015. After completion of investigation a report under Section 173 of Cr. P. C was submitted before this Court and proceeding was started. On 13.11.2019, charge was framed against the accused persons, whereby they do not plead guilty and denied the truthfulness of the accusation leveled against them. Accordingly prosecution was ordered to prove his case by presenting evidence. Three witnesses out of

07 witnesses appeared before the Court and recorded their statements accordingly.

3. An application under Section 249-A of Cr.P.C was filed before this Court on 07.07.2021, the hearing and disposal of that application was pending due to pandemic emergency. Now, when regular hearing in the cases has begun, the arguments of both sides heard.

4. Mr. Raja Aftab Ahmed Advocate, the learned counsel for an accused Tasawwar Zia, vehemently argued that the applicant has no concern with the alleged offences. Applicant was a passenger of the van, and totally unaware of the presence of alcohol in the van. The van was owned and driven by the other accused, which was absconded. Available material of the case negates the prosecution version to the extent of applicant. Nothing was present against the applicant in statements of witnesses appeared before the Court. Even if the case continued and rest of the evidence is called, no conviction in any of the offences is possible in future at the end. It is humbly prayed that applicant may kindly be accepted and the applicant may kindly be acquitted.

5. While replying the arguments of the counsel for accused, the learned Prosecuting Inspector argued that report under Section 173 of Cr.P.C was submitted against the accused applicant as the sufficient evidence was available against him on record. The statements recorded corroborate the prosecution version. All the witnesses have admitted the occurrence. Remaining evidence will, if recorded be helpful in convicting

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20/7/21

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20/7/21

applicant in offences charged against him, report of Chemical Examiner regarding confirmation of recovered bottles as intoxicant alcohol and report of Medical Officer regarding drinking of alcohol are part and parcel of the record, which support the prosecution version. Application is premature. So it May kindly be rejected.

6. We have heard the arguments of the both sides and perused the record of challani file, which reveals that applicant Tasawwar Zia was charged with offences u/s 3/4/11/14 of The Prohibition (Enforcement of Hudood) Act and in offence u/s 13(2) of Arms Amendment Act of 2015. Three out of seven witnesses appeared before the Court and recorded their statements accordingly. It is worthy to mention here that main accused of the case was absconded during the trial and proceedings u/s 512 of Cr. P. C were initiated against him and only single accused who is applicant under discussion facing the trial. As the case was fixed for recording of evidence, the Counsel for accused applicant Tasawwar Zia applied for the acquittal of the applicant u/s 249-A of Cr. P. C. Available record of the case shows that the prosecution has entered seven witnesses in the list of calendar of witnesses in Challan. During the course of evidence process, the application was filed on the ground that the available material is so much doubtful and nothing was present on the face of record against the accused which corroborates the prosecution version.

7. It seems appropriate that Section 249-A of the Code of Criminal Procedure be reproduced here below so that the legal and

02/11/2017

2/11/2017

practical applicability of the said section can be examined keeping in view the overall circumstances of the case in hand.

Sec 249-A; Power of Magistrate to acquit accused at any stage:

Nothing in this Chapter shall be deemed to prevent a Magistrate from acquitting an accused at any stage of the case, if after hearing the Prosecutor and the accused and for reasons to be recorded, he considers that the charge is groundless or that there is no probability of the accused being convicted of any offence.

8. From the bare reading of the above mentioned Section, it is clear that the acquittal of an accused at any stage of the case is subject to the presence of one of the two things i.e. firstly the charge is groundless and secondly the material available on the record is insufficient to convict the accused in any of alleged offences at the end. Keeping in view the pre-requisites of the application of Sec 249-A of Cr. P. C. on the case in hand, available evidence and incriminating material was perused. It is pertinent to mention here that the Complainant himself and an eye witness of the occurrence have recorded their examination in chief in favor of prosecution and against the accused. But during the course of cross examination, they have categorically admitted that no narcotic substance was recovered from the custody of the accused Tasawwar Zia. Similarly both the witnesses including Complainant themselves admitted the innocence of the accused

Tasawwar Zia and also admitted that accused Tasawwar was falsely implicated in the FIR. It is also important to mentioned here that the main accused of the case was absconded during the trial and application was filed only by accused Tasawwar Zia.

9. As for as the alleged offences are concerned, then the offences u/s 3/4/14 of The Prohibition (Enforcement of Hudood) Act were directly related and connected to the main accused Khan Zaib, whereas offence u/s 11 of The Prohibition (Enforcement of Hudood) Act although related to the applicant but nothing was present on record which linked the accused with the said offence. According to medical report of the accused, samples of urine and blood were taken and sent for confirmation of drinking and detection of alcohol, but report of chemical examiner, which has a pivotal role in establishing the offence of drinking, was not made part and parcel of the record. As for as the offence u/s 13(2) of Arms Amendment Act of 2015 is concerned, it is, also directly connected to the other accused. In such sort of Situation where available evidence is so much ambiguous and doubtful and do not create any sufficient cause to link the accused with the alleged offences, connection of applicant accused with the alleged offence was in vague. Lot of ambiguities and doubts arises and if the case will continue to precede, no probability of an accused being convicted in any of the offences alleged at the end despite the wastage of lot of time. It is well celebrated principle of law that the smallest doubt shaking the roots of the case must be extended to accused. After

30/07/2017

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considering all aspects of the case mentioned above, it is found that the case come under the operation of the Sec 249-A of the Code.

10. For what has been stated above, the application of Accused Tasawwar Zia u/s 249-A of Cr. P. C is hereby accepted and he is acquitted of the charges leveled against him in the Challan. The surety is discharged from his liability. As the other accused was absconded and proceedings u/s 512 of Cr. P. C. were initiated against the accused Khan Zaib, so the case will be continue against him as per Law. Prosecution witnesses are called and the case is fixed for evidence on 23-10-2021.

(Handwritten signature and notes)
 (Abdul Malik)
 Tehsil Qazi/Judicial Magistrate

(Handwritten signature)

(Syed Burhan Ali Haider Gerdezi)
 Civil Judge/Judicial Magistrate

Members Additional Tehsil Criminal Court No.1
 Muzaffarabad

1306
07/10/21
حکومت آزاد جموں و کشمیر

1305
07/10/21
حکومت آزاد جموں و کشمیر

1307
07/10/21
حکومت آزاد جموں و کشمیر

1308
07/10/21
حکومت آزاد جموں و کشمیر

1309
07/10/21
حکومت آزاد جموں و کشمیر

نام: _____
تاریخ: _____
تعداد: _____
پرینٹ: _____

07/10/21

1310
07/10/21
حکومت آزاد جموں و کشمیر

1311
07/10/21
حکومت آزاد جموں و کشمیر

Annex - (K)



OFFICE OF THE SUB-DIVISIONAL EDUCATION
OFFICER (FEMALE) HARIPUR

(Office Phone No. 0995-920157)

No. 2303 / Dated: 18 / 02 / 2021

To

All Teaching Staff
GGPS TIP Haripur

Subject: **WARNING.**


Memo:


As per report of PSHT GGPS TIP dated 15-12-2020 and 21-01-2021 regarding misconduct, quarrelling behavior during the school timing and lake of interest towards teaching learning process of whole Teaching staff, which case of poor discipline and badly suffer teaching learning process.

In the light of above facts you are hereby warned that all the negligence mentioned above on your parts should be remove in the best interest of school and students, teaching learning process otherwise disciplinary proceeding will be initiated against all of you, under E&D rules 2011.

Endst No. even No. & Date
Cc to the:-

1. The District Education Officer Female Haripur.
2. Office record file.


SUB-DIVISIONAL EDUCATION OFFICER
(FEMALE) HARIPUR


SUB-DIVISIONAL EDUCATION OFFICER
(FEMALE) HARIPUR

(36)

Against the order of the Regional Police Officer, the appellant preferred a revision petition under Rule 11-A of Khyber Pakhtunkhwa Police Rules 1975 (amended 2014) which was decided in manner that the period of punishment awarded by the Regional Police Officer was converted into period of two years.

6. In view of the above discussion the order passed by the RPO, Hazara Range Abbottabad, whereby already the lenient view had been taken, and that of the IGP, KP limiting the punishment for two years both seem quite justified and reasonable which need not interference.

7. As a resultant consequence, this appeal being groundless is dismissed. Costs shall follow the event. Consign.

8. ***Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 21st day of July, 2022.***

KALIM ARSHAD KHAN
Chairman
Camp court Abbottabad

SALAH UD DIN
Member (Judicial)
Camp court Abbottabad

VISIT REPORT OF GGPS TIP

GGPS TIP visited by SDEO (F) Haripur Dated 12-02-2021

Teaching Staff

There are eight working teachers. All were present

Non teaching staff

C-IV Jaffar Hassan present

Total Enrolment

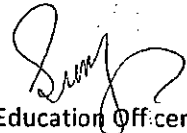
405 and total student present 94%

Deficiencies

1. There is no proper lesson planning.
2. There is no Co-operation with AAR Japan team
3. All staff misbehave with Head teacher and Head mistress of GGMS TIP
4. Mostly staff quelling with each other and learning environment is suffered

Recommendation

Warning issue to all staff and checking after one month, if they have not changed there behavior proceeding start against them



Sub Division Education Officer Female

Haripur

3. We have heard learned counsel for the appellant and learned Additional Advocate General for the respondents.

4. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned AAG controverted the same by supporting the impugned order.

5. Admittedly the appellant was an accused in a criminal case registered in FIR No. 173/19 dated 13.09.2019 under section 3/4,11/14,15AA (2) PS Muzaffarabad which is a case of moral turpitude. In reply to show cause notice the appellant in paragraph-3 has admitted his presence within the jurisdiction of Police Chowki Bararkot district Muzaffarabad and thus he admitted his absence from duty which absence could not be justified nor any application for leave was placed on file or for that matter. Not a single word regarding absence from duty and/or leave or permission to leave the station was uttered anywhere in the reply to show cause notice as well as in the departmental appeals and so much so in this appeal even for the date of registration of criminal case against the appellant. The appellant was dismissed by the District Police Officer, Abbottabad vide order dated 01.11.2019 and on appeal the Regional Police Officer, Hazara Division Abbottabad, the appellate authority, keeping in view prolong service of the appellant, took lenient view and reinstated the appellant converting the punishment of dismissal from service into major punishment of time scale with immediate effect. The period during which the appellant remained out of service and absent was treated as leave without pay.

Annex - (M) 17



**OFFICE OF THE SUB-DIVISIONAL EDUCATION
OFFICER (FEMALE) HARIPUR**

(Office Phone No. 0995-920157)

No. 2347 / Dated: 01/1/2021

To

The District Education Officer (Female)
Haripur.

Subject: VISIT REPORT OF GGPS TIP HARIPUR.

It is submitted that the visit remarks/ observation regarding surprise visit of ASDEO Female circle Haripur on dated 11-02-2021, of Government Girls Primary School TIP Haripur is appended below:-

- That there is no SOPs regarding COVID-19 followed by the Teachers as well as PSHT.
- That all the Teachers always busy in gossiping in the school rather than teaching, it would be observed during many visits of the school.
- That Teaching learning process is on very poor condition which seemed to lack of interest towards job by the all Teaching Staff.
- That in spite of number of times directions were given to the PSHT regarding improvement of cleanliness of school, but yet not improve and it went more badly condition.
- That as per complaint of PSHT all the teaching staff having quarreling attitude towards each other and disobey her directions.

In the light of above facts the undersigned issued warning to all Teaching staff vide letter No.2307 dated 17-02-2021 (copy attached).

It is submitted the school condition remained same and no improvement were found among the Teaching staff of GGPS TIP the case is submitted in your kind perusal for further disciplinary action against all Teaching staff please.

Sub Division Education Officer (Female)
Haripur

Copy of this file
is received by me

Ehsan Iqbal
C. Adil
in March 2021

(35)

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN.: The facts surrounding the appeal are that the appellant was serving as Head Constable in the respondent-department; that the appellant was charged in criminal case FIR No. 173/19 dated 13.09.2019 under section 3/4, 11/14, 15AA (2) PS Muzaffarabad; that the appellant was issued charge sheet, statement of allegations and after conducting the enquiry, he was dismissed from service vide order OB No. 248 dated 01.11.2009 by respondent No.3; that the appellant filed representation against his dismissal order on 12.11.2019 to respondent No.2 which was partially allowed vide order dated 22.06.2020 by reinstating the appellant in service, punishment of dismissal from service was converted into major punishment of time scale constable with immediate effect; that the appellant was still aggrieved of the said order, filed revision petition under Rule 11-A of Khyber Pakhtunkhwa Police Rules 1975 (amended 2014) to respondent No.1 which was also decided on 10.03.2021 by agreeing with the decision of respondent No.2, however, the punishment of time scale was fixed for two years, compelling the appellant to file this appeal on 28.04.2021.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned, who, on putting appearance, contested the appeal by filing written reply raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellant.

Amkane (M)

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OFFICE OF THE DISTRICT EDUCATION OFFICER (M) TANK.

INQUIRY REPORT

1. Terms of References

In pursuance of Notification Director E&SE KP No. 9162-63/A-12/PF Samina Altaf Dated: 19-05-2021 (received in this office on 02-06-2021) having the following content ; (Aux-I-01 page)

" To Conduct an enquiry regarding complaint against Mst. Samina Altaf, District Education Officer (Female) Haripur and submit detail enquiry report along with the clear findings and recommendations within 10 days positively"

2. Background of report.

A complaint submitted by teachers along with its enclosure against Mst. Samina Altaf DEO (F) Haripur. (Aux-II-05 pages)

3. Enquiry Proceedinga) Informative letter to DEO F Haripur.

The DEO F Haripur was informed vide Memo: No. 4284/DEO-M Dated: 02-06-2021 by fixing 05-06-2021 to conduct the enquiry process as well to direct the subordinate staff also to inform the concerned complainer teachers to remain present in their schools. (Aux-III-01 page)

b) Meeting with Concerned officers/ Officials.

The undersigned visited the office of the DEO F Haripur on 05-06-2021 and held individually meetings with DEO F Haripur as well as SDEO (F) Mst. Surya Taj SDEO (F) & Sabiha Shaheen ASDEO. Attendance Sheet (Aux-IV-02 page)

c) Serving Questionnaires to Concerned.

Questionnaires were served to Mst. Samina Altaf DEO (F) Haripur as well as Mst. Surya Taj SDEO (F) Haripur & Sabiha Shaheen ASDEO Circle Hairpur, Headmistress of GGPS TIP along with its 07 teachers. (Aux-V-03 page)

d) Reply to questionnaire by DEO alongwith its enclosure (Aux-VI-12 pages)e) Visit of School

GGPS GGMS TIP Haripur was visited on the same day i.e. 05-06-2021

- Meeting was held with all of the 08 No.s teachers
- Meeting with HM GGMS TIP (Aux-VII-01 page)
- Inspected Academic activities in class room (08 No. Photographs attached)

f) Meeting with PTC Chairman/ Members and Parents

A meeting was conducted in school with the Chairman of PTC as well some parents who were present in school in connection with admission of their kids in the school.

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viii. The Mst. Khatwan Bibi HM GGMS TIP, which is running in same building, stated in her reply to the questionnaire that the previous teachers, who are transferred, remained

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**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

**BEFORE: KALIM ARSHAD KHAN ... CHAIRMAN
SALAH UD DIN ... MEMBER (JUDICIAL)**

Service Appeal No.4972/2021

Tasawar Zia Ex-LHC No. 23, Police Lines Abbottabad. R/O Saghdar Dakhl, Post Office Ghari Habib Ullah, Tehsil Balakot, District Mansehra.

.....(**Appellant**)

Versus

1. **Inspector General** of Police, Khyber Pakhtunkhwa, Peshawar.
2. **Regional Police Officer**, Hazara Region, Abbottabad.
3. **District Police Officer**, Police Lines, Abbottabad.
4. **District Police Officer**, Police Lines, Abbottabad.

.....(**Respondents**)

Present:

Malik Waheed Akhtar,
Advocate.....For appellant.

Kabirullah Khattak,
Additional Advocate GeneralFor respondents.

Date of Institution.....28.04.2021


Dates of Hearing.....21.07.2022

Date of Decision.....21.07.2022

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 TO DECLARE THE IMPUGNED ORDER NO. S/1034/21, DATED 10.03.2021 AS ILLEGAL, UNLAWFUL, UNCONSTITUTIONAL AGAINST THE POLICY, DISCRIMINATORY AND PERVERSE AS APPELLANT DESERVES TO BE REMAINED AT HIS ORIGINAL POSITION AS HC. NO.23, OF DISTRICT ABBOTTABAD. PUNISHMENT AS TIME SCALE CONSTABLE FOR TWO YEARS IS IN VIOLATION OF ARTICLE 10-A OF CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973 WITH THE PRAYER THAT THE RESPONDENTS MAY BE DIRECTED TO RESTORE THE APPELLANT TO HIS ORIGINAL POSITION AS HC NO. 23 FROM THE DUE DATE AND GRANT HIM HIS PREVIOUS SALARY AND ALL BENEFITS.

17.03.2022


Due to retirement of the Hon'able Chairman, the Tribunal is defunct, therefore, the case is adjourned for the same before on 19.05.2022


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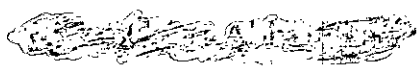
19.05.2022

Counsel for the appellant present. Mr. Naseer Uddin Shah, Assistant Advocate General alongwith Mr. Shamraiz Khan, ASI (Legal), for respondent present.

Written reply/comments on behalf of the respondents submitted which is placed on file. A copy of the same is also handed over to the learned counsel for the appellant. To come up for rejoinder as well as arguments before D.B at camp court Abbottabad on 21.07.2022.


Fareeha Paul
Member (E)
Camp Court, Abbottabad





19.01.2022

Appellant in person present. Mr. Shamraz Khan, ASI
alongwith Mr. Kabirullah Khattak, Additional Advocate General
for the respondents present and sought time for submission of
written reply/comments. Adjourned. To come up for written
reply/comments on 17.03.2022 before the S.B at Camp Court

Adjourned

17.03.2022

Abbottabad Advocate
for the respondent

(Salah-ud-Din)


Appellant requested for adjournment on the ground that
counsel has not turned up. Since the case is adjourned
to the appellant to argue the case on the next date, the
respondent's behalf is not taken up.

Member

Member
Camp Court Abbottabad

12.10.2021

Learned counsel for the appellant present and sought for preliminary hearing. Adjournd. To come up for preliminary hearing before the S.B on 29.12.2021 at Camp Court Abbottabad.



(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT ABBOTTABAD

01.12.2021

Mr. Malik Waheed Akhtar, Advocate, for the appellant present and submitted an application for condonation of delay, which is placed on file. Preliminary arguments heard.

Points raised need consideration, therefore, the appeal is admitted to regular hearing subject all legal objections including the question of limitation. The appellant is directed to deposit security and process fee within 10 days, where-after notices be issued to the respondents for submission of written reply/comments on 19.01.2022 before the S.B at Camp Court Abbottabad.

Appellant Deposited
Security & Process Fee


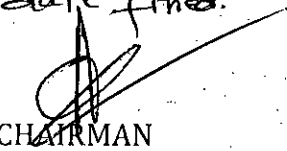


(Salah-Ud-Din)
Member (J)
Camp Court Abbottabad

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 4972/2021

S.No:	Date of order proceedings	Order or other proceedings with signature of judge		
1	2	3		
1-	28/04/2021	<p>The appeal of Tasawar Zia presented today by Malik Waheed Akhtar Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2-</p>	3-6-21	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>19-7-21</u>. Notices be issued to appellant/counsel for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>19.07.2021</p> <p>Nemo for appellant.</p> <p>Appellant/counsel be put on notice for 12.10.2021 for hearing before S.B at Camp Court Abbottabad.</p> <p style="text-align: right;"> (Rozina Rehman) Member (J)</p>

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

Service Appeal No. 4972 /2021

Tasawar Zia Ex-LHC No 23, Police Lines Abbottabad. R/O Saghdar Dakhl,
Post Office Ghari Habib Ullah, Tehsil Balakot District Mansehra.

.....APPELLANT

VERSUS

Inspector General of Police Khyber Pakhtunkhwa Peshawar & Others.

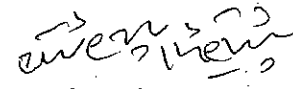
.....RESPONDENTS

INDEX

S#	PARTICULARS	ANNEXURES	PAGES
1.	Service Appeal & Affidavit		1-to-04
2.	Copies of charge sheet, Reply of charge sheet and order	ANNEXURE-A	05-to-09
3.	Copy of Appeal and order of RPO Abbottabad	ANNEXURE-B	10-to-12
4.	Copy of the revision and order of IGP	ANNEXURE-C	13-to-14
9	Wakaltnama		15


APPELLANT

COUNSEL


Malik Waheed Akhtar
Advocate
High Court Abbottabad

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 5051

PESHAWAR.

4972 Dated 28-4-2021

Service Appeal No. /2021

Tasawar Zia Ex-LHC No 23, Police Lines Abbottabad. R/O SaghdarDakhl,
Post Office GhariHabibUllah, Tehsil Balakot District Mansehra.

.....APPELLANT

VERSUS

1. Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. Regional Police Officer Hazara region Abbottabad.
3. District Police Officer, Police Lines, Abbottabad.

.....RESPONDENTS

SERVICE APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT 1974, TO DELARE THE IMPUGNED ORDER No. S/1034/21, DATED 10/03/2021 AS ILLEGAL, UNLAWFUL, UNCONSTITUTIONAL, AGAINST THE POLICY, DISCRIMINATORY, AND PERVERSE, ASAPPELLANT DESERVES TO BE REMAINED AT HIS ORIGINAL POSITION AS HC. No 23, OF DISTRICT ABBOTTABAD. PUNISHMENT AS TIME SCALE CONSTABLE FOR TWO YEARS IS IN VIOLATION OF ARTICLE 10-A OF CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973 WITH THE PRAYER THAT THE RESPONDENTS MAY BE DIRECTED TO RESTORE THE APPELLANT TO HIS ORIGINAL POSITION AS HC No. 23 FROM THE DUE DATE AND GRANT HIM HIS PREVIOUS SALARY & ALL BENEFITS.

Registrar
28/4/2021

Respectfully Sheweth:-

1. That the Appellant is the permanent employee of the Regional Police Office presently posted at MirPur Police station Abbottabad and is performing his functions since the date of his appointment.
2. That not only the Appellant but his father also served in the said department and worked with great zeal and zest and never let down his department throughout his tenure of service. Following the footsteps of his father and seniors of department the Appellant never shirked from his task if any assigned to him.
3. That unfortunately the Appellant was falsely charged in criminal case FIR No 173/19, dated 13.09.2019 U/S 3/4, 11/14, 15 AA (2) PS Muzaffarabad. It is evident from the contents of FIR that Appellant was charged on the basis of presumptions.
4. That the Appellant was issued charge sheet along with statement of allegations and on the basis of biased and one sided inquiry the Appellant was dismissed from his services under OB No. 248 dated 1.11.2019 by the concerned District Police Officer Abbottabad. (Copies of charge sheet, Reply of charge sheet and order are attached as **ANNEXURE-A**)
5. That the Appellant after dismissal order, filed representation against the said order before the immediate competent authority i.e. Regional Police Officer Hazara Region Abbottabad, who reinstated the Appellant in service while the punishment of dismissal from service was converted into major punishment of time scale constable with immediate effect. (Copy of Appeal and order of RPO Abbottabad is attached as **ANNEXURE-B**)
6. That the Appellant considering himself innocent having no nexus with criminals/accused and feeling aggrieved submitted revision petition before Inspector General of Police Khyber Pakhtunkhwa Peshawar, who after considering his revision modified the order of the RPO Hazara Abbottabad to the extent of time scale i.e. time scale is fixed for two years. (Copy of the revision and order of IGP is attached as **ANNEXURE-C**)
7. The decision of both the respondents is pre-mature as the case against the Appellant in FIR is yet to be decided. It is famous saying that "***no one can be declared guilty unless convicted by the court of law***". An Appellant is innocent and punishment awarded to Appellant is on supposition, hypothesis, conjectures, and surmises and based on whims and wishes of respondents.
8. That the impugned Notifications, No. S/1034/21 dated 10/03/2021 is perfunctory in the eyes of law, hence, same is liable to be reversed and restore the Appellant on its original post i.e. HC. No.23 in the instant department, inter-alia, on the following grounds:

GROUND

- a. That the respondents quickly jumped towards the conclusion and charged the Appellant by ignoring the fact that the case is still pending before the trial court. It is against the famous saying "***justice in haste is justice waste***".
- b. That the constitution of Pakistan explicitly defines under Article 10-A that the right to "***fair trial***" is fundamental, constitutional right belonging to every citizen of Pakistan, it extends not only to criminal charges but also to civil rights and obligations.

- c. That the departmental inquiry not only overlooks the said principle of fundamental right of citizen but also decided the matter high-handedly. Therefore, the Appellant has left with no option except to approach the Honourable Tribunal to redress his grievances.
- d. That the Appellant feeling aggrieved had filed departmental representation to respondent No. 2 for doing the needful but he didn't consider the factual and legal position and announced his order before time.
- e. That the act of respondents is against the law, discriminatory, perverse and negation of fundamental rights of the Appellants.
- f. That the instant Appeal is filed well within time after following all the required Codal formalities.

PRAYER:

It is therefore humbly prayed that instant Appeal may kindly be accepted and the impugned order No. 1034/S/21 dated Peshawar the 10/03/2021 may be set side and the Appellant may be restored to his original post/position.

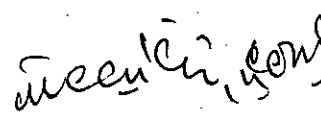
INTERIM RELIEF:

Deduction from the salary of the Appellant, on account of recovery immediately be stopped, and the salary of HC may kindly be restored.

Dated: 28/4/2021


APPELLANT

Through Counsel


Malik Waheed Akhtar
&
Malik Saeed Akhtar
Advocates
High Court Abbottabad

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

Service Appeal No. _____/2021

Tasawar Zia Ex-LHC No 23, Police Lines Abbottabad. R/O Saghdar Dakhl,
Post Office Ghari Habib Ullah, Tehsil Balakot District Mansehra.

.....APPELLANT

VERSUS

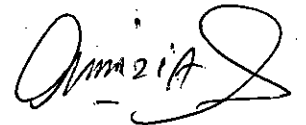
Inspector General of Police Khyber Pakhtunkhwa Peshawar & Others.

.....RESPONDENTS

AFFIDAVIT

I, Tasawar Zia S/O Ghulam Sarwar, do hereby solemnly affirm that the contents of above Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

Dated: 28/4/2021.



Deponent

Abbottabad



28/4/2021

OFFICE OF THE DISTRICT POLICE OFFICER, ABBOTTABAD

No: 252 /PA, Dated Abbottabad, the 22/10/2019.

FINAL SHOW CAUSE NOTICE (Unit Rule (3) KPK Police Rules, 1975)

1. That you HC Tasawar Zia No: 23 Police Lines Abbottabad rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunkhwa Police Rules 1975 for following misconduct;

I. You while posted as TO in Traffic Warden Abbottabad absented yourself from official duty without any leave or information w.e.f. 14-09-2019 and reportedly involved in case FIR No. 173 dated 13-09-2019 u/s 3/4, 11/14, 15 AA (2) PS Muzafarabad AJ&K. your this defamatory act and activity has tarnished the image of Abbottabad Police in general and Traffic Warden Police in particular thereby proving yourself as stigma on the face of Khyber Pakhtunkhwa Police.

II. During proper departmental enquiry the allegations have been proved against you.

2. That by reason of above, as sufficient material is placed before the undersigned therefore it is decided to proceed against you in general Police proceedings without aid of enquiry officer;

3. That the misconduct on your part is prejudicial to good order of discipline in the Police force.

4. That your retention in the police force will amount to encouragement of inefficient Police officers;

5. That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action against you by awarding one or more of the kind punishments as provided in the Rules.

6. You are, therefore, called upon to Final Show Cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 for the misconduct referred to above.

7. You should submit reply to this Final Show Cause Notice within 07 days of the receipt of the notice failing which an ex parte action shall be taken against you.

8. You are further directed to inform the undersigned that you wish to be heard in person or not.

9. Grounds of action are also enclosed with this notice.

District Police Officer Abbottabad

Received by _____ Dated 1/10/2019

Handwritten signatures and notes in Urdu, including 'ذریعہ' and 'میں نے جواب دیا'.

Handwritten signature and stamp: 'Advocate High Court Abbottabad'.

OFFICE OF THE DISTRICT POLICE OFFICER, ABBOTTABAD

No: 252 /PA, Dated Abbottabad, the 28/10/2019.

GROUND OF ACTION

That you HC Tasawar Zia No. 23 Police Lines Abbottabad, committed following misconduct:-

I. You while posted as TO in Traffic Warden Abbottabad absented yourself from official duty without any leave or information w.e.f. 14-09-2019 and reportedly involved in case FIR No. 173 dated 13-09-2019 u/s 374, 11/14, 15 AA (2) PS Muzafarabad AJ&K. your this defamatory act and activity has tarnished the image of Abbottabad Police in general and Traffic Warden Police in particular thereby proving yourself as stigma on the face of Khyber Pakhtunkhwa Police.

II. During proper departmental enquiry the allegations have been proved against you.

By reasons of above you have rendered yourself liable to be proceeded under Khyber Pakhtunkhwa Police Rules, 1975, hence these grounds of action.

Sd/
District Police Officer,
Abbottabad

Muhammad Ali
Malik Waleed Akhtar
Advocate High Court
Abbottabad

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ر. ا. ك. و
م. م. م.

انصاف کرو عدل کے ساتھ۔ (القرآن)

جواب فائل شوکا ز نوٹس نمبری، PA/252 تاریخ 22/10/2019 مجاریہ جناب

DPO صاحب، ایبٹ آباد

جناب عالی! جواب فائل شوکا ز نوٹس ذیل عرض ہے:-

1- یہ کہ مفصل جواب قبل ازیں من مظہر تحریری طور پر دے چکا ہوں تاہم دوبارہ عرض خدمت یہ ہے کہ من مظہر نے دوران تعیناتی ٹریفک مورخہ 12/09/2019 تا 14/09/2019، تین یوم رخصت اتفاقیہ جناب ٹریفک انسپکٹر صاحب سے حاصل کر کے خانہ خود گڑھی حبیب اللہ گیا تھا کہ اس دوران مورخہ 13/09/2019 ایک قریبی عزیز کی فوتیگی پر مظفر آباد آزاد کشمیر گیا تھا۔ بعد فراغت واپس خانہ خود گڑھی حبیب اللہ آنے کے لئے گوجرہ بانی پاس مظفر آباد گاڑی کا انتظار کر رہا تھا کہ ایک کیری ڈبہ جو مظفر آباد سے ایبٹ آباد آرہا تھا، کو خالی دیکھ کر من مظہر نے اُسے روکا اور ڈرائیور سے پوچھا کہ کہاں جا رہے ہو جس نے بتلایا کہ وہ ایبٹ آباد جا رہا ہے۔ چونکہ اس کو من مظہر کے علاقہ سے گزرنا تھا جو من مظہر اُس کیری ڈبہ میں بطور سواری بیٹھ گیا۔ راستہ میں من مظہر کو پیاس لگی ہوئی تھی جو ڈرائیور سے پانی طلب کیا تو ڈرائیور نے بتلایا کہ اُس کے پاس پانی نہ ہے البتہ پیسی کی بوتل مجھے پینے کے لئے دی۔ جب من مظہر اُس کے ہمراہ برار کوٹ پہنچا تو دوران چیکنگ پولیس مظفر آباد نے کیری ڈبہ سے 22 بوتل شراب برآمد کر لیں۔

2- یہ کہ دوران چیکنگ ڈرائیور کیری ڈبہ کی ملازمان پولیس کے ساتھ ٹوٹکرار ہوئی اور مزید یہ کہ من مظہر ڈرائیور کے اس فعل سے بالکل لاعلم تھا اور ہمراہ ڈرائیور من مظہر کو پولیس برار کوٹ نے بند حوالات کر کے FIR درج کر لی۔

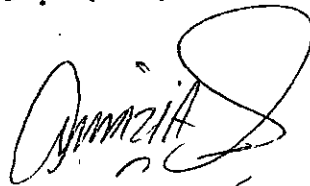
3- یہ کہ حلفاً بیانی ہوں کہ من مظہر کے خلاف پولیس چوکی برار کوٹ نے من گھڑت اور جھوٹی FIR درج کر کے مجھے ڈرائیور کے ساتھ مقدمہ میں ملوث کروایا ہے جس کا حقیقت سے کوئی تعلق نہ ہے۔ بد قسمتی سے من مظہر گڑھی حبیب اللہ کارہائشی ہے جو برار کوٹ چوکی کے قریب ہے جس باعث من مظہر کو گمان غالب ہے کہ من مظہر کو ایک سازش کے تحت مقدمہ مذکورہ میں پھنسا یا گیا ہے جس کی تصدیق کے لئے ہمراہی ڈرائیور مسمی خانزیب ولد مسکین ساکن پاوانے ایک قطعہ بیان حلفی نمبر 23/21/10/19 بھی دی ہے جس میں ڈرائیور نے من مظہر کے بیان بالا کی مکمل تصدیق کرتے ہوئے اقرار کیا ہے کہ من مظہر مقدمہ میں بے گناہ ہے اور

Malik Wahed Ahmad
Advocate High Court
Faisalabad

مذکورہ نے مجھے الکوہل ملی پیسی دی جو من مظہر نے بے خبری میں تھوڑی سی پی لی جو احساس ہونے پر ڈرائیور کو واپس کی اور اُسے سخت کہا۔ مزید یہ کہ گڑھی حبیب اللہ میں ہمارے خاندان کا ایک مخالف جعلی صحافی مسی سینفی خان اکثر و بیشتر ہمارے خاندان کے معمولی مسائل کو ہمیں بلیک میل کرنے کے لئے اخبار میں اجاگر کرتا رہتا ہے جس نے واقعہ ہذا کو بھی مجھ بدنام کرنے کے لئے حسب سابق استعمال کیا کیونکہ واقعہ ہذا سے کچھ عرصہ قبل میرے خالہ زاد نے مذکورہ صحافی کے خلاف کافی تگ و دو کی جس کے ثبوت کے لئے تراشہ ہائے اخبارات کے فوٹو اسٹیٹ لف جو اب ہذا ہیں۔ اسی طرح بیان حلفی مذکورہ ڈرائیور کی فوٹو اسٹیٹ بھی ساتھ لف ہے۔

جناب والا! من مظہر خلفاً بیانی ہے کہ من مظہر شراب تو کجا کوئی چھوٹا موٹا نشہ نہیں کرتا جو اپنی بے گناہی ثابت کرنے کے لئے ملاحظہ ڈاکٹری کے لئے درخواست گزار ہوں کہ میرے خون کا تجزیہ فرمایا جائے کہ واقعی من مظہر عادی شراب نوش ہے یا بد قسمتی سے دانستہ یا غیر دانستہ اس واقعہ نے ملوث ہوایا کرایا گیا۔ میرا یہ فعل محض حادثاتی ہے نہ کہ قصداً 1 عہد 1 جو تعزیرات کے مستثنیات عامہ میں آتا ہے۔ میرا تعلق پولیس ملازمین کے خاندان سے ہے اور نہایت دیندار ہے۔ من مظہر شراب نوشی کا سوچ بھی نہیں سکتا۔ من مظہر کے سابقہ ریکارڈ کا بھی ملاحظہ فرمایا جاسکتا ہے۔ من مظہر اپنے گھر کا واحد کفیل ہے اور چھوٹے چھوٹے بچے ہیں اور من مظہر نے اپنی زندگی کے قیمتی 20 سال محکمہ پولیس میں نہایت ایمانداری، نیک نامی خدمت سرانجام دے ہے اور اب من مظہر کے پاس ملازمت کے علاوہ دیگر کوئی ذریعہ معاش نہ ہے۔ چونکہ من مظہر کے خلاف مقدمہ ہذا میں چالان مکمل دیا جا چکا ہے جو اب مظفر آباد کی عدالت میں زیر سماعت ہے جو انشاء اللہ من مظہر روبرو عدالت اپنی بے گناہی ثابت کرنے کے لئے اپنے پاس کافی ثبوت رکھتا ہے۔ جو اندریں بابت جناب سے استدعا کرتا ہوں کہ تافیصلہ عدالت من مسائل کو ملازمت پر بحال فرمایا جائے تاکہ من مسائل والہ خانہ ذہنی اذیت و معاشی تنگدستی سے دوچار نہ ہوں۔ مسائل جناب کے بال بچوں کے لئے تاحیات دعا گور ہے گا۔

المرقوم: 28/10/2019



تصور ضیاء ہیڈ کنسٹیبل نمبر 23، پولیس لائن ایبٹ آباد

Malik Waheed Akhter
Advocate High Court
Abbottabad

ORDER

P.NO: 09.

This office order will dispose of the departmental enquiry against HC Tasawar Zia No. 23 Police Lines Abbottabad. He while posted as TO in Traffic Warden Abbottabad absented himself form official duty without any leave or information w.e.f. 14-09-2019 and reportedly involved in case FIR No. 173 dated 13-09-2019 u/s 3/4 , 11/14, 15 AA (2) PS Muzafarabad AJ&K. His this defamatory act and activity has tarnished the image of Abbottabad Police in general and Traffic Warden Police in particular thereby proving himself as stigma on the face of Khyber Pakhtunkhwa Police

He was issued Charge Sheet along with statement of allegations. Mr. Azam Ali Shah, DSP Traffic Warden Abbottabad was appointed as Enquiry Officer. He conducted proper departmental enquiry against the delinquent official and recorded statements of all concerned. After conducting proper departmental enquiry, the Enquiry Officer submitted his findings wherein allegations have been proved against delinquent official. Consequently he was issued Final Show Cause Notice. He was summoned to appear in Orderly Room on 31-10-2019. He was given a patient hearing but he had nothing plausible to state in his defence.

Therefore, in exercise of the powers vested in the undersigned Police Disciplinary Rules-1975 (Amended 2014), I, Javed Iqbal, PSP, District Police Officer, Abbottabad as a competent authority, am constrained to award him the punishment of Dismissal from Service with immediate effect.

Order announced.

OB No. 248
Dated 1-11-19

District Police Officer
Abbottabad

CC.

1. Pay Officer, DPO Office Abbottabad.
2. Establishment Clerk.
3. OHC alongwith complete Enquiry File containing 40 pages for completion of record.

Malik Waheed Akhtar
Advocate High Court
Abbottabad

ATTESTED
Addl. S.D. Officer
Superintendent of
Police Abbottabad

خدمت جناب DIG صاحب ہزارہ ڈویژن، ایبٹ آباد

عنوان: محکمانہ اپیل نظر ثانی برخلاف Dismissal order نمبری 248 مورخہ 01/11/2019 مجاریہ

DPO صاحب ضلع ایبٹ آباد

جناب عالی! موجبات اپیل ذیل ہیں:-

1- سائل ک Ex-HC تصور ضیاء نمبر 23 پولیس لائن ایبٹ آباد معروض خدمت ہوں کہ سائل کو حکم نمبری 248 مورخہ 01/11/19 مجاریہ DPO صاحب ضلع ایبٹ آباد کے زیر تفتیش مورخہ 01/11/2019 کو ملازمت سے برطرف کر دیا گیا ہے۔ (نقل آرڈر برطرفی لف ہے)۔

2- یہ کہ من سائل کو قبل ازیں فائل شوکا ز نوٹس نمبری 252/PA مورخہ 22/10/19 کو جناب DPO صاحب ضلع ایبٹ آباد کی طرف سے بھیجا گیا تھا اور من سائل نے اپنی بے گناہی کے جملہ ثبوت ہائے کے ہمراہ مذکورہ شوکا ز نوٹس کا پیرا وائز جواب مقررہ معیاد کے اندر تفصیلی داخل کروایا جس میں من سائل نے تفصیل کے ساتھ اپنی بے گناہی کے ثبوت فراہم کئے مگر سائل کی طرف سے پیش کئے گئے ثبوت ہائے کو یکسر نظر انداز کر دیا گیا اور سائل کو مذکورہ بالا برطرفی آرڈر کے ذریعے نوکری سے برطرف کر دیا گیا جو کہ سائل کے ساتھ سراسر نا انصافی اور ظلم ہے۔ من مظہر کی بے گناہی کے جملہ ثبوت فائل شوکا ز کے جواب کے ضمن میں فائل انکواری پر موجود ہیں جن کا ملاحظہ کیا جاسکتا ہے۔

3- یہ کہ من مظہر کے خلاف جناب DSP / وارڈن صاحب نے انکواری کی ہے مگر موصوف نے نہ تو دوران انکواری من مظہر کو طلب کیا اور نہ ہی موصوف نے من مظہر کے زبرد کسی گواہ کا بیان قلمبند کروایا اور نہ ہی من مظہر کو یہ موقع دیا کہ وہ گواہان پر جرح کر کے اپنی بے گناہی ثابت کر سکے۔ جملہ کاروائی انکواری یکطرفہ طور پر سرانجام دی گئی جو من مظہر کے ساتھ انتہائی زیادتی اور قانونی تقاضوں کے بھی خلاف ہے۔

4- یہ کہ مذکورہ انکواری میں کوئی رپورٹ ایسی نہ ہے جس میں یہ تصدیق ہوتی ہو کہ من مظہر پر لگائے گئے الزامات درست ہیں۔ نیز تاحال FSL کی جانب سے بھی کوئی مثبت رپورٹ صفحہ انکواری پر موجود نہ ہے۔ اس طرح مذکورہ انکواری سراسر ذاتی عناد کا نتیجہ ہے۔

5- یہ کہ دوران انکواری، انکواری آفیسر پر لازم تھا کہ من مظہر کے زبرد و رانیور ہمرائی کا بیان قلمبند کر کے من مظہر کو ڈرائیور پر جرح کا موقع فراہم کرتا جو کہ قانونی طور پر بھی من مظہر کا حق تھا مگر میرے اس قانونی حق کو انکواری آفیسر صاحب نے دیدہ دانستہ ضائع کیا جسکی کی وجوہات میرے علم کے مطابق یہ ہو سکتی ہیں کہ من مظہر کے والد صاحب غلام سرور خان سب انسپکٹر ریٹائر ہو چکے ہیں، نے جملہ نوکری ایبٹ آباد ڈسٹرکٹ میں کی ہے اور مذکورہ انکواری آفیسر صاحب متعدد مقامات پر ان کے ماتحت رہے ہیں جو اندازہ ہے کہ یہ یکطرفہ کاروائی دیدہ دانستہ میرے والد سے پرانی کسی عداوت کا نتیجہ ہے جو من مظہر کے ساتھ ظلم پر مبنی ہے۔

6- یہ کہ من مظہر کے خلاف مقدمہ بعدالت جوڈیشل مجسٹریٹ کورٹ نمبر 1، مظفر آباد زیر سماعت ہے جس میں من مظہر کو اپنی بے گناہی ثابت کرنے کیلئے من مظہر کے پاس کافی ثبوت موجود ہیں جو دوران سماعت عدالت پیش کئے جائیں گے اور قوی امید ہے من مظہر کو عدالت سے بھی انصاف میسر ہوگا۔

7- یہ کہ من مظہر کی بے گناہی کی بابت ہمرائی ڈرائیور نے بھی ایک بیان حلفی بر شامپ پیپردی ہے جسکی نقل من مظہر نے فائل شوکا ز

Advocate
M. Waheed Akhtar
Advocate High Court
Abbottabad

نوٹس کے جواب کے ساتھ منسلک کی ہے مگر اس کے باوجود جناب DPO صاحب نے دوران فیصلہ ہمراہی ڈرائیور کی بیان حلفی کو یکسر نظر انداز کرتے ہوئے من مظہر کی 20 سالہ پولیس سروس اور من مظہر کے چار نابالغ بچوں کے رزق کو یک جنبش قلم ختم کرتے ہوئے من مظہر کو نوکری سے برخاست کر دیا جو من مظہر کے ساتھ انتہائی ظلم اور نا انصافی ہے۔

8۔ یہ کہ من مظہر گڑھی حبیب اللہ ضلع مانسہرہ کا آباؤ اجداد سے رہائشی و سکونتی ہے جو برار کوٹ چوکی ضلع مظفر آباد من مظہر کے رہائشی علاقہ کے قریب واقع ہے جہاں پر من مظہر کے رشتہ داران و مخالفین کافی تعداد میں رہائش پزیر ہیں جن کے ساتھ من مظہر کے خاندان کی کافی رنجشیں موجود ہیں جن کی کاوشوں سے من مظہر کو برار کوٹ چوکی میں پھنسانا بھی ایک امر واقعہ ہے جس کا ثبوت چند اخباری تراشے ہیں جو کہ من مظہر نے اپنے فائل شوکار نوٹس کے جواب کے ساتھ منسلک کئے مگر جناب DPO صاحب نے اپنے حکم میں من مظہر کی ان ثبوت ہائے کو بھی یکسر نظر انداز کیا اور نہ ہی جناب DPO صاحب نے من مظہر کی پیشی کے دوران من مظہر کو ذاتی شنوائی کو کوئی موقع فراہم کیا تاکہ من مظہر زبانی طور پر اپنی بے گناہی ثابت کر سکتا جو من مظہر کے ساتھ انتہائی ظلم و زیادتی ہے۔

9۔ یہ کہ من مظہر نے اپنی زندگی کے قیمتی 20 سال محکمہ پولیس کی خدمت میں گزار دیے ہیں اور یہ کہ من مظہر اب عمر کے اس حصے میں کسی دیگر ملازمت یا مزدوری کے قابل نہ ہے اور یہ کہ من مظہر کے چھوٹے چھوٹے چار بچے اور بوڑھے والدین ہیں جبکہ من مظہر کی والدہ صاحبہ معذور ہیں اور ان تمام کی ذمہ داری من مظہر کے کندھوں پر ہے اور من مظہر پولیس ملازمت کی بنیاد پر ہی سب کی پرداخت کر رہا ہے جو بلا کسی ثبوت کے یک جنبش قلم ختم کر دی گئی ہے جس سے من مظہر کے علاوہ جملہ خاندان شدید پریشانی اور ذہنی کوفت کا شکار ہو چکا ہے۔ مزید یہ کہ من مظہر نے اپنی 20 سالہ سروس انتہائی ذمہ داری اور دیانتداری کے ساتھ سرانجام دی ہے اور دوران سروس مسائل کو کوئی محکمانہ سزا نہیں ملی۔ اندریں بارہ من مظہر کے ساتھ واقعہ ہذا محض حادثاتی ہے مگر محکمانہ طور پر دوران انکوائری اور بعد انکوائری من مظہر کی بے گناہی کو یکسر نظر انداز کیا گیا ہے جو کہ ظلم کے مترادف ہے۔ مزید یہ کہ دوران پولیس سروس من مظہر کے والد صاحب کا جملہ سروس ریکارڈ اور من مظہر کا سروس ریکارڈ اس امر پر گواہ ہے کہ ایک دینی خاندان ہونے کے ناطے من مظہر کبھی بھی کسی غیر اخلاقی و نشہ وغیرہ کے کسی کام میں ملوث ہونے کا تصور بھی نہیں کر سکتا اور نہ ہی من مظہر کسی کا نشہ کرتا ہے۔ واقعہ ہذا محض اتفاقیہ ہے جس کی سزا ملازمت سے برخاستگی کسی طور بھی قرین انصاف نہیں ہے۔

جناب والا! مذکورہ بالا حقائق کی روشنی میں آنجناب سے استدعا ہے کہ مسائل کے چھوٹے چھوٹے 4 بچے اور ضعیف العمر والدین جبکہ والدہ معذور ہیں جن کا واحد کفیل من مسائل ہی ہے۔ لہذا من مسائل اور اس کے بچوں پر رحم فرماتے ہوئے من مسائل کے برطرفی آرڈر نمبری 248 مورخہ 01/11/2019 کو منسوخ فرمایا جا کر من مسائل کو نوکری پر بحال فرمائے جانے کا حکم صادر فرمایا جاوے۔ من مسائل اور اس کے بچے اور بوڑھے والدین آنجناب کیلئے تاحیات دعا گور رہیں گے۔

المترقوم: 12/11/2019۔۔۔ ایبٹ آباد

سائل:

سابق ہیڈ کانسٹیبل تصور ضیاء نمبر 23، پولیس لائن، ایبٹ آباد

سنگد سگد ہارداغلی گڑھی حبیب اللہ، ڈاکخانہ گڑھی حبیب اللہ، تحصیل بالا کوٹ، ضلع مانسہرہ

رابطہ نمبر: 0318-5904548

والد صاحب کا نمبر: 0311-5648241

Malik Waheed Akhtar
Advocate High Court
Abbottabad

P.NO. 12



OFFICE OF THE REGIONAL POLICE OFFICER
HAZARA REGION, ABBOTTABAD

☎ 0992-9310021-22

☎ 0992-9310023

✉ r.rpohazara@gmail.com

☎ 0345-9560687

NO: 14486 /PA DATED 22/06/2020

ORDER

This order will dispose off departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules, 1975 submitted by Ex. LHC Tasawar Zia No.23 of District Abbottabad against the punishment order i.e. *Dismissal from Service* awarded by DPO Abbottabad vide order No.248 dated 01.11.2019.

Brief facts leading to the punishment are that the appellant while posted as TO in Traffic Warden, Abbottabad absented himself from official duty without any leave or information w.e.f 14-09-2019 till date of dismissal i.e. 01-11-2019 and involved himself in a criminal case registered vide FIR No. 173 dated 13-09-2019 u/s 3/4, 11/14, 15 AA (2) PS Muzafarabad, AJ&K.

The appellant was issued charge sheet alongwith summary of allegations and DSP Traffic Warden, Abbottabad was deputed to conduct departmental enquiry. The EO held the appellant responsible of misconduct. The appellant was issued final show cause notice and heard in person, however he failed to advance any cogent reason in his defence. Consequently, DPO Abbottabad awarded him major punishment of dismissal from service.

After receiving his appeal, comments of DPO Abbottabad were sought and examined/perused. The undersigned called the appellant in OR and heard him in person. However the he failed to advance any plausible justification in his defence. Moreover, the misconduct of the appellant is intolerable in a disciplined force as such acts tarnish the image of Police. However, keeping in view his prolong service, undersigned takes lenient view and in exercise of the powers conferred upon the undersigned under Rule 11-4 (c) of Khyber Pakhtunkhwa Police Rules, 1975 the appellant is hereby *reinstated in service while the punishment of Dismissal from Service is converted into major punishment of time scale constable* with immediate effect. The period during which the official remained out of service and absent may be treated as leave without pay.

PA/EC/07/100
for information
21/06/20
DPO A.T.O.
24/6/2020

OFFICE OF DISTRICT POLICE OFFICER
By No. 5630
Date 24/6/2020

J. Jamil
Qazi Jamil ur Rehman (PSP)
REGIONAL POLICE OFFICER
HAZARA REGION, ABBOTTABAD

Malik Waheed Akhtar
Advocate High Court
Abbottabad

No. 14487 /PA, dated Abbottabad the 22-06 /2020.

- 1. The District Police Officer, Abbottabad for information and necessary action with reference to his office Memo No.7129/Legal dated 06-12-2019. Service Roll and Fuji Missal containing enquiry file of the appellant is returned herewith for record.

ATTESTED

Superintendent of
Police Abbottabad

محترم جناب انسپکٹر جنرل پولیس صاحب فیصلہ بخشوخواہ ایسٹ آباد

عنوان - حکمران اسپل انظر ثانی برخلاف حکم جناب DIG صاحب ہزارہ
حصہ 22/6/2020 جسکی روئے سائل کو Rainstale کر دیا گیا

استعداد - منظور ی اسپل حذا و جالی سائل سابقہ نسبت / عیدہ

جناب عالی؟ موجبات اسپل ذیل ہیں۔

(1) یہ کہ سائل حکمہ پولیس میں ہیڈ کنسٹیبل کے عیدہ پر اپنی خرائض منصبی ادا کر رہا تھا۔
جو اس دوران سائل کو قدمہ ملتئم نمبر 173/2019 آسمانہ صدر مظفر آباد میں نافذ ہوئے
مجموع سے سائل کو قبل ازیں D.P.O. صاحب ایسٹ آباد نے اپنے حکم حررہ
01-11-2019 نمبر 248 کے تحت نوکری سے برخاست کر دیا۔ نقل حکم
جناب D.P.O. صاحب لف

(2) یہ کہ سائل نے جناب D.P.O. صاحب کے حکم کے خلاف جناب DIG ہزارہ ڈوٹرن
کے تقریر اسپل دائر کی۔ جو جناب نے D.P.O. صاحب کے حکم کو مستوخ کر کے
سائل کو نوکری بر بحال کر دیا لیکن سائل کے سابقہ رینڈ H.C. سے پٹاکر
سائل کو کانسیٹیل بنا دیا۔ نقل لف

(3) یہ کہ سائل کو جس قدمہ کی بند پر سزا سنائی گئی وہ تاحال عدالت میں زیر تجویز
ہے۔ اور آسمیں بھی سائل کی بریت کے قوی امکان ہیں۔ اور سائل کے
خلاف فیصلہ حکمانہ سائل کے سابقہ نا انصافی ہے

(4) یہ کہ سائل کے والد بھی حکم میں اپنے خرائض سر انجام دیتے آ رہے ہیں اور سائل
نے بھی حکم میں عرصہ قریب 20 سال سے حکمانہ خرائض سر انجام دئے رہے
اور کبھی کبھی اس قسم کی غیر اخلاقی حرکات میں ملوث نہ رہا ہے۔

(5) یہ کہ سائل کے خلاف جو حکمانہ انکوائری کی گئی وہ بھی یکسر قانون کے ضافی کی گئی
اور یکطرفہ طور پر سائل کو آسکی بے گناہی ثابت کرنے کا موقع دئے بغیر دی
گئی۔ جس سے انکوائری آفسر کی انصاف کو نظر انداز کر کے یکطرفہ کاروائی

Malik Waheed Akhtar
Advocate High Court
Abbottabad

(6) ہر سائل اپنے خاندان کا واحد کفیل ہے جو سائل کے بچوں اور نہایت زیادہ والوں کیلئے بھی ایک شرمندگی اور ذہنی کوفت کا سبب ہے۔

(7) ہر سائل کے سابق 20 سالہ ملازمت کے دور میں کبھی بھی ایسی کوئی الزام تراشی بھی نہ تھی۔ اور اگر سائل عدالت میں جہاں بری ہو گا تو بھی سائل کو اس جرم میں قبل از حکم عدالت فیصلہ سنانا تقاضا کے منافی ہے۔

لینا سائل آپ سے التماس کرتا ہے کہ سائل کی حکمانہ اپیل عدا منظور فرما کر سائل کو دوبارہ HC کے عہدہ پر بحال فرمائے جوئے حکم میں اپنے فرائض انجام دینے کا حکم فرمایا جاوے۔ اور تمام سابقہ Benefits بھی سائل کے بحال کیے جائیں۔ سائل اور اس کے تمام اہل خانہ جناب کے تمام عمر گزار رہے ہیں۔

المترجم

سابقہ عہدہ کانسٹیبل - تصور فرمایا نمبر 23

پولیس لائن ایسٹ آباد

ساکنہ سگدھار داخلی گروہی جسٹس الہ تھیل بالاکوٹ

ضلع مانسہرہ

رابطہ نمبر - 5904548 - 0318

دائرا نمبر - 5648241 - 0311



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

P. NO. 14

No. SI 1034 - 21, dated Peshawar the 10 103 2021.

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by **HC Tasawar Zia No. 23**. The petitioner was dismissed from service by District Police Officer, Abbottabad vide OB No. 248, dated 01.11.2019 on the allegations of absence from duty, w.e.f 14.09.2019, till date of dismissal from service i.e. 01.11.2019 and involvement in a criminal case FIR No. 173, dated 13.09.2019 u/s 3/4, 11/14, 15 AA (2) PS Muzaffarabad, J&K. The Appellate Authority i.e. Regional Police Officer, Hazara re-instated him in service and converted his dismissal into time scale Constable vide order Endst: No. 14487/PA, dated 22.06.2020.

Meeting of Appellate Board was held on 18.02.2021 wherein petitioner was heard in person. Petitioner denied the allegation leveled against him.

The Board agreed with the decision of Regional Police Officer Hazara, however, the time scale is fixed for two years.

Sd/-

KASHIF ALAM, PSP

Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar.

No. SI 1035-46 / 21.

Copy of the above is forwarded to the:

1. Regional Police Officer, Hazara at Abbottabad. One Service Roll and one Fauji Missal (containing enquiry file) of the above named HC received vide your office Memo: No. 21755/PA, dated 04.09.2020 is returned herewith for your office record.
2. District Police Officer, Abbottabad.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

2503
17-3-21

NO. 5310/PA
dt- 17-3-21

The Regional Police Officer
By No 3092
Dated 16/3/21
Regional Police Officer
Abbottabad

D.P.O PA
ABBOTTABAD

(IRFAN ULLAH KHAN) PSP
AC Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

Malik Waheed Akhtar
Advocate High Court
Abbottabad

s-Record
sent
17/3

EC/PA/PO/OFC

FOR n/a

18/3/21

16/3

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA, SERVICE
TRIBUNAL PESHAWAR CAMP COURT, ABBOTTABAD.**

SERVICE APPEAL NO.4972/2021.

Tasawar Zia Ex-LHC, Police Lines Abbottabad r/o Saghdar Dakhli, P.O Ghari Habibullah,
Tehsil Balakot District Mansehra.

..... (Appellant)

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Abbottabad.

.....Respondents.

Para wise comments on behalf of Respondents.

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DSP Legal, Abbottabad.

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR CAMP COURT, ABBOTTABAD**

SERVICE APPEAL NO.4972/2021.

Tasawar Zia Ex-LHC, Police Lines Abbottabad r/o Saghdar Dakhli, P.O Ghari Habibullah,
Tehsil Balakot District Mansehra.

..... (Appellant)

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others.

..... (Respondents)

Reply/comments by respondents.

Respectfully Sheweth.

PRELIMINARY OBJECTIONS:-

1. That the instant Service Appeal is not maintainable in the present form.
2. That the appellant is estopped by his own conduct.
3. That the appellant has not come to the Honorable Tribunal with clean hands.
4. That the appellant has suppressed the material facts from the Honorable Tribunal.
5. That the instant Service Appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
6. That the instant Service Appeal is badly barred by law and limitation.
7. That the appellant has filed the instant Service Appeal just to pressurize the respondents.
8. That the order passed by the authorities are based on facts & rules, after fulfilling all the codal formalities, hence, the appeal is liable to be dismissed without any further proceeding.

ON FACTS:-

- 1) Pertains to service record of appellant.
- 2) In reply to this para, it is submitted that the appellant while posted as T.O in Traffic warden Abbottabad, absented himself from lawful duties on 14.09.2019 and involved himself in FIR No.173 dated 13.09.2019 u/s 3/4 11/14, 15-AA (2) PS Muzaffarabad AJ&K. The act and omissions of the appellant were gross misconduct under Khyber Pakhtunkhwa Police Rules - 1975. Therefore, the appellant was served with charge sheet and statement of allegations by the then SP Traffic Warden Abbottabad vide his office Endst No.1635/Traffic Warden dated 23.09.2019. (Copy of charge sheet is attached as annexure "A"). DSP Traffic Warden Mr. Azam Ali Shah was appointed as inquiry officer, who conducted departmental inquiry and

submitted his findings in which he held the charges proved and recommended the appellant for appropriate punishment. (Copy of inquiry finding is attached as annexure "B"). Therefore, the appellant was served with final show cause notice by respondent No. 03 vide office Memo No.252/PA dated 22.10.2019. (Copy of final show cause notice is attached as annexure "C"). The appellant could not give satisfactory reply in response to the final show cause notice therefore, the appellant was awarded major punishment of dismissal from service vide OB.248 dated 01.11.2019. (Copy of order is attached as annexure "D").

- 3) Incorrect, the appellant is generating false stories to absolve himself from liabilities. The matter was thoroughly probed in departmental inquiry in which the appellant was held guilty.
- 4) Incorrect, the appellant had committed gross misconduct. Therefore, lawful departmental action was taken and he was awarded appropriate punishment of dismissal from service vide OB.No.248 dated 01.11.2019. The appellant was held guilty through strong evidence.
- 5) Correct to the extent that the appellant filed departmental appeal against the order of punishment before the Respondent No. 02 who converted the major punishment of dismissal from service into major punishment of time scale constable vide order No:14486 dated 22.06.2020. (Copy of order is attached as annexure "E").
- 6) In reply to this para, it is submitted that the appellant filed revision petition before the competent departmental authority. The competent authority i.e. Addl: I.G Hqrs KPK Peshawar vide order No.1034/21 dated 10.03.2021 fixed the period of time scale constable for 02 years. Therefore, the order of punishment is lawful and maintainable.
- 7) Incorrect, the appellant had committed gross misconduct. The matter was thoroughly probed in the departmental inquiry in which he was held guilty on strong evidence. Therefore, the order of punishment is lawful and maintainable.
- 8) Incorrect, the appellant was awarded major punishment of Time Scale Constable for 02 years, hence, the order of punishment is quite legal and maintainable.


REPLY ON GROUNDS:-

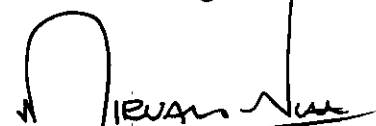
- A) Incorrect, the orders of respondents are quite legal, based on facts, evidence and principles of natural justice, hence, the orders are lawful and maintainable.

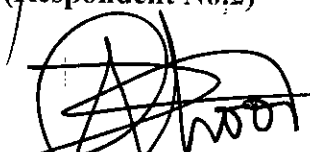
- B) Incorrect, proper departmental inquiry was conducted, similarly the directions of the honorable tribunal also would be complied with letter and spirit. The appellant was found guilty of gross misconduct, therefore, he was awarded appropriate punishment.
- C) Incorrect, the appellant was dealt with in accordance with law/rules and constitution. He was proceeded against on charges of misconduct as per law/rules. Hence, the punishment is maintainable under the law. Moreover, all legal requirements were fulfilled.
- D) Incorrect, the appellate authority took into consideration all facts/ circumstance, evidence and modified the major punishment of Dismissal from Service into major punishment of Time Scale Constable for 02 years. The punishment is based on facts, evidence and proof. Hence, it is maintainable under the law.
- E) Incorrect, the respondents proceeded strictly in accordance with law/rules. The appellant was awarded punishment in accordance with law/rules.
- F) Incorrect, the instant Service Appeal is badly time barred and not maintainable under the law/rules.

PRAYER:-

In view of above stated facts it is most humbly prayed that the instant service appeal does not hold any legal force, may kindly be dismissed with costs, please.


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


Regional Police Officer,
Hazara Region, Abbottabad
(Respondent No.2)


District Police Officer,
Abbottabad
(Respondent No.3)

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4

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA, SERVICE
TRIBUNAL PESHAWAR CAMP COURT, ABBOTTABAD.**

SERVICE APPEAL NO.4972/2021.

Tasawar Zia Ex-LHC, Police Lines Abbottabad r/o Saghdar Dakhli, P.O Ghari Habibullah,
Tehsil Balakot District Mansehra.

..... (Appellant)

VERSUS

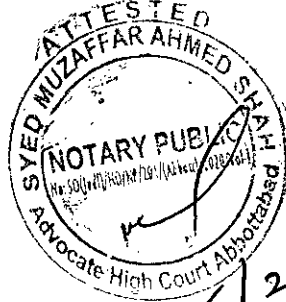
1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Abbottabad.

.....Respondents.


AFFIDAVIT.


We, do hereby affirm on oath that the contents of written reply are true to the best
of our knowledge & belief and nothing has been concealed from the honorable Service
Tribunal.


Submitted please.



17/05/2022


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


Regional Police Officer,
Hazara Region, Abbottabad
(Respondent No.2)


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

CHARGE SHEET

- 1). I Tariq Mehmood, Superintendent of Police Traffic Warden Abbottabad as competent authority hereby charge you TO/HC Tasawar Zia No. 23 Traffic Warden Abbottabad as explained in the attached statement of allegations.
- 2). You appear to be guilty of misconduct under Police Disciplinary Rules 1975, and have rendered yourself liable to all or any of the penalties specified in the said Police Disciplinary Rules.
- 3). You are therefore, directed to submit your written defense within seven days on the receipt of this Charge Sheet in the Enquiry Officer.
- 4). Your written defense, if any shall reach the Enquiry Officer with in the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall follow against you.
- 5). Intimate whether you desire to be heard in person or otherwise.
- 6). A statement of allegations is enclosed.



TARIQ MEHMOOD
Superintendent of Police,
Traffic Warden,
Abbottabad

DISCIPLINARY ACTION

I, Tariq Mehmood, Superintendent of Police Traffic Warden Abbottabad as Competent Authority of the opinion that you TO/LHC Tasawar Zia No 23 Traffic Warden Abbottabad, rendered yourself liable to be proceeded against as you committed the following act/omission within the meaning of Police Disciplinary Rules 1975.

STATEMENT OF THE ALLEGATIONS

- 1). You while posted as TO in Traffic Warden Abbottabad, absented yourself from official duty without any leave or information w.e.f. 14-09-2019 and reportedly involved in Case FIR No. 173 dated 13-09-2019 U/S 3/4, 11/14, 15 AA(2) PS Muzaffarabad AJK. You this defamatory act and activity has tarnished the image of Abbottabad District Police in general and Traffic Warden Police in particular thereby proving yourself as stigma on the face of Khyber Pakhtunkhwa Police.
- 2). For the purpose of scrutinizing your conduct with reference to the above allegations, DSP Azam Ali Shah Traffic Warden is appointed as Enquiry Officer.
- 3). The Enquiry Officer shall in accordance with the provision of this ordinance, provide reasonable opportunity of hearing to the accused, record finding and make within 25 days of the receipt of this order, recommendation as to punishment or the appropriate action the accused.
- 4). The accused a well conversant representative of departmental shall in the proceedings on the date, time and place fixed by the Enquiry Officer.



TARIQ MEHMOOD
Superintendent of Police,
Traffic Warden,
Abbottabad

No. 1635 /Traffic Warden Dated Abbottabad the 23/9/2019

CC:

1. TO/LHC Tasawar Zia No. 23 Traffic Warden Abbottabad, with the direction to submit his defense within 07 days of the receipt of this statement of allegations and also to appear before the Enquiry Officer of the date, time and place fixed for the purpose of departmental proceedings.

**DEPARTMENTAL ENQUIRY AGAINST HC TASAWAR
ZIA NO. 23 T.O TRAFFIC WARDEN ABBOTTABAD.**

BRIEF OF ALLEGATIONS.

As per charge sheet and statement of allegations, he while posted as T.O in Traffic Warden Abbottabad absented himself from official duty without any leave or information w.e.f 14.09.2019 and reportedly involved in case FIR No. 173 dated 13.09.2019 U/S 3/4, 11/14, 15 AA (2) Police Station Mazafarabad AJK. His this defamatory act and activity has tarnished the image of Abbottabad District Police in general and Traffic Warden Police in particular thereby proving himself as stigma on the Khyber Pakhtunwa Police.

For the purpose of scrutinizing his conduct with reference to the above. allegations, undersigned was appointed as enquiry officer.

ENQUIRY PROCEEDINGS.

Undersigned proceeded accordingly and called the following :-

1. Inspector Waseem Khan Traffic Warden Abbottabad.
2. SI Raja Basharat Hussain PP Brarkot (AJK).
3. Muhammad Iftikhar Muharrer Traffic Warden Abbottabad.
4. Muhammad Rafique No. 488 IHC PP Brarkot (AJK).
5. Manshad No. 403 FC // // //
6. Malik Farooq No. 440 // // //
7. Muhammad Ali MHC PS Saddar Mazafarabad.
8. HC Tasawar Zia then T.O Traffic Warden Abbottabad.
9. Khanzeb S/O Muhammad Miskeen driver carry van No. 618/RI.

Their statements have been recorded and placed with enquiry file:

STATEMENT OF INSPECTOR TRAFFIC WARDEN ABBOTTABAD

Inspector Traffic Warden Abbottabad stated that T.O Tasawar Zia submitted an application for two days leave stating therein that his brother is coming from Hajj and he have to go to receive him but he did not come back on his duty so he was marked as absent from his duty point.

STATEMENT OF SI RAJA BASHARAT HUSSAIN PP BRARKOT (AJK)

Stated in his statement that on 13.09.2019 he was present at Brarkot PP Barrer along with IHC Muhammad Rafique No. 440 and Constable Manshad No. 403. He received information that carry van No. RI/618 hit to a motor bike rider at Sheesha Morh. On reaching the said vehicle, they signaled to stop but driver more accelerated his vehicle and tried to escape but he was

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liquor mark Wot-I along with one 30 bore pistol with one live round. All the recovered articles were taken into possession through recovery memo while victims were sent to hospital for their medical opinion and in light of medical opinion and recovery of illegal items, a criminal case vide FIR No. 173/2019 U/S 3/4, 11/14, 15 AA (2) was registered in PS Mazafarabad. Investigation was entrusted to IHC Muhammad Rafique.

STATEMENT OF MUHAMMAD RAFIQUE NO. 488 IHC PP BRARKOT.

Stated in his statement that investigation of the subject cited case was entrusted to him and in his investigation driver of the carry van and his companion namely Tasawar Zia are equalant accused. He finalized his investigation and challan has already been submitted to the court.

STATEMENTS OF FC MANSHAD NO. 403 AND MALIK FAROOQ NO. 440 OF PP BRARKOT (AJK).

They both corroborated the statement of SI Raja Basharat Hussain incharge PP Brarkot.

STATEMENT OF MUHAMMAD ALI MHC PS SADDAR MAZAFARABAD.

Stated in his statement that on receipt of murasila by Raja Basharat SI PP Brarkot, he chalked out FIR No. 173 against accused Tasawar Zia S/O Ghulam Sarwar and Khanzeb S/O Muhammad Miskeen.

STATEMENT OF HC TASAWAR ZIA THEN T.O TRAFFIC WARDEN ABBOTTABAD.

He submitted his detailed explanation in response to the charge sheet and statement of allegations in which he pleaded that he was involved in a criminal case due to some conspiracy.

STATEMENT OF KHANZEB S/O MUHAMMAD MISKEEN DRIVER CARRY VAN NO. 618/RI.

He stated in statement that he is owner/driver of carry van No. 618/RI. On 12.09.2019 it was Thursday and he made telephonic call to Tasawar Zia Police Head Constable and enquired about his presence. He further asked him that tomorrow i.e 13.09.2019 Imran Khan (PM of Pakistan) is proceeding to Mazafarabad in connection with a public gathering (JALSA) and he will also participate the same. Next day he left for Mazafarabad while Tasawar Zia was also present at Ghari Habibullah Bazar who also boarded with him from where they both proceeded to PC Bhurban Murree and purchased one cotton vine which include 22 bottle. Payment was also carried out by said Tasawar Zia and on return they used two bottle vine. On reaching Sheesha Morh, he hit with a motor bike rider due to intoxicated condition/unbalanced driving. He categorically stated that said Tasawar Zia is the real owner of the liquor while 30 bore pistol is his own ownership. Moreover, they both were medically examined by the police and concerned medical officer of CMH Mazafarabad opined in his report that we both were in intoxicated position.

9

motor bike rider due to intoxicated condition/unbalanced driving. He categorically stated that said Tasawar Zia is the real owner of the liquor while 30 bore pistol is his own ownership. Moreover, they both were medically examined by the police and concerned medical officer of CMH Mazafarabad opined in his report that we both were in intoxicated position.

FINDINGS.

Keeping in view of above, the defaulter HC Tasawar Zia then T.O of Traffic Warden Staff Abbottabad proves guilty having following misconduct:-

1. He submitted application for leave stating that he is going to receive his brother who is coming from Hajj.
2. He given childish statement in response to the charge sheet that driver of the van provide him water during their journey as he felt thrust whether being a police officer he did not know that it was a liquor or simple water.
3. Medical report is a solid evidence that they both addict of liquor.
4. During the cross examination driver carry van admitted that it was a second time that he purchased liquor from PC Bhurban Murree along with said Tasawar Zia Police Head Constable as he know him from last five years.

Nutshell and crux of my enquiry is that the charges leveled against defaulter HC Tasawar Zia are stand proved and not only Tasawar Zia is proving himself as stigma on the face of Khyber Pakhtunwa police but the other employees like him for also earns same name for the police department so he is recommended for suitable punishment.

Submitted with all the statements and relevant record please.


(AZAM ALI SHAH)

Dy: Superintendent of Police,
Traffic Warden Abbottabad.

OFFICE OF THE DISTRICT POLICE OFFICER, ABBOTTABAD

No: 252 /PA, Dated Abbottabad, the 22/10/2019.

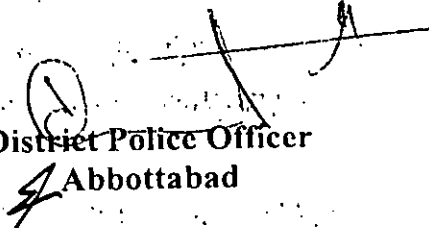
FINAL SHOW CAUSE NOTICE
(Unit Rule (3) KPK Police Rules, 1975)

That you HC Tasawar Zia No. 23 Police Lines Abbottabad rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunkhwa Police Rules 1975 for following misconduct;

I. You while posted as TO in Traffic Warden Abbottabad absented yourself from official duty without any leave or information w.e.f. 14-09-2019 and reportedly involved in case FIR No. 173 dated 13-09-2019 u/s 3/4 , 11/14, 15 AA (2) PS Muzafarabad AJ&K. your this defamatory act and activity has tarnished the image of Abbottabad Police in general and Traffic Warden Police in particular thereby proving yourself as stigma on the face of Khyber Pakhtunkhwa Police.

II. During proper departmental enquiry the allegations have been proved against you.

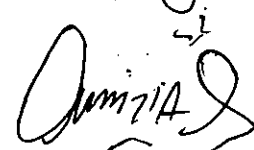
2. That by reason of above, as sufficient material is placed before the undersigned therefore it is decided to proceed against you in general Police proceedings without aid of enquiry officer;
3. That the misconduct on your part is prejudicial to good order of discipline in the Police force.
4. That your retention in the police force will amount to encouragement of inefficient Police officers;
5. That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action against you by awarding one or more of the kind punishments as provided in the Rules.
6. You are, therefore, called upon to Final Show Cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 for the misconduct referred to above.
7. You should submit reply to this Final Show Cause Notice within 07 days of the receipt of the notice failing which an ex parte action shall be taken against you.
8. You are further directed to inform the undersigned that you wish to be heard in person or not.
9. Grounds of action are also enclosed with this notice.


District Police Officer
Abbottabad

Received by _____

Dated ____/____/2019.

دستور العمل کے مطابق
مقررہ وقت میں جواب دیا گیا ہے
مقررہ وقت میں جواب دیا گیا ہے
مقررہ وقت میں جواب دیا گیا ہے



OFFICE OF THE DISTRICT POLICE OFFICER, ABBOTTABAD

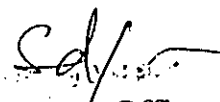
No: 252 /PA, Dated Abbottabad, the 28/10/2019.

GROUND OF ACTION

That you HC Tasawar Zia No. 23 Police Lines Abbottabad, committed following misconduct:-

- I. You while posted as TO in Traffic Warden Abbottabad absented yourself from official duty without any leave or information w.e.f. 14-09-2019 and reportedly involved in case FIR No. 173 dated 13-09-2019 u/s 3/4, 11/14, 15 AA (2) PS Muzafarabad AJ&K. your this defamatory act and activity has tarnished the image of Abbottabad Police in general and Traffic Warden Police in particular thereby proving yourself as stigma on the face of Khyber Pakhtunkhwa Police.
- II. During proper departmental enquiry the allegations have been proved against you.

By reasons of above you have rendered yourself liable to be proceeded under Khyber Pakhtunkhwa Police Rules, 1975, hence these grounds of action.


District Police Officer
Abbottabad

UR
ORDER

23 Annexure "D"

12
G. W. Khan

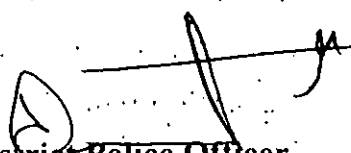
This office order will dispose of the departmental enquiry against HC Tasawar Zia No. 23 Police Lines Abbottabad. He while posted as TO in Traffic Warden Abbottabad absented himself from official duty without any leave or information w.e.f. 14-09-2019 and reportedly involved in case FIR No. 173 dated 13-09-2019 u/s 3/4, 11/14, 15 AA (2) PS Muzafarabad AJ&K. His this defamatory act and activity has tarnished the image of Abbottabad Police in general and Traffic Warden Police in particular thereby proving himself as stigma on the face of Khyber Pakhtunkhwa Police

He was issued Charge Sheet along with statement of allegations. Mr. Azam Ali Shah, DSP Traffic Warden Abbottabad was appointed as Enquiry Officer. He conducted proper departmental enquiry against the delinquent official and recorded statements of all concerned. After conducting proper departmental enquiry, the Enquiry Officer submitted his findings wherein allegations have been proved against delinquent official. Consequently he was issued Final Show Cause Notice. He was summoned to appear in Orderly Room on 31-10-2019. He was given a patient hearing but he had nothing plausible to state in his defence.

Therefore, in exercise of the powers vested in the undersigned Police Disciplinary Rules-1975 (Amended 2014), I, Javed Iqbal, PSP, District Police Officer, Abbottabad as a competent authority, am constrained to award him the punishment of Dismissal from Service with immediate effect.

Order announced.

OB No. 248
Dated 1-11-19


District Police Officer,
Abbottabad

- CC.
1. Pay Officer, DPO Office Abbottabad.
 2. Establishment Clerk.
 3. OHC alongwith complete Enquiry File containing 40 pages for completion of record.



OFFICE OF THE REGIONAL POLICE OFFICER
HAZARA REGION, ABBOTTABAD

0992-9310021-22

0992-9310023

r.rpohazara@gmail.com

0345-9560687

NO: 14486 /PA DATED 22/06/2020

ORDER

This order will dispose off departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules, 1975 submitted by Ex. LHC Tasawar Zia No.23 of District Abbottabad against the punishment order i.e. *Dismissal from Service* awarded by DPO Abbottabad vide order No.248 dated 01.11.2019.

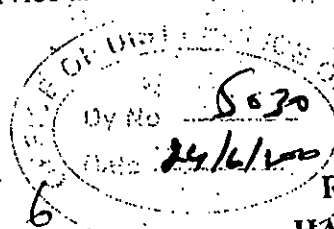
Brief facts leading to the punishment are that the appellant while posted as TO in Traffic Warden, Abbottabad absented himself from official duty without any leave or information w.e.f 14-09-2019 till date of dismissal i.e. 01-11-2019 and involved himself in a criminal case registered vide FIR No. 173 dated 13-09-2019 u/s 3/4, 11/14, 15 AA (2) PS Muzafarabad, AJ&K.

The appellant was issued charge sheet alongwith summary of allegations and DSP Traffic Warden, Abbottabad was deputed to conduct departmental enquiry. The EO held the appellant responsible of misconduct. The appellant was issued final show cause notice and heard in person, however he failed to advance any cogent reason in his defence. Consequently, DPO Abbottabad awarded him major punishment of dismissal from service.

After receiving his appeal, comments of DPO Abbottabad were sought and examined/perused. The undersigned called the appellant in OR and heard him in person. However the he failed to advance any plausible justification in his defence. Moreover, the misconduct of the appellant is intolerable in a disciplined force as such acts tarnish the image of Police. However, keeping in view his prolong service, undersigned takes lenient view and in exercise of the powers conferred upon the undersigned under Rule 11-4 (c) of Khyber Pakhtunkhwa Police Rules, 1975 the appellant is hereby *reinstated in service while the punishment of Dismissal from Service is converted into major punishment of time scale constable* with immediate effect. The period during which the official remained out of service and absent may be treated as leave without pay.

PA/EC/01/10
for information
cel. no. 11

DPO A.T. 6
24/6/2020



Qazi Jamil ur Rehman (PSP)
REGIONAL POLICE OFFICER
HAZARA REGION, ABBOTTABAD

No. 14487 /PA, dated Abbottabad the 22-06 /2020.

- CC.
1. The District Police Officer, Abbottabad for information and necessary action with reference to his office Memo No.7129/Legal dated 06-12-2019. Service Roll and Fuji Missal containing enquiry file of the appellant is returned herewith for record.