


25.05.2022

Junior to counsel for the appellant present. Mr. Noor Zaman Khattak, District Attorney alongwith Mr. Raziq H.C for the respondents present.

Written reply/comments on behalf of respondents not submitted. Representative of the respondents requested for time to submit written reply/comments. Granted. To come up written reply/comments on 26.07.2022 before S.B.



(Mian Muhammad)
Member (E)

26.07.2022

Junior to counsel for appellant present.

Naseer Ud Din Shah, learned Assistant Advocate General alongwith Ahmad Jan S.I (Legal) for respondents present.

Reply on behalf of respondents is still awaited. Representative of respondents requested for time to submit reply/comments. Last opportunity is granted. To come up for reply/comments on 12.10.2022 before S.B.


(Rozina Rehman)
Member (J)

21.10.2021

Clerk of learned counsel for the appellant present.

Clerk of learned counsel for the appellant seeks adjournment on the ground that learned counsel is not available today. Adjourned. To come up for preliminary hearing before the S.B on 23.12.2021.

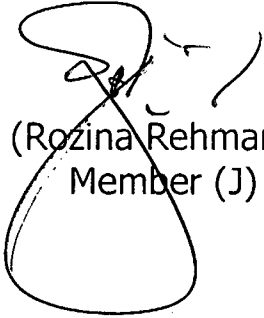

(MIAN MUHAMMAD)
MEMBER (E)

23.12.2021

Appellant present through counsel. Preliminary arguments heard and record perused.

Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices of the be issued to the respondents for submission of reply/comments. To come up for reply/comments on 09.03.2022 before S.B.

Appellant Deposited
Security Process Fee
23/12/21


(Rozina Rehman)
Member (J)

09.03.2022

Due to retirement of the Hon'able Chairman, the case is adjourned to 25.05.2022 for the same as before.

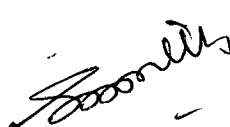

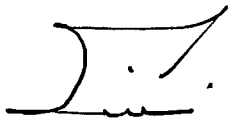

Reader

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 2285 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	20/08/2021	<p>The appeal of Mr. Irfan Ullah presented today by Mr. Javed Iqbal Gulbela 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>
2-	08.10.2021	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>08/10/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>Mr. Sagheer Iqbal, Advocate, for the appellant present and sought adjournment for preliminary hearing. Adjourned. To come up for preliminary hearing before the S.B on 21.10.2021</p> <p style="text-align: right;"> (SALAH-UD-DIN) MEMBER (JUDICIAL)</p>

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

In Re S.A. 7285 /2021

Irfan Ullah

VERSUS

IGP & Others

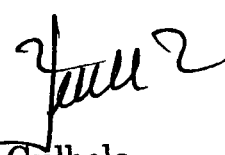
INDEX

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Dated: 17/08/2021

Appellant

Through


Javed Iqbal Gulbela
Advocate Supreme Court of
Pakistan

①

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES

TRIBUNAL PESHAWAR

In S.A _____/2021

Irfan Ullah Ex-Constable Belt#6689, Peshawar Police
S/o Subhan Ullah R/o Coca Cola Factory, Ibraheem
Abad, Bakhshipul Peshawar.

-----Appellant

VERSUS

1. Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. Capital City Police Officer Peshawar.
3. Superintendent of Police Operation at Superintendent Police Headquarters Peshawar.

-----Respondents

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT -1974 AGAINST THE IMPUGNED OF THE ORDER NO. 0B668 DATED 28-02-2020 OF THE OFFICE OF SUPRINTENDANT OF POLICE PESHAWAR WHEREBY THE APPELLANT HAS BEEN STRUCKOFF FROM THE ROLLS OF POLICE DEPARTMENT IN A CLASSICAL CURSORY AND ILLEGAL MANNER.

Respectfully Sheweth,

1. That the Appellant is a naturally born bona-fide citizen of Islamic Republic of Pakistan and hails from a respectable/reputable family of District Peshawar.

2. That after going through the mandatorily required written, physical examination conducted by ETEA for the posts of constable (BPS-7) in Khyber Pakhtunkhwa Police Department, the Appellant successfully passed the required examination & was called for interview accordingly. (Copy of ETEA application & ETEA result is annexed herewith as annexure "A & B" Respectively).
3. That it was due to the hard work & devotion, that the Appellant successfully went through the interview process and was appointed on to the rolls of this prestigious department as constable in (BPS-7) and was accordingly allotted belt No.6689 in the Respondent department.
4. That after being inducted into service the appellant left no stone unturned in performing of his duties with full zest & devotion & because of the same, was appraised on certain occasion for his work Ethic & behavior by the High Ups. It is pertinent to mention here that the Service of the Appellant lasted only for a short span of two months.
5. That before going to vent out spleen, upon the unfettered discrimination meted out to the Appellant, it would be appropriate to mention here that the services of the Appellant was struck off from the rolls of the police department without any rhyme or reason and without following the due course of law. The Appellant was hit by a great grief when suddenly, out of the blue his name was displayed on notice board

vide Notice # OB668 dated 28.02.2020 of the office of OSI Branch Police Lines Peshawar, mentioning that his services are struck off from the rolls of the department. (Copy of impugned Notice#OB668 dated 28.02.2020 is annexed herewith as annexure "C").

6. That the Appellant approached to the Respondent Department to find out the reason as well as to get a copy of his struck off order & in this regard moved an application dated 10.03.2020 to get a copy of the same, but here again the deuce fate of the Appellant prevailed & even no copy of impugned order was issued to the appellant. (Copy of application dated 10.03.2020 is annexed here with as annexure "D")
7. That after the discrimination meted out to the Appellant & being exhausted due to the unlawful acts of the Respondents & without mentioning the reason for his struck off the Appellant preferred to approach the Prime Minister Citizen Portal & made a complaint therein vide complaint No.KP-130320-7183844 dated 13/03/2020, upon which the Respondent department replied vide letter No.274-OSI dated 18.03.2020 that the services of the Appellant was stuck off due to the alleged reason of being an Afghan national. This Act of the Respondent department clearly depicts a clear picture & malicious behavior which according to law is illegal unwarranted, hence is a clear cut violation of the fundamental rights as enshrined by the supreme law of the land, as the appellant is

(4)

a naturally born bonafide Citizen of the Islamic Republic of Pakistan since fore father and their ancestors. (Copy of citizen portal complaint dated 13/03/2020 as well as reply of Respondent Department dated 18/03/2020 is annexed herewith as annexure "E & F").

8. That feeling aggrieved from the supra mentioned acts of the Respondents the appellant preferred a Departmental Appeal dated 19.03.2020 to the office Superintendent Police Headquarters as well as to the C.C.P.O Police Line Peshawar, for setting aside the impugned Notice dated 28.02.2020 & for his Re-instatement into service, but nothing came out of the same. (Copy of Departmental Appeal dated 19.03.2020 is Annexed herewith as Annexed "G").
9. That the Appellant went from pillar to post for his due rights, but all his efforts went futile & proved cries & echo in wilderness,
10. That after being exhausted & having no other remedy available elsewhere the Appellant preferred a service appeal no. 6329/2020 before this Hon'ble Tribunal which was turned down alleging that the appellant is afghan citizen / refugee hence the Khyber Pakhtunkhwa service tribunal is not the proper forum for redressal of his grievance. (copy of service appeal and order dated 07-08-2020 is Annexed herewith as Annexure H & I)
11. That feeling aggrieved from the order dated 07-08-2020 of the Hon'ble Khyber

(5)

Pakhtunkhwa Service Tribunal Peshawar, the appellant approached the August Peshawar High Court Peshawar in writ petition no 3168/2020 for redressal of his grievance and accordingly the writ petition of appellant was disposed of vide order dated 01-04-2021 and the same was converted in to appeal before the CCPO Peshawar. (Copies of writ petition No 3668/2020 and order dated 01-04-2021 as Annexure here with as Annexure J & K)

12. That despite of the clear cut direction of the Hon'ble Peshawar High Court Peshawar, the respondents are reluctant to decide the appeal of the appellant regardless of an application been moved to the CCPO Peshawar dated 03-05-2021 along with copy of judgement. (copy of application dated 03-05-2021 is Annexed herewith as Annexure L)

13. That feeling aggrieved from the supra mentioned episode the appellant approaches this Hon'ble Tribunal for his reinstatement in to service upon the following grounds in alia.

Grounds:

- A. That the impugned struck off Notice is wrong, illegal & void, hence liable to be set-aside.
- B. That no inquiry was ever conducted nor any inquiry dispensation order was ever issued, even then the major penalty was imposed upon the Appellant which is against law & governing rules.

(6)

- C. That no charge sheet & no statement of allegation was ever issued to the Appellant & thus the mandatory instruments are missing in the case of the appellant.
- D. That even no Final Show Cause Notice was ever issued to the Appellant which is mandatory provision of law, even if no inquiry is made or advised or dispensed with.
- E. That no proper right of defense was ever extended to the Appellant, nor was heard in person & even than harshest penalty was imposed, which is illegal.
- F. That where the Appellant hails from a reputable family and a citizen of Pakistan being an evident fact from NADRA records, then alleging him to be an Afghan Citizen is against the basic law of the land which proves the malafide and malicious nature of the Respondent Department.
- G. That even the Hon'ble Peshawar High Court Peshawar has directed the respondent to decide the case of appellant & even attested copies of the judgment has already been provided to the concerned respondents but till date no action whatsoever have been taken up upon the highly reserved order of Hon'ble Peshawar High Court Peshawar, which constrained the appellant to approach this Hon'ble Tribunal.
- H. That under the mandate of Article 4 of the constitution, no one can be treated otherwise than accordance with law, while Article 25 postulates that alike are to treated alike, but here the case is Volta-facie and totally

different yard stick is taken to treat the Appellant.

- I. That as per the dictum and laws governing the land, it is a prime-facie fact that where a law require a thing to be done, than that has to be done in a particular manner & not otherwise.
- J. That the opportunity of personal hearing was not extended to the Appellant thus was left condemned un-heard and because of the same, grave violation of the rules took place in case of the Appellant.
- K. That the Learned Appellate Authority also simply shelved the Appeal of the appellant without any finding which under the law is illegal.
- L. That form every angle the impugned stuck off order is wrong, illegal, void, against the rights of the appellant and is liable to be set-aside & by doing so the Appellant is entitled to be Re-instated into service with all back benefits.
- M. That any other ground no raised here may graciously be allowed to be raised at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of the instant Service Appeal, the impugned OrderNo.OB668 dated 28/02/2020 of the Respondent Department, whereby the appellant was struck off from his service may graciously be set-aside and

(8)

cancelled and by doing so the appellant may kindly be reinstated into service with all back benefits.

Any other relief not specifically asked for may also graciously be extended in favour of the Appellant in the circumstances of the case.

Dated: 17/08/2021.

Appellant

Javed

Through

Javed Iqbal Gulbela
Advocate Supreme Court of
Pakistan

Saghir Iqbal Gulbela
&
Ahsan Sardar
Advocates, High Court
Peshawar.

NOTE:

The appellant preferred appeal no. 6329/2020 before this Hon'ble Tribunal prior to the instant one .

Javed
Advocate.

9

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

In Re S.A _____/2021

Irfan Ullah

VERSUS

IGP & Others

AFFIDAVIT

I, Irfan Ullah Ex-Constable Belt#6689, Peshawar Police S/o Subhan Ullah R/o Coca Cola Factory, Ibraheem Abad, Bakhshipul Peshawar, do hereby solemnly affirm & declare on oath that all contents of instant Appeal are true and correct to the best of my knowledge & belief and nothing has been kept concealed from this Hon'ble Tribunal.

DEPONENT

Identified By



Javed Iqbal Gulbela
Advocate, Supreme Court,
Pakistan .

(10)

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

In Re S.A _____/2021

Irfan ullah

VERSUS

IGP & Others

ADDRESSES OF PARTIES

APPELLANT

Irfan Ullah Ex-Constable Belt#6689, Peshawar Police
S/o Subhan Ullah R/o Coca Cola Factory, Ibraheem
Abad, Bakhshipul Peshawar.


ADDRESSES OF RESPONDENTS

1. Inspector General of Police Khyber
Pakhtunkhwa Peshawar.
2. Capital City Police Officer Peshawar.
3. Superintendent of Police Operation at
Superintendent Police Headquarters
Peshawar.

Dated: 17/08/2021

Appellant

Through


Javed Iqbal Gulbela
Advocate Supreme Court of
Pakistan



11

11

Ann A

~~Ann A~~



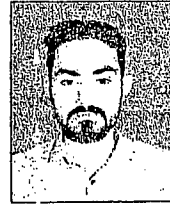
Khyber Pakhtunkhwa Educational Testing & Evaluation Agency (ETEA)

Application Form for the Recruitment Police Constable (BPS-07) in KP Police Department-2019

Your Form Has Been Submitted Successfully

Post Applied: Constable (BPS-07)

NAME : Irfan Ullah
FATHER / HUSBAND NAME : Subhan Ullah
APPLICANT CNIC NUMBER : 1730158775473
DATE OF BIRTH : 2-February-1995
MOBILE NUMBER : 03159648041



Your Form for the post of Police Constable (BPS-07) has been successfully submitted. Please do not send any documents to ETEA office. You will be informed via ETEA SMS for Downloading / Printing Roll Number slip for Physical Test. You will not be allowed to enter the Test center without ETEA Roll Number Slip.

آپ کا آن لائن فارم برائے پولیس کا نسٹیبیل (BPS-07) کامیابی سے جمع ہو گیا ہے۔ برائے مہربانی تعلیمی و دیگر اسناد ایٹا آفس بھیجنے کی زحمت نہ کریں۔ جہانی اور تحریری امتحان کی تاریخوں کے بارے میں اور رول نمبر سلپ کے لیے ETEA SMS کے ذریعے اطلاع دی جائے گی۔ یاد رکھیں رول نمبر سلپ کے بغیر امتحانی سفر میں داخل ہونے کی اجازت نہیں دی جائے گی۔

LOGOUT

JAVED IOBAL GULRELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)



KHYBER PAKHTUNKHWA EDUCATIONAL TESTING & EVALUATION AGENCY

Subject: **Written / Screening Test for Recruitment of Police Constable in KP Police Department 2019**
(Advertised on 14/03/2019)

Roll No. 510 District of Domicile: PESHAWAR

Name: IRFAN ULLAH
 Father's Name: SUBHAN ULLAH
 CNIC#: 1730158775473
 Date of Birth: 02-Feb-95
 SPF: No
 Religion: MUSLIM
 Test Date: 04-August-2019
 Reporting Time: 8:00 AM
 Test Center: TAJ GATHERING HALL, MAIN DALAZAK ROAD, KAKA KHEL TOWN, NEAR PESHAWAR MODEL SCHOOL (BOYS-IV), PESHAWAR

Police Son: No
 Gender: MALE



ضروری ہدایات :

- آپ کو مندرجہ بالا امتحان کے لیے عارضی طور پر شہادت لست کیا گیا ہے جو کہ مندرجہ بالا امتحان میں کامیابی سے مشروط ہے۔
- برائے مہربانی ٹیسٹ کے لیے اپنے ہمراہ یہ رول نمبر سلیپ اور اپنا اصل کیپوٹراٹرزڈ قومی شناختی کارڈ (Original CNIC) ضرور لائیں۔
- بصورت دیگر آپ کو امتحان میں بیٹھنے کی اجازت نہیں دی جائے گی۔
- ہرچہ سوالات سے کسی بھی چیز کو کاپی کرنا یا کسی دوسرے کاغذ پر منتقل کرنا ممنوع ہے۔ بصورت دیگر آپ کا پتہ چھپا کر دیا جائے گا۔
- برائے مہربانی ٹیسٹ کے لیے اپنے ہمراہ کالکولیشن اور مائیکرو کالکولیشن اور اسٹاک اور اسٹاک بورڈ (Clip Board) ضرور لائیں۔
- ٹیسٹ سینٹر کی حدود میں موبائل فون یا کوئی بھی الیکٹرانک آلات لے کر لانا منع ہے۔ برآمد ہونے کی صورت میں آپ کا موبائل ضبط اور پتہ چھپا کر دیا جائے گا۔ جبکہ پولیس ڈیپارٹمنٹ میں کسی بھی توکری کے لیے نااہل کر دیا جائے گا۔
- صرف امیدواروں کو ٹیسٹ سینٹر میں داخل ہونے کی اجازت دی جائے گی۔
- دیر سے آنے والے امیدواروں کو کوئی اضافی وقت نہیں دیا جائے گا۔

(Handwritten signature)

(Handwritten mark)

JAVED IQBAL GULBELA
 Advocate
 Supreme Court of Pakistan
 (ASC # 5317)

13

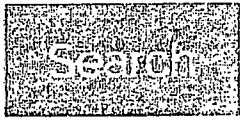
ETEA Result



Annexure 'B'

RESULT OF WRITTEN TEST FOR RECRUITMENT OF
POLICE CONSTABLE IN KP POLICE HELD ON 04-08-
2019

Enter your Roll No here.



ROLL NO.	510
NAME	IRFAN ULLAH
FATHER NAME	SUBHAN ULLAH
DOMICILE	PESHAWAR
PAPER-A MARKS/80	45
PAPER-B MARKS/20	8
TOTAL MARKS/100	53
REMARKS	PASSED

JAVED IQBAL GULBERA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

Errors and Omissions are accepted with-in 10
days of the declaration of Result

14

15

Annexure

تاریخ

668

تاریخ

6689

تاریخ

تاریخ

تاریخ

تاریخ

تاریخ

28/02/20

شکریہ دینے سے درخواست کیا گیا ہے۔

28/07/20

JAVED IGHAN GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

محمد شعیب صاحب سے سی سی پی کیس نمٹانے کے لیے

Anneuxire

صاحب عدالت!

موردہ کی گزارش کی جاتی ہے کہ

مسائل کیس ڈیپارٹمنٹ میں ریکورڈ کا سٹیبل بنانی پر اتفاقاً طور پر 2020ء سے مسائل نے دو مہینے تک ڈیویوں میں انجام دیے۔ یہی کیس لائن میں اور DAR میں ڈیویوں میں انجام دیے۔ مسائل کے روزانہ جائزہ میں رجسٹر میں جائزہ میں جائزہ لگائی ہے۔ کیس ڈیپارٹمنٹ کی طرف سے مسائل کو بلڈ نمبر 6689 اسٹیٹوٹو کیا گیا اور ورسی ملنے کے بعد دیا گیا۔ مسائل نے دو مہینے تک اپنی ڈیویوں اور اندازہ سے بنائی اور ایوانہ جو مہینہ 28 کو کیس ڈیپارٹمنٹ کی طرف سے کیس ملے کہ مسائل میں سے عرفان اللہ ولد سہیل کو درخواست لکھی گئی۔ لہذا عدالت کو ہر فریق اور اسٹوٹو کریں تاکہ سہیل اپنے اہل خانہ کو بلڈ کو سٹیبل بنانے کے لیے درخواست لکھنے کا بند چلے۔ کیونکہ مسائل ایڈووکیٹ گوانے سے تعلق رکھتا ہے اور جو میں بڑا ہے ہے کوئی حکمت والہ نہیں مسائل میں سے ہر ایک سے درخواست کی جاتی ہے کہ مسائل کے کیس کی رٹوں کی جانیں اور مسائل کو باعدت طور پر بہری کریں تاکہ مسائل اپنا ضروری کام انجام دے سکیں۔ اور مسائل کو فوری طور پر باہر لے کر مسائل کے امور دعا کو رہے گا۔

شکریہ

انفصال

محمد شعیب

عین لواریس سے

ایک ایڈوار

عرفان اللہ ولد سہیل

م بلڈ نمبر 6689

موبائل نمبر 9648541-15

15/3/2020

حرفہ

JAVED IQBAL GULBELA
 Advocate
 Supreme Court of Pakistan
 (ASC # 5317)

16

12:22

COMPLAINT DETAIL

Annexure 'E'

SUBJECT

مضمون

Dismissed from Police department on falsely declared non national

CATEGORY

زمرہ

Bias Attitude of Police

COMPLAINT DETAILS

شکایت کی تفصیل

Respected sir/madam-

I was appointed as a constable in KP police department in 1st January 2020. The department also issued a belt number 6689. On 28-02-2020 when I come to duty to police station kotwali (DAR) a notice was displayed that I was dismissed from Police department (notice is upload below). Thereafter I went for my dismissal order but the department completely denied to issue my dismissal order. as rule in such like cases I have only 30 days for my departmental appeal today on 13-3-2020 I went to file my appeal before CCPO. where the concerned office refused to accept my appeal. And was told that I have no right to appeal. I was verbally informed that my dismissal order has been on the report of special branch in which I was declared an Afghan citizen. Which is totally false (my family Nadra record is uploaded below) So it is therefore request kindly direct the concerned official to re-solve my issue as soon as possible and give me opportunity of hearing

COMPLAINT ADDRESS

شکایت کی جگہ کا پتہ

Police line Peshawar

JAVED IQBAL GULBELA
 Advocate
 Supreme Court of Pakistan
 (ASG # 5317)

97

12:11

COMPLAINT HISTORY

COMPLAINT CODE
KP130320-7183884

2020-03-13 21:11:14

STATUS
Closed - Relief cannot be granted

Complaint History

2020

MAR 20
2020

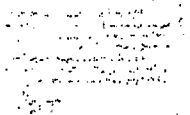


FROM
SP Headquarters Peshawar

STATUS

Closed - Relief cannot be granted

ATTACHMENTS



Attachment

REMARKS

Dear Citizen, report of OSI obtained. He reported that Mr. Irfan has been enlisted through ETEA. His verification was carried out through special branch wherein it has been disclosed that the

FEEDBACK

JAVED IQBAL GULBELA
 Advocate
 Supreme Court of Pakistan
 (ASC # 5317)

COMPLAINT HISTORY

STATUS

Forwarded



TO
SP Headquarters Peshawar

REMARKS

تبصرہ

Dear citizen, your complaint has been forwarded to Sp HQR for further necessary legal action and report.

Sp. HQR Phone. No.091-9210737.

MAR 16
2020



FROM
IG Police, KP

STATUS

Forwarded



TO
CCPO, Peshawar

REMARKS

تبصرہ

Forwarded for further necessary action please.

MAR 13
2020



FROM
System

STATUS

Initiated

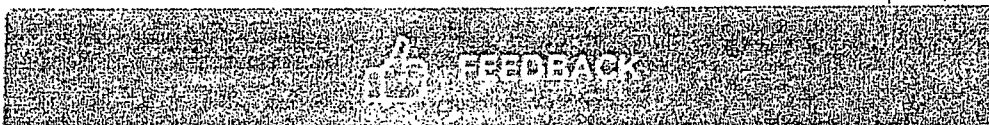


TO
IG Police, KP

REMARKS

تبصرہ

Complaint has been assigned to IG Police, KP



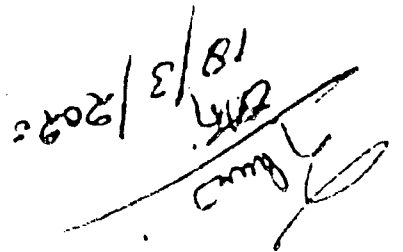
JAVED IQBAL GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

~~C.O.P. 1100~~
~~18/3/2020~~

~~W/SP/1005~~

If approved may sent
copy accordingly




18/3/2020

Handwritten notes in Urdu script, including the number 6889.

تاریخ

Annexure

19

18/3/2020

20
6
Anneauve

خدمت جناب SP ہیڈ کوارٹر صاحب پولیس لائن پشاور

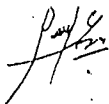
عنوان :- درخواست برآمد حکمانہ اپیل دوبارہ بحالی

سائل حسب ذیل عرض رساں ہیں

- 1- یہ کہ سائل ایک غریب اور معزز گھرانے سے تعلق رکھتا ہے۔ اور پشاور خیبر بختونخواہ کا مستقل رہائشی اور باشندہ ہے۔
- 2- یہ کہ سائل محکمہ پولیس میں یکم جنوری 2020 میں بھرتی ہوا اور محکمہ پولیس خیبر بختونخواہ نے سائل کو بیلٹ نمبر 6689 جاری کیا۔
- 3- یہ کہ سائل محکمہ پولیس میں بھرتی ہونے کے بعد ڈیوٹی پر موجود تھا کہ 28-02-2020 کو توالی تھانہ DAR میں ایک نوٹس کے ذریعے معلوم ہوا کہ سائل کو درخواست کیا گیا ہے۔ (نوٹس لف ہے)
- 4- یہ کہ سائل کبھی باروجہ معلوم کرنے کے لیے درخواست کی مگر مسلسل انکار کیا گیا۔
- 5- یہ کہ سائل کو زبانی معلوم ہوا کہ سائل کو پیشل برانچ نے بغیر چانچ پڑتال کے سائل کے خلاف ایک غلط اور بے بنیاد رپورٹ کے بنا پرافغان شہری قرار دیا گیا ہے۔ جس کی بنا پر سائل کو درخواست کیا گیا ہے جو کہ بے بنیاد اور بد نیتی پر مبنی ہے۔
- 6- یہ کہ سائل پاکستانی شہری ہے اور اس کے پاس نادرا اکامپل ریکارڈ موجود ہے اسی طرح سائل کے خاندان بھی 1978 کارڈ ریکارڈ موجود ہے۔ (نادرا کارڈ ریکارڈ درخواست کے ساتھ لف ہے)
- 7- یہ کہ سائل کو بغیر سنے یکطرفہ کارروائی کی گئی ہے جو کہ آئین پاکستان کے بنیادی حقوق کی خلاف ورزی ہے۔

لہذا استدعا کی جاتی ہے کہ سائل کے خلاف جو یکطرفہ کارروائی کی گئی ہے اسکو ختم فرما کر سائل کو دوبارہ بحال کیا جائے اور سائل کی اپیل کو منظور فرما دیا جائے۔

العبد



سائل: عرفان اللہ

ولد:- سبحان اللہ

شناختی کارڈ نمبر: 3-5877547-17301

سکنہ:- ابراہیم آباد کالونی بخش پل پشاور

موبائل نمبر: 0315-9648041

المرقوم:- 19-03-2020

JAVED IQBAL GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

مخدمت جناب CCPO صاحب پولیس لائن پشاور

عنوان:- درخواست بمراہٹ حکمانہ اپیل دوبارہ بحالی

سائل حسب ذیل عرض رساں ہیں

- 1- یہ کہ سائل ایک غریب اور معزز گھرانے سے تعلق رکھتا ہے۔ اور پشاور خیبر پختونخواہ کا مستقل رہائشی اور باشندہ ہے۔
- 2- یہ کہ سائل محکمہ پولیس میں یکم جنوری 2020 میں بھرتی ہوا اور محکمہ پولیس خیبر پختونخواہ نے سائل کو بیٹل نمبر 6689 جاری کیا۔
- 3- یہ کہ سائل محکمہ پولیس میں بھرتی ہونے کے بعد ڈیوٹی پر موجود تھا کہ 28-02-2020 کو توالی تھانہ DAR میں ایک نوٹس کے ذریعے معلوم ہوا کہ سائل کو برخاست کیا گیا ہے۔ (نوٹس لف ہے)
- 4- یہ کہ سائل کبھی باروجہ معلوم کرنے کے لیے درخواست کی مگر مسلسل انکار کیا گیا۔
- 5- یہ کہ سائل کو زبانی معلوم ہوا کہ سائل کو سپیشل برانچ نے بغیر چارج پڑتال کے سائل کے خلاف ایک غلط اور بے بنیاد رپورٹ کے بنا پرافغان شہری قرار دیا گیا ہے۔ جس کی بنا پر سائل کو برخاست کیا گیا ہے جو کہ بے بنیاد اور بد نتیجی پر مبنی ہے۔
- 6- یہ کہ سائل پاکستانی شہری ہے اور اس کے پاس نادرا کا مکمل ریکارڈ موجود ہے اسی طرح سائل کے خاندان بھی 1978 کارڈ ریکارڈ موجود ہے۔ (نادرا کارڈ درخواست کے ساتھ لف ہے)
- 7- یہ کہ سائل کو بغیر سنے یکطرفہ کارروائی کی گئی ہے جو کہ آئین پاکستان کے بنیادی حقوق کی خلاف ورزی ہے۔

لہذا استدعا کی جاتی ہے کہ سائل کے خلاف جو یکطرفہ کارروائی کی گئی ہے اسکو ختم فرما کر سائل کو دوبارہ بحال کیا جائے اور سائل کی اپیل کو منظور فرما دیا جائے۔

العبد

سائل

عرفان اللہ

ولد:- سبحان اللہ

شناختی کارڈ نمبر: 3-5877547-17301

سکنہ:- ابراہیم آباد کالونی بخش پل پشاور

موبائل نمبر: 0315-9648041

الرقوم:- 19-03-2020

Ann² H²

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BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR

In Re S.A. 6328 /2020

Irfan Ullah S/o Suhan Ullah R/o Coca Cola Factory,
Ibraheem Abad, Bakhshipul Peshawar Ex-Constable
Belt#6689, Peshawar Police.

-----(*Appellant*)

VERSUS

1. Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. C.C.P.O Peshawar.
3. S.P Operation at Superintendent Police Headquarters Peshawar.

-----(*Respondents*).

APPEAL U/S 04 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT
1974 AGAINST THE IMPUGNED OFFICE
ORDER NO.OB668 DATED 28.02.2020 OF
THE OFFICE OF SUPERINTENDENT OF
POLICE, AT POLICE LINES PESHAWAR
WHEREBY THE APPELLANT HAS BEEN
STRUCK OFF FROM THE ROLLS OF THE
DEPARTMENT IN A CLASSICAL, ILLEGAL,
CURSORY AND WHIMSICAL MANNER.

Respectfully Sheweth

1. That the Appellant is a naturally born bona-fide citizen of Islamic Republic of Pakistan and hails from a respectable/reputable family of District

JAVED IQBAL GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

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(4)

Peshawar. (Copy of CNIC is annexed herewith as annexure "A).

2. That after going through the mandatorily required written, physical examination conducted by ETEA for the posts of constable (BPS-7) in Khyber Pakhtunkhwa Police Department, the Appellant successfully passed the required examination & was called for interview accordingly. (Copy of ETEA application & ETEA result is annexed herewith as annexure "B & C" Respectively).
3. That it was due to the hard work & devotion, that the Appellant successfully went through the interview process and was appointed on to the rolls of this prestigious department as constable in (BPS-7) and was accordingly allotted belt No.6689 in the Respondent department.
4. That after being inducted into service the appellant left no stone unturned in performing of his duties with full zest & devotion & because of the same, was appraised on certain occasion for his work Ethic & behavior by the High Ups. It is pertinent to mention here that the Service

JAVED IQBAL GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

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of the Appellant lasted only for a short span of two months.

5. That before going to vent out spleen, upon the unfettered discrimination meted out to the Appellant, it would be appropriate to mention here that the services of the Appellant was struck off from the rolls of the department without any rem or reason and without following the due course of law. The Appellant was hit by a great grief when suddenly, out of the blue his name was displayed on notice board vide Notice # OB668 dated 28.02.2020 of the office of OSI Branch Police Lines Peshawar, mentioning that his services are struck off from the rolls of the department. (Copy of impugned Notice#OB668 dated 28.02.2020 is annexed herewith as annexure "D").

6. That the Appellant approached to the Respondent Department to find out the reason as well as to get a copy of his struck off order & in this regard moved an application dated 10.03.2020 to get a copy of the same, but here again the duce fate of the Appellant prevailed & even no copy of impugned order was issued to the appellant. (Copy of application dated

JAVED IQBAL GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

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10.03.2020 is annexed here with as annexure "E")

7. That after the discrimination meted out to the petitioners & being exhausted due to the unlawful acts of the Respondents & without mentioning the reason for his struck off the Appellant preferred to approach the Prime Minister Citizen Portal & made a complaint therein vide complaint No.KP-130320-7183844 dated 13/03/2020, upon which the Respondent department replied vide letter No.274-OSI dated 18.03.2020 that the services of the Appellant was stuck off due to an alleged reason of being an Afghan national. This Act of the Respondent department clearly depicts a clear picture & malicious behavior which according to law is illegal unwarranted, hence is a clear cut violation of the fundamental rights as enshrined by the supreme law of the land, as the appellant is a naturally born bonafide Citizen of the Islamic Republic of Pakistan since fore father and their ancestors. (Copy of citizen portal complaint dated 13/03/2020 as well as reply of Respondent Department dated 18/03/2020 is annexed herewith as annexure "F & G").

JAVED IQBAL GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

8. That feeling aggrieved from the supra mentioned acts of the Respondents the appellant preferred a Departmental Appeal dated 19.03.2020 to the office Superintendent Police Headquarters as well as to the C.C.P.O Police Line Peshawar, for setting aside the impugned Notice dated 28.02.2020 & for his Re-instatement into service, but inspite of lapse of statutory period nothing came out of the same. (Copy of Departmental Appeal dated 19.03.2020 is Annexed herewith as Annexed "H").

9. That the Appellant went from pillar to post for his due rights, but all his efforts went futile & proved cries & echo in wilderness.

10. That after being exhausted & having no other remedy available elsewhere the Appellant prefers the instant service Appeal before this Hon'ble Tribunal for his re-instatement into service with all back benefits upon the following grounds inter-alia.

GROUND:

- A. That the impugned struck off Notice is wrong, illegal & void, hence liable to be set-aside.
- B. That no inquiry was ever conducted nor any inquiry dispensation order was ever issued, even then the major penalty was imposed

JAVED IGBAL SUIBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

upon the Appellant which is against law & governing rules.

- C. That no charge sheet & no statement of allegation was ever issued to the Appellant & thus the mandatory instruments are missing in the case of the appellant.
- D. That even no Final Show Cause Notice was ever issued to the Appellant which is mandatory provision of law, even if no inquiry is made or advised or dispensed with.
- E. That no proper right of defense was ever extended to the Appellant, nor was heard in person & even than harshest penalty was imposed, which is illegal.
- F. That where the petitioner hails form a reputable family and a citizen of Pakistan being an evident fact from NADRA records, then alleging him to be an Afghan Citizen is against the basic law of the land which proves the malafide and malicious nature of the Respondent Department.
- G. That the forefathers of the Appellant belonged to this soil since independence, resided here since then and have never left his land. The above fact is evident from the records, NADRA records, land records as well as death certificates of the forefathers of the Appellant which clearly depict, their roots belonging to the said land, being citizen of Pakistan. (Copies of records, NADRA records land records as well as death certificate is annexed as annexure "I", "J", "K" & "L" Respectively).

JAVED IGBAL GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

- H. That under the mandate of Article 4 of the constitution, no one can be treated otherwise than accordance with law, while Article 25 postulates that alike are to treated alike, but here the case is Volta-facie and totally different yard stick is taken to treat the Appellant.
- I. That as per the dictum and laws governing the land, it is a prime-facie fact that where a law require a thing to be done, than that has to be done in a particular manner & not otherwise.
- J. That the opportunity of personal hearing was not extended to the Appellant thus was left condemned un-heard and because of the same, grave violation of the rules took place in case of the Appellant.
- K. That the Learned Appellate Authority also simply shelved the Appeal of the appellant without any finding which under the law is illegal.
- L. That form every angle the impugned stuck off order is wrong, illegal, void, against the rights of the appellant and is liable to be set-aside & by doing so the Appellant is entitled to be Re-instated into service with all back benefits.
- M. That any other ground no raised here may graciously be allowed to be raised at the time of arguments.

(28)

It is, therefore, most humbly prayed that on acceptance of the instant Service Appeal, the impugned Order No.OB668 dated 28/02/2020 of the Respondent Department, whereby the appellant was struck off from his service may graciously be set-aside and cancelled and by doing so the appellant may kindly be reinstated into service with all back benefits.

Any other relief not specifically asked for may also graciously be extended in favour of the Appellant in the circumstances of the case.

Dated: 24/06/2020

J.I.G.
Appellant

Through

JAVED IQBAL GULBELA

SAGHIR IQBAL GULBELA

&

Ahsan Sardar

Advocates High Court

Peshawar.

NOTE:-

No such like appeal for the same appellant, upon the same subject matter has earlier been filed by me, prior to the instant one, before this Hon'ble Tribunal.

Advocate.

JAVED IQBAL GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

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BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

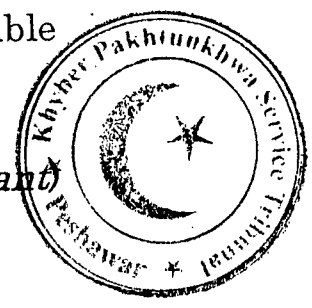
Khyber Pakhtunkhwa Service Tribunal

Diary No. 5609

Dated 25/6/2020

In Re S.A 6329 /2020

Irfan Ullah S/o Suhan Ullah R/o Coca Cola Factory, Ibraheem Abad, Bakhshipul Peshawar Ex-Constable Belt#6689, Peshawar Police.



------(Appellant)

VERSUS

1. Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. C.C.P.O Peshawar.
3. S.P Operation at Superintendent Police Headquarters Peshawar.

------(Respondents).

APPEAL U/S 04 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED OFFICE ORDER NO.OB668 DATED 28.02.2020 OF THE OFFICE OF SUPERINTENDENT OF POLICE, AT POLICE LINES PESHAWAR WHEREBY THE APPELLANT HAS BEEN STRUCK OFF FROM THE ROLLS OF THE DEPARTMENT IN A CLASSICAL, ILLEGAL, CURSORY AND WHIMSICAL MANNER.

Handwritten signature and date: 25/6/2020, Registrar

Respectfully Sheweth

1. That the Appellant is a naturally born bona-fide citizen of Islamic Republic of Pakistan and hails from a respectable/reputable family of District

ATTESTED

EXAMINER
Khyber Pakhtunkhwa Service Tribunal
Peshawar

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Mr. Javed Iqbal Gulbela, Advocate for appellant and appellant himself are present.

At the commencement of arguments learned counsel submitted that appellant Irfanullah has been struck off just on the basis of notice displayed on the notice board of concerned Police Station without initiation of departmental proceedings, such as issuance of show-cause notice alongwith statement of allegations simultaneously conducting of inquiry providing him opportunity of being heard at the first instance as well as after the logical conclusion of inquiry and in the light of recommendations proposing of awarding him penalty, at the time of issuance of final show-cause notice, he should have been given chance of put forwarding his respective defence and last but not least he should have been afforded with an opportunity of being heard in the orderly room, nothing of the sort as mandated by the law have been done giving rise to accrual of a right in favour of the appellant.

The record on file reveal that certain vacant posts of Constables in the Khyber Pakhtunkhwa Police Department were reportedly advertised in pursuance thereof appellant applied for the same to be recruited as constable, ETEA test was conducted and reportedly he remained successful and thus was recruited to one of the post, he was allotted Belt No. 6689. Subsequently, a discreet inquiry was conducted by the Special Branch declaring the appellant an Afghan Refugee on the basis of which appellant was proceeded and accordingly struck off from the Police Department by virtue of notice displayed at the notice board of concerned Police Station. Now the question for determination is as to whether the appellant can approach the Khyber Pakhtunkhwa Service Tribunal for redressal of his grievance and he is having any right in this regard or else he was rightly proceeded by the authorities at the helm of affairs? It is an admitted fact that Khyber Pakhtunkhwa Civil Servant Act 1973 and the Efficiency & Discipline Rules, 2011 read in conjunction with the Police Rules, 1975, are applicable to a civil servant who is admittedly citizen of Pakistan. The referred to rules confer no right on a foreign national who either himself or his respective parents have taken refuge in Pakistan, the provisions of two set of rules thus categorically exclude foreign national who adopted temporary sojourn, their legal status has been defined that they are Afghan Refugee having some or limited rights.

ATTESTED

EXAMINER
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

sans full citizenship rights, therefore, an Afghan Refuge in no circumstances could be considered as citizen of Pakistan nor he could be recruited in the civil service of the country, if any Afghan citizen is allowed the same rights to which citizen of Pakistan are entitled in that event the status of the citizen of the county would be put in jeopardy. Legally speaking and as such in strict legal parlance appellant is not a civil servant within the meaning of Civil Servants Act, 1973 of the country therefore, the provisions of very act and the rules made thereunder are not applicable to his case. A person claiming any right under the aforesaid enactment must prove beyond doubt that he is a bonafide citizen of Pakistan and he is not an Afghan Refuge if he failed to substantiate of establishing of his citizenship he has no vested or accrued right to agitate it in the Khyber Pakhtunkhwa Services Tribunal. Before applying for to be recruited for the subject post appellant was under legal obligation to have a valid documentary proof that he is the genuine citizen of Pakistan and is eligible to be considered for the intended post but appellant has virtually played with the authorities of the department and defrauded the whole fabric of administration hood winking them to the prejudice of the whole citizens when he was illegible all his action in this regard are void ab-initio having no legal footing or legal sanctity and absolutely having no right of bringing that matter before this Tribunal. To reiterate when appellant failed to be the citizen of Pakistan, he cannot be considered a civil servant of Pakistan within the meanings of Khyber Pakhtunkhwa Civil Servants Act, 1973, even if he purportedly manages and get employment as a civil servant in the Police Department of the province which is a sensitive department thus having no guaranteed rights to be agitated before this august Tribunal. The moment his antecedents were found as incorrect he ceased instantaneously to hold that very office. When he has no rights under the referred to Act how he can claim initiation of legal action in accordance with the provisions of the referred to Act by the authorities under who auspices he acted. To say least by doing so he has called in question his credibility. Thus this Service Appeal is devoid of any extant merits and is not maintainable and stands dismissed in limine.

(MUHAMMAD JAMAL KHAN)
MEMBER

ANNOUNCED
07.08.2020

Certified to be true copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

33

Ann J

BEFORE THE HONBLE PESHAWAR HIGH COURT
PESHAWAR



In Re W.P. 3668/P 2020

Irfan Ullah Ex- Police Constable (Belt No. 6689), Peshawar Police S/o Subhan Ullah R/o Coca Cola Factory, Ibraheem Abad, Bakhsipul, Tehsil & District, Peshawar.

-----(*Petitioner*)

VERSUS

- 1.NADRA through its Chairman at NADRA Headquarters, Islamabad.
- 2.Director General NADRA at NADRA Head Quarter, Islamabad.
- 3.Regional Director NADRA at Regional Office, NADRA, Hayatabad, Phase 5, Peshawar.
- 4.Interior Ministry through Secretary Ministry of Interior, Government of Pakistan.
- 5.Inspector General of Police (I.G.P) Khyber Pakhtunkhwa at Police Lines, Peshawar.
- 6.Chief Capital Police Officer (C.C.P.O), Peshawar at Police Lines, Peshawar.
- 7.Superintendent of Police (S.P) Operations at Superintendent Police Headquarters, Peshawar.

-----(*Respondents*).

PETITION UNDER ARTICLE-199 OF
CONSTITUTION OF THE ISLAMIC
REPUBLIC OF PAKISTAN 1973.

Respectfully Sheweth,

1. That the Petitioner is a naturally born bona-fide citizen of Islamic Republic of Pakistan and hails from a respectable/reputable family of District Peshawar, besides, living his life by the books, within the four corners of law have every

FILED TODAY
Deputy Registrar

18 AUG 2020

REGISTRAR

ATTESTED
EXAMINER
Peshawar High Court

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legal and constitutional right duly protected and guaranteed under the Law of the Land. (Copy of CNIC is annexed herewith as Annexure "A").

2. That after going through the mandatorily required criteria and after being envisaged with ordeals and inquisitions of selection process for the Post of Constable (BPS-07) in Khyber Pakhtunkhwa - Police Department, the Petitioner successfully passed the mandatory written examination conducted by ETEA and in accordance, was called on for further process in shape of interview. (Copy of the ETEA Application and ETEA Result is annexed herewith as Annexure "B & C" respectively).

3. That it was due to the hard work and devotion that the Petitioner successfully went through the interview process, got succeeded and was appointed onto the rolls of this prestigious department as Constable in (BPS-07) and was allotted Belt No. 6689 in the respondent department to set the service of the Petitioner in motion.

4. That after being inducted into service and getting on to the roles of this highly prestigious department, the Petitioner always worked with full fanaticism, zest and devotion and have never

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Deputy Registrar

18 AUG 2020

Attested
EXAMINER
Peshawar High Court

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left any stone unturned in performing of his duties and due to exceptional performance and professional gusto, being sole reason winning the hearts of his High-up's and was also appraised on certain junctures for his work ethos & conduct. It is of equal importance to mention-in here that the Service of the Petitioner lasted only for a short span of two months.

5. That before going to vent out spleen upon the unfettered discrimination meted out to the Petitioner, it would be appropriate to mention here that the service of the Petitioner was struck-off from the rolls of the respondent Police department without any rem or reason and without following the due course of law. The Petitioner was hit by a grave grief, when unexpectedly, out of the blue, the pendulum reached to the Notice # OB-668 dated 28-2-2020, of the Office of OSI Branch, Police Lines, Peshawar, whereby his name was displayed on Respondent Police Department's Notice Board stating that his services are struck-off from the rolls of this department. (Copy of the Deputy Registrar impugned Notice # OB6-668 dated 28-02-2020 is annexed herewith as Annexure "D").

FILED TODAY

Deputy Registrar

18 AUG 2020

- 6: That the Petitioner approached to the Respondent Police Department to find out the

M. G.
ATTESTED
EXAMINER
Peshawar High Court

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(M)

cause as well as to get a copy of his struck off order and in this regard, moved an application dated 10-3-2020 to the Respondent Police Department to get a copy of the same, but here again the deuce fate of the Petitioner prevailed and nothing came out of the same. (Copy of the application date 10-3-2020 is annexed herewith as Annexure "E").

7. That after the unfettered discrimination and injustices meted out to the Petitioner and being exhausted due to the unlawful acts of the Respondent Police Department and without mentioning the reason for his struck off, the Petitioner approached to Prime Minister Citizen's Portal, and made a complaint therein, vide complaint No. KP-130320-7183844 Dated 13-03-2020, upon which the Respondent Police Department replied vide Letter No. 274-OSI, dated 18-03-2020 that the services of the Petitioner was struck-off after inquiry of Special Branch mentioning the alleged reason of being an Afghan Citizen/Refugee. This act of the Respondent Police Department speaks volumes of malicious demeanor, which by the books of law is illegal and un-warranted, hence the same is clear cut violation of the fundamental rights vested in Petitioner by the Supreme law of the land. (Copy of Prime Minister Citizen's Portal Complaint dated 13-

FILED TODAY

Deputy Registrar

18 AUG 2020

ATTESTED
EXAMINER
Peshawar High Court

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03-2020 and Reply of the Respondent Police Department dated 18-03-2020 are annexed herewith as Annexure "F & G" respectively).

8. That as the Petitioner is a naturally born bona-fide citizen of Islamic republic of Pakistan ever since his forefathers and ancestors belonged to this soil and have every legal and equitable right as enshrined by the Supreme Law of the Land.
9. That feeling aggrieved from the supra-mentioned acts of the Respondent Police Department, the Petitioner time and again made solicitations therein and preferred a Departmental Appeal dated 19-3-2020 to the office of SP Headquarters, as well as to the C.C.P.O Police Lines, Peshawar for setting aside the impugned Notice dated 28-2-2020 and FILED TODAY for his reinstatement into service, but in spite of lapse of statutory period, nothing came out of Deputy Registrar of Peshawar on 18 AUG 2020 the same. (Copy of Departmental Appeal dated 19-3-2020 is annexed herewith as Annexure "H").
10. That despite having a strong case, following a complete bolster furnished by the supra-mentioned certainties, coupled with the vivid fact of lapse of statutory period, the Petitioner moved a Service Appeal before Khyber Pakhtunkhwa Service Tribunal, but yet again

Attested
EXAMINER
Peshawar High Court



faced a stark refusal and the Service Appeal of the Petitioner was turned down alleging that the Petitioner is an Afghan Citizen/Refugee, hence Khyber Pakhtunkhwa Service Tribunal is not the proper forum for redressal of such like grievances. (Copy of Service Appeal & Order Dated 07-08-2020 is annexed herewith as Annexure "I & J" respectively).

- 11. That the Petitioner went from pillar to post for his due and vested rights, but all his efforts went futile and proved like cries and echoes in wilderness.
- 12. That from forth the fatal lions of the supra-mentioned episode, the grievances that comes into existence having no other efficacious remedy and forum to be addressed at, the Petitioner approaches this Hon'ble Court under its extra ordinary jurisdiction, inter-alia, upon the following grounds:

GROUND:

- A. That there exists no other expedient-cum-expeditious & adequate remedy available elsewhere, hence the instant constitutional petition.
- B. That the Petitioner is naturally born bonafide citizen of the Islamic Republic of Pakistan and is fully and equally, on equality

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Deputy Registrar
18 AUG 2020

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Peshawar High Court

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was imposed, which, on part of the Respondent Police Department is an unlawful act and because of the same, grave violation of the rules took place in case of the Petitioner.

G. That where, the Petitioner hails from a reputable family and a citizen of Islamic Republic of Pakistan being an evident fact from NADRA records, then alleging him to be an Afghan citizen is against the basic law of the land, which proves the mala-fide and malicious nature of the Respondent Police Department.

H. That this is of equal importance to mention here that the forefathers of the Petitioner belongs to this soil since independence, resided here since then and have never left this land, this factum is evident from the Records, NADRA records, Land records as well as the Death Certificates of his forefather, which clearly depicts their roots belonging to the said land being citizens of Islamic Republic of Pakistan. (Copy of the different records, NADRA records, land records as well as death certificate are annexed herewith as Annexure "K, L, M & N" Respectively).

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Deputy Registrar
16 AUG 2020

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Peshawar High Court

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- I. That under the mandate of Article 4 of the Constitution, no one can be treated otherwise than in accordance with law, whereas Article 25 postulated that alike are to be treated alike, but here the case is volta-facie and totally different yardstick has been used to treat the petitioner.
- J. That such reckless demeanor of the Respondent Police Department is an unreasonable departure from the Principles of Policy contained within the Constitution requiring them to secure well-being of the Petitioner by ensuring equitable adjustment of rights between the employer - Respondent Police Department and employee - Petitioner.
- K. That as per the dictum and law governing the land, it is a prima-facie fact that where a law requires the thing to be done, that must be done in a particular manner and not otherwise.
- L. That the Learned Appellate Authority also simply shelved the Departmental Appeal of the Petitioner without any finding and have made a departure from the basic ingredients of Law, which fact is not only illegal and unwarranted, but also malicious to the core.

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Deputy Registrar

18 AUG 2020

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M. That from every angle, the impugned struck off Notice is wrong, illegal, void, against the rights of the Petitioner and is liable to be set aside, and by doing so, the Petitioner be entitled to be reinstated into service with all back benefits.

N. That the Petitioner seeks permission of this Hon'ble Court to advance other relevant grounds at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of the instant petition the Petitioner may very graciously be declared as Pakistani National for all intents and purposes and by doing so, the impugned order No. OB-668 dated 28.02.2020 of the Respondent Police Department, where the petitioner was struck off from service may graciously be set aside and cancelled and the petitioner may kindly be reinstated into service with all back benefits.

Any other relief not specifically asked for may also graciously be extended in favour of the petitioner, in the circumstances of the case.

Date:17/08/2020

FILED TODAY
Deputy Registrar
18 AUG 2020

Petitioner
Through
Javed Iqbal Gulbela
Saghir Iqbal Gulbela
&
Ahsan Sardar
Advocates, High Court
Peshawar.

List of Books:

1. Constitution of Pakistan, 1973.
2. Case laws and any other books as per need.

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EXAMINER
Peshawar High Court

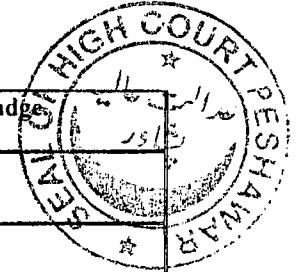
Advocate

42

Ann^m Kⁿ

PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET



Date of Order of Proceedings	Order or other Proceedings with Signature of Judge
1	2
ORDER 01.04.2021	<p><u>Writ Petition No.3668-P/20202</u></p> <p>Present: Mr. Javed Iqbal Gulbela, Advocate for Irfan Ullah, petitioner.</p> <p>Mr. Muhammad Mubarak Jan, Assistant Director (Legal), for the NADRA.</p> <p>Mr. Atta-ur-Rehman, Inspector, on behalf of Police Department.</p> <p>*****</p> <p><u>QAISER RASHID KHAN, CJ.</u>-The petitioner, through the instant writ petition, has prayed for the issuance of an appropriate writ seeking directions to the respondents to declare him as a Pakistani citizen and reinstate him in service with all back benefits.</p> <p>2. In essence, the grievance of the petitioner, as per averments in the petition, is that he was inducted into police department as a constable after fulfilling all the codal formalities but some how pursuant to a notice No.OB-668 dated 28.02.2020, he was struck off from their roll on the ground of being an Afghan national, for which, after not getting the desired relief from the departmental authority, he approached the</p>

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TESTED
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Khyber Pakhtunkhwa Services Tribunal but to no avail and that is how, he is before this court with his grievance.

3. Keeping in view the fact that as per concise statement of the NADRA authorities, the CNIC data of the petitioner is clear, we hereby treat this petition as an appeal of the petitioner before the respondent No.6 i.e. Chief, Capital City Police, Peshawar and direct him to decide the same in accordance with law within a month, after the receipt of the order of this court. Thereafter, the petitioner may have recourse for the redressal of his grievance before the proper forum. The office is directed to send this petition to the aforesaid authority by retaining a copy thereof for record. This writ petition is disposed of in the above terms.

Announced.
01. 04. 2021

CHIEF JUSTICE

JUDGE

No. 322
 Date of Presentation of Application 01/04/2021
 No of Pages 11
 Copying fee 144/-
 Total 144/-
 Date of Preparation of Copy 01/04/2021
 Date of Delivery of Copy 01/04/2021
 Received By [Signature]

CERTIFIED TO BE TRUE COPY
 [Signature]
 May
 06 2021

بخدمت جناب سید سجاد بی. او صاحب پولیس لائٹننٹ

درخواست برآمد بحال کرنا ملازمت

جناب عالی!

سائل حسب ذیل عرض کرنا ہے۔

۱۔ یہ کہ سائل نے پٹا۔ صفائی کوٹ پٹا۔ میں رٹ پیش نمبر
3668/20 دائر کر رکھی تھی جو کہ مدتیہ 1-4-2021 کو فیصلہ
شہ عوامی ہوئی۔

۲۔ یہ کہ فیصلہ کو اپیل میں تبدیل کرنے آپ جناب نے
پاس عجزوں کا حکم دیا۔ (فیصلہ لکھی ہے)۔

لہذا آپ صاحب سے استدعا ہے کہ جتنی جلد
درخواست او۔ فیصلہ کی رو میں سائل کو ملازمت
پر بحال کرنے کا حکم صادر فرمائیں

عین گزارش ہوگی

عزیزان اللہ

ع۔ کانسٹیبل پولیس لائٹننٹ

الحسب

مدتیہ 3/5/21

BC-10-7824

وکالت نامہ

بعدالت: سر جس ٹریبونل KP

عنوان اللہ بنام KP KP

منجانب Appell دعویٰ سر جس اڈس

تاریخ 17-8-21

باعث تحریر آنکہ مقدمہ مندرجہ بالا عنوان اپنی طرف سے واسطے پیروی اور جوابدہی

بمقام در کیلئے جاوید اقبال گل بیلہ ایڈووکیٹ ہائی کورٹ کو بدیں شرط وکیل

مقرر کیا ہے۔ کہ میں ہر پیشی کا خود یا بزرگیہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے مقدمہ وکیل

صاحب موصوف کو اطلاع دے کر حاضر عدالت کرونگا، اگر پیشی پر من مظهر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے

کسی طور پر میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہونگے۔ نیز وکیل صاحب موصوف صدر

مقام پچہری کی کسی اور جگہ یا پچہری کے مقررہ اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہونگے۔ اگر

مقدمہ علاوہ صدر مقام پچہری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا پچہری کے اوقات کے آگے پیچھے پیش ہونے پر

من مظهر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختار نہ واپس کرنے کے بھی

صاحب موصوف ذمہ دار نہ ہونگے۔ مجھے کوکل ساختہ پر داختم صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا۔ اور

صاحب موصوف کو عرضی دعویٰ و جواب دعویٰ اور درخواست اجراء ڈگری و نظر ثانی اپیل و گمرانی ہر قسم کی درخواست پر دستخط و

تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرنے اور ہر قسم کے روپیہ وصول کرنے اور رسید دینے اور داخل

کرنے اور ہر قسم کے بیان دینے اور سپروٹا لشی و راضی نامہ فیصلہ برخلاف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا۔ اور

بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم انتاعی یا ترقی یا گرفتاری قبل از اجراء ڈگری بھی موصوف

کو بشرط ادا نیگی علیحدہ مختار نہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا

اس کے کسی جزو کی کاروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے دوسرے وکیل یا پیرسٹر کو بجائے اپنے یا اپنے ہمراہ

مقرر کریں اور ایسے مشیر قانون کے ہر امر دہی اور ویسے ہی اختیارات حاصل ہونگے جیسے کے صاحب موصوف کو حاصل

ہیں۔ اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا۔ اور صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو

پوری فیس تاریخ پیشی سے پہلے ادا نہ کرونگا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت

میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ دیا کہ سند رہے۔

مورخہ 17-8-21 مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

طلیح خان

بنام سر جان اللہ

Accepted
Sudh
Tumshen

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD, S.B
PESHAWAR.

No.

Appeal No. 7285 of 20 21

irfan ullah Appellant/Petitioner

Versus
Inspector General of Police KPK Respondent

Respondent No. 1

Notice to: —

Inspector General of Police KPK Peshawar

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 9/3/22 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this
office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this 29/12.....

Day of Dec 20 21

(for Reply)
66/1

[Signature]
Registrar

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD, R.B
PESHAWAR.

No.

Appeal No. 7285 of 20 21

Irfan Ullah Appellant/Petitioner

Inspector General of Police KPK Respondent

Respondent No. 2

capital city police office Peshawar

Notice to:

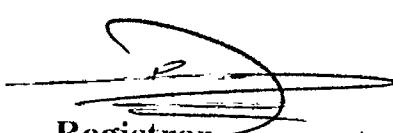
WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 9/3/22 at 8.00 A.M. If you wish to urge anything against the appellent/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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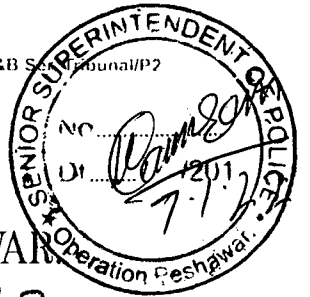
Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this~~
office Notice No. 1 dated.....

Given under my hand and the seal of this Court, at Peshawar this 29th
Day of Dec 20 21

(for Reply)


Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.



“B”

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
JUDICIAL COMPLEX (OLD), KHYBER ROAD, 8.B
PESHAWAR.

No.

Appeal No. 7285 of 20 21

Isfanullah

Appellant/Petitioner

Versus
Inspector General of Police KPN

Respondent

Respondent No. 3

Notice to:

Superintendent of Police Operation at
Superintendent Police Head Quarters Peshawar

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal ^{9/3/21} on.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No.....dated.....~~

Given under my hand and the seal of this Court, at Peshawar this 29th

Day of Dec 20 21

(For Reply)

Registrar

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.