

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.16415/2020

Date of Institution ... 24.12.2020
Date of Decision ... 23.06.2022

Mr. Inayat Ur Rehman Ex-Constable No.1468, Police Line Dir Lower,
Timergara.

... (Appellant)

VERSUS

The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and
two others.

... (Respondents)

Noor Muhammad Khattak,
Advocate,

... For appellant.

Kabir Ullah Khattak,
Additional Advocate General

... For respondents.

Rozina Rehman
Fareeha Paul

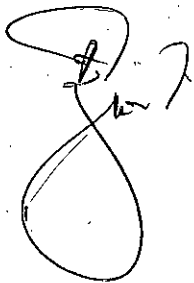
... Member (J)
... Member (E)

JUDGMENT

ROZINA REHMAN, MEMBER (J): The appellant has invoked the
jurisdiction of this Tribunal through above titled appeal with the prayer
as copied below:

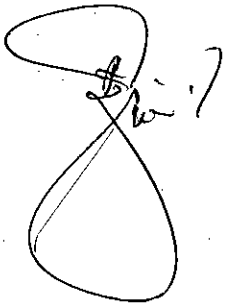
**"On acceptance of this service appeal the impugned orders
dated 21.10.2020 & 27.11.2020 may very kindly be set aside and
the appellant be re-instated into service with all back benefits".**

2. Brief facts of the case are that appellant was the employee of
respondent Department who served as Constable. He alongwith his



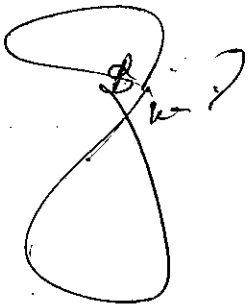
other colleagues were on night patrolling duty under the supervision of Incharge ASI Muhammad Naseer Khan in the premises of Police Station, Munda. While performing patrolling duties, he saw some suspicious activities in Patrol Pump and noted that some thieves were looting the office. Upon reaching the spot, unknown criminals opened fire with assault rifles and also attacked with hand grenades. In response, the Police officials also exchanged cross fire resulted in the martyrdom of Muhammad Naseer Khan on spot while Constable Iltaf Hussain received serious injuries. The appellant and his other colleagues tried to call their Patrolling Officer i.e. Muhammad Naseer Khan but no response was received from him, therefore, Driver Zahid Hussain took the injured constable Iltaf Hussain in the Police Mobile to the Hospital for treatment. The appellant was present at the crime scene and tried to defend his other colleagues. That the criminals escaped from the spot where-after, they found the dead body of ASI Muhammad Naseer Khan on spot. Departmental inquiry was conducted and during the course of inquiry, final show cause notice was issued to the appellant which was replied and consequently major penalty of removal from service was imposed upon appellant. He filed departmental appeal which was rejected, hence, the present service appeal.

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

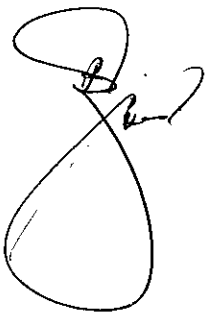


4. Noor Muhammad Khattak Advocate, learned counsel for the appellant argued inter alia that the impugned orders dated 21.10.2020 and 17.11.2020 are against law, facts, norms of natural justice and material on record, hence, not tenable and liable to be set aside. He contended that the appellant was not treated by the Department in accordance with law and rules and they violated Articles-4 & 25 of the Constitution of Islamic Republic of Pakistan, 1973. It was further argued that no regular inquiry was conducted and no charge sheet with statement of allegations was ever issued to the appellant before the impugned order. Lastly, he submitted that no chance of personal hearing was afforded to the appellant and that the Inquiry report was also not supplied, therefore, the appellant was requested to be reinstated with all back benefits.

5. Conversely, learned AAG submitted that the appellant alongwith other officials were on patrolling duty. During patrolling, on reaching New Jandool Filling Station, Ghanam Shah, ASI Muhammad Naseer Khan noticed some unknown persons hostaging the sales man of Petrol Pump. He deborded from official vehicle and rushed to the Manager Petrol Pump Office, accused started firing and ASI got martyrdom on spot while appellant and other Police party fled away from the spot and thus, they earned a bad name for Khyber Pakhtunkhwa Police by crossing all levels of cowardliness. Lastly, he submitted that proper departmental inquiry was conducted to dig-out the facts and the appellant was properly associated with whole inquiry proceedings, where-after, he was punished after compliance of all codal formalities.



6. After hearing the learned counsel for the parties and going through the record of the case with their assistance and after perusing the precedent cases cited before us, we are of the opinion that during patrolling on second Gusht with Shaheed ASI Muhammad Naseer Khan, some unknown miscreants opened indiscriminate firing upon ASI Muhammad Naseer Khan and resultantly, he got martyrdom on spot. A proper case vide FIR No.176 was registered at Police Station Munda on 10.07.2020 against unknown accused U/S 302/324/353/427/148/149 PPC/7ATA. According to CCTV Cameras, present appellant alongwith other colleagues fled away from spot, therefore, Constable Inayat Ur Rehman and Driver Constable Zahid Hussain were charge sheeted and one Muhammad Zaman Acting DSP Headquarter Dir Lower was appointed as Inquiry Officer. There is nothing on file which could show that charge sheet alongwith statement of allegations were properly communicated to the appellant and that he was associated to departmental proceedings. Finding report is available on file, however, there is nothing as to who were examined as witnesses during the inquiry proceedings. The learned counsel for appellant laid stress on the point that the Inquiry officer conducted inquiry proceedings in a manner not admissible under the law. The inquiry report is available on file but the statement of witnesses are not available and were never tried to produce before this Bench. The appellant was never provided any opportunity of cross-examination. Appellant was never confronted with the footage of CCTV Cameras during inquiry proceedings. To say the least, the inquiry proceedings were not conducted according to the

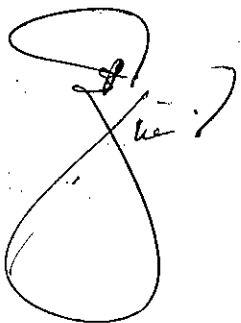


requirements of law. It is also clear from the record that the authority did not provide opportunity of personal hearing to the appellant.

7. Record further shows that final show cause notice issued to the appellant on 11.09.2020 is available on file which was replied by the appellant but his stance was not taken into consideration and despite his request no chance of personal hearing was afforded to the appellant. Charge sheet and statement of allegation coupled with inquiry report would reveal that one Muhammad Zaman DSP Headquarter Timergara was appointed as Inquiry Officer whereas show cause notice shows that proper departmental inquiry was conducted by Mr. Ijaz Ali Acting SDPO Circle Jandool which inquiry report is not available on file and was never discussed by the learned AAG during arguments.

8. The respondents have very blatantly violated the set norms and rules and conducted the proceedings in an authoritarian manner. Major punishment of removal from service was imposed upon appellant. It is however, a well-settled legal proposition duly supported by numerous judgments of Apex Court that for imposition of major penalty, regular inquiry is a must. No doubt that the incident took place where an ASI Muhammad Naseer Khan got martyrdom while Constable Iltaf received serious injuries on his person but the punishment awarded to the appellant is also very harsh which does not commensurate with the gravity of misconduct.

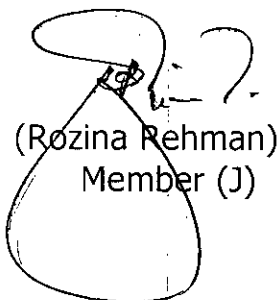
9. Keeping in view the above observation, this appeal is partially accepted, while setting aside the impugned orders appellant is



reinstated in service and the punishment of dismissal from service is converted into stoppage of two annual increment without cumulative effect. Parties are left to bear their own costs. File be consigned to the record room.

Announced
23.06.2022


(Fariha Paul)
Member (E)


(Rozina Rehman)
Member (J)

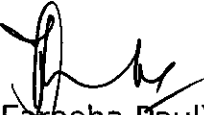
ORDER
23.06.2022


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, this appeal is partially accepted, while setting aside the impugned orders appellant is reinstated in service and the punishment of dismissal from service is converted into stoppage of two annual increments without cumulative effect. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
23.06.2022


(Fareeha Paul)
Member (E)


(Rozina Rehman)
Member (J)

08.11.2021

Clerk of counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Clerk of counsel for the appellant stated that learned counsel for the appellant is unable to attend the Tribunal today due to strike of Lawyers. Adjourned To come up for arguments before the D.B. on 09.02.2022.



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



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

9-2-2022

Due to retirement of the Honorable Chairman the case is adjourned to come up for the same as before on 2-6-2022


Reader

2-6-22

Proper DB not available the case is adjourned to 23-6-22


Reader

21.06.2021

Appellant in person and Mr. Kabirullah Khattak, Addl. AG alongwith Ijaz Ali, H.C for the respondents present.

Respondents have not submitted reply/comments. Representative of the respondents seeks further time. Respondents are directed to submit reply/comments in office within 10 days, 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 on 08.11.2021 before the D.B.

Stipulated period has passed and reply has not been submitted. This appeal also accompanies one other connected appeal.


Chairman

P.S

05.07.2021

ds
Learned Addl: A.G be reminded about the omission and for submission of Reply/comments within extended time of 10 days.


Chairman

01.02.2021

Counsel for the appellant present.

Learned counsel referred to the impugned order dated 21.10.2020 and contended that the enquiry/report mentioned therein was not a regular one. The allegation against the appellant was of the nature which required exhaustive evidence and statement of witnesses of the occurrence. The respondents did not attempt to carry out the proceedings in accordance with the applicable rules and the judgments of Apex Court as well as of this Tribunal handed down from time to time. The contents of impugned order suggest that statement of allegation and the charge sheet were never issued to the appellant, it was added.

Subject to all just exceptions, the appeal in hand is admitted to regular hearing subject to all just exceptions. Appellant is required to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 28.04.2021 before S.B.

Appellant Deposited
Security & Process Fee

03/2/21


Chairman

28.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 21.06.2021 for the same as before.

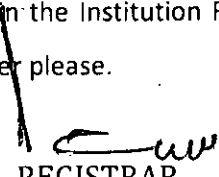


Reader

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 16415 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	24/12/2020	<p>The appeal of Mr. Inayat-ur-Rehman presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2-</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>01/02/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2020

INAYAT UR REHMAN

VS

POLICE DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
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5	Reply	D	8.
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7	Departmental appeal	F	10.
7	Appellate order	G	11.
8	Vakalat nama	12.

APPELLANT

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

APPEAL NO. 16415/2020

Diary No. 16913

Dated 24/12/2020

Mr. Inayat-ur-Rehman, Ex-Constable No.1468,

Police Line Dir Lower, Timergara.....**APPELLANT**

VERSUS

- 1- The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2- The Regional Police Officer Malakand Region at Saidu Sharif, Swat.
- 3- The District Police Officer, Dir Lower, Timergara.

.....**RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT-1974 AGAINST THE IMPUGNED ORDER DATED 21.10.2020 WHEREBY THE APPELLANT HAS BEEN REMOVED FROM SERVICE AND AGAINST THE APPELLATE ORDER DATED 27.11.2020 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS.

PRAYER:

That on acceptance of this service appeal the impugned orders dated 21.10.2020 & 27.11.2020 may very kindly be set aside and the appellant be re-instated into service with all back benefits. Any other remedy which this august tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

- 1- That the appellant was the employee of the respondent department and had served as Constable for quite considerable period quiet efficiently and up to the entire satisfaction of his superiors.
- 2- That the appellant along with his other colleagues were on night patrolling duty under the supervision of Incharge ASI Muhammad Naseer Khan at the premises of Police Station Munda.
- 3- That the appellant while performing patrolling duties his superior ASI Muhammad Naseer Khan saw some suspicious activities in patrol

Filed to - da

Registrar

24/12/20

pump and saw that some thieves were looting the office and holding the staff hostage. That upon reaching the spot unknown criminals/thieves opened fire with assault rifles and attacked with Hand grenades on the police officials and in response the police officials exchanged cross fire with the thieves, resulted in which ASI Muhammad Naseer Khan got martyred on the spot and another police constable Altaf Hussain NO. 2086 was seriously injured. Copy of the FIR & Roznamcha are attached as annexure.....**A & B**).

- 4- That during the above circumstances the appellant and other officials calling their patrolling officer i.e. ASI Muhammad Naseer Khan but no response had been received from him while the driver of police mobile took the injured constable Altaf Hussain in the police mobile to the Hospital for treatment.
- 5- That the appellant was present at the crime scene and was busy in exchanging fire with the criminals/thieves and defended him and his other police officials. That during the cross firing the criminals/thieves escaped from the spot and when the officials reached to his superior ASI Muhammad Naseer Khan, found him dead on the spot.
- 6- That after the above mentioned incident the respondent Department conducted internal inquiry in the matter without participation the appellant. That during the course of inquiry the respondent No.3 issued the final show cause notice to the appellant which was properly replied by the appellant and denied all the allegations leveled against him. Copies of the final show cause notice and reply are attached as annexure.....**C & D**.
- 7- That astonishingly the respondent No.3 issued the impugned order dated 21.10.2020 whereby major penalty of removal from service has been imposed upon the appellant. Copy of the impugned order is attached as annexure.....**E**.
- 8- That feeling aggrieved from the impugned order dated 21.10.2020 the appellant preferred Departmental appeal before the respondent No.2 but the same has been rejected by the appellate authority vide order dated 27.11.2020 on no good grounds. Copies of the Departmental appeal & appellate order are attached as annexure.....**F & G**.
- 9- That the appellant feeling aggrieved and having no other remedy but to file the instant service appeal on the following grounds amongst others.

GROUND:

- A- That the impugned orders dated 21.10.2020 & 27.11.2020 are against law, facts, norms of natural justice and material on record, hence not tenable and liable to be set aside.
- B- That the appellant has not been treated by the respondent department in accordance with law and rules on the subject noted above and as such violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan.
- C- That the respondent department acted in arbitrary and malafide manner while issuing the impugned orders dated 21.10.2020 and 27.11.2020.
- D- That no regular inquiry has been conducted before issuing the impugned order dated 21.10.2020 which is against law, hence the same is liable to be set aside.
- E- That no charge sheet and statement of allegation has been issued to the appellant before issuing the impugned order dated 21.10.2020.
- F- That no chance of personal hearing/defense has been provided to the appellant before issuing the impugned order dated 21.10.2020 which is necessary as per Apex Court Judgment before taking punitive actions against the civil servants.
- G- That the inquiry report has not been supplied to the appellant before passing the impugned order dated 21.10.2020.
- H- That the appellant seeks permission to advance any other ground and proof at the time of hearing.

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

Dated: 22.12.2020

APPELLANT

INAYAT-UR-REHMAN

THROUGH:

NOOR MUHAMMAD KHATTAK

&

HAIDER ALI

ADVOCATES

ابتدائی اطلاعی رپورٹ

4- (4)

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ 154 مجموعہ ضابطہ فوجداری

تھانہ منڈہ ضلع دیروڑ

علت 176 تاریخ وقت وقوعہ 10.07.2020 وقت 00:50 بجے

1	تاریخ، وقت رپورٹ 10.07.2020 وقت 01:10 بجے	چاکیڈگی پرچہ مورخہ 10.07.2020 وقت 02:00 بجے
2	نام و سکونت اطلاع دہندہ مستغیث	کنسٹیبل الطاف حسین نمبر 2086 تھانہ منڈہ CNIC: 15302.8274527.7 MOB 03465970992
3	مختصر کیفیت جرم	PPC 302.324.353.427.148.149/7ATA.395.3/4ESA
4	جائے وقوعہ فاصلہ تھانہ سے اور سمت	روڈ روندہ منڈہ تاتیرگرہ بمقام نیو جنرل فلنگ سٹیشن غنم شاہ فاصلہ 3 کلومیٹر جانب جنوب از تھانہ
5	نام و سکونت ملزم	
6	کارروائی جو تفتیش کے متعلق کی گئی	بہ رسیدگی تحریری مراسلہ پرچہ دیا گیا
7	تھانہ سے روانگی کی تاریخ و وقت	بطور پیش رپورٹ

ابتدائی اطلاعی رپورٹ نیچے درج کرو۔

بوقت صدر بچے ایک تحریری مراسلہ منجانب نور غنی خان SI انچارج چونکہ منڈہ بدست کنسٹیبل جمشید خان نمبر 2223 موصول ہو کر حرف بحرف بہ مضمون ذیل ہے۔ بخدمت افسر مہتمم تھانہ منڈہ۔ اطلاع ملی کہ تھانہ ہذا کی موبائل گاڑی پر بمقام بالا فائیرنگ ہوئی ہے۔ اطلاع کے پیش نظر تصدیق اور قانونی کارروائی کی خاطر فوراً موقعہ آکر محمد نصیر خان ASI کی نقش قتل شدہ خون میں لت پت زمین پر پڑا ہے۔ جبکہ کنسٹیبل الطاف حسین نمبر 2086 زخمی حالت میں موقعہ پر موجود پڑا پاپا کیوں رپورٹ کرتا ہے۔ کہ ام شب میں معہ کنسٹیبل عنایت الرحمان نمبر 1468 حسب معمول محمد نصیر خان ASI صاحب کیساتھ بسلسلہ موبائل گشت شینہ بسواری پک اپ سرکاری نمبری A3062: تھانہ ڈرائیور زاہد حسین نمبر 1397 بازار منڈہ سے بطرف گوسم جا رہے تھے۔ جب بوقت صدر بچے نیو جنرل فلنگ سٹیشن غنم شاہ آئے۔ تو پیٹرول پمپ منڈہ کے اندر 5/6 کسان با مسلح اسم و مسکن نامعلوم دکھائے دیئے۔ اور پمپ منڈہ کے سبز میں معہ دیگر شخص کو یرغمال کیئے تھے۔ جب ہم محمد نصیر خان ASI کیساتھ پک اپ سرکاری سے نیچے اتر کر اسی اثناء با مسلح کسان نے ہم پر اچانک اسلحہ آٹھین سے اندھا دھند فائیرنگ شروع کی۔ اور بعدہ ہم پر سینڈ گرنیز چھیک کر جس سے زور دبا دھماکہ ہوا۔ ہم نفری پولیس نے حق حفاظت خود اختیاری کی خاطر ملزمان پر اپنے اپنے رائفلوں سے بھی جوابی فائیرنگ کی۔ نتیجہ کے طور پر ملزمان کے فائیرنگ سے میں دائیں پاؤں کے گھٹنے کے پیچھے جانب لگ کر شدید زخمی ہوا۔ جبکہ محمد نصیر خان ASI ملزمان نامعلوم کی فائیرنگ سے بدن کے مختلف حصوں پر لگ کر جان بحق ہوا۔ جبکہ دیگر نفری کنسٹیبلان عنایت الرحمان 1468، زاہد حسین 1397 ملزمان کی فائیرنگ سے بال بال بچ گئے۔ اور ملزمان نے رات کی تاریکی سے فائدہ اٹھاتے ہوئے فرار ہوئے۔ وقوعہ ہذا میرے اور ہمراہیان ام کے علاوہ پیٹرول پمپ کے موجود سبز میںوں کا چشم دید ہے۔ میں اپنے آپ اور ہمراہیان ام پر بہ ارادہ قتل فائیرنگ کر کے زخمی کرنے، سرکاری ڈیوٹی میں مزاحمت کرنے اور محمد نصیر خان ASI کے قتل کرنے، دہشت پھیلانے اور گاڑی سرکاری کو نقصان رسیدہ کرنے کا برخلاف ملزمان 5/6 کسان اسم و مسکن نامعلوم دعویدار ہوں۔ رپورٹ کرتا ہوں۔ غور ہوئے۔ العبد دستخط انگریزی۔ کارروائی پولیس حسب گفتہ سائیکل رپورٹ حرف بحرف درج صدر ہو کر پڑھ کر سیکرٹ کیا گیا۔ درست تسلیم کر کے زیر رپورٹ خود دستخط ثبت کی۔ جسکا میں تصدیق کرتا ہوں۔ مجروح الطاف حسین نمبر 2086/FC کا نقشہ ضرر اور شہید محمد نصیر خان ASI کا فرد صورتحال، نقشہ ضرر مرتب کر کے زیر حفاظت کریم اللہ LHC بغرض پوسٹارٹ کر دوانے ہسپتال منڈہ بھیجوائے گئے۔ پیٹرول پمپ کے سبز میں عزیز اللہ، مطیع اللہ موقعہ پر موجود ہیں۔ جنہوں نے بتلایا۔ کہ ملزمان 5/6 کسان تھے۔ جو کہ مسلح بہ ہتھیار تھے۔ جسکو سامنے آنے پر پہچان سکتے ہیں۔ جنہوں نے ہم دونوں کے اکھوں پر پٹیاں باندھ کر سیف کے دراز توڑ کر 4/5 لاکھ روپیہ نقد اور ہمارے دونوں کے زیر استعمال موبائل سیٹ بزور چھین کر لے گئے ہیں۔ اور دوران فائیرنگ پیٹرول پمپ کے شیشے بھی نقصان رسیدہ ہو چکے ہیں۔ حالات واقعات سے صورت جرم بالا کا پائی جا کر برخلاف ملزمان نامعلوم مراسلہ ضبط تحریر میں لاکر بغرض قانونی مقدمہ بطور پیش رپورٹ بدست کنسٹیبل جمشید 2223 ارسال تھانہ ہے۔ مقدمہ درج رجسٹر کر کے انوسٹی گیشن وینگ کو مامور تفتیش کیا جائے۔ مراسلہ بطور پیش رپورٹ گزارش ہے۔ دستخط انگریزی نور غنی خان SI انچارج چونکہ منڈہ مورخہ 10.07.2020۔ کارروائی تھانہ پس آمدہ مراسلہ حرف بحرف درج صدر ہو کر پرچہ بجرم فوق چاک کیا گیا۔ نقل پرچہ معہ اصل مراسلہ بمواد تفتیش حوالہ انچارج انوسٹی گیشن کیجاتی ہے۔ افسران بالا کو اطلاع دی جا رہی ہے۔ پرچہ بطور پیش رپورٹ گزارش ہے۔ جناب عالی! نقل مطابق اصل ہے۔

MASI PS Muñda

14.07.2020

B-5

ضلع دیرواڑ

تھانہ منڈہ

نقلمد 13 روزنامچہ 10.07.2020

13 داپسی / رپورٹ عقل امین خان SI مورخہ 10.07.2020 وقت 13:15 بجے میں معہ ہماریان بحوالہ مد 40 روزنامچہ 10.07.2020 بند شدہ علاقہ غنم شاہ وغیرہ سے واپس آیا۔ اطلاع ملی کہ تھانہ ہذا کے موبائیل گاڑی پر کسی ملزم / ملزمان نامعلوم نے فائبرنگ کی ہے۔ اطلاع کے پیش نظر میں معافزنی پولیس موقعہ جاگر جہاں پر محمد نصیر خان ASI بیٹروول پمپ میں ملزمان نامعلوم کی فائبرنگ سے لگ کر خون میں لت پت قتل شدہ زمین پر پڑا تھا۔ جبکہ کنسٹیبل الطاف حسین نمبر 2086 زخمی حالت میں موقع پر موجود پڑا پا کر نور غنی خان Si انچارج چونکہ منڈہ کوپوں رپورٹ کی۔ کہ ام شب میں معہ کنسٹیبل عنایت الرحمان 1468 حسب معمول محمد نصیر خان ASI صاحب کیساتھ بسلسلہ موبائیل گشت شبینہ بسواری پک اپ سرکاری نمبری A3062، تنخوئل ڈیڑا یور زاہد حسین نمبر 1397 بازار منڈہ سے بطرف گوٹم جارہے تھے۔ جب بوقت 00:50 بجے نیو جنرول فلنگ سٹیشن غنم شاہ آہنچے۔ تو بیٹروول پمپ متذکرہ کے اندر 5/6 کسان با مسلح اسم و مسکن نامعلوم دکھائے دیئے۔ اور بیٹروول پمپ متذکرہ کے سلیزمین معہ دیگر شخص کو یرغمال کئے تھے۔ جب ہم محمد نصیر خان ASI کیساتھ ایک اپ سرکاری سے نیچے اتر کر ایسی شاہ با مسلح کسان نے ہم پر اچانک اسلحہ اتھین سے اندھا دھند فائرنگ شروع کی۔ نتیجہ کے طور پر ملزمان کی فائبرنگ سے میں دائیں پاؤں کے گھٹنے کے پیچھے جانب سے لگ کر شدید زخمی ہوا۔ جبکہ محمد نصیر خان ASI ملزمان نامعلوم کی فائبرنگ سے بدن کے مختلف حصوں پر لگ کر جان بچوا ہوا۔ جبکہ دیگر تقریبی کنسٹیبلان عنایت الرحمان 1468، ڈیڑا یور زاہد حسین 1397 ملزمان کی فائبرنگ سے ہال بال بچ گئے۔ اور ملزمان نے رات کی تاریکی سے فائدہ اٹھاتے ہوئے فرار ہوئے۔ ہم تقریبی پولیس نے بھی ملزمان پر حق حفاظت خود اختیار کی کی خاطر جو ابلی فائبرنگ کی ہے۔ نور غنی خان SI نے کنسٹیبل الطاف حسین 2086 کی رپورٹ پر سر اسٹیشن پٹوڑا سٹیبل رپورٹ بر خلاف ملزمان اسم و مسکن نامعلوم ارسال تھانہ کی۔ جس پر مقدمہ علت 176 مورخہ 10.07.2020 جرم 302.324.353.427.148.149.7ATA پر 10.07.2020 تھانہ منڈہ درج رجسٹر ہو چکا ہے۔ نش محمد نصیر خان ASI مورخہ کنسٹیبل الطاف حسین نمبر 2086 کو بغرض علاج مجالہ ہسپتال منڈہ لایا گیا۔ جو کہ مذکورہ کو مزید علاج معالجہ کی خاطر ہسپتال نیمرگرہ ریفر کیا گیا ہے۔ کنسٹیبل الطاف حسین 2086 پر کولت تھانہ سے سرکاری کلاسٹروف نمبر R261 مورخہ دو عدد چار بر 60 عدد کارٹوس، کنسٹیبل عنایت الرحمان 1468 پر کلاسٹروف نمبر 20151 مورخہ دو عدد چار بر 60 عدد کارٹوس اور ڈیڑا یور زاہد حسین 1397 پر کلاسٹروف نمبر 9880 مورخہ ایک عدد چار بر 30 عدد کارٹوس کولت تھانہ سے تقسیم شدہ ہیں۔ ہنگے رانقل کو چیک کر کے کنسٹیبل الطاف حسین 2086 نے چھ / 6 روڈ کنسٹیبل عنایت الرحمان نے آٹھ / 8 روڈ اور ڈیڑا یور زاہد حسین نے پانچ / 5 روڈ اپنے اپنے رانقلوں سے فائبرنگ کی ہے۔ بدوران سرج ملزمان بیٹروول پمپ کے جانب شمال سے ایک تحصیل برنگ نیلا ڈانٹا کیساتھ برآمد کر کے چیک کرنے پر تھوڑے میں نمبر 274460 لاکھ روپیہ برآمد ہو کر جو ملزمان نے

6

بعد از وقوع چکنے تھے۔ موقع پر تفتیشی افسر کو حوالہ کر کے جس نے بروئے فرد قبضہ پولیس کی ہے۔ اسی طرح ملزمان کی فائرنگ سے موبائیل گاڑی سرکاری کے ڈرائیور سائیڈ دروازہ لگ کر نقصان رسید ہو چکا ہے۔ جس میں گولی کی نشانات آر پار موجود ہے۔ اسکے علاوہ ہمراہ نفری پولیس وقوع کے ارد گرد ملزمان کی سرچ کیگئی۔ مگر کوئی کامیابی نصیب نہ ہوئی۔ ہمایان سے اسلحہ ایمونیشن درست طور پر داخل کوا ت ہو کر گاڑی سرکاری کو صحن تھانہ میں کھڑی کیگئی۔

جناب عالی!

نقل بمطابق اصل ہے۔

AMHC PS Munda

10.07.2020

Sir,

Forwarded

SHO PS Munda

10.07.2020

OFFICE OF THE
DISTRICT POLICE OFFICER
DIR LOWER

FINAL SHOW CAUSE NOTICE

WHEREAS YOU, Constable Inayat Ur Rahman No.1468 Reportedly vide DD No.13 dated 10-07-2020, that while you posted at Police Station Munda, during patrolling on 2nd Gusght with Shaheed ASI Muhammad Naseer Khan No.1009, Some unknown miscreants/thieves open indiscriminate firing upon him and resultantly was martyred on the spot. A proper case vide FIR No.176 dated 10.07.2020 u/s 302/324/353/427/148/149/7ATA of Police Station Munda has been registered against unknown accused. According to CCTV Cameras you fled away from the spot during firing upon him. You have earned a bad name for the K.P Police and has crossed all leveled of cowardliness, which shows your extreme cowardliness, negligence in your official duty.

AND WHEREAS, a proper departmental enquiry was conducted against you by Mr. Ijaz Ali Acting SDPO Circle Jandool and which the charge leveled against you is established without any shadow of doubt and you are to be awarded major punishment including dismissal from service.

NOW THEREFORE, as required by the NWFP Police Rules, 1975, I Abdur Rashid (PSP) District Police Officer, Dir Lower call upon to show cause as to why you should not be awarded major punishment as defined under rule-4(b) of the said rules.

Your explanation should reach the undersigned within 07 days of the receipt of this notice.

You should state in writing s to whether you wish to be heard in person or otherwise.

In case your written explanation is not received within the specified period it would be presumed that you have no defense to offer and in that case Ex-parte action will be taken against you.

District Police Officer
Dir Lower



OFFICE OF THE
DISTRICT POLICE OFFICER
DIR LOWER

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An Rashid
District Police Officer
Dir Lower
10/08/2020

No. 11670 /EC, Dated Timergara the 11 10th /2020

Copy to Constable Inayat Ur Rahman No.1468 of Police Station Munda through SHO PS Munda for further necessary action.

5

جواب فائل شوکاژ نوٹس و عطا یگی انکواری رپورٹس نقولات

واجازت برائے پرسنل ہیئرنگ

جناب عالی!

بحوالہ مشمولہ شوکاژ نمبر 11670 محرمہ 11-09-2020 مجاریہ جناب DPO صاحب ضلع دیرپاکین معروض خدمت ہوں۔ کہ من کنسٹیبل تھانہ منڈہ میں تعینات ہو کر GD ڈیوٹی سرانجام دے رہا ہے۔ مورخہ 10-07-2020 کو میں بمعہ کنسٹیبل الطاف حسین 2086 باصلاح شہید محمد نصیر خان ASI کیساتھ تھانہ ہذا کے شلیبہ ٹائیم ڈیوٹی کے غرض سے سواری پک اپ سرکاری تھویل ڈرائیور ذابہد حسین DFC 1397 بحوالہ نمبر 37 بوقت 00:05 بجے تھانہ ہذا سے بطرف بازار منڈہ روانہ ہو کر بعد از چیک کرنے بیٹ بازار چوکی میاں کلمے، پھانک میاں کلمے سے واپسی پر موبائل گشت میں روڈ پر بطرف گوتم جارہا تھا کہ جب بوقت 00:50 بجے بمقام نیو جنڈول فیلنگ سٹیشن غنم شاہ میں بغرض چیکنگ داخل ہو کر واپس مین روڈ کی طرف نکل رہا تھا۔ کہ اسی اثناء میں موبائل گاڑی واپس قدرے ریولرس ہو کر رک گیا۔ گاڑی روکتے ہی میں بمعہ کنسٹیبل الطاف حسین، محمد نصیر خان ASI کیساتھ فوراً گاڑی سے اتر گئے۔ محمد نصیر خان ASI تیزی سے پٹرول پمپ متذکرہ میں ایک طرف کھڑے ڈائیوڑ کو چڑھنے کے طرف دوڑ پڑا۔ من کنسٹیبل بھی محمد نصیر خان ASI کے پیچھے دوڑے کہ اسی اثناء میں نامعلوم ملزمان نے اسلحہ آتشیں سے اندھا دھند فائرنگ شروع کی۔ ملزمان کے اچانک فائرنگ سے بچنے کی خاطر فوری طور پر کھڑے گاڑیوں کے درمیان آڑ لے کر پوزیشن سنبھالی۔ تاہم بد قسمتی سے ملزمان کھڑے گاڑیوں کے بیرون پمپ اندھیر طرف سے فائرنگ کر رہے تھے اور محفوظ آڑ لے چکے تھے۔ من کنسٹیبل نے مقابلہ کرنے کی ہر چند کوشش کی اور جوابی کارروائی کے خاطر رائفل سرکاری سے فائرنگ داغ دیے مگر اندھیری رات اور پمپ میں کھڑے اونچی لمبی گاڑیاں ملزمان کو نظر آنے اور نشانہ بنانے میں حائل تھے۔ بعدہ ملزمان نے مین روڈ کی طرف ہینڈ گرنیڈ پھینکا جو کہ زوردار دھماکہ کر کے بلاسٹ ہوا۔ من کنسٹیبل کا اچانک فائرنگ سے بچنے کے خاطر فوری ابتدائی طور پر بہ امر مجبوری اپنایا گیا آڑ ملزمان کا مقابلہ کرنے اور اپنی جان کے حفاظت کیلئے موزوں نہ تھا۔ اس لئے محفوظ اور موزوں آڑ لینے کی کوشش میں تھا کہ اسی اثناء موبائل گاڑی کے اشارٹ ہو کر روانہ ہونے کی آواز سن کر یوں سمجھا کہ شاید دیگر ساتھی اہلکاران موبائل افسر کے ہدایت پر کسی مصلحت کے تحت پوزیشن بدلنے کی کوشش کر رہے ہیں۔ نتیجتاً من کنسٹیبل بھی آڑ تبدیل کرنے کی بجائے دوڑ کر موبائل گاڑی کے پیچھے سوار ہو گیا۔ تو معلوم ہوا کہ ساتھی کنسٹیبل الطاف حسین ملزمان کے فائرنگ سے زخمی ہو کر خود کو گاڑی میں سنبھالنے کے قابل نہ ہے۔ زخمی ساتھی کنسٹیبل کو سہارا دے کر سیٹ پر بٹھا کر مضبوطی سے پکڑا اور ساتھ ہی پیچھے سے ملزمان کے گاڑی پر فائرنگ کے خطرے کے پیش نظر خود کو جوابی فائرنگ کیلئے بھی تیار رکھا۔ تاہم موبائل گاڑی روانہ ہونے کے بعد مزید فائرنگ نہ ہوئی۔ اور ہماری موبائل گاڑی تیزی سے منڈہ ہسپتال آن پہنچا۔ ہمیں اس وقت پتہ چلا کہ شہید محمد نصیر خان ASI ہمارے ساتھ موبائل میں موجود نہ ہے بلکہ ادھر جائے وقوعہ پر رہ چکا ہے۔ چند لمحوں بعد شہید محمد نصیر خان ASI کی نعش کو ہسپتال منڈہ پہنچایا گیا۔ اور ہمیں پتہ چلا کہ ASI صاحب نے فرائض منصبی سرانجام دیتے ہوئے ملزمان کے فائرنگ سے لگ کر موقع پر جام شہادت نوش کی ہے جس کا ہمیں بے حد افسوس تھا اور ہے۔ جائے وقوعہ پر میرا بھاگ دوڑ کسی ڈر کی وجہ سے نہیں بلکہ محفوظ پوزیشن سنبھالنے اور ملزمان کا مقابلہ کرنے کا تھا۔

لہذا بذریعہ جواب نوٹس ہذا معروض خدمت ہوں کہ سائیل کے خلاف نوٹس ہذا واپس کیا جائے اور سائیل کو بے گناہ و نا کردہ جرم

تصور کیا جا کر سائیل کے خلاف جملہ الزامات واپس کیا جائے۔ نیز رپورٹس و انکواری رپورٹس کے نقولات دینے کے احکامات

صادر فرما کر سائل کو پرسنل ہیئرنگ کا موقع فراہم کیا جائے۔ لہذا جواب نوٹس سنداً تحریر شد۔ مورخہ 16-09-2020

07/09/20

03421181797

محمد نصیر خان



E-9

**OFFICE OF THE
DISTRICT POLICE OFFICER
DIR LOWER**

ORDER

This order will dispose of the enquiry conducted against Constable Inayat Ur Rahman No.1468, that while he posted at Police Station Munda, during patrolling on 2nd Gusght with Shaheed ASI Muhammad Naseer No.1009, Some unknown miscreants/thieves open indiscriminate firing upon him and resultantly was martyred on the spot. A proper case vide FIR No.176 dated 10-07-2020 u/s 302/324/353/ 427/148/149/7ATA of Police Station Munda has been registered against unknown accused. According to CCTV Cameras he fled away from the spot during firing upon him. He has earned a bad name for the K.P. Police and have crossed all levels of cowardliness. Which shows his extreme cowardliness negligence in his official duty & Mr. Ijaz Ali SDPO Circle Jandool Dir Lower was appointed as enquiry officers, to conduct proper departmental enquiry against him and submit their finding report.

The enquiry officers, during the course of enquiry recorded the statements of all concerned as well as the officer concerned. The enquiry officers in his finding report recommended him for suitable punishment.

In the light of departmental enquiry against Constable Inyat Ur Rahman No.1468, Final Show Cause Notices was issued to him vide this office No.11670/EC 11/09/2020.

He was called on 19/10/2020 for Orderly Room and personally heard, but he did not produce any cogent reason in his self defense and badly failed to satisfy the undersigned.

Therefore, I **Abdur Rashid (PSP)**, District Police Officer, Dir Lower in exercise of power vested under (E & D) Rules 1975 with amendment 2014, "agreed with the finding report of enquiry officer and awarded him a Major punishment of "removal form service" with immediate effect.

ORDER ANNOUNCED

OB No. 819 /EB

Dated 21/10/2020

No. 13782-85 /EB,

Abdur Rashid
District Police Officer,
Dir Lower

21/10/2020

Copies submitted to the: -

- 1- Regional Police Officer, Malakand at Saidu Sharif, Swat.
- 2- District Accounts Officer, Dir Lower
- 3- Pay Officer Local Office.
- 4- OASI Local Office

[Signature]

بحضور جناب ریجنل پولیس افسر ملاکنڈ بمقام سیدو شریف سوات۔
(درخواست بمراد دوبارہ بحالی بعہدہ کنسٹیبل)

جناب عالی!

1- انتہائی اداب سے گزارش کی جاتی ہے کہ سائیل گاؤں معیار تحصیل ثمر باغ کاسکو نئی اور غریب طبقہ سے تعلق رکھتا ہوں۔
2- سائیل سال 2013ء محکمہ پولیس ضلع دیرپائین میں بحیثیت کنسٹیبل بھرتی ہو کر آپ صاحبان کے زیر سایہ ڈیوٹی انجام دے رہا تھا۔

3- مئی سال 2018 کو سائیل کا تبادلہ تھانہ منڈہ ہو کر ڈیوٹی انجام دے رہا تھا۔

4- مورخہ 10.07.2020 کو بدوران موبائیل گشت دویم ہمزکاب انچارج ASI محمد نصیر خان (شہید) موبائیل سرکاری میں تھانہ سے نکل کر منڈہ بازار سے آگے جو نہی پٹرول پمپ نیو جنڈول فلنگ سٹیشن واقع غنم شاہ پہنچ کر ڈرائیور نے گاڑی ریوس کی اور اس دوران ASI نصیر خان (شہید) اور ہم موجود نفری پولیس فوراً گاڑی سے اتر کر پمپ کے جانب روانہ ہوئے تو اس دوران نامعلوم ملزمان نے اندھا دھند فائرنگ شروع کی اور ساتھ ہینڈ گرنیڈ بھی ہمارے طرف پھینکا حق حفاظت خود اختیاری کے استعمال کے خاطر پمپ میں کھڑی دیگر گاڑیوں کا آڑ لیتے ہوئے فائرنگ شروع کی۔ تاہم نامعلوم ملزمان نے رات کی تاریکی اور کھڑی گاڑیوں کا فائدہ اٹھاتے ہوئے موقع سے فرار ہو گئے۔ اس دوران موبائیل ڈرائیور نے گاڑی سٹارٹ کر کے روانہ ہونے لگا۔ تو میں بھی گاڑی میں پیچھے سوار ہو کر زخمی کنسٹیبل کو سہارا دیا۔ اور سمجھا کہ ASI محمد نصیر خان موبائیل میں آگے سیٹ پر بیٹھا ہے۔ ہسپتال پہنچنے پر معلوم ہوا کہ ASI نصیر خان گاڑی کی فرنٹ سیٹ پر موجود نہیں تھا۔ اور بعد میں پتہ چلا کہ ملزمان کی فائرنگ سے ASI محمد نصیر خان شہید ہو چکا تھا۔ میں زخمی کنسٹیبل کے ساتھ ہسپتال میں موجود رہا۔

میرے خلاف انکوائری شروع ہو کر بحوالہ OB نمبر 819 مورخہ 21.10.2020 کو جناب DPO صاحب دیرپائین کے حکم پر ملازمت سے برطرف ہو چکا ہوں۔ چونکہ سائیل غریب خاندان سے تعلق رکھتا ہے اور گھر کی جملہ ذمہ داری سائیل کے کندھوں پر ہے۔ سائیل کی تنخواہ پوری کے پوری خاندان کا ذریعہ معاش ہے۔ اور ملازمت سے برخاستگی کی وجہ سے سائیل زہنی، مالی، معاشی کوفت میں مبتلا ہے۔ اور پریشانیاں روز بروز بڑھتی جا رہی ہے۔ سائیل نے اپنی ڈیوٹی ایمانداری سے انجام دی ہے۔ اور کسی قسم کی کوتاہی نہیں دیکھائی ہے۔ حق حفاظت خود اختیاری کی خاطر گاڑیوں کا آڑ لے کر فائرنگ کی ہے۔ مگر جو کچھ بھی ہو وہ اللہ کو منظور تھا۔

استدعا ہے کہ سائیل کو دوبارہ ملازمت پر بحال کرنے کا حکم صادر فرمائیں۔ سائیل دعا گو رہے گا۔

29/10/2020

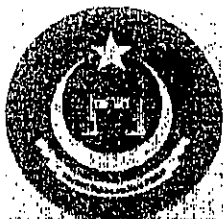
مورخہ

العارض

اب کا تابعہ سابقہ کنسٹیبل عنایت الرحمان نمبر 1468 ساکن معیار تحصیل ثمر باغ

موبائیل 0343.4681797

4



OFFICE OF THE
REGIONAL POLICE OFFICER, MALAKAND
SAIDU SHARIF SWAT.

Ph: 0946-9240381-88 & Fax No. 0946-9240390
Email: digmalakand@yahoo.com

9-11
8929
30/11/20

ORDER:

This order will dispose off appeal of Ex-Constable Inayat Ur Rahman No. 1468 of Dir Lower District for reinstatement in service.

Brief facts of the case are that Ex-Constable Inyat Ur Rahman No. 1468 while posted at Police Station Munda, during patrolling on 2nd Ghusht with Shaheed ASI Muharrad Naseer No. 1009 some unknown miscreants/ thieves open indiscriminate firing upon him and resultantly was martyred on the spot. A proper case vide FIR No. 176 dated 10/07/2020 u/s 302/324/353/427/148/149/7ATA of Police Station Munda has been registered against unknown accused. According to CCTV Cameras he fled away from the spot during firing upon him. He has earned a bad name for the KP Police and have crossed all levels of cowardliness. Which shows his extreme cowardliness negligence in his official duty and SDPO Circle Jandool Dir Lower was appointed as Enquiry Officer, to conduct proper departmental enquiry against him and submit their finding report. The Enquiry Officer during the course of enquiry recorded statements of all concerned as well as the official concerned, the Enquiry Officer in his finding report recommended him for suitable punishment. In the light of departmental enquiry against Ex-Constable Inayat Ur Rahman Final Show Cause Notice No. 11670/EC, dated 11/09/2020 was issued to him, he was called to orderly room, but he did not produce any cogent reason in his defense and badly failed to satisfy the District Police Officer, Dir Lower. Therefore, District Police Officer, Dir Lower in exercise of power vested under (E&D) Rules 1975, with amendment 2014 and Police Rules 1975, agreed with the Enquiry Officer, awarded him major punishment of removal from service with immediate effect vide OB No. 819, dated 21/10/2020.

He was called in Orderly Room on 25/11/2020 and heard him in person. The appellant could not produce any substantial material in his defence. The appellant had abandoned his incharge ASI Naseer Khan Shaheed during encounter and fled. His appeal for reinstatement in service is filed.

Order announced.

OB/EC/OASI

Regional Police Officer,
Malakand Region, Saidu Sharif Swat
"Naqi"

No. 11405 /E,

Dated 27/11/2020.

District Police Officer,
Dir Lower - Jandool

Copy of above for information and necessary action to District Police Officer, Dir Lower with reference to his office Memo: No. 14408/EC dated 03/11/2020. Service Roll of the above named Officer is returned herewith for record in your office.

OB No 981

No 17607 EC - date 01-12-2020

30-11-2020

Copy To Ex Constable Inyat Ur
Rahman No-1468- s/o Gul Ahmad R/o
Mayer Through - R/K Branch -

[Handwritten signature]

[Handwritten signature and stamp]

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

_____ OF 2020

Inayat-ur-Rehman

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Police Dept.

(RESPONDENT)
(DEFENDANT)

I/WE Inayat-ur-Rehman

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2020

Inayat-ur-Rehman

CLIENT

ACCEPTED

NOOR MOHAMMAD KHATTAK

MIR ZAMAN SAFI

AFRASIAB KHAN WAZIR

&

HAIDER ALI
ADVOCATES

OFFICE:

Flat No.4, 2nd Floor, Juma Khan
Plaza, near FATA Secretariat,
Warsak Road, Peshawar.
Mobile No.0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No.16415/2020

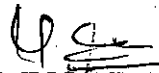
Ex Constable Inayat-ur-Rehman, No. 1468 Police Line Lower Dir
.....Appellant.

VERSUS.

- 1) Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
- 2) Regional Police Officer Malakand at Saidu Sharif, Swat.
- 3) District Police Officer Dir Lower.....Respondents.

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2.	Affidavit	-	4
3.	Power of Attorney	-	5
4.	Copy of enquiry report	"A"	6
5.	Copy of order	"B"	7
6	Copy of charge sheet.	"C"	8
7	Copy of statement of allegation.	"D"	9


(MUQADAR KHAN)
Inspector Legal
Dir Lower

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No.16415/2020

Ex Constable Inayat-ur-Rehman, No.1468 Police Line Lower DirAppellant.

VERSUS.

- 1) Provincial Police Officer, Khyber Pakhtunkhawa Peshawar.
- 2) Regional Police Officer Malakand at Saidu Sharif, Swat.
- 3) District Police Officer Dir Lower.....Respondents.

PARA WISE REPLY BY RESPONDENTS.

Respectfully Sheweth:

PRELIMINARY OBJECTIONS.

- 1) That the service appeal is not maintainable in its present form.
- 2) That the appellant has not come to this august Tribunal with clean hands.
- 3) That the present appeal is badly barred by law & limitation.
- 4) That this Honorable Service Tribunal has no jurisdiction to entertain the present service Appeal.
- 5) That the appellant has got no cause of action.
- 6) That the appellant has suppressed the material facts from this Honorable Tribunal.

ON FACTS:

1. Correct to the extent that the petitioner was enlisted as constable in respondent department.
2. Needs no comments.
3. Correct to the extent, that appellant along with others officials in leading of ASI Muhammad Nasir (Shaheed) were on patrolling duty, while the rest of para need explanation. During patrolling of 2nd night gasht on reaching new Jandool fillig Station Ghanam Shah, the Asi Muhammad Nasir (Shaheed) noticed some unknown persons hostaging the sales mans of patrol pump. He deborded from official vehicle and rushed to the Manager patrol pump office. Meanwhile the accused started firing upon ASI Muhammad Nasir and he got martyrdom on the spot. The appellant and other police party fled away from the spot during firing and thus he has errand a bad name for Khyber Pakhtunkhawa Police by crossing all levels of cowardliness. All these shows gross negligence in official duties on the part of appellant.
4. Incorrect, the appellant fled away from the spot during firing committed on ASI Muhammad Nasir (Shaheed) and left him on ground and escaped him- self in official vehicle on the pretext that he has took the injured constable Altaf Husssain to hospital.
5. Correct to the extent that the appellant was present at the place of incidence, but not properly responded in incident. He left the place of occurrence as well as his superior

officer Shaheed Asi Muhammad Nasir and fled away from the spot. He can easily target the criminals but his cowardliness paved the way for safe chance to militant from the spot.

- 6. Incorrect, proper departmental enquiry into the matter has been conducted to dig out the facts on ground and the appellant was properly associated with whole enquiry proceedings. (copy of enquiry report is enclosed as annexure "A").
- 7. Incorrect, the competent authority issued the dismissal order after completing all the codal formalities, keeping in view the conduct of appellant.
- 8. Incorrect, the departmental appeal has been rejected by the competent authority on solid grounds based on facts.
- 9. Incorrect, this honorable Tribunal has got no jurisdiction to entertain the instant appeal and the appellant wrongly challenged the legal and lawful orders of respondent through unsound grounds and the appellant wrongly challenged the legal and lawful orders of respondents through unsound grounds.

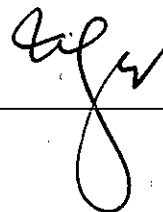
ON GROUNDS

- (A) Incorrect, all the orders passed by the competent authority is lawful, based on facts, natural justice and in accordance with law and rules.
- (B) Incorrect, the appellant was treated in accordance with law/rules and no violation of the Article-4 and 25 of the constitution of Pakistan has been committed by the respondents.
- (C) Incorrect, all the orders issued by respondents department are in accordance with rules, keeping in view the conduct of appellant by applying prudent mind and no malafide on the part of respondents was found while issuing the order.
- (D) Incorrect, proper inquiry has been conducted with thorough scrutiny of record, associating the appellant in whole proceeding and the orders passed is lawful based on ground reality. (Copy of order is enclosed as Annexure "B").
- (E) Incorrect, charge sheet with statements of allegation duly served upon the appellant and all the opportunities of defence were provided before passing the orders (Copy enclosed as annex "C"- "D").
- (F) Incorrect, the appellant was given all opportunities of personal hearing and defence and after proper departmental proceeding, the order was passed against the appellant.
- (G) Incorrect the appellant was informed about the fate of inquiry before passing the order.
- (H) The respondents also seek leave of this honorable Tribunal to rely on additional grounds at the time of arguments/ hearing.

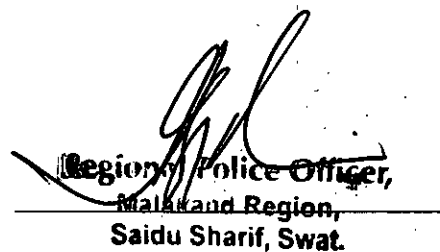
PRAYER:

It is therefore humbly prayed that on acceptance of this Para-wise reply the service appeal may graciously be dismissed with costs please.

Provincial Police Officer,
Khyber Pakhtunkhwa Peshawar.

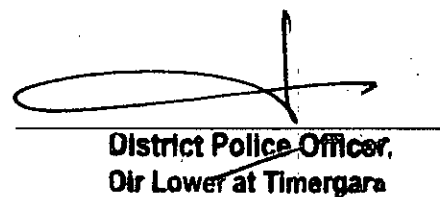


Regional Police Officer,
Malakand at Saidu Sharif, Swat.



Regional Police Officer,
Malakand Region,
Saidu Sharif, Swat.

District Police Officer,
Dir Lower.



District Police Officer,
Dir Lower at Timergara

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No.16415/2020.


Ex Constable Inayat-ur-Rehman, No. 1468 Police Line Lower Dir
.....Appellant.

VERSUS.

- 1) Provincial Police Officer, Khyber Pakhtunkhawa Peshawar.
- 2) Regional Police Officer Malakand at Saidu Sharif, Swat.
- 3) District Police Officer Dir Lower.....Respondents.

AFFIDAVIT.

I Muqadar Khan Inspector Legal Dir Lower do hereby solemnly affirm and declare on oath, that the contents of the Para wise reply is true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honorable Court.


(MUQADAR KHAN)
Inspector Legal
Dir Lower

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.16415/2020

Ex Constable Inayat-ur-Rehman, No. 1468 Police Line Lower Dir
..... Appellant.

VERSUS.

- 1) Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
- 2) Regional Police Officer Malakand at Saidu Sharif, Swat.
- 3) District Police Officer Dir Lower.....Respondents.

POWER OF ATTORNEY

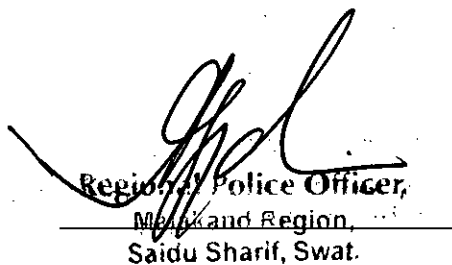
Mr. Fazal Ghafoor SI Legal Dir Lower is hereby authorized to appear on our behalf before the Honorable service Tribunal in the above Service appeal and pursue the case on each and every date.

He is also authorized to submit all the relevant documents in connection with the above Service Appeal.

Provincial Police Officer,
Khyber Pakhtunkhwa Peshawar.

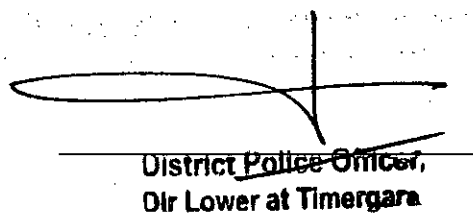


Regional Police Officer,
Malakand at Saidu Sharif, Swat.



Regional Police Officer,
Malakand Region,
Saidu Sharif, Swat.

District Police Officer,
Dir Lower.



District Police Officer,
Dir Lower at Timergara

ضلع دیروڑ

دفتر DSP ہیڈ کوارٹرز تیرگرہ

ٹائمڈنگ رپورٹ بسلسلہ انکوائری برخلاف کنسٹیبل عنایت الرحمن نمبر 1468 تھانہ منڈہ

جناب عالی!

مختصر ایوں ہیڈ مورخہ 10.07.2020 کو علاقہ تھانہ منڈہ غنم شاہ جنڈول لنگ سٹیشن میں پولیس موبائل پر فائرنگ ہو کر ASI نصیر خان موقع پر شہید ہوئے جبکہ کنسٹیبل الطاف حسین نمبر 2086 زخمی ہوا۔ نور غنی خان SI انچارج چوکی منڈہ کے مراسلہ پر مقدمہ علت 176 مورخہ 10-07-2020 بجرم 302/324/353/427/148/149/7ATA/3/4 ESA تھانہ منڈہ قائم ہوئی۔

دوران تفتیش پٹرول پمپ میں نصب شدہ CCTV کیمروں سے پتہ چلا کہ دیگر پولیس پارٹی کنسٹیبل الطاف حسین نمبر 2086، عنایت الرحمن نمبر 1468 اور ڈرائیور زاہد حسین نمبر 1397 نے بزدی، نااہلی اور غفلت کا مظاہرہ کر کے موقع سے بجائے ڈٹ کر مقابلہ کرنے کے بھاگ چکے ہیں۔ جو اس بناء جناب DPO صاحب نے ان کو چارج شیٹ کر کے سن DSP ہیڈ کوارٹرز کو انکوائری مارک کی۔ انکوائری کرتے ہوئے متعلقین وحید اللہ خان انسپکٹر CIO، نور غنی خان SI انچارج چوکی منڈہ، عقل آمین خان SI، نثار احمد MASI تھانہ منڈہ کو طلب کر کے انکے بیانات الزام الیہ کنسٹیبل عنایت الرحمن نمبر 1468 کے موجودگی میں لئے گئے اور الزام الیہ کو ان پر جرح کرنے کا پورا موقع دیا گیا۔ CCTV کیمرہ سے ویڈیو فوٹیج بذریعہ USB حاصل کر کے بعد تفصیلی اور بغور دیکھنے، بطور وجہ ثبوت شامل انکوائری کی۔ اسی طرح مذکورہ کو بھی صفائی کا پورا موقع دے کر تفصیلی بیان ریکارڈ کیا گیا اور اس پر سوالات کئے گئے۔ جملہ بیانات لف انکوائری قابل ملاحظہ ہیں۔

حالات، واقعات، بیانات اور ویڈیو فوٹیج سے یہ عیاں ہے کہ لڑمان نے حکمت عملی اور کافی مہارت سے باری باری آکر پمپ ملازمین کو یرغمال کر کے رقم لوٹنے کے عین وقت پر پولیس موبائل جب اچانک اس پمپ آیا انہیں دیکھ کر ڈرائیور نے ریورس لگایا تو ASI صاحب نصیر خان (شہید) نے دیکھتے ہی ان پر نہایت تیزی سے چھٹ کر ان کو قابو کرنے / پکڑنے کی لئے دوڑ لگایا ان کیساتھ ہاتھ پائی کی لیکن لڑمان جو پہلے سے تیار باسلح تھے نے اس پر نزدیک سے فائرنگ کی اور وہ لگ کر گر پڑے۔ لیکن اس کے ساتھ موجود ساتھیوں گنرز، ڈرائیور نے نہایت بزدی کا مظاہرہ کر کے ASI صاحب کو اکیلے چھوڑ کر، الزام الیہ کنسٹیبل عنایت الرحمن نمبر 1468 نے تھوڑے فاصلہ پر گاڑیوں جیسے دوسرے طرف لڑمان تھے کے پاس جبکہ کنسٹیبل الطاف حسین 2086 اور ڈرائیور زاہد حسین نمبر 1397 روڈ کی طرف بھاگ کر کسی رد عمل کا اظہار نہیں کیا۔ بلکہ لڑمان کے ASI صاحب نصیر خان (شہید) پر فائرنگ، گرنیڈ پھینکنے اور پھر قتل سے پمپ سے جانے کے کافی وقت بعد کنسٹیبل الطاف حسین اور ڈرائیور زاہد حسین نے گاڑی سٹارٹ کیا کنسٹیبل عنایت الرحمن نمبر 1468 بھی دوڑ کر ساتھ بیٹھ گیا اور ASI صاحب کو بے یار مددگار زخمی حالت میں اسی جگہ پر چھوڑ کر بھاگ نکل گئے۔ جو ان کی یہ ساری کڑوت، حرکات پمپ میں نصب کیمروں کے آنکھ نے دیکھ کر محفوظ، بطور شہادت موجود ہیں۔ اگر ڈرائیور، گنرز بھی ASI صاحب کیساتھ لڑمان قابو کرنے کیلئے تیزی اور مستعدی سے جانتے یا محفوظ اڑ لیکر کوئی فائر کرتے تو شاید لڑمان بہ آسانی بچ نہ نکل سکتے اور پولیس پارٹی کو جانی نقصان نہ پہنچتا۔ صرف کنسٹیبل الطاف حسین نمبر 2086 کے جانتے موجودگی سے جو عدد دخول کارٹوس 7.62 بور برآمد ہوئے ہیں صرف یہ ایک حرکت اسکی رد عمل ظاہر کر رہا ہے۔ بہر حال الزام الیہ کنسٹیبل عنایت الرحمن نمبر 1468 نے بدوران ڈیوٹی نہایت بزدی کا مظاہرہ کر کے، مناسب سزا دینے کی سفارش کیجاتی ہے۔ تاکہ دیگر ملازمین کیلئے اس سے سبق سیکھ کر ان کیلئے مشعل

محمد زمان

ڈی ایس پی ہیڈ کوارٹرز تیرگرہ
دیروڑ

راہ ثابت ہو۔ انکوائری رپورٹ مرتب ہو کر گزارش ہے۔
Perused
Issue P.S.A.
District Police Officer
D.P. D.Z.

10.09.2020



OFFICE OF THE
DISTRICT POLICE OFFICER
DIR LOWER

Annex 'B'

ORDER

This order will dispose of the enquiry conducted against Constable Inayat Ur Rahman No.1468, that while he posted at Police Station Munda, during patrolling on 2nd Gusght with Shaheed ASI Muhammad Naseer No.1009, Some unknown miscreants/thieves open indiscriminate firing upon him and resultantly was martyred on the spot. A proper case vide FIR No.176 dated 10-07-2020 u/s 302/324/353/ 427/148/149/7ATA of Police Station Munda has been registered against unknown accused. According to CCTV Cameras he fled away from the spot during firing upon him. He has earned a bad name for the K.P Police and have crossed all levels of cowardliness. Which shows his extreme cowardliness negligence in his official duty & Mr. Ijaz Ali SDPO Circle Jandool Dir Lower was appointed as enquiry officers, to conduct proper departmental enquiry against him and submit their finding report.

The enquiry officers, during the course of enquiry recorded the statements of all concerned as well as the officer concerned. The enquiry officers in his finding report recommended him for suitable punishment.

In the light of departmental enquiry against Constable Inyat Ur Rahman No.1468, Final Show Cause Notices was issued to him vide this office No.11670/EC 11/09/2020.

He was called on 19/10/2020 for Orderly Room and personally heard, but he did not produce any cogent reason in his self defense and badly failed to satisfy the undersigned.

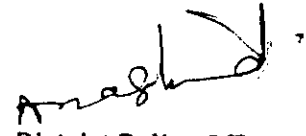
Therefore, I **Abdur Rashid (PSP)**, District Police Officer, Dir Lower in exercise of power vested under (E & D) Rules 1975 with amendment 2014, "agreed with the finding report of enquiry officer and awarded him a Major punishment of "removal form service" with immediate effect.

ORDER ANNOUNCED

OB No. 819 /EB

Dated 21 /10 /2020

No. 13782-85 /EB,


District Police Officer,
Dir Lower
20/10/2020

Copies submitted to the: -

- 1- Regional Police Officer, Malakand at Saidu Sharif, Swat.
- 2- District Accounts Officer, Dir Lower.
- 3- Pay Officer Local Office.
- 4- OASI Local Office

(8) (8)

Annex "C"

(3)

OFFICE OF THE DISTRICT POLICE OFFICER, DIR LOWER AT TIMERGARA

Enquiry No 152 /EB.

Dated 21-07 2020

CHARGE SHEET

I, **Abdur Rashid (PSP)** District Police Officer, Dir Lower at Timergara as competent authority, hereby charge you **FC Inayat Ur Rahman No.1468** committed as follows: -

Reportedly vide DD No.13 dated 10-07-2020, That while you posted at Police Station Munda, during patrolling on 2nd Gusght with Shaheed ASI Muhammad Naseer No.1009, Some unknown miscreants/ thieves open indiscriminate firing upon him and resultantly was martyred on the spot. A proper case vide FIR No.176 dated 10-07-2020 u/s 302/324/353/427/148/149/7ATA of Police Station Munda has been registered against unknown accused. According to CCTV Cameras you fled away from the spot during firing upon him. You have earned a bad name for the K.P Police and has crossed all levels of cowardliness. Which shows your extreme cowardliness, negligence in your official duty.

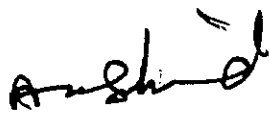
2- By the reason of above you appear to be guilty of misconduct and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the disciplinary Rules, 1975. ?

3- You are therefore require to submit your written reply within 25 days of the receipt of this charge sheet to the enquiry officer.

4- Your written reply, if any, should reach the enquiry officer **Mr, Muhammad Zaman Acting DSP HQrs Dir Lower** within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-part action shall follow against you.

5- Intimate to whether you desire to be heard in person or not.

6- A statement of allegation is enclosed.


District Police Officer
Dir Lower
20/07

No. 8617-18 /EC,

Copies for to the:-

- 1- Mr, Muhammad Zaman Acting DSP HQrs Dir Lower to initiate departmental enquiry against above named DFC in the light of attached documents, with in stipulated period.
- 2- FC Inayat Ur Rahman No.1468 through SHO PS Munda for further necessary action

9

Annex "D"

OFFICE OF THE DISTRICT POLICE OFFICER, DIR LOWER AT TIMERGARA

Enquiry No. 153 /EC.

Dated Timergara the 21-07/2020

DISCIPLINARY ACTION

I, **Abdur Rashid (PSP)**, District Police Officer, Dir Lower at Timergara as competent authority as of the opinion that **FC Inayat Ur Rahman No.1468** have rendered yourself liable to be proceeded against departmentally as you have committed the following acts/omission as defined in Rule 2 (iii) of Police Rules 1975.

STATEMENT OF ALLEGATION

Reportedly vide DD No.13 dated 10-07-2020, That while he posted at Police Station Munda, during patrolling on 2nd Gusght with Shaheed ASI Muhammad Naseer No.1009, some unknown miscreants/ thieves open indiscriminate firing upon him and resultantly was martyred on the spot. A proper case vide FIR No.176 dated 10-07-2020 u/s 302/324/353/427/148/149/7ATA of Police Station Munda has been registered against unknown accused. According to CCTV Cameras you fled away from the spot during firing upon him. He has earned a bad name for the K.P Police and have crossed all levels of cowardliness. Which shows his extreme cowardliness negligence in his official duty.

2- For the purpose of scrutinizing the conduct of said office, with reference to the above allegation **Mr, Muhammad Zaman Acting DSP HQrs Dir Lower** appointed as enquiry officer.

3- The enquiry officer shall conducted proceedings in accordance with provisions of Police Rules 1975 and shall provide reasonable opportunity of defense and hearing to the accused officer, record its findings and make within 25 days of the receipt of his order, recommendation as to punishment or other appropriate action against the accused officer.

4- The accused officer shall join the proceeding on the date, time and place fixed by the Enquiry Officer.

Abdur Rashid
District Police Officer
Dir Lower
20/07

No. 8615-16 /EC,

Copies for to the:-

- 1- Mr, Muhammad Zaman Acting DSP HQrs to initiate departmental enquiry against above named PC in the light of attached documents, with in stipulated period.
- 2- PC Inayat Ur Rahman No.1468. through SHO PS Munda for further necessary action