

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

Service Appeal No.11142/2020

Date of Institution ... 21.09.2020
Date of Decision ... 19.09.2022

Babar Mukhtiar, Head Constable No.206 District Police, Haripur.
... (Appellant)

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and
two others.
... (Respondents)

Muhammad Aslam Tanoli,
Advocate ... For appellant.

Kabir Ullah Khattak,
Additional Advocate General ... For respondents.

Rozina Rehman ... Member (J)
Fareeha Paul ... Member (E)

JUDGMENT

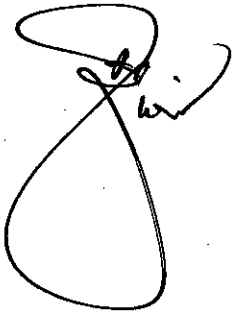
Rozina Rehman, Member(J): The appellant has invoked the
jurisdiction of this Tribunal through above titled appeal with the prayer
as copied below:

“On acceptance of instant service appeal both the
impugned orders dated 21.08.2019 and 19.08.2020 of
the respondents may graciously be set aside and
appellant be restored his three years forfeited
approved service and the period he remained out of
service be treated as on duty or leave of the kind due
with grant of all consequential service back
benefits.”



2. Brief facts of the case are that appellant Babar Mukhtiar while posted in PS KTS Haripur in plain clothes duly equipped with weapon by showing criminal force arrested a person namely Zameer Khan near Paris Hotel and took him to Chungi No.2 and threatened him to register a false narcotics case against him if he failed to give illegal gratification of Rs.60,000/- and thus the appellant alongwith Constable Nadeem Shehzad extracted Rs.45000/- from him and charged him in case FIR No.120 dated 27.02.2018 U/S 3/4 EHO, PS KTS by doing illegal acts and omission in deviation of lawful duties, implicated himself in criminal offence vide case FIR No.127 dated 27.03.2018 which amounted to misconduct, therefore, was dismissed from service by DPO Haripur vide order dated 30.05.2018. He preferred departmental appeal which was also rejected. Being aggrieved, he filed Service Appeal No.851/2018 before this Tribunal which was accepted vide judgment dated 17.06.2019 with direction to the respondents to conduct de-novo inquiry. In the light of aforementioned judgment of this Tribunal, appellant was served with a charge sheet which was duly replied and lastly, he was awarded penalty of forfeiture of three years of approved service and the period he remained out of service was treated as leave without pay. He preferred departmental appeal which was rejected, hence, the present service appeal.

3. We have heard Muhammad Aslam Tanoli learned counsel for appellant and Kabir Ullah Khattak learned Additional Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.



4. Muhammad Aslam Tanoli Advocate learned counsel for appellant in support of appeal contended with vehemence that the impugned order dated 21.08.2019 and 19.08.2020 of the respondents are illegal, against law and facts as no proper departmental inquiry was conducted, hence, liable to be set aside. He contended that no show cause notice was issued and no opportunity of personal hearing was afforded to the appellant rather he was condemned unheard. It was further submitted that the appellant was not treated in accordance with law and rules and the respondents acted in violation of Article-4 of the Constitution of Islamic Republic of Pakistan, 1973; that the appellant discharged his assigned duties with devotion, dedication and honesty and was wrongly punished by the respondents as the allegations leveled against the appellant in the charge sheet are based on surmises and conjunctures which remained unproved and nothing was brought on record against the appellant in order to connect him with the commission of the alleged offence. He, therefore, requested for acceptance of the instant appeal.

5. Conversely, learned AAG submitted that a citizen namely Mumraiz Khan moved an application before the then DPO Haripur against the appellant Babar Mukhtiar and Constable Nadeem Shehzad on the allegations that the appellant alongwith Constable Nadeem Shehzad in plain clothes duly equipped with weapons and showing criminal force arrested his brother Zameer Khan and took him to the jurisdiction of Police Station KTS. That both the Police Officials threatened him to implicate him in heinous narcotics case if he failed to fulfill their demand of illegal gratification, thus they compelled him to pay Rs.60,000/- and after bargain, both the Police Officials took Rs. 45000/- from him and got register case FIR No.120

dated 27.03.2018. He contended that as the acts and omissions of the appellant were offensive in nature, therefore, case FIR No.127 was registered against appellant and Constable Nadeem Shehzad as they had committed gross misconduct and appellant was issued charge sheet with statement of allegations. SP Investigation was appointed as Inquiry Officer who conducted proper departmental inquiry and in view of the inquiry report, he was awarded major punishment of dismissal from service. Lastly, he submitted that in view of the directions of this Tribunal, de-novo inquiry was conducted through Zulfiqar Khan Jadoon and after fulfillment of codal formalities, appellant was awarded minor punishment of three years approved service and period in which appellant remained out of service was treated as leave without pay.

6. From the record it is evident that the appellant on search, recovered 480 grams of Charas from one Zameer Khan alongwith a sum of Rs. 45010/- and one Nokia Mobile Model 6300. Recovery memo and murasila were prepared and sent to PS KTS for registration of FIR. On 28.02.2018, complete Challan was submitted and accused was also produced before the Judicial Magistrate, where he confessed his guilt and was awarded punishment. After release from jail on 04.03.2018, the accused Zameer Khan submitted an application before the Judicial Magistrate for return of recovered amount and mobile phone and vide order dated 07.03.2018, the accused received the said amount alongwith mobile phone. Instead of appreciating their performance, the respondents implicated appellant and Nadeem Shehzad in a false case. These facts were properly mentioned by this Tribunal in the judgment passed in Service Appeal No.852/2018. It was observed by this Tribunal that SHO and other

staff of concerned Police Station were hand in glove with drug paddlers.

7. The impugned orders of dismissal of the appellant from service were set aside and he was reinstated in service, however, the respondents were directed to conduct de-novo inquiry within a period of 90 days and the issue of back benefits were subject to the outcome of de-novo inquiry. In compliance of the judgment of this Tribunal, appellant was reinstated in service and was served with charge sheet alongwith statement of allegation and Mr. Zulfiqar Khan Jadoon was appointed as Inquiry Officer who conducted inquiry and submitted his report. The inquiry report is available on file which clearly shows that the Inquiry Officer did not record statement of any witness and no opportunity of defense was given to the appellant. Neither Register 19 was produced nor any extract from the said register was annexed with the inquiry report in order to show that entry of case property was made at a belated stage. Statement of Moharrir concerned was not recorded by the Investigation Officer and no chance was given to the appellant to cross examine the Moharrir on the point of entering the case property at a later stage. As per available record, proper FIR was registered against one Zameer Khan who submitted an application for pleading this guilt and vide order of the learned Judicial Magistrate Haripur, accused Zameer Khan was convicted and sentenced to undergo two days SI and to pay fine of Rs.500/-. Accused Zameer Khan also submitted an application for return of an amount of Rs.45010/- and Nokia Mobile on Supardari which application was also allowed by the same Magistrate and cash amount as well as mobile phone was returned to Zameer Khan in case FIR No.120 on Supardari on 07.03.2018. The appellant alongwith one Nadeem Shehzad were



also implicated in case FIR No.127 dated 01.03.2018 U/S 382/342/506/34 PPC and in this regard complainant Mumraiz Khan who had leveled allegations against the present appellant recorded his statement on oath on 30.07.2018 in the Court of learned Judicial Magistrate, wherein, he requested for acquittal of accused being innocent and it was on 30.10.2018 when both appellant and Constable Nadeem Shehzad were acquitted U/S 249-A of Cr.PC.

8. It has been held by the superior fora that all acquittals are certainly honorable. There can be no acquittal which may be said to be dishonorable. The only charge against appellant was registration of FIR No.120 for taking illegal gratification and implicated an innocent person and then his involvement in case FIR No.127 and all these allegations have been vanished, making him re-emerge as a fit and proper person entitled to continue his service.

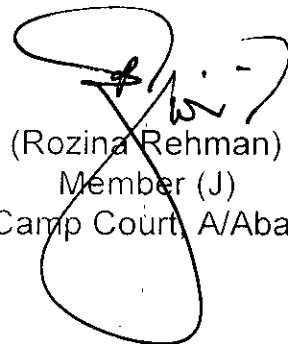
9. We are, therefore, unison on acceptance of this appeal. The period from the date of dismissal of the appellant till reinstatement shall be considered as on duty and accordingly his forfeited three years approved service is restored with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

19.09.2022



(Fareeha Paul)
Member (E)
Camp Court, A/Abad



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


ORDER
19.09.2022

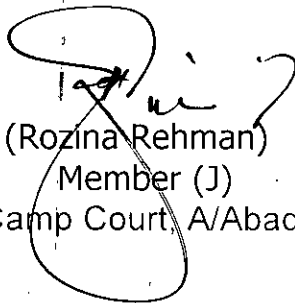
Appellant present through counsel.

Kabir Ullah Khattak learned Additional Advocate General for respondents present. Arguments heard. Record perused.

Vide our detailed judgment of today of this Tribunal placed on file, we are unison on acceptance of this appeal. The period from the date of dismissal of the appellant till reinstatement shall be considered as on duty and accordingly his forfeited three years approved service is restored with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
19.09.2022


(Fareeha Paul)
Member (E)
Camp Court, A/Abad


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

14.03.2022


Due to retirement of the Hon'able Chairman, the Tribunal is defunct, therefore, the case is adjourned for the same before on 16.05.2022


Reader

16.05 2022

Counsel for the appellant present. Mr. Muhamad Riaz Khan Paindakhel, Assistant Advocate General along with Mr. Jamil, Reader for the respondents present.

Written reply/comments on behalf of the respondents submitted which is placed on file. A copy of the same is also handed over to the learned counsel for the appellant. To come up for rejoinder as well as arguments before S.B at camp court Abbottabad on 18.07.2022.



(Kalim Arshad Khan)
Chairman

18th July 2022

Learned counsel present, Mr. Noor Zaman, District Camp Court Abbottabad alongwith Mr. Israr Shah, Reader for respondents present.

Learned counsel for the appellant sought adjournment to further prepare the case. Adjourned. To come up for arguments on 19.09.2022 before D.B at camp court Abbottabad.


(Salah Ud Din)
Member(Judicial)


(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

ORDER
19.09.2022

Appellant present through counsel.

Muhammad Jan, learned District Attorney for respondents present. Arguments heard. Record perused.

Vide our detailed judgment of today of this Tribunal placed on file, we are unison on acceptance of this appeal. The period from the date of dismissal of the appellant till reinstatement shall be considered as on duty and accordingly his forfeited three years approved service is restored with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
19.09.2022

(Fareeha Paul)
Member (E)
Camp Court, A/Abad

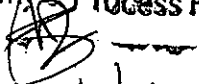
(Rozina Rehman)
Member (J)
Camp Court, A/Abad

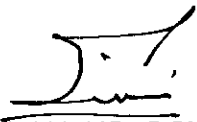
23.09.2021

Mr. Mohammad Aslam Tanoli, Advocate, for the appellant present. Preliminary arguments heard.

Points raised need consideration, hence the appeal is admitted to regular hearing subject to all legal and valid objections. The appellant is directed to deposit security and process fee within 10 days, where-after notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments before the D.B on 24.12.2021 at Camp Court Abbottabad.

Appellant Deposited
Security & Process Fee



29/8/21


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

24.12.2021

Appellant alongwith his counsel present. Mr. Sher Afzal Khan, ASI alongwith Mr. Riaz Ahmed Paindakhel, Assistant Advocate General for the respondents present.

Respondents have failed to submit their written reply/comments even today, therefore, last opportunity is given to the respondents with the direction to submit reply/comments on the next date positively, failing which their right for submission of reply/comments shall be deemed as struck off. To come up for submission of written reply/comments on 14.03.2022 before the S.B at Camp Court Abbottabad.


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

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 111/2020

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	21.09.2020	<p>The appeal of Mr. Babar Mukhtiar presented today by Mr. Muhammad Aslam Khan Tanoli Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2	22-1-21	<p>This case is entrusted to S. Touring Bench A. Abad for preliminary hearing to be put up there on <u>22-01-2021</u></p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p> <p><i>Due to COVID 19, Case is adjourned to 23-9-2021 for the same.</i></p> <p style="text-align: right;"><i>[Signature]</i> Abad</p>

BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No.....

Babar Mukhtiar, Head Constable No.206, District Police Haripur.
Appellant

VERSUS

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

Respondents

SERVICE APPEAL

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4.	Charge Sheet dated 24-07-2019 and its reply dated 25-07-2019	"D&E"	22-25
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6.	Statement of complainant datd 07-03-2018 and order of court dated 30-07-2018	"G&H"	27-30
7.	D/Diaries showing departure & arrival, Murasila & Recovery Memo all dated 27-02-2018	"I,J,K & L"	31-33
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Through

Appellant

(Mohammad Aslam Tanoli)
Advocate High Court
at Haripur

Dated: **21-09-2020**

BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa Service Tribunal

Appeal No....11142

Diary No. 10492

Dated 21-9-2020

Babar Mukhtiar, Head Constable No. 206 District Police Haripur.

Appellant

VERSUS

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

Respondents

SERVICE APPEAL UNDER SECTION-4 OF THE KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER DATED 21-08-2019 OF THE DISTRICT POLICE OFFICER HARIPUR WHEREBY APPELLANT HAS BEEN AWARDED PENALTY OF "FORFITURE OF 03 YEARS APPROVED SERVICE AND PERIOD HE REMAINED OUT OF SERVICE TREATED AS LEAVE WITHOUT PAY AND THE REGIONAL POLICE OFFICER HAZARA REGION ABBOTTABAD ORDER DATED 19-08-2020 WHEREBY HIS DEPARTMENTAL APPEAL HAS BEEN REJECTED.

PRAYER: ON ACCEPTANCE OF INSTANT SERVICE APPEAL BOTH THE ORDERS DATED 21-08-2019 AND 19-08-2020 OF RESPONDENTS MAY GRACIOUSLY BE SET ASIDE AND APPELLANT BE RESTORED HIS 03 YEARS FORFIETED APPROVED SERVICE AND THE PERIOD REMAINED OUT OF SERVICE BE TREATED AS ON DUTY OR LEAVE OF THE KIND DUE WITH GRANT OF ALL CONSEQUENTIAL SERVICE BACK BENEFITS.

Filed to-day

21/9/2020 Registrar

That previously the appellant was dismissed from service by the District Police Haripur vide order dated 30-05-2018. The appellant preferred a departmental appeal before the Regional Police Officer, Hazara Region, Abbottabad which was rejected on 21-06-2018. (Copies of orders dated 30-05-2018 and 21-06-2018 are attached as annex-"A & B").

2. That aggrieved of aforementioned orders, the appellant filed a service appeal No. 851/2018 before this Honourable KPK Service Tribunal Peshawar which was accepted and decided vide judgment and order dated 17-06-2019 and reinstated the appellant with order the of conducting De-novo inquiry. **(Copy of judgment is dated 17-06-2019 is annexed- "C")**.
3. That in the light of aforementioned judgment of the Honorable KPK Service Tribunal Peshawar, appellant was served upon with a Charge Sheet dated 24-07-2019 by District Police Officer, Haripur which was duly replied on 25-07-2019 explaining all facts of the matter with denial of charges incorporated therein. **(Copies of Charge Sheet dated 24-07-2019 and its reply dated 25-07-2019 are attached as annexure "D & E")**.
4. That the District Police Officer Haripur vide order dated 21-08-2019 awarded the appellant with penalty of "Forfeiture of 03 years approved service" and the period he remained out of service treated as leave without pay. **(Copy of order dated 21-08-2019 is attached as annexure- "F")**.
5. That the charge leveled against appellant in the charge sheet is based on false, fabricated and baseless complaint made by Mumraiz Khan real brother of accused Zameer Khan just to settle the score with police officials for arresting his brother. FIR No. 127 dated 27-02-2018 u/s-382/342/ 506/34 PPC PS KTS was the result of said complaint wherein appellant on the


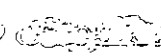
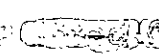
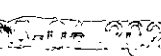


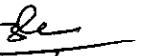
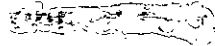
basis of complainant's statement dated 07-03-2018 the appellant was acquitted by the trial court vide order dated 30-07-2018. **(Copies of statement of complainant dated 07-03-2018 and order of court dated 30-07-2018 are attached as annexure-"G & H")**.

6. That in fact on 27-02-2018, appellant alongwith FC Nadeem Shahzad No. 525 including other police officials while on routine mobile duty and at 1940 hours arrested one Zameer Khan at Bypass Road near Choar Colony possessing 480 grams Charas. On spot parcels were prepared & sealed and Murasila etc were drafted. On accused's body search an amount of Rs. 45010/- and one Nokia Mobile No. 6300 was recovered vide Recovery Memo scribed. Murasila etc were submitted to PS KTS for registration of FIR. **(Copies of D/Diaries showing departure & arrival, Murasila & Recovery Memo all dated 27-02-2018 are attached as "I, J, K & L")**.
7. That Complete challan was submitted on 28-02-2018 and accused was produced before Judicial Magistrate Haripur where he pleaded guilty. He was convicted & sentenced u/s- 3/4 EHO to undergo 02 days SI and to pay a fine of Rs. 500/-. **(Copies of Challan, application and punishment order all dated 28-02-2018 are attached herewith as "M, N & O")**.
8. That on 04-03-2018, after release from Jail the accused submitted application through his counsel before the Judicial Magistrate Haripur for return of his recovered

money of Rs.45010/- and Nokia Mobile Phone alongwith SIM No. 0336-5401520 etc whereupon order dated 07-03-2018 was passed and the accused received these things from the PS KTS. **(Copies of application, Order & Daily Dairy No.12 dated 08-03-2018 are attached "P, Q & R")**.

9. That the Honourable KPK Service Tribunal Peshawar in its judgment dated 17-06-2019 has given its verdict to the extent that application given by Mumraiz Khan was false/ fabricated and also smacked malafide intention to settle score with the appellants regarding arrest of his brother. Written defense of the appellants were not taken into consideration by Inquiry Officer. Appellant were innocent and performed duty diligently and got punishment for offences not committed by them. Instead of appreciating their performance the respondents implicated them in a false/fabricated case.

10. That no proper departmental inquiry was conducted to prove the allegations against the appellant. No Show Cause Notice was issued. Copy of inquiry findings was never provided. Even opportunity of personal hearing was not afforded. The appellant was awarded the punishment of "stoppage of 03 annual increments" vide District Police Officer Haripur order dated 21-08-2019.

      
 M.A. Se
R.W.

11. That above order of the District Police Officer Haripur was appealed against before the Regional Police Officer, Hazara Region, Abbottabad, which was rejected vide order dated 19-08-2020 without taking into consideration the averments adduced by the appellant. **(Copies of departmental appeal and appeal rejection order dated 19-08-2020 are attached as Annexure-"T & U")**. Hence instant service appeal, inter alia, on the following amongst others:-

GROUND:

- a) That impugned orders dated 21-08-2019 and dated 19-08-2020 of the respondents are illegal, unlawful against the facts, departmental rules and regulations and principle of natural justice hence are liable to be set aside.
- b) That no proper departmental inquiry was conducted. No Show Cause Notice was issued. Copy of inquiry report was never provided. Even opportunity of personal hearing was not afforded to appellant rather condemned unheard.
- c) That respondents have not treated the appellant in accordance with law, departmental rules & regulations and policy on the subject and have acted in violation of Article-4 of constitution of Islamic Republic of Pakistan 1973 and unlawfully issued the impugned orders, which are unjust, unfair hence not sustainable in the eyes of law.
- d) That appellate authority has also failed to abide by the law and even did not take into consideration the grounds

taken by appellant in the memo of appeal. Thus act of respondent is contrary to the law as laid down in the KPK Police Rules 1934 read with section 24-A of General Clause Act 1897 and Article 10-A of Constitution of Islamic Republic of Pakistan 1973.

- e) That appellant has discharged his assigned duties with devotion, dedication and honesty. He has left no stone unturned in discharge of his duties and he has wrongly been awarded the punishment.
- f) That the allegations leveled against appellant in the charge sheet are of ambiguous nature, without any reason, reference, justification and based on surmises & conjectures which remained un-proved and un-substantiated to this day. Nothing could be brought on record against appellant for which he has been awarded with the punishment.
- g) That the period for which appellant was kept out of service has been treated as leave without pay by respondents. The appellant has rendered more than 15 years service in the department and there is sufficient leave balance at his credit and he could be granted leave of the kind due out of his credit instead of leave without pay.
- i) That instant appeal is well within time and this honorable Service Tribunal has got every jurisdiction to entertain and adjudicate upon the lis.


PRAYER:

It is, therefore, humbly prayed that on acceptance of instant service appeal impugned orders dated 21-08-2019 and 19-08-2020 of the Respondents may graciously be set aside and the appellant be restored his forfeited three (03) years approved service and the period he was kept out of service be treated as on duty or as leave of the kind due with grant of all service back benefits.

Any other relief which this Honorable Service Tribunal deems fit and proper in circumstances of the case may also be granted.


Appellant

Through:


(Mohammad Aslam Tanoli)
Advocate High Court
At Haripur

Dated 21-09-2020

VERIFICATION

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


Appellant

Dated 21-09-2020

BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Babar Mukhtiar, Head Constable No. 206 District Police Haripur.
Appellant

VERSUS

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

Respondents

SERVICE APPEAL

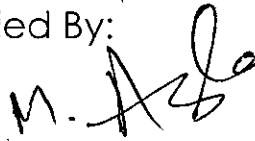
AFFIDAVIT:

I, Babar Mukhtiar appellant do hereby solemnly declare and affirm on oath that the contents of the instant Service Appeal are true and correct to the best of my knowledge and belief and nothing has been suppressed from this Honorable Service Tribunal.

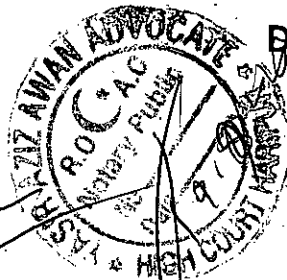

Deponent/Appellant

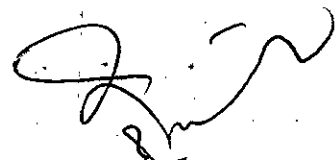
Dated: 21-09-2020

Identified By:



Mohammad Aslam Tanoli
Advocate High Court
At Haripur




Appellant

**BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Babar Mukhtiar, Head Constable No. 206 District Police Haripur.
Appellant

VERSUS

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

Respondents

SERVICE APPEAL

CERTIFICATE

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


APPELLANT

Dated: 21-09-2020

**BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Babar Mukhtiar, Head Constable No. 206 District Police Haripur.
(Appellant).

VERSUS

1. Provincial Police Officer, Khyber Paktunkhwa, Peshawar.
2. Regional Police Officer, Kohat Region, Abbottabad.
3. District Police Officer, Haripur.....**(Respondents)**

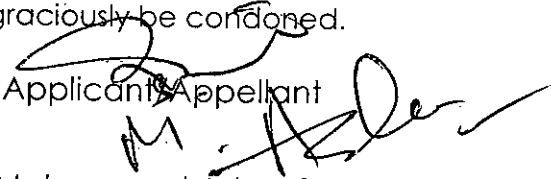
**APPLICATION FOR CONDONATION OF DELAY IN FILING SERVICE
APPEAL BEFORE THIS HONOURABLE SERVICE TRIBUNAL.**

Respectfully Sheweth:

1. That applicant/appellant has filed today a Service Appeal, which may be considered as part and parcel of this application, against order dated 21-08-2019 and 19-08-2020 passed by respondents, whereby respondents awarded the appellant with penalty of forfeiture of 03 years approved service and the period he remained as leave without pay.
2. That as the orders of departmental authorities have been passed in violation and derogation of the statutory provisions governing the terms and condition of service of the appellant and facts of the case, therefore, causing a recurring cause of action to the applicant/appellant can be challenged and questioned irrespective of a time frame.
3. That though the appellant on receipt of order of the DPO Haripur had filed departmental appeal well in time but the appellant authority/the DIG Hazara Region Abbottabad passed the impugned appellate order on 19-08-2020. That appellant has rigorously been pursuing his case. Therefore, the delay, if any, in filing instant service appeal is due to the forgoing reasons.
4. That instant application is being filed as an abundant caution for the condonation of delay, if any. The impugned orders are liable to be set aside in the interest of justice.

It is, therefore, respectfully prayed that on acceptance of the instant application the delay, if any, in filing of titled appeal may graciously be condoned.

Through:

Applicant/Appellant

 (Mohammad Aslam Tanoli)
 Advocate High Court
 Haripur

Dated: 21-09-2020

VERIFICATION:

It is verified that the contents of the instant application/ appeal are true and correct to the best of my knowledge & belief & nothing has been suppressed.

Dated: 21-09-2020


 Applicant/Appellant

ORDER

Annex-A (A)

Head Constable Babar Mukhtiar NO.206, while posted in PS KTS, Haripur, in plain clothes duly equipped with weapons by showing criminal force arrested a citizen namely, Zameer Khan s/o Kareem Dad Khan presently r/o Chungi No.11 TIP, near paris Hotel G,T road Haripur and took him at Chungi NO.02, KTS, and threaded him to register a false narcotics case, if he failed to give illegal gratification of Rs.60000/- through bargain he along with Constable Nadeem Khan No.525, extracted 45000/- from him, and also charged him in case FIR No.120 dated 27.02.2018, u/s 3/4 EHO, PS KTS, by doing illegal acts and omission in deviation of lawful duties, he implicated himself in criminal offence, vide case FIR No.127 dated 01.03.2018, u/s 382/342/506/34 PPC PS KTS, the acts and omissions of defaulter official were misconduct under Khyber Pakhtunkhwa, police efficiency and discipline rules 1975. therefore, He was served with statements of allegations containing charges of misconduct, vide this office Endst No.34-36/PA dated 05.03.2018.

To probe the allegations, Mr. Shams UR Rehman Superintendent of Police, Investigation, Haripur was appointed as enquiry officer, who conducted proper departmental enquiry and submitted his finding, vide his office Memo No.811/PA dated 22.05.2018. in which, he held the accused police official guilty, on receiving recommendation of enquiry officer, the accused official was served with final show cause notice, vide this office endst: NO.131-32 dated 23.05.2018 to which he submitted his reply which was not found satisfactory, so he was called in orderly room for personal hearing, the accused police official was given right of personal hearing and self defense.

Having gone through enquiry papers recommendation of enquiry officer and after personal hearing of accused HC Babar Mukhtiar, the charges of misconduct against the defaulter official stands proved, so, I am fully satisfied that HC Babar Mukhtiar committed gross misconduct, therefore, I, Syed Khalid Mehmood Hamdani, District Police Officer, Haripur being competent authority under Khyber Pakhtunkhwa Police efficiency and discipline rules 1975, awarded major punishment of "Dismissal from service" with immediate effect.

Order announced.

OB No. 577 dated 30-05-2018

Attested
[Signature]

[Signature]
District Police Officer
Haripur

(B)

Amol B

ORDER

This order is hereby passed to dispose off departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules 1975 submitted by *HC Baber Mukhtiar No:206* Haripur District against the order of punishment i.e. *Dismissal from service* awarded to him by the DPO Haripur, vide his office OB No: 377, dated 30.05.2018.

Facts leading to punishment awarded to him are that he while posted at PS KTS, he alongwith Constable Nadeem No: 525 in plane clothes duly equipped with weapons by showing criminal force arrested a citizen namely, Zameer Khan r/o Chungi No:11 TIP near Paris Hotel GT Road Haripur and took him at Ghungi No:2 KTS and threatened him to register a false narcotics case if he failed to give illegal gratification of Rs:60000/- through bargain he alongwith Constable Nadeem extracted Rs:45000/- from him and also charged him in case FIR No:120 dated 27.02.2018 u/s EHO PS KTS.

In this regard a case FIR No: 127 dated 01.03.2018 u/s 382/342/506/34 PPC PS KTS was registered against him.

After receiving his appeal, comments of DPO were obtained, which were perused. The undersigned called appellant in O.R on 20.06.2018 where he failed to explain any plausible reason in his defence. Therefore the punishment awarded to him by DPO Haripur i.e. dismissal from service seems to be genuine, which is held and his appeal is *filed*.

REGIONAL POLICE OFFICER
Hazara Region Abbottabad

2778 /PA Dated Abbottabad the 27-6-2018.

Copy of above is forwarded to the District Police Officer, Haripur vide his office Memo: No: 3684/ dated 19.06.2018 for information and necessary action. Fauji Missal containing enquiry file is returned herewith for your office record.

REGIONAL POLICE OFFICER
Hazara Region Abbottabad

2

Arrested

[Signature]

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**BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 853/18

Babar Mukhtiar S/O Mukhtiar Ahmed (Ex-IHC No.296 District Police Haripur) R/O Village Khoe Kama, Tehsil Khanpur, District Haripur.

Khyber Pakhtunkhwa Service Tribunal **Appellant**

VERSUS

Diary No. 1104
Dated 02-7-2018

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

Respondents

SERVICE APPEAL UNDER SECTION-4 OF KPK SERVICE TRIBUNAL ACT 1974 AGAINST ORDER DATED 30-05-2018 OF THE DISTRICT POLICE OFFICER HARIPUR WHEREBY THE APPELLANT HAS BEEN AWARDED WITH MAJOR PENALTY OF DISMISSAL FROM SERVICE AND ORDER DATED 21-06-2018 OF THE REGIONAL POLICE OFFICER HAZARA REGION ABBOTTABAD WHEREBY APPELLANT'S DEPARTMENTAL APPEAL HAS BEEN REJECTED.

PRAYER: ON ACCEPTANCE OF INSTANT SERVICE APPEAL BOTH THE ORDERS DATED 30-05-2018 AND 21-06-2018 OF RESPONDENTS NO. 2 & 3 MAY GRACIOUSLY BE SET ASIDE AND APPELLANT BE RE-INSTATED IN HIS SERVICE FROM THE DATE OF DISMISSAL WITH ALL CONSEQUENTIAL SERVICE BACK BENEFITS.

Filed to-day Respectfully sheweth,

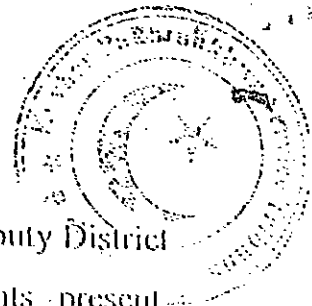
Registrar
2/7/18

1. That appellant while posted at Police Station, KTS, Haripur was served upon with a Charge Sheet alongwith statement of allegations issued under No. 34-36/PA dated 05-03-2018 by the District Police Officer

ATTESTED

Attested
[Signature]

15

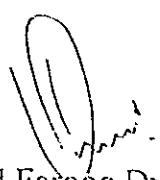


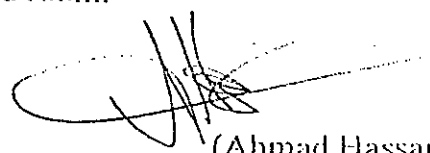
ORDER

17.06.2019

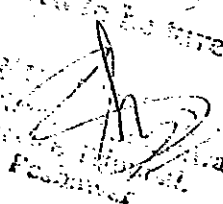
Appellant with counsel and Mr. Muhammad Bilal, Deputy District Attorney alongwith Mr. Misal Khan, ASI for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today placed on file in service appeal no. 852/2018 "titled Nadeem Shahazad-vs- Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and two others" this appeal is also accepted, impugned order dated 30.05.2018 and 21.06.2018 are set aside and the appellants are reinstated in service. The respondents are directed to conduct de-novo within a period of ninety days from the date of receipt of this judgment. The issue of back benefits shall be subject to the outcome of the de-novo enquiry. In the circumstances, parties are left to bear their own costs. File be consigned to the record room.

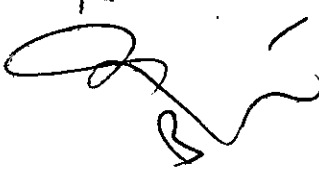

(Hamid Farooq Durrani)
Chairman


(Ahmad Hassan)
Member
Camp Court Abbottabad

ANNOUNCED
17.06.2019

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of presentation 25.6.19
Number of sheets 800
Cost of 6.00
..... 2.00
Total 8.00
.....
Date of 25.6.19
Date of 25.6.19

Attested


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**BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 852/18

Nadeem Shahzad S/O Mohammad Afzal Khan (Ex-Constable No.525, District Police Haripur) R/O Village Jamia Utman, Tehsil & District Haripur

Khyber Pakhtunkhwa
Service Tribunal **Appellant**

Diary No. 1105

VERSUS

Dated 27-7-2018

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

Respondents

SERVICE APPEAL UNDER SECTION-4 OF KPK SERVICE TRIBUNAL ACT 1974 AGAINST ORDER DATED 30-05-2018 OF THE DISTRICT POLICE OFFICER HARIPUR WHEREBY THE APPELLANT HAS BEEN AWARDED WITH MAJOR PENALTY OF DISMISSAL FROM SERVICE AND ORDER DATED 21-06-2018 OF THE REGIONAL POLICE OFFICER HAZARA REGION ABBOTTABAD WHEREBY APPELLANT'S DEPARTMENTAL APPEAL HAS BEEN REJECTED.

PRAYER: ON ACCEPTANCE OF INSTANT SERVICE APPEAL BOTH THE ORDERS DATED 30-05-2018 AND 21-06-2018 OF RESPONDENTS NO. 2 & 3 MAY GRACIOUSLY BE SET ASIDE AND APPELLANT BE RE-INSTATED IN HIS SERVICE FROM THE DATE OF DISMISSAL WITH ALL CONSEQUENTIAL SERVICE BACK BENEFITS.

Filed to-day
Registrar
27/7/18

Respectfully sheweth,

1. That appellant while posted at Police Station Haripur was served upon with a Charge alongwith statement of allegations issued under 37-39/PA dated 05-03-2018 by the District Police Haripur. (Copy of the Charge sheet dated 2018 is attached as Annex- "A").

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

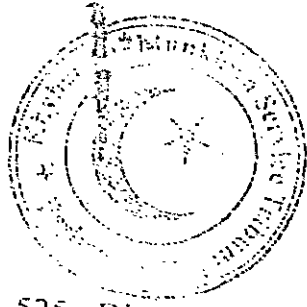
Attested

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
AT CAMP COURT ABBOTTABAD

Appeal No. 853/2018

Date of Institution ... 02.07.2018

Date of Decision ... 17.06.2019



Nadeem Shahzad S/o Mohammad Afzal Khan (Ex-Constable no. 525. District Police Haripur) R/o Village Jamia Utman, Tehsil and District Haripur.

(Appellant)

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and two others.

(Respondents)

MR. MOHAMMAD ASLAM TANOLI,
Advocate

--- For appellants.

MR. MUHAMMAD BILAL,
Deputy District Attorney

--- For respondents.

MR. AHMAD HASSAN,
MR. HAMID FAROOQ DURRANI

--- MEMBER (Executive)
--- CHAIRMAN


JUDGMENT

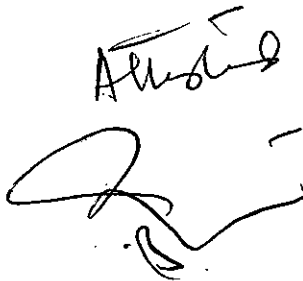
AHMAD HASSAN, MEMBER:-

This judgment shall dispose of the instant service appeal as well as connected service appeal no. 853/2018 titled Babar Mukhtiar as similar question of law and facts are involved therein. It is added that on the basis of enquiry conducted against them, major penalty of dismissal from service was awarded to both the appellants.

2. Arguments of the learned counsel for the parties heard and record perused.

ATTESTED


MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar




ARGUMENTS

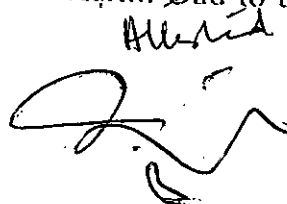
3. Learned counsel for the appellants argued that on the basis of allegations contained in the statements of allegations, disciplinary proceedings were conducted against them and upon winding up major penalty of dismissal from service was awarded to them vide impugned order dated 30.05.2018. For redressal their grievances, departmental appeal was preferred on 08.06.2018, which was dismissed on 21.06.2018, hence, the present service appeal. Allegations leveled against them were frivolous, unfounded and baseless. Enquiry was not conducted in the mode and manner prescribed in the rules. The enquiry officer failed to confront the appellant with solid documentary evidence. Though statements of some officials were recorded but opportunity of cross examination was denied to the appellants. Moreover, copy of enquiry report was not annexed with the show cause notice served on the appellants, thereby denying them opportunity of offering proper defense. This was a serious illegality on the part of respondents and rendered the entire proceedings as ineffective/doubtful in the eyes of law.

4. The accused charged in the FIR confessed his guilt before the Judicial Magistrate, Haripur, whereupon he was awarded penalty and fine. Subsequently, on the orders of the said Magistrate the accused also received Rs. 45010/- and Nokia mobile from the respondents. A false FIR was registered against the appellants so as to damage their unblemished career. Reliance was placed on case law reported as PLJ 2006 SC 777, PLJ 2014 Tr.C. (Services) 105 and 1997 PLC (C.S) 396.

5. On the other hand learned Deputy District Attorney argued that the appellants in plain clothes took one Zameer Khan S/o Karim Dad to the jurisdiction of P.S KTS and

ATTESTED


 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal


 Attested

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demanded Rs. 60000/- as bribe failing which they threatened him to be implicated in a narcotics case. After bargaining they received Rs. 45000/- and also registered case FIR no. 120 dated 27.02.2018. Previously they had assured the said accused that FIR would not be lodged against him. On an application submitted by Mumraiz Khan real brother of Zameer Khan FIR no. 127 dated 01.03.2018 under Section 382/342/506/34 PPC P.S KTS was registered against both the appellants. Thereafter departmental proceedings under Police Rules 1975 were initiated against them after conducting regular enquiry were found guilty of the charges leveled against them and major penalty was awarded after fulfillment of required formalities.

CONCLUSION

6. To set the record straight, it is pointed out that on 27.02.2018, the appellant on search recovered 480 gram Charas from Zameer Khan S/o Karim Dad, alongwith a sum of Rs. 45010/- and one Nokia mobile model no. 6300. Recovery memo and murasila were prepared and sent to PS KTS for registration of FIR. On 28.02.2018 complete challan was submitted and the accused was also produced before the Judicial Magistrate, where he confessed his guilt and was awarded punishment alongwith fine. After release from jail on 04.03.2018, the accused submitted an application before the judicial Magistrate for return of recovered amount and mobile phone. Vide order dated 07.03.2018 the accused received the said amount alongwith mobile. Application given by Mumraiz Khan S/o Karim Dad (real brother of the accused Zamir Khan) was false/fabricated and also smacked on mala fide ^{iv} attention. The basic aim was to settle score with the appellants regarding arrest of his brother.

Attested

ATTESTED


[Signature]
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

7. Perusal of enquiry report revealed that the enquiry officer miserably failed to do justice with the assigned task. He produced a perfunctory/sketchy report in which concerted efforts were not made to collect concrete evidence, therefore, charges leveled against the appellants were not established. Written defense in the shape of reply to the charge sheet/statement of allegations was not at all examined/ taken into consideration by the enquiry officer. It was a rudimentary requirement of the law/rules and duty of the enquiry officer to have minutely gone through their statements. Neither, statement of witnesses were recorded nor opportunity of cross examination was afforded to them. Though show cause notice was served on the appellant but copy of enquiry report was not supplied with the same thus rendered the proceedings without backing of law and also denied opportunity of fair trial/defense to the appellants. It would not be out of place to mention here that while posted in the same Police Station, he had arrested sixty five drug paddlers list which is appended with his reply to the charge sheet/statement of allegations.

8. Facts mention in para-6 above were in the knowledge of the respondents but kept mum and innocent officials, who performed duty diligently fell victim to their highhandedness and got punishment for offences not committed by them. Instead of appreciating their performance, the respondents implicated them in a false/fabricated case. It shows that SHO and other staff of concerned Police Station were hand in glove with drug paddlers.

9. As a sequel to above, the appeal is accepted, impugned order dated 30.05.2018 and 21.06.2018 are set aside and the appellants are reinstated in service. The respondents are directed to conduct de-novo within a period of ninety days

ATTESTED

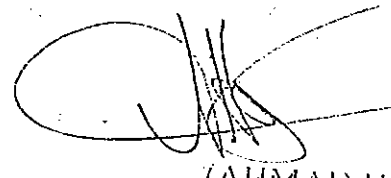

Khyber Pakhtunkhwa
Service Tribunal.



from the date of receipt of this judgment. The issue of back benefits shall be subject to the outcome of the de-novo enquiry. Parties are left to bear their own costs. File be consigned to the record room.

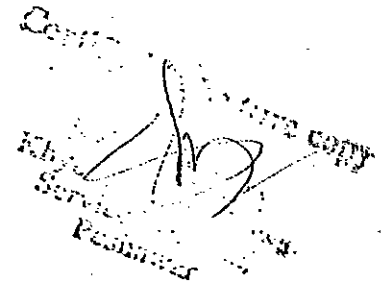


(HAMID FAROOQ DURRANI)
CHAIRMAN

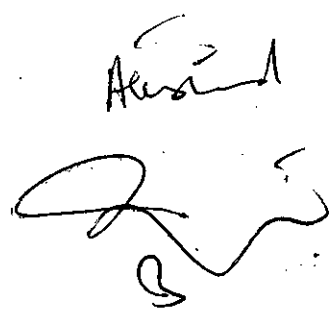


(AHMAD HASSAN)
MEMBER
Camp Court Abbottabad

ANNOUNCED
17.06.2019


Camp Court Abbottabad
Chairman

Date of issue 25-6-19
Number of 2400
Cost of 14.00
Value of 2.00
Total 16.00
Name
Date of receipt 25-6-19
Date of payment 25-6-19



DISCIPLINARY ACTION

22

Amex - D

I, Dr. Zahid Ullah, (PSP), District Police Officer, Haripur as competent authority of the opinion you HC Babar Mukhtiar No. 206 have rendered yourself liable to be proceeded against as you committed the following acts/omissions within the meaning of Police Efficiency & Discipline Rules 1975.

STATEMENT OF ALLEGATION

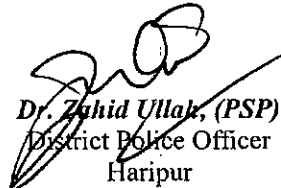
"That you while posted at PS KTS you along with Constable Nadeem no.525 in plain clothes duly equipped with weapons by showing criminal force arrested a citizen namely, Zameer Khan s/o Kareem dad Khan presently r/o Chungi No.11 TIP near Paris Hotel G.T road Haripur and took him at Chungi No.2 KTS and threaded him to register a false narcotics case if he failed to give illegal gratification of Rs.60000, through bargain you along with Constable Nadeem extracted Rs.45000 from him and also charged him in case FIR No. 120 dated 27.03.2018 u/s 3/4 EHO PS KTS, you committed an offense vide FIR No.127 dated 27.02.2018, u/s 382,342,506/34PPC PS KTS, your involvement in heinous criminal case is gross misconduct on your part under Police E&D Rules 1975, hence, charge sheeted"

For the purpose of scrutinizing the conduct of the said accused officer with reference to the above allegations, an Enquiry Committee consisting of the following is constituted.

Mr. Zulfiqar Jadoon, Additional SP Haripur

(3) The Enquiry Officer/Committee shall in accordance with the provision of this Rule, provide reasonable opportunity of hearing to the accused, record finding and make within 25 days of the receipt of this order, recommendation as to punishment or the appropriate action against the accused.

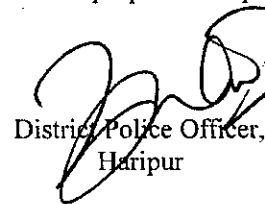
(4) The accused and a well conversant representative of departmental shall in the proceedings on the date, time and place fixed by the Enquiry Officer/Committee.

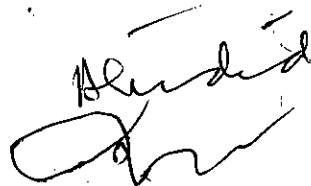

Dr. Zahid Ullah, (PSP)
District Police Officer
Haripur

No: 483-85 /PA, dated Haripur the 24/07/2019.

Copy of above is submitted to the: -

- 1) Regional Police Officer, Hazara Region, Abbottabad, for favor of information, please
- 2) Enquiry Officer for initiating proceedings against the said accused under Police Efficiency & Discipline Rules 1975.
- 3) HC Babar Mukhtiar No. 206 with the direction to submit his defense within 7 days of the receipt of this statement of allegations and also to appear before the Enquiry Officer on the date, time and place fixed for the purpose of departmental proceedings.


District Police Officer,
Haripur



CHARGE SHEET

(1) I, Dr. Zahid Ullah, (PSP) District Police Officer, Haripur as competent authority, hereby charge you HC Babar Mukhtiar No. 206 as enclosed statement of allegations.

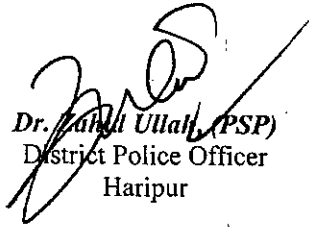
(2) You appear to be guilty of misconduct under Police Efficiency & Discipline Rules 1975 and have rendered yourself liable to, all or any of the penalties specified in the said Rules.

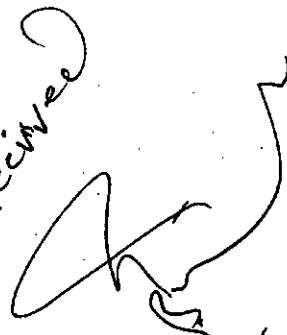
(3) You are, therefore, required to submit your written defense within 07 days of the receipt of this charge sheet and statement of allegation to the Committee/Enquiry Officer as the case may be.

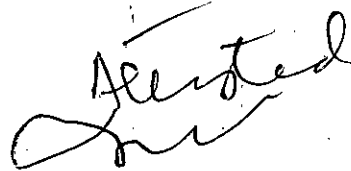
(4) Your written defense, if any, should reach the Enquiry Officer/Committee within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall follow against you.

(5) Intimate whether you desire to be heard in person or otherwise.

(6) A statement of allegations is enclosed.


Dr. Zahid Ullah, (PSP)
District Police Officer
Haripur

Received

25-07-2019

Accepted


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Amed - E

To

Mr. Zulfiqar Khan Jadoon,
Additional Superintendent of Police,
(Inquiry Officer),
Haripur.

Subject:- **REPLY TO THE CHARGE SHEET DATED 24-07-2019.**

Respected sir,

With most reverence it is stated that I am in receipt of the above mentioned Charge Sheet wherein the following charges have been incorporated:-

"That you while posted at PS KTS you alongwith Constable Nadeem No. 525 in plain clothes duly equipped with weapons by showing criminal force arrested a citizen namely, Zameer Khan s/o Kareem Dad Khan presently r/o Chungi No.11 TIP near Paris Hotel G.T. road Haripur and took him at Chungi No.2 KTS and threatened him to register a false narcotics case if he failed to give illegal gratification of Rs.60,000/- through bargain you alongwith Constable Nadeem extracted Rs.45,000/- from him and also charged him in case FIR No.120 dated 27-03-2018 u/s ¾ EHO PS KTS, you committed an offense vide FIR No.127 dated 27-02-2018 u/s-382/342/506/34 PPC PS KTS, your involvement in heinous criminal case is gross misconduct on you part under Police E&D Rules 1975, hence charge sheeted".

My reply to the aforementioned charge is as under:-

1. That the charge as leveled in the charge sheet under reply is against the facts rather based on false, fabricated and baseless complaint made by one Mumraiz Khan real brother of accused Zameer Khan just to settle the score with police officials for arrest of his brother, which is vehemently denied. FIR No. 127 dated 27-02-2018 u/s-382/342/ 506/34 PPC PS KTS was the result of said complaint wherein I had been honorably acquitted by the trial court.
2. That in fact on 27-02-2018, I alongwith Constable Nadeem Shahahzad including other police officials were on routine mobile duty and at 1940 hours we arrested Zameer Khan at Bypass Road near Choar Colony possessing 480 grams Charas. On spot parcels were prepared & sealed for FSL, Murasila etc were drafted. On his body search an amount of Rs. 45010/-, one Nokia Mobile No. 6300 was recovered from accused and Recovery Memo was scribed. Murasila etc was submitted to PS KTS for registration of FIR against accused. **(Copies of D/Diaries showing departure & arrival, Murasila & Recovery Memo all dated 27-02-2018 are attached as "A to D")**.
3. That Complete challan was submitted on 28-02-2018 and accused was produced in police custody before Judicial Magistrate Haripur where he pleaded himself guilty whereupon he was convicted and sentenced under section ¾ EHO to undergo 02 days SI and to pay the fine of Rs. 500/-. **(Copies of Challan, application and punishment order all dated 28-02-2018 are attached herewith as "E to G")**.

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4. That on 04-03-2018, after release from Jail the accused submitted application through his counsel before the Judicial Magistrate Haripur for return of his recovered money of Rs.45010/- and Nokia Mobile Phone alongwith SIM No.0336-5401520 etc whereupon order dated 07-03-2018 was passed and the accused received his amount and Mobile Phone from the PS KTS. **(Copies of application, Order & Daily Dairy No.12 dated 08-03-2018 are attached "H to J").**
5. That it is incorrect and baseless that on 27-02-2018, I was without uniform & in plane clothes or accused Zameer was arrested near Paris Hotel GT Road Haripur, or accused was threatened or Rs.45000/- were extracted from him or a false FIR was registered against him. The allegations are, therefore, vehemently denied. If there had been any truth in the allegation then on 28-02-2018 the accused Zameer Khan when produced before the Judicial Magistrate Haripur could state that he was innocent and wrongly arrested, charas was planted and a sum of RS.45000/- was extracted from him by the local police instead of pleading his guilt through written application. Further after release, he submitted application through his counsel for the return of his amount of Rs. 45010/- and Nokia Mobile etc which was recovered from him at the time of his body search for which order was passed by Judicial Magistrate and he received his property from PS KTS. All these facts reveal that allegations are false, fabricated & based on malafide.
6. That the Honourable KPK Service Tribunal Peshawar also in its judgment/decision dated 17-06-2019 has given its verdict to the extent that application given by Mumraiz Khan was false/fabricated and also smacked malafide.intention to settle score with the appellants regarding arrest of his brother. Written defense of the appellants were not at all examined/taken into consideration by Inquiry Officer. Appellant were innocent and performed duty diligently and got punishment for offences not committed by them. Instead of appreciating their performance the respondents implicated them in a false/fabricated case.
7. That if I am provided with the opportunity of personal hearing then I shall really try my best to bring all the facts and circumstances of the matter into the knowledge of your goodself and to clear my position by proving myself as innocent.

In view of the above facts and circumstances it is requested that necessary recommendation may kindly be made for filing of the instant charge sheet without further proceeding being the charge incorrect, false, baseless, concocted and fabricated one. Thanking you sir in anticipation.

Yours Obedient Servant

(Babar Mukhtiar)

HC No. 206

Police Line Haripur

Dated: 25-07-2019

Babar Mukhtiar

ORDER

Head Constable Babar Mukhtiar NO.206, while posted in PS KTS, Haripur, in plain clothes duly equipped with weapons by showing criminal force arrested a citizen namely, Zameer Khan s/o Kareem. Dad Khan presently r/o Chungi No.11 TIP, near paris Hotel G,T road Haripur and took him at Chungi NO.02, KTS, and threatened him to register a false narcotics case, if he denied to give illegal gratification of Rs.60000/- through bargain. HC Babar Mukhtiar along with Constable Nadeem Khan No.525, extracted 45000/- from him, and also charged him in case FIR No.120 dated 27.02.2018, u/s 3/4 EHO, PS KTS, by doing illegal acts. Therefore, he implicated himself in criminal offence, vide case FIR No.127 dated 27.03.2018, u/s 382/342/506/34 PPC PS KTS, the acts and omissions of defaulter official were misconduct under Khyber Pakhtunkhwa, police efficiency and discipline rules 1975.

Therefore, he was dismissed from service by the then District Police Officer, Haripur vide OB No. 377 dated 30.05.2018, on charges of misconduct. He preferred departmental appeal to the Regional Police Officer, Hazara Region Abbottabad, which was rejected on 21.6.2018. Later on, he submitted another departmental appeal before the Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar, which was also rejected on 05.09.2018. Thereafter, HC Babar Mukhtiar filed service appeal No.851/2018 in Khyber Pakhtunkhwa, Service Tribunal Camp Court Abbottabad against the punishment. The Honorable Tribunal vide its judgment dated 17.06.2019 accepted the service appeal of appellant and reinstated him in service, the department was set at liberty to conduct the denovo proceedings.

In compliance of Honourable Service Tribunal's judgment the defaulter police official was reinstated in service and was served with charge sheet and statement of allegations vide this office Endst No. 483-85/PA dated 24.07.2019, Additional Superintendent of Police, Mr. Zulfiqar Khan Jadoon was appointed as Enquiry Officer, who conducted proper departmental enquiry and submitted his findings vide his office Memo No. 240 dated 01.08.2019. So, he was called in Orderly Room for personal hearing and was heard in detail, but he could not give any plausible ground or justification in his defense.

Having perused the relevant record, enquiry papers and personal hearing of appellant, the charges of misconduct are proved against the defaulter police official. Therefore, I, **Dr. Zahid Ullah (PSP)**, District Police Officer, Haripur being competent authority under Khyber Pakhtunkhwa, police Efficiency and Discipline Rule 1975, am fully satisfied that Head Constable Babar Mukhtiar No.206 has conducted misconduct, but lenient view is taken and he is awarded minor punishment of forfeiture of 03 years approved service, the period he remained out of service is treated as leave without pay.

District Police Officer,
Haripur

No: 5596-99

/dated 21/8/19
Copy of above is submitted to:-

1. The Deputy Inspector General of Police, Internal Accountability Branch, Khyber Pakhtunkhwa, Peshawar
2. The Deputy Inspector General of Police Enquiry & Inspection, KPK Peshawar
3. Assistant Inspector General of Police, Legal, Khyber Pakhtunkhwa Peshawar.
4. The Regional Police Officer, Hazara Region Abbottabad

[Signature]

[Signature]
District Police Officer
Haripur

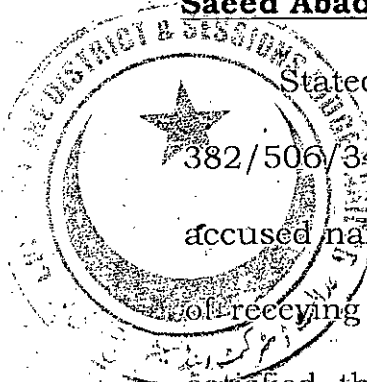
30.07.2018

302
2

1 28

Annex - G

Statement of Mumraiz Khan s/o Karam Dad (complainant) r/o Langrail, Tehsil & District Abbottabad presently at in Mohallah Saeed Abad, TIP, Haripur on oath.



Stated that a complaint, FIR No: 127 dated 01.03.2018 U/S 382/506/342/34 PS KTS, Haripur was lodged by me against the accused namely Babar Mukhtiar and Nadeem Shahzad with pretix of receiving the amount Rs. 45,000/-, however, later on we were satisfied that the same amount which was recovered from the possession of my real brother Zamir Khan in other case FIR No. 120 u/s 3/4 EHO PS KTS. Where these accused were I.O of the FIR No. 120 and the same said amount was properly mentioned in the recovery memo of the case in which my brother namely Zamir Khan was the accused and during his personal search amount Rs. 45000/- was recovered from his possession and same amount has been received by my real brother on supardari from honourable court. It is therefore, requested that the matter between me and accused has been satisfied, cleared and the same amount properly been justified by the accused while mentioning the same in the recovery memo, therefore, if honorable court acquits the accused, I have got no objection. It is further added that that the instant case was based on suspection, therefore, accused satisfied us the innocence of their guilt. Copy of my CNIC is Ex.PA.

Attested to be a True Copy
Authorized U/A 87 of
Qanoon-e-Shahadat order 1984

31 JUL 2018

Mumraiz Khan (complainant)
37405-7302048-9

RO& AC
30.07.2018

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SHAHID MEHMOOD
Judicial Magistrate-I,
Haripur

28

Amree - H

FORM "A"
FORM OF ORDER SHEET

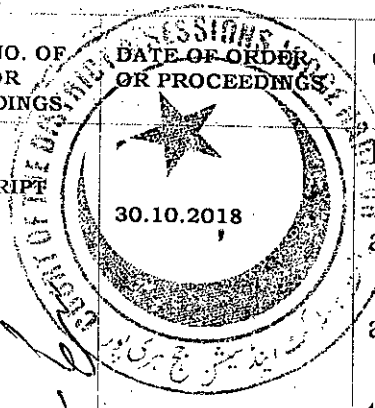
Court of SHAHID MEHMOOD JUDICIAL MAGISTRATE-I

Case No. FIR No: 127 Dated: 01.03.2018 U/S 382/342/506/34 PPC

SERIAL NO. OF ORDER OR PROCEEDINGS
DATE OF ORDER OR PROCEEDINGS

ORDER OR OTHER PROCEEDINGS WITH SIGNATURE OF JUDGE OR MAGISTRATE AND THAT OF PARTIES OR COUNSEL, WHERE NECESSARY

POST SCRIPT



Later in the day, both the accused on bail appeared. Complainant Mamraiz Khan also appeared today and stated that he has patched up the matter with both the accused and has pardoned them. Also added that he has got no objection on the acquittal of both the accused. In this regard, statement of complainant also reduced into writing.

Although the offence i.e. 382 PPC for which the accused are charged is non compoundable but since the complainant who is the star witness of the prosecution, is not interested to prosecute the accused due to the compromise effected between the parties, the trial of the accused can not result in their conviction. In the circumstances, to proceed further with the present case would be nothing but a futile exercise and would amount to abuse of process of the court. Hence, the case of accused is fit for their acquittal under section 249-A of the code of Criminal Procedure, 1898 owing to diminished chance of

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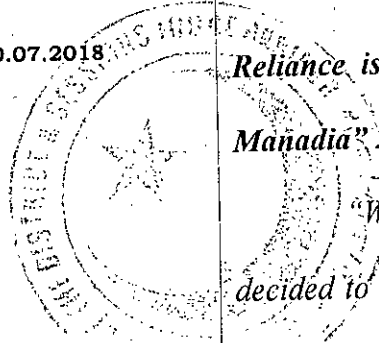
30/7/18
19/7/18
30/7/18
30/7/18

Signature of the Magistrate
30/07/18
Shahid Mehmood
Judicial Magistrate-I
Haripur

Agreed to be a True Copy
Authorized U/A 87 of
Qanoon-e-Shahadat order 1984
31 JUL 2018
EXAMINER
District & Session Judge
Haripur

his conviction.

30.07.2018



Reliance is placed on file case titled "Ejaz versus Mst Manadia" 2015 PLD 223 (Peshawar High Court)

"When the parties in the case had earnestly decided to live in peace by forgetting all their differences then it would be a need of the hour to acquit the petitioners in the present case on the basis of compromise, despite the non compoundability ---- Application for acquittal of the petitioners, which was moved by the respondent/complainant herself, had shown that she herself was eager in acquittal of petitioners/accused persons"

Although the offence under section 382 PPC is non compoundable in nature, however, it has been held by the superior Courts in plethora of judgments that accused can be acquitted even in non compoundable cases in the best interests of the parties, therefore keeping in view the dictum laid down by the Superior Courts, compromise between the parties is accepted in their best interests.

In view of the facts stated above and compromise statement of the complainant, application under section 249-A Cr.PC is hereby accepted and both the accused are acquitted under section 249-A Of the Code of Criminal Procedure, 1898. Accused are on bail, their bail bond

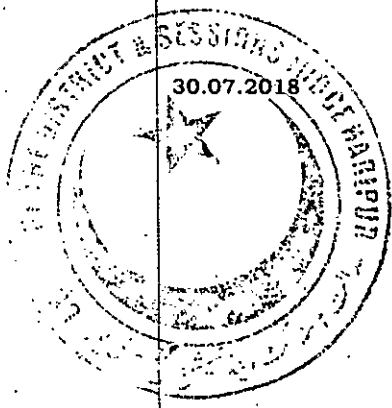
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30/07/18
Shahid Mehmood
Judicial Magistrate-I
Haripur

Attested to be a True Copy
Authorized UJA 57 of
Qanoon-e-Shahadat order 1988

31 JUL 2018
EXAMINER
& Session Judge

302/2

30



cancelled and the sureties are discharged from their liabilities. Case property if any, be dealt with in accordance with law.

Copy of this order be placed on Police File while file of this court be consigned to the Record Room after its compilation and completion.

(Signature)
 Shahid Mahmood,
 Judicial Magistrate-I,
 Haripur

No: 8604 = 31-07-18
 Date of presentation of Application
 No of Words 5X32 = 15 pages
 Copying Fee
 Urgent Fee
 TOTAL
 Name of Copyist J.A.S.
 Date of Receipt of File 31-07-18
 Date of Preparation of Copy 31-07-18
 Date of Delivery of Copy 31-07-18

Accepted to be a true copy
 Authorized U/A 17
 Qanoon-e-Shahadat order 1984
 31 JUL 2018
 EXAMINER
 District & Sessions Judge
 Haripur

(03 sets)

نقل رتبہ مد 33 دفتریا چ 27 2/18



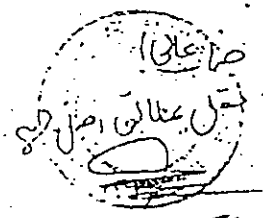
33

Annex - 2

- 14 -

24

آکاش 728 تفریق پتہ براری منیات زمینان بسواری گاڑی پرا انویسٹمنٹ روایہ صوبہ خاہ
کا یون



M.N.I. P.S. CTS

Annex 2 L

صفحة 15

نقل رتبہ مد 33 دفتریا چ 27 2/18

صفحہ 15

مد 33 والی بابریختیار 9HC 27 2/18 وقت 21:05 بجے میں فتح پور ایمان کے رقبہ کو لہرہ والا کھوار
گتت والی آیا یون دوران گتت ایک زمین کو حثتہ حالت میں یا کر جامع تدارتی
صوب ضابطہ عمل میں لائی دوران جامع تدارتی مذکورہ کے دیگر اسٹوار سے 480 گرام زمین
برآمد ہوئی جو قبہ میں کرکے گرام کا ٹکڑا جتا باقی بطور ویرانہ چھوٹ کر دست خرد
رقبہ میں کرکے دریافت ہر مذکورہ نے اپنا نام پھر و لڈ کر دار سکنہ منتر پال
حال میں تدارت ضابطہ کو اختیار کر کے پھر اہلا کر بعد لینے مکر جامع تدارتی
نذر و اہل ت خاہ تار جانا ہے فرد اس میں عدالت تار جانا

نذر (مد 33)
نق
27/2/18

صا عالی

نقل رتبہ اصل



M.N.I. P.S. CTS

Attested

07 MAR 2013
EXAMINER
District & Session Judge
Haripur

Attested

(32)

32/27/3

Amir

تاریخ 27/18 صفت 1940 ع
تاریخ 27/18 صفت 1950 ع

طرح دو قسم در بالا ایستاد و در زیر دو قسم ایستاد (تیمب) 2/3

مجموع 3/4 480

کسر اقسامی در 1950

در روز 27/18 صفت 1940 ع
در روز 27/18 صفت 1950 ع
در روز 27/18 صفت 1940 ع
در روز 27/18 صفت 1950 ع
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در روز 27/18 صفت 1950 ع

دست امضا
27/2/2018

32/27/3

0336-5601520

Authorized UJA 3107
Qaym-e-Shahadat order 1954

07 MAR 2018

EXAMINER
District & Session Judge
Haripur

امضاء

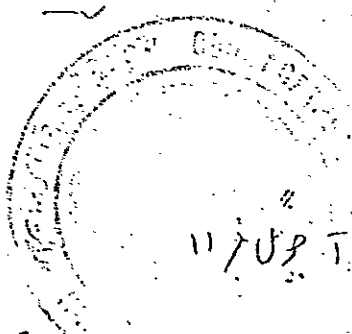
کسر اقسامی

29/3 39

Answer - K

خود بخود دینہ سے پاس

ظاہر ہے



حصہ نمبر 2012 حصہ 2 دہریہ 3/4 حصہ کا دیکھو

بازار میں کرایہ دار کو رقم چکانا ہے۔ منگوان طرز آجیوں خراب

دوسرے وقتوں میں کرایہ دار کو رقم چکانا ہے۔ بازار میں کرایہ دار کو رقم چکانا ہے۔
 منگوان طرز آجیوں خراب بازار میں کرایہ دار کو رقم چکانا ہے۔ بازار میں کرایہ دار کو رقم چکانا ہے۔
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450
27/2/2018

لوگوں کو دیکھ کر ہنسنا شروع کر دیا

Aakash

آکاش ایم 28 شعبہ تعلیمات

Attested to be a True Copy
 Authorized (I.A. No.)
 07 MAR 2012
 EXAMINER
 District & Sessions Judge
 Rawalpindi

Raja

کتاب خانہ راجہ 4696

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فارم چالان مکمل

23/3

157

تخانہ


3/4

جرم

27-2-18

مورخہ

120

1 نام مستغیت	2 لمزمان جو گرفتار نہ ہوئے ہوں۔ بشمول مفردان	3 لمزمان		4 تفصیل المقدمہ	5 تفصیل گواہان	6 مختصر کیفیت جرم
		زیر حراست	بہ ضمانت			
					 <p>تفصیل گواہان</p>	<p>مختصر کیفیت جرم</p>

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Attested to be a True Copy
Authorized U/A 87 of
Section 194
10 MAR 2018
EXAMINER
Sessions Judge

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عدالت جناب جوڈیشل مجسٹریٹ صاحب دعویٰ دیوار

سرکار بنام: ضمیر

حوالہ مقدمہ عدت 120 مورخہ 18-02-27 جرم EHO 3/4 قازہ K.T.S

درخواست اقبال جرم و صدور فیصلہ عنوان الذکر

جناب عالی! درخواست عرض ذیل ہے۔

یہ کہ سائل ملزم مقدمہ جرم عنوان میں بخوشی و برضا مندی خود بلا جبر اقبال جرم کرتا ہوں اور ایسے آپ کو عدالت کے رحم و کرم پر چھوڑتا ہوں اور کاروائی A-241 ض ف کے حقوق سے دستبردار ہوتا ہے۔

استدعا ہے کہ مقدمہ کا ایمر و فیصلہ فرمایا جا کر دادرسی فرمائی جائے۔

المترقوم: 28/02/2018

28/02/2018

ضمیر ولد کرم حاد خان سٹہ سنگڑیاں TTP چوٹی بڑ 11

پیر در ر

ضمیر خان

Attested to be a True Copy
Authorized USA FRO
Gandana-e-Shahadat order 1974

07 MAR 2018

District

6

Attested

THE COURT OF SHAHID MEHMOOD, JUDICIAL MAGISTRATE-I, HARIPUR
 FIR No. 120, Dated 27.02.2018, under section 34 EHO of Police Station KTS Haripur

01
 2018

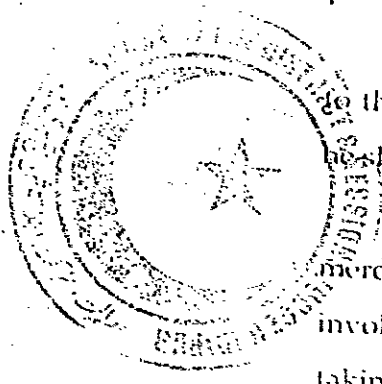
1374/18
 489/18

Complete challan submitted by the prosecution. It be registered.
 Accused Zameer son of Karam Dad produced in custody who
 moved an application for disposal of his case today on the basis of
 plead guilty, without availing further opportunity, by relinquishing
 his rights to comply with the provisions of section 241-A Cr.PC.

Formal charge framed against the accused of which accused
 pleaded his guilt and requested for mercy of the court.

Show cause notice under section 243 of the Cr.PC was given
 to the accused but he is unable to show sufficient cause as to why
 he should not be convicted for the subject offence.

As accused has pleaded his guilt and left himself at the
 mercy of the court. More so, record is silent about the previous
 involvement of the accused in such like cases. Therefore, while
 taking lenient view accused is convicted and sentenced under
 section 34 EHO to undergo for 02 days SI and to pay the fine of
 Rs. 500/-. In case he fails to pay the fine, he will have to undergo SI
 for 01-day. Case property if any be dealt with in accordance with
 law. All personal belongings of accused if any be returned
 forthwith. File be consigned to record room after its completion and
 compilation.



Attested to be a true
 Authorized U.A.C.
 Qanoon-e-Shahadat order 1950.
 07 MAR 2018
 EXAMINER
 District & Session Judge
 Haripur

SHAHID MEHMOOD,
 Judicial Magistrate-I,
 Haripur

3226 = 07-03-18
 Date of presentation of Application
 No. of Words 07 Pages
 Copying Fee nil
 Urgent Fee
 TOTAL
 Name of Copyist
 Date of Receipt of File 07-03-18
 Date of Preparation of Copy 07-03-18
 Date of Delivery of Copy 07-03-18

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37
لہذا فیہ جوڈیکل فیئر سبب مہر دو

Annex "P"

فیئر واہ را در کتہ شکر ال حال سیم مہر دو "فونہ فیر" کتہ رتہ مہر دو

۱۸ - ۰۳ - ۰۵

بیرا لہ باہر فیرا مہر دو کتہ مہر دو
کتہ مہر دو

کتہ مہر دو	بیرا	فونہ	کتہ
120	3/4210	27/02 2018	د-ا-ک مہر دو

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0336-5401520

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FIR کتہ

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45010 مہر دو

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Allah

SPP for the state present. Petitioner present.

Amal 'Q'

Petitioner namely Zameer son of Karam R/O Langriyal, Tehsil and District, Haripur seeks for return of amount of Rs: 45010/- and mobile Nokia 6303 along with sim card which were taken into possession in case FIR No: 120 dated 27.02.2018 U/S 34 EHO PS KTS, District Haripur.

Perusal of the available record reveals that an amount of RS: 45010/- and mobile phone have been taken into possession in the above cited case vides recovery memo dated 27.02.2018 from personal search of the petitioner. Case file reveals that case is already disposed off on the basis of plead guilty. There is no rival claimant and also the alleged amount and mobile phone etc are no more required to the local police for further investigation. Investigation in the present case totally complete. It will serve no useful purpose if the amount and mobile phone etc are lying in the police station.

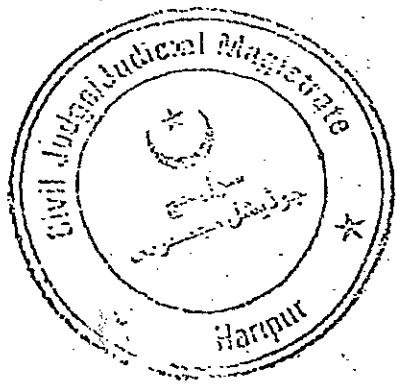
In view of the above, instant application is accepted and the amount of RS: 45010/- and mobile phone be returned to the present petitioner.

Requisitioned record be returned to the concerned quarter whereas this file be consigned to the record room after proper compilation and completion.

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SHAHIL MEHTOOD
Judicial Magistrate-1, Haripur
07/03/18



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سین، رقم نمبر 45010 ل. ایڈیٹر، انجمن ترقی، کراچی 6303

دست خطیہ و پور کر کے

37405-7143238-3

ضریحان

0386/5401520

عظیم ملہ کرم دار قوم جہان سہہ شہر کراچی 11

کراچی 12 روزنامہ 3/18

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نقل ریٹ صدر 2 روزہ 3/8 8

تفانہ CTS

12 مارچ 1983ء کو ریٹ جو انکی سالانہ قدرہ ASI 8 3/8 وقت 10:20 سے 11:00 وقت قیام و لگ کر دار
 مسکنہ گنٹاوالی منٹاچی کارڈ نمبر 3-7143288-37405-37405 رابطہ نمبر 0336-5401520
 عاضری تفانہ قیام آڈیو سپرداری لکھت رقم نمبر 45014 اور ایف ایم خون بخار برکھوالن
 P. J. M. ری کی پور جو کہ کوالہ قدرہ عدت 120/100 جرم 3/4 ع میں قدرہ پولیس ہے
 جو کہ موصوفہ کوالہ لکھت کا حکم جاری فرمایا جو کہ لکھتوں و سندوں کی حوالہ مانتا
 ہو کر دستخط و مہولی لکھت جاری دہشت 19 کی تکمیل کی گئی اور دستخط اور رو

ما عالی
 نقل عطا ہوا ہے
 J. M. M.
 mm 15-18
 8-3-18
 CTS

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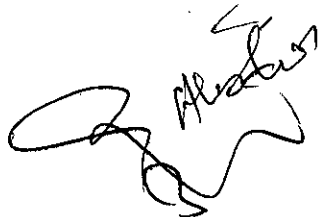
BEFORE HONOURABLE REGIONAL POLICE OFFICER,
HAZARA REGION, ABBOTTABAD.

DEPARTMENTAL APPEAL AGAINST ORDER NO. 5596-99/ DATED 21-08-2019 OF THE DISTRICT POLICE OFFICER HARIPUR WHEREBY APPELLANT HAS BEEN AWARDED WITH THE PENALTY OF "FORFEITURE OF APPROVED SERVICE FOR 03 (THREE) YEARS" AND THE PERIOD APPELLANT REMAINED OUT OF SERVICE HAS BEEN TREATED AS LEAVE WITHOUT PAY.

PRAYER: ON ACCEPTANCE OF INSTANT DEPARTMENTAL APPEAL IMPUGNED ORDER DATED 21-08-2019 MAY KINDLY BE SET ASID AND APPELLANT'S FORFEITED SERVICE OF 03 YEARS BE RESTORED TO HIM AND FOR THE PERIOD APPELLANT KEPT OUT OF SERVICE BE TREATED AS ON DUTY WITH GRANT OF ALL CONSEQUENTIAL BACK BENEFITS.

Respected Sir, With most reverence and humble submission it is stated:-

1. That previously the appellant was dismissed from service by the District Police Haripur vide OB No. 377 dated 30-05-2018. The appellant preferred a departmental appeal before the Regional Police Officer, Hazara Region, Abbottabad which was rejected on 21-06-2018. The appellant's mercy appeal was also rejected by the Provincial Police Officer, KPK, Peshawar on 05-09-2018.
2. That aggrieved of aforementioned orders of the departmental authorities, the appellant filed service appeal No. 851/2018 before the Honourable KPK Service Tribunal Peshawar which was accepted and decided vide judgment and order dated 17-06-2019. **(Copy of the judgment is attached as "A")**.
3. That in the light of order dated 17-06-2019 of the Honorable KPK Service Tribunal Peshawar, the District Police Officer, Haripur issued the appellant a charge sheet dated 24-07-2019 with the following charges:
"That you while posted at PS KTS you alongwith Constable Nadeem No. 525 in plain clothes duly equipped with weapons by showing criminal force



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arrested a citizen namely, Zameer Khan s/o Kareem Dad Khan presently r/o Chungi No.11 TIP near Paris Hotel G.T. road Haripur and took him at Chungi No.2 KTS and threatened him to register a false narcotics case if he failed to give illegal gratification of Rs.60,000/- through bargain you alongwith Constable Nadeem extracted Rs.45,000/- from him and also charged him in case FIR No.120 dated 27-03-2018 u/s 3/4 EHO PS KTS, you committed an offense vide FIR No.127 dated 27-02-2018 u/s-382/342/506/34 PPC PS KTS, your involvement in heinous criminal case is gross misconduct on you part under Police E&D Rules 1975, hence charge sheeted".

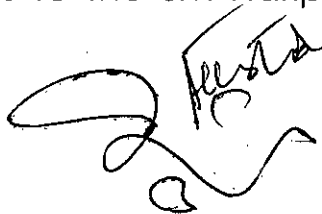
(Copy of the charge sheet is attached as "B").

4. That the aforementioned charge sheet was replied on 25-07-2019 explaining all facts and circumstances of the matter with the denial of charges incorporated therein. **(Copy of reply dated 25-07-2019 is as "C").**
5. That thereafter the District Police Officer Haripur vide his order dated 21-08-2019 awarded the appellant with the penalty of "Forfeiture of 03 years approved service" and the period he remained out of service has been treated as leave without pay. Hence this departmental appeal. **(Copy of order dated 21-08-2019 is attached as "D").**
6. That the charges leveled against appellant in the charge sheet are based on false, fabricated and baseless complaint made by one Mumraiz Khan real brother of accused Zameer Khan just to settle the score with police officials for arrest of his brother, which was denied. FIR No. 127 dated 27-02-2018 u/s-382/342/506/34 PPC PS KTS was the result of said complaint wherein appellant had been honorably acquitted by the trial court.
7. That in fact on 27-02-2018, appellant alongwith FC Nadeem Shahzad No. 525 including other police officials on routine mobile duty and at 1940 hours arrested one Zameer Khan at Bypass Road near Choar Colony possessing 480 grams Charas. On spot parcels were prepared & sealed for FSL, Murasila etc were

 A handwritten signature in black ink, appearing to be 'S. Ahmed', written in a cursive style.

drafted. On his body search an amount of Rs. 45010/-, one Nokia Mobile No. 6300 was recovered from accused and Recovery Memo was scribed. Murasila etc were submitted to PS KTS for registration of FIR against accused. **(Copies of D/Diaries showing departure & arrival, Murasila & Recovery Memo all dated 27-02-2018 are attached as "E to H")**.

8. That Complete challan was submitted on 28-02-2018 and accused was produced in police custody before Judicial Magistrate Haripur where he pleaded himself guilty whereupon he was convicted and sentenced under section 3/4 EHO to undergo 02 days SI and to pay the fine of Rs. 500/-. **(Copies of Challan, application and punishment order all dated 28-02-2018 are attached herewith as "I to K")**.
9. That on 04-03-2018, after release from Jail the accused submitted application through his counsel before the Judicial Magistrate Haripur for return of his recovered money of Rs.45010/- and Nokia Mobile Phone alongwith SIM No.0336-5401520 etc whereupon order dated 07-03-2018 was passed and the accused received his amount and Mobile Phone from the PS KTS. **(Copies of application, Order & Daily Dairy No.12 dated 08-03-2018 are attached "L to N")**.
10. That the Honourable KPK Service Tribunal Peshawar in its judgment/decision dated 17-06-2019 has given its verdict to the extent that application given by Mumraiz Khan was false/ fabricated and also smacked malafide intention to settle score with the appellants regarding arrest of his brother. Written defense of the appellants were not at all examined/taken into consideration by Inquiry Officer. Appellant were innocent and performed duty diligently and got punishment for offences not committed by them. Instead of appreciating their performance the respondents implicated them in a false/fabricated case.
11. That despite being innocent of the appellant and without giving any heed to material evidence on record in the shape of police documents, the accused applications to the JM Haripur for return of recovered



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money & other articles and the orders of the Judicial Magistrate Haripur in this respect and even the judgment/order dated 17-06-2019 of the Honourable KPK Service Tribunal Peshawar, the appellant is awarded the punishments time and again without any reason and justification. The appellant was rendered jobless for a long period besides putting him under mental agonies and financial distresses despite his performing duties with honesty and dexterity. The complainant upon whose false complaint the appellant is being tortured and penalized is a notorious offender of the society and is involved in many criminal cases. Even after his very complaint against the appellant, he got himself involved in a criminal case u/s-365-B. But his false complaint is still being treated as sacred script by the departmental authorities in comparison to the appellant's true and correct defense. **(Copies of FIR and his photos are attached herewith).**

12. That if I am provided with the opportunity of personal hearing then I shall really try my best to bring all the facts and circumstances of the matter into the knowledge of your goodself and to clear my position by proving myself as innocent.

In view of the aforementioned facts it is earnestly requested that kindly to look into the matter personally and set aside the impugned order dated 21-08-2018 of the DPO Haripur and the appellant may kindly be restored his forfeited three (03) years forfeited approved service and the period he was kept out of service be treated as on duty with grant of all back benefits. Appellant shall be very thankful to your Highness for this act of kindness.

Yours Obedient Servant




(Babar Mukhtiar)

HC No. 206

Police Line Haripur

Dated: 26-08-2019





OFFICE OF THE REGIONAL POLICE OFFICER
HAZARA REGION, ABBOTTABAD

0992-9310021-22

0992-9310023

r.rpohazara@gmail.com

0345-9560687

NO: 19910 /PA DATED 19/08/2020

ORDER

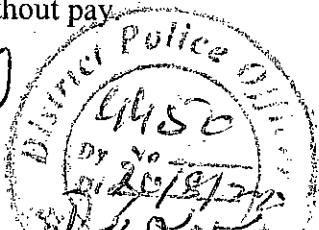
This order will dispose off departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules, 1975 submitted by HC Babar Mukhtiar No.206 of District Haripur against the order of punishment i.e. *Forfeiture of 03 years approved service and the period during out of service as leave without pay* awarded by District Police Officer, Haripur Order No.5596-99 dated 21.08.2019.

Brief facts leading to the punishment are that he while posted at PS KTS, Haripur in plain clothes, duly equipped with weapons and by showing criminal force arrested a citizen namely Zameer Khan s/o Kareem Dad Khan presently r/o Chungi No.11 TIP, Haripur and took him at Chungi No.02 KTS, threatened him to register a false narcotics case if he deny to give illegal gratification of Rs.60000/- and through bargain HC Babar Mukhtiar alongwith Constable Nadeem Khan No.525 extracted 45000/- from him and also charged him in case FIR No.120 dated 27.02.2018 U/S 3/4 EHO PS KTS.

Consequently, a case vide FIR No. 127 dated 01-03-2018 u/s 382/342/506/34 PPC PS KTS was registered against the appellant and dismissed from service vide OB No.377 dated 30.05.2018 on charges of misconduct. He preferred departmental appeal to the Regional Police Officer, Hazara Region Abbottabad which was rejected vide Order No.2778/PA dated 21-06-2018. Later the appellant preferred review petition before the Provincial Police Officer, Khyber Pakhtunkhwa, however same was rejected vide Order No. S/3588/18 dated 05.09.2018. Thereafter the appellant intuited Service Appeal No.891/2018 in Khyber Pakhtunkhwa, Service Tribunal Camp Court Abbottabad against the punishment. The Honorable Service Tribunal vide its Judgment dated 17.06.2019 accepted the Service Appeal, reinstated him in service and directed to conduct denovo enquiry within 90 days.


As a result, the appellant was issued charge sheet alongwith summary of allegations and Addl: SP, Haripur was deputed to conduct departmental enquiry vide CPO Endst: No. 2498-2500/CPO/IAB/C&E dated 17-07-2019. During the course of enquiry the allegations leveled against the appellant were proved and EO recommended him for suitable punishment. He was heard in person, however he failed to advance any cogent reason in his defence. Consequently, DPO Haripur awarded him minor punishment of forfeiture of 03 years approved service and period during which the appellant remained out of service as leave without pay.

SAC/OTC
For necessary action



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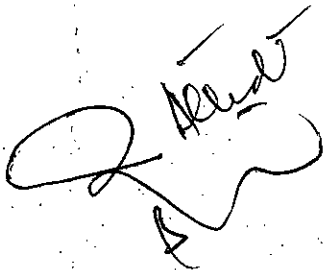
After receiving his appeal, comments of DPO Haripur were sought and examined/perused. The undersigned called the appellant in OR, heard him in person and examined the available record. Order of court dated 30-10-2018 in case FIR No. 127 dated 01-03-2018 u/s 382/342/506/34 PPC PS KTS clearly indicates that the appellant and respondent party affected compromise and as a result appellant was acquitted u/s 249-A CrPC by the learned Court. Therefore, the punishment awarded by DPO Haripur vide Order No. 5596-99 dated 21-08-2019 seems suitable and in exercise of the powers conferred upon the undersigned under Rule 11-4 (a) of Khyber Pakhtunkhwa Police Rules, 1975 the instant appeal is hereby *filed* with immediate effect.


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

No. 19911
CC.

/PA, dated Abbottabad the 19-08 2020.

The District Police Officer, Haripur for information and necessary action with reference to his office Memo No.7382 dated 28-10-2019. Service Roll and Fuji Missal containing enquiry file of the appellant is returned herewith for record.



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DBA.No: 201
 BE No:
 Name of Advocate: محمد امجد علی صاحب

S.No: 81734



وکالت نامہ



بعدالت: محمد حسین مہر خیر بخشین ڈی اے ہسٹریکل ٹریڈنگ کمپنی اور
 عنوان: بالمختار نام: پاک سٹریٹس لٹریچر آفس ہارپور
 منجانب: اورلائٹ بالمختار نوعیت مقدمہ: سرکسٹریبل
 باعث تحریر آئنگ: _____

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوابدہی برائے پیشی یا تصدیق مقدمہ بمقام ایم ایچ ڈی اے ہسٹریکل ٹریڈنگ کمپنی کے

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

M. A. De
 محمد امجد علی صاحب

لہذا وکالت نامہ لکھ دیا ہے کہ سندر ہے۔

مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔ مورخہ: 10 جنوری 2010ء
 دن 10 بجے سال 1431ھ

بالمختار
محمد امجد علی صاحب

①

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

SERVICE APPEAL NO.11142/2020

Babar Mukhtiar, Head Constable No.206, District Police Haripur

..... (Appellant)

VERSUS

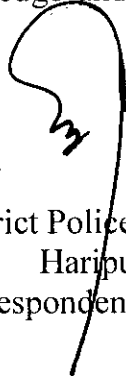
Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar, and others.

..... (Respondents)

COUNTER AFFIDAVIT

I, do hereby solemnly affirm and declare, that the contents of comments / reply, are true to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

JAWAD ALI KHAN ADVOCATE
Oath Commission, Abbottabad
Notification No. 17-J
8th August 2019 of PSC
Dated 17/5/2020
Signature


District Police Officer,
Haripur
(Respondent No.3)

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

2

SERVICE APPEAL NO.11142/2020

Babar Mukhtiar, Head Constable No.206, District Police Haripur

..... (Appellant)

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others.

..... (Respondents)

Reply/comments by respondents No.1,2&3.

Respectfully Sheweth.

PRELIMINARY OBJECTIONS:-

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

REPLY ON FACTS:-

- 1) In reply to this para, it is submitted that a citizen namely Mumraiz Khan s/o Karam Dad r/o Saeedabad TIP Haripur, moved an application before the then District Police Officer, Haripur against the appellant HC Babar Mukhtiar No.206, and Constable Nadeem Shehzad, No.525, on the allegations that the appellant alongwith constable Nadeem in plain clothes, duly equipped with weapons and showing criminal force, arrested his brother Zameer Khan s/o Kareem Khan r/o Chungi No.11 TIP, and took him at the jurisdiction of Police Station KTS. Both the police officials threatened him to implicate him in a heinous narcotic case, if he failed to fulfill their demand of illegal gratification. The appellant and another police official namely Constable Nadeem compelled him to pay Rs.60,000/-. After bargain both the police officials took Rs.45,000/-, from him and got registered case FIR No.120 dated 27.03.2018, u/s 3/4 EHO Police Station KTS. The acts and omissions of the appellant were offensive in nature, consequently, case FIR No.127 dated 01.03.2018, u/s 382/342/506/34 PPC PS KTS, was registered against the appellant and Constable Nadeem Shehzad No.525. (Copy of FIR is attached as annexure "A"). The appellant committed an offense and gross misconduct. Therefore, proper departmental enquiry was conducted, the appellant was issued charge sheet and

statement of allegations by the then District Police Officer, Haripur vide this office Endst No.34-36/PA dated 05.03.2018. (Copy of charge sheet and statement of allegations is attached as annexure "B"). SP Investigation Haripur, Mr. Shams Ur Rehman was appointed as inquiry officer, who conducted proper departmental inquiry and submitted his findings vide his office Memo No.811/PA dated 22.05.2018. The inquiry officer held the charges proved and recommended the appellant for major punishment. (Copy of inquiry finding is attached as annexure "C"), consequently, the appellant was served with final show cause notice by the then District Police Officer, Haripur vide this office Endst No.131-32 dated 23.05.2018. The appellant was held guilty of gross misconduct, therefore, the appellant was awarded major punishment of dismissal from service, by the then District Police Officer, Haripur, vide OB.No.377 dated 30.05.2018. (Copy of order is attached as annexure "D"). The appellant filed departmental appeal to the then worthy Regional Police Officer, Hazara Region, Abbottabad who rejected the same vide order Endst: No.2778/PA, dated 21.06.2018. (Copy of order is attached as annexure "E").

- 2) In reply to this para, it is submitted that the appellant lodged service appeal No.853/2018, against the departmental punishment in Khyber Pakhtunkhwa, Service Tribunal Camp Court Abbottabad. The honorable tribunal vide its judgment dated 17.06.2019, set aside the punishment and reinstated the appellant in service, with the direction to the department to conduct the de-novo departmental enquiry within period of 90 days. Therefore, the competent authority i.e. worthy Provincial Police Officer Khyber Pakhtunkhwa, Peshawar vide letter Endst: No.2498-2500/CPO/IAB/C&E dated 17.07.2019, ordered for the de-novo departmental enquiry against the appellant through Mr. Zulfiqar Khan Jadoon the then Addl: SP Haripur, as enquiry officer. Therefore, the appellant was served with charge sheet and statement of allegations vide this office Endst: No.483-85/PA, dated 24.07.2019. The enquiry officer conducted the de-novo enquiry and submitted his findings vide his office Memo No.240 dated 01.08.2019. In which he recommended the appellant for appropriate punishment. On receiving the findings of enquiry officer, the appellant was called in orderly room and he was heard in person by the competent authority i.e. the then District Police Officer, Haripur and being found guilty of misconduct the appellant was awarded minor punishment of forfeiture of 03 years approved service and the period in which the appellant remained out of service was treated as leave without pay vide order Endst: No.5596-99 dated 21.08.2019. (Copy of order is attached as annexure "F").
- 3) In reply to this para, it is submitted that in compliance with the judgment of Khyber Pakhtunkhwa, Service Tribunal Camp Court Abbottabad, the appellant was issued charge sheet and statement of allegation and de-novo departmental enquiry was conducted as per law. The appellant could not prove his innocence in the de-novo departmental inquiry, therefore, he was awarded punishment of forfeiture of 03 years approved service and the period he remained out of service was treated as leave without pay by the competent authority.
- 4) In reply to this para, it is submitted that the appellant could not give satisfactory reply of the charge sheet and allegations were proved through evidence. Therefore, he was awarded appropriate punishment of forfeiture of 03 years approved service and the period he remained out of service was treated as leave without pay on lawful grounds and justifications.
- 5) Incorrect, the appellant was proceeded against on charges of misconduct for registering of fake case vide FIR No.120 dated 27.02.2018 u/s 3/4 EHO Police Station

KTS against a citizen namely Zameer Khan s/o Karim Dad Khan r/o Chungi No.11 TIP and extracted Rs.45,000/- from him causing threats to implicate in heinous narcotic case. The acts of the appellant were offence as well as gross misconduct under the law/rules. Therefore, lawful departmental action was taken and being held guilty of misconduct the appellant was awarded appropriate punishment of dismissal from service, which was set aside by the honorable Khyber Pakhtunkhwa, Service Tribunal Camp Court Abbottabad judgment dated 17.06.2019.

- 6) Incorrect, the appellant was proceeded against on charges of misconduct. The allegations were probed in the first departmental inquiry as well as de-novo departmental inquiry. The appellant was held guilty of misconduct and charges were proved through evidence. Therefore, the appellant was awarded lawful punishment of dismissal from service, which was set aside by the honorable Khyber Pakhtunkhwa, Service Tribunal Camp Court Abbottabad with the direction to the department to conduct the de-novo departmental inquiry. Consequently de-novo departmental inquiry was conducted and appellant was awarded minor punishment of forfeiture of 03 years approved service and the period he remained out of service was treated as leave without pay by the competent authority.
- 7) In reply to this para, it is submitted that the enquiry officer collected the evidence, in the light of which he held the appellant guilty of misconduct and recommended him for appropriate punishment. Therefore, on strong evidence, the appellant was awarded punishment as per law.
- 8) Incorrect, the charges were thoroughly probed in the enquiry conducted on the issue. The appellant was held responsible for illegal acts. Moreover, he was acquitted by the court of JM-I Haripur on 30.10.2018, through compromise affected between the appellant and complainant party. Therefore, the appellant cannot claim to be innocent.
- 9) In reply to this para, it is submitted that honorable tribunal vide its judgment dated 17.06.2019 direct the respondent department to conduct the de-novo inquiry. Which was conducted and appellant was held guilty of gross misconduct in de-novo inquiry. Therefore, he was awarded appropriate lawful punishment.
- 10) Incorrect, proper departmental inquiry was conducted the appellant was served with charge sheet and statement of allegations. The appellant were given right of personal hearing and self defense. Having fulfilled all legal requirements the appellant was awarded punishment of forfeiture of 03 years approved service and the period he remained out of service was treated as leave without pay as per law/rules.
- 11) Incorrect, the appellant files departmental appeal against the punishment order before the Regional Police Officer, Hazara Region, Abbottabad, who considered all facts, circumstances and relevant evidence and rejected the departmental appeal vide his office order No.19910/PA dated 19.08.2020. (Copy of order is attached as annexure "G").

REPLY ON GROUNDS:-

- A) Incorrect, the order of respondents dated 21.08.2019 and 19.08.2020, are quite legal, based on facts, evidence and principles of natural justice, hence, the orders are lawful and maintainable.
- B) Incorrect, proper departmental inquiry was conducted. The appellant was issued charge and statement of allegations, he was also given right of personal hearing and self defense. The charges were proved through cogent evidence. Hence, the punishment is lawful and maintainable.

- C) Incorrect, the appellant was dealt with in accordance with law, rules and constitution. He was proceeded against on charges of misconduct as per law/rules. Hence, the punishment is maintainable under the law.
- D) Incorrect, the appellate authority took into consideration all facts, circumstances and relevant evidence which held the appellant guilty. Therefore, the departmental appeal of the appellant was rejected on lawful grounds and justifications.
- E) Incorrect, the appellant did not perform his duties fairly, honestly and with devotion, rather, he indulged in criminal activities and misconduct.
- F) Incorrect, the appellant was served with charge sheet and statement of allegations containing charges of misconduct. The charges were thoroughly probed and appellant was held guilty of gross misconduct. Therefore, the appellant was awarded quite legal punishment.
- G) Incorrect, since the appellant committed gross misconduct. He was awarded major punishment of dismissal from service and was reinstated in service by this honorable tribunal vide its judgment dated 17.06.2019. The appellant is not entitled for any leave/back benefits during the period of dismissal from service under the law/rues.
- H) Incorrect, the instant service appeal is badly time barred and not maintainable under the law.

PRAYER:-

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

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

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

**Regional Police Officer
 Hazara Abbottabad**

District Police Officer,
 Haripur
 (Respondent No.3)

⑥

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

SERVICE APPEAL NO.11142/2020

Babar Mukhtiar, Head Constable No.206, District Police Haripur

..... (Appellant)

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar, and others.

..... (Respondents)

**REPLY TO APPLICATION FOR CONDONATION OF DELAY IN SERVICE
APPEAL BY RESPONDENTS.**

Respectfully Sheweth:-

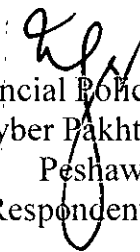
The reply to application for condonation of delay of service appeal on behalf of respondents No. 1,2 & 3, is submitted as under:-

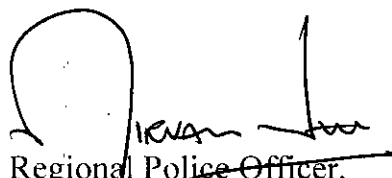
1. In reply to this para, it is submitted that a citizen namely Mumraiz Khan s/o Karam Dad r/o Saeedabad TIP Haripur, moved an application before the then District Police Officer, Haripur against the appellant HC Babar Mukhtiar No.206, and Constable Nadeem Shehzad, No.525, on the allegations that the appellant alongwith constable Nadeem in plain clothes, duly equipped with weapons and showing criminal force, arrested his brother Zameer Khan s/o Kareem Khan r/o Chungi No.11 TIP, and took him at the jurisdiction of Police Station KTS. Both the police officials threatened him to implicate him in a heinous narcotic case, if he failed to fulfill their demand of illegal gratification. The appellant and another police official namely Constable Nadeem compelled him to pay Rs.60,000/-. After bargain both the police officials took Rs.45,000/-, from him and got registered case FIR No.120 dated 27.03.2018, u/s 3/4 EHO Police Station KTS. The acts and omissions of the appellant were offensive in nature, consequently, case FIR No.127 dated 01.03.2018, u/s 382/342/506/34 PPC PS KTS, was registered against the appellant and Constable Nadeem Shehzad No.525. The appellant committed an offense and gross misconduct. Therefore, proper departmental enquiry was conducted, the appellant was issued charge sheet and statement of allegations by the then District Police Officer, Haripur vide this office Endst No.34-36/PA dated 05.03.2018. SP Investigation Haripur, Mr. Shams Ur Rehman was appointed as inquiry officer, who conducted proper departmental inquiry and submitted his findings vide his office Memo No.811/PA dated 22.05.2018. The inquiry officer held the charges proved and recommended the appellant for major punishment. Consequently, the appellant was served with final show cause notice by the then District Police Officer, Haripur vide this office Endst No.131-32 dated 23.05.2018. The appellant was held guilty of gross misconduct, therefore, the appellant was awarded major punishment of dismissal from service, by the then District Police Officer, Haripur, vide OB.No.377 dated 30.05.2018. The appellant filed departmental appeal to the then worthy Regional Police Officer, Hazara Region, Abbottabad who rejected the same vide order Endst: No.2778/PA, dated 21.06.2018. The appellant filed service appeal No.853/2018 before the honorable

Khyber Pakhtunkhwa, Service Tribunal Peshawar, the honorable Service Tribunal vide its judgment dated 17.06.2019 set asided the departmental punishment and reinstated the appellant/ petitioner in the service with the direction to the department to conduct the de-novo departmental inquiry. Consequently, de-novo inquiry was conducted and the appellant awarded minor punishment of forfeiture of 03 years approved service and the period he remained out of service was treated as leave without pay by the then District Police Officer, Haripur vide order Endst: No.5596-99 dated 21.08.2019 the appellant file departmental appeal against the punishment which rejected by the Regional Police Officer, Hazara Region, Abbottabad vide his office order No.19910/PA dated 19.08.2020. The instant service appeal is badly time barred and not maintainable under the law.

2. Incorrect, the respondents dealt the applicant/appellant in accordance with law/rules. The orders of punishment passed by the respondents are quite legal, based on evidence and facts, hence, maintainable under the law/rules. Moreover, the applicant has no cause of action to file the instant service appeal being time barred.
3. Incorrect, the respondents departmental authorities proceeded as per law/rules, the order of punishments have attained finality. The appellant/applicant was dealt with in accordance with law. Moreover, his departmental appeal was dismissed on lawful grounds, justification and evidence. Similarly, the instant service appeal is badly time barred.
4. Incorrect, the application for condonation of delay does not hold any legal force. Therefore, the instant service appeal and the application for condonation of delay are liable to be dismissed.

In view of above, it is most humbly prayed that the instant service appeal as well as application for condonation of delay do not hold any legal force, which may kindly be dismissed with cost, please.


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


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

District Police Officer,
 Haripur
 (Respondent No.3)

DISCIPLINARY ACTION

I, Syed Khalid Hamdani (PSP, QPM), District Police Officer, Haripur as competent authority of the opinion that you IHC Babar Mukhtiar No. 206 have rendered yourself liable to be proceeded against as you committed the following acts/omissions within the meaning of Police Efficiency & Discipline Rules 1975.

STATEMENT OF ALLEGATION

"That you while posted at PS KTS you along with Constable nadeem no.525 in plane clothes duly equipped with weapons by showing criminal force arrested a citizen namely, Zameer Khan s/o Kareem dad Khan presently r/o chungi No.11 TIP near Paris Hotel G.T road Haripur and took him at Chungi No.2 KTS and threaded him to register a false narcotics case if he failed to give illegal gratification of Rs.60000, through bargain you alongwith Constable Nadeem extracted Rs.45000 from him and also charged him in case FIR No. 120 dated 27.03.2018 u/s 3/ EHO PS KTS, you committed an offense vide FIR No.127 dated 27.02.2018, u/s 382,342,506/34PPC PS KTS, your involvement in heinous criminal case is gross misconduct under police efficiency and discipline Rules 1975, hence, charge sheeted"

(2) For the purpose of scrutinizing the conduct of the said accused officer with reference to the above allegations, an Enquiry Committee consisting of the following is constituted.

Mr. Shams Ur Rehman, SP INV, Haripur

(3) The Enquiry Officer/Committee shall in accordance with the provision of this Ordinance, provide reasonable opportunity of hearing to the accused, record finding and make within 25 days of the receipt of this order, recommendation as to punishment or the appropriate action against the accused.

(4) The accused and a well conversant representative of departmental shall in the proceedings on the date, time and place fixed by the Enquiry Officer/Committee.

(Syed Khalid Hamdani) PSP, QPM
District Police Officer
Haripur

No: 54-36 /PA, dated Haripur the 05/03/2018.
Copy of above is submitted to the:-

- 1) Regional Police Officer, Hazara Region, Abbottabad, please.
- 2) Enquiry Officer for initiating proceedings against the said accused under Police Efficiency & Discipline Rules 1975.
- 3) IHC Babar Mukhtiar No. 206 with the direction to submit his defense within 7 days of the receipt of this statement of allegations and also to appear before the Enquiry Officer on the date, time and place fixed for the purpose of departmental proceedings.



PA
For information
and further proceedings
District Police Officer
Haripur

SP INV HR
63

10/07/18
07/03/18

CHARGE SHEET

(1) I, *Syed Khalid Hamdani (PSP, QPM)*, District Police Officer, Haripur as competent authority, hereby charge you IHC Babar Mukhtiar No. 206 as enclosed statement of allegations.

(2) You appear to be guilty of misconduct under Police Efficiency & Discipline Rules 1975 and have rendered yourself liable to all or any of the penalties specified in the said Rules.

(3) You are, therefore, required to submit your written defense within 07 days of the receipt of this charge sheet and statement of allegation to the Committee/Enquiry Officer as the case may be.

(4) Your written defense, if any, should reach the Enquiry Officer/Committee within the specified period, failing which it shall be presumed that you have no defense to put in and in that case, ex-parte action shall follow against you.

(5) Intimate whether you desire to be heard in person or otherwise.

(6) A statement of allegations is enclosed.

(Syed Khalid Hamdani) PSP, QPM
District Police Officer
Haripur

From: The Superintendent of Police,
Investigation, Haripur

To: District Police officer,
Haripur.

No: 211 PA Dated/Inv 22/5 / 2018.

Subject: DEPARTMENTAL INQUIRY AGAINST BABAR MUKHTIAR NO.206.

Kindly refer to your office No. 34-36/ PA dated 05/03/2018 through which the inquiry against IHC Babar Mukhtiar No. 206, PS KTS was marked to the undersigned.

ALLEGATION:

That he while posted as IHC at Police station KTS he along with Constable Nadeem No. 525 in plain clothes duly equipped with weapons by showing criminal force arrested a citizen namely, Zameer Khan S/O Kareem dad khan presently r/o Chungi No. 11 TIP near Paris Hotel G.T road Haripur and took him at Chungi No. 7 KTS and threaded him to register a false narcotics case if he failed to give illegal gratification of Rs. 60000/- through bargain you along with constable Nadeem extracted Rs. 45000/- from him and also charged him in case FIR No. 127 dated 27/03/2018 u/s 3/4 LHO PS KTS, you committed an offense vide FIR No. 127 dated 27/03/2018, u/s 382,342,506/34 PPC PS KTS, your involvement in heinous criminal case is gross misconduct under police efficiency and discipline Rules 1975, hence, charge sheeted.

FINDING:

Having gone through the relevant record placed on the file, statements of complainant/witnesses and after affording the opportunity of hearing to the accused police officials the undersigned has come to the following conclusion:

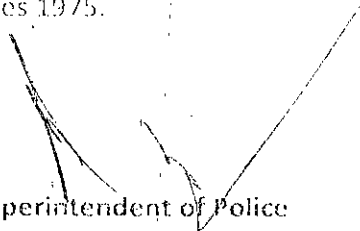
- ❖ The accused official has taken Mr. Zameer Khan S/O Kareem Dad resident of Chungi No. 11 TIP, Haripur from Paris Hotel G.T Road an area falls in Jurisdiction of Police Station City, Haripur to area of Police Station KTS and forcibly snatched Rupees. 45000/- from Zameer Khan, resultantly a case vide FIR No. 127 dated 27/03/2018, u/s 382,342,506/34 PPC PS KTS was registered against him.
- ❖ The accused police official has given money to Muharrar for entering as case property at a later stage and entry to such effect was made in register No. 19 after closure of initial entry made therein about the case. The statement of the then Muharrar Obaid Zaman is enclosed.
- ❖ The accused official has blemish service record formerly being awarded dismissal from service and many other major punishments are recorded in his service roll.

❖ The recovery of "Charas" originally was approximately 10-15 grams which was increased to 480 grams by the accused police official.

FINDING:

As inquiry officer the undersigned has come to the conclusion that allegations of taking money, tempering case property and evidence by accused police officer stand prove against IIC Babar Mukhtiar and he is found guilty.

Keeping in view of above IIC Babar Mukhtiar No:206 is recommended for Major punishment under police efficiency and discipline Rules 1975.


Superintendent of Police
Investigation, Haripur

Encl:

ORDER

Head Constable Babar Mukhtiar NO.206, while posted in PS KTS, Haripur, in plain clothes duly equipped with weapons by showing criminal force arrested a citizen namely, Zameer Khan s/o Kareem Dad Khan presently r/o Chungi No.11 TIP, near paris Hotel G,T road Haripur and took him at Chungi NO.02, KTS, and threaded him to register a false narcotics case, if he failed to give illegal gratification of Rs.60000/- through bargain he along with Constable Nadeem Khan No.525, extracted 45000/- from him, and also charged him in case FIR No.120 dated 27.02.2018, u/s 3/4 EHO, PS KTS, by doing illegal acts and omission in deviation of lawful duties, he implicated himself in criminal offence, vide case FIR No.127 dated 07.03.2018, u/s 382/342/506/34 PPC PS KTS, the acts and omissions of defaulter official were misconduct under Khyber Pakhtunkhwa, police efficiency and discipline rules 1975. therefore, He was served with statements of allegations containing charges of misconduct, vide this office Endst No.34-36/PA dated 05.03.2018.

To probe the allegations, Mr. Shams UR Rehman Superintendent of Police, Investigation, Haripur was appointed as enquiry officer, who conducted proper departmental enquiry and submitted his finding, vide his office Memo No.811/PA dated 22.05.2018. in which, he held the accused police official guilty, on receiving recommendation of enquiry officer, the accused official was served with final show cause notice, vide this office endst: NO.131-32 dated 23.05.2018 to which he submitted his reply which was not found satisfactory, so he was called in orderly room for personal hearing, the accused police official was given right of personal hearing and self defense.

Having gone through enquiry papers recommendation of enquiry officer and after personal hearing of accused HC Babar Mukhtiar, the charges of misconduct against the defaulter official stands proved, so, I am fully satisfied that HC Babar Mukhtiar committed gross misconduct, therefore, I, Syed Khalid Mehmood Hamdani, District Police Officer, Haripur being competent authority under Khyber Pakhtunkhwa Police efficiency and discipline rules 1975, awarded major punishment of "Dismissal from service" with immediate effect.

Order announced.
OB No. 577 dated 30-05-2018

*Entered in his
Service file.
30.6.2018*

District Police Officer

ORDER

This order is hereby passed to dispose off departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules 1975 submitted by **IIC Baber Mukhtiar No:206** Haripur District against the order of punishment i.e. **Dismissal from service** awarded to him by the DPO Haripur, vide his office OB No: 377, dated 30.05.2018.

Facts leading to punishment awarded to him are that he while posted at PS KTS, he alongwith Constable Nadeem No: 525 in plane clothes duly equipped with weapons by showing criminal force arrested a citizen namely, Zamceer Khan r/o Chungi No:11 TIP near Paris Hotel GT Road Haripur and took him at Ghungi No:2 KTS and threatened him to register a false narcotics case if he failed to give illegal gratification of Rs:60000/- through bargain he alongwith Constable Nadeem extracted Rs:45000/- from him and also charged him in case FIR No:120 dated 27.02.2018 u/s EHO PS KTS.

In this regard a case FIR No: 127 dated 01.03.2018 u/s 382/342/506/34 PPC PS KTS was registered against him.

After receiving his appeal, comments of DPO were obtained, which were perused. The undersigned called appellant in O.R on 20.06.2018 where he failed to explain any plausible reason in his defence. Therefore the punishment awarded to him by DPO Haripur i.e. dismissal from service seems to be genuine, which is held and his appeal is **filed**.

REGIONAL POLICE OFFICER
Hazara Region Abbottabad

No. **2778** /PA Dated Abbottabad the **21-6-2018**.

Copy of above is forwarded to the District Police Officer, Haripur vide his office Memo: No: 3684/ dated 19.06.2018 for information and necessary action.
Fauji Missal containing enquiry file is returned herewith for your office record.

REGIONAL POLICE OFFICER
Hazara Region Abbottabad

SR C / OPA
h 2110
27/6/18
27/6

4490
27/6/18
D 1220/18

SR C

14

OFFICE OF THE DISTRICT POLICE OFFICER, HARIPUR

Ph. # 0995-614712 / 0995-611291

Fax # 0995-614714

E-Mail: dpoharipur@gmail.com

No.

Dated

2019

ORDER

Head Constable Babar Mukhtiar NO.206, while posted in PS KTS, Haripur, in plain clothes duly equipped with weapons by showing criminal force arrested a citizen namely, Zaheer Khan s/o Kareem Dad Khan presently r/o Chungi No.11 TTP, near Paris Hotel G.T road Haripur and took him at Chungi No.02, KTS, and threatened him to register a false narcotics case, if he denied to give illegal gratification of Rs.60000/- through bargain. HC Babar Mukhtiar along with Constable Nadeem Khan No.525, extracted 45000/- from him, and also charged him in case FIR No.120, dated 27.02.2018, u/s 34 EHO, PS KTS, by doing illegal acts. Therefore, he implicated himself in criminal offence, vide case FIR No.127 dated 27.03.2018, u/s 382/342/506/34 PPC PS KTS, the acts and omissions of defaulter official were misconduct under Khyber Pakhtunkhwa, police efficiency and discipline rules 1975.

Therefore, he was dismissed from service by the then District Police Officer, Haripur vide OR No. 377 dated 30.05.2018, on charges of misconduct. He preferred departmental appeal to the Regional Police Officer, Hazara Region Abbottabad, which was rejected on 21.6.2018. Later on, he submitted another departmental appeal before the Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar, which was also rejected on 05.09.2018. Thereafter, HC Babar Mukhtiar filed service appeal No.851/2018 in Khyber Pakhtunkhwa, Service Tribunal Camp Court Abbottabad against the punishment. The Honorable Tribunal vide its judgment dated 17.06.2019 accepted the service appeal of appellant and reinstated him in service, the department was set at liberty to conduct the de novo proceedings.

In compliance of Honourable Service Tribunal's judgment the defaulter police official was reinstated in service and was served with charges sheet and statement of allegations vide this office Enclt No. 483-85/PA dated 24.07.2019. Additional Superintendent of Police, Mr. Zulfiqar Khan Jadoun was appointed as Enquiry Officer, who conducted proper departmental enquiry and submitted his findings vide his office Memo No. 240 dated 01.08.2019. So, he was called in Officerly Room for personal hearing and was heard in detail, but he could not give any plausible ground or justification in his defense.

Having perused the relevant record, enquiry papers and personal hearing of appellant, the charges of misconduct are proved against the defaulter police official. Therefore, I, **Dr. Zahid Ullah (PSP)**, District Police Officer, Haripur being competent authority under Khyber Pakhtunkhwa, police Efficiency and Discipline Rule 1975, am fully satisfied that Head Constable Babar Mukhtiar No.206 has committed misconduct, but lenient view is taken and he is awarded minor punishment of forfeiture of 03 years approved service, the period he remained out of service is treated as leaves without pay.

No. 5596-19

Dated 24/8/19

Copy of above is submitted to:

(District Police Officer, Haripur)

1. The Deputy Inspector General of Police, Internal Accountability Branch, Khyber Pakhtunkhwa, Peshawar
2. The Deputy Inspector General of Police, Enquiry & Discipline, KPK Peshawar
3. Assistant Inspector General of Police, Legal, Khyber Pakhtunkhwa Peshawar
4. The Regional Police Officer, Hazara Region Abbottabad

District Police Officer
Haripur

Handwritten notes and signatures in the bottom left corner, including the name 'Enclt' and other illegible text.



OFFICE OF THE REGIONAL POLICE OFFICER
HAZARA REGION, ABBOTTABAD

0992-9310021-22

0992-9310023

r.rpohazara@gmail.com

0345-9560687

NO: 19910 /PA DATED 19/08/2020

ORDER

This order will dispose off departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules, 1975 submitted by HC Babar Mukhtiar No.206 of District Haripur against the order of punishment i.e. *Forfeiture of 03 years approved service and the period during out of service as leave without pay* awarded by District Police Officer, Haripur Order No.5596-99 dated 21.08.2019.

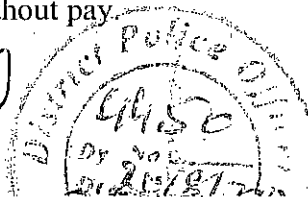
Brief facts leading to the punishment are that he while posted at PS KTS, Haripur in plain clothes, duly equipped with weapons and by showing criminal force arrested a citizen namely Zameer Khan s/o Kareem Dad Khan presently r/o Chungi No.11 TIP, Haripur and took him at Chungi No.02 KTS, threatened him to register a false narcotics case if he deny to give illegal gratification of Rs.60000/- and through bargain HC Babar Mukhtiar alongwith Constable Nadeem Khan No.525 extracted 45000/- from him and also charged him in case FIR No.120 dated 27.02.2018 U/S 3/4 EHO PS KTS.

Consequently, a case vide FIR No. 127 dated 01-03-2018 u/s 382/342/506/34 PPC PS KTS was registered against the appelland and dismissed from service vide OB No.377 dated 30.05.2018 on charges of misconduct. He preferred departmental appeal to the Regional Police Officer, Hazara Region Abbottabad which was rejected vide Order No.2778/PA dated 21-06-2018. Later the appelland preferred review petition before the Provincial Police Officer, Khyber Pakhtunkhwa, however same was rejected vide Order No. S/3588/18 dated 05.09.2018. Thereafter the appelland intited Service Appeal No.891/2018 in Khyber Pakhtunkhwa, Service Tribunal Camp Court Abbottabad against the punishment. The Honorable Service Tribunal vide its Judgment dated 17.06.2019 accepted the Service Appeal, reinstated him in service and directed to conduct denovo enquiry within 90 days.

As a result, the appelland was issued charge sheet alongwith summary of allegations and Addl: SP, Haripur was deputed to conduct departmental enquiry vide CPO Endst: No. 2498-2500/CPO/IAB/C&E dated 17-07-2019. During the course of enquiry the allegations leveled against the appelland were proved and EO recommended him for suitable punishment. He was heard in person, however he failed to advance any cogent reason in his defence. Consequently, DPO Haripur awarded him minor punishment of forfeiture of 03 years approved service and period during which the appelland remained out of service as leave without pay.

SAC/OHC

For necessary action



~~17~~

After receiving his appeal, comments of DPO Haripur were sought and examined/perused. The undersigned called the appellant in OR, heard him in person and examined the available record. Order of court dated 30-10-2018 in case FIR No. 127 dated 01-03-2018 u/s 382/342/506/34 PPC PS KTS clearly indicates that the appellant and respondent party affected compromise and as a result appellant was acquitted u/s 249-A CrPC by the learned Court. Therefore, the punishment awarded by DPO Haripur vide Order No. 5596-99 dated 21-08-2019 seems suitable and in exercise of the powers conferred upon the undersigned under Rule 11-4 (a) of Khyber Pakhtunkhwa Police Rules, 1975 the instant appeal is hereby *filed* with immediate effect.

J. Qazi

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

No. *19911* /PA, dated Abbottabad the *19-08* /2020.

CC. The District Police Officer, Haripur for information and necessary action with reference to his office Memo No.7382 dated 28-10-2019. Service Roll and Fuji Missal containing enquiry file of the appellant is returned herewith for record.

Q. Ali

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

①

SERVICE APPEAL NO.11142/2020

Babar Mukhtiar, Head Constable No.206, District Police Haripur

..... (Appellant)

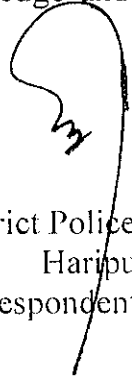
VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar, and others.

..... (Respondents)

COUNTER AFFIDAVIT

I, do hereby solemnly affirm and declare, that the contents of comments / reply, are true to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.


District Police Officer,
Haripur
(Respondent No.3)

(2)

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

SERVICE APPEAL NO.11142/2020

Babar Mukhtiar, Head Constable No.206, District Police Haripur

..... (Appellant)

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others.

..... (Respondents)

Reply/comments by respondents No.1,2&3.

Respectfully Sheweth.

PRELIMINARY OBJECTIONS:-

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

REPLY ON FACTS:-

- 1) In reply to this para, it is submitted that a citizen namely Mumraiz Khan s/o Karam Dad r/o Saeedabad TIP Haripur, moved an application before the then District Police Officer, Haripur against the appellant HC Babar Mukhtiar No.206, and Constable Nadeem Shehzad, No.525, on the allegations that the appellant along with constable Nadeem in plain clothes, duly equipped with weapons and showing criminal force, arrested his brother Zameer Khan s/o Kareem Khan r/o Chungi No.11 TIP, and took him at the jurisdiction of Police Station, KTS. Both the police officials threatened him to implicate him in a heinous narcotic case, if he failed to fulfill their demand of illegal gratification. The appellant and another police official namely Constable Nadeem compelled him to pay Rs.60,000/-. After bargain both the police officials took Rs.45,000/-, from him and got registered case FIR No.120 dated 27.03.2018, u/s 3/4-EHO Police Station KTS. The acts and omissions of the appellant were offensive in nature, consequently, case FIR No.127 dated 01.03.2018, u/s 382/342/506/34 PPC PS KTS, was registered against the appellant and Constable Nadeem Shehzad No.525. (Copy of FIR is attached as annexure "A"). The appellant committed an offense and gross misconduct. Therefore, proper departmental enquiry was conducted, the appellant was issued charge sheet and

inquiry and submitted his findings vide his office Memo.No.811/PA dated 22.05.2018. The inquiry officer held the charges proved and recommended the appellant for major punishment. (Copy of inquiry finding is attached as annexure "C"), consequently, the appellant was served with final show cause notice by the then District Police Officer, Haripur vide this office Endst No.131-32 dated 23.05.2018. The appellant was held guilty of gross misconduct, therefore, the appellant was awarded major punishment of dismissal from service, by the then District Police Officer, Haripur, vide OB.No.377, dated 30.05.2018. (Copy of order is attached as annexure "D"). The appellant filed departmental appeal to the then, worthy Regional Police Officer, Hazara Region, Abbottabad who rejected the same vide order Endst: No.2778/PA, dated 21.06.2018. (Copy of order is attached as annexure "E").

- 2) In reply to this para, it is submitted that the appellant lodged service appeal No.853/2018, against the departmental punishment in Khyber Pakhtunkhwa, Service Tribunal Camp Court Abbottabad. The honorable tribunal vide its judgment dated 17.06.2019, set asided the punishment and reinstated the appellant in service, with the direction to the department to conduct the de-novo departmental enquiry within period of 90 days. Therefore, the competent authority i.e. worthy Provincial Police Officer Khyber Pakhtunkhwa, Peshawar vide letter Endst: No.2498-2500/CPO/IAB/C&E dated 17.07.2019, ordered for the de-novo departmental enquiry against the appellant through Mr. Zulfiqar Khan Jadoon the then Addl: SP Haripur, as enquiry officer. Therefore, the appellant was served with charge sheet and statement of allegations vide this office Endst: No.483-85/PA, dated 24.07.2019. The enquiry officer conducted the de-novo enquiry and submitted his findings vide his office Memo No.240 dated 01.08.2019. In which he recommended the appellant for appropriate punishment. On receiving the findings of enquiry officer, the appellant was called in orderly room and he was heard in person by the competent authority i.e. the then District Police Officer, Haripur and being found guilty of misconduct the appellant was awarded minor punishment of forfeiture of 03 years approved service and the period in which the appellant remained out of service was treated as leave without pay vide order Endst: No.5596-99 dated 21.08.2019. (Copy of order is attached as annexure "F").
- 3) In reply to this para, it is submitted that in compliance with the judgment of Khyber Pakhtunkhwa, Service Tribunal Camp Court Abbottabad, the appellant was issued charge sheet and statement of allegation and de-novo departmental enquiry was conducted as per law. The appellant could not prove his innocence in the de-novo departmental inquiry, therefore, he was awarded punishment of forfeiture of 03 years approved service and the period he remained out of service was treated as leave without pay by the competent authority.
- 4) In reply to this para, it is submitted that the appellant could not give satisfactory reply of the charge sheet and allegations were proved through evidence. Therefore, he was awarded appropriate punishment of forfeiture of 03 years approved service and the period he remained out of service was treated as leave without pay on lawful grounds and justifications.
- 5) Incorrect, the appellant was proceeded against on charges of misconduct for registering of fake case vide FIR No.120 dated 27.02.2018 u/s 34 EHO Police Station

KTS against a citizen namely Zameer Khan s/o Karim Dad Khan r/o Chungi No.11 TIP and extracted Rs.45,000/- from him causing threats to implicate in heinous narcotic case. The acts of the appellant were offence as well as gross misconduct under the law/rules. Therefore, lawful departmental action was taken and being held guilty of misconduct the appellant was awarded appropriate punishment of dismissal from service, which was set aside by the honorable Khyber Pakhtunkhwa, Service Tribunal Camp Court Abbottabad judgment dated 17.06.2019.

- 6) Incorrect, the appellant was proceeded against on charges of misconduct. The allegations were probed in the first departmental inquiry as well as de-novo departmental inquiry. The appellant was held guilty of misconduct and charges were proved through evidence. Therefore, the appellant was awarded lawful punishment of dismissal from service, which was set aside by the honorable Khyber Pakhtunkhwa, Service Tribunal Camp Court Abbottabad with the direction to the department to conduct the de-novo departmental inquiry. Consequently de-novo departmental inquiry was conduct and appellant was awarded minor punishment of forfeiture of 03 years approved service and the period he remained out of service was treated as leave without pay by the competent authority.
- 7) In reply to this para, it is submitted that the enquiry officer collected the evidence, in the light of which he held the appellant guilty of misconduct and recommended him for appropriate punishment. Therefore, on strong evidence, the appellant was awarded punishment as per law.
- 8) Incorrect, the charges were thoroughly probed in the enquiry conducted on the issue. The appellant was held responsible for illegal acts. Moreover, he was acquitted by the court of JM-I Haripur on 30.10.2018, through compromise affected between the appellant and complainant party. Therefore, the appellant cannot claim to be innocent.
- 9) In reply to this para, it is submitted that honorable tribunal vide its judgment dated 17.06.2019 direct the respondent department to conduct the de-novo inquiry. Which was conducted and appellant was held guilty of gross misconduct in de-novo inquiry. Therefore, he was awarded appropriate lawful punishment.
- 10) Incorrect, proper departmental inquiry was conducted the appellant was served with charge sheet and statement of allegations. The appellant were given right of personal hearing and self defense. Having fulfilled all legal requirements the appellant was awarded punishment of forfeiture of 03 years approved service and the period he remained out of service was treated as leave without pay as per law/rules.
- 11) Incorrect, the appellant files departmental appeal against the punishment order before the Regional Police Officer, Hazara Region, Abbottabad, who considered all facts, circumstances and relevant evidence and rejected the departmental appeal vide his office order No.19910/PA dated 19.08.2020. (Copy of order is attached as annexure "G").

REPLY ON GROUNDS:-

- A) Incorrect, the order of respondents dated 21.08.2019 and 19.08.2020, are quite legal, based on facts, evidence and principles of natural justice, hence, the orders are lawful and maintainable.
- B) Incorrect, proper departmental inquiry was conducted. The appellant was issued charge and statement of allegations, he was also given right of personal hearing and self defense. The charges were proved through cogent evidence. Hence, the punishment is lawful and maintainable.

- C) Incorrect, the appellant was dealt with in accordance with law, rules and constitution. He was proceeded against on charges of misconduct as per law/rules. Hence, the punishment is maintainable under the law.
- D) Incorrect, the appellate authority took into consideration all facts, circumstances and relevant evidence which held the appellant guilty. Therefore, the departmental appeal of the appellant was rejected on lawful grounds and justifications.
- E) Incorrect, the appellant did not perform his duties fairly, honestly and with devotion, rather, he indulged in criminal activities and misconduct.
- F) Incorrect, the appellant was served with charge sheet and statement of allegations containing charges of misconduct. The charges were thoroughly probed and appellant was held guilty of gross misconduct. Therefore, the appellant was awarded quite legal punishment.
- G) Incorrect, since the appellant committed gross misconduct. He was awarded major punishment of dismissal from service and was reinstated in service by this honorable tribunal vide its judgment dated 17.06.2019. The appellant is not entitled for any leave/back benefits during the period of dismissal from service under the law/rues.
- H) Incorrect, the instant service appeal is badly time barred and not maintainable under the law.

PRAYER:-

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

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

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

**Regional Police Officer
 Hazara Abbottabad**

District Police Officer,
 Haripur
 (Respondent No.3)

6

Babar Mukhtiar, Head Constable No.206 District Police Haripur

..... (Appellant)

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar, and others.

..... (Respondents)

REPLY TO APPLICATION FOR CONDONATION OF DELAY IN SERVICE
APPEAL BY RESPONDENTS.

Respectfully Sheweth:-


The reply to application for condonation of delay of service appeal on behalf of respondents No. 1,2 & 3, is submitted as under:-

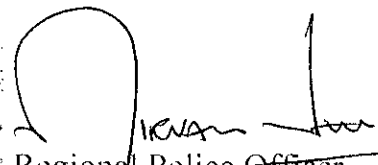
1. In reply to this para, it is submitted that a citizen namely Mumraiz Khan s/o Karam Dad r/o Saeedabad TIP Haripur, moved an application before the then District Police Officer, Haripur against the appellant HC Babar Mukhtiar No.206, and Constable Nadeem Shehzad, No.525, on the allegations that the appellant alongwith constable Nadeem in plain clothes, duly equipped with weapons and showing criminal force, arrested his brother Zameer Khan s/o Kareem Khan r/o Chungi No.11 TIP, and took him at the jurisdiction of Police Station KTS. Both the police officials threatened him to implicate him in a heinous narcotic case, if he failed to fulfill their demand of illegal gratification. The appellant and another police official namely Constable Nadeem compelled him to pay Rs.60,000/-. After bargain both the police officials took Rs.45,000/-, from him and got registered case FIR No.120 dated 27.03.2018, u/s 3/4 EHO Police Station KTS. The acts and omissions of the appellant were offensive in nature, consequently, case FIR No.127 dated 01.03.2018, u/s 382/342/506/34 PPC PS KTS, was registered against the appellant and Constable Nadeem Shehzad No.525. The appellant committed an offense and gross misconduct. Therefore, proper departmental enquiry was conducted, the appellant was issued charge sheet and statement of allegations by the then District Police Officer, Haripur vide this office Endst No.34-36/PA dated 05.03.2018. SP Investigation Haripur, Mr. Shams Ur Rehman was appointed as inquiry officer, who conducted proper departmental inquiry and submitted his findings vide his office Memo No.811/PA dated 22.05.2018. The inquiry officer held the charges proved and recommended the appellant for major punishment. Consequently, the appellant was served with final show cause notice by the then District Police Officer, Haripur vide this office Endst No.131-32 dated 23.05.2018. The appellant was held guilty of gross misconduct, therefore, the appellant was awarded major punishment of dismissal from service, by the then District Police Officer, Haripur, vide OB.No.377 dated 30.05.2018. The appellant filed departmental appeal to the then worthy Regional Police Officer, Hazara Region, Abbottabad who rejected the same vide order Endst: No.2778/PA, dated 21.06.2018. The appellant filed service appeal No.853/2018 before the honorable

Khyber Pakhtunkhwa, Service Tribunal Peshawar, the honorable Service Tribunal vide its judgment dated 17.06.2019 set aside the departmental punishment and reinstated the appellant/ petitioner is the service with the direction to the department to conduct the de-novo departmental inquiry. Consequently, de-novo inquiry was conducted and the appellant awarded minor punishment of forfeiture of 03 years approved service and the period he remained out of service was treated as leave without pay by the then District Police Officer, Haripur vide order Endst: No.5596-99 dated 21.08.2019 the appellant file departmental appeal against the punishment which rejected by the Regional Police Officer, Hazara Region, Abbottabad vide his office order No.19910/PA dated 19.08.2020. The instant service appeal is badly time barred and not maintainable under the law.

- 2. Incorrect, the respondents dealt the applicant/appellant in accordance with law/rules. The orders of punishment passed by the respondents are quite legal, based on evidence and facts, hence, maintainable under the law/rules. Moreover, the applicant has no cause of action to file the instant service appeal being time barred.
- 3. Incorrect, the respondents departmental authorities proceeded as per law/rules, the order of punishments have attained finality. The appellant/applicant was dealt with in accordance with law. Moreover, his departmental appeal was dismissed on lawful grounds, justification and evidence. Similarly, the instant service appeal is badly time barred.
- 4. Incorrect, the application for condonation of delay does not hold any legal force. Therefore, the instant service appeal and the application for condonation of delay are liable to be dismissed.

In view of above, it is most humbly prayed that the instant service appeal as well as application for condonation of delay do not hold any legal force, which may kindly be dismissed with cost, please.


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


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

District Police Officer,
 Haripur
 (Respondent No.3)

DISCIPLINARY ACTION

I, Syed Khalid Hamdani (PSP, QPM), District Police Officer, Haripur as competent authority of the opinion that you IIC Babar Mukhtiar No. 206 have rendered yourself liable to be proceeded against as you committed the following acts/omissions within the meaning of Police Efficiency & Discipline Rules 1975.

STATEMENT OF ALLEGATION

"That you while posted at PS KTS you along with Constable nadeem no.525 in plain clothes duly equipped with weapons by showing criminal force arrested a citizen namely, Zameer Khan s/o Kareem dad Khan presently r/o chungi No.11 TIP near Paris Hotel G.T. road Haripur and took him at Chungi No.2 KTS and threaded him to register a false narcotics case if he failed to give illegal gratification of Rs.60000, through bargain you alongwith Constable Nadeem extracted Rs.45000 from him and also charged him in case FIR No. 120 dated 27.03.2018 u/s 4 EHO PS KTS, you committed an offense vide FIR No.127 dated 27.02.2018, u/s 382,342,506/3 PPC PS KTS, your involvement in heinous criminal case is gross misconduct under police efficiency and discipline Rules 1975, hence, charge sheeted"

(2) For the purpose of scrutinizing the conduct of the said accused officer with reference to the above allegations, an Enquiry Committee consisting of the following is constituted.

Mr. Shams Ur Rehman, SP INV, Haripur

(3) The Enquiry Officer/Committee shall in accordance with the provision of this Ordinance, provide reasonable opportunity of hearing to the accused, record finding and make within 25 days of the receipt of this order, recommendation as to punishment or the appropriate action against the accused.

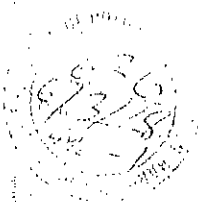
(4) The accused and a well conversant representative of departmental shall in the proceedings on the date, time and place fixed by the Enquiry Officer/Committee.

(Syed Khalid Hamdani) PSP, QPM
District Police Officer
Haripur

No: 39 /PA, dated Haripur the 27/03/2018.

Copy of above is submitted to the:

- 1) Regional Police Officer, Hazara Region, Abbottabad, please.
- 2) Enquiry Officer for initiating proceedings against the said accused under Police Efficiency & Discipline Rules 1975.
- 3) IIC Babar Mukhtiar No. 206 with the direction to submit his defense within 7 days of the receipt of this statement of allegations and also to appear before the Enquiry Officer on the date, time and place fixed for the purpose of departmental proceedings.



For information and further proceedings

(Signature)
District Police Officer
Haripur

no 10/PA
27/03/18

CHARGE SHEET

(1) I, Syed Khalid Hamdani (PSP, QPM), District Police Officer, Haripur as competent authority, hereby charge you IIC Babar Mulkhtiar No. 206 as enclosed statement of allegations.

(2) You appear to be guilty of misconduct under Police Efficiency & Discipline Rules 1975 and have rendered yourself liable to all or any of the penalties specified in the said Rules.

(3) You are, therefore, required to submit your written defense within 07 days of the receipt of this charge sheet and statement of allegation to the Committee/Enquiry Officer as the case may be.

(4) Your written defense, if any, should reach the Enquiry Officer/Committee within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall follow against you.

(5) Intimate whether you desire to be heard in person or otherwise.

(6) A statement of allegations is enclosed.

(Syed Khalid Hamdani) PSP, QPM
District Police Officer
Haripur

From: The Superintendent of Police,
Investigation, Haripur

To: District Police Officer,
Haripur.

No: 211/PA Dated/Inv 21/3/2018

Subject: DEPARTMENTAL INQUIRY AGAINST BABAR MUKHTIAR NO.206.

Kindly refer to your office No. 37-36/ PA dated 05/03/2018 through which the inquiry against IIC Babar Mukhtiar No. 206, PS KTS was marked to the undersigned.

ALLEGATION:

That he while posted as IIC at Police station KTS he along with Constable Nadeem No. 525 in plain clothes duly equipped with weapons by showing criminal force arrested a citizen namely, Zameer Khan S/O Kareem dad khan presently r/o Chungi No. 11 TP near Paris Hotel G.I road Haripur and took him at Chungi No. 2 KTS and threatened him to register a false narcotics case if he failed to give illegal gratification of Rs. 60000/- through bargain you along with constable Nadeem extracted Rs. 45000/- from him and also charged him in case FIR No. 127 dated 27/03/2018 u/s 3/4 EHO PS KTS, you committed an offense vide FIR No. 127 dated 27/03/2018, u/s 382,342,506/34 PPC PS KTS, your involvement in heinous criminal case is gross misconduct under police efficiency and discipline Rules 1975, hence, charge sheeted.

FINDING:

Having gone through the relevant record placed on the file, statements of complainant/witnesses and after affording the opportunity of hearing to the accused police officials the undersigned has come to the following conclusion:

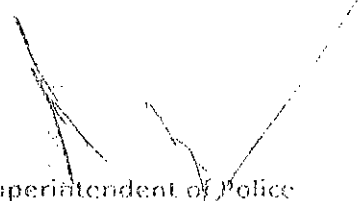
- ❖ The accused official has taken Mr. Zameer Khan S/O Kareem Dad resident of Chungi No: 11 TP, Haripur from Paris Hotel G.I Road an area falls in jurisdiction of Police Station City, Haripur to area of Police Station KTS and forcibly snatched Rupees. 45000/- from Zameer Khan, resultantlly a case vide FIR No. 127 dated 27/03/2018, u/s 382,342,506/34 PPC PS KTS was registered against him.
- ❖ The accused police official has given money to Muharrar for entering as case property at a later stage and entry to such effect was made in register No. 19 after closure of initial entry made therein about the case. The statement of the then Muharrar Obaid Zaman is enclosed.
- ❖ The accused official hasblemish service record formerly being awarded dismissal from service and many other major punishments are recorded in

❖ The recovery of "Churras" originally was approximately 10-15 grams which was increased to 480 grams by the accused police official.

FINDING:

As inquiry officer the undersigned has come to the conclusion that allegations of taking money, tampering case property and evidence by accused police officer stand prove against IIC Babar Mukhtiar and he is found guilty.

Keeping in view of above IIC Babar Mukhtiar No.206 is recommended for Major punishment under police efficiency and discipline Rules 1975.


Superintendent of Police
Investigation, Haripur

encl:

ORDER

Head Constable Babar Mukhtiar NO.206, while posted in PS KTS, Haripur, in plain clothes duly equipped with weapons by showing criminal force arrested a citizen namely, Zameer Khan s/o Kareem Dad Khan presently r/o Chungi No.11 TIP, near paris Hotel G.T road Haripur and took him at Chungi NO.02, KTS, and threaded him to register a false narcotics case, if he failed to give illegal gratification of Rs.6000/- through bargain he along with Constable Nadeem Khan No.525, extracted 45000/- from him, and also charged him in case FIR No.120 dated 27.02.2018, u/s 3/4 EHO, PS KTS, by doing illegal acts and omission in deviation of lawful duties, he implicated himself in criminal offence, vide case FIR No.127 dated 07.03.2018, u/s 382/342/506/34 PPC PS KTS, the acts and omissions of defaulter official were misconduct under Khyber Pakhtunkhwa, police efficiency and discipline rules 1975. therefore, He was served with statements of allegations containing charges of misconduct, vide this office Endst No.34-36/PA dated 05.03.2018.

To probe the allegations, Mr. Shams UR Rehman Superintendent of Police, Investigation, Haripur was appointed as enquiry officer, who conducted proper departmental enquiry and submitted his finding, vide his office Memo No.811/PA dated 22.05.2018, in which, he held the accused police official guilty, on receiving recommendation of enquiry officer, the accused official was served with final show cause notice, vide this office endst: NO.131-32 dated 23.05.2018 to which he submitted his reply which was not found satisfactory, so he was called in orderly room for personal hearing, the accused police official was given right of personal hearing and self defense.

Having gone through enquiry papers recommendation of enquiry officer and after personal hearing of accused HC Babar Mukhtiar, the charges of misconduct against the defaulter official stands proved, so, I am fully satisfied that HC Babar Mukhtiar committed gross misconduct, therefore, I, Syed Khalid Mehmood Hamdani, District Police Officer, Haripur being competent authority under Khyber Pakhtunkhwa Police efficiency and discipline rules 1975, awarded major punishment of "Dismissal from service" with immediate effect.

Order announced.
 OB No. 517 dated 30-05-2018

District Police Officer

*Exptd. in file
 30-6-2018*

14 1


ORDER

This order is hereby passed to dispose off departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules 1975 submitted by **IIC Baber Mukhtiar No:206** Haripur District against the order of punishment i.e. **Dismissal from service** awarded to him by the DPO Haripur vide his office OB No: 377, dated 30.05.2018.

Facts leading to punishment awarded to him are that he while posted at PS KTS, he alongwith Constable Nadeem No: 525 in plain clothes duly equipped with weapons by showing criminal force arrested a citizen namely, Zamcer Khan r/o Chungi No:11 TIP near Paris Hotel GT Road Haripur and took him at Chungi No:2 KTS and threatened him to register a false narcotics case if he failed to give illegal gratification of Rs.60000/- through bargain he alongwith Constable Nadeem extracted Rs.45000/- from him and also charged him in case FIR No: 20 dated 27.02.2018 u/s EHO PS KTS.

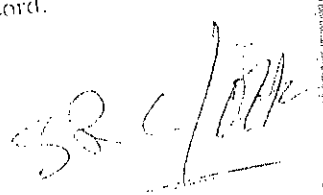
In this regard a case FIR No: 127 dated 01.03.2018 u/s 382/342/506/34 PPC PS KTS was registered against him.


After receiving his appeal comments of DPO were obtained, which were perused. The undersigned called appellant in O.R on 20.06.2018 where he failed to explain any plausible reason in his defence. Therefore the punishment awarded to him by DPO Haripur i.e. dismissal from service seems to be genuine, which is held and his appeal is *filed*.


REGIONAL POLICE OFFICER
Hazara Region Abbottabad

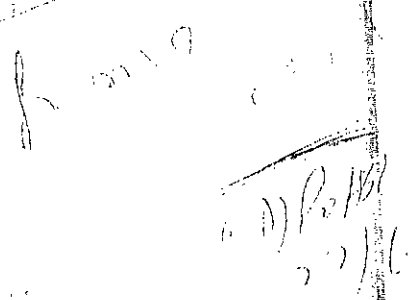
No. 2778
IPA Dated Abbottabad the 21/6/2018.

Copy of above is forwarded to the District Police Officer, Haripur vide his office Memo: No: 3684/ dated 19.06.2018 for information and necessary action. Fauji Missal containing enquiry file is returned herewith for your office record.




REGIONAL POLICE OFFICER
Hazara Region Abbottabad

0490
27/6/18
DPO



32C



OFFICE OF THE REGIONAL POLICE OFFICER
HAZARA REGION, ABBOTTABAD

0992-9310021-22

0992-9310023

r.rpohazara@gmail.com

0345-9560687

NO: 19910 /PA DATED 19/08/2020

ORDER

This order will dispose off departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules, 1975 submitted by HC Babar Mukhtiar No.206 of District Haripur against the order of punishment i.e. *Forfeiture of 03 years approved service and the period during out of service as leave without pay* awarded by District Police Officer, Haripur Order No.5596-99 dated 21.08.2019.

Brief facts leading to the punishment are that he while posted at PS KTS, Haripur in plain clothes, duly equipped with weapons and by showing criminal force arrested a citizen namely Zameer Khan s/o Kareem Dad Khan presently r/o Chungi No.11 TIP, Haripur and took him at Chungi No.02 KTS, threatened him to register a false narcotics case if he deny to give illegal gratification of Rs.60000/- and through bargain HC Babar Mukhtiar, alongwith Constable Nadeem Khan No.525 extracted 45000/- from him and also charged him in case FIR No.120 dated 27.02.2018 U/S 3/4 EHO PS KTS.

Consequently, a case vide FIR No. 127 dated 01-03-2018 u/s 382/342/506/34 PPC PS KTS was registered against the appellant and dismissed from service vide OB No.377 dated 30.05.2018 on charges of misconduct. He preferred departmental appeal to the Regional Police Officer, Hazara Region Abbottabad which was rejected vide Order No.2778/PA dated 21-06-2018. Later the appellant preferred review petition before the Provincial Police Officer, Khyber Pakhtunkhwa, however same was rejected vide Order No. S/3588/18 dated 05.09.2018. Thereafter the appellant intited Service Appeal No.891/2018 in Khyber Pakhtunkhwa, Service Tribunal Camp Court Abbottabad against the punishment. The Honorable Service Tribunal vide its Judgment dated 17.06.2019 accepted the Service Appeal, reinstated him in service and directed to conduct denovo enquiry within 90 days.

As a result, the appellant was issued charge sheet alongwith summary of allegations and Addl: SP, Haripur was deputed to conduct departmental enquiry vide CPO Endst: No. 2498-2500/CPO/IAB/C&E dated 17-07-2019. During the course of enquiry the allegations leveled against the appellant were proved and EO recommended him for suitable punishment. He was heard in person, however he failed to advance any cogent reason in his defence. Consequently, DPO Haripur awarded him minor punishment of forfeiture of 03 years approved service and period

17

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After receiving his appeal, comments of DPO Haripur were sought and examined/perused. The undersigned called the appellant in OR, heard him in person and examined the available record. Order of court dated 30-10-2018 in case FIR No. 127 dated 01-03-2018 u/s 382/342/506/34 PPC PS KTS clearly indicates that the appellant and respondent party affected compromise and as a result appellant was acquitted u/s 249-A CrPC by the learned Court. Therefore, the punishment awarded by DPO Haripur vide Order No. 5596-99 dated 21-08-2019 seems suitable and in exercise of the powers conferred upon the undersigned under Rule 11-4 (a) of Khyber Pakhtunkhwa Police Rules, 1975 the instant appeal is hereby *filed* with immediate effect.

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

No. 19911 /PA, dated Abbottabad the 19-08 /2020.

CC.

The District Police Officer, Haripur for information and necessary action with reference to his office Memo No.7382 dated 28-10-2019. Service Roll and Fuji Missal containing enquiry file of the appellant is returned herewith for record.