BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR.

Service Appeal No. 1148/2019

Date of Institution ... 06.09.2019

Date of Decision ... 07.09.2021

Majid Khan, Constable No. 579, District Buner.

... (Appellant)

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and three others.

... (Respondents)

MS. UZMA SYED,
Advocate --- For appellant.

MR. ASIF MASOOD ALI SHAH,
Deputy District Attorney --- For respondents.

MR. SALAH-UD-DIN --- MEMBER (JUDICIAL)
MR. ATIQ-UR-REHMAN WAZIR --- MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:-

Precise facts as gleaning from the record are that the appellant was serving as Constable and was posted in Police Line Daggar District Buner, when Muhammad Arif S/o Sardar Muhammad R/o Khyber Agency filed a complaint against the appellant, wherein it was alleged that the appellant had been using false identity as representative of I.S.I and was also involved in extortion of money from the complainant. On the basis of said complaint, the appellant was proceeded against departmentally and was dismissed from service vide order dated 05.03.2018. The departmental appeal of the appellant

was declined vide dated 24.04.2018, therefore, the appellant filed Service Appeal bearing No. 643/2018, which was allowed vide judgment dated 07.03.2019, however it was held that the department would be at liberty to conduct proper inquiry in the matter in accordance with law and rules within a period of ninety days. On conclusion of de-novo inquiry, the competent Authority vide order dated 14.06.2019, imposed minor penalty of stoppage of two annual increments with cumulative effect upon the appellant and the intervening period, which the appellant had spent out of service was treated as leave without pay. The appellant being aggrieved of the said order, challenged it through departmental appeal, which was also declined vide order dated 09.08.2019, hence the instant service appeal.

2. Notice was issued to the respondents, who submitted their reply.

3. Learned counsel for the appellant has argued that the de-novo inquiry was conducted in sheer violation of Police Rules, 1975; that the appellant was not at all associated during the de-novo inquiry proceedings and even statement of the complainant was not recorded; that although final-show cause notice was issued to the appellant, however copy of inquiry report was not provided to the appellant, which has caused prejudice to the appellant; that the impugned order dated 14.06.2019 passed by the competent Authority would show that the competent Authority has himself opined in his order that no reasonable proof regarding the allegations leveled against the appellant were available on record; that imposing of minor penalty on the appellant on the basis of alleged previous bad entries in his record is not in accordance with law, therefore, the impugned orders are liable to be set-aside.

4. On the other hand, learned Deputy District Attorney for the respondents has contended that proper regular inquiry was conducted against the appellant by observing all codal formalities; that the appellant was associated during the

inquiry and proper opportunity of personal hearing was also afforded to the appellant; that the appellant is habitual violator of service discipline and so many bad entries exist in his service record, therefore, the appeal in hand is liable to be dismissed.

5. We have heard the learned counsel for the parties and have perused the record.

6. A perusal of the record would show that the appellant was proceeded against departmentally on the allegations that one Muhammad Arif S/o Sardar Muhammad R/o Khyber Agency had submitted complaint against the appellant by alleging that the appellant had been using false identity as representative of I.S.I and was also involved in extortion of money from the complainant. Superintendent of Police Investigation Buner has conducted de-novo inquiry against the appellant. The inquiry report, filed by the inquiry officer would show that instead of making an inquiry regarding the charges leveled against the appellant, the inquiry officer in his report has reflected previous bad entries entered in service record of the appellant. Instead of giving any findings regarding the charges leveled against the appellant, the inquiry officer has mentioned in the report that the appellant is habitual absentee as well as of bad character, therefore, he is not liable to be reinstated in service. In view of the allegations leveled against the appellant, recording of statement of the complainant was necessary, however the inquiry officer did not bother to record statement of the complainant. The inquiry officer has not collected any material during the inquiry, which could prove the allegations as leveled against the appellant.

7. The competent Authority while going through the inquiry report, also came to the conclusion that no reasonable proof regarding the allegations leveled against the appellant was available on the record. However, while referring to previous bad entries in service record of the appellant, the competent Authority imposed the impugned minor penalty of stoppage of two annual increments with cumulative effect upon the

appellant and the intervening period, which the appellant had spent out of service, was treated as leave without pay. As the previous alleged bad entries, recorded in service record of the appellant were not at all put to him through charge sheet or statement of allegation and the inquiry was also not conducted regarding the same, therefore, the impugned penalty awarded to the appellant is not sustainable in the eye of law, hence liable to be set-aside.

8. In light of the above discussion, the appeal in hand is accepted by setting-aside the impugned orders and the appellant is held entitled to all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
07.09.2021

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

ORDER
07.09.2021

Ms. Uzma Syed, Advocate, for the appellant present. Mr. Sher Ali Shah, Sub-Inspector (Legal) alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand is accepted by setting-aside the impugned orders and the appellant is held entitled to all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
07.09.2021

(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

02.12.2020 Due to COVID-19 the case is adjourned for the same on 10.02.2021 before D.B.

READER

10.02.2021 Due to Pandemic of Covid-19, the case is adjourned to 06.05.2021 for the same.

Reader

06.05.2021 Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 07.09.2021 for the same as before.

Reader

12-5.2020 Due to COVID19, the case is adjourned to 06/8/2020 for the same as before.

Reader

06.08.2020 Due to summer vacation case to come up for the same on 08.10.2020 before D.B.

Reader

08.10.2020 Counsel for appellant present.

Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Sher Ali S.I for respondents present.

Former requests for adjournment. Adjourned. To come up for arguments on 02.12.2020 before D.B.

(Atiq ur Rehman Wazir)
Member (E)

(Rozina Rehman)
Member (J)

21.02.2020 Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Nowsherwan, Inspector for the respondents present. Written reply on behalf of respondents not submitted. Representative of the department seeks adjournment to furnish written reply/comments. Adjourned to 18.03.2020 for written reply/comments before S.B.

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

18.03.2020 Learned counsel for the appellant present. Mr. Kabirullah Khattak learned Addl. AG alongwith Farmanullah H.C for the respondents present and submitted written reply/comments. Adjourned. To come up for rejoinder if any, and arguments on 12.05.2020 before D.B.

(Hussain Shah)
Member

23.10.2019 Counsel for appellant present.

Instant appeal is admitted for regular hearing on the ground that it was noted in the impugned order dated 14.06.2019, passed by respondent No.3, that no reasonable proof regarding the allegations levelled against the appellant was available on record. However, the penalty of stoppage of annual increment for the period of two (02) years with cumulative effect, was awarded solely due to the reason that the previous record of the appellant reflected a number of bad entries.

The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/ comments on 24.12.2019 before S.B.

Chairman

24.12.2019 Counsel for the appellant present. Addl: AG for respondents present. Learned counsel for the appellant submitted application for extension of time to submit security and process fee. Allowed. Appellant is directed to deposit the same within 3 days, thereafter notices be issued to the respondents for submission of written reply/comments. To come up for further proceedings on 07.01.2020 before S.B.

Appellant Deposited Security & Process Fee

Member

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1148/**2019**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	16/09/2019	The appeal of Mr. Majid Khan resubmitted today by Uzma Syed Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. REGISTRAR 16/9/19
2-	17/09/19.	This case is entrusted to S. Bench for preliminary hearing to be put up there on 23/10/19. CHAIRMAN

The appeal of Mr. Majid Khan Constable No. 579 District Buner received today i.e. on 06.09.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1- Memorandum of appeal may be got signed by the appellant.
2- Copy of complaint and order dated 05.03.2018 mentioned in para-1 of the memo of appeal is not attached with the appeal which may be placed on it
3- Annexures-C and D of the appeal are illegible which may be replaced by legible/better one.

No. 1575 /S.T,
Dt. 13/9 /2019.

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Uzma Syed Adv. Peshawar.

Sir,

① objection No 1 removed

② objection No 2 removed.

③ objection No. 3 were removed

all objections were removed & resubmitted the file.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1148 /2019

MAJID KHAN **VS** **POLICE DEPTT:**

INDEX

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APPELLANT

THROUGH:

UZMA SYED
ADVOCATE
Office No.113, Amin Mension,
Main GT Road, Peshawar
Cell: 0313-9440376

BEFORE THE KHYBER PAKTHUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. 1148 /2019

Mr. Majid Khan, Constable No. 579,
District Buner.....APPELLANT

VERSUS

1- The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2- The Regional Police Officer Malakand at Saidu Saidu Sharif, Swat.
3- The District Police Officer, District Buner.
4- The District Account Officer, District Buner.

.....RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 14.06.2019 WHEREBY MINOR PUNISHMENT OF STOPPAGE OF TWO ANNUAL INCREMENTS HAS BEEN IMPOSED ON THE APPELLANT AND THE INTERVENING PERIOD WITH EFFECT FROM THE DATE OF SUSPENSION IS TREATED AS LEAVE WITHOUT PAY AND AGAINST THE APPELLATE ORDER DATED 09.08.2019 WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS.

PRAYER:

That on acceptance of this appeal the impugned orders dated 12.6.2019 and 09.08.2019 may very kindly be set aside and to release the annual increments and the appellant may also be allowed for back benefits for the intervening period i.e. 13.02.2016 till June, 2019. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:
ON FACTS:

1- That appellant is the employee of respondent Department and is serving as Constable No. 579. That appellant is performing his duty at the concerned station quite efficiently and upto the entire satisfaction of his superiors.

2- That during service the appellant was dismissed from service vide order dated 05.03.2018 on the basis of baseless complaints which was filed against the appellant. Copy of the order dated 05.03.2018 is attached as annexure.....A.

3- That appellant feeling aggrieved from the impugned order dated 05.03.2018 filed Departmental appeal before the appellate authority followed by service appeal No. 643/2018 and the same was allowed in favor of the appellant and set aside the impugned order dated 05.03.2018 by this august Tribunal vide judgment dated 07.03.2019. with documentary proofs but the same was rejected by the appellant authority i.e. respondent No.2 on no good grounds vide appellate order dated 21.04.2016. Copies of the judgment is attached as annexure.....**B.**

4- That in implementation of the judgment passed by this august Tribunal the respondent Department conducted de-novo proceedings without associating the appellant and after the de-novo proceedings the respondent No.3 has issued the impugned order dated 14.06.2019 whereby minor penalty of stoppage of two annual increments has been imposed on the appellant as well as the intervening period w.e.f. the date of suspension also treated as leave without pay. Copy of the impugned order is attached as annexure.....**C.**

5- That appellant feeling aggrieved from the impugned order dated 14.06.2019 filed Departmental appeal before the appellate authority but the same was rejected vide order dated 09.08.2019 on no good grounds. Copies of the Departmental appeal and rejection order are attached as annexure.....**D & E.**

6- That appellant feeling aggrieved and having no other remedy filed the instant appeal on the following grounds amongst the others.

GROUNDS:

A- That the impugned orders dated 14.6.2019 and 09.08.2019 are against the law, facts, norms of natural justice and materials on the record hence liable to be set aside.

B- That appellant has not been treated by the respondents in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of Islamic Republic of Pakistan 1973.

C- That no charge sheet and statement of allegation has been issued to the appellant.

D- That no chance of personal hearing/defence has been provided to the appellant before issuing the impugned order dated 14.06.2019.

E- That the complainant has not been cross examined by the appellant before passing the impugned order dated 14.06.2019 which is mandatory as per Rule.

F- That the respondent Department acted in arbitrary and malafide manner by imposing minor punishment of stoppage of two annual increments and not allowing back benefits to appellant w.e.f the date of suspension.

G- That the impugned order dated 14.06.2019 issued by the respondent Department by imposing the minor punishment of stoppage of two annual increments and the period spent out of duty is treated as leave without pay is not tenable in the eye of law and liable to be set aside.

H- That the impugned order dated 14.08.2019 is violative of the principle of natural justice.

I- That in De-novo inquiry the charges leveled against the appellant has not been proved, therefore, the appellant is entitle for the back benefits.

J- That appellant is fully entitled for the back benefits of his intervening period in light of the Rules and regulations in vogue.

K- That the impugned order dated 14.06.2019 is violative of FR-29 i.e. the period for stoppage of two annual increments has not been specified the above mentioned impugned order.

L- That the impugned order dated 14.06.2019 is also violative of the Fundamental Rule-53 and 54.

M- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated: 06.09.2019

APPELLANT

MAJID KHAN

THROUGH:

UZMA SYED
ADVOCATE

Annex – A (4)

ORDER

This order will dispose-off departmental enquiry against **FC Majid Khan No. 700** of this district police vide this office No. 09/Enquiry, dated 20/02/2018.

Briefs facts are that:-

An application received from Mr. Muhammad Arif s/o Sardar Muhammad r/o Khyber Agency through Lieutenant Colonel Commanding Office "Zafar Hafiz" vide his office letter SC/307/Civilian Corres/ PICE, dated 18.02.2018 against constable Majid Khan. The applicant complain that police constable Majid Khan had been using false identity of ISI representative and also involved in money extortion from above name applicant. Therefore he was proceeded departmentally and served with charge sheet/Disciplinary action under police rules 1975. **Mr: Muhammad Naeem Khan SDPO Totalai** was appointed as enquiry officer to conduct departmental enquiry against FC Majid Khan No. 700. The enquiry officer in its finding submitted that the official concerned is guilty of the allegation level against him and recommended him for major punishment. He was issued with final show cause notice but his reply to the show cause notice was un-satisfactory. Subsequently he was called in OR on 05/03/2018 in order to give him opportunity of self defense. But he could not produce any substantial documents in his defense. His personal hearing was also un-satisfactory.

It is worth mentioning that his service record was perused in order to take decision in line with the above circumstances, where it was found that he is of ill reputation and involved in vehicle smuggling. There are 18 penalties on his part including major punishment reduction in pay to lower stage of time scale for period of 05 years vide OB No. 75, dated 10/08/2016, the service record of defaulter constable very much un-fair and un-satisfactory. Furthermore he was dismissed from service due to unauthorized absentees, vide this office O.B No. 18, dated 14.02.2017.

Ample opportunity provided to him but there is no reason to believe on make a good officer in future.

Therefore, **I Muhammad Irshad Khan District Police Officer Buner** as Competent Authority and in exercise of the power vested to me under Police Disciplinary Rules-1975, award **FC Majid Khan No. 700,** major punishment dismissal from service with effect from the date of his suspension i-e 20/02/2018.

Order announced.

DISTRICT POLICE OFFICER,
BUNER

OB No. 32

Dated: 05/03/2018

No. 463 /Enq, dated Daggar the 05/03 /2018.

Copy to all concerned.

ATTESTED

Attested

B-5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT SWAT

Service Appeal No. 643/2018

Date of Institution... 08.05.2018

Date of decision... 07.03.2019

Majid Khan Ex-Constable No. 700 Buner District.

... (Appellant)

Versus

The Regional Police Officer, Malakand Region, Said Sharif, Swat and one other.

... (Respondents)

MISS UZMA SYED,
Advocate ... For appellant.

MIAN AMIR QADIR,
District Attorney ... For respondents.

MR. HAMID FAROOQ DURRANI, ... CHAIRMAN
MR. AHMAD HASSAN ... MEMBER

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN: -

The appellant is aggrieved of order dated 05.03.2018 passed by respondent No. 2, whereby, he was dismissed from service with effect from the date of his suspension. He is also aggrieved of order of rejection of his departmental appeal dated 24.04.2018.

ATTESTED

ATTESTED

(6)

2. The facts as noted in the appeal are, that a baseless complaint was filed aghinst the appellant upon which he was proceeded departmentally. Ultimately, the impugned order was passed albeit without issuance of charge sheet, statement of allegations and even show cause notice. It is also the case of appellant that no regular enquiry was conducted in the matter.

3. We have heard learned counsel for the appellant and learned District Attorney on behalf of the respondents and have also gone through the available record.

4. The record before us contains copy of charge sheet dated 20.02.2018 and statement of allegations of the even date, wherein, it is alleged that the appellant, while posted at Police Lines Daggar District Buner, was complained against by one Muhammad Arif son of Sardar Muhammad R/O Khyber Agency in terms that he had been using false identity as I.S.I representative and was also involved in extortion of money from the complainant. Pertinently, the said complaint was routed through Commanding Officer Lt. Col. Zafar Hafiz. On the record there is also available finding report No. 41/RT dated 27.02.2018, wherein, the statement of appellant was enclosed. In the narrative part of finding, it was noted that in his statement the appellant had stated that he owed a sum of Rupees 2 lacs to the complainant Muhammad Arif which was in respect of sale/purchase of non-custom paid vehicle. It was also stated that the vehicle in dispute already stood confiscated by the administration under FIR No. 221 dated

ATTESTED

ATTESTED

(7)

13.02.2016 of Police Station Hayatabad, Peshawar. The finding report was not, at all, specific about the allegations against the appellant as contained in the complaint by Muhammad Arif. It is also a fact that the complainant was never associated with the proceedings against the appellant nor his statement was ever recorded. Needless to note that the statement of Commanding Officer Zafar Hafiz was also not made part of the record. The said fact could not be denied on behalf of the respondents.

5. It appears that the proceedings against the appellant were taken in undue haste. In the said regard it shall be useful to refer to the show cause notice dated 28.02.2018 issued to the appellant, wherein, he was required to submit a reply within seven(7) days. Conspicuously, the notice was served upon the appellant on 01.3.2018 under his endorsement/signature, while on the other hand, the impugned order was passed on 05.03.2018 i.e. on the fourth day of service of notice upon the appellant.

In a case where the departmental proceedings culminating into passing of major penalty against a civil servant, that too, of the magnitude of dismissal from service, the holding of proper departmental enquiry become all the more necessary which was not done in the case in hand.

6. In view of the above, we allow the appeal in hand and set aside the impugned order dated 05.03.2018. The respondents shall, however, be at liberty to conduct proper enquiry in the matter in accordance with law and rules within ninety days from the receipt of copy of instant judgment. The

ATTESTED

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(8)

issue of back benefits in favour of appellant shall follow the outcome of denovo proceedings.

Parties are left to bear their respective costs. File be consigned to the record room.

(HAMID FAROOQ DURRANI)
Chairman
Camp Court, Swat

(AHMAD HASSAN)
Member

ANNOUNCED
07.03.2019

Certified to be true copy

Examiner
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Number of Words 1600 14-3-19
Copying Fee 10-
Urgent 2-
Total 12-
Name of Copyist
Date of Preparation 14-3-19
Date of Delivery 14-3-19

ATTESTED

ORDER

- *This order will dispose-of de-novo departmental enquiry against* **FC Majid Khan No. 700** *of this district police.*

C-(9)

Briefs facts are that:-

Ex-Constable Majid Khan *while posted to Police Lines Daggar, it has been reported against him that an application received from Mr. Muhammad Arif s/o Muhammad Arif r/o Khyber Agency through Lieutenant Colonel Commanding Officer "Zafar Hafiz" vide his office letter SC/307/Civilian Corres/ PICE, dated 18.02.2018 against constable Majid Khan. The applicant complained that police constable Majid Khan had been using false identity of ISI representative and also involved in money extortion from above name applicant. Therefore, he was proceeded departmentally and dismissed from Service vide this office OB No.32 dated 05/03/2018. Later on he moved up departmental appeals to the appellant authorities for re-instatement in to service but got rejected. As a result, he preferred service appeal No. 643/2018, before Honorable service Tribunal Khyber Pakhtunkhwa Peshawar for the purpose of re-instatement in service. The Service Tribunal accepted the service appeal on 07/03/2019, set-aside the impugned order and ordered that department be at liberty to conduct proper departmental enquiry against him. The concerned official was provisionally re-instated in service for the purpose of De-novo enquiry and the DIG E&I was approached to nominate an Enquiry Officer who assigned the task to SP Investigation Buner, and the EO reported in its finding that the delinquent official is guilty of the charges levelled against him.*

After reviewing the ample report, Final Show Cause Notice was served upon the delinquent official. The official concerned submitted in reply to the Final Show Cause Notice that the Enquiry Officer has not provided him an opportunity of personal hearing nor he has recorded the statements of the complainant. Resultantly, an opportunity of personal hearing was provided to him. He denied the allegations levelled against him and explained his innocence.

Similarly, after the perusal of the available record, it has been revealed that the complainant has not appeared for recording his statements before the Enquiry Officer and no reasonable proof regarding the allegations levelled against him is available on record, but his previous service record reveals number of bad entries.

ATTESTED

(10)

Therefore, I Muhammad Irshad Khan District Police Officer Buner as Competent Authority and in exercise of the power vested in me under Police Disciplinary Rules-1975, award FC Majid Khan No.700 minor punishment in shape of stoppage of annual increment for a period of two years with cumulative effect and re-instate him in service from the date of dismissal and new constabulary No.579 is allotted to him. The period he spent out of service is treated as leave without pay.

Order announced.

DISTRICT POLICE OFFICER,
BUNER

OB No. 96

Dated: 14-06-/2019

No. 3810-42/Enq. dated Daggar the 14/06/2019.

Copy for information to:

1. The DIG E&I Khyber Pakhtunkhwa Peshawar with reference to his office letter No.2054/CPO/IAB/C&E, please
2. The Regional Police Officer Malakand at Saidu Sharif Swat, please
3. The AIG Legal Khyber Pakhtunkhwa Peshawar.

DISTRICT POLICE OFFICER,
BUNER

ATTESTED

D-11

بخدمت جناب ریجنل پولیس آفیسر مالاکنڈ ڈویژن سیدو شریف سوات۔

عنوان:- درخواست برائے عطائیگی سابقہ تنخواہیں اور انکریمنٹس کی بحالی۔

جناب عالی! انتہائی مودبانہ گزارش ہے کہ سائل محکمہ ہذا میں بعہدہ کنسٹیبل 2007ء کو بھرتی ہوا تھا۔ روز اول کی طرح [illegible] ہمیشہ ناسازگار حالات میں اپنی ڈیوٹی بخوبی ایمانداری سے سرانجام دیتے رہے۔ اسی دوران مختلف جگہوں اور آپریشنوں میں حصہ لیتا رہا۔ اور ضلع کے مختلف تھانوں اور [illegible] میں ڈیوٹیاں سرانجام دی ہیں۔ دوران ملازمت بعض بدخواہوں نے سائل کے خلاف بے بنیاد الزامات عائد کئے جن کا حقیقت سے کوئی واسطہ نہ تھا۔ ذہنی، مالی اور ذاتی حیثیت کو متاثر کرنے والے ایک منفی الزامات کے تحت سائل کو ناقابل تلافی نقصان پہنچایا۔ اور جس کی وجہ سے سائل نوکری سے بھی [illegible] ہو گیا۔ بوڑھے والدین اور چھوٹے بہن بھائیوں کے رزق کا سہارا بھی لے گئے۔ بعد از برخاستگی ملازمت سائل نے عدالت کا دروازہ کھٹکھٹایا۔ عدالت نے [illegible] 07

05/2014 کو بحال کیا گیا۔ سائل نے تاریخ بحالی سے [illegible] ڈیوٹی سرانجام دیتا رہا۔ لیکن سائل کو ابھی تک تنخواہ نہیں ملی۔ سائل ایک غریب خاندان سے تعلق رکھتا ہے [illegible] سائل تنگدستی کی زندگی گزار رہا ہے۔

لہذا استدعا ہے کہ سائل پر رحم فرما کر سروس سے برخاستگی کی تاریخ سے بحالی تک سابقہ تنخواہیں اور انکریمنٹس بحال کرنے کے احکامات صادر فرمائیں تو سائل تاحیات دعا گو رہے گا۔

[signature]

العارض!

کنسٹیبل [illegible] نمبر 579

[illegible] پولیس لائن [illegible]

مورخہ 20 جون 2014

0334-1212580

ATTESTED

OFFICE OF THE
DISTRICT POLICE OFFICER,
BUNER

(12)

No. 4141 **/EC, Dated Daggar the** 01/07/2019.

To,

The Regional Police Officer,
Malakand at Saidu Sharif Swat

Subject: **APPLICATION**

Memo:

Enclosed please find herewith a self-explanatory application of FC Majid Khan No.579, requesting in for restoration of annual increment stopped for a period of two years with cumulative effect vide this office OB No.96 dated 14/06/2019 and has also requested in back-benefits for out of service period, please.

DISTRICT POLICE OFFICER,
BUNER

ATTESTED

Document I

P-I

E-(13)

OFFICE OF THE
REGIONAL POLICE OFFICER, MALAKAND
AT SAIDU SHARIF SWAT.
Ph: 0946-9240381-88 & Fax No. 0946-9240390
Email: dipmalakand@yahoo.com

ORDER:

This order will dispose off appeal of Constable Majid Khan No. 579 of Buner District for restoration of two annual increment without cumulative effect.

Brief facts of the case are that Majid Khan No. 579 of Buner District was enlisted on 29/12/2009. An application received from Muhammad Arif s/o Sardar Muhammad R/O Khyber Agency through Lieutenant Colonel Commanding Office Zafar Hafiz vide his office letter No. SC/307/Civilian Corres/PICE, dated 18/02/2018 against Constable Majid Khan. The applicant complained that Police Constable Majid Khan had been using false identity of ISI representative and also involved in money extortion from above named applicant. He was proceeded against departmentally and served with charge sheet/Disciplinary action under police rules 1975. Mr. Muhammad Naeem Khan SDPO Totalai was appointed as enquiry officer to conduct departmental enquiry against FC Majid Khan No. 579. The enquiry officer in his finding submitted that the official concerned is guilty of the allegation level against him. So he was dismissed from service vide his office OB No. 32 dated 25/03/2018. That the delinquent official moved up successive departmental appeals but could not succeed. Therefore, he instituted service appeal No. 643/2018 before the Honorable Service Tribunal against the above quoted order. That the Honorable Service Tribunal accepted his appeal and ordered the respondent to conduct de-novo departmental enquiry against the petitioner. SP Investigation, Buner was appointed as Enquiry Officer who recommended him for major punishment. That his service record was perused where it was found that he is of ill reputation, habitual absentee, and involved in Vehicles smuggling. There are 18 penalties on his part including punishment of reduction and pay to lower stage of time scale for period of 5 years vide his office OB No. 75 dated 10/08/2016 while only one good entry in his service record. Furthermore he was dismissed from service due to un-authorized absence vide his office OB No. 18, dated 14/02/2017. Later on he was re-instated into service, however he was awarded the punishment of forfeiture of 02 years of service vide this office Order No. 1581/E, dated 08/02/2018. That a final show cause notice was served upon him and was heard in person in orderly room. He explained his innocence and unfolded his poor family background. That the appellant was awarded with minor punishment in shape of stoppage of annual increment for a period of two years with cumulative effect and permanently re-instated in to service and the period he spent out of service was treated as leave without pay vide his office OB No. 96 dated 14/06/2019. That the service record of the applicant reveals number of bad entries (quoted above) and no remarkable achievement in his round about 10 years of service. He deserves no more leniency

He was called in Orderly Room on 05/08/2019 and heard him in person. The appellant could not produce any cogent reason in his defense. Therefore, his appeal for restoration of two annual increments with accumulative effect is hereby filed.

Order announced.

ATTESTED

(... SAEED), PSP
Regional Police Officer,
Malakand, at Saidu Sharif Swat

No. 8947 /E,
Dated 09/08 /2019.

Copy to District Police Officer, Buner for information and necessary action with reference to his office Memo: No. 4397/Eenq, dated 12/07/2019. Service Roll and Fauji Missal of the above named Constable are returned herewith for record in your office.

****^^^^^^^^^^^^^*****^^^^^^^^^^^^^^^^****

DPO

بعدالت

KP Service Tribunal, Peshawar

مورخہ 2019ء منجانب

مقدمہ ماجد خان بنام

دعویٰ Police

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی وجواب دہی وکل کاروائی متعلقہ

آن مقام پشاور کیلئے عظمیٰ سید ایڈووکیٹ

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے وتقرر ثالث وفیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک وروپیہ ارعرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرایں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برامدگی اور منسوخی نیز دائر کرنے اپیل نگرانی ونظر ثانی وپیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بااختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور وقبول ہوگا دوران مقدمہ میں جوخرچہ ہرجانہ التوائے مقدمہ کے سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہٰذا وکالت نامہ لکھدیا کہ سند رہے۔

المرقوم 6 ماہ 9 2019ء

العبد گواہ العبد

مقام Peshawar کے لئے منظور ہے۔

Before The chairman of KP Service Tribunal Peshawar

Servie Appeal 1148 /2019

Majid Khan vs Police

Application for Submission of Court fee.

S.K.

It is Submitted that:-

① that the above noted case is Pending before this Hon'ble trible for Reply

② that due to some domestic Problems appellant didn't Submitted Court fees on Perious date.

Therefore it is humbly Prayed that an acceptance of this appellant Please allow me for submitted court fees.

Majid Khan

Through Counsel Usma Syed

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1148 / 2019

Mr. Majid Khan Constable No. 579 District Buner

..... **Appellant**

VERSUS

1. Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. Regional Police Officer, Malakand Region at Saidu Sharif Swat.
3. District Police officer Buner.
4. The District Account Officer District Buner.

..... **Respondents**

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District Police Officer,
Buner
(Respondent No. 03)

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1148 / 2019

Mr. Majid Khan Constable No. 579 District Buner

..... **Appellant**

VERSUS

1. Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. Regional Police Officer, Malakand Region at Saidu Sharif Swat.
3. District Police officer Buner.
4. The District Account Officer District Buner.

..... **Respondents**

PARA-WISE COMMENTS ON BEHALF OF RESPONDENTS.

Respectfully sheweth:
Preliminary Objections:-

1. That the present service appeal is time barred.
2. That the service appeal is not maintainable in its present form.
3. That the appellant has not come to this Honorable Tribunal with clean hands.
4. That the appellant has concealed the material facts from this Honorable Tribunal.
5. That the appellant has got no cause of action and locus standi to file instant appeal.
6. That the appellant has been estopped due to his own conduct.
7. That the service appeal is bad due to mis joinder and non-joinder of necessary parties.

ON FACTS:

1. Correct to the extent that the applicant was enlisted in the respondent department as constable on 29.12.2009, but in his short term service there are 18 bad entries including Major punishment exist in his service record. **(Copy of the same as annexure "A").**
2. Incorrect. That a complaint application of Mr. Muhammad Arif r/o Khyber Agency was received to the respondent department through lieutent colonel Commanding officer Zafar Hazif vide his office letter No. SC/307/ Civilian corres / PICE dated 18.02.2018, against the appellant wherein it was complained that Police constable Majid Khan had been using false identity ISI representative and also involved in money extortion from the above named complainant, therefore he was proceeded departmentally and found guilty for allegation leveled against him, resultantly he was dismissed from service on 05.03.2018. **(Copy of complaint application along with Pak-Army letter & dismissal order are Annexed as Annexure B, C & D).**
3. Correct to the extent. That the appellant filed departmental appeal before the respondent No. 2 against the dismissal order dated 05.03.2018, which was rejected on 24.04.2018, thereafter he filed service appeal no. 643/2018 which was accepted on 07.03.2019 by this honorable tribunal with the direction that the respondents shall, However, be it liberty to conduct proper enquiry in to the matter an accordance with law and rules.

4. Correct to the extent that to comply the judgment of this honorable Tribunal, the appellant was provisionally reinstated into service on 12.04.2019 for the purpose of de-nove Enquiry, SP Investigation Buner was appointed as Enquiry Officer. The appellant was associated with enquiry proceeding, his statement was also recorded by the E.O. The Enquiry Officer found him guilty and submitted his finding report wherein he was recommended for major punishment, then after he was issued final show cause notice and also offered opportunity for personal hearing, but his reply was found unsatisfactory, however in lenient view he was awarded minor punishment in shape of stoppage of annual increment for the period of 2 years with cumulative effect. The period spent out of service was treated as leave without pay. **(Copy of statement of the appellant, Finding report, Final show cause Notice and reply on it are Annexed as Annexure E, F,G & H respectively).**
5. Correct to the extent that appellant filed departmental appeal before the respondent No. 2 , who called him in orderly room on 05.08.2019, but the appellant could not produce any cogent reason in his defence. Therefore his departmental appeal was rejected on 09.08.2019. **(Copy of rejection order as Annexure I).**
6. That service appeal of the appellant is liable to be dismissed on the following grounds.

GROUNDS

A. Incorrect. That the impugned orders dated 14.06.2019 and 09.08.2019 are legal, being passed according to the facts, law, rules & justices.
B. Incorrect. That the appellant has been treated in accordance with law and rules, the respondents have not been acted against the constitutions of Pakistan.
C. Incorrect. That proper charge sheet and statement of allegation were issued to the appellant as per law and rules.
D. Incorrect. That opportunity of personnel hearing / self defence has been provided to the appellant before passing impugned order dated 14.06.2019.
E. Incorrect. That after fulfillment all codal formalities the impugned order has been passed.
F. Incorrect. That the respondents have not been acted in arbitrary and malafide manner but the appellant estopped due to his own conduct.
G. Incorrect. That the impugned order is legal and punishment awarded to the appellant is based on facts.
H. Incorrect. That the impugned order dated 14.06.2019 is legal, being passed according to the law, rules and principal of natural justices.
I. Incorrect. That in de-nove enquiry the charge has been proved against the appellant and minor punishment has already been awarded to the appellant. Therefore he is not entitled for back benefits.
J. Incorrect. As explained in the above Para "I" the appellant is not entitled for back benefits of his intervening period.
K. Incorrect. As explained in the above proceeding Paras the impugned order has been passed in accordance with law rules and justices.
L. Incorrect. That the impugned order is legal, being passed according to the law and rules.

M. That the respondents also seek permission of this honorable tribunal to adduce more points / grounds it the time of arguments.

PRAYER:

In view of the above facts and grounds it is most humbly prayed that the service appeal of the appellant may graciously be dismissed with costs.

INSPECTOR GENERAL OF POLICE,
KHYBER PAKHTUNKHWA PESHAWAR
(Respondent No. 01)

Regional Police Officer,
REGIONAL POLICE OFFICER,
MALAKAND REGION AT SAIDU SHARIF SWAT
(Respondent No. 02)

DISTRICT POLICE OFFICER,
BUNER.
(Respondent No. 03)

DISTRICT ACCOUNT OFFICER,
BUNER.
(Respondent No. 04)

(4)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1148 / 2019

Mr. Majid Khan Constable No. 579 District Buner

..... **Appellant**

VERSUS

1. Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. Regional Police Officer, Malakand Region at Saidu Sharif Swat.
3. District Police officer Buner.
4. The District Account Officer District Buner.

..... **Respondents**

AFFIDAVIT

We the above respondents do hereby solemnly affirm and state on oath that the whole contents of the accompany Para-wise comments are true and correct to the best of our knowledge and belief and nothing has been concealed from this Honorable Tribunal.

INSPECTOR GENERAL OF POLICE,
KHYBER PAKHTUNKHWA PESHAWAR
(Respondent No. 01)

Regional Police Officer,
Malakand at Saidu Sharif Swat

REGIONAL POLICE OFFICER,
MALAKAND REGION AT SAIDU SHARIF SWAT
(Respondent No. 02)

DISTRICT POLICE OFFICER,
BUNER.
(Respondent No. 03)

DISTRICT ACCOUNT OFFICER,
BUNER.
(Respondent No. 04)

(5)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1148 / 2019

Mr. Majid Khan Constable No. 579 District Buner

..... **Appellant**

VERSUS

1. Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. Regional Police Officer, Malakand Region at Saidu Sharif Swat.
3. District Police officer Buner.
4. The District Account Officer District Buner.

..... **Respondents**

AUTHORITY LETTER

We the above respondents do hereby authorize and allow Mr. Nowsherawan Inspector Legal Buner to file the accompany Para-wise comments in the court on our behalf and do whatever is needed in the court.

INSPECTOR GENERAL OF POLICE,
KHYBER PAKHTUNKHWA PESHAWAR
(Respondent No. 01)

Regional Police Officer,
Malakand at Saidu Sharif, Swat.

REGIONAL POLICE OFFICER,
MALAKAND REGION AT SAIDU SHARIF SWAT
(Respondent No. 02)

DISTRICT POLICE OFFICER,
BUNER.
(Respondent No. 03)

DISTRICT ACCOUNT OFFICER,
BUNER.
(Respondent No. 04)

(6)

Annexture "A"

R ROLL OF (Continued)

No.

15. CENSURES AND PUNISHMENT

Charge: Absented from lawful duty.
Punishment: His period of absence is (1) day leave with out pay.
OB. No. 5
Dt. 8-1-2011

DPO Buner

Charge absented from lawful duty.
Punishment. His period of absence is ~~now~~ (2) day leave with out pay.
OB No: 8
Dt. 17-1-2011

DPO Buner

Charge: Absented from lawful duty.
Punishment: His period of absence Five (5) days leave without pay.
O.B. No. 68
Dt: 2-8-2012

District Police Officer
Buner

Charge Absence!
Punishment: 05 days Leave without pay.
OB.NO! 105, Dt! 21-12-2015.

DPO Buner

ORDER

Having been involved in case FIR No 224 dt 13-4-16 U/s 419-420-PPC police station Hayatabad Peshawar the following Cons of this DISTT are hereby Suspended with immediate effect. However proper departmental proceedings will be initiated against them Separately.

OB No 28
Dt 16/3/016

DPO Buner

CHARACTER ROLL OF (Co

Serial No.	15. CENSURES AND PUNISHMENTS – Contd.
(2)	Charge Absence Punishment 2 days Leave without pay and awarded 2 days E.drill. OB No: 36 Dt: 12/4/16 DPO Buner
	Charge Absence: 10 days E. Cmod. OB No: 50, Dt: 24-5-2016. DPO Buner
	Charge Absence Punishment 1 day leave without pay OB No: ~~22~~ 60 Dt: 22/6/16 DPO Buner
	Charge: 01 day E. Drill. OB No: 64, Dt: 01-7-16. DPO Buner
	Charge Absence: involved in Case Fir No: 221, dated: 13-2-16 U/S 419/420-PPC PS Hayatabad. Peshawar. ~~Nil~~ Punishment: Major Punishment i.e. Reduction in Pay to Lower Stage of Time Scale for a Period of Five years with immediate effect. OB No: 75, Dated: 10-08-2016. DPO Buner.

ARACTER ROLL OF (Continued)

Serial No.

15. CENSURES AND PUNISHMENTS – Contd.

Order

Therefore, I Syed Khalid Mehmood Hamdani DPO/Buner as a competent authority and the exercise of the powers vested to me under Police Disciplinary Rules 1975 award both the Constable Major Punishment i.e. Reduction in pay to lower stage of Time Scale for a period of five years with immediate effect. pay fixed Rs: 8590/p.m

OB No. 75
10/8/2016

District Police Officer
Buner

1 — 256
15/8/16
pay ~~reduced~~ @ Rs=8590/pm + allowances w.e.f 1/9/2016 due to major punishment OB No. 75 dt 10/8/2016

19/8/16.

DAO 19/8/16

Charge Absence:
Punishment: 03 days L.w.o pay and 01 day Extra Drill.
OB No: 75, Dt: 10-8-16.

DPO Buner

Punishment: 14 days leave without pay and Rs 200/-
OB No: 117
dt 21-11-16

DPO Buner

CHARACTER ROLL OF (Co

Serial No. (4)

15. CENSURES AND PUNISHMENTS – Contd.

Charge Absence!
01 day L-w.o Pay.
OBNO: 91, Dt: 20-09-16.

DPO Buner

Charge Absence himself from his Lawful duty 48 days. Leave with out Pay.

Punishment: Minor Punishment i.e fine Rs: 5000/=

OB No. 108
25/10/2016

District Police Officer
Buner

Charge Absence
punishment: 1 day leave without pay and 1 day awarded E-drill.
OBNo 103
Dt. 14-10-16

DPO Buner

---

punishment: 2 days leave without pay and 1 day Awarded E-drill.
OBNo 103

DPO Buner

(8) Annexure "B"

Annexure-A

171 Field Regiment Artillery letter numbe SC/207/Civilian Corres/PICE of 18 February 201

عالیجناب جناب 21 ڈویژن ہیڈ کوارٹر خوازہ خیلہ ضلع سوات

محمد عارف ولد مرزا محمد ساکن ملک دین خیل دولت خیل جہاز دگر اوند میرہ کاخیل باڑہ ضلع خیبر ایجنسی

۔۔۔۔۔۔ سائل

بنام

ماجد خان ولد شریف خان ساکن سوڑی بازار ڈاگی ضلع نوشہرہ

Mob.No 03339699408

NIC No: 15101-5956199-3

۔۔۔۔۔۔ مسئول الیہ

درخواست بمراد قانونی کارروائی برخلاف مسئول الیہ

جناب عالی!

درخواست سائل حسب ذیل ہے۔

۱۔ یہ کہ سائل ملک دین خیل دولت خیل جہاز دگر اوند میرہ کاخیل باڑہ ضلع خیبر ایجنسی کارہائشی باشندہ ہے۔ اور ایک پرامن شہری ہے۔ جو ایک عزت دار خاندان سے تعلق رکھتا ہے۔ اور خود ادویات Medical Store کا کام کرتا ہے۔

۲۔ یہ کہ مسئول الیہ سائل سے پہلے بار سائل کے میڈیکل سٹور واقع پشتخرہ پشاور میں ملا تھا۔ مسئول الیہ یہ اپنا تعارف سائل سے یہ کرتا تھا کہ مسئول الیہ کا تعلق ISI سے ہیں۔ اور وہ پاکستان کا دفاع کر رہا ہے۔ حب الوطنی کے وجہ سے سائل کو مسئول الیہ سے دوستی ہو گئی۔

۳۔ یہ کہ مسئول الیہ سائل کو کہتا تھا کہ آپ کو کوئی بھی کام ہو تو مجھے ضرور بتایا کریں کیونکہ میں ایک ایسے عہدے پر ہوں جو کچھ بھی کر سکتا ہے۔

۴۔ یہ کہ مسئول الیہ اس کے بعد سے سائل سے کہتا رہا اور یہ کہ کرتا رہا کہ میرے ساتھ عہدہ ہے لیکن غریب نہیں ہے۔ جس سائل نے مسئول الیہ کو پاکستان کے پاسداری کے خاطر اور ایک دوست کے نسبت اسے رقم دیا جو کہ صرف میں نے فی سائل دیا تھا۔

(9)

۵۔ یہ کہ مسئول الیہ نے مجھے یہ بھی کہا کہ اگر آپ کو ایسے بندے معلوم ہو جس کے پاس نقد پیسے ہو تو آپ مجھے ضرور بتایا کریں میرے ساتھ اور بندے ہیں میں ان کو اغواء کر کے پیسے لوں گا۔

۶۔ یہ کہ مسئول الیہ نے کچھ دن بعد سائل سے کہا کہ میں کچھ کاروبار کرنا چاہتا ہوں مجھے کچھ پیسے اور سامان کی ضرورت ہے جس کے نسبت میں نے مسئول الیہ کو اٹھ لاکھ روپے بدست نسیم خان برائے کاروبار دے دی۔ جو کہ مسئول الیہ نے بہت جلد واپس کرنے کا وعدہ کیا تھا۔

۷۔ یہ کہ کچھ دن گزر جانے کے بعد مسئول الیہ غائب ہو گیا۔ سائل مسئول الیہ کا موبائل نمبر بار بار ملاتا رہا لیکن مسئول الیہ نے کال نہیں اٹھایا۔ ایک دن جب سائل اس کے گھر بھی گیا لیکن مسئول الیہ کے والد نے اپنے بیٹے کے ذمہ داری لینے سے انکار کیا اور کہا کہ مجھے اس سے کوئی لینا دینا نہیں۔ اور واجب یہ خبر مسئول الیہ کو پسند نہ آئی تو مسئول الیہ جب سائل کو جان سے مارنے کے دھمکیاں دیتا ہیں۔

۸۔ یہ کہ سائل کو مسئول الیہ سے جان و مال کا خطرہ ہے۔ اور مسئول الیہ کے سنگین زوری کے وجہ سے سائل اپنا رقم حاصل نہیں کر سکتا سائل کے داد رسی کی جائے۔

لہذا استدعا ہے کہ منظوری درخواست ہذا مسئول الیہ کے خلاف قانونی کاروائی کی جائے۔

العبد

محمد عارف ولد سردار محمد ساکن ملک دین خیل دولت خیل جہاز وگراؤنڈ میرہ کاخیل باڑہ ضلع خیبر ایجنسی

21201-3572896-3

0333-9414745

(10) SECRET

Annexure "C"

988
20-02-18

171 Field Regiment Artillery
Opperations Area
Telephone Number Civil: 910027
SC/307/ Civilian Corres /PICE
18 February 2018

To : District Police Officer, Buner

Information: Headquarter Malakand Task Force (with respect to your letter number 204/ Application /BICE dated 13 February 2018 referred)

Regional Police Officer, Malakand

Subj: **Application Civilian – Mr Muhammad Arif son of Sardar Muhammad**

1. An Application received from Mr Muhammad Arif son of Sardar Muhammad resident of Khyber Agency, against police constable Majid Khan son of Sharif Khan (copy of application is attached as per Annexure 'A'). The applicant complained that police constable Majid Khan had been using a false identity of ISI representative and was also involved in money extortion from above named applicant. In order to carry out necessary ground check the applicant Muhammad Arif and accused police constable Majid Khan were approached by this unit. Resultantly, the applicant Mr Muhammad Arif reported in the unit and further explained his stance (copy of written statement is attached as per Annexure 'B'). On the other hand the accused police constable Majid Khan did not respond to the efforts made by this unit to learn about his stance on the issue.

2. After repeated massages and phone calls delivered not only to accused police constable Majid Khan but also his relatives / friends, he came to the unit and behaved arrogantly with the personnel of this unit instead of cooperating, explaining his point of view and false identity of ISI representative being allegedly used by him.

3. Keeping above in view, you are requested to take strict disciplinary actions against Constable Majid Khan for falsefully using the identity of ISI / extortion of money and misbehaving with the Army Personnel. Follow up of the disciplinary actions taken may be communicated to this unit for information of higher authorities.

4. **HQ Malakand Task Force only**. The outcome of the case will be intimated after receipt from police authorities.

5. Forwarded for information / necessary action, please.

Lieutenant Colonel
Commanding Officer
(Zafar Hafeez)

SHO Daggar
For n-Legal action.

SECRET

DPO Buner
20/2/2018

(11) Annex Annexure D (14)

ORDER

This order will dispose-off departmental enquiry against **FC Majid Khan No. 700** of this district police vide this office No. 09/Enquiry, dated 20/02/2018.

Briefs facts are that:-

An application received from Mr. Muhammad Arif s/o Sardar Muhammad r/o Khyber Agency through Lieutenant Colonel Commanding Office "Zafar Hafiz" vide his office letter SC/307/Civilian Corres/ PICE, dated 18.02.2018 against constable Majid Khan. The applicant complain that police constable Majid Khan had been using false identity of ISI representative and also involved in money extortion from above name applicant. Therefore he was proceeded departmentally and served with charge sheet/Disciplinary action under police rules 1975. **Mr: Muhammad Naeem Khan SDPO Totalai** was appointed as enquiry officer to conduct departmental enquiry against FC Majid Khan No. 700. The enquiry officer in its finding submitted that the official concerned is guilty of the allegation level against him and recommended him for major punishment. He was issued with final show cause notice but his reply to the show cause notice was un-satisfactory. Subsequently he was called in OR on 05/03/2018 in order to give him opportunity of self defense. But he could not produce any substantial documents in his defense. His personal hearing was also un-satisfactory.

It is worth mentioning that his service record was perused in order to take decision in line with the above circumstances, where it was found that he is of ill reputation and involved in vehicle smuggling. There are 18 penalties on his part including major punishment reduction in pay to lower stage of time scale for period of 05 years vide OB No. 75, dated 10/08/2016, the service record of defaulter constable very much un-fair and un-satisfactory. Furthermore he was dismissed from service due to unauthorized absentees, vide this office O.B No. 18, dated 14.02.2017.

Ample opportunity provided to him but there is no reason to believe on make a good officer in future.

Therefore, **I Muhammad Irshad Khan District Police Officer Buner** as Competent Authority and in exercise of the power vested to me under Police Disciplinary Rules-1975, award **FC Majid Khan No. 700,** major punishment dismissal from service with effect from the date of his suspension i-e 20/02/2018.

Order announced.

DISTRICT POLICE OFFICER,
BUNER

OB No. 32

Dated: 05/03/2018

No. 1463 /Enq, dated Daggar the 05/03 /2018.

Copy to all concerned.

ATTESTED

(12) Annexure "E"

بیان ازاں ایکس سپاہی احمد جان نمبر 700

NIC NO 15101-5956199-3

بیان کیا کہ میں محکمہ پولیس سال 2009 کو بھرتی ہوا تھا۔ میرے ذمہ مسمی محمد عارف ولد مسمی [illegible] ساکنہ [illegible] دین [illegible] کا مبلغ بارہ رقم بابت NCP گاڑی ملنے کے سلسلے میں مبلغ 2 لاکھ روپے واجب الادا تھے۔ مذکورہ میرے خلاف درخواست گزاری تھی۔ کہ میرے درخواست کنندہ کا مبلغ آٹھ لاکھ 800000 روپے واجب الادا ہیں جو اس سلسلہ میں ہم فریقین تھانہ [illegible] میں پیش ہو کر درخواست کنندہ کے ساتھ آئے ہوئے مشران نے ہمارے مابین مبلغ چار لاکھ روپے پر تصفیہ کر کے فیصلہ کیا۔ میں نے مشران کا فیصلہ قبول کر کے درخواست کنندہ سے رقم کی ادائیگی کے لئے مہلت مانگی لیکن درخواست کنندہ نے مہلت دینے سے انکار کر کے رقم یکمشت ادائیگی کا مطالبہ کیا تھا۔ اور ناراض ہو کر اس کے ساتھ آئے ہوئے مشران کو چھوڑ کر چلا گیا تھا۔ چونکہ اس وقت ہمارے مابین فیصلہ نہ ہو سکا تھا۔ درخواست کنندہ مہلت دینے کو تیار نہ تھا۔ مشران کے فیصلے کی رو سے میرے ذمہ مبلغ چار لاکھ روپے دینے کا میں پابند نہیں تھا۔ بلکہ درخواست کنندہ کو میرے ذمہ مبلغ دو لاکھ روپے واجب الادا رقم کا پابند تھا۔ میں درخواست کنندہ کے رقم سے انکاری نہیں تھا۔ لیکن درخواست کنندہ میرے خلاف رقم جو آٹھ لاکھ روپے کا جو الزام لگایا تھا اس میں کوئی صداقت نہیں تھا۔ اور نہ درخواست کنندہ کے ساتھ رقم کے سلسلہ میں کوئی ثبوت موجود تھا۔ اور نہ میں مذکورہ کو اپنا آپ ISI کا بندہ ظاہر کیا تھا۔ اس کے علاوہ میرے اور درخواست کنندہ کے رقم کا لین دین کا تعلق مورخہ 13/2/16 سے ہے جب میں سروس پر بحال ہوا تو مذکورہ درخواست کنندہ نے شکایات شروع کی۔ جو میرے مستقبل کو نقصان پہنچانے کیلئے کر رہا تھا۔ میں چرس اور افیون جیسے مکروہ دھندے کا کاروبار نہیں کیا تھا۔ اور نہ درخواست کنندہ کا مجھ پر واجب الادا رقم چرس اور افیون کا تھا بلکہ NCP گاڑی کا تھا۔ جس پر میرے خلاف مقدمہ علت 221 13-2-16 جرم 419-420 PPC تھانہ [illegible] آباد پشاور درج رجسٹر ہوا تھا۔

یہی میرا بیان ہے جو کہ درست ہے

(Signature)

Attested (Signature)

(13) Annexture F

Phone= 0939-512009
Fax= 0939-513024
Email= spinvestigationbuner@yahoo.com

From: - *The Superintendent of Police, Investigation, Buner*

To: - *The District Police Officer, Buner*

No. 2163 /Enq, dated Daggar the 13 / 05 / 2019.

Subject: - **FINDING OF DENOVE ENQUIRY AGAINST EX-CONSTABLE MAJID KHAN NO.700.**

Memo:

Please refer to RPO Malakand Endst: No.5397-58/E, dated 03.05.2019.

In this connection a proper Departmental Denove Enquiry conducted against Ex-Constable Majid Khan No.700 with issuing proper charge sheet/summery of allegations against the Ex-Constable concerned vide this office No.2146/Enq, dated 08.05.2019.

BRIEF FACTS: is that a written complaint vide No.SC/307, dated 18.02.2018 of One Muhammad Arif s/o Sardar Muhammad r/o Khyber Agency regarding using false identity of ISI representative and also involved in money extortion through lieutenant colonel commanding officer (Zafar Hafeez) against Ex-Constable Majid Khan No.700. The said complaint was marked by DPO Buner to SHO PS Daggar for legal action on 20.02.2018. The matter was discussed between the parties by the elders as well as SHO PS Daggar for compromise between the parties, but in vain.

Therefore proper Departmental Enquiry was conducted by SDPO Circle Nawagai. During the course of enquiry the allegation against Ex-Constable Majid Ali No.700 was proved against him and thus the Enquiry Officer recommended his name for major punishment and as such he was dismissed from service vide DPO Buner OB: No.32, dated 05.03.2018.

During the course of denove enquiry statement of Ex-Constable Majid Khan No.700 was got recorded wherein the Ex-Constable denied from the charge leveled against him. According to the record of this office there are following bad/good entries against Ex-Constable Majid Khan No.700.

GOOD ENTRIES	BAD ENTRIES	
01	Minor	14
	Major	02 Dismissal from service
	Major	01 Reduction of pay

In view of above it is suggested that, the Ex-Constable Majid Ali No.700 is habitual absentee as well as bad ~~Director~~ official and there is no hope that he would be a good type official in future. Therefore he is not liable to be re-instate in service.

Submitted, please.

SUPERINTENDENT OF POLICE,
INVESTIGATION, BUNER

(14)

Annexure C

No 3688 /Enq:

Dated 03/06 /2019

FINAL SHOW CAUSE NOTICE

I **Muhammad Irshad** District Police Officer, Buner as competent authority, under Khyber Pakhtunkhwa Police Disciplinary Rules-1975, do hereby serve you, **FC Majid Khan No. 700** of this District Police as follows:

1. (i) That consequent upon the completion of de-novo enquiry conducted against you by the enquiry officer for which you were given opportunity of hearing.
(ii) On going through the finding and recommendation of the enquiry officer, the material available on record and other connected papers including your defense before the enquiry officer.

I am satisfied that you have committed the following acts/omissions specified in Rule-3 of Police Disciplinary Rules 1975.

You FC Majid Khan No. 700 while posted to Police Lines Daggar District Buner, It is alleged that an application received from Mr. Muhammad Arif S/O Sardar Muhmmad R/O Khyber agency through Lieutenant colonel commanding officer "Zafar Hafeez" vide his office letter No. SC/307/civilian corres/PICE, dated 18.02.2018 against you constable Majid Khan No. 700. The applicant complained that you had been using false identity of ISI representative and also involved in money extortion from above name applicant.

2. As a result thereof, I, **Muhammad Irshad**, District Police Officer, Buner as a competent authority, have tentatively decided to impose upon you one or more penalties including **Dismissal from Service** as specified in Rule-4 of the Ibid Rule.

3. You, are, thereof, required to show cause as to why the aforesaid penalties should not be imposed upon you and also intimate whether you desire to be heard in person.

4. If no reply to this Notice is received within seven (07) days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

5. A copy of the findings of the inquiry officer is enclosed.

(MUHAMMAD IRSHAD)
District Police Officer,
Buner

Copy to the:

1. R.I Police Lines Daggar with the direction to serve the copy of this Show Cause Notice upon FC Majid Khan No. 700, through DFC or Constable and copy thereof may be sent to this Office.

(15) Annexture H

جناب عالی!

بحوالہ مشمولہ فائنل شوکاز نوٹس مورخہ 03.06.2019 مجاریہ از دفتر DPO صاحب بونیر معروض خدمت ہو۔ کہ میں محکمہ پولیس میں بحثیت کنسٹیبل تعینات تھا۔ میرے ذمہ مسمّی محمد عارف ولد سردار محمد ساکنان دین خیل باڑہ کا رقم بابت دین NCP گاڑی مبلغ -/200000 روپے واجب الادا ہے۔ مذکورہ نے میرے خلاف درخواست گزاری ہے۔ لیکن اب میرا اور درخواست کنندہ کے درمیان سب کچھ ختم ہوا ہے۔ اور اب وہ اپنا درخواست بھی واپس لینا چاہتا ہے۔ اور میرے حق میں گواہی دینے کے لئے بھی تیار ہے۔ لیکن انکوئیری آفیسر نے نہ تو اُسے موقع دیا اور نہ ہی مجھے اپنے بے گناہی ثابت کرنے کا موقع دیا۔ SP انوسٹی گیشن صاحب نے مجھے چارج شیٹ ایشو کیا جس میں نے تفصیلی جواب دیا لیکن نہ تو مجھے انکوائیری کے دوران بلایا گیا اور مجھے کسی قسم کی کاروائی سے باخبر رکھا گیا ساری انکوائیری میرے عدم موجودگی میں ہوئی۔ نہ تو میرا بیان لیا گیا اور نہ ہی مجھے صفائی کا موقع دیا گیا۔ اب جبکہ مجھے فائنل شوکاز نوٹس موصول ہوا۔ تو وہ بھی انکوائیری رپورٹ کے بغیر جبکہ اس پر سپریم کورٹ کا فیصلہ ہے۔ کہ فائنل شوکاز نوٹس کسی بھی انکوائیری رپورٹ دینا ضروری ہے۔ اپ صاحبان سے گزارش ہے۔ کہ شوکاز نوٹس کو بغیر کسی کاروائی فائل کرنے کا حکم صادر فرمائیں تو سائل تاحیات دعا گو رہیگا۔

العارض

اپکا تابعدار کنسٹیبل ماجد خان بلٹ نمبر 700

مورخہ 08-06-2019

(16)

Annexure "I"

OFFICE OF THE
REGIONAL POLICE OFFICER, MALAKAND
AT SAIDU SHARIF SWAT.
Ph: 0946-9240181-88 & Fax No. 0946-9240190
Email: dlfpmalakand@yahoo.com

ORDER:

This order will dispose off appeal of Constable Majid Khan No. 579 of Buner District for restoration of two annual increment without cumulative effect.

Brief facts of the case are that Majid Khan No. 579 of Buner District was enlisted on 29/12/2009. An application received from Muhammad Arif s/o Sardar Muhammad R/O Khyber Agency through Lieutenant Colonel Commanding Office Zafar Hafiz vide his office letter No. SC/307/Civilian Corres/PICE, dated 18/02/2018 against Constable Majid Khan. The applicant complained that Police Constable Majid Khan had been using false identity of ISI representative and also involved in money extortion from above named applicant. He was proceeded against departmentally and served with charge sheet/Disciplinary action under police rules 1975. Mr. Muhammad Nacem Khan SDPO Totalai was appointed as enquiry officer to conduct departmental enquiry against FC Majid Khan No. 579. The enquiry officer in his finding submitted that the official concerned is guilty of the allegation level against him. So he was dismissed from service vide his office OB No. 32 dated 25/03/2018. That the delinquent official moved up successive departmental appeals but could not succeed. Therefore, he instituted service appeal No. 643/2018 before the Honorable Service Tribunal against the above quoted order. That the Honorable Service Tribunal accepted his appeal and ordered the respondent to conduct de-novo departmental enquiry against the petitioner. SP Investigation, Buner was appointed as Enquiry Officer who recommended him for major punishment. That his service record was perused where it was found that he is of ill reputation, habitual absentee, and involved in Vehicles smuggling. There are 18 penalties on his part including punishment of reduction and pay to lower stage of time scale for period of 5 years vide his office OB No. 75 dated 10/08/2016 while only one good entry in his service record. Furthermore he was dismissed from service due to un-authorized absence vide his office OB No. 18, dated 14/02/2017. Later on he was re-instated into service, however he was awarded the punishment of forfeiture of 02 years of service vide this office Order No. 1581/E, dated 08/02/2018. That a final show cause notice was served upon him and was heard in person in orderly room. He explained his innocence and unfolded his poor family background. That the appellant was awarded with minor punishment in shape of stoppage of annual increment for a period of two years with cumulative effect and permanently re-instated in to service and the period he spent out of service was treated as leave without pay vide his office OB No. 96 dated 14/06/2019. That the service record of the applicant reveals number of bad entries (quoted above) and no remarkable achievement in his round about 10 years of service. He deserves no more leniency

He was called in Orderly Room on 05/08/2019 and heard him in person. The appellant could not produce any cogent reason in his defense. Therefore, his appeal for restoration of two annual increments with accumulative effect is hereby filed.

Order announced.

(MUHAMMAD SAEED), PSP
Regional Police Officer,
Malakand, at Saidu Sharif Swat

No. 8947 /E,
Dated 09/08 /2019.

Copy to District Police Officer, Buner for information and necessary action with reference to his office Memo: No. 4397/Eenq, dated 12/07/2019. Service Roll and Fauji Missal of the above named Constable are returned herewith for record in your office.

KHYBER PAKHTUNKWA
SERVICE TRIBUNAL, PESHAWAR
No. 1861 / ST
Dated: 17/09 /2021

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

To

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

Subject: **JUDGMENT IN APPEAL NO. 1148/2019, MR. MAJID KHAN.**

I am directed to forward herewith a certified copy of Judgement dated 07.09.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR