

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No.07 of 2014

Date of Institution ... 02/01/2014

Date of Decision ... 09/12/2021

Lakhta Mir, Head Constable No. 850 Capital City Police Peshawar
... (Appellant)

VERSUS

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

Present.

Mr. Numan Ali Bukhari,
Advocate ... For appellant.

Mr. Noor Zamanm,
District Attorney, ... For respondents.

MR AHMAD SULTAN TAREEN ... CHAIRMAN
MR. SALAH-UD-DIN, ... MEMBER(J)

JUDGMENT

AHMAD SULTAN TAREEN, CHAIRMAN:-The appellant named above invoked the jurisdiction of this Tribunal with the prayer as copied below:-

"On acceptance of instant appeal, the order dated 04/12/2013 may be set aside and the appellant may be reinstated into service with all back benefits and also by

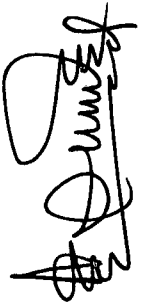
setting aside removal from service order. Any other remedy which this august Tribunal deems fit and appropriate that may also be awarded in favour of appellant"

2. Brief facts are that the appellant joined the police force in the year 1987 and lastly he was working as Head Constable when he was charged in two different FIRs; that due to threats to his life, he remained absconder, but was arrested and then bailed out by the competent Court; that due to his involvement in criminal cases, the appellant was also suspended from service on 22/06/2012 but despite that an ex-parte action was taken against him and was dismissed from service on 10/12/2012; that no action was taken on departmental appeal filed by the appellant, hence, instant appeal on 02.01.2014.

3. After admission of the appeal for regular hearing, the respondents were given notices. They after attending the proceedings through representative have filed their written reply, raising several factual and legal objections, refuting the claim of the appellant and asserted for dismissal of appeal with cost.

4. We have heard the arguments and perused the record

5. Learned counsel for the appellant argued that the impugned orders dated 10.12.2012 and 04.12.2013 are against the law, facts norms of justice and material on record; that the appellant being civil servant was proceeded against under the Police Rules 1975 and not



under E&D Rules, 2011, therefore, the whole proceedings were liable to be struck down on this score alone; that the absence period of the appellant has already been treated as leave without pay, therefore, there remained no grounds to penalize the appellant and requested that the appeal may be accepted as prayed for.

6. In rebuttal, learned District Attorney argued that the punishment awarded to the appellant was in accordance with law, rules and he was rightly proceeded under Police Disciplinary Rules 1975. He further argued that vide No.4775/PA dated 25.06.2012 charge sheet was issued to appellant. He next argued that the appellant was also heard in person in orderly room on 29.11.2013, statement of allegations were made known to him but the appellant failed to appear before the inquiry officer; that final show cause notice was issued and served upon the appellant as evident from the impugned orders; that appellant was a habitual absentee from his lawful duty and was also previously dismissed from service vide OB No.2928 dated 17.7.1990. Hence, the penalty awarded to the appellant is in accordance with law/rules and requested that the appeal may kindly be dismissed with cost.

7. The appellant has submitted an affidavit that he commenced his service on 25.08.1987. The affidavit is placed on file. Arguments have been heard and record has been perused.

8. What is deducible from the record is that the appellant was serving in the Police Department as Constable No. 850 of CCP

Peshawar. During his service, he was charged in criminal cases registered vide FIR No. 347 dated 13.06.2012 U/S 324/34 PPC and vide FIR No. 348 of even date U/S 324/34/353 PPC of Police Station Tehkal Peshawar. He was proceeded against departmentally under the Khyber Pakhtunkhwa Police Rule, 1975 on account of his involvement in the said cases and absence from duty due to involvement in the criminal cases. In consequence of the disciplinary proceedings, he was dismissed from service vide order dated 10.12.2012. He filed departmental appeal and having no response of the same, he filed Service Appeal No. 236/2013. During pendency of the said appeal in this Tribunal, the penalty of dismissal from service was converted into compulsory retirement from service by the appellate authority on acceptance of pending departmental appeal. So, on application of the appellant for withdrawal of appeal in view of the subsequent development, Service Appeal No. 936/2013 was dismissed as withdrawn vide order dated 26.12.2013 of this Tribunal which is available on record. However, permission was granted to the appellant to seek remedy available to him under the law. In pursuance of the said order, present appeal was filed. Needless to say that the appellant was proceeded against departmentally due to his involvement in criminal cases and this fact is admitted by the respondents in their reply. It is also admitted fact by the respondents that the penalty of dismissal from service was converted into compulsory retirement from service. Certainly, the respondents could



not be able to furnish with their reply/comments any documentary proof of conviction of the appellant in criminal cases. In absence of proof of conviction of the appellant, imposition of penalty upon him due to involvement in criminal cases of a personal nature was not legally viable. Therefore, the penalty of dismissal from service originally imposed by the competent authority and then converted into penalty of compulsory retirement by the appellate authority is not tenable. However, having regard to the physical condition of the appellant present before us, we do not deem it appropriate to allow his reinstatement into service. According to our observation and as admitted by the appellant, his partial paralysis involving the state of incapacity to move independently, it will not be in the interest of police department to send him back for service, when he is to be retired ultimately on medical ground because of his said incapacity. Therefore, we keep the retirement intact but not as part of the punishment. The appellant stated in Para-1 of the appeal and affirmed the same by the affidavit submitted by him today as placed on file that he joined the police force in the year 1987. The respondents in their reply to Para-1 made no comments. Therefore, the stance of the appellant as to his starting service in the year 1987 is admitted accordingly. Thus, he has on his credit the service which is more than 25 years entitling him for retiring pension.

9. With the given observations, the compulsory retirement of the appellant is converted into regular retirement holding him entitle for

retiring pension and other pensionary benefits under the rules on the subject. Appeal stands disposed of accordingly. Parties are left to their own cost. File be consigned to record room.

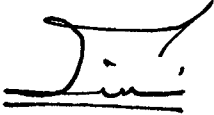
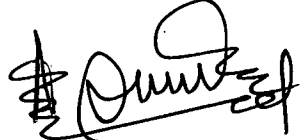


(SALAH-UD-DIN)
Member(J)



(AHMAD SULTAN TAREEN)
Chairman

ANNOUNCED
09.12.2021

S.No.	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	09.12.2021	<p><u>Present.</u></p> <p>S. Numan Ali Bukhari, ... For appellant Advocate</p> <p>Mr. Noor Zaman, ... For respondents. District Attorney</p> <p>Vide our detailed judgment, the compulsory retirement of the appellant is converted into regular retirement holding him entitle for retiring pension and other pensionary benefits under the rules on the subject. Appeal stands disposed of accordingly. Parties are left to their own cost. File be consigned to record room.</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  (SALAH-UD-DIN) Member(J) </div> <div style="text-align: center;">  (AHMAD SULTAN TAREEN) CHAIRMAN </div> </div> <p><u>ANNOUNCED</u> 09.12.2021</p>

13.10.2021

Petitioner with counsel present.

Javid Ullah, learned Assistant Advocate General for respondents present.

Arguments on the application heard. Record perused.

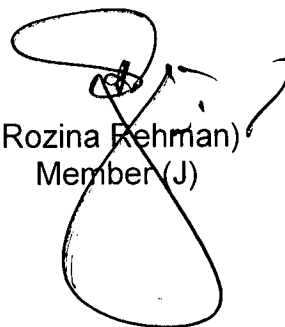
Application in hand was submitted seeking restoration of appeal which was dismissed in default for non-prosecution vide order dated 22.11.2018.

No doubt, the instant application was entered and recorded by the office on 30.01.2019 but the very contents of the application clearly show that this application was submitted in office on the same date i.e. 22.11.2018 when it was dismissed in default.

In this view of the matter, this application for restoration of appeal is accepted. Appeal stands restored. It be registered on its old number. This application stands filed after completion and compilation, whereas, a copy of the same be placed on main file. Case is adjourned to 09.12.2021 for arguments on main appeal before D.B.



(Atiq-Ur-Rehman Wazir)
Member (E)

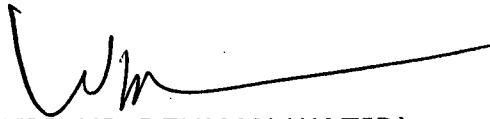


(Rozina Rehman)
Member (J)

26.07.2021

Appellant in person present. Mr. Muhammad Adeel Butt,
Additional Advocate General for the respondents present.

Appellant requested for adjournment on the ground that
his counsel is out of station due to some domestic engagements.
Last opportunity given. Adjourned. To come up for arguments on
restoration application before the D.B. on 13.10.2021.



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



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

22.11.2018

Appellant absent. Learned counsel for the appellant absent. The present case pertains to the year 2014. Mr. Kabir Ullah Khattak learned Additional Advocate General present, however no one appeared on behalf of appellant despite repeated calls. Consequently the present service appeal is dismissed in default. No order as to costs. File be consigned to the record room.


Member


Member

ANNOUNCED
22.11.2018

24.07.2018

No one present on behalf of appellant. Mr. Sardar Shaukat Hayat learned Additional Advocate General present. Adjourned. To come up for arguments on ~~31~~ 09.2018 before D.B



Member


Member

31.08.2018

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 18.09.2018 before D.B.



(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

18.09.2018

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Aziz Shah, Head Constable for the respondents present. Representative of the department is directed to furnish the criminal case record of the appellant including departmental inquiry. Adjourned. To come up for record and arguments on 19.10.2018 before D.B.



(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

19.10.2018

Mr. Aziz Shah, Reader along with

Counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present. Record sought by this Tribunal vide order dated 18.09.2018 was not produce today. Last opportunity is given to the respondents for production of the said record. Case to come up for arguments on ~~22~~ 21.11.2018 before D.B.


(Hussain Shah)
Member


(Ahmad Hassan)
Member

22.11.2018

Appellant absent. Learned counsel for the appellant absent. The present case pertains to the year 2011. Mr. Kabir Ullah Khattak learned Additional Advocate General present, however no one appeared on behalf of appellant despite repeated calls. Consequently the present service appeal is dismissed in default. No order as to costs. File be consigned to the record room.

Member


Member

ANNOUNCED
22.11.2018

11.12.2017


Learned counsel for the appellant present. Mr. Muhammad Jan, learned Deputy District Attorney, for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 12.02.2018 before D.B



(Muhammad Hamid Mughal)
MEMBER


(Gul Zeb Khan)
MEMBER

12.02.2018


Agent to counsel for the appellant and Mr. Usman Ghani, Learned District Attorney for respondents present. Due to general strike of the bar, the case is adjourned. To come up for arguments on 05.04.2018 before D.B

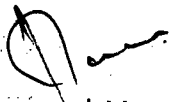

(Ahmad Hassan)
MEMBER


(Muhammad Hamid Mughal)
MEMBER

05.05.2018

Learned counsel for the appellant and Mr. Kabir Ullah Khattak, learned Additional Advocate General for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 25.05.2018 before D.B


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

25.05.2018

Clerk of the counsel for appellant and Addl: AG for the respondents present. Arguments could not be heard due to incomplete bench. Adjourned. To come up for arguments on 24.07.2018 before D.B.


(M. Amir Khan Kundi)
Member

04.05.2017

Junior to counsel for the appellant and Mr. Ziaullah, Government Pleader for the respondent present. Junior to counsel for the appellant requested for adjournment due to non availability of ~~his~~ senior counsel. Request ~~is~~ accepted. To come up for arguments on 11.08.2017 before D.B.



(Gul Zeb Khan)
Member



(Ahmad Hassan)
Member

11.08.2017

Clerk of the counsel for appellant present. Mr. Kabirullah Khattak, Assistant AG for the respondents present. Clerk of the counsel for appellant seeks adjournment on the ground that learned counsel for the appellant is not available. Adjourned. To come up for arguments on 04.10.2017 before D.B.



(Muhammad Amin Khan Kundi)
Member (J)



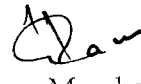
(Muhammad Hamid Mughal)
Member (J)

04.10.2017

Junior to counsel for appellant present. Mr. Muhammad Jan. Deputy District Attorney for the respondents present. Junior to counsel for appellant seeks adjournment. Adjourn. To come up for arguments 11.12.2017 before D.B.



Member
(Executive)

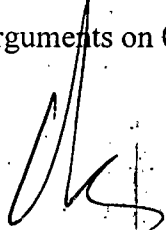


Member
(Judicial)

09:01.2017

Counsel for the appellant and Mr. Muhammad Raziq, H alongwith Asst: AG for respondents present. During the course of arguments learned counsel for the appellant submitted that the appellant has been ^{been} honorably acquitted by the competent court of law, therefore the charge against the appellant for involvement in a criminal case is automatically settled. Learned counsel for the appellant requested for adjournment to produce attested copy of order of the court pertaining the acquittal of the appellant. Request accepted. To come up for such order and arguments on 04.05.2017.


(AHMAD HASSAN)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

27.10.2015


Appellant with counsel and Addl: AG for respondents present. Arguments could not be heard due to learned Member (Judicial) is on official tour to D.I. Khan. Therefore, the case is adjourned to 14/3/16 for arguments.


Member

14.03.2016

Counsel for the appellant Mr. Muhammad Jan, GP for respondents present. Rejoinder submitted, copy whereof handed over to learned GP. To come up for arguments on 7/6/16 before D.B.


MEMBER


MEMBER

07.06.2016

Clerk to counsel for the appellant and Addl: AG for respondents present. Clerk to counsel for the appellant requested for adjournment. To come up of arguments on 19.10.2016.


Member


Member

19.10.2016

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Counsel for the appellant requested for adjournment. To come up for arguments on 9-1-17.


(ABDUL LATIF)
MEMBER


(PIR BAKHSH SHAH)
MEMBER

30.09.2014

Appellant in person and Mr. Muhammad Adeel Butt, AAG for the respondents present. Written reply has not been received on behalf of the respondents, and request for further time made on their behalf. To come up for written reply/comments on 08.01.2015.


Member

08.01.2015

Appellant in person and Mr. Muhammad Adeel Butt, AAG for the respondents present. The Tribunal is incomplete. To come up for written reply/comments on 26.03.2015.


Reader.

26.03.2015

Appellant in person and Mr. Hayat Muhammad, Reader to DSP alongwith Addl: A.G for respondents present. Written reply not submitted. Requested for adjournment. Last chance grated. To come up for written reply/comments on 27.4.2015 before S.B.


Chairman

27.04.2015

Appellant in person and Mr. Hayat Muhammad, Reader to DSP alongwith Addl: A.G for respondents present. Written statement submitted. The appeal is assigned to D.B for rejoinder and final hearing for 27.10.2015.


Chairman

Appeal No. 7/2014
Mr. Lakshminarayanan

03.04.2014

Counsel for the appellant present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that appellant has not been treated in accordance with law/rules. Against the original order dated 10.12.2013, he filed departmental appeal on 11.02.2013 and the appellant filed service appeal No. 936/2013 after the lapse of statutory period. Later on vide order dated 04.12.2013 the departmental appeal of the appellant was partly accepted by the departmental appellate authority and his dismissal from service was converted into compulsory retirement from service as such the appellant withdrawn the appeal with permission to file fresh one, hence the present appeal on 02.01.2014. He further contended that the appellant has been treated under the wrong law and his absence period was treated as leave without pay. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents. To come up for written reply/comments on 16.06.2014.

Appellant Deposited
Security & Process Fee
Rs. 180/- Bank
Receipt with File.

SR

03.04.2014

This case be put before the Final Bench for further proceedings.

[Signature]
Member
[Signature]
Chairman


16.6.14

The Hon'ble bench is on leave
These for case is adjourned to
30-9-14
[Signature]
Peele

3

04.03.2014

Clerk to counsel for the appellant present and requested for adjournment due to general strike of the Bar. To come up for preliminary hearing on 03.04.2014.


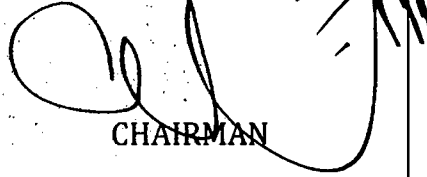

Member



Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 07/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2.	3
1	02/01/2014	<p>The appeal of Mr. Lakhta Mir presented today by Mr. M. Asif Yousafzai Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	6-1-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>4-3-2014</u></p> <p style="text-align: right;"> CHAIRMAN</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.**

Appeal No. 07 /2013

Mr. Lakhta Mir

V/S


PPO and Others.

INDEX

S.No.	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	01-03
2.	Copy of I.D. Card	- A -	04
3.	Copy of FIR dt.13.6.2012	- B -	05
4.	Copy of FIR dated 13.6.2012	- C -	06
5.	Copy of Bail Order	- D -	07-10
6.	Copy of Compromise Deed	- E -	11
7.	Copy of Order (10.11.2012)	- F -	12
8.	Copy of Appeal	-G-	13-14
9.	Copy of Order sheet dated (26.12.2013)	-H-	15
10.	Copy of Appellate Oder	-I-	16
11.	Vakalat Nama	----	17

APPELLANT
Lakhta Mir

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

①

Appeal No. 07 /2013

Mr. Lakhta Mir, Head Constable No.850,
Capital City Police, Peshawar.

K.P. Peshawar
Service Tribunal
No. 12
Date: 02/11/14

APPELLANT

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Capital City Police Officer, K.P. Peshawar.
- ✓ 3. The S.P. Headquarters, Peshawar.

RESPONDENTS

.....

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974 AGAINST THE APPELLATE ORDER DATED 04.12.2013 WHEREBY THE PENALTY OF REMOVAL FROM SERVICE HAS BEEN CONVERTED INTO COMPULSORY RETIREMENT.

.....

PRAYER:

That on acceptance of this appeal, the order dated 04.12.2013 may be set aside and the appellant may be reinstated into service with all back benefits and also by setting aside removal from service order. Any other remedy which this august Tribunal deems fit and appropriate that may also be awarded in favour of appellant.

K.P. Peshawar
Service Tribunal
Date: 2/11/14

RESPECTFULLY SHEWETH:

1. That the appellant joined the Police Force in the year 1987 and lastly the appellant was working as Head Constable. Copy of I.D. Card is attached as Annexure-A.

2

2. That the appellant was charged in two different FIR No.347, U/S-324/34 PPC dated 13.6.2012 and No.348 U/S 324/34/354 PPC dated 13.6.2012. Copies of FIR are attached as Annexure-B and C.
3. That as the appellant was charged falsely, therefore, due to threats to his life, he remained absent and absconder, but was arrested and then bailed out by the competent Court on 26.1.2013 on the basis of compromise. Copies of Bail Order and Compromise Deed are attached as Annexure-D and E.
4. That due to charge in criminal case, the appellant was also suspended from service on 22.6.2012. But despite that an ex-parte action was taken against the appellant and he was dismissed from service on 10.12.2012 under Police Rules, 1975. Copy of Order is attached as Annexure-F.
5. That the appellant filed Service Appeal No.936/2013 in this august Tribunal, after no action was taken on his departmental appeal within statutory period. But during the pendency of the above mentioned appeal, appellate authority modified the original order on 4.12.2013. Therefore, the appellant withdrew the appeal No.930/2013 with the permission to file fresh one, on 26.12.2013. Hence, the present appeal. Copies of Appeal, Oder sheet and Appellate Orders are attached as Annexure-G, H and I.

GROUND:

- A) That the impugned order dated 4.12.2013 and 10.12.2012 are against the law, facts, norms of justice and material on record, therefore, not tenable.
- B) That the appellant has not been treated according to law and rules.
- C) That the appellant being civil servant of the Provincial Government was proceeded against under the Police Rules, 1975 and not under E&D Rules ✓

2011, therefore, the whole proceedings were liable to be struck down on this score alone. (3)

- D) That the appellant has been condemned unheard because the appellant was not served with any show cause notice and charge sheet nor associated with the enquiry proceedings.
- E) That the absence period of the appellant has already been treated as leave without pay, therefore, there remained no grounds to penalize the appellant.
- F) That the appellant has good service at his credit and can not be penalized on the basis mere charge in FIR.
- G) That the absence was not intentionally but due to compelling reasons of involvement in false criminal case.
- H) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore, most humbly prayed that the appeal of the appellant maybe accepted as prayed for.

APPELLANT *Uma*
Lakhta Mir

THROUGH:

M. Asif Yousafzai
(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

I.C. NO. 4925 7 Annexure
Date Of Birth 1965
Date Of Issue 11.4.1996
Signature & Designation
Of Issuing Authority Chet- M- Sri 8
Seal Of Office
ORIGINAL SEEN
This Copy

A

4

~~ATTESTED~~

22/11/57

Copy to
(1) 2/11/57

NORTH WEST FRONTIER PROVINCE POLICE

IDENTITY CARD

Serial No. 41197

Name Of Holder HC IAKHTA MIR NO. 850

Appointment POLICE DEPTT: PESHAWAR

Visible Identification Marks DISTRICT
MOLE OF RIGHT FACE

Height 5' 9" Blood Group B-PV Distt PESH.

Colour Of Hair BLACK Eyes BLACK

Signature _____

ابتدائی اطلاعی رپورٹ

تفائیل
(6)

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ ۱۵۲ مجموعہ ضابطہ فوجداری

فارم نمبر ۲۳-۱۵

۷۷-۲

P-17

S-67

۵۳۰۱۵۹۱۶۹۸۱

ضلع گٹھ

تھانہ

6

348

تاریخ 13 مئی 2011ء

1- تاریخ و وقت رپورٹ	تاریخ و وقت رپورٹ 13 مئی 2011ء 14:35 بجے
2- نام و سکونت اطلاع دہندہ مستثنیت	نصر میلا لاہور ASI
3- مختصر کیفیت جرم (معدوہ) حال اگر کچھ لیا گیا ہو۔	Pr 324/353/34
4- جائے وقوعہ فاصلہ تھانہ سے اور سمت	سبھان آباد نزد حکان مدن سبھان
5- نام و سکونت ملزم	محمّد مہر ولد ناصر احمد سبھان سبھان آباد
6- کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو	محمّد مہر ولد ناصر احمد سبھان سبھان آباد
7- تھانہ سے روانگی کی تاریخ و وقت	نظر نہیں آتی

ابتدائی اطلاع نیچے درج کرد۔ اس وقت اگر کسی شخص کی اطلاع ہو تو اسے فوراً اطلاع دینا چاہئے۔

مذکورہ جرم نمبر 4919 جو ملزم محمد مراد نے ارتکاب کیا ہے۔ تھانہ سبھان میں واقع ہے۔ ملزم نے 13 مئی 2011ء کو 14:35 بجے اطلاع دی کہ اسے سبھان میں ایک شخص نے مار مار کر ہلاک کر دیا ہے۔

ملزم نے بتایا کہ وہ سبھان میں اپنے گھر پر کھڑے تھا کہ ایک شخص نے اسے مار مار کر ہلاک کر دیا ہے۔

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ملزم نے بتایا کہ وہ سبھان میں اپنے گھر پر کھڑے تھا کہ ایک شخص نے اسے مار مار کر ہلاک کر دیا ہے۔

نصر میلا لاہور
۵۳۰۱۵۹۱۶۹۸۱
0301-8097216
0300-5883189

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ATTESTED
[Signature]

10

معدودت ۵
مقرر است
مقرر است

مقرر است
مقرر است
مقرر است

2

IN THE COURT OF ZAFARULLAH MOHMAND
JUDICIAL MAGISTRATE-I, PESHAWAR

76
BA

26
13

16/11/2013

State Vs. مقرر است

26
13

مقرر است
مقرر است

Bail application submitted. Notice and record
for 19/11/2013 Complainant be summoned for the date



(Zafarullah Mohmand)
JMIC-IX, Peshawar.

2

مقرر است
مقرر است
2-2
19/11/2013

مقرر است
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مقرر است



ZAFARULLAH MOHMAND
JUDICIAL MAGISTRATE-I, PESHAWAR

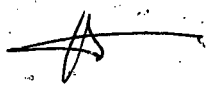
مقرر است
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3-2
22/11/2013

مقرر است
مقرر است



ZAFARULLAH MOHMAND,
JMIC IX Peshawar

REGISTERED
30-11-13
Magister
Dist. Court Peshawar



PESHAWAR 7/10

مقرر است
مقرر است

11
etc
1/2

Order
26/1/2013

Accused/petitioners through counsel while APP for
State present.

Through this order of mine, this court is going to dispose of
instant bail petition filed by accused/petitioners namely Lakht-e-Mir
S/O Taza Mir R/O Chand Mari Tehkal, Peshawar who is
charged in criminal case FIR No. 348 dated, 13/6/2012 under section
324/353/34 PPC of police station Tehkal, Peshawar.

Arguments heard and case file perused.

Perusal of the record and arguments of learned counsel this
court came to the conclusion that admittedly it is a case of ineffective
firing. Nothing incriminating has been recovered from the possession of
accused/petitioner. No independent witness to the occurrence is cited in
the FIR.

Keeping in view the above discussion the case of the accused
is of one of further inquiry into guilt of accused, entitling him to the
concession of bail u/s 497(2) Cr.P.C, therefore the application in hand is
accepted subject to furnishing bail bond to the tune of Rs, 100,000/-
with two sureties to the satisfaction of this court. Sureties must be local,
reliable and men of means. Copy of this order be placed on record.
Requisitioned record be returned. Record of this court be consigned to
RR after completion.

Announced.
26/1/2013

Zafar Ullah Mohmand
Judicial Magistrate-IX, Peshawar

ZAFARULLAH MOHAMMAD
JUDICIAL MAGISTRATE-IX
PESHAWAR

CERTIFIED TRUE COPY

Court
Peshawar

251
1600
30/1/13
30/1/13
30/1/13

Date
No.
W.
F.
S.
D.
Date

Bail Petition2013.

76/137
BA

LAKHT-E-MIR S/O TAZAMIR R/O CHAND MARI, TEHKAL, PRESENTLY CENTRAL JAIL, PESHAWAR.

VERSUS

THE STATE.



APPLICATION FOR THE RELEASE ON BAILOF THE ACCUSED/ PETITIONER MENTIONED ABOVE U/S -497 Cr.P.C IN A CASE FIR NO.348 Dated 13/06/2012 U/S32-4/ 353/34p.p.c. AT POLICE STATION TEHKAL, TEHSIL & DISTT PESHAWAR.

2

RESPECTFULLY SHEWETH;

- 1. That the accused/petitioner is innocent and has falsely implicated in the instant case. (Attested copy of the FIR is attached herewith.)
- 2. That the accused/petitioner has applied before the Hon'ble Court for his bail inter-alia on the following

GROUNDS:

- A. That at the time of occurrence the present accused/petitioner was not in Peshawar i.e. the complainant party had wrongly implicated him in the instant case.
- B. That in the captioned case the petitioner has malafide been involved even proved in through the presence of the instant FIR.
- C. That the FIR and the record available has so many contradictions in the captioned case.
- D. That more points would be raised at the time of arguments with the permission of the Hon'ble Court.

ATTESTED

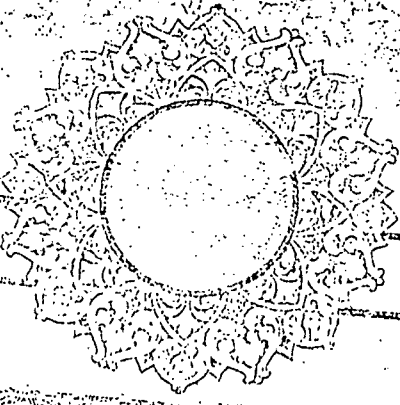
ATTESTED

30-1-17
Examiner
Court Peshawar

14

11

Rupees 30



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ATTESTED
Schid Ullah Khan, Advocate
Distt: Gauraha Poshpura

Handwritten text in Urdu, including the number 324/34 and the date 19-6-34.

ATTESTED

Handwritten text in Urdu, mentioning 'میرزا محمد رفیق' and 'دراہم محمد رفیق'.

9201-9289066-1

Handwritten text on the right margin.

Large block of handwritten text in Urdu, likely a legal statement or affidavit.

Handwritten text at the bottom, including the number 1019765434 and 1730-8273306.

ATTESTED

Handwritten signature at the bottom.

ORDER

15

This office order relates to the disposal or normal use enquiry against Constable Lakhta Mir No.850 of CCP, Peshawar allegations/charges that he while posted at PS AMJS was involved in criminal cases vide FIR No.347 dated 13.06.2012 u/s 324/34 and FIR No.348 dated 13.06.2012 u/s 324/353/34-PPC PS Tenkal. He also remained absent from lawful duty w.e.f 14.06.2012 till date.

In this connection, he was placed under suspension by SP/City, Peshawar vide O:B No.2457 dated 22.06.2012. Proper departmental enquiry was initiated. SDPO Suburb Peshawar was appointed as Enquiry Officer. He conducted the enquiry proceedings & submitted his report that service record of the delinquent official was found very dirty also involved in criminal cases as well as absence from lawful duty from 14.06.2012 till date. The E.O further recommended major punishment for the accused official vides Enquiry Report No.53/E/ST dated 23.07.2012.

On receiving the finding of E.O, final show cause notice was issued by SP/City vide No.5604/PA dated 31.07.2012. The said notice was sent on his home address through local Poice wherein, the Ex-General Concèller Naeem endrossed that the delinquent official has been shifted to tribal area Malagori.

Upon the finding of E.O, the opinion of DSP Legal was also sought by SP/City, Peshawar. The DSP/Legal opined that any type of major punishment as described in Police Rules 1975 can be awarded by the competent authority.

The recommendation of E.O alongwith DSP/Legal opinion has forwarded by SP/City vide No.7745/PA dated 01.11.2012 for further necessary action. On receipt of enquiry papers, the delinquent official was called time and again but he did not turn up as yet. The delinquent official is absconded in the criminal cases and proceeding u/s 512 Cr.P.C has been initiated against him.

In light of finding of E.O, DSP Legal Opinion and other material on record, it has been proved beyond any shadow of doubt that he is guilty of the charges and not desrve an iota of leniency being involved in criminal cases and willful absence from duty. Therefore, the power vested to me under Police disciplinary rules 1975, Constable Lakhta Mir No.850 is hereby dismissed from service with immatiate effect. Hence the period he remained absent from 14.06.2012 till date is treated without pay.

W. Sheer
SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

O.B No 4317 /dated 10-12-2012
No. 4577-23 /PA, dated Peshawar, the 10 / 12 /2012
Copy forwarded for information & n/action to:

1. The Capital City Police Officer, Peshawar.
2. The SSP/Operation Peshawar.
3. SP/City, Peshawar.
4. DSP/Hqrs, Peshawar.
5. Pay Officer/R.I, LO, Police Lines Peshawar.
6. OASI, CRC & FMC along-with complete departmental file
7. Official concerned

Q. A. Khan
ORIGINAL SEEN
Certified to be true Copy.

SP/HD is Punishment Order/Disposal order

موتی نے اپیل پر خدمت حکم و عقیقہ 10.12.12 اور دفتر
 SP/HER کاپی شدہ دستاویز CBN No 4317 کردہ 10.12.2012
 درج بالا سائل کوٹہ ایبیرولہ قانونی سربراہیہ پولیس
 کاپی شدہ دستاویز 5350 متعلقہ قانونی نوٹ / آڈیا سربراہیہ شدہ
 کاپی شدہ دستاویز
 ایبیرولہ قانونی سربراہیہ

1 یہ کہ سائل سال 1981ء میں کوٹہ پولیس میں بطور سپرنٹنڈنٹ تعینات ہوا۔ اور اس
 کے بعد ہی تعینات ایبیرولہ سے آسٹریا چلا گیا اور وہاں تعینات ہوا اور وہاں

2 یہ کہ بد قسمتی سے سائل نے خدمت ایبیرولہ میں 348 سو فی 13.12.2012 اور بد قسمتی 324
 کوٹہ میں تعینات ہوا اور وہاں

3 یہ کہ بعد از چھ ماہ کی مدت کوٹہ کو لا کر سائل کوٹہ میں تعینات ہوا اور وہاں
 تعینات ہوا اور وہاں تعینات ہوا اور وہاں تعینات ہوا اور وہاں تعینات ہوا اور وہاں
 تعینات ہوا اور وہاں تعینات ہوا اور وہاں تعینات ہوا اور وہاں تعینات ہوا اور وہاں

4 یہ کہ اس دوران آسٹریا میں سائل نے خدمت سائل نے کوٹہ میں تعینات ہوا اور وہاں
 تعینات ہوا اور وہاں تعینات ہوا اور وہاں تعینات ہوا اور وہاں تعینات ہوا اور وہاں

5 یہ کہ دوران آسٹریا میں سائل نے کوٹہ میں تعینات ہوا اور وہاں
 تعینات ہوا اور وہاں تعینات ہوا اور وہاں تعینات ہوا اور وہاں تعینات ہوا اور وہاں

اس کے بعد اس کے بعد اس کے بعد اس کے بعد اس کے بعد اس کے بعد اس کے بعد اس کے بعد
 اس کے بعد اس کے بعد اس کے بعد اس کے بعد اس کے بعد اس کے بعد اس کے بعد اس کے بعد
 اس کے بعد اس کے بعد اس کے بعد اس کے بعد اس کے بعد اس کے بعد اس کے بعد اس کے بعد

کاپی شدہ دستاویز 5350 دلا کر بد قسمتی کوٹہ میں تعینات ہوا اور وہاں

کاپی شدہ دستاویز

ORIGINAL SEEN
 Certified To Be True Copy

VAKALAT NAMA

17

NO. _____/20

IN THE COURT OF Service Tribunal Peshawar

Lakhta Mir (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Police Dept. (Respondent)
(Defendant)

I/We Lakhta Mir (Appellant) E Tahir Ali Adv

Do hereby appoint and constitute **M. Asif Yousafzai, 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 costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20

WNA
(CLIENT)

ACCEPTED

M. Asif Yousafzai
M. ASIF YOUSAFZAI
Advocate

E Tahir Ali Khan
Advocate

M. ASIF YOUSAFZAI
Advocate High Court,
Peshawar.

OFFICE:
Room No.1, Upper Floor,
Islamia Club Building,
Khyber Bazar Peshawar.
Ph.091-2211391-
0333-9103240

بکھنور جناب C.C.P.O صاحب پشاور

حکمانہ اپیل برخلاف حکم و فیصلہ 10-12-2012 از دفتر SP/HQ پشاور بروئے OB No.

4317 محررہ 10-12-2012 بحال سائل تخت امیر ولد تازہ میر سابقہ پولیس کانسٹیبل

نمبر 850/PC۔۔۔۔۔ تھانہ یکہ توت / آغا میر جانی شاہ بمعہ سابقہ تمام مراعات۔

جناب عالی! سائل حسب ذیل عرض کرتا ہے۔

- ۱۔ یہ کہ سائل سال 1987ء میں محکمہ پولیس میں بطور کانسٹیبل تعینات ہوا اور اپنی ڈیوٹی نہایت ایمان داری سے آفران بالا کے احکامات کے مطابق سرانجام دیتا رہا۔
- ۲۔ یہ کہ بد قسمی سے سائل کے خلاف ایک عدد مقدمہ علت 348 مورخہ 13-06-2012 زیر دفعہ 34/353/34PPC تھانہ تمہکال میں درج رجسٹر ہوا۔
- ۳۔ یہ کہ بعد از چا کیدگی مقدمہ متذکرہ بالا سائل مقدمہ لہذا میں گرفتار ہو کر جوڈیشل حوالات میں پابند ہوا اور حسب ضابطہ مقامی عدالت نے سائل کو حاضر ضمانت پر رہا کرنے کا حکم صادر فرمایا ہے۔ (حکم و فیصلہ لفظ ہے)۔
- ۴۔ یہ کہ اسی دوران افسران نے سائل کے خلاف سائل کے عدم موجودگی میں حکمانہ کارروائی کر کے سائل کو مورخہ 10-12-2012 کو نوکری سے برخاست کیا ہے۔
- ۵۔ یہ کہ دوران انکوائری افسران نے سائل کو اپنی حق دفاع اور پیش کرنے صفائی سے محروم رکھا گیا ہے اور تاحال سائل کو کوئی شو کاژ نوٹس وغیرہ بھی موصول نہ ہوا ہے۔ اور تمام کارروائی خفیہ طور سے کیا ہے۔ جس کا سائل کو کوئی علم نہیں ہے۔

لہذا استدعا ہے کہ بمنظوری درخواست / حکمانہ اپیل لہذا حکم و فیصلہ از دفتر جناب SP/HQ مورخہ 10-12-2012 حسب ضابطہ منسوخ کیا جائے۔ اور سائل کو اپنی نوکری پر بمعہ سابقہ مراعات بحال کرنے کا حکم صادر فرمایا جائے۔

المرقوم 11-02-2013

سائل تخت امیر سابقہ نمبر 850/PC ولد تازہ میر سکنتہ خیبر ایجنسی

BEFORE THE KHYBER PAKHTUKHWA SERVICE TRIBUNAL
PESHAWAR.

974
27-5-13

Service Appeal No. 936 /2013.

Lakhta Mir S/O Taza Mir, R/O Chand Mari, Tehkal, Tehsil and District Peshawar.

Appellant

Versus

- 1: The Provincial Government Through Secretary Home and Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar.
- 2: Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 3: Capital City Police Officer, Police Line, Peshawar.
- 4: Superintendent of Police, Headquarters, Police Line, Peshawar.
- 5: Superintendent of Police / City, Peshawar.
- 6: S.S.P Operation, Police Line, Peshawar.
- 7: Deputy Superintendent of Police, Dabgari Garden, Peshawar.

Respondents.

Service Appeal Under Section 10 Of The Khyber Pakhtunkhwa Removal From Service (Special Power) Ordinance, 2000 Read With Section 4 Of The Khyber Pakhtunkhwa Service Tribunal Act, 1973.

Prayer In Appeal:

26.12.2013

Appellant with counsel, Mr. Muhammad Asif Yousafza. Advocate, present and moved application for withdrawal of the appeal alongwith fresh Wakalat Nama and order dated 4.12.2013 of the appellate authority i.e. Capital City Police Officer, Peshawar (Respondent No.3) whereby the penalty of dismissal from service has been converted into that of compulsory retirement from service. On the request of the appellant, the appeal was requisitioned for disposal today.

In view of the application, and the development taking place consequent upon the order of the appellate authority dated 4.12.2013, whereby the impugned order of the competent authority dated 10.12.2012 has been modified and converted into that of compulsory retirement, thereby making another final order, the appeal is dismissed as withdrawn, with permission to the appellant to seek remedy available to him under the law, with no order as to costs. File be consigned to the record.

Announced
26/12/13

Sd/- Chairman
Sd/- Member

Handwritten notes and dates:
4-00
49-00
6-00
27/12/13
27/12/13
27/12/13
27/12/13

ORDER

This office order will dispose off departmental appeal of ex-constable **Lakhtamir No. 850** who was awarded the major punishment of Dismissal from service under PR 1975 by SP/HQRs: vide OB No. 4317 dated 10/12/2012. I
=

The allegations levelled against him were that he was involved in case vide FIR No. 347 dated 13.6.12 u/s 324/34 PPC and FIR No. 348 dated 13.6.12 u/s 324/353/34 PPC PS Tehkal. He also remained absent from duty w.e.f 14.6.12 till his dismissal i.e 10.12.12 (G.Total 176-days).

Proper departmental proceedings were initiated against him and DSP/Suburb was appointed as the E.O. The appellant failed to appear before the E.O. He also failed to submit his reply to the FSCN. As such the competent authority awarded him above major punishment.

The relevant record has been perused and also heard him in person in OR on 29/11/2013. Moreover, he got bail from the court. Though the allegations levelled against him has been proved but keeping in view of his long service of 24 years and 4-months, a lenient view is hereby taken and the punishment of Dismissal is converted into Compulsorily Retirement from service.

OB No: 4007
Date 4-12-2013


**CAPITAL CITY POLICE OFFICER,
PESHAWAR.**

No. 2005-10/PA dated Peshawar the 4/12/ 2013. 2/12

Copies for inf and n/a to the:-

- 1/ SP/HQRs: Peshawar.
- 2/ PO
- 3/ OASI
- 4/ CRC along with S.R. for making necessary entry.
- 5/ FMC encl: complete FM.
- 6/ Official concerned.

ATTESTED


BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No.07/2014.

Lakhta Mir Ex-Head Constable No. 850 Capital City Police,.....Appellant.

VERSUS.

1. Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. Superintendent of Police HQrs:, Peshawar.....Respondents.

Reply on behalf of Respondents 1, 2 and 3.

Respectfully Sheweth!

PRELIMINARY OBJECTIONS.

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

FACTS:-

- 1- Para No. 1 relates to record. Hence needs no comments.
- 2- Para No. 2 is correct. Hence needs no comments.
- 3- First part of para No. 3 is correct to the extent that the appellant was involved in a criminal case vide FIR No. 347 dated 13.06.2012 u/s 324/34 PPC and FIR No. 348 dated 13.06.2012 u/s 324/353/34 PPC PS Tehkal and admitted his absence. Rest of para pertains to court. Needs no comments.
- 4- Para No. 4 is correct to the extent that the appellant was placed under suspension due to his involvement in criminal case vide FIR No. 347 dated 13.06.2012 u/s 324/34 PPC and FIR No. 348 dated 13.06.2012 u/s 324/353/34 PPC PS Tehkal. He also remained absent for about 176 days. In this record a charge sheet vide No. 4775/PA dated 25.06.2012 was issued to appellant by SP/City Peshawar. Statement of allegations were made known to him but the appellant failed to appear before the enquiry officer. Hence was awarded major punishment of dismissal from service under Police Disciplinary Rules 1975 by SP/HQrs:, vide OB No. 4317 dated 10.12.2012. However later on keeping in view of his long service of 24 years and 04 months, the punishment order of dismissal was converted into compulsory retirement from service vide OB No. 4007 dated 04.12.2013. (copy of charge sheet, statement of allegations, enquiry report and impugned orders are annexed as A,B,C&D)

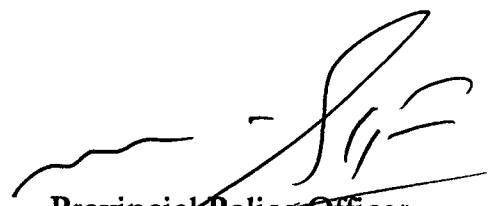
5- Para No. 5 is correct to the extent that the appellant presented a departmental appeal before the appellate authority which after due consideration was decided and the dismissal order was converted into compulsory retirement. (Order already annexed)


GROUND:-

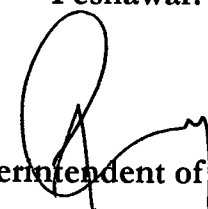
- A- Incorrect. The punishment orders are in accordance with law and rules.
- B- Incorrect. The appellant was treated as per law and rules.
- C- Incorrect. The appellant being a member of a disciplined force was rightly proceeded under Police Disciplinary Rules 1975.
- D- Incorrect. In fact a charge sheet vide No. 4775/PA dated 25.06.2012 was issued to appellant. He was also heard in person in Orderly Room on 29.11.2013. Statement of allegations were made known to him but the appellant failed to appear before the enquiry officer. Final show cause notice was issued and served as evident from the impugned orders. Hence was rightly awarded the punishment order. (copy of final show cause notice is annexed as E)
- E- Para E is correct to the extent that as the charges leveled against him were stand proved so he was rightly awarded the punishment order.
- F- Incorrect. The appellant is a habitual absentee from his lawful duty. He was also previously dismissed from service vide OB No. 2928 dated 17.07.1990. Hence the punishment orders are in accordance with law/rules.(Order annexed as "F")
- G- Incorrect. The appellant is a habitual absentee. As this is his second dismissal on same chages.
- H- That respondents also seek permission of this Honorable Service Tribunal to raise additional grounds at the time of arguments.

PRAYERS:-

It is therefore humbly prayed that on acceptance of this reply instant service appeal may kindly be dismissed.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.


Capital City Police Officer,
Peshawar.


Superintendent of Police,
HQrs., Peshawar.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No.07/2014.

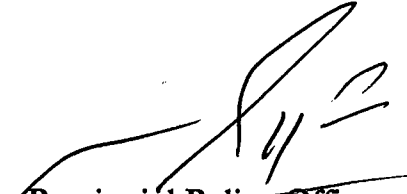
Lakhta Mir Ex-Head Constable No. 850 Capital City Police,.....Appellant.


VERSUS.


1. Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. Superintendent of Police HQrs., Peshawar.....Respondents.

AFFIDAVIT.

We respondents 1 To 3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.


Capital City Police Officer,
Peshawar.


Superintendent of Police,
HQrs., Peshawar.

(9)

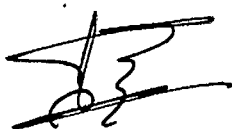
CHARGE SHEET

5. Whereas I am satisfied that a Formal Enquiry as contemplated by Police Rules 1975 is necessary and expedient.
6. And whereas, I am of the view that the allegations if established would call for major/minor penalty, as defined in Rule 3 of the aforesaid Rules.

Now therefore, as required by Rule 6 (1) of the said Rules, I Asif Iqbal Mohmand (PSP) Superintendent of Police Operations, Peshawar hereby charge you Constable Lakhta Mir No. 850 of PS Agha Mir Jani Shah Peshawar on the basis of following allegations:-

“You Constable Lakhta Mir No. 850 have involved your self in a criminal cases vide FIR No. 347 dated 13.06.2012 u/s 324/34 and FIR No. 348 dated 13.06.2012 u/s 324/353/34 PS Tehkal, therefore you have been recommended for proper departmental proceedings against you under the Rule 1975.

7. By doing this you have committed gross misconduct.
8. And I hereby direct you further under Rules 6 (I) of the said Rules to put in a written defence with in 7 days of the receipt of this Charge Sheet as to why the proposed action should not be taken against you and also stating at the same time whether you desire to be heard in person.
5. And in case your reply is not received within the specific period it shall be presumed that you have no defence to offer and ex-parte action will be taken against you.


(ASIF IQBAL MOHMAND)PSP
Superintendent of Police City
Peshawar

No. 4775/PA

Dt: 25 /June, 2012.

(P)

DISCIPLINARY ACTION


I, **Asif Iqbal Mohmand(PSP)**, Superintendent of Police City Division, Capital City Police Peshawar, as competent authority am of the opinion that he Constable Lakhta Mir No. 850 of P.S. Agha Mir Jani Shah has rendered himself liable to be proceeded against as he committed the following acts/omission within the meaning of Section-3 of the Disciplinary Rules 1975.

STATEMENT OF ALLEGATIONS.

"Constable Lakhta Mir No. 850 he has involved in a criminal cases vide FIR No. 347 dated 13.06.2012 u/s 324/34 and FIR No. 348 dated 13.06.2012 u/s 324/353/34 Police Station Tehkal. Being a member of a disipline force his this act is highly objectionable and against the rules and regulations of the force."

For the purpose of scrutinizing the conduct of the said constable with reference to the above allegations an enquiry officer **SDPO Suburb** is appointed.

The Enquiry Committee/Enquiry Officer shall in accordance with the provision of the Police Rules (1975), provide reasonable opportunity of hearing to the accused officer/officials and make recommendations as to punish or other appropriate action against the accused.


(ASIF IQBAL MOHMAND)PSP
Superintendent of Police City,
Peshawar

No. 4775 /PA


Dt: 25 /June, 2012.

0304
828412

Copy to the enquiry officer for initiating proceeding against the accused under the provision of Police Rules 1975.

steno

call the constable


Dy. Superintendent of Police
Suburb Circle

9

From: The Deputy Superintendent of Police,
Suburb, Peshawar.
To: The Superintendent of Police, Peshawar.
No. 53/P /ST, Dated Peshawar the 23-7 /2012.

SUBJECT: DISCIPLINARY PROCEEDINGS AGAINST CONSTABLE LAKHTAMIR NO.850 OF PS/AMJS.

With reference to your office No.4775/PA, Dated 25.6.2012 (reference attached).

BRIEF FACTS. It is submitted that Constable Lakhtar Mir No.850 while posted at PS/AMJS involved in the criminal cases vide FIR No.347 dated 13.06.2012 U/S 324/34 and Case FIR No.348 dated 13.6.2012 U/S 324/353/34 Police station Tahkal. In this connection he was issued Charge sheet with statement of allegations by W-SP/Hqrs, Peshawar and the undersigned appointed as enquiry officer to conduct proper departmental enquiry against him.

FINDING. The undersigned called the absentee constable Lakhtar Mir No.850 to the office through his place of posting of PS/AMJS, but he did not appear before the enquiry officer and was remained absent from lawful duty w.e.f. 14.6.2012 up till now as stated by Moharrer of PS/AMJS. So again he was directed through his home address of Tahkal on written letter to PS/Tahkal vide this office 2021/ST, dated 5.7.2012, he appeared but he did not ready to recorded of his statement and left the office. Due to which his service record called and checked which is found habitual absentee and also involved in criminal previously. (Detail bad entries are attached).

During the course of enquiry it revealed that constable Lakhtar Mir. No.850 is being a senior police officer and enlisted in the year 1987, while his previous record was found very dirty and involved in the above criminal cases as well as remained absent from lawful duty with effect from 14.6.2012. However this is no hope of him that he will become an good police officer in future.

RECOMMENDATION. In view the above circumstance, it is therefore suggested that there is no remedy except the Major punishment. Therefore Constable Lakhtar Mir No.850 is recommended for Major punishment of Compulsory retirement from service.

[Signature]
DEPUTY SUPERINTENDENT OF POLICE
SUBURB, PESHAWAR

[Handwritten notes]

ORDER

This office order will dispose off departmental appeal of ex-constable **Lakhtamir No. 850** who was awarded the major punishment of Dismissal from service under PR 1975 by SP/HQRs: vide OB No. 4317 dated 10/12/2012.

The allegations levelled against him were that he was involved in case vide FIR No. 347 dated 13.6.12 u/s 324/34 PPC and FIR No. 348 dated 13.6.12 u/s 324/353/34 PPC PS Tehkal. He also remained absent from duty w.e.f 14.6.12 till his dismissal i.e 10.12.12 (G.Total 176-days).

Proper departmental proceedings were initiated against him and DSP/Suburb was appointed as the E.O. The appellant failed to appear before the E.O. He also failed to submit his reply to the FSCN. As such the competent authority awarded him above major punishment.

The relevant record has been perused and also heard him in person in OR on 29/11/2013. Moreover, he got bail from the court. Though the allegations levelled against him has been proved but keeping in view of his long service of 24 years and 4-months, a lenient view is hereby taken and the punishment of Dismissal is converted into Compulsorily Retirement from service.

O B No: 9007
Date: 4-12-2013


**CAPITAL CITY POLICE OFFICER,
PESHAWAR.**

No. 2005-10 /PA dated Peshawar the 4/12/ 2013.

Copies for inf and n/a to the:-

- 1/ SP/HQRs: Peshawar.
- 2/ PO
- 3/ OASI
- 4/ CRC along with S.R. for making necessary entry.
- 5/ FMC encl: complete FM.
- 6/ Official concerned.

SHOW CAUSE NOTICE

1. I, Asif Iqbal Mohmand (PSP), Superintendent of Police, City Peshawar, as competent Authority do hereby serve Show Cause Notice to you Constable Lakhta Mir No. 850 while posted to Police Station AMJS.

189


- i) That consequent upon the completion of enquiry conducted against you by DSP/Suburb, Enquiry Officer, found you guilty of misconduct.
- ii) Ongoing through the findings and recommendations of the Enquiry Officer; the material on record and other connected papers, I am satisfied that you have committed the following acts/omission specified in Section-3 of the said Ordinance on the following grounds:-

"You Constable Lakhta Mir No. 850 involved in criminal cases vide FIR No. 347 dated 13.06.2012 u/s 324/34 and FIR No. 348 dated 13.06.2012 u/s 324/353/34 PS Tehkal. You are also absented yourself from lawful duty w.e.from 14.06.2012 till todote. Your this act amounts to gross misconduct and against the discipline of the force.

2. As a result thereof, I am competent Authority have tentatively decided to impose upon you the major penalty including dismissal from service under section-3 of the said Ordinance.

3. You are therefore, directed to Show Cause as to why the aforesaid penalty should not be imposed upon you.

4. If no reply to this notice is received within (07) days of its receipt of this notice in the normal course of circumstances, it shall be presumed that you have no defence to put in, exparte action shall be taken against you.


(ASIF IQBAL MOHMAND)PSP
Superintendent of Police City,
Peshawar

5604 /PA/SP/ City:
DT: 31 July: 2012

Constable Lakhta Mir No. 850 s/o Taza Mir r/o,
Khan Kalay PS Nasir Bagh Peshawar Mula Coori Now,
s/o SHO PS Tehkal.

مشو کاز نوٹس ایکویٹی فرمیں
-

(A) حبیب اللہ کی ریپورٹ کے کنٹریکٹ نمبر 850 حقیقتاً تمام ممبروں کو
 بعد وقوع کرن سیمان آباد سے ریپورٹ سمارٹ کر اپنے آباء
 کاؤن فلائو عدت نمبر صد بنا ہے۔ اور واصلہ آن کا کوئی اہل
 نہیں ہے۔

بعض خان
 Ex. صدر پولیس سٹیشن لاہور سیمان آباد۔ برائے نمبر 03219029668

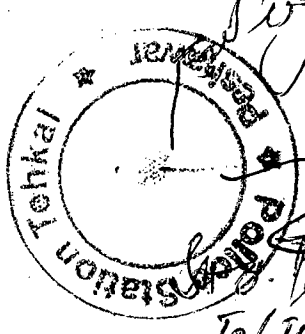
بجانب اللہ کی
 Station Tehkal
 10/10/2012

(B) حبیب اللہ کی ریپورٹ کے کنٹریکٹ نمبر 850
 جو کہ تمام ممبروں کے ساتھ میں گینیا کے علاقہ اور عدت نمبر 348 حقیقتاً 13
 حتم 324/34 اور عدت نمبر 348 حقیقتاً 18 حتم 324.353
 34.512
 تمام ممبروں کو بعد وقوع کرن سیمان آباد سے ریپورٹ سمارٹ کر اپنے آباء
 کاؤن فلائو عدت نمبر صد بنا ہے۔ اور واصلہ آن کا کوئی اہل
 نہیں ہے۔

Station Tehkal
 10/10/2012

بجانب اللہ کی ریپورٹ کے کنٹریکٹ نمبر A.B حقیقتاً تمام ممبروں کو
 بعد وقوع کرن سیمان آباد سے ریپورٹ سمارٹ کر اپنے آباء
 کاؤن فلائو عدت نمبر صد بنا ہے۔ اور واصلہ آن کا کوئی اہل
 نہیں ہے۔

Station Tehkal
 10/10/2012



O R D E R.

Constable Lakhta Mir NO.94 was issued a Show Cause Notice for charges that he while posted to P.P./Waheed Abad/Zandai, P.S.Urmar stopped a loaded Pick-up NO.4907-PRG driven by Fazal Sher on 29.5.90, checked his documents and demanded two crates of Appriquets or instead be paid Rs.100/-. On refusal of the driver, he took him to P.P.Waheed Abad and gave him beating. He tied his hands, gave him blows with stick at his head and back as a result of which he received a lacerated wound on the right scalp in the perietal region and bruises on the back of the right shoulder. He also absented himself w.e.from 29.5.90 to 31.5.90 when the report was made against him.

Fazal Sher, complainant/driver of the Pick-up submitted an application to SP/Rural against the accused official, where upon SP/Rural directed the DSP/Saddar Circle to conduct preliminary inquiry into the allegations. Prior to this, the said driver went to the Hospital where his injury sheet was prepared by Muzahim Shah, ASI and he was medically examined. The medical report shows a lacerated wound on the scalp in the perietal region and bruises on the back of the right shoulder joint. The injury was opined to be of the simple nature caused by blunt weapon. The said ASI of casualty duty in LRH/Poshwar recorded the report of the driver and sent it to Police Station in form of MURASILA which was incorporated in a Daily Diary.

DSP/Saddar Circle examined Fazal Sher driver/complainant, Qutab Khan and Munawar Khan, during the preliminary inquiry. They corroborated the allegations levelled in the report and application of the complainant. The medical report further supports the charges. Statements of the SHO and Abdul Latif, M/HC were also recorded who have stated that the accused official was the person involved in the occurrence. The Moharrir stated that on learning about the report, the accused official slipped away from the Police Station and a report was recorded in the Daily Diary. Copy of the D.D.NO.35 dated 29.5.1990 has been placed on record. Statement of accused official was also recorded who has admitted that he had stopped the driver and directed him to produce the Registrar's stamp but the driver abused him and had caught hold of him where upon he slapped the driver. He took the driver to the P.P. where he was hand-cuffed. The driver struck his head with the wall as a result of which he received injuries.

N.S.D. *[Signature]*

2
70 *[Signature]*

**BEFORE THE KHYBER PAKHTUNKHWA,
SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. 07 /2014

Lakhta Mir

V/S

Police Department.

.....

REJOINDER ON BEHALF OF APPELLANT

RESPECTFULLY SHEWETH:

Preliminary Objections:

- 1-7 All objections raised by the respondents are incorrect. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 No comments endorsed by the respondents department which means that they have admitted Para-1 of the appeal as correct, so no comments.
- 2 Para-2 has admitted correct by the respondents, so no comments.
- 3 First portion of Para-3 of the appeal has admitted correct by the respondent and rest of Para is not specifically denied by the respondents which means that they have also admitted rest of para-3 of the appeal as correct.
- 4 First portion of Para-4 of the appeal has admitted correct by the respondent and also admitted that by the respondents that the ex-parte proceeding was taken against the appellant and award major penalty and appellant is absent due to appellant is behind the bar and the absence period was treated as leave without pay therefore, remained no ground to penalize the appellant. Moreover rest of Para-4 of reply is incorrect and there is no show cause, no statement of allegations was ever served upon on appellant, although that's mention in reply. No proper regular enquiry was conducted and the appellant was not given proper chance of defense. However Para-4 of the appeal is correct.

5 Incorrect. While Para-5 of the appeal is correct.


GROUND:

- A) Incorrect. While Para-A of the appeal is correct.
- B) Incorrect. While Para-B of the appeal is correct.
- C) Incorrect. While Para-C of the appeal is correct.
- D) Incorrect. While Para-D of the appeal is correct. The record would show that no proper enquiry was conducted.
- E) Not replied accordingly. Moreover, Para-E of appeal is correct.
- F) Incorrect. While Para-F of the appeal is correct.
- G) Incorrect. While Para-G of the appeal is correct.
- H) Legal.

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

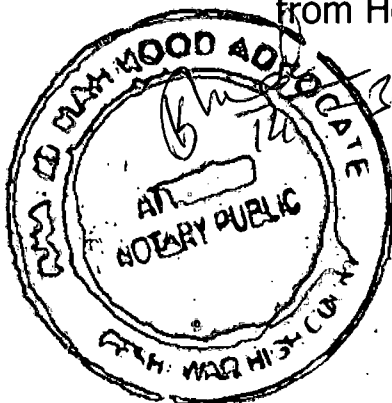
APPELLANT
Lakhta Mir

Through:


(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder and appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from Hon'ble Tribunal.




DEPONENT

practitioners for treatment and during this period kept on sending applications for extension in leave. However, admittedly the appellant did not bother to ascertain the fate of such applications. In these circumstances, the appellant was proceeded against and he received notice dated 23-5-1990 issued by the Authorised Officer to show cause as to why action should not be taken against him for remaining absent from duty. Vide said notice the appellant was also directed to either report for duty immediately or to appear before the Medical Superintendent, Aziz Bhatti Shaheed Hospital, Gujrat. Before the Service Tribunal, the appellant's stand was that he had not received any letter directing him to appear before the Medical Superintendent or to report for duty. In this behalf, before the Service Tribunal the appellant relied upon a certificate issued by the Chief Postmaster-General, Lahore Cantonment to the effect that the said registered letter was returned to the sender with the remarks that the addressee was not at home. It was contended before us that the order dispensing with the holding of regular inquiry was not justified and the circumstances of the case warranted a regular inquiry. It was also contended that the appellant's application accompanied by medical certificates issued by the private medical practitioners should have been accepted and the refusal to grant him further leave and his removal from service were uncalled for.

4. We have heard the learned counsel for the parties at length. Registered letters were sent to the appellant on his known address and the postman not only once but for a number of time tried to deliver the letter, but each time it was not received. We have also noticed that a regular inquiry was dispensed by the Authorised Officer under rule 6.3 of the (Efficiency and Discipline) Rules on valid grounds because a good deal of evidence in support of the charge was otherwise available on the record. We have also noticed that final opportunity was given to the appellant to show cause, but it was not availed by him. We have no hesitation to observe that the proceedings against the appellant were conducted strictly in accordance with the procedure prescribed under the (Efficiency and Discipline) Rules. Furthermore, final show-cause notice was also sent to the appellant containing the recommendation in respect of the proposed penalty and the grounds of penalty were also mentioned. Under the Revised Leave Rules of 1981 the competent Authority was not precluded to have second medical opinion with regard to the ailment of an employee from a Civil Surgeon or a Medical Board as the case may be after examining such employee. In the case of the appellant the Authority had decided to have second opinion. In this behalf as already observed, number of attempts were made by the postman, but each time the postman was informed that the appellant was not available. In this period, admittedly, he was working in Lahore and, therefore, in our view, it was rightly held by the Service Tribunal that there was no bar in the way of the appellant to ascertain the fate of his application seeking further leave. Out of 7 applications moved by the appellant for the extension of leave, 6 were accompanied by certificates from private medical practitioners. The contention for holding a regular inquiry, in the light of facts and circumstances of this case

was totally unwarranted. The I. seeking extension in leave, but been refusing to receive letters also did not bother to ascertain. The plea of mala fides raised by the appellant is also baseless as no cogent evidence was produced by the appellant before the Service Tribunal to substantiate the same. Furthermore, no question of public importance is involved. Resultantly, this appeal fails and is hereby dismissed. There will be no order as to costs.

M.B.A./M-169/S

not deny receipt of applications he appellant shows that he has the Department and he himself applications. The plea of mala fides raised by the appellant is also baseless as no cogent evidence was produced by the appellant before the Service Tribunal to substantiate the same. Furthermore, no question of public importance is involved. Resultantly, this appeal fails and is hereby dismissed. There will be no order as to costs.

Appeal dismissed.

1998 S C M R 1993

[Supreme Court of Pakistan]

Present: Saiduzzaman Siddiqui, Raja Afrasiab Khan and Wajihuddin Ahmed, JJ

Dr. MUHAMMAD ISLAM---Appellant

versus

GOVERNMENT OF N.-W.F.P. through Secretary, Food, Agriculture, Livestock and Cooperative Department, Peshawar and 2 others---Respondents

Civil Appeal No. 568 of 1995, decided on 2nd June, 1998.

(On appeal from the N.-W.F.P. Service Tribunal, Peshawar dated 24-8-1994 passed in Appeal No. 202 of 1993).

(a) Fundamental Rules---

---F.R. 54---Civil service---Civil servant was involved in a case under S.302/34, P.P.C. for a murder---No evidence could be brought against the accused civil servant on charge of murder, thus, proving that allegations levelled against him were baseless---Acquittal of civil servant from the criminal case---Accused civil servant in case of acquittal was to be considered to have committed no offence because the competent Criminal Court had freed/cleared him from an accusation or charge of crime---Such civil servant, therefore, was entitled to grant of arrears of his pay and allowances in respect of the period he remained under suspension on the basis of murder case against him. [pp. 1999, 1998] F & D

Government of West Pakistan through the Secretary, P.W.D., Lahore v. Mian Muhammad Hayat PLD 1976 SC 202 distinguished.

For appellant
Lakhta Mir

(b) Criminal Procedure Code (V of 1898)---

---S. 497---Bail---Observations of Court in bail granting order are tentative in nature.

The observation of the Criminal Court in the bail granting order is wholly immaterial for the purpose of acquittal or conviction of the accused. The observations in the orders passed in bail applications are always tentative in nature and as such, cannot be used by the parties for conviction or acquittal of the accused. [p. 1997] A

(c) Criminal trial---

---Benefit of doubt---Doubt itself destroys the very basis of the prosecution case---Where the benefit of doubt has been given to the accused, it cannot be said that charge has been established by the prosecution---Accused has to be treated as innocent unless it is proved on the basis of best possible evidence that they are connected with the commission of crime and as such deserves to be convicted to meet the ends of justice---Even where benefit of doubt has been extended to accused, he shall be deemed to have been honourably acquitted. [p. 1997] B

(d) Criminal trial---

---Acquittal---All acquittals are "honourable" and there can be no acquittals which may be said to be "dishonourable".

All acquittals, even if these are based on benefit of doubt are honourable for the reason that the prosecution has not succeeded to prove their cases against the accused on the strength of evidence of unimpeachable character. It may be noted that there are cases in which the judgments are recorded on the basis of compromise between the parties and the accused are acquitted in consequence thereof. What shall be the nature of such acquittals? All acquittals are certainly honourable. There can be no acquittals, which may be said to be dishonourable. The law has not drawn any distinction between these types of acquittals. [p. 1998] C

That term "acquittal" has not been defined anywhere in the Criminal Procedure Code or under some other law. In such a situation, ordinary dictionary meaning of "acquittal" shall be pressed into service. [p. 1998] E

Mian Muhammad Shafa v. Secretary to Government of the Punjab, Population Welfare Programme, Lahore and another 1994 PLC (C.S.) 693 ref.

Government of West Pakistan through the Secretary, P.W.D., Lahore v. Mian Muhammad Hayat PLD 1976 SC 202; Government of N.-W.F.P. v. I.A. Sherwani and another PLD 1994 SC 72 and Dictionary by Macmillan.

(Raja Afrasiab Khan, J)

William D. Halsey/Editorial Director, Macmillan Publishing Co., Inc. New York, Collier Macmillan Publishers London" rel.

(e) Words and phrases---

---Word "acquittal"---Connotation. [p. 1998] E

Abdul Kadir Khattak, Advocate Supreme Court with Muhammad Zahoor Qureshi Azad, Advocate-on-Record for Appellant.

Hafiz Awan, Advocate Supreme Court with Muhammad Zahoor Qureshi Azad, Advocate-on-Record (absent) for Respondents Nos. 1 and 2.

Respondent No. 3: Ex parte

Date of hearing: 2nd June, 1998.

JUDGMENT

RAJA AFRASIAB KHAN, J.---On 21st of August, 1989 at 4-40 p.m. a case under section 302/34, P.P.C. was registered against Dr. Muhammad Islam and Fazal Haqqani on the statement of Muhammad Rahim with Police Station Katlang District Mardan for the murder of Sher Zamin. An Additional Sessions Judge, Mardan, after recording the statement of the complainant, Muhammad Rahim passed the following order on 9-6-1992:--

"Statement of the complainant has already been recorded and placed on file. He does not charge the accused for the commission of the offence. In view of his statement, the learned S.P.P. also gave statement that he wants to withdraw from the prosecution against the accused.

In view of the above statements, no case stands against the accused, therefore, no charge is framed against them and they are discharged/acquitted from the charge levelled against them in the present case. They are on bail, their bail bonds stand cancelled and sureties discharged. Case property, if any, be disposed of in accordance with law. File be consigned after completion."

It is evident that the accused have been acquitted in the case. At the time of incident, the appellant was posted as Veterinary Officer (Health) (B-17), Incharge Veterinary Dispensary, Katlang District Mardan. He was suspended from service with effect from 22nd of August, 1989 vide order dated 17-1-1990 because of his involvement in the aforesaid murder case. Nevertheless as pointed out above, he was acquitted of the murder charge by the trial Judge on 9th of June, 1992. On the strength of this order, the appellant moved an application on 29-6-1992 for his reinstatement in service. On 7-4-1993, the competent Authority accepted the application of the appellant and in consequence thereof, reinstated him in service with effect from 22nd of August, 1989. The period from 22nd of August, 1989 to the date of his assumption of duty i.e. 18-4-1993 was treated as extraordinary leave without pay. On 2nd of May, 1993, the

appellant filed representation against the order dated 7-4-1993 which was rejected by Secretary Food, Agriculture, Livestock and Cooperative Department, Peshawar on 19th of June, 1993. The appellant then filed appeal before the N.-W.F.P. Service Tribunal praying for the payment of salary and allowances to him for the said period. This claim of the appellant was contested by the Government on the ground that the acquittal of the appellant was based on a compromise between the parties. This being the position, acquittal of the appellant cannot be held to be honourable so as to entitle him to full pay and allowances for the said period. The Tribunal vide its decision, dated 24th of August, 1994 dismissed the appeal observing:--

"The expression 'honourably acquitted' has not been defined in rules anywhere else. There is no reference in the Code of Criminal Procedure, to the term 'honourably acquittal'. In the ordinary sense 'honourable acquittal' would imply that the person concerned had been accused of the offence maliciously and falsely and that after his acquittal no blemish whatsoever, attaches to him. In cases where the benefit of doubt is given to him or where he is acquitted because the parties have compromised or because the parties on account of some extraneous influence have resiled from their statements then as held by the learned Division Bench of the erstwhile High Court of West Pakistan Lahore Seat in case reported as Sardar Ali Bhatti v. Pakistan (PLD 1961 Lah. 664) in spite of the acquittal of the person concerned, cannot be declared to have been 'honourably acquitted.' This decision has been upheld by the Hon'ble, Supreme Court of Pakistan in case reported as Government of West Pakistan through the Secretary, P.W.D. (Irrigation Branch), Lahore v. Mian Muhammad Hayat (PLD 1976 SC 202). The appellant having been acquitted on the basis of compromise with the complainant his acquittal cannot, therefore, be treated as honourable. (Emphasis supplied underlined).

It is for the revising authority or appellate authority to form its opinion on the material placed before it, whether such a person has been honourably acquitted or not. It is left to the absolute subjective discretion of the authority. This Tribunal, therefore, dismiss the appeal. Parties are left to bear their own costs. File be consigned to the record."

Leave to appeal was granted by this Court on 14th of May, 1995.

2. Learned counsel appearing on behalf of the appellant submitted that the appellant was acquitted and as such, was entitled to be given the pay alongwith allowances for the period he remained under suspension. This position was contested by the respondents by saying that as a matter of fact, there was a compromise between the appellant and the complainant. It could not be said that the appellant had been honourably acquitted. The learned Law Officer drew our attention to the bail granting order, dated 16th of January, 1992 saying that an

affidavit was given by the son of the complainant that the parties had entered into a compromise.

3. After hearing the learned counsel for the parties and perusing the record, we are inclined to hold that this is a case of acquittal pure and simple. The observation of the Criminal Court in the aforesaid bail granting order is wholly immaterial for the purposes of acquittal or conviction of the appellant. It has time and again been said that the observations in the orders passed in bail applications are always tentative in nature and as such, cannot be used by the parties for conviction or acquittal of the accused. In fact, these bail orders are always treated to be non-existent for the purposes of trial of the accused. The above order in the bail application has, therefore, to be ignored for all intents and purposes. The argument is thus repelled. The trial Judge in his order referred to above has unequivocally stated that the appellant has been acquitted of the charge. Needless to state that in all criminal matters, it is the bounden duty of the prosecution to establish its cases against the accused on the basis of reliable and credible evidence. In the case in hand, the prosecution failed to produce any evidence against the appellant. The testimony of the star witness namely the complainant did not involve him in the commission of the crime. This was, undoubtedly, a case of no evidence on the face of it. The Law Officer is unable to show that the parties have entered into a compromise. His simple word of mouth was not enough to hold that the parties had entered into compromise. Even in the cases where benefit of doubt has been given to the accused, it cannot be said that the charge has been established by the prosecution. The accused are to be treated as innocent unless it is proved on the basis of best possible evidence that they are connected with the Commission of the crime and as such, deserve to be convicted to meet the ends of justice. The doubt itself shall destroy the very basis of the prosecution case. In this view of the matter, the accused shall be deemed to have honourably been acquitted even where the benefit of doubt has been extended to them. In case of Mian Muhammad Shafa v. Secretary to Government of the Punjab, Population Welfare Programme, Lahore and another (1994 PLC (C.S.) 693), following observations were made:--

"There is hardly any ambiguity in these provisions and they do not present any difficulty. We are in no doubt that the provisions of clause (a) are attracted by the facts on the ground that the appellant was acquitted of the charge against him. Although, the department claims that this was the result of benefit of doubt, we would hold that the acquittal is honourable within the meaning of this rule. As a matter of fact, all acquittals are honourable and the expression 'honourable acquittals' occurring in clause (a) seems to be superfluous and redundant. It is one of the most valuable principles of criminal jurisprudence that for a judgment of conviction it is the duty of the prosecution to establish its case beyond all reasonable doubt. If it fails

to do so, the accused will be entitled to acquittal and such acquittal will be honourable, even if it is the result of a benefit of doubt. The expression 'benefit of doubt' is only suggestive of the fact that the prosecution has failed to exonerate itself of the duty of proving its case beyond all reasonable doubt.

In the present case, therefore, the appellant's acquittal of the charge of misconduct and his consequential reinstatement in service entitled him to full pay and remuneration of the entire period from 6-10-1980 to 12-2-1986 under F.R. 54(a) of the Rules. We hold that the provisions of F.R. 54(b) are not relevant and that they could not have been pressed into service by the Department in deciding the matter."

We are inclined to uphold the above view inasmuch as all acquittals even if these are based on benefit of doubt are honourable for the reason that the prosecution has not succeeded to prove their cases against the accused on the strength of evidence of unimpeachable character. It may be noted that there are cases in which the judgments are recorded on the basis of compromise between the parties and the accused are acquitted in consequence thereof. What shall be the nature of such acquittals? All acquittals are certainly honourable. There can be no acquittals, which may be said to be dishonourable. The law has not drawn any distinction between these types of acquittals.

4. Be that as it may, we hold that the appellant was acquitted because there was not an iota of evidence available on record against him. Learned counsel for the respondents relied upon the rule laid down in Government of West Pakistan through the Secretary, P.W.D., Lahore v. Mian Muhammad Hayat (PLD 1976 SC 202), wherein it was held that the acquittal of the accused had to be honourable which would mean that the allegations were false. In our view, the above rule shall not apply to this case for the reason that the appellant in this case was tried and for lack of evidence, he was acquitted by the trial Court. In the referred case, the accused, Muhammad Hayat was never tried under any offence by any Criminal Court. It may also be noted that the provisions of F.R. 54(a) have been declared un-Islamic by the Shariat Appellate Bench of this Court vide Government of N.-W.F.P. v. I.A. Sherwani and another (PLD 1994 SC 72). In other words, the F.R. 54(a) under which the appellant has been deprived of his pay and other financial benefits, does not exist on the statute book. It is admitted by the learned counsel for the parties that term "acquittal" has not been defined anywhere in the Criminal Procedure Code or under some other law. In such a situation, ordinary dictionary meaning of "acquittal" shall be pressed into service. According to "Dictionary Macmillan, William D. Halsey/Editorial Director, Macmillan Publishing Co., Incorporated New York, Collier Macmillan Publishers London" the words "acquit" and "acquittal" mean:--

"acquit"--quitted, -quitting. v.t. 1. to free or clear from an accusation or charge of crime; declare not guilty; exonerate: The jury acquitted

(Wajihuddin Ahmed, J)

him after a short trial. 2. To relieve or release, as from a duty or obligation: to acquit him of responsibility. 3. To conduct (oneself); behave: The team acquitted itself well in its first game. (Old French acquitter to set free, save, going back to Latin ad to + quietare to quiet)"

'acquittal' n.1. a setting free from a criminal charge by a verdict or other legal process. 2. Act of acquitting; being acquitted'."

The appellant was acquitted by the trial Judge as already pointed out above. It shall, therefore, be presumed that the allegations levelled against him are baseless. In consequence, he has not been declared guilty. In presence of above meaning of "acquittal" the appellant is held to have committed no offence because the competent Criminal Court has freed/cleared him from an accusation or charge of crime. The appellant is, therefore, entitled to the grant of arrears of his pay and allowances in respect of the period he remained under suspension on the basis of registration of murder case against him. This appeal succeeds and is allowed with no order as to costs.

M.B.A./M-178/S

Appeal allowed.

1998 S C M R 1999

[Supreme Court of Pakistan]

Present: Saiduzzaman Siddiqui, Raja Afrasiab Khan
and Wajihuddin Ahmed, JJ

HIDAYATULLAH and another---Appellants

versus

CHIEF SECRETARY, N.-W.F.P. and another---Respondents

Civil Appeals Nos. 562 and 563 of 1995, decided on 11th June, 1998.

(On appeal from the judgment dated 21-9-1994 of the N.-W.F.P. Service Tribunal in Appeal No. 196 of 1993).

(a) Constitution of Pakistan (1973)---

---Art. 212---Misconduct---Removal from service---Acquisition of land by private negotiation---Civil servant posted as Revenue Extra-Commissioner did not insist on vendors to hand over all title deeds relating to the acquired land and instead obtained registered agreement deed of sale on stamp paper worth Rs.5 without taking into account the stay order and the merits of applications of co-sharers---Leave to appeal was granted to consider contention that "as the land was purchased by private negotiations between the department and the sellers

considering also the fact that the main appeal is still pending before the III-Additional District Judge, Karachi (East).

5. The allegation of taking away child out of the jurisdiction of this Court by the respondent/father in case the custody is given to him is vehemently denied by the respondent himself. He has submitted that at present he is not holding any visa for U.S.A. neither for himself nor for the minor, therefore, taking away of minor out of jurisdiction of this Court would be out of question. He further submitted that he is prepared even to surrender his passport and to give any guarantee in the said respect. The petitioner and her counsel could not controvert the said statement of the respondent.

6. It appears that till today the petitioner has not made compliance of the order passed by learned Judge in Chambers and thereby has not handed over the custody of the minor to the respondent and thereby 2/3rd period of vacation has passed and now only remain 1/3rd of the vacation period so that minor could remain with his father the respondent. Accordingly the child produced by the petitioner today in terms of the direction of this Court is given in custody of respondent/father who will keep the custody of minor in terms of order passed by learned Judge in Chambers of the High Court. The respondent and his counsel undertake to return the custody of minor on 7th August, 2005 at 9-00 a.m. to the petitioner in presence of Assistant Registrar of this Registry at Karachi. The matter being of custody of minor which requires speedy disposal, therefore, it is observed that III Additional District Judge on whose file the appeal against the order of 1st Civil Judge is pending in respect of the minor shall be disposed of preferably within a period of four months and the progress of the appeal shall be intimated to the Assistant Registrar, Karachi Registry of this Court.

7. In the circumstances, we find no case for grant of leave to appeal is made out, consequently leave to appeal is declined and the petition is dismissed.

H.B.T./S-134/SC

Petition dismissed.

2008 S C M R 1516

[Supreme Court of Pakistan]

Present: Rana Bhagwandas and Saiyed Saeed Ashhad, JJ

HABIB BANK LIMITED---Petitioner

versus

GHULAM MUSTAFA KHAIRATI---Respondent

Civil Petition No.411-K of 2004, decided on 10th October, 2005.

SCMR

(On appeal from the order, dated 12-3-2004 passed by Federal Service Tribunal at Karachi in Appeal No.1472(K) of 1998).

(a) Service Tribunals Act (LXX of 1973)---

---Ss. 2-A & 4---Employee of Nationalized Institution---Privatization of such Institution during pendency of appeal by its employee before Service Tribunal---Effect---Such subsequent development would neither deprive such employee of his status as civil servant nor oust jurisdiction of Service Tribunal to proceed with pending appeal---Principles.

Mere fact of privatization of Nationalized Institution by way of transfer/sale of its controlling share by the Federal Government to a private party would not be sufficient to oust the jurisdiction of the Service Tribunal to proceed with the case of an employee of such institution as at the time of filing of the appeal before the Tribunal he was a civil servant as provided by section 2-A of Service Tribunals Act, 1973 and a subsequent development would not deprive or strip such employee of his status as civil servant would have no adverse effect on the pending appeal. [p. 1521] A

(b) First Information Report---

---Registration of F.I.R. against a person---Effect---Mere allegation of commission of an offence and registration of F.I.R. against a person would not ipso facto make him guilty, rather he would be presumed to be innocent until convicted by a competent Court---Principles.

Mere allegation of commission of an offence against a person and registration of F.I.R. in respect of a certain offence or more than one offence against such person would not ipso facto make him guilty of commission of such offence and he would continue to enjoy the presumption of innocence until convicted by a Court of competent jurisdiction after a proper trial with opportunity to defend himself on the allegations levelled against him. [p. 1521] B

(c) Habib Bank Limited (Staff) Service Rules, 1981---

---R. 15---Termination of service in lieu of pay for notice period---Senior Executive Vice-President---Non-performance of duties by employee due to his arrest in a criminal case---Imposition of such penalty by Authority for having lost faith and confidence in employee and for not keeping such post vacant for indefinite period---Validity---Mere registration of criminal case against employee would not ipso facto make him guilty of commission of offence---Employee would continue to enjoy presumption of innocence until convicted by competent Court after trial---Authority could have posted another officer on such post till decision of criminal case---Employee on conviction in criminal case

SCMR

for appellant
Lakhtamir

would have lost his job---Authority during pendency of criminal case could institute departmental proceedings against employee for his alleged criminal acts found to be false subsequently---Simpliciter termination of service of employee under R.15 of Habib Bank Limited (Service) Rules, 1981 for having lost trust and confidence of competent authority was an illegal order. [pp. 1521, 1522, 1525] B, C, G & H

(d) Civil service---

---Initiation of departmental proceedings against civil servant before or after his acquittal in criminal case---Principal.

Before the quashment of F.I.R. and the pendency of criminal case the authority can initiate departmental proceedings as the criminal and departmental proceedings are entirely different not being co-extensive nor inter-connected. Even after acquittal of civil servant in criminal trial, departmental proceedings could have been instituted as these are concerned with the service discipline, good conduct, integrity and efficiency of civil servant. [p. 1522] D

Syed Muhammad Iqbal Jafri v. Registrar, Lahore High Court 2004 PLC (C.S.) 809 rel.

(e) Civil service---

---Removal/dismissal/termination of services of an employee of nationalized Bank having no statutory rules---Validity---Such penalty could not be imposed on employee without issuing him show-cause notice calling upon his explanation and holding of an inquiry, if required, into allegations---Mere fact that existing Service Rules of Bank did not have statutory backing would not give unlimited, unfettered and absolute power to competent authority to ignore same and deprive employee of his right of access to natural justice. [p. 1522] E

Arshad Jamal v. N.-W.F.P. Forest Development Corporation and others 2004 PLC (C.S.) 802; The Managing Director, Sui Southern Gas Co. Ltd. v. Saleem Mustafa Shaikh and others PLD 2001 SC 176; Managing Director, Sui Southern Gas Company Limited, Karachi v. Ghulam Abbas and others 2003 PLC (C.S.) 796; Nazakat Ali v. WAPDA through Manager and others 2004 SCMR 145 and Anisa Rehman v. P.I.A.C. 1994 SCMR 2232 rel.

(f) Service Tribunals Act (LXX of 1973)---

---S. 4---Appeal---Time-barred appeal---Condonation of delay---Validity---Discretion of condoning delay in filing appeal, if legally, judiciously and properly exercised would not be interfered with. [pp. 1523, 1525] F, G & H

Managing Director, Sui Southern Gas Company Limited Karachi v. Ghulam Abbas and others 2003 PLC (C.S.) 796 and Nazakat Ali v. WAPDA through Manager and others 2004 SCMR 145 rel.

Shahid Anwar Bajwa, Advocate Supreme Court and Ahmedullah Faruqi, Advocate-on-Record for Petitioner.

Suleman Habibullah, Advocate-on-Record for Respondent.

ORDER

SAIYED SAEED ASHHAD, J.--- This petition for leave to appeal has been filed by petitioner-Bank assailing the judgment dated 12-3-2004 of the Federal Service Tribunal (hereinafter referred to as the "Tribunal") in Appeal No.1472(K) of 1998 whereby the Tribunal has set aside the order of termination of the respondent and reinstated him in service with full monetary and other consequential benefits.

2. Facts requisite for disposal of this petition are that respondent was employed as Senior Executive Vice-President in Habib Bank Limited. He was involved in some criminal charges for which an F.I.R. was registered and he was arrested therein. As a result of his arrest which prolonged on account of dismissal of his bail application, he could not perform his duties on the post held by him. The petitioner-Bank after observing that the post could not be kept vacant for an indefinite period as it was not known when he would be enlarged on bail or released from the charges levelled against him and further that on account of his involvement in criminal acts they had lost faith and confidence in him, thus constraints on the part of the management from allowing to occupy a very senior and confidential position terminated his services with immediate effect in pursuance of Clause 15 of the Habib Bank Limited (Staff) Service Rules, 1981 on three months pay in lieu of notice.

3. The respondent submitted his representations, legal notices etc. but the petitioner-Bank did not redress the grievance of the respondent on the ground that his termination was simpliciter and further that his service with the bank was governed by the principle of master and servant which gave ample power to the petitioner-Bank to remove/terminate an employee after serving of notice or pay in lieu thereof and there was no requirement of providing opportunity of personal hearing.

4. As the petitioner-Bank failed to redress his grievance the respondent approached High Court of Sindh by filing Constitutional Petition under Article 199 of the Constitution of Islamic Republic of Pakistan. This petition was dismissed after incorporation of section 2-A

in the Service Tribunals Act, 1973 (hereinafter referred as the "Act"). It will be advantageous to reproduce the observations of the High Court regarding condonation of delay in filing appeal before the Tribunal as under:---

"The petitioner apart from the available pleas, would be free to apply for condonation of delay under section 5 of the Limitation Act for the reason that the petitioner has been pursuing his petition diligently and in good faith."

5. The order of the High Court was challenged by respondent before this Court by way of C.P.L.A. No.52 of 1998. The C.P.L.A. was dismissed vide order dated 4-6-1998 upholding the order of the High Court to the effect that the Tribunal would have the sole jurisdiction to proceed with the case of the respondent after incorporation of section 2-A in the Act. Consequently respondent filed appeal under section 6 of the Act on 4-4-1998.

6. The petitioner objected to the maintainability of appeal before the Tribunal on the ground of limitation. The Tribunal after minute and thorough examination of the provisions of section 5 of the Limitation Act and taking into consideration the facts and circumstances of the case condoned the delay by placing reliance on the pronouncements of this Court laying down the principle for condonation of delay.

7. Feeling aggrieved and dissatisfied with the impugned judgment the petitioner-Bank filed this petition for leave to appeal.

8. We have heard the arguments of Mr. Shahid Anwar Bajwa learned Advocate Supreme Court on behalf of petitioner and Mr. Suleman Habibullah learned Advocate-on-Record for respondent.

9. Mr. Shahid Anwar Bajwa in support of the petition raised the following three contentions:---

(i) That on 12-3-2004 when the judgment was announced, the Tribunal had ceased to have jurisdiction to proceed with the case of the respondent inasmuch as by that date the petitioner-Bank after completion of privatization process had been handed over to Agha Khan Foundation as they had acquired 51% interest in the petitioner-Bank whereafter it could not be said that the Bank was being run, controlled and managed by the Federal Government thus depriving the respondent of the status of civil servants as per section 2-A of the Act.

(ii) That the petitioner on account of his involvement in criminal acts and offences of serious nature for which F.I.R. No.98 of 1994 dated 26-12-1994 was registered by F.I.A. under

sections 161/162 P.P.C. read with section 5(2) of Prevention of Corruption Act (II of 1947) was found to be dishonest, unreliable, unscrupulous and tricky person becoming unfit for employment in an institution like a Bank where utmost trust, respect, credibility and honesty is required leaving no option with the Bank but to terminate his services; and

(iii) That the Tribunal had erred in condoning the delay in filing the appeal by the respondent as no cogent, plausible and satisfactory ground had been advanced by the respondent for the delay in filing the appeal and the Tribunal had acted in an arbitrary and fanciful manner in condoning the delay.

10. Mr. Suleman Habibullah, learned Advocate-on-Record appearing on behalf of respondent on the other hand supported the judgment of the Tribunal and submitted that the Tribunal had considered each and every aspect of the case in condoning the delay and minutely examined all the contentions of the counsel for the parties as well as relevant provisions of the law applicable to the facts and circumstances of the case relating to the rights, liabilities and obligations of the parties.

11. Relative to the first contention raised by Mr. Shahid Anwar Bajwa it is to be observed that this contention was not available to the petitioner at the time when the appeal was argued before the Tribunal, therefore, the Tribunal could not have considered and dilated upon the contention which has been raised for the first time today. The petitioner did not even raise this ground in their petition for leave to appeal filed by them in this Court. Even otherwise raising of this plea or ground before us would be of no help to the petitioner in view of the judgment of a larger Bench of this Court in Civil Petitions Nos.204 to 240, 247, 248-K of 2004 and 199-K of 2005 (Manzoor Ali and others v. United Bank Ltd. and another) holding that mere fact of privatization of Nationalized Institution by way of transfer/sale of its controlling share by the Federal Government to a private party would not be sufficient to oust the jurisdiction of the Service Tribunal to proceed with the case of an employee of such institution as at the time of filing of the appeal before the Tribunal he was a civil servant as provided by section 2-A of the Act and a subsequent development would not deprive or strip such civil servant of his status as civil servant would have no adverse effect on the pending appeal. This contention is therefore decided against the petitioner.

12. Taking into consideration the second contention advanced by Mr. Shahid Bajwa it may be observed that it is a settled principle of law that mere allegation of commission of an offence against a person and

1522
SUI SOUTHERN GAS COMPANY LIMITED v. GHULAM ABBAS
1981. PLD
2006] HADIS BANK LIMITED v. GHULAM ABBAS
(Sayed Saeed Ashhad, J)

registration of F.I.R. in respect of a certain offence or more than one offence against such person would not ipso facto make him guilty of commission of such offence and he would continue to enjoy the presumption of innocence until convicted by a Court of competent jurisdiction after a proper trial with opportunity to defend himself on the allegations levelled against him. In the present case the petitioner had acted with utmost hurry and hot haste for which no plausible explanation was provided by them either before the Tribunal or by Mr. Shahid Bajwa while arguing this petition in this Court. What was stated in support of removal/termination was that the post occupied by the respondent was of Senior Executive Vice-President which could not be kept vacant for a long period and that on account of the criminal act/offence committed by him he had lost faith, confidence and trust of the competent authority for holding such a senior appointment. Both the grounds advanced by Mr. C Shahid Bajwa do not appear to carry weight. As regards the contention that the post could not be kept vacant for long period, it may be observed that it could have been filled in by posting another officer or additional charge of the post could have been given to another officer till such time the respondent's case has been decided by a competent Court. However, in case of conviction he would have lost his job. The petitioner could have instituted departmental proceedings against the respondent for his alleged criminal acts under their service rules known as Habib Bank Limited (Staff) Service Rules, 1981 (hereafter referred to the "Rules"). Removal of the respondent under clause 15 of the Rules on the ground that respondent had lost faith, confidence and trust of the competent authority was an illegal order which in the garb of termination simpliciter was in effect by way of punishment for the alleged criminal acts of respondent which were sub judice before a competent Court and which subsequently were found to be baseless and false. Before the quashment of the F.I.R. and pendency of the criminal case the petitioner could have initiated departmental proceedings as the criminal case and the departmental proceedings are entirely different not being co-extensive nor inter-connected. Even after acquittal of respondent in criminal trial, D departmental proceedings could have been instituted as the departmental proceedings are concerned with the service discipline, good conduct, integrity and efficiency of the employees. For the above reliance is placed on the case of Syed Muhammad Iqbal Jafri v. Registrar, Lahore High Court, 2004 PLC (C.S.) 809.

13. Admittedly at the time when action of termination was taken against the respondent the petitioner-Bank was being managed, run and controlled by the Federal Government and though at that time the exact status of the employees of the Nationalized Banks could not be determined but the fact is that the law of Master and Servant had ceased to be applicable as the petitioner-Bank was no longer a privately

managed bank and further that the employees of the petitioner-Bank had been given certain guarantees and sanction under The Banks (Nationalization) Act, 1974. It is also an admitted fact that Service Rules for the petitioner employees had been framed and were in existence. The competent authority of the respondent-Bank thus had no power to terminate the services of the respondent without issuing show-cause notice to the respondent, calling upon his explanation and holding an inquiry, if so required into the allegations. The competent authority thus acted not only in contravention of the provisions of law relating to the removal, dismissal and termination of the employees of a nationalized bank but also violated the provisions of natural justice according to which no one can be condemned without providing him an opportunity of defending himself. Such order could not be said to be a legal, valid and proper order. The fact that the Service Rules in existence in the Petitioner's Bank did not have statutory backing would not give unlimited, unfettered and absolute power to the Petitioner to ignore the same and to deprive the respondent of his right of access to natural justice. If any authority is required in support of the above proposition the same are available from the judgments in the cases of (i) Arshad Jamal v. N.-W.F.P. Forest Development Corporation and others 2004 PLC (C.S.) 802, (ii) The Managing Director, Sui Southern Gas Co. Ltd. v. Saleem Mustafa Shaikh and others PLD 2001 SC 176 (iii) Managing Director, Sui Southern Gas Company Limited, Karachi v. Ghulam Abbas and others 2003 PLC (C.S.) 796; (iv) Nazakat Ali v. WAPDA through Manager and others 2004 SCMR 145 and (v) Anisa Rehman v. P.I.A.C. 1994 SCMR 2232.

14. With regard to the contention that the Tribunal had erred in condoning the delay on the ground that no plausible satisfactory and sufficient ground was advanced by respondent for condonation of delay in filing the appeal, it may be stated that delay was condoned by the Tribunal after a minute and detailed examination of the facts and circumstances of the case, the grounds advanced by the respondent for the delay and the pronouncements made by this Court in a large number of cases laying down the principle for condonation or otherwise of the delay in filing appeals and application etc. The Tribunal while condoning the delay did not commit any illegality or material irregularity or acted arbitrarily or against the settled principles governing condonation of delay which would compel this Court to interfere with the exercise of discretion. In a large number of the cases this Court has pronounced that when discretion of condoning the delay in filing an appeal has been legally, judiciously and properly exercised then same is not required to be interfered with. Reference may be made to the case of Managing Director, Sui Southern Gas Company Limited, Karachi v. Ghulam Abbas and others 2003 PLC (C.S.) 796 wherein this Court while discussing the

ambit of the discretionary power of the Tribunal relative to condonation of delay observed as under:--

"Besides above reference, decision of the cases, on merits have always been encouraged instead of non-suiting the litigants for technical reasons including of limitation. In this behalf good number of precedents can be cited where question of limitation was considered sympathetically after taking into consideration the relevant facts. Reliance is placed on the cases of Muhammad Yaqoob v. Pakistan Petroleum Limited and another 2000 SCMR 830, Messrs. Pakistan State Oil Company Limited v. Muhammad Tahir Khan and others PLD 2001 SC 980, Teekam Das M. Haseja, Executive Engineer, WAPDA v. Chairman, WAPDA 2000 SCMR 142. There are cases where even delay has been condoned by the Tribunal without receiving application from the appellant but no interference was made by this Court on the premises that Service Tribunal had passed order in exercise of its discretionary powers. In this behalf reference may be made to the case of WAPDA v. Muhammad Khalid 1991 SCMR 1765. Relevant para. therefrom reads as under thus:

"As regards the question that no application for condonation of delay had been filed by the respondent the matter being one of the discretion, the finding of the Tribunal cannot be set aside on a technicality alone."

In the case of Nazakat Ali v. WAPDA through Manager and others 2004 SCMR 145 this Court made the following observations:--

"... It hardly needs any elucidation that sufficiency of cause of condonation of delay being question of fact is within the exclusive jurisdiction of learned Federal Service Tribunal and once the discretion concerning condonation of delay was exercised judiciously by the Service Tribunal it cannot be disturbed by this Court without any justification which is lacking in this case. In this regard we are fortified by the dictum laid down in Syed Ali Hasan Rizvi v. Islamic Republic of Pakistan 1986 SCMR 1086, Muhammad Azhar Khan v. Service Tribunal, Islamabad 1976 SCMR 262, Water and Power Development Authority v. Abdur Rashid Dar 1990 SCMR 1513 and Sher Bahadar v. Government of N.-W.F.P. 1990 SCMR 1519.

The conclusion arrived at by the learned Federal Service Tribunal being strictly in consonance of law and being well-

based does not warrant any interference. The petition being meritless is dismissed and leave refused."

15. Perusal of the relevant portion of the judgment of the Tribunal dealing with this issue leaves no doubt that it had decided this issue after a thorough and very minute examination of the facts, circumstances and the relevant case. Thus the exercise of discretion does not require to be interfered with. G

16. For the foregoing facts, discussion and reasons this petition for leave to appeal is found to be without any substance. Accordingly it is dismissed and leave to appeal is refused. H

S.A.K./H-38/SC

Leave refused.

2008 S C M R 1525

[Supreme Court of Pakistan]

Present: Rana Bhagwandas, Abdul Hameed Dogar
and Faqir Muhammad Khokhar, JJ

ALLIED BANK OF PAKISTAN LTD.----Petitioners

versus

Syed NASIR ABBAS NAQVI and others----Respondents

Civil Petitions Nos.1859 and 2617 of 2003, decided on 22nd September, 2005.

(On appeal from judgment, dated 2-7-2003 of the Lahore High Court, Rawalpindi passed in Writ Petition No.679 of 2002).

West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance (VI of 1968)---

---S. 7---Industrial Relations Ordinance (XXIII of 1969), S.25-A--- Constitution of Pakistan (1973), Arts.185(3) & 199---Constitutional petition---Dismissal from service---Dismissal of grievance petition and appeal by Labour Court and Appellate Tribunal respectively---High Court, in constitutional jurisdiction, directed reinstatement of employee after substituting penalty of dismissal from service to withholding of two increments---Validity---Supreme Court granted leave to appeal to examine, inter alia, question of jurisdiction of High Court in matter of alteration of penalty in its writ jurisdiction. [p. 1527] A & B

Pakistan Tobacco Company v. Channa Khan 1980 PLC 981 and Brig. (Retd.) F.B. Ali v. The State PLD 1975 SC 506 ref.

CLD 1158, which, prima facie, supports the submissions of the petitioner.

4. Having heard the learned counsel for the petitioner and learned Advocate on Record for the caveators, we are inclined to grant leave to consider, inter alia, the questions whether the High Court was legally justified and under a legal duty to exercise its jurisdiction for the enforcement of a right as claimed by the respondents and whether they could be said to be aggrieved persons by withdrawal of the invitation for tender on the part of the petitioner-Corporation? Order accordingly.

S.M.B./P-12/SC

Leave granted.

2007 S C M R 192

[Supreme Court of Pakistan]

Present: Faqir Muhammad Khokhar and Syed Jamshed Ali, JJ

SHAKEEL AHMAD---Petitioner

versus

I.-G. PUNJAB POLICE, LAHORE and others---Respondents

Civil Petition No. 1314/L of 2004, decided on 26th July, 2006.

(Against the judgment, dated 10-2-2004 passed by Punjab Service Tribunal, Lahore in Appeal No. 1714 of 2003).

(a) Police Order (22 of 2002)---

---Art. 31---Subordinate police officials---Keeping subordinates ranks free from indiscipline and highhandedness---Possible in a manner, which upholds rule of law---Such officials must be dealt with in accordance with law. [p. 194] A

(b) Punjab Police (Efficiency and Discipline) Rules, 1975---

---R. 4---Constitution of Pakistan (1973), Art.13---Double punishment on same allegation---Not legal---Principles. [p. 194] B

(c) Punjab Police (Efficiency and Discipline) Rules, 1975---

---Rr. 3, 4, 5 & 6---Punjab Removal from Service (Special Powers) Ordinance (IV of 2000), S.3---Constitution of Pakistan (1973) Art.212(3)---Dismissal from service due to pendency of criminal case against police official---Validity---Unless such official was found guilty, F.I.R would remain an unsubstantiated allegation and on its basis maximum penalty could not be imposed---After acquittal of such official

from criminal case on basis of compromise, allegations in show-cause notice remained unsubstantiated)---Authority had not provided opportunity to such official to submit reply to show-cause notice---(Such official had been punished without any evidence---Supreme Court set aside such penalty, directed reinstatement of such official in his substantive rank) but he has to remain under suspension---Competent authority was directed to hold fresh inquiry under Punjab Removal from Service (Special Powers) Ordinance, 2000 and pass fresh order in accordance with law. [pp. 194, 195] C, E & F

(d) Civil service---

---Disciplinary proceedings---Disputed questions of fact---Regular inquiry should be held, so that accused official be in a position to defend himself. [p. 194] D

Hafiz Tariq Nasim, Advocate Supreme Court for Petitioner.

Ch. Aamir Rehman, Additional Advocate-General and Muneer Ahmed, D.S.P. (Legal) for Respondent No.1 and 3.

ORDER

SYED JAMSHED ALI, J.--- The petitioner, ex-Sub Inspector, Police, seeks leave to appeal against the judgment, dated 10-2-2004 of the learned Punjab Service Tribunal. It arises out of the following circumstances.

2. Disciplinary proceedings were initiated against the petitioner under the Police (Efficiency and Discipline) Rules, 1975 by way of show-cause notice, dated 21-3-2000, according to which on the night between 20/21-3-2000, he apprehended three persons brought them to Police Station, Sadar, Muzaffargarh, they were subjected to severe torture as a result of which one Allah Diwaya, succumbed to injuries for which F.I.R. No. 120, was registered on 21-3-2000, under sections 302/452/342/148/149, P.P.C. at Police Station, City Muzaffargarh. On 22-3-2000 i.e. the next day, the Superintendent of Police, Muzaffargarh passed the order i.e. "I therefore, finding the S.I. guilty of above gross misconduct award punishment of reversion from the rank of S.I. to his substantive rank to A.S.I. with immediate effect". (underlined to supply emphasis). However, on 30-3-2000, another order was passed according to which the petitioner was dismissed from service. His departmental appeal was dismissed on 20-3-2003 and his appeal before the Punjab Service Tribunal was dismissed on 6-1-2004.

2-A. The learned counsel for the petitioner submits that the petitioner could not have been punished twice on the same allegations.

for appellant
Lakhtanvi

In the criminal case aforesaid, he was acquitted vide judgment, dated 26-2-2002 but had already been punished by the departmental authority without any inquiry and without affording any opportunity of personal hearing to the petitioner.

3. On the other hand, the learned Additional Advocate General has defended the impugned judgment. He submits that the petitioner was acquitted in the criminal case by way of a compromise and payment of Diyat to the legal heirs of the deceased itself established the guilt of the petitioner and, therefore, no inquiry was necessary. Since the petitioner had not even submitted reply to the show-cause notice, he cannot complain that an opportunity of hearing was not granted to him.

4. We have considered the submissions. Although we appreciate the anxiety of the senior Police Officers in keeping the subordinates ranks clean and free of indiscipline and highhandedness yet we will like to emphasize that this objective is to be achieved in a manner which upholds rule of law. We are fully aware of the worst popular perception of the subordinate police officials, still they have to be dealt with in accordance with law.

5. In this case, we find that the show-cause notice was issued on 21-3-2000 and the basis thereof was registration of the criminal case aforesaid. The petitioner was allowed a period of seven days to reply to the show-cause notice but the first punitive order was passed on 22-3-2000 and it specifically stated that the reversion from the rank of S.-I. to his substantive rank of A.S.-I. was by way of punishment. It, thus, amounted to reduction in rank and, therefore, he could not have been punished on the same allegation again. This is one aspect of the matter.

6. The second is that when the order of dismissal was passed, criminal case was pending and the sole basis of the dismissal order was registration of the criminal case. It may be noted that unless an accused person is found guilty an F.I.R. remains unsubstantiated allegation and solely on that basis imposition of maximum penalty is again all cannons of fairness. After acquittal of the petitioner, even though the basis thereof was compromise, the allegations contained in the show-cause notice remained unsubstantiated. This Court, in a number of judgments, has laid down the rule that if disputed questions of fact are involved particularly in case of major penalty, a regular inquiry should be held so that an accused official is in a position to properly defend himself. We will like to observe that according to show cause notice, dated 21-3-2000, a period of seven days was allowed to submit reply, but the first penal order having been passed on 22-3-2000 there was no occasion for the petitioner to submit reply to the show cause notice. It was one of

the considerations weighing with the said competent authority that the petitioner had not submitted reply to the show cause notice and this argument was even pressed before us by the learned Additional Advocate General. As per as other contentions of learned Additional Advocate General are concerned we do not find any merit because on the date of order of dismissal, the criminal case was pending which was finally decided on 26-2-2002.

7. For what has been stated above, we are of the view that the petitioner was punished without any evidence and without providing to him an opportunity to defend himself which could not be done. Accordingly, we convert this petition into appeal, allow the same and direct reinstatement of the petitioner in his substantive rank as an A.S.I. However, he will remain under suspension. The competent authority will hold a fresh inquiry under the Punjab Removal from Service (Special Powers) Ordinance, 2000 and pass a fresh order in accordance with law. Order, dated 21-3-2000 will be treated as an order of reversion simpliciter to the substantive rank and not an order of penalty. The question of back-benefits is left to be decided by the competent authority at the time of final decision of the departmental proceedings.

S.A.K./S-54/SC

Order accordingly.

2007 S C M R 195

[Supreme Court of Pakistan]

Before Sardar Muhammad Raza Khan and Nasir-ul-Mulk, JJ

COLLECTOR CUSTOMS, PESHAWAR---Petitioner

versus

Messrs PAPER INTERNATIONAL (PVT.) LTD.,
NOWSHERA and another---Respondents

Civil Petition No. 173-P of 2002, decided on 16th August, 2006.

(On appeal from the judgment, dated 12-12-2001 of the Peshawar High Court, Peshawar Passed in F.A.O. No. 91 of 2000).

Customs Act (IV of 1969)---

---S. 156(1), Cls. (62) & (90)---Constitution of Pakistan (1973),
Art.185(3)---Goods illegally taken out of warehouse without payment of duty---Allegation against importer-respondent was that he unloaded imported consignment in private bonded warehouse and consumed a

behalf of appellants has been dismissed and judgment and dated 10-2-1998 passed by learned Majlis-e-Shoora has been kept intact.

2. Leave to appeal was granted vide order dated 2-8-2000 to examine "as to whether decree for return of articles details whereof are given in plaint or in the alternative to make payment of Rs.94,200 has been passed by Qazi Tump vide judgment and decree dated 17th December, 1997 confirmed by Appellate Court i.e. Majlis-e-Shoora by means of judgment and decree dated 10th February, 1998 and the revisional Court respectively without evidence to substantiate the claim in view of issues framed by trial Court".

3. Briefly stated the facts of the case are that respondent No.1 has filed a suit for recovery of certain household articles, electric equipments, crockery, details whereof have been mentioned in the list appended with plaint or in alternative, an amount of Rs.94,200 in lieu thereof, equivalent to the value of said items. In view of the divergent pleadings of the parties the following issues were framed by the learned trial Court:--

۱۔ کیا یہ درست ہے کہ مدعی کی غیر موجودگی میں اس کے گھر کے تمام اثاثے بحیثیت ۱۰۰ روپیہ کے مدعا علیہ نمبر ۱ بدریں دیگر مدعا علیہ ہم لے گیا ہے یا چگونہ؟
اثبات برمدی، تردید برمدعا علیہ ہم
۲۔ کیا یہ درست ہے کہ مدعا علیہ ہم نے قبضے سامان لائے تھے وہ سارے کے سارے سامان دستر مدعا علیہ ہم نمبر ۱ اور بہن مدعا علیہ ہم نمبر ۲ تا ۵ کے تھے یا چگونہ؟
اثبات برمدعا علیہ ہم، تردید برمدعی

4. After recording evidence pro and contra, the learned Qazi dismissed the suit vide judgment/decree dated 2nd October, 1997. Being aggrieved by the judgment, appeal was preferred by the appellants, which met the same fate and was dismissed by learned Majlis-e-Shoora, vide judgment and decree dated 10th February, 1998. The appellants approached learned High Court of Balochistan by means of civil revision bearing No.112 of 1998 which was also been dismissed, hence this appeal.

5. We have heard Mr. Tahir Muhammad Khan, learned counsel for appellants and Mr. Muhammad Riaz Ahmed, learned Advocate-on-Record for respondents at length. The judgment dated 2nd October, 1997 passed by learned Qazi, judgment dated 10th February, 1998 passed by learned Majlis-e-Shoora and judgment impugned were perused carefully. We have thrashed out the entire evidence with the eminent assistance of the learned counsel for the parties.

6. A careful scrutiny of the entire record would reveal that the foundation of concurrent findings by the Courts below, seems to be

careful examination of contents of written statement would reveal that the claim of respondents was repudiated, which aspect of the matter escaped notice and resulted in serious miscarriage of justice. It further transpired from the scrutiny of record that pleadings were never perused with diligent application of mind by the learned trial Court and thus proper issues clinching the controversy could not be framed and resultantly the parties failed to substantiate their respective claims by adducing worthy of credence evidence as the issues framed by the learned trial Court were ambiguous and vague. The learned trial Court itself was not clear as to by whom onus of the framed issues was to be discharged. The provisions as contained in Order XIV, Rule 5, C.P.C. were not kept in view and ignored completely by the learned trial Court while framing the issues as a result whereof controversy regarding removal of household articles could not be set as naught. There is no cavil to the proposition which was settled decades ago and still holds the field "that where an issue, though in terms covering the main question in the cause, does not sufficiently direct the attention of the parties to the main questions of fact, necessary to be decided, and the parties may have been prevented from adducing evidence, or fresh issue may be directed to try the principal question of fact". (Olagappa v. Arbuthnot (1875) 14 BLR 115-142, 14/268, 316. "The duty of raising issues rests under the Code of Civil Procedure on the Court and it would be unsafe to presume from the failure of the Court to raise the necessary issues an attention of the defendant to admit the fact, which the plaintiff was bound to prove". (Ganou v. Shri Devisidhes War, 1902 AIR 26 Bom. 360-362).

7. In the light of what has been stated above this appeal is accepted. The judgments of learned trial and appellate Courts including judgment impugned are set aside and the case is remanded back to the learned trial Court to commence the proceedings afresh after framing proper issues by strictly following the provisions as contained in Order XIV, C.P.C, and after perusing the pleadings vigilantly. There shall be no order as to costs.

M.B.A./M-700/S

Appeal accepted.

P.L.D 2003 Supreme Court 187

Present: Rana Bhaghwandas, Abdul Hameed Dogar
and Khalil-ur-Rehman Ramday, JJ

SHAMAS-UD-DIN KHAWAJA---Petitioner

versus

GOVERNMENT OF PAKISTAN through Secretary
Establishment, Islamabad and 2 others---Respondents

Civil Petition No.2500 of 2001. decided on 9th October, 2002.

for an appellant
Lalitha v. v. v.

Service Tribunal, Islamabad, passed in Appeal No.763(R)/(CS)/2000).

Government Servants (Efficiency and Discipline) Rules, 1973—

—Rr. 6, 5 & 4—Service Tribunals Act (LXX of 1973), S.4—Compulsory retirement—Inquiry procedure—Full-fledged inquiry is to be made whereby an Authorised Officer is required to frame a charge and inform the accused civil servant of the statement of allegations against him—Provision of R.6(1)(2), Government Servants (Efficiency and Discipline) Rules, 1973 clearly stipulates that the accused official shall be provided not less than 7 or more than 14 days' period to put in his defence, oral or documentary evidence, and also to cross-examine the witnesses against him—Mere fact of taking in hand inquiry proceedings under the Rules against a civil servant cannot be equated with the procedure prescribed in R.6(1)(2)(3) of the Rules—Ample convincing and reliable evidence has to be on the record which could safely go to prove the charges levelled against the civil servant and only then findings of compulsory retirement could be recorded—Whereas the departmental proceedings were initiated only on the basis of criminal charge, which was not subsequently proved by the competent Court of law and resulted in acquittal, order of Service Tribunal upholding the order of compulsory retirement by the Department was set aside by the Supreme Court. [p. 190] A

Attallah Sheikh v. WAPDA and others 2001 SCMR 269 ref.

S.M. Abdul Wahab, Advocate Supreme Court instructed by M.A. Zaidi, Advocate-on-Record for Petitioner.

Hafiz S.A. Rehman, Deputy Attorney-General instructed by Q. Muhammad Akram, Advocate-on-Record for Respondents.

Date of hearing; 9th October, 2002.

JUDGMENT

ABDUL HAMEED DOGAR, J.—Petitioner Shamas-ud-Din Khawaja seeks leave to appeal against the judgment dated 25th June, 2001 of the Federal Service Tribunal, Islamabad, passed in Appeal No.763(R)/(CS)/2000 whereby the same was dismissed and order dated 18-7-2000 of compulsory retirement from service was confirmed.

2. The relevant facts leading to filing of the instant petition are that the petitioner Shamas-ud-Din Khawaja was serving as A.S.-I. in the Intelligence Bureau, Islamabad. It was on 10-5-1998 at about 10-00 p.m., Farhan Khawaja younger brother of the petitioner, had gone to a private clinic at Peshawar Morr, Islamabad, alongwith the petitioner's wife and their sister.

While returning to home, they were followed by two strangers in a red car up to their residence. Farhan Khawaja rushed to house located at G-9/4, Islamabad and informed the petitioner about the hot chase made by the said strangers. They immediately reached the spot and while they were inquiring from the said persons about their chase, some neighbour called Rescue Police No.15. Soon afterward police arrived at the spot and then took the petitioner as well as those strangers, namely, Dr. Munir Abro and Miran Bakhsh to Margala Police Station. Instead of registering the complaint of the petitioner, police, on the contrary, lodged F.I.R. No.116 dated 11-5-1998 under sections 506/342/34, P.P.C. against the petitioner and his brother and they were arrested and sent up to face trial.

3. On 24-8-1988, a show-cause notice was issued against the petitioner under section 5(1)(iii)(b) of the Government Servants (Efficiency and Discipline) Rules, 1973 (hereinafter called as "the Rules") disclosing the following charges:

- (a) That according to F.I.R. No.116, dated 11-5-1998 registered in Margalla Police Station under sections 506/342/34, P.P.C., you alongwith your brother had beaten Dr. Munir Abro and Miran Bukhsh who followed the private vehicle No.LHH-6666, driven by your brother up to your residence because your brother had struck his car with vehicle No.IDH-5578, driven by Dr. Munir Abro while overtaking him;
- (b) that you were arrested by Islamabad Police on 25-6-1998, for your alleged involvement in manhandling of Dr. Munir Abro and Miran Bukhsh and you remained in judicial lock-up on June 25-26, 1998 and failed to inform your officer-in-charge about your arrest by the police and in order to cover your absence in the office on 25-26 June, 1998, you applied for leave on account of your mother's illness and tried to hide the facts from office;
- (c) that due to your involvement in criminal case a news item was published in the press on June 26, 1998 about your arrest by the police which exposed the identity of an organization like I.B.;
- (d) that you have misused your official positions by introducing yourself as Inspector whereas you are an A.S.-I. which set a bad precedent for others to emulate casting negative effects on the discipline and performance of the entire department.

4. The petitioner submitted written reply and vehemently refuted the above charges. He pleaded that no departmental action could be initiated against him during the pendency of the above mentioned criminal proceedings. After the release of the petitioner on bail, order of his suspension was set aside by the competent authority and he was reinstated in

service in January, 1999 and continued to be in service till major penalty compulsory retirement under Rule 4 of the Rules was awarded against him vide order dated 18-7-2000.

5. Petitioner preferred departmental appeal which was rejected on 6-11-2000. Feeling aggrieved, he filed appeal under section 4 of the Federal Service Tribunals Act, 1973, which too was dismissed on 25-6-2001.

6. We have heard Mr. S.M. Abdul Wahab, learned Advocate Supreme Court for the petitioner and Hafiz S.A. Rehman, learned Deputy Attorney-General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

7. Mr. S.M. Abdul Wahab, learned Advocate Supreme Court for the petitioner, mainly urged that the very basis of awarding major penalty was the initiation of above mentioned criminal case which ended in compromise between the parties wherein the petitioner was acquitted by a competent Court of Law. According to him, competent authority as well as the Federal Service Tribunal had erred in taking into consideration above aspect of the matter while deciding the case of the petitioner. He lastly contended that in case of awarding a major penalty under the Rules, regular inquiry into the charges cannot be dispensed with thus in the instant case, authorised officer wrongly decided to dispense with regular inquiry in terms of Rule 5(1)(iii) of the Rules.

8. The impugned order on the face of it shows that no regular inquiry as contemplated under rule 6 of the Rules was ever conducted in this case. There is no cavil to the proposition that under this rule, a full-fledged inquiry is to be made whereby an authorised officer is required to frame a charge and inform the accused Government servant of the statement of allegations against him. Sub-rules (1) and (2) of Rule 6 clearly stipulate that the accused-official shall be provided not less than 7 or more than 14 days period to put in his written defence to the charges. Sub-rule (3) entitles him to produce in defence oral or documentary evidence and also to cross-examine the witnesses against him. Mere factum of taking in hand inquiry proceedings under the Rules against a civil servant cannot be equated with the procedure prescribed in the above mentioned sub-rules (1), (2) and (3) of rule 6. For imposing major penalty there must be ample convincing and reliable evidence placed on record which could safely go to prove charges levelled against civil servant and only then findings could be recorded. From the perusal of the above mentioned charges, it reveals that the departmental proceedings were initiated only on the basis of above mentioned criminal charge. This Court in the case *Attaullah Sheikh. v. WAPDA and others* (2001 SCMR 269) exactly under the similar circumstances, allowed the appeal of the petitioner therein and reinstated him in service taking into consideration that the departmental proceedings initiated on the basis of

criminal charges was not subsequently proved against him by the competent Court of Law and resulted in his acquittal.

9. For the foregoing reasons, the petition is converted into appeal and is allowed and the judgment of the Federal Service Tribunal, Islamabad, dated 25th June, 2001 is set aside. The appellant is reinstated in service. However, the period of his absence be treated as leave without pay.

M.B.A./S-252/S

Appeal accepted.

P L D 2003 Supreme Court 191

Present: Javed Iqbal, Tanvir Ahmed Khan and
Muhammad Nawaz Abbasi, JJ

SHIPYARD K. DAMEN INTERNATIONAL---Petitioner

versus

KARACHI SHIPYARD AND ENGINEERING
WORKS LTD.---Respondent

Civil Petitions for Leave to Appeals Nos. 1120 and 1121 of 2002, decided on 11th July, 2002.

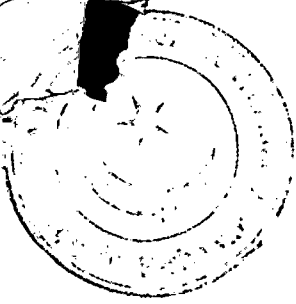
(On appeal from the judgment dated 9-5-2002 of the High Court of Sindh, Karachi, passed in H.C.As. Nos.16 and 17 of 2002).

(a) Contract Act (IX of 1872)---

---Ss. 126, 127, 10, 17 & 18---Civil Procedure Code (V of 1908), O.XXXIX, Rr.1 & 2---Bank guarantee and letter of credit---Nature and effect---Rights and liabilities of surety/Bank, principal debtor and creditor under Bank guarantee and principal contract, determination and enforcement of---Temporary injunction, grounds for grant of---Action by creditor against guarantor---Burden of proof---Liability of guarantor, when contract becomes unenforceable against principal debtor---Bank guarantee is similar to an irrevocable letter of credit---Bank guarantee is an independent contract between Bank and customer imposing absolute obligation on Bank to comply with its terms, irrespective of any dispute between parties to principal contract---Bank guarantee becomes due on happening of a contingency on which same becomes enforceable---Bank must pay on demand, if so stipulated, without proof or conditions, in absence of any special equities or clear/established fraud---Bank's obligation ends, once Bank guarantee is discharged---Court should refrain from probing into nature of transactions between Bank and customer, which led to furnishing of Bank guarantee---Unqualified terms of guarantee cannot be interfered with by Court

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

1



Appeal No. 07 /2013

02/11/14

Mr. Lakhta Mir, Head Constable No.850,
Capital City Police, Peshawar.

APPELLANT

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Capital City Police Officer, K.P. Peshawar.
3. The S.P. Headquarters, Peshawar.

RESPONDENTS

22.11.2018

Appellant absent. Learned counsel for the appellant absent. The present case pertains to the year 2014. Mr. Kabir Ullah Khattak learned Additional Advocate General present, however no one appeared on behalf of appellant despite repeated calls. Consequently the present service appeal is dismissed in default. No order as to costs. File be consigned to the record room.

ATTESTED

**EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar**

Member

Member

ANNOUNCED
22.11.2018

Date of _____

Name of _____

Copy of _____

Urgent _____

Total _____

Name of Copy _____



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 941 /ST

Dated: 15/4 /2022

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

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


To

The Superintendent of Police Headquarters,
Government of Khyber Pakhtunkhwa
Peshawar.

Subject: JUDGMENT IN APPEAL NO. 07/2014 MR. LAKHTA MIR.

I am directed to forward herewith a certified copy of Judgement dated
09.12.2021 by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR