

19th July, 2022

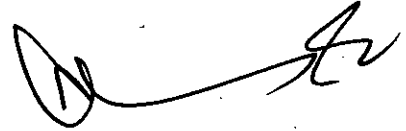
Learned counsel for the appellant present. Mr. Noor Zaman Khattak, District Attorney for respondents present.

2. Learned counsel for the appellant submitted an application for withdrawal of the instant service appeal wherein he stated that grievance of the appellant has been redressed and does not want to pursue the case further. This appeal is dismissed as withdrawn in the above terms. Consign.

3. *Pronounced in open court in Abbottabad and given under our hands and seal of the Tribunal on this 19th day of July, 2022.*



(Salah Ud Din)
Member(Judicial)



(Kalim Arshad Khan)
Chairman

Camp Court Abbottabad



22.12.2021

Learned counsel for the appellant present. Mr. Gul Shahzada, S.I (Legal) alongwith Mr. Riaz Ahmad Páindakhel, Assistant Advocate General for the respondents present.

Written reply/comments on behalf of respondents No. 1 to 3 submitted, which is placed on file and copy of the same is handed over to learned counsel for the appellant. Adjourned. To come up for rejoinder, if any, as well as arguments on 15.03.2022 before the D.B at Camp Court Abbottabad.


(Salah-Ud-Din)
Member (J)

Camp Court Abbottabad

15.03.2022


Due to retirement of the Hon'ble Chairman, the Tribunal is defunct, therefore the case is adjourned to 20.05.2022 for the same.



Reader

20.05.2022

Counsel for the appellant present. Syed Naseer ud Din, Assistant Advocate General alongwith Mr. Gul Shahazad, SI for respondents present.

Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments before D.B on 19.07.2022 at camp court Abbottabad.

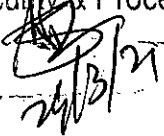

(Fareeha Paul)
Member(E)


(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

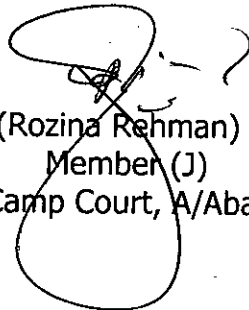
15.03.2021

Appellant present through counsel. This case was fixed for 19.03.2021 but on the request of learned counsel for appellant, file was requisitioned for today. Preliminary arguments heard. File perused.

Appellant Deposited
Security & Process Fee


24/3/21

Points raised need consideration. Appeal is admitted to regular hearing subject to all legal objections. Appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to respondents for reply/comments. To come up for written reply/comments on 12/07/2021 before S.B at Camp Court, Abbottabad.


(Rozina Rehman)
Member (J)
Camp Court, A/Abad


12.07.2021

Due to cancellation of tour, Bench is not available. Therefore, case to come up for the same as before on 13.10.2021.


Reader

13.10.2021

Counsel for the appellant and Mr. Muhammad Adeel Butt, Addl. AG alongwith Zahid Assistant for the respondents present.


Written reply/comments of the respondents is still awaited. Last opportunity is granted to the respondents to furnish reply/comments on next date, otherwise their right for filing of reply shall be deemed as struck off. Case to come up on 22.12.2021 before S.B at camp court, Abbottabad.


Chairman
Camp Court, A/Abad

23.10.2020

Appellant present in person.

Lawyers are on general strike, therefore, case is adjourned to 17.12.2020 for preliminary hearing before S.B at Camp Court, Abbottabad.

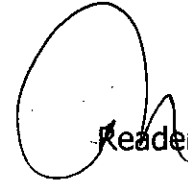


(Rozina Rehman)
Member (J)

Camp Court, A/Abad

17.12.2021

Due to Covid-19, case is adjourned to 19.03.20221 for the same as before.





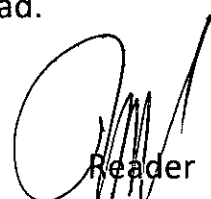
Reader

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 921 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/02/2020	<p>The appeal of Mr. Tanveer Ahmad presented today by Mr. Muhammad Aslam Tanoli Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. decrease</p> <p style="text-align: right;"> REGISTRAR - 11/2/2020</p> <p>This case is entrusted to touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>17-04-2020</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>Due to covid ,19 case to come up for the same on / / at camp court abbottabad.</p> <p style="text-align: right;">Reader</p> <p>Due to summer vacation case to come up for the same on <u>23 / 10 / 20</u> at camp court abbottabad.</p> <p style="text-align: right;"> Reader</p>

BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Appeal No.....921/20

Tanveer Ahmed Constable, presently posted at Police Line
District Torghar, R/O Sirni Phulra Tehsil & District Mansehra.

..... (Appellant)
VERSUS

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

.....(Respondents)

SERVICE APPEAL

INDEX

S/N	Description of Document	Ann- exure	Page No.
1.	Memorandum of appeal.		01-09
2.	FIR dated 24-08-2018.	"A"	10
3.	Daily Dairy No.14 dated 23-08-2018.	"B"	11
4.	Dismissal Order dated 01-11-2018.	"C"	12
5.	Judgment/decision dated 19-09-2019.	"D"	13-18
5.	Departmental appeal.	"E"	19
6.	Order dated 10-01-2020 of RPO A/Abad.	"F"	20
7.	Transfer Order dated 10-01-2020	"G"	21
8.	Wakalatnama		

Through


Appellant

(Mohammad Aslam Tanoli)
Advocate High Court
at Haripur

Dated: 06-02-2020

①

BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Appeal No.....921.....

Case No. 1095

Dated 11/02/2020

Tanveer Ahmed Constable, presently posted at Police Line District Torghar, R/O Sarni Phulra Tehsil & District Mansehra.

..... (Appellant)


VERSUS

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

.....(Respondents)

SERVICE APPEAL UNDER SECTION-4 OF THE KPK SERVICE TRIBUNAL ACT 1974 AGAINST ORDER DATED 01-11-2018 WHEREBY APPELLANT WAS DISMISSED FROM SERVICE BY THE DISTRICT POLICE OFFICER MANSEHRA AND ORDER DATED 10-01-2020 DELIVERED ON 15-01-2020 OF THE REGIONAL POLICE OFFICER HAZARA REGION ABBOTTABAD WHEREBY WHILE ACCEPTING DEPARTMENTAL APPEAL OF APPELLANT HIS PENALTY OF DISMISSAL FROM SERVICE HAS BEEN CONVERTED INTO "TIME SCALE CONSTABLE AND PERIOD REMAINED OUT OF SERVICE AND ABSENCE TREATED AS LEAVE WITHOUT PAY".

Filed to-day


Registrar
11/2/2020

PRAYER: ON ACCEPTANCE OF INSTANT SERVICE APPEAL BOTH THE IMPUGNED ORDERS DATED 01-11-2019 AND 10-01-2020 MAY GRACIOUSLY BE SET ASIDE AND THE APPELLANT BE RE-INSTATED WITH HIS PAY DRAWING AS BEFORE DISMISSAL AND THE PERIOD REMAINED OUT OF SERVICE AND ABSENT BE TREATED AS ON DUTY OR GRANTED LEAVE OF THE KIND DUE WITH ALL CONSEQUENTIAL SERVICE BACK BENEFITS.

Respectfully sheweth,

1. That appellant was enrolled as a Constable on 10-12-2010 in the police department and thus has rendered more than 09 years service. Through out his entire

②

service in the Police Department, appellant always performed his assigned official duties with devotion and honesty. Because of tremendous services he was awarded with commendation certificates and cash reward on occasions by his High-ups. Appellant has meritorious service record at his credit.

2. That unfortunately appellant while posted at Police Station Kaghan was granted one day leave vide Daily Diary No.13 dated 22-08-2018 on the eve of Eid-ul-Azha to proceed home situated at village Sarni Tehsil and District Mansehra. On 24-08-2018 while appellant returning and on his way back to place of duty he heard that somebody had fired at and injured Sheraz S/O Juma Khan R/O village Danna District Mansehra and appellant alongwith Hakam Khan and Shafaqat had been charged for the same. Later on Sheraz injured died in Hospital. Appellant was, however, marked absent from duty vide Daily Dairy No.14 dated 23-08-2018. **(Copies of FIR dated 24-08-2018 and Daily Diary No.14 dated 23-08-2018 are attached as annexure-"A & B")**.
3. That deceased Sheraz has 05 brothers. They are hardened and desperate, cruel, dangerous and criminals. One of them Ejaz is still aas PO. All the brothers of deceased had got married themselves by abducting the women/girls of the others thus had enmity with many people. They also have enmity with appellant's family. Appellant's side is weak and poor. Appellant could not face them. They threatened

3

appellant of dire consequences and due to their threats and danger and for saving his family the appellant had to keep himself in hidden and could not report for duty at his place of posting.

4. That during his absence the appellant was dismissed from service by the District Police Officer Mansehra vide order OB No.164 dated 01-11-2018 (i.e. with in about 02 months) against the law, departmental rules and regulations without waiting the result from Trial Court. **(Copy of dismissal order dated 01-11-2018 is attached as annexure "C")**.
5. That no proper departmental inquiry was conducted to prove guilt or innocence of the appellant. No Charge Sheet or Show Cause Notice was served upon him. Even opportunity of personal hearing was not provided. Appellant was awarded ex-parte punishment of dismissal from service by the District Police Officer Mansehra and that too without waiting the decision of Trial Court.
6. That because of his weak position and falsely involvement in the said murder case, the elders of locality started struggle to get the matter patched up between the parties and ultimately succeeded and got comprised it. The case against the appellant ended in the Trial Court on the basis of compromise and he was acquitted of the charge on 19-07-2019. **(Copy of the Judgment/decision dated 19-07-2019 of Trial Court is attached as annexure "D")**.

7. That after acquittal of the charge, the appellant obtained the order of his dismissal dated 01-11-2018 from the office of the District Police Officer Mansehra and filed departmental appeal before the Regional Police Officer, Hazara Region, Abbotabad. **(Copy of departmental appeal is attached as annexure "E")**.
8. That the Regional Police Officer, Hazara Region, Abbottabad while accepting the departmental appeal vide **order dated 10-01-2020 delivered on 15-01-2015** converted the penalty of dismissal from service into major punishment of **"TIME SCALE CONSTABLE"** and the period during which appellant remained out of service and absent as **"LEAVE WITHOUT PAY"** .**(Copy of order dated 10-01-2020 is attached as annexure "F")**.
9. That on reinstatement in service the Regional Police Officer, Hazara Region, Abbottabad has transferred the appellant on permanent basis to District Upper Kohistan vide order No.988 dated 10-01-2020. **(Copy of transfer order dated 10-01-2020 is attached as annexure "G")**.
10. That appellant did not absent himself from duty willfully or deliberately rather due unavoidable circumstance beyond his control and threats and danger to his own life as well as to his family. Neither the appellant during the period of absence remained employed elsewhere or engaged in any type of gainful business rather he was jobless. Appellant

5

deserves to have been treated on duty during the period of his absence/out of service.

11. That sufficient earned leave balance is available at the credit of appellant and he could have been granted leave of the kind due instead of leave without pay for the period he remained out of service.
12. Hence appellant being aggrieved of both the impugned orders dated 01-11-2018 and 10-11-2020 instant service appeal, inter alia, on the following:-

GROUND:

- a) That both the impugned orders dated 01-11-2018 and 10-01-2020 of respondents are illegal, unlawful against the facts and circumstances of the matter hence are liable to be set aside.
- b) That no proper departmental inquiry was conducted as set forth by the law for the dispensation of justice at the preliminary stages during the course of departmental inquiries, hence penalty awarded through orders impugned herein is liable to be set aside on this score alone.
- c) That the respondents have not treated the appellant in accordance with law, departmental rules & regulations and policy on the subject and have acted in violation of Article-4 of the constitution of Islamic Republic of Pakistan 1973 and unlawfully issued

6

impugned orders, which are unjust, unfair hence not sustainable in the eyes of law.

- d) That the appellate authority has also failed to abide by the law and even did not take into consideration the grounds taken in the memo of appeal. Thus the impugned order of respondent is contrary to the law as laid down in the KPK Police Rules 1934, other departmental rules regulations read with section 24-A of General Clause Act 1897 read with Article 10A of the Constitution of Islamic Republic of Pakistan 1973.
- e) That appellant was falsely involved in the criminal case due to enmity just to cause him damage in his service and social life and his absence from duty was not willful or deliberate rather compulsion, threats and danger to his and his family's life. Appellant deserved to have been treated as on duty during the period he remained out of service due to circumstanced beyond his control. Otherwise sufficient leave balance is available at his credit and he could be granted leave of the kind due instead of leave without pay.
- f) "That award of penalty as "time scale constable" is very harsh because the appellant has rendered about 09 years service in the police department and during the period he has earned 08/09 annual increments, the same will be withdrawn from him which will cause him tremendous loss not in his service or after retirement even after death his family will also have to bear this financial loss. Appellant is a low paid official.

7


g) That instant appeal is well within time and this honorable Service Tribunal has got every jurisdiction to entertain and adjudication upon the same.

PRAYER:

It is, therefore, humbly prayed that on acceptance of instant Service Appeal both the orders dated 01-11-2018 and 10-01-2020 of respondents may graciously be set aside and appellant be reinstated with his pay drawing at the time of dismissal and the period he remained absent and out of service be treated as on duty or otherwise he be granted leave of the kind due (i.e. leave on half pay) from his leave account with all consequential service back benefits. Any other relief which this Honourable Tribunal deems fit and appropriate in circumstances of instant case.


Appellant

Through:


(Mohammad Aslam Tanoli)
Advocate High Court
At Haripur

Dated 06-02-2020

VERIFICATION

It is verified that the contents of instant Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed thereof.

Dated 06-02-2020


Appellant

8

BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Tanveer Ahmed Constable, presently posted at Police Line
District Torghar, R/O Sirni Phulra Tehsil & District Mansehra.

..... (Appellant)

VERSUS

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

.....(Respondents)

SERVICE APPEAL

CERTIFICATE

It is certified that no such Appeal on the subject has ever
been filed in this Honourable Service Tribunal or any other
court prior to instant one.


APPELLANT

Dated: 06-02-2020

9

BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Tanveer Ahmed Constable, presently posted at Police Line
District Torghar, R/O Sirni Phulra Tehsil & District Mansehra.

..... (Appellant)

VERSUS

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

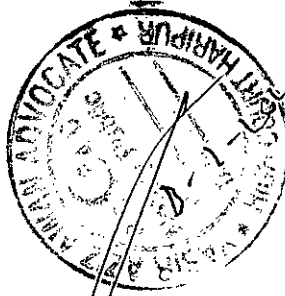
.....(Respondents)

SERVICE APPEAL

AFFIDAVIT:

I, Tanveer Ahmed S/O Mohammad Rafique appellant do
hereby solemnly declare and affirm on oath that the
contents of the instant Service Appeal are true and
correct to the best of my knowledge and belief and
nothing has been suppressed from this Honourable
Service Tribunal.

Dated: 06-02-2020



Deponent/Appellant

Identified By:

M. Aslam

Mohammad Aslam Tanoli
Advocate High Court
At Haripur 06-02-20

Tanveer Ahmed
Appellant

نقل این مبلغ روز تاجید 23/8/18
 Annex-B 11

روز تاجید 23/8/18 وقت 10:35 بجے رپورٹ جمع کروائی
 کہ حسب اجازت 23 بجے تمام روز تاجید 23/8/18
 رپورٹ جمع کروائی جائے اور اس میں
 کوئی کمی بیشی نہ ہو اور اس میں
 درجہ روز تاجید کے تحت اس بلڈ کے
 ذیلی جا - 545 جا - میں رکھی جائے

جا - 545

نقل بطور تاجید

CRD

man. P. K. Gupta

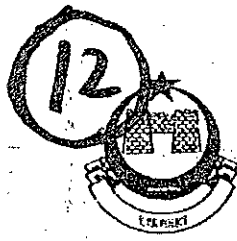
23-8-18

Sir
 Forwarded
 P.
 S.M. - P. Gupta

pay stopped and
 issue charge sheet
 Anandab.

Attested
 Man

D.P. / n. Anandab.



Annex C

POLICE DEPARTMENT

MANSEHRA DISTRICT

ORDER

This office order will dispose off the departmental enquiries proceedings against Constable Tanveer No. 1199 who was proceeded against departmentally with the following allegations :-

1. That vide DD No. 14 dated 23.08.2018 PS Kaghan it has been reported that he has absented himself from duty with effect from 23.08.2018 till date without any leave or permission.
2. That he while posted as GD PS Kaghan have involved himself in case FIR No. 160 dated 24-08-2018 u/s 302/34 PPC PS Phulra

The Enquiry Officers i.e. Mr. Muhammad Suleman SP Investigation Mansehra and Mr. Arif Javed Additional SP Mansehra after conducting proper departmental enquiry have submitted their reports stating therein that the accused official is involved in a murder case and is a proclaimed offender. He was not supposed to flee away and was legally bound to follow the law being member of disciplinary force but he deliberately avoided his appearance which reveals that he is prima facie involved in the criminal case. Since he is nominated and directly charged by the complainant and now he is PO. The delinquent constable neither appeared before the undersigned nor submit his reply of charge sheets, which shows that he has nothing to produce in his defense, therefore, he is held guilty. A final show cause notice was also issued to him but he failed to submit his reply so far. He willfully avoided his appearance before enquiry officer and the undersigned.

I, the District Police Officer, Mansehra, therefore award him major punishment of "Dismissal from Service" to the delinquent Constable Tanveer No. 1199 under Khyber Pakhtunkhwa Police, Disciplinary Rules 1975 (amended in 2014) from the date of absence. His period of absence will be treated as without pay.

Ordered announced in absentia.

Attested
Mee

OB-164
21-11-18

A.
District Police Officer
Mansehra

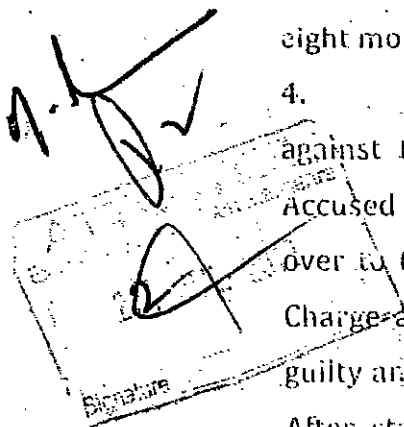
13

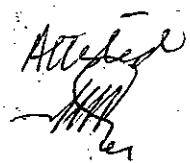
Annex-D

Sessions Case No.105/7 of 2019
Titled "The State Vs. Hakim Khan etc."

ORDER
19-07-2019

1. Learned Dy. PP for the State present. Mr. Shad Muhammad Khan advocate for legal heirs of deceased present. Accused Shafaqat in custody, accused Hakim Khan and Tanvir on bail with counsel present.
2. Accused named above are facing trial in the instant case bearing FIR No.160 dated 24-08-2018, U/S 302/34 PPC registered at Police Station Phulra Mansehra.
3. Brief facts of the case are that complainant Shiraz Ahmed son of Jumna Khan, caste Abbasi aged about 28/29 years resident of Bai Kalan Phulra on 24-08-2018 at 10:20 hours in injured condition at emergency ward of KATH Mansehra reported the matter that on that day, he was going back to his house from phulra bazaar and deboarded on timber stop and was going from the field, at about 9.30am Tanvir son of Muhammad Rafique, Shafaqat son of unknown, Hakim son of unknown were standing there, while Tanvir was duly armed with Kalashnikov and Shafaqat was duly armed with pistol and on seeing them complainant tried to escape and both of them started firing to kill him due to which he sustained injuries on left side of throat, left side of back and on front of belly, on the noise of firing Muhammad Shakil and other people present at the spot witnessed the occurrence. Motive for the occurrence is that Muhammad Ejaz brother of complainant abducted Mst Kainat sister of Tanvir some eight months ago, hence the instant FIR was registered.
4. On completion of investigation, complete challan against the accused was put in Court. Accused were summoned. Accused Hakim Khan and Shafaqat appeared, copies were handed over to them in compliance with provisions of Section 265-C CrPC. Charge against the accused was framed to which they pleaded not guilty and claimed trial. Accused Muhammad Tanvir was absconding. After statement of SW1 proceedings u/s 512 CrPC were initiated against him and prosecution was allowed to record its evidence in absentia of accused. The case was fixed for prosecution evidence.



Attended


14

5. On the last date of hearing, all the legal heirs of deceased appeared before this Court as the deceased left behind mother Mst Zulaikha, widow Mst Nasim, one minor son and four minor daughters. The widow and mother of deceased recorded their statement of compromise with the accused party, however at that time bail before arrest application of co-accused Tanvir was pending and challan was not submitted. So, this Court after recording the statements of compromise scrutinized and verified the same and found it true, voluntary and genuine, however one fact was important that the widow of deceased was not having her CNIC and in this respect order sheet No.10 dated 17.07.2019 is reproduced as below:

"Learned Dy. PP for the State present. Accused produced in custody and Hakim Khan on bail present. Accused Tanvir was absconding, however he was also present in connection pre-arrest bail. The SHO has submitted list of legal heirs of deceased Shiraz Ahmed. He left behind mother Mst Zulaikha Bib, widow Mst Nasima Bibi, four minor daughters Fatima Bibi, Mahnoor Bibi, Muqaddas Bibi, Warisha Bibi and one minor son Huzaiifa Shiraz. The widow appeared before the Court. She was having application for CNIC of NADRA and her Nikkahnama. Lady constable was summoned for inquiry from the said lady in privacy. She affirmed that the widow disclosed her as Mst Nasim Bibi and her photograph was matching with the form of NADRA. This Court has taken all the finger prints of widow on a paper and sent her to nearby photographer to draw a photograph alongwith kids which is placed on file. Though the widow was identified by jirga members and mother in law of the widow but in the interest of justice and affirmation identity of widow this Court has made this effort. All the legal heirs were sent out of the Court and widow was inquired about the facts of compromise. She stated that initially she was not ready to effect compromise but she effected so as a jirga was convened where the accused party admitted to pay Rs.17,00,000/- as Diyat amount to her for widow and kids. She decided this just to secure her future to create an earning source. She

P3
M

Attested
[Signature]

15

Sessions Case No. 105/7 of 2019
Titled "The State Vs Hakim Khan etc."

further stated that at this time the entire amount may please be deposited in Court and the profit may be released to her for betterment of the minors. All the amount was directed by this Court to be deposited in any investment scheme. After making satisfaction this Court recorded the statement of compromise of Mst Zulaikha Bibi (mother) and Mst Nasim Bibi (widow) of deceased. They recorded their statement of compromise which is ExPA consists upon six leaves. Copy of Nikkahnama and copy of CNIC of mother of deceased was exhibited as ExPB and ExPC, copies of CNICs of jirga members are ExPD and ExPE. The counsels for the parties requested that absconding accused Tanvir is also present before Court in connected pre-arrest bail which was confirmed on the basis of compromise and supplementary challan of co-accused Tanvir was summoned from SHO to conclude the matter in one go. File to come up on 18.07.2018."

"On 17.07.2019 complainant party produced prescribed proforma for effecting compromise. Joint statement of Mst Zulaikha (mother) and Mst Nasim (widow) of deceased Shiraz Ahmed was recorded which is reproduced as below:"

"Stated that on the report of Shiraz Ahmed then alive (now deceased) case vide FIR # 107 dated 24.09.2019 under section 302/34PPC at PS, Phulra Manshehra was registered against accused Hakim Khan, Shafaqat and Muhammad Tanvir.

Deceased Shiraz Ahmed has left behind Mst Zulaikha Bibi (mother), Mst Nasim Bibi (widow), Huzaiifa Shiraz, minor (son), Mst Fatima, Mst Mahnoor Bibi, Mst Warisha Bibi and Mst Muqaddas Bibi minor (daughters). Father of deceased had expired prior to death of deceased. There is no other legal heir left by both the deceased except above named legal heirs.

16

Sessions Case No.105/7 of 2019
Titled "The State Vs Hakim Khan etc."

"Now due to intervention of elders of the locality we the major legal heirs of the deceased have effected compromise with the accused on receiving our shares in Diyat amount Rs.17,00,000/- (seventeen lac) and have no objection if they are acquitted of the charges leveled against them. I, Mst Zulaikha Bibi being mother of deceased have waived the right of Qisas and Diyat. I, Mst Nasim Bibi waive off my right of Qisas and have received the amount of Diyat as per my share and it may be deposited in my name as well as in the names of minors (my children). I pardoned the accused facing trial namely Hakim Khan, Shafaqat and Muhammad Tanvir from their liabilities of Qisas as they have convened a jirga of me where they have shown their willingness to pay Diyat amount Rs.17,00,000/- to me and my minor children. I accepted the jirga with my free consent. As I am resident of Taxila and having no alternate source of income, so the entire amount may please be invested in any profitable scheme in the names of minors and me as to our shares and the profit may please be released to me for the welfare of minors. I have not applied for my CNIC, so I produce my Nikkahnama and kids to the Court. I also impressed all my fingers on a paper to this Court alongwith my photographs to the Court, though I was also identified by my mother in law and brother in laws and other members of jirga. I affirm the compromise in the best interest of my minor kids and I received the Diyat amount just for welfare of my minor kids. Prescribed proformas for effecting compromise, affidavits by legal heirs and certificate by elders (6 leaves) is ExPA. Copy of my

105/7
1
D/S
M.L

Attested
M.Sey

17

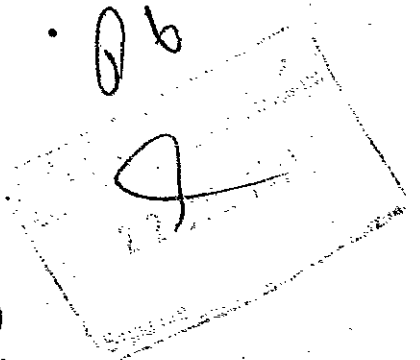
Sessions Case No.105/7 of 2019
Titled "The State Vs Hakim Khan etc."

Nikkahnama is ExPB, copy of CNIC of mother of deceased is ExPC and copies of CNICs of our identifiers/jirga members namely Badri Zaman and Muhammad Parvez are ExPD and ExPE respectively.

6. Joint statement of jirga members namely Badri Zaman and Muhammad Parvez was also recorded who affirmed the compromise between the parties in above terms.

7. As per list of legal heirs the deceased left behind following legal heirs:

1. Mst Zulaikha Bibi (mother),
2. Mst Nasim Bibi (widow)
3. Huzaifa Shiraz minor (son)
4. Mst Fatima minor (daughter)
5. Mst Mannoor Bibi minor (daughter)
6. Mst Warisha Bibi minor (daughter)
7. Mst Muqaddas Bibi minor (daughter)



8. Application for purchase of Defence Saving Certificate in accordance with shares of the minors was placed on file alongwith deposit receipt of amount Rs.17,00,000/- are placed on file. Sessions Nazir, Mansehra is directed to collect the same from quarter concerned and to keep the same under his custody, however the widow of deceased is declared entitled to receive the profits on the said Defence Saving Certificates for welfare of minors as well as her own. Sessions Nazir, Mansehra is further directed to handover copy of Defence Saving Certificates to widow of deceased, second copy on this file.

9. In the light of above discussion and as per terms and conditions of compromise noted above, the accused facing trial namely Hakim Khan, Shafaqat and Tanvir are acquitted on the basis of compromise. Accused Shafaqat is in custody. He be set free forthwith if not required to be detained in any other case. Accused Hakim Khan and Tanvir are on bail. Their sureties are absolved from the liability of bail bonds. Case property be disposed of in accordance with law


Attended
M. Khan

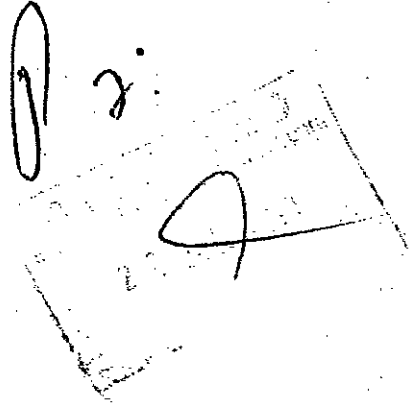
Sessions Case No.105/7 of 2019
Titled "The State Vs Hakim Khan etc"

18

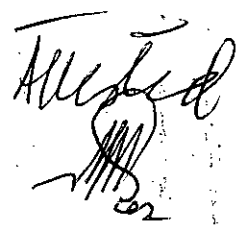
but after period of appeal/revision. File be consigned to record room after necessary completion.

Announced
19-07-2019


(Muhammad Tahir Aurangzeb)
Model Criminal Trial Court/ASJ-IV,
Mansehra



CS No: 7468
Date: 22-07-2019
Type:
Level:
Category:
Date of Decision: 22-07-19
Date of Execution: 22-07-19



بخدمت جناب ریجنل پولیس آفیسر صاحب ہزارہ ریجن ایبٹ آباد

عنوان: درخواست برائے بحالی ملازمت

جناب عالی!

- (۱) - مودبانہ التماس ہے کہ سائل 10.12.2010 کو محکمہ پولیس میں بطور کانسٹیبل بھرتی ہو کر تھانہ کاغان میں تعینات اپنے فرائض منصبی ہمیشہ احسن طریقے سرانجام دیتا ہے ایک سال قبل عیدالاضحیٰ کی رخصت پر آ کر مورخہ 24.08.2018 کو واپس جائے تعیناتی پر جاتے ہوئے بالا کوٹ پہنچنے پر اطلاع ملی کہ شیراز ولد جمعہ خان ساکنہ بانی (ڈنہ) فائرنگ سے زخمی ہوا ہے۔ جسکی دعویٰ داری حاکم خان ولد محمود، شفاقت ولد محمد خرید کے علاوہ مجھ پر بھی کی گئی ہے۔ میں واپس گھر آ گیا۔ مضر و ب شیراز ہسپتال میں جان بحق ہوا۔ (کاپی FIR لف ہے)۔
- (۲) - مقتول شیراز کے حقیقی بھائی اعجاز نے میری بہن مسماۃ کائنات کو نومبر 2017ء سے زبردستی اغواء کر رکھا تھا جو مفردی کی زندگی گزار رہا تھا۔ مقامی پولیس ملزم کی گرفتاری مغویہ کی برآمدی کے سلسلہ میں ہر ممکن کوشش کے باوجود کامیاب نہ ہو سکی تھی۔ جسکی کاپی FIR لف ہے۔
- (۳) - مقتول شیراز کے پانچ بھائی جس میں IP.O اعجاز اور دیگر رشتہ دار انتہائی سینہ زور، خطرناک ہیں مقتول شیراز اور اسکے حقیقی بھائی ایاز نے بھی لڑکیوں کو اغواء کر کے شادی کیں ہیں۔ شریف لوگوں کی عزتوں سے کھیلنا ان کا معمول بن گیا تھا۔ اہل خانہ کی زندگیوں کے خطرہ کے پیش نظر میں نے اپنی بے گناہی ثابت کرنے کے بجائے رہ فرار اختیار کر لی۔ جو اس دوران مجھے نوکری سے نکال دیا گیا۔ (آرڈر کی کاپی لف ہے)۔
- (۴) - مقامی معززین و معتبران کی مداخلت پر ہمارے مابین راضی نامہ ہوا۔ میں نے عدالت ماڈل کریمنیل کورٹ ASJ-IV مانسہرہ سے قبل از گرفتاری ضمانت کروائی۔ چونج صاحب نے حالات و قعات اور میری بے گناہی کے پیش نظر دلچسپی لیتے ہوئے میری ضمانت قبل از گرفتاری کو کنفرم کرتے ہوئے مجھے بروئے راضی نامہ بری کر دیا۔ حکم عدالت لف ہے۔ سائل غریب آدمی ہے۔ والد محترم ضعیف العمر اور فاج زدہ مریض ہے۔ چھوٹے چھوٹے بچے ہیں۔ استدعا ہے کہ سائل کو نوکری پر بحال فرمایا جائے سائل اور اہل خانہ تاحیات دعا گور ہیں گے۔

ارض

تنویر احمد ولد محمد رفیق ساکنہ سرنی پھارہ تحصیل و ضلع مانسہرہ

سابقہ پولیس کانسٹیبل نمبری 1199

فون نمبر 0345-5359291

Attested
[Signature]



20

Annex-F

OFFICE OF THE REGIONAL POLICE OFFICER
HAZARA REGION, ABBOTTABAD

0992-9310021-22

0512-9310023

r.rpohazara@gmail.com

0315-9560687

NO: 946 /PA DATE 10/01/2020

ORDER

This order is hereby passed to dispose off departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules, 1975 submitted by Ex. Constable Tanveer No. 1199 of District Mansehra against the order of punishment i.e. *Dismissal from service* awarded by District Police Officer, Mansehra vide OB No. 164 dated 01.11.2018.

Facts leading to the punishment are that he while posted at PS Kaghan absented himself from duty with effect from 23.08.2018 till the date of dismissal without any leave or permission. Moreover the official involved himself in case FIR No.160 dated 24.08.2018 u/s 302/34 PPC PS Phulra.

After receiving his appeal, comments of DPO Mansehra were obtained and examined/perused. The undersigned called the official in OR and heard him in person. Undersigned takes lenient view and order of Dismissal from service is hereby converted into *major punishment of time scale constable while the period during which he remained out of service and absent may be treated as leave without pay with immediate effect.*

-Sd-

Dr.Mazhar-ulhaq Kakakhel
(PSP/PPM/S.St)

No. 941 /PA, dated Abbottabad the 10-01-2020.

CC.

1. The District Police Officer, Mansehra for information and necessary action with reference to his office Memo No 18129/GB dated 05-09-2019. Service roll and Fuji misstl containing enquiry file of the appellant is returned herewith for record in your office.
2. The District Police Officer, Upper Kohistan for necessary action.
3. Establishment Branch.

etc/SRC
For M/A
DPO Mansehra
13/1

Attested
[Signature]

Sardar Muhammad Irshad
Officer Supdt:
For Regional Police Officer
Hazara Region, Abbottabad



21

Annex-9

OFFICE OF THE REGIONAL POLICE OFFICER
HAZARA REGION, ABBOTTABAD

0992-9310121-22

0992-9310023

r.rpohazara@gmail.com

0345-9330687

NO: 988 /PA DATE 10/01/2020

ORDER

Consequent upon disposal of appeal, Constable Tanveer No. 1199 is hereby transferred on complaint to District Upper Kohistan on permanent basis due his involvement in case FIR No.160 u/s 302/34 PPC PS Phulra dated 24.08.2018 with immediate effect.

-Sd-

Dr. Mazhar-ulhaq Kakalchel
(PSP/PPM/S.St)

No. 989 /EC, dated Abbottabad the 10-01-2020

CC.

1. The District Police Officer, Upper Kohistan for information and necessary action.
2. The District Police Officer, Mansehra for information and necessary action.
3. Establishment Branch

2/12
10/1/20

C/pe/see/PO
for info.
2001 Mansehra
13/1

Sardar Muhammad Irtad
Office Supt.
For Regional Police Officer
Hazara Region, Abbottabad

Alleged
[Signature]

DBA No: 205
 BC No:

--	--	--	--	--	--

 Name of Advocate: محمد اسلم تنوکی

S.No: 76173



وکالت نامہ



بعدالت: فیوایب ایسٹرن سن صاحب خیمہ بختون خانہ سروس ٹریڈنگ کمپنی ٹنڈی
 عنوان: محمد لشبر
 منجانب: محمد لشبر امدنیٹ
 نوعیت مقدمہ: سروس ٹریڈنگ
 باعث تحریر آنکھ: _____

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوابدہی برائے پیشی یا تصدیقہ مقدمہ بمقام ایسٹ آف اڈوکیٹری ٹنڈی کے لیے
محمد اسلم تنوکی ایڈووکیٹ ہائی کورٹ

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا اور بروقت
 پکار کے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر پیشی پر منظر حاضر نہ ہو اور مقدمہ میری
 غیرحاضری کی وجہ سے کسی طور پر میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طور پر ذمہ دار نہ ہوں گے نیز وکیل صاحب
 موصوف صدر مقام کچہری کے علاوہ کسی جگہ یا کچہری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ
 ہوں گے اور مقدمہ کچہری کے علاوہ کسی اور جگہ ساعت ہونے پر یا بروز تعطیل یا کچہری کے اوقات کے آگے پیچھے پیش ہونے
 پر منظر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا محنتانہ کے واپس کرنے کے بھی صاحب
 موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پر داختہ صاحب موصوف مثل کردہ ذات منظور و مقبول ہوگا اور صاحب موصوف کو
 عرض دعویٰ یا جواب دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل نگرانی و ہر قسم درخواست پر دستخط و تصدیق کرنے کا بھی
 اختیار ہوگا اور اور کسی حکم یا ڈگری کرانے اور ہر قسم کاروبار پیروی وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور
 اس کے تالیف و راضی نامہ و فیصلہ برحلف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا اور بصورت جانے بیرونجات از کچہری صدر
 اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا ترقی یا اگر قناری قبل از گرفتاری و اجراءے ڈگری بھی صاحب
 موصوف کو بشرط ادائیگی علیحدہ مختانہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ
 مذکور یا اس کے کسی جزوی کاروائی کے یا بصورت اپیل کسی دوسرے وکیل کو اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے وکیل کو
 بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ جو کچھ ہر جانہ
 التوا پڑے گا وہ صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا 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۔

Accepted by
M. Aslam

لہذا وکالت نامہ لکھ دیا ہے کہ سندر ہے۔

مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔ مورخہ: 06 / 02 / 2020
 دن / ماہ / سال

محمد لشبر امدنیٹ

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

PESHAWAR.

SERVICE APPEL NO 921/2020.

Tanveer Ahmad Constable presently posted at police line District
Torghar r/o Sirni Phulra Tehsil & District Mansehra.

.....Appellant

VERSUS

1. Provincial Police Officer Khyber Pakhtunkhwa Peshawar.
2. Deputy Inspector General of Police, Hazara Region Abbottabad.
3. District Police Officer, Mansehra.

..... Respondents

INDEX

S #	Description of Documents	Annexure	Page #
1	Comments / Reply		1-3
2	Affidavit / Annexure		4-9


Deponent

①

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

PESHAWAR.

SERVICE APPEL NO 921/2020.

Tanveer Ahmad Constable presently posted at police line District
Torghar r/o Sirni Phulra Tehsil & District Mansehra.

.....Appellant

VERSUS

- 1) Provincial Police Officer Khyber Pakhtunkhwa Peshawar.
- 2) Deputy Inspector General of Police, Hazara Region Abbottabad.
- 3) District Police Officer, Mansehra.

..... Respondents

Reply/Comments On Behalf Of Respondents

RESPECTFULLY SHEWETH:-

PRELIMINARY OBJECTION:-

- a) The appeal is not based on facts and appellant has got no cause of action or locus standi.
- b) That appeal is not maintainable in the present form.
- c) The appeal is bad for non-joinder of necessary and mis-joinder of unnecessary parties.
- d) The appellant is estopped by his own conduct to file the appeal.
- e) The appeal is barred by the law and limitation.
- f) The appellant has not come to the Honorable Tribunal with clean hands.

FACTS:-

1. Correct to the extent that the appellant was employee of police but during service his performance was not up to mark.
2. Incorrect. The appellant while posted as GD PS Kaghan has involved himself in case FIR No. 160 dated 24.08.2018 u/s 302/34 PS Phulra and also absented himself from duty with

effect from 23.08.2021 till date of dismissal vide DD No. 14 dated 23.08.2018. The appellant remained proclaimed offender (PO) in the said case **(copy of FIR is annexure A)**.

- 3. Incorrect. The appellant has not annexed any proof regarding the plea. Furthermore, he was directly charged in the alleged criminal case and his absent from duty was willful.
- 4. Incorrect. A proper departmental enquiry was initiated and enquiry officer held him guilty for the charges.**(enquiry finding report is annexure B)**
- 5. Incorrect. After proper enquiry, the appellant was dismissed from service vide OB No. 164 dated 01.11.2018. A Show Cause Notice was issued, proper departmental enquiry was conducted **(Copy of dismissal order is annexure C)**.
- 6. The appellant was acquitted from the court on the basis of compromise. It is pertinent to mention that acquittal on compromise does not absolve the accused official from his liability.
- 7. Pertains to record.
- 8. The respondent No. 02 took the lenient view of the matter and converted the punishment from "dismissal to time scale constable" and reinstated him in service **(Copy of order is annexure D)**.
- 9. Pertains to transfer posting record.
- 10. Incorrect. The appellant absented from duty willfully and remained proclaimed offender (PO) in the case.
- 11. The competent authority has discretion to convert the absence period into leave without pay.
- 12. The appeal is not maintainable on the following grounds:-

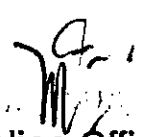
GROUND:-

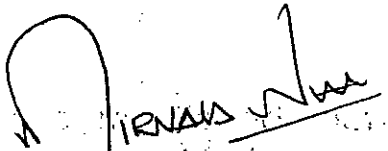
A. Incorrect. Both the orders are legal and in accordance with law/rules.


- B. Incorrect. A proper departmental enquiry was initiated and appellant willfully avoided to appear before the enquiry officer.
- C. Incorrect. Respondents have treated the appellant in accordance with law/rules and have not violated any provision of law.
- D. Incorrect. The appellate authority took the lenient view and reinstated the appellant.
- E. Incorrect. The appellant was actually involved in alleged murder case therefore effected compromise with the complainant party which amount to admission to the charges.
- F. Incorrect. The charges have established against appellant but taking lenient view the impugned punishment was awarded.
- G. The appeal is badly time barred therefore, tribunal has got no jurisdiction.

PRAYER:-

In view of the above mentioned facts, the appeal in hand may kindly be dismissed being devoid of any legal force and badly time barred case.


District Police Officer
Mansehra
(Respondent No. 3)


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


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

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

PESHAWAR.

SERVICE APPEL NO 921/2020.

Tanveer Ahmad Constable presently posted at police line District Torghar r/o Sirni Phulra Tehsil & District Mansehra.

.....Appellant

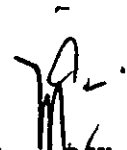
VERSUS

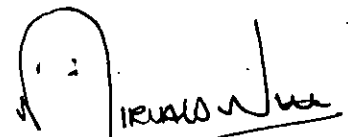
- 1. Provincial Police Officer Khyber Pakhtunkhwa Peshawar.
- 2. Deputy Inspector General of Police, Hazara Region Abbottabad.
- 3. District Police Officer, Mansehra.


..... Respondents

AFFIDAVIT

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


 District Police Officer
 Mansehra
 (Respondent No. 3)


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


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

Annex-A

حضرت سید اشرف علی تھانوی مدظلہ العالی کے انتقال کی اطلاع
میں افسانہ ص 302 کی تاریخ 13503-1221119-3
ابتدائی اطلاع نمبر 0843-5874-33

68

ابتدائی اطلاع نمبر

34

تاریخ و تفصیل درج

محلہ

محلہ

تاریخ و وقت 160

ابتدائی اطلاع نمبر 10:30	تاریخ و وقت 24/8	محلہ
ابتدائی اطلاع نمبر 11:30	تاریخ و وقت 24/8	محلہ
ابتدائی اطلاع نمبر 12:30	تاریخ و وقت 24/8	محلہ
ابتدائی اطلاع نمبر 13:30	تاریخ و وقت 24/8	محلہ
ابتدائی اطلاع نمبر 14:30	تاریخ و وقت 24/8	محلہ
ابتدائی اطلاع نمبر 15:30	تاریخ و وقت 24/8	محلہ
ابتدائی اطلاع نمبر 16:30	تاریخ و وقت 24/8	محلہ
ابتدائی اطلاع نمبر 17:30	تاریخ و وقت 24/8	محلہ
ابتدائی اطلاع نمبر 18:30	تاریخ و وقت 24/8	محلہ
ابتدائی اطلاع نمبر 19:30	تاریخ و وقت 24/8	محلہ
ابتدائی اطلاع نمبر 20:30	تاریخ و وقت 24/8	محلہ
ابتدائی اطلاع نمبر 21:30	تاریخ و وقت 24/8	محلہ
ابتدائی اطلاع نمبر 22:30	تاریخ و وقت 24/8	محلہ
ابتدائی اطلاع نمبر 23:30	تاریخ و وقت 24/8	محلہ
ابتدائی اطلاع نمبر 24:30	تاریخ و وقت 24/8	محلہ

ابتدائی اطلاع نمبر 10:30

ابتدائی اطلاع نمبر 11:30

ابتدائی اطلاع نمبر 12:30

ابتدائی اطلاع نمبر 13:30

ابتدائی اطلاع نمبر 14:30

ابتدائی اطلاع نمبر 15:30

ابتدائی اطلاع نمبر 16:30

ابتدائی اطلاع نمبر 17:30

ابتدائی اطلاع نمبر 18:30

ابتدائی اطلاع نمبر 19:30

ابتدائی اطلاع نمبر 20:30

ابتدائی اطلاع نمبر 21:30

ابتدائی اطلاع نمبر 22:30

ابتدائی اطلاع نمبر 23:30

ابتدائی اطلاع نمبر 24:30

M.H. P.S. Dhadam 24-8-18

Attest
M.H. P.S. Dhadam

Annex - B ✓

⑥



POLICE DEPARTMENT

DISTRICT MANSEHRA

From The Addl. Superintendent of Police,
Mansehra.

To The District Police Officer,
Mansehra.

No. 227 /Addl. SP. Mansehra dated the 18/10/2018.

Subject: DEPARTMENTAL ENQUIRY.

Memorandum:

Kindly refer to your office Ends No. 6047-48/PA dated, 29-08-2018.

An enquiry under hand was entrusted to the undersigned by the competent authority for digging out the real facts, about the charges leveled against Constable Tanveer No. 1199 Police lines Mansehra that he while posted as GD PS Kaghan has involved himself in case FIR No. 160 dated 24-08-2018 u/s 302/34 PPC PS Phulra. His act shows that he is an irresponsible, undisciplined police official and stigma for the department. It amounts to gross misconduct on his part and made him liable for proceeding under Police Disciplinary Rules 1975.

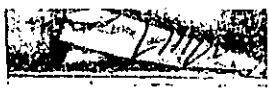
In this regard enquiry against accused official Constable Tanveer No. 1199 Police lines Mansehra was initiated in the office of the undersigned. Amir Khan SHO PS City Mansehra also joined the enquiry proceedings as representative of department.

For this purpose alleged official was summoned to appear before the undersigned through SHO PS Phulra. The report received from SHO PS Phulra reveals that vide case FIR No.160 dated 24-08-2018 u/s 302/34 PPC PS Phulra was registered against as many as 03 accused out of which one accused namely Hakim Khan S/O Mehmood has obtained bail before arrest from the court of ASJ-II whereas 02 accused Tanveer and Shafaqat has succeeded to make their escape good and also despite hectic efforts they could not be traced out so far. However, proper legal proceedings in the criminal case has been initiated against both of the accused similarly, several raids were made on their abode but without any success.

In view of the above report and after perusal of case file I being E.O found that accused official is involved in the above sited case and is Proclaim offender. He was not supposed to fled away, he was legally bound to follow the law being member of disciplinary force but he deliberately avoided his appearance which reveals that he is prima facie involved in the criminal case. Since he is nominated and directly charged by the complainant and

7

A



As he is PO therefore, he is recommended for major punishment. Necessary document are enclosed.

Submitted for kind perusal and further order, please.

Addl: Superintendent of Police,
Mansehra.

Encl: (06)

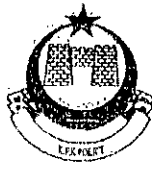
PA
Issue P.S.C.N

Anashid
DPO Mansehra

8

Annex-C

V



POLICE DEPARTMENT

MANSEHRA DISTRICT

ORDER

This office order will dispose off the departmental enquiries proceedings against Constable Tanveer No. 1199 who was proceeded against departmentally with the following allegations :-

1. That vide DD No. 14 dated 23.08.2018 PS Kaghan it has been reported that he has absented himself from duty with effect from 23.08.2018 till date without any leave or permission.
2. That he while posted as GD PS Kaghan have involved himself in case FIR No. 160 dated 24-08-2018 u/s 302/34 PPC PS Phulra

The Enquiry Officers i.e. Mr. Muhammad Suleman SP Investigation Mansehra and Mr. Arif Javed Additional SP Mansehra after conducting proper departmental enquiry have submitted their reports stating therein that the accused official is involved in a murder case and is a proclaimed offender. He was not supposed to flee away and was legally bound to follow the law being member of disciplinary force but he deliberately avoided his appearance which reveals that he is prima facie involved in the criminal case. Since he is nominated and directly charged by the complainant and now he is PO. The delinquent constable neither appeared before the undersigned nor submit his reply of charge sheets, which shows that he has nothing to produce in his defense, therefore, he is held guilty. A final show cause notice was also issued to him but he failed to submit his reply so far. He willfully avoided his appearance before enquiry officer and the undersigned.

I, the District Police Officer, Mansehra, therefore award him major punishment of "Dismissal from Service" to the delinquent Constable Tanveer No. 1199 under Khyber Pakhtunkhwa Police, Disciplinary Rules 1975 (amended in 2014) from the date of absence. His period of absence will be treated as without pay.

Ordered announced in absentia.

OB-164
21-11-18

A.
District Police Officer
Mansehra

9

Annex - D



OFFICE OF THE REGIONAL POLICE OFFICER
HAZARA REGION, ABBOTTABAD

0992-9310021-22
0992-9310023
r.rpohazara@gmail.com
03-15-9560687

NO: 990 /PA DATE 10/11/2020

ORDER

This order is hereby passed to dispose off departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules, 1975 submitted by Ex. Constable Tahveer No. 1199 of District Mansehra against the order of punishment i.e. *Dismissal from service* awarded by District Police Officer, Mansehra vide OB No. 164 dated 01.11.2018.

Facts leading to the punishment are that he while posted at PS Kaghan absented himself from duty with effect from 23.08.2018 till the date of dismissal without any leave or permission. Moreover the official involved himself in case FIR No.160 dated 24.08.2018 u/s 302/34 PPC PS Phulra.

After receiving his appeal, comments of DPO Mansehra were obtained and examined/perused. The undersigned called the official in OR and heard him in person. Undersigned takes lenient view and order of Dismissal from service is hereby converted into *major punishment of time scale constable while the period during which he remained out of service and absent may be treated as leave without pay with immediate effect.*

-Sd-

Dr. Mazhar-ulhaq Kakakhel
(PSP/PPM/S.St)

No. 991 /PA, dated Abbottabad the 10-11-2020.
CC.

1. The District Police Officer, Mansehra for information and necessary action with reference to his office Memo No 18129/GB dated 05-09-2019. Service toll and Fuji missal containing enquiry file of the appellant is returned herewith for record in your office.
2. The District Police Officer, Upper Kohistan for necessary action.
3. Establishment Branch.

Handwritten notes and signatures: *OTB/SRC*, *for 21/9*, *Dr. Mansehra*, *13/11*

Official stamp and signature: *211*, *13-11-20*, *Dr. Mazhar-ulhaq Kakakhel*, *Sardar Mullanjiad Irshad*, *Office Supdt:*, *For Regional Police Officer*, *Hazara Region, Abbottabad*

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

PESHAWAR.

SERVICE APPEL NO 921/2020.

Tanveer Ahmad Constable presently posted at police line District
Torghar r/o Sirni Phulra Tehsil & District Mansehra.

.....Appellant

VERSUS

1. Provincial Police Officer Khyber Pakhtunkhwa Peshawar.
2. Deputy Inspector General of Police, Hazara Region Abbottabad.
3. District Police Officer, Mansehra.

..... Respondents

INDEX

S #	Description of Documents	Annexure	Page #
1	Comments / Reply		1-3
2	Affidavit		4-9


Deponent

1

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

PESHAWAR.

SERVICE APPEL NO 921/2020.

Tanveer Ahmad Constable presently posted at police line District
Torghar r/o Sirni Phulra Tehsil & District Mansehra.

.....Appellant

VERSUS

- 1) Provincial Police Officer Khyber Pakhtunkhwa Peshawar.
- 2) Deputy Inspector General of Police, Hazara Region Abbottabad.
- 3) District Police Officer, Mansehra.

..... Respondents

Reply/Comments On Behalf Of Respondents

RESPECTFULLY SHEWETH:-

PRELIMINARY OBJECTION:-

- a) The appeal is not based on facts and appellant has got no cause of action or locus standi.
- b) That appeal is not maintainable in the present form.
- c) The appeal is bad for non-joinder of necessary and mis-joinder of unnecessary parties.
- d) The appellant is estopped by his own conduct to file the appeal.
- e) The appeal is barred by the law and limitation.
- f) The appellant has not come to the Honorable Tribunal with clean hands.

FACTS:-

1. Correct to the extent that the appellant was employee of police but during service his performance was not up to mark.
2. Incorrect. The appellant while posted as GD PS Kaghan has involved himself in case FIR No. 160 dated 24.08.2018 u/s 302/34 PS Phulra and also absented himself from duty with

- 2
- effect from 23.08.2021 till date of dismissal vide DD No. 14 dated 23.08.2018. The appellant remained proclaimed offender (PO) in the said case (**copy of FIR is annexure A**).
3. Incorrect. The appellant has not annexed any proof regarding the plea. Furthermore, he was directly charged in the alleged criminal case and his absent from duty was willful.
 4. Incorrect. A proper departmental enquiry was initiated and enquiry officer held him guilty for the charges. (**enquiry finding report is annexure B**)
 5. Incorrect. After proper enquiry, the appellant was dismissed from service vide OB No. 164 dated 01.11.2018. A Show Cause Notice was issued, proper departmental enquiry was conducted (**Copy of dismissal order is annexure C**).
 6. The appellant was acquitted from the court on the basis of compromise. It is pertinent to mention that acquittal on compromise does not absolve the accused official from his liability.
 7. Pertains to record.
 8. The respondent No. 02 took the lenient view of the matter and converted the punishment from "dismissal to time scale constable" and reinstated him in service (**Copy of order is annexure D**).
 9. Pertains to transfer posting record.
 10. Incorrect. The appellant absented from duty willfully and remained proclaimed offender (PO) in the case.
 11. The competent authority has discretion to convert the absence period into leave without pay.
 12. The appeal is not maintainable on the following grounds:-


GROUND:-

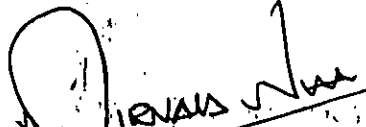
- A. Incorrect. Both the orders are legal and in accordance with law/rules.

- B. Incorrect. A proper departmental enquiry was initiated and appellant willfully avoided to appear before the enquiry officer.
- C. Incorrect. Respondents have treated the appellant in accordance with law/rules and have not violated any provision of law.
- D. Incorrect. The appellate authority took the lenient view and reinstated the appellant.
- E. Incorrect. The appellant was actually involved in alleged murder case therefore effected compromise with the complainant party which amount to admission to the charges.
- F. Incorrect. The charges have established against appellant but taking lenient view, the impugned punishment was awarded.
- G. The appeal is badly time barred therefore, tribunal has got no jurisdiction.

PRAYER:-

In view of the above mentioned facts, the appeal in hand may kindly be dismissed being devoid of any legal force and badly time barred case.


District Police Officer
Mansehra
(Respondent No. 3)


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


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

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

PESHAWAR.

SERVICE APPEL NO 921/2020.

Tanveer Ahmad Constable presently posted at police line District Torghar r/o Sirni Phulra Tehsil & District Mansehra.

..... Appellant


VERSUS

- 1. Provincial Police Officer Khyber Pakhtunkhwa Peshawar.
- 2. Deputy Inspector General of Police, Hazara Region Abbottabad.
- 3. District Police Officer, Mansehra.


..... Respondents

AFFIDAVIT

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


**District Police Officer
 Mansehra
 (Respondent No. 3)**


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


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

Annex - B ✓

POLICE DEPARTMENT

DISTRICT MANSEHRA

From The Addl: Superintendent of Police,
Mansehra.

To The District Police Officer,
Mansehra.

No. 227 /Addl: SP. Mansehra dated the 18/10/2018.

Subject: **DEPARTMENTAL ENQUIRY.**

Memorandum:

Kindly refer to your office Ends No. 6047-48/PA dated, 29-08-2018.

An enquiry under hand was entrusted to the undersigned by the competent authority for digging out the real facts about the charges leveled against Constable Tanveer No. 1199 Police lines Mansehra that he while posted as GD PS Kaghan has involved himself in case FIR No. 160 dated 24-08-2018 u/s 302/34 PPC PS Phulra. His act shows that he is an irresponsible, undisciplined police official and stigma for the department. It amounts to gross misconduct on his part and made him liable for proceeding under Police Disciplinary Rules 1975.

In this regard enquiry against accused official Constable Tanveer No. 1199, Police lines Mansehra was initiated in the office of the undersigned. Aamir Khan SIO PS City Mansehra also joined the enquiry proceedings as representative of department.

For this purpose alleged official was summoned to appear before the undersigned through SHO PS Phulra. The report received from SHO PS Phulra reveals that vide case FIR No. 160 dated 24-08-2018 u/s 302/34 PPC PS Phulra was registered against as many as 03 accused out of which one accused namely Hakim Khan S/O Mehnood has obtained bail before arrest from the court of ASJ-II whereas 02 accused Tanveer and Shafaqat has succeeded to make their escape good and also despite hectic efforts they could not be traced out so far. However, proper legal proceedings in the criminal case has been initiated against both of the accused similarly, several raids were made on their abode but without any success.

In view of the above report and after perusal of case file I being E.O found that accused official is involved in the above sited case and is Proclaim offender. He was not supposed to fled away, he was legally bound to follow the law being member of disciplinary force but he deliberately avoided his appearance which reveals that he is prima facie involved in the criminal case. Since he is nominated and directly charged by the complainant and

As he is PO therefore, he is recommended for major punishment. Necessary document are enclosed.

Submitted for kind perusal and further order, please.



Addl: Superintendent of Police,
Mansehra.

Encls (06)

PA
Issue P.S.C.N

Anashid
DPO Mansehra



POLICE DEPARTMENT

ORDER

MANSEHRA DISTRICT

This office order will dispose off the departmental enquiries proceedings against Constable Tanveer No. 1199 who was proceeded against departmentally with the following allegations :-

1. That vide DD No. 14 dated 23.08.2018 PS Kaghan it has been reported that he has absented himself from duty with effect from 23.08.2018 till date without any leave or permission.
2. That he while posted as GD PS Kaghan have involved himself in case FIR No. 160 dated 24-08-2018 u/s 302/34 PPC PS Phulra

The Enquiry Officers i.e. Mr. Muhammad Suleman SP Investigation Mansehra and Mr. Arif Javed Additional SP Mansehra after conducting proper departmental enquiry have submitted their reports stating therein that the accused official is involved in a murder case and is a proclaimed offender. He was not supposed to flee away and was legally bound to follow the law being member of disciplinary force but he deliberately avoided his appearance which reveals that he is prima facie involved in the criminal case. Since he is nominated and directly charged by the complainant and now he is PO. The delinquent constable neither appeared before the undersigned nor submit his reply of charge sheets, which shows that he has nothing to produce in his defense, therefore, he is held guilty. A final show cause notice was also issued to him but he failed to submit his reply so far. He willfully avoided his appearance before enquiry officer and the undersigned.

I, the District Police Officer, Mansehra, therefore award him major punishment of "Dismissal from Service" to the delinquent Constable Tanveer No. 1199 under Khyber Pakhtunkhwa Police, Disciplinary Rules 1975 (amended in 2014) from the date of absence. His period of absence will be treated as without pay.

Ordered announced in absentia.

OB-164
21.11.18


District Police Officer
Mansehra



Annex - D 2

OFFICE OF THE REGIONAL POLICE OFFICER
HAZARA REGION, ABBOTTABAD

0992-9310021-22

0592-9310023

r.pohazara@gmail.com

0345-9560687

NO: 991 /PA DATE 10/11/2020

ORDER

This order is hereby passed to dispose off departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules, 1975 submitted by Ex. Constable Tanveer No. 1199 of District Mansehra against the order of punishment i.e. *Dismissal from service* awarded by District Police Officer, Mansehra vide OB No. 164 dated 01.11.2018.

Facts leading to the punishment are that he while posted at PS Kaghan absented himself from duty with effect from 23.08.2018 till the date of dismissal without any leave or permission. Moreover the official involved himself in case FIR No.160 dated 24.08.2018 u/s 302/34 PPC PS Phulra.

After receiving his appeal, comments of DPO Mansehra were obtained and examined/perused. The undersigned called the official in OR and heard him in person. Undersigned takes lenient view and order of Dismissal from service is hereby converted into *major punishment of time scale constable while the period during which he remained out of service and absent may be treated as leave without pay with immediate effect.*

-Sd-

Dr. Mazhar-ul-haq Kakakhel
(PSP/PPM/S.St)

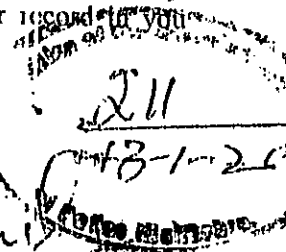
No. 991 /PA, dated Abbottabad the 10/11/2020.

CC.

1. The District Police Officer, Mansehra for information and necessary action with reference to his office Memo No 18129/GB dated 05-09-2019. Service roll and Fuji misstl containing enquiry file of the appellant is returned herewith for record to your office.
2. The District Police Officer, Upper Kohistan for necessary action.
3. Establishment Branch.

012/020
For
DPO Mansehra
13/11

Sardar Muhammad Irshad
Officer Supdt:
For Regional Police Officer
Hazara Region, Abbottabad



Before the Chairman KPK Service Tribunal
Peshawar Coop. Cent at Abbottabad.

Service Appeal No. 921/20

Service Appeal

Tamveer Ahmad — v/s — 19 PPKela

Petition for withdrawal of Titled Appeal

Respectfully Sheweth: -

1. That titled service appeal is pending adjudication before this Honorable & is filed for today.
2. That appellant does not want to proceed with the appeal and desires to withdraw it.

It is, therefore, prayed that this Honorable may graciously be pleased to allow the appellant to withdraw the said appeal.

Dated 19⁰⁷/₂₀₂₂

Appellant
M. H. Khan
(Mohammed Aslam Tami)
Advocate for appellant
at Abbottabad