<u>ORDER</u> 25.10.2022 Appellant alongwith his counsel namely Messrs Said Basher Khan and Roeeda Khan, Advocates, present. Mr. Said Basher Khan, Advocate submitted Wakalatnama on behalf of the appellant, which is placed on file of connected Service Appeal bearing No. 569/2022 titled "Niaz Ali Versus District Police Officer Mardan and two others". Mr. Atta-ur-Rehman, Inspector (Legal) alongwith Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, placed on file of Service Appeal bearing No. 569/2022 titled "Niaz Ali Versus District Police Officer Mardan and two others", the appeal in hand is allowed by setting-aside the impugned orders and the appellant is reinstated in service for the purpose of de-novo inquiry. The de-novo inquiry shall be completed within a period of one month of receipt of copy of this judgment, strictly in accordance with relevant law/rules. Needless to mention that the appellant shall be fully associated with the inquiry proceedings by providing him fair opportunity to cross examine the witnesses as well as production of evidence in his defence. The issue of back benefits shall be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED 25.10.2022

(Mian Muhammad) Member (Executive)

(Salah-Ud-Din) Member (Judicial)

20.06 2022

Learned of counsel for the appellant present. Mr. Muhammad Adeel, Additional Advocate General alongwith Atta-ur-Rehman, Inspector Legal for the respondents present.

Written reply/comments on behalf of the respondents submitted which is placed on file. A copy of the same is also handed over to the learned counsel for the appellant. To come up for rejoinder as well as arguments before D.B on 01.09.2022.

Fareena Paul Member (E)

01.09.2022

Bench is incomplete, therefore, case is adjourned to 25.10.2022 for the same as before.

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Form- A

FORM OF ORDER SHEET

Court of_____

۴.

	570/2022
S.No. Date of order proceedings	Order or other proceedings with signature of judge
1 2	3
1- 18/04/2022	The appeal of Mr. Tariq Ali presented today by Roeeda Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. REGISTRAR
2-	This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put there on $29-39-22$.Notices be issued to appellant and his counsel for the date fixed.
AS 29.04.2021 29.04.2021 VILLANDEROSIEN Process Fee A Mielsing	Appellant present through counsel. Preliminary arguments heard. Record perused. Points raised need consideration. Instant appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notice be issued to respondents for submission of written reply/comments. To come up for reply/comments on 2υ / b /2022 before S.B.

BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

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· · .		·	
1.	Case title	:	÷
2.	Case is duly signed.	Yes	No
3.	The law under which the case is preferred has been	Yes	No
	mentioned.	<u>k</u> r.	
4.	Approved file cover is used.	Yes	No
5.	Affidavit is duly attested and appended.	Y es	No
6.	Case and annexure are property paged and numbered according to index.	Yes	No
7.	Copies of annexure are legible and attested. If not, then	Yes	No
	better copies duly attested have annexed.		
8.	Certified copies of all requisite documents have been filed.	Yes	No
9.	Certificate specifying that no case on similar grounds was	Yes	No
	earlier submitted in this court, filled.		
10.	Case is within time.	Yes	No
11.	The value for the purpose of court fee and jurisdiction has	Yes	No
	been mentioned in the relevant column.		
12.	Court fee in shape of stamp papers affixed. For writ Rs. 500 ,	Yes	No
1.	for other as required}	· .	·
13.	Power of attorney is in proper form.	Yes	No
14.	Memo of addressed filed.	Yes	No
15.	List of books mentioned in the petition.	Yes	No
16.	The requisite number of spare copies-attached { Write	Tes	No
	petition- 3, Civil appeal(SB-2) Civil Revision (SB-1, DB-2)	1	
17.		Yes	No
	form.	-	
18.	Power of attorney is attested by jail authority (for jail	Yes	No
	prisoner only)		
¥			1

It is certified that formalities /documentations as required in column 2 to 18 above, have been fulfilled.

Name:- Roeeda Khan Advocate High Court Peshawar Signature: -Dated: - 12-4-202

FOR OFFICE USE ONLY

Case: Case receiv	red on			3	
Complete i	n all respect: Ye	s/No, (If NO, the gro	unds)		
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		Countersig	ned:		
	<u>.</u>		(Deputy R	egistrar)	

BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

In Re S.A No. <u>570</u>/2022

Tariq Ali Ex-LHC/Police No.627

VERSUS

District Police Officer Mardan & Others

INDEX				
S#	Description of Documents	Annexure	Pages	
1.	Grounds of Petition.	· · · · · · · · · · · · · · · · · · ·	1-5	
2.	Affidavit.		6	
3.	Addresses of parties		7	
<u> </u>	Copies of charge sheet? Reply	"A & B"	870	
5.	Copies of show cause notice and reply	"C & D"	13-7010	
6.	Copy of impugned order	"E"	167019	
7.	Copy of departmental appeal & rejection order	"F & G"	2010	
8.	Wakalatnama	- Dec		

APPELLANT

Through

Roeeda Khan Advocate, High Court Peshawar.

Dated: 15/04/2022

<u>BEFORE THE HON'BLE SERVICE TRIBUNAL</u> <u>PESHAWAR</u>

In Re S.A No. <u>570</u>/2022

Khyber Pakhtukhwa Service Telpinal
Diary No. 531
Bated 18/4/2022
832190

Tariq Ali Ex-LHC/Police No. 627 R/o Charsadda Road Mirwas Mohallah Kohistani Mardan.

Appellant

VERSUS

1. District Police Officer Mardan

2. Regional Police Officer Mardan.

3. Inspector General of Police KPK Peshawar.

Respondents



OF THE KHYBER APPEAL U/S-4 PAKHTUNKHWA SERVICES TRIBUNAL ACT 1974 AGAINST THE ORDER DATED 09-03-2022, WHEREBY THE APPELLANT AWARDED MAJOR BEEN HAS PUNISHMENT OF DISMISSAL FROM SERVICE AND AGAINST WHICH THE APPELLANT FILED DEPARTMENTAL APPEAL ON 15.03.2022 WHICH HAS BEEN REJECTED ON 05.04.2022 ON NO GOOD GROUNDS.

<u>PRAYER:-</u>

ON ACCEPTANCE OF THIS APPEAL BOTH THE IMPUGNED ORDERS DATED 09/03/2022, & 05.04.2022 MAY KINDLY BE SET ASIDE AND THE APPELLANT MAY KINDLY BE REINSTATED IN SERVICE ALONG WITH ALL BACK BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT THAT MAY ALSO BE ONWARD GRANTED IN FAVOUR OF APPELLANT.

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Respectfully Sheweth,

- 1. That the Appellant has been appointed as Constable since long time with respondent department.
- 2. That after appointment the appellant performed his duty regularly and with full devotion and no complaint whatsoever has been made against the appellant.
- 3. That on 07.10.2021 a charge sheet and statement of allegations has been issued against the appellant which has been properly replied by the appellant whereby the appellant denied all the allegation leveled against the appellant. (Copies of charge sheet and reply are attached as annexure "A & B")
- 4. That on 07.02.2022 a final show cause notice has been issued against the appellant which has been properly replied by the appellant where the appellant denied all the allegation leveled against the appellant. (Copies of show

cause notice and reply are attached as annexure "C & D").

- 5. That on 09.03.2022 the impugned order has been issued against the appellant where by the appellant has been dismissed from service without full filling the codal formalities. (Copy of impugned order is attached as annexure "E").
- submitted appellant the 6. That 15.03.2022 departmental appeal on dated order impugned the against 09.03.2022 which has been rejected on 05.04.2022 on no good grounds. (Copies of departmental appeal & rejection order are attached as annexure "F & G").
- 7. That feeling aggrieved the Appellant prefers the instant service appeal before this Hon'ble Tribunal on the following grounds inter alia:-

GROUNDS:-

- A. That the impugned order dated 09/03/2022 is void and ab-initio order because it has been passed without fulfilling codal formalities in this respect the appellant relied upon a judgment reported on 2007 SCMR Page 834.
- B. That the impugned order is also void because no regular or departmental inquiry

was conducted against the appellant which is mandatory before imposing the major penalty and no opportunity of personal hearing and defense has been provided to the appellant relied upon a judgment reported on 2003 PLC (CS) Page 365 on 2021 PLC (CS) page 235 as well as judgment of this Tribunal in service appeal No. 1181/2018 decided on 17.09.2021.

3, ,

- C. It is a well settled principle of law no one can be condemned unheard because it is against the natural justice of law in this respect the appellant relied upon a judgment reported on 2008 SCMR page:678.
- D. That no statement of witness has been recorded and no opportunity of cross examination has been provided to the appellant. In this respect the appellant relied upon a judgment reported on 2016 SCMR Page 108.
- E. That there is no prove or evidence regarding the allegation leveled against the appellant
- F. That any other ground not raised here may graciously be allowed to be raised at the time full of arguments on the instant service appeal.

It is therefore, most humbly prayed that on acceptance of this appeal both the impugned orders dated 09/03/2022, & 05.04.2022 may kindly be set aside and the appellant may kindly be reinstated in service along with all back benefits.

Any other remedy which this august tribunal deems fit that may also be onward granted in favour of appellant.

Through

Roeed Khan & Sheeba Khan Advocates, High Court Peshawar.

APPELLANT

Dated: 15/04/2022

NOTE:-

As per information furnished by my client, no such like appeal for the same petitioner, upon the same subject matter has earlier been filed, prior to the instant one, before this Hon'ble Tribunal.

Advocate.

<u>BEFORE THE HON'BLE SERVICE TRIBUNAL</u> <u>PESHAWAR</u>

In Re S.A No. ____/2022

Tariq Ali Ex-LHC/Police No.627

VERSUS

District Police Officer Mardan & Others

<u>AFFIDAVIT</u>

I, Tariq Ali Ex-LHC/Police No. 627 R/o at District Mardan, do hereby solemnly affirm and declare that all the contents of the **instant appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Court.

DEPONENT

IDENTIFIED BY: Roeeda Khan

Advocate High Court Peshawar.



<u>BEFORE THE HON'BLE SERVICE TRIBUNAL</u> <u>PESHAWAR</u>

In Re S.A No. ____/2022

Tariq Ali Ex-LHC/Police No.627

VERSUS

District Police Officer Mardan & Others

ADDRESSES OF PARTIES

PETITIONER.

Tariq Ali Ex-LHC/Police No. 627 R/o Charsadda Road Mirwas Mohallah Kohistani Mardan.

ADDRESSES OF RESPONDENTS

- 1. District Police Officer Mardan
- 2. Regional Police Officer Mardan
- 3. Inspector General of Police KPK Peshawar.

APPELLANT

Through

Roeeda Khan Advocate, High Court Peshawar.

Dated: 15/04/2022

DISTRICT POLICE OFFICER

MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111 Email: dpomdn@gmail.com

• /PA

DISCIPLINARY ACTION

Dated 0 1.1/8 /2021

1, Dr. Zahid Ullah (PSP), District Police Officer Mardan as competent authority am of the opinion that LHC Tarig Ali' No.627, himself liable to be proceeded against, as he committed the following acts/omissions within the meaning of Police Rules 1975.

STATEMENT OF ALLEGATIONS

Whereas, LIIC Tarin Ali No.627, while posted at PAL Office Mardan (now under suspension Police Lines Mardan) was found regiligence for the following irregularities, as per SDPO Rural Mardan office letter No.1299/R dated 07-119-2021;-

On 01-09-202 , AIC Abid Khan No.3293 & LHC Niaz Ali No.2697 etc 1) of PP Shaheedan (now under suspension Police Lines) arrested one Kamran r/o Nassan Killey Louisvillea - (30) bore without number and unlicensed pistol & (05) rounds during routine patrolling vide case FIR No.1057 dated 01-09-2021 U/S 15AA PS Rustam.

On 02-09-2021, IHC Abid Khan has prepared Remand Judicial Challen 2) and sent it to the Court through Constable Ayaz No.1663 with advice that the accused in soluting at Mardan Katcheri. On reaching Mardan Katcheri, he found LHC Niaz Ali No. 2697 along with accused Kamran, so he handed-over the Remand Judicial papers to LHC Niaz Ali & then he produced the accused to the Court wherein the accused couldn't produce any surety, so the Court fined him of Rs 1000/-, but intentionally the accused regretted by not paying the fined amount, so he was sent to Judicial Lock-up. The main purpose behind preferring Judicial Lock-up was that on 03-09-2021, brother of accused namely Amir Sajjad committed murder vide case FIR No.889 dated 03-09-2021 U/S 302/324/34 PPC PS Toru, in which, he (accused Kamran) was also charged for the commission of crime.

As per SP/Investigation Mardan vide his office letter No.531/PA/Inv: 3) dated 06-09-2021, highlighting that accused Kamran in connivance with LHC Tariq Ali No.627 of PAL Office Mardan and his brother LHC Niaz Ali No. 2697 of PP Shaheedan (Now both suspended) registered the above quoted case against himself, because on the day and at the time of occurrence, accused Kamran was not present on the spot and no direct recovery has been made from him, while on the next day (02-09-2021), accused Kamran was handed-over to Constable Ayaz Ali No 1663 without handcuffs in the Court, wherein before the concerned Magistrate, accused Kamran resiled from his statement and was sent to Judicial Lockup Mardan. From the preliminary enquiry, it has been found that accused Kamran in connivance with LHC Tarig Ali has planned his entrance to Mardan Jail and this fact has been accepted by all.

From the above discussion, the involvement of LHC Tariq Ali in this 4) episode/plan can't be ruled-out.

For the purpose of scrutinizing the conduct of the said accused official with reference to the above allegations, Mr. Adnan/Azam SDPO SMT is nominated as Enquiry Officer

The Enquiry Officer shall, in accordance with the provision of Police Rules 1975. provides reasonable opportunity of hearing to the accused Police Officer, record/aubmit his findings and make within (30) days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused Official.

LHC Tarig Ali is directed to appear before the Enquiry Officer on the date 1

time and place fixed by the Enquiry Officer.

307-57385C

(Dr. Zalidvilla) District Police Officer A.- Mardan

E)

4.

DISTRICT POLICE OFFICER, MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111 Email: dpomdn@gmail.com

CHARGE SHEET

I, <u>Dr. Zahid Ullah (PSP)</u>, District Police Officer Mardan, as competent authority, hereby charge <u>LHC Tariq Ali No.627</u>, while posted at PAL Office Mardan (now under suspension Police Lines Mardan), as per attached Statement of Allegations.

1. By reasons of above, you appear to be guilty of misconduct under Police Rules. 1975 and have rendered yourself liable to all or any of the penaltics specified in Police Rules, 1975.

2. You are, therefore, required to submit your written defense within <u>07 days</u> of the receipt of this Charge Sheet to the Enquiry Officer, as the case may be.

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

Intimate whether you desired to be heard in person.

Üllah m District Police Officer Mardan

2021

(0) ro the Der Imailan. 12 Jeel: Roploy to the charps sheel + = ummony of allopshins NO 225- PA dalad 7.10.2021 Roopealul Si'r. Your honom haf somed the sale find charpe sheart to the Patchinar min in farming alle galains. U. Whene as Like Tarria Africo bay I while proton of PAL Thice martin (now under ausgensien police line marlan) was found nepligance for the following Mrigularchies . > Pu 'S.D.Po | Rund mailar office letter 1299. A deter 7. 9. 21 1) UN I. 9.21, THE Abid I chan NO 3293 and Like Man All no 2697 of PD Shehenday min man suspension) corrected bre Icouran yo Namerikalli Toru. with a 3. borg righting number and un- liencel pistoil TUS rounds dup rohin Patrolling vide case P12 ND 1057 detal 1. la. 21 ys 13AD PS Rudam. 2) on 2.9.21 the Abidichan his Prepard Remail Judical chellon and sand into The count through constable Agae no 1603 with indrice that the Addred is relating at mail an kace harri on reaching mail a blockerry he find he miss ali mo abay along with Accoult Komman, 30 he handed over the Oremand Onderich Papers to LHE. Wias Ali and Then he Produced The Accused to the Cound when in the Acan Could not Produce any surties. so the count fined him of the loss Louk intentionally live Accural regranded by not. paying the fined amount so he was sand to Analical lode up. The main Ampuns bahind Proffing Justicial locale up was, That in 3.9 24 broken of Account laconcan nemely Amir Sarpis committed muker vide ese \$12No 880 deted 3.9.21 M/ 5 3.2. 3.2. 24 PD P 3 Jorn. in which he keensaf kamaran was dos charges for the commission - of cine. As Pen Sp (musit more vide to office latter and 331-PA datel 6.9.21 highlighing - Hal- Areas of Pages (2)

(*) Forman in connuise with the Taria Adi no 627 & PAL office marlon and his brother Lite Mini ARI NO 2697 of Pp shahadan registud the those of the against himself because on the day and Time of a cence Accord to anon was not break on the sport and no direct receiver his base made from himry while an the most day 2.0.2) the constant was handed over to constable Agins Alino Ibb3 visiting hand cuffs -The could when in before the Encound my and read learning verilarly from in satatunt and was sail to Jushind lock. up martan. From in Prilimeny inany; int- hand been fund, that Account Kamman in Comorrace with Like Territe Alibos & lanned his enternee to martan gard and - 1ms - ful he been accoupted by All. 4, from the above outs cures on the involvenul of LHQ (Tand Ati in This episode (plan can not be roled out. (copy and) O: His Submitteel Mal- Petrinar his been ported at PAL Jothio malan. The Patritioner has got no concerton north The affaire of pp Shaharalan. Ju Pelviner is not aware about the story of Care Fine NO 1057 datel 1.9.21 4/2 15AA Ps Rotom. The officer and his accompaniel filies officials will be Knowing bergt regarding ims cose. The fettioner is not assoleinterf Soilt the Said coentary stage The charged Accord in care Fit, 510 889 dated 3.9.21 3) 4/2 2.2 U- 224.24 Pp. Ps Toru is nut known to ma Neither treasing from ton falls in my relation, our Patrionar his gut any contract white here . 4} Pathioner has not planned the entrace of Accore kamran to marlan Jail - Petrinar Cannot amapin to novelve himsolf in such lites wepannes activity. hen is no evidence apaint the politioner to comment him write the allegations levelled againt min. 2] Page (3)

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FINAL SHOW CAUSE NOTICE

LIC Tarin All, while posted at PAL Office Mardan (now under suspension Police Lines Mardan) was found of negligence for the following irregularities, as per SDPO Rural Mardan office letter No. 1299/R dated 07-09-2021.-

On 01-09-2021, HIC Ahid Khan No.3293 & LHC Maz Ali No.2697 etc.
 of PP Shaheedan (now under suspension Police Lines) arrested one Kamran no Nawan Killey Loru with a (30) hore without number and unlicensed pixed & (05) rounds pluring control patrolling vide case FIR No 1057 dated 03-09-2021 UN 15AA PS Rustam

2) On 02-09-2021, HIC Ahid Khun has prepared Remand Judicial Challan and sent it to the Court through Constable Ayaz No.1663 with idvice that the accused is waring at Mardan Katchers. On reaching Mardan Batcheri, he (C/Ayaz) found LHC Niaz Ali No.2697 along-with accused Kainran, so he handed-over the Remand Judicial papers to LHC Niaz Ali & then he produced the accused to the Court wherein the accused couldn't produce any surety, so the Court fined him of Rs 1000⁴, but intentionally the accused regretted by nut paying the fined amount, so he was sent to Judicial Lock-up. The main purpose behind preferring Judicial Lock-up was that on 03-09-2021, brother of accused namely Amir Sajad committed murder vide case. FIR: No.889 dated: 03-09-2021, L/S 302/324/34 PPC PS Toru, in which, he (accused Kimran) was also charged for the commission of crime.

3) As per SP/Intestigation Mardan vide his office letter No.531/PA/Inv: dated 06-09-2021, highlighting that accused Kamran in connivance with LHC Tariq Ali No.627 of PAL Office Mardan and his brother LHC Niaz Ali No. 2697 of PP Shaheedan (Now both suspended) registered the above quoted case against himself, because on the day and at the time of occurrence, accused Kamran was not present on the spot and no direct recovery has been made from him, while on the mest day (02-09-2021), accused Kamran was handed-over to Constable Ayaz Ali No 1663 without handcuits in the Court, wherein before the concerned Magistrate, accused Kamran resided from his statement and was sent to Judicial Lockup Mardan. From the preliminary enquiry, it has been found that accused Kamran in connivance with LHC Tariq Ali has planned his entrance to Mardan Jail and this fact has been accepted by all.

be ruled-out.

Received hy

4)

from the above discussion, your involvement in this episode/plan can't

In this connection, during the course of Departmental Enquiry, conducted by Mr. Adnan Azam SDPO Sheikh Maltoon vide his office letter No.632/St-SMT dated 13-12-2021, in pursuance of this office Statement of Disciplinary Action/Charge Sheet No.225/PA dated 01-10-2021, holding responsible you of gross misconduct & recommended for major punishment. You were heard in OR on 02-02-2022, during which, you have failed to present any plausible reason in your defense.

Therefore, it is proposed to impose Major/Minor penalty as envisaged under Rules 4 (b) of the Khyber Pakhtunkhwa Police Rules 1975. (1)

Hence, I Dr. Zahud Ullah (PSP) District Police Officer Mardan, in exercise of the power vested in me under Rules 5 (3) (a) & (b) of the Khyber Pakhtunkhwa Police Rules 1975 call upon you to Show Cause Finally us to why the proposed punishment should not be awarded to you.

Your reply shall reach this office within 07 days of receipt of this Notice, tailing which a will be prosumed that you have no explanation to offer.

You are liberty to appear for personal hearing before the undersigned

(Dr. Zhhid Ullab) PSP District Police Officer

Before the Worthy DPO MARDAN

Subject:

REPLY TO FINAL SHOW CAUSE NOTICE NO 1074-75/PA DATED 07.02.2022.

Respected Sir,

> In response to the Final Show cause, it is submitted that the petitioner was posted at PAL Officer Mardan and has no connection with the affairs of PP Shaheedan.

> That the petitioner is not aware about the story of case FIR No. 1059 dated 01.09.2021 u/s 15AA PS Rustam. The In-charge PP Shaheedan and his staff will know best regarding the said case at any stage.

> The charged accused in case FIR No. 889 dated 03.09.2021 u/s 302/324/34 PPC PS Toru is not known to me. Neither accused Kamran falls in my relation, nor has petitioner got any contact with him.

> The petitioner has not planned the entry of accused Kamran to Mardan Jail. The petitioner cannot imagine involving himself in such activities.

> There is no evidence against the petitioner to connect him with the allegations levelled against him.

> That the petitioner was enlisted as Constable on 01.10.2011 in Police Department and has performed his duty with good and efficient behavior. That the petitioner was not dealt departmentally prior to this. All facts are evident from the shining service record of the petitioner as there is no bad entry in service record of the petitioner. That petitioner belongs to a police family. The petitioner is the son of a retired police officer HC Bakht Taj who served in Police department. The petitioner is married with $\frac{1}{2}$ 02 kids and old father. The family depends upon the police service of the petitioner.

> The petitioner is well educated officer and wishes to get further success in future.

Keeping in view the above facts and circumstances, it is humbly prayed

that being innocent, the subject charge sheet may kindly be filed.

Dated: /02/2022

Yours Obediently

Muhammad Tariq No. 627/LHC



No 3132-29 /PA

Dated 10 13 /2022

DRDER ON ENQUIRY OF LHC TARIO ALI NO.627

This order will dispose-off a Departmental Enquiry under Police Rules 1975, initiated against the EHC Tariq Ali on the report of SDPO Rural circle containing the allegations of criminal negligence and gross misconduct. Brief facts of the case are that:-

During routine patrolling on 01-09-2021, IHC Abid Khan No.3293 & LHC Niaz Ali No.2697 etc of PP Shaheedan arrested Kamran r/o Nawan Killey Toru with a 30 bore unliscenced pistol along with five bullet rounds and a case FIR No.1057 dated 01-09-2021 U/S 15AA PS Rustam was registered against him.

On the next day IHC Abid Khan prepared a report for obtaining judicial remand and sent it to the Court through Constable Ayaz No.1663 with advice that the accused Kamran will be waiting at Mardan Katcheri. On reaching Mardan Katcheri, constable Ayaz found LHC Niaz Ali No. 2697 who was standing with accused Kamran. so constable Ayaz handed-over the report for obtaining judicial remad to LHC Niaz Ali. The accused was produced in the Court by LHC Niaz Ali wherein, the accused couldn't produce any surety so the Court fined him Rs.1000/-, but the accused did not pay the above mentioned fine due to which he was sent to judicial lock up. The main motive behind sending the accused to judicial lock-up was that on 03-09-2021 the brother of accused namely Amir Sajjad had to commit murder with the connivance of his brother and the delinquent official. Later on, a case vide FIR No.889 dated 03-09-2021 U/S 302/324/34 PPC PS Toru was registered in which the accused Kamran was also charged for the commission of offence.

It is worth mentioning that SP/Investigation Mardan vide his office letter No.531/PA/Inv: dated 06-09-2021 also highlighted the fact that accused Kamran in connivance with LHC Tariq Ali, IHC Abid Khan and LHC Niaz Ali No. 2697 malafidely got registered the above mentioned case so as to entitle the accused for plea of alibi in a murder case and the accused Kamran was presented in court without handcuffs for entitling him to judicial lock up.

Page 1 of 2

Azam SDPO Sheikh Maltoon vide his office letter No.632/St-SMT dated 13-12-2021, it was ved that the delinquent official acted in connivance by falsely implicating the accused Kamran in a minor offence to save him from FIR No.889 dated 03-09-2021 U/S 302/324/34 PPC PS Toru, holding LHC Tariq Ali guilty of gross misconduct and hence recommended for major punishment. During his hearing in O.R on 02-02-2022, he failed to present any plausible reason in his defense, therefore, he (LHC Tariq Ali) was served with a Final Show Cause Notice, under Khyber Pakhtunkhwa Police Rules-1975, issued vide this office No.1074-75/PA dated 07-02-2022, to which, his reply was received and found unsatisfactory.

Final Order

LHC Tariq Ali was heard in OR on 09-03-2022. during which, he failed to present any plausible reasons in his defense, therefore, keeping in view the findings of the Enquiry Officer & material on record, the allegations leveled against the delinquent official have been proved, therefore, awarded him major punishment of dismissal from service with immediate effect, in exercise of the power vested in me under Police Rules-. 1975.

OB No. 634

Dated 9/ 3 2022.

District Police Officer Mardan

Copy forwarded for information & n/action to:-

- 1) The DSP/HQrs Mardan.
- 2) The P.O & E.Q (Police Office) Mardan.

3) The OSI (Police Office) Mardan with () Sheets.

Page 2 of 2

OFFICE OF THE DISTRICT POLICE OFFICER MARDAN Tel No. 0937- 9230109 & Fax No. 0937-9230111 Email: <u>dpomdn@gmail.com</u>

No. <u>2119-21</u>

TER COPY

Dated 10/03/2022

ORDER ON ENQUIRY OF LHC TARIQ ALI NO. 627

This order dispose-off a Departmental Enquiry under Police Rules 1975, initiated against the LHC Tariq Ali on the report of SDPO Rural circle containing the allegation of criminal negligence and gross misconduct. Brief facts of the case are that:

During routine patrolling on 01-09-2021, IHC Abid Khan No. 3293 & LHC Niaz Ali No. 2697 etc of PP Shaheedan arrested Kamran r/o Killey Toru with a 30 bore unlicensed pistol along with five bullet rounds and a case FIR No. 1057 dated 01/09/2021 U/S 15-AA PS Rustam was registered against him.

On the next day IHC Abid Khan prepared a report for obtaining judicial remand and sent it to the Court through Constable Ayaz No. 1663 with advice that the accused Kamran will be waiting at Mardan Katcheri. On reaching Mardan Katcheri constable Ayaz found LHC Niaz Ali No. 267 who was standing with accused Kamran, so constable Ayaz handed-over the report for obtaining judicial remad to LHC Niaz Ali. The accused was produced in the Court by LHC Niaz Ali wherein, thee accused couldn't produce any surety so the Court fined him Rs. 1000/- but the accused did not pay the above mentioned fine due to which he was sent to judicial lock up. The main motive behind sending the accused to judicial lock-up was that on 03-09-2021 the brother of accused namely Amir Sajjad had to commit murder with the connivance of his brother and the delinquent official. Later on a case FIR No. 889 dated 03-09-2021 U/S 302/324/34 PPC PS Toru was registered in which the accused Kamran was also charged from commission of offence.

It is worth mentioning that SP/Investigation Mardan vide his office letter No. 531/PA/Inv: dated 06-09-2021 also highlighted that fact that accused Kamran in connivance with LHC Tariq Ali No., IHC Abid Khan and LHC Niaz Ali, No. 2697 malafidely got registered the above mentioned case so as to entitle that accused for plea of alibi in a murder case and the accused Kamran was presented in court without hand-cuffs for entitling him to judicial lock up.

<u>Better Copy</u>

During the course of Departmental Enquiry, conducted by Mr. Adnan Azam SDPO Sheikh Maltoon vide his office letter No. 633/St-SMT dated 13/12/2021, it was proved that the delinquent official acted in connivance by falsely implicated the accused Kamran in a minor offence to-save him for FIR No. 889 dated 03-09-2021 U/S 302/324/34 PPC PS Toru, holding LHC Tariq Ali guilty of gross misconduct and hence recommended for major punishment. During his hearing in O.R on 02-02-2022, he failed to present any plausible reason in his defense, therefore, he (LHC Tariq Ali) was served with a Final Show Cause Notice under Khyber Pakhtunkhwa Police Rules, 1975, issued vide this office No. 1072-73/PA dated 07-02-2022, to which, his reply was received and found unsatisfactory.

Final Order

LHC Tariq Ali was heard in OR on 09-03-2022, during which, he failed to present any plausible reasons in his defense, therefore, keeping in view the findings of the Enquiry Officers & material on record, the allegations leveled against the delinquent official have been proved, therefore, awarded him major punishment of dismissal from service with immediate effect, in exercise of the power vested to me under Police Rules 1975.

OB No. 634 Dated 9/8/2022.

(Dr. Zahid Ullah PSP) District Police Officer Mardan

Copy forwarded for information & n/action to:-

- 1) The DSP/HQrs Mardan.
- 2) The P.O & E.G Office Mardan.
- 3) That OSI (Police Officers) Mardan wit () Sheets.

(P) The Dapuly 100 peedor General of Policie Marchan Region-I Monfon : Subject : Appeal again The woolan of DPO Mar dan issued vide 03 634 datief 9. 3. 21, where by the appealant-Nos anuaded mayor Junishmat Vog dismissed from Service Respected Sir, The Dpo (marlan hay some the chapesheel & summon of allegations no 225- PA dated >. Vx - 21 with the follow all galions that on 1.9.21 THE Abid register a cose vide FIR NO 1057 datuel 1 9 - ai m/s 15 AA Bs Rustan agar -Accord Kamea 1/0 Newan Kalli Toure. Accord Klemra win arracted and Sout to pushial locker up . According to Priliminay anong concluded by sp) in rochigation maden V That with the Commonines of 2 He muhammal Taria and ins brother The Niaz Alino 2697 & PP Shaheedan with Accised promotion repristered The devne mediened Cose apart-hinself, beel one on the time and date of Remee Acome 1 to convan was mal Pourd - in the sport-vide Core Fin No 889 dated 3.9.27 M/S 302 32434 De Bs Torn, where Accord Kamranno abo Chipsel in the Same coser (copy charge sheating ends.) " I Sti Submilled that is The light yahous Charge sheet a departmental enong was invitabled again the upper and . Mr Adnen Azam was morninated of EO. U Fin appendial for themand a detailed and comprehensive Repairy before The ED, which was not considuel. The ED vacommulael the appealant for the award of Major funshad The DPD Mailan assended Magoi Punish mut to the appendit and dismissel him from service vide of no b34 - pro dated 9.3.21. auf have The Brown- eppeal : copy of OBN 634 3 meliscal . Perge. (2)

3 Trounds of Appe C That during the month of september 2021, The appealant remained post-il at PAL office Marlan and had no Connection with the Affaire of Ps Shaheedan ? That appealant is not aware about the Story of ese FIR NO 1057 dateef 1.9.21 mjs 1SAA PS' Rustam. The 1]C PP Shaheedon and his Staff will be Knowing boot reparaling the said cose at any Stage 31 The Changed Acessed Komman in Cose FIR NOD 889 dated 3. 9. 21 4/5 2.2 / 224 /24 Pp. Ps Toru is not known to The appendant. Neither Acasel Kamran -fails in the relation of appealant Nor appealant has got any contract with The said Acained 4) That pethioner has not planned the entry of Acound Kamran to Mardan Jail as complained by Spinvostigation Manlan vide his office letter no 5\$1-PA data if to og al. The worthy spimal MDN has not broup ist any evidence again . The appealant during Priliminay anding. Semilarly the ED has abo faitely to Prove this allepolion agains !- The appealant by bringing some solid evidence no morregard. Hence The allopation is Superficial. The petrioner) appendant has got no Connection work of Class MS 15AA. Hence No allephin. The apperlant is innocent one does not related to The allepation meabourse of the Change Shall at any stalle Pape. (3)

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The Appenlant was enhisted a constable in Balier department on 1.9.21 and since them Painformeet ins duly worth Jeal and affacient . The appealant was not dealt departmentally Prior Ho Mo 12 All facts are evident grow the shining Service record of the appeal and The appealant belongs to poor family. The appealant 5 the ଟ୍ରା son of returned police officer He Blachtan, who has served for more then 37 years in polific deputment The appealant & married work of Frids and his while femsky is depend upon the Police service of the Jebelbour Keeping in vent the above facts and circu rotances it is humbly Prayed, that by the acceptance of The instand appeal the order of DPO[Umanlan may brindly be Sat-conde and the appendial be re-instated in service grom The date of chiromissof plane. Jates 15 75 2022 Jomes obenliently

Anuhammad Taria NO 627 Ex. L.H.C. Pohec Dist - Mandan. Mobile No, 0314-5733267

<u>ORDER.</u>

** ******

This order will dispose-off the departmental appeal preferred by Ex-LHC Tariq Ali No. 627 of Mardan District Police, against the order of District Police Officer, Mardan, whereby he was awarded major punishment of dismissal from service vide OB: No. 634 dated 09.03.2022. The appellant was proceeded against departmentally on the basis of report of Sub Divisional Police Officer, (SDPO) Rural, Mardan containing the allegations of criminal negligence and gross misconduct.

(G"

As on 01.09.2021 during routine patrolling, IHC Abid Khan No.3293 and LHC Niaz Ali No.2697 etc of Police Post Shaheedan Police Station Rustam, Mardan arrested Kamran r/o Nawan Killey Toru with a 30 bore unlicensed pistol along with five live rounds and a case vide FIR No.1057 dated 01.09.2021 U/S 15-AA Police Station Rustam was registered against him.

On the next day i.e 02.09.2021 IHC Abid Khan drafted application for obtaining judicial remand and sent it to the Court through Constable Ayaz No.1663 with advice that the accused Kamran will be waiting at Mardan Katcheri. On reaching Mardan Katcheri, constable Ayaz found that LHC Niaz Ali was also present in Mardan Katcheri and was standing with accused Kamran, so constable Ayaz handed-over the said documents to LHC Niaz Ali. The accused was produced in the Court by LHC Niaz Ali as he (accused) couldn't produce any surety so the Court awarded him punishment of fine to the tune of Rs.1000/-, but the accused did not pay the above mentioned fine due to which he was sent to judicial lock up. The main motive behind sending the accused to judicial lock-up was that on 03-09-2021 the brother of accused namely Amir Sajjad had to commit murder with the connivance of his brother and the delinquent Officer. Later on, a case vide FIR No.889 dated 03.09.2021 U/S 302/324/34-PPC Police Station, Toru was registered in which the accused Kamran was also charged for the commission of offence.

It is worth mentioning that Superintendent of Police Investigation, Mardan vide his office letter No.531/PA/Inv: dated 06-09-2021 also highlighted the fact that accused Kamran in connivance with LHC Tariq Ali, IHC Abid Khan and LHC Niaz Ali No. 2697 malafidely got registered the above mentioned case so as to entitle the accused for plea of alibi in a murder case and the accused Kamran was presented before the Court without handcuffs. It is pertinent to mention here that the appellant had friendship with accused Kamran and he (appellant) staged the entire drama of involving accused Kamran in the above mentioned case through his brother Niaz Ali who was performing his duties at Police Post Shaheedan Police Station Rustam.

Proper departmental enquiry proceedings were initiated against him and enquiry was entrusted to Mr. Adnan Azam Sub Divisional Police Officer (SDPO) Sheikh Maltoon, Mardan. During the course of enquiry it was proved that the delinquent Officer in active connivance with accused Kamran booked him in the aforementioned case for extending benefits as the accused and his brother had managed/planned the murder as a result of which they succeeded in their design and 02 persons lost their lives vide case FIR No.889 dated 03-09-2021 U/S 302/324/34 PPC Police Station Toru. The enquiry Officer held the delinquent Officer guilty of gross misconduct and recommended The delinquent Officer was again heard in Orderly Room on 09.03.2022 by the District Police Officer, Mardan but this time too he failed to present any cogent reasons in his defense, therefore, he was awarded major punishment of dismissal from service with immediate effect

Feeling aggrieved from the order of District Police Officer, Mardan, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 31.03.2022.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations leveled against the appellant have been proved beyond any shadow of doubt. Moreover, the Investigating Officer of case FIR No. No.889 dated 03-09-2021 U/S 302/324/34 PPC Police Station Toru also affirmed the involvement of appellant in this heinous criminal case because Call Data Record of accused Kamran revealed that he was present in his village Toru despite his arrest in case FIR No. 1057 dated 01.09.2021 U/S 15-AA Police Station Rustam and on the very next day he came to District Courts, Mardan from his home where from he was sent to District Jail, Mardan. The accused Officer namely Tariq Ali No. 627 (appellant) staged the drama of the FIR for sending accused Kamran to Jail just to facilitate him in a murder which the brother of the accused planned to commit after two days. Hence, the involvement of appellant in such like activities is clearly a stigma on his conduct. Therefore, the retention of appellant in Police Department will stigmatize the prestige of entire Police Force as instead of fighting crime, he has himself indulged in criminal activities. Moreover, he could not present any cogent justification regarding his innocence.

Keeping in view the above, **I, Yaseen Farooq, PSP Regional Police Officer, Mardan,** being the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being devoid of merit.

Order Announced.

Regional Police Officer, Mardan.

No. 2768 /ES,

Â.

05/04 Dated Mardan the

Copy forwarded to District Police Officer, Mardan for information and necessary w/r to his office Memo: No. 62/LB dated 25.03.2022. His Service Record is returned herewith.

(****)

120305 ابڈوکیٹ: يشاور بارايسوسي ايشن، خيبر پختونخواه باركوس/ايسوى ايثن نمبر: 0333265900 رابط تمبر: _ Glicid بعدالت جناب: ____ منجاب: إلدلم بد د توکی: علت نمبر: bez موزخه *.*7 تحانه تحرير مقدمه مندرجه عنوان بالاميں اپنی طرف ہے واسطے پیروی وجواب دہی کا روائی متعلقہ ود با تما الم والع با مقرر آن مقام الحو المليح موصوف كومقده كي كل كاردائي كاكامل اختيار جوگاء نيز وكيل صاحه كركاقراركما كاتل كمقا ا راضی نامه کر<u>ئ</u> دنقر رقابت و فیصله بر حلف دکینے جوال دعویٰ اقبال دعویٰ اور درخواست از برقس کی تصدیق زریں پردانتخط کرنے کا اختیار ہوگا، نیز بصورت عدم پروکی یاد گری کیطرفہ پاا پیل کی برآ مدگل اور استوخی، نیز دائر كربنا كي فكراني ونظر ثانى ويبردي كربنا كامختار بوكا اور بصورت ضرورت مقده مذكور وكريك في جزوى كاردانى يحكحوا يسطحا وزوكيل فيتحافظ فقرركا اختياد بوكا ورصاحه يا مي مي مي مي با مي موقف مي مي مقررشده كووبتي جمليه فدكؤره بااخ گادر آین کا بتاخته پرداخته منظور و قول موگا دوران مقدمه مين جوفر سير برجانة التوائح مقده *سے ہوگا ۔ کوئی تاریخ پیش مقام دور*ہ یا حد سے باہر ہوتو وکیل صاحب پا بندند ہول الے کہ پیروی ندکورہ کریں ، اپنداو کا لیے نام لکھدیا تا کہ سندر ہے المرقوم: _ ال مقام کے لیے منظور ہے 19 Accept نوث اس د کالت نامد کې فو تو کابې نا قاتل ټبول موگ ۔

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 570/2022

J

Tariq Ali Ex-LHC No. 627 r/o Charsadda Road Mirwas Mohallah Kohistani Mardan.....Appellant

VERSUS

INDEX

S. No.	Description of Documents	Annexure	Pages.
1.	Copy of Written Reply.		1-4
2.	Copy of Affidavit.		5
3.	Copy of bad entries	A	6-8
4.	Copy of Charge Sheet, Enquiry & orders	B, C & D	9-23
5.	Copy of Authority Letter.		24

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 570/2022

Tariq Ali Ex-LHC No. 627 r/o Charsadda Road Mirwas Mohallah Kohistani Mardan......Appellant

VERSUS

The Inspector General of Police Khyber Pakhtunkhwa, Peshawar and others

Para-wise comments by respondents:-

Respectfully Sheweth,

PRELIMINARY OBJECTIONS

- 1. That the appellant has not approached this Hon'ble Tribunal with clean hands.
- 2. That the appellant has concealed the actual facts from this Hon'ble Tribunal.
- 3. That the appellant has got no cause of action or locus standi to file the instant appeal.
- 4. That the appellant is estopped by his own conduct to file the instant Service Appeal.
- 5. That the appeal is unjustifiable, baseless, false, flawless and vexatious and the same is liable to be dismissed with special compensatory cost in favour of respondents.
- 6. That the appeal is barred by law & limitation.

REPLY ON FACTS

- 1. Correct to the extent that the appellant was initially appointed as constable in Police Department.
- Incorrect. Plea taken by the appellant is not plausible because every Police Officer is under obligation to perform his duty upto the entire satisfaction of his superiors. Moreover, non receipt of complaint against the appellant does not mean a clean chit for the future wrong deeds, but service record of the appellant is tainted with bad entries
 (Copy of list of bad entries and punishment enclosed as Annexure "A").
- 3. Correct to the extent that the appellant was issued charge sheet with statement of allegations to which his reply was received but found unsatisfactory.

- Correct to the extent that the appellant was issued Final Show Cause Notice to which his reply was received but found unsatisfactory.
- Incorrect. Plea taken by the appellant is not plausible, because he has been properly proceeded against departmentally on the basis of report of Sub Divisional Police Officer, (SDPO) Rural, Mardan containing the allegations of criminal negligence and gross misconduct.

As on 01.09.2021 during routine patrolling, IHC Abid Khan No.3293 and LHC Niaz Ali No.2697 etc of Police Post Shaheedan Police Station Rustam, Mardan arrested Kamran r/o Nawan Killey Toru with a 30 bore unlicensed pistol along with five live rounds and a case vide FIR No.1057 dated 01.09.2021 U/S 15-AA Police Station Rustam was registered against him.

On the next day i.e 02.09.2021 IHC Abid Khan drafted application for obtaining judicial remand and sent it to the Court through Constable Ayaz No.1663 with advice that the accused Kamran will be waiting at Mardan Katcheri. On reaching Mardan Katcheri, constable Ayaz found that LHC Niaz Ali was also present in Mardan Katcheri and was standing with accused Kamran, so constable Ayaz handed-over the said documents to LHC Niaz Ali. The accused was produced in the Court by LHC Niaz Ali as he (accused) couldn't produce any surety so the Court awarded him punishment of fine to the tune of Rs.1000/-, but the accused did not pay the above mentioned fine due to which he was sent to judicial lock up. The main motive behind sending the accused to judicial lock-up was that on 03-09-2021 the brother of accused namely Amir Sajjad had to commit murder with the connivance of his brother and the delinquent Officer. Later on, a case vide FIR No.889 dated 03.09.2021 U/S 302/324/34-PPC Police Station, Toru was registered in which the accused Kamran was also charged for the commission of offence.

It is worth mentioning that Superintendent of Police Investigation, Mardan vide his office letter No.531/PA/Inv: dated 06-09-2021 also highlighted the fact that accused Kamran in connivance with LHC Tariq Ali, IHC Abid Khan and LHC Niaz Ali No. 2697 malafidely got registered the above mentioned case so as to entitle the accused for plea of alibi in a murder case and the accused Kamran was presented before the Court without handcuffs. It is pertinent to mention here that the appellant had friendship with accused Kamran and he (appellant) staged the entire drama of involving accused Kamran in the above mentioned case through his brother Niaz Ali who was performing his duties at Police Post Shaheedan Police Station Rustam by issuing him Charge Sheet with Statement of Allegations and enquiry was entrusted to the then SDPO Sheikh Maltoon Mardan. The enquiry officer during the course of enquiry recorded statements of all concerned and fulfilled all legal and codal formalities by extending right of self defense to the appellant to produce evidence/grounds in his defense but in fiasco. The Enquiry Officer after fulfilling necessary process, submitted his finding report and recommended the appellant for major punishment. Therefore, the appellant was issued Final Show Cause Notice to which his reply was received but found un-satisfactory and the appellant was also called in Orderly Room on 09.03.2022, but this time too, the appellant failed to justify his innocence, hence, he was awarded major punishment of dismissal from service, which does commensurate with the gravity of misconduct of the appellant (Copies of Charge Sheet with statement of allegations, enquiry report and Final Show Cause Notice are annexed as annexure "B, C & D").

6. Correct to the extent that the appellant preferred departmental appeal which was also decided on merit because he was called in orderly room on 31.03.2022 but this time too he bitterly failed to produced any cogent justification in his defense. Therefore, his departmental appeal was also rejected/filed being devoid of any

meril.7. That appeal of the appellant is liable to be dismissed on the following grounds amongst the others.

REPLY ON GROUNDS:

- A. Incorrect. Order passed by the competent authority is legal, lawful and passed it after fulfilling all legal and codal formalities, hence, liable to be maintained.
- B. Incorrect. Plea taken by the appellant is not plausible, because he has been properly proceeded against departmentally by issuing him Charge Sheet with Statement of Allegations and enquiry was entrusted to the then SDPO Sheikh Maltoon Mardan. The enquiry officer during the course of enquiry recorded statements of all concerned and fulfilled all legal and codal formalities by extending right of self defense to the appellant to produce evidence/grounds in his defense but in fiasco. The Enquiry Officer after fulfilling necessary process, submitted his finding report and recommended the appellant for major punishment. Therefore, the appellant was issued Final Show Cause Notice to which his reply was received but found un-satisfactory and the appellant was also called in Orderly

Room on 09.03.2022, but this time too, the appellant failed to justify his innocence, hence, he was awarded major punishment of dismissal from service, which does commensurate with the gravity of misconduct of the appellant.

- C. Correct to the extent that no one can be condemned unheard but the appellant cannot take this plea as he has duly been provided fulfledged opportunity of defending himself.
- D. Incorrect. Stance taken by the appellant is totally devoid of merit because during the course of enquiry the appellant was extended fulfledged opportunity of defending himself but he bitterly failed to justify his innocence.
- E. Incorrect. Para already explained needs no comments.
- F. The respondents also seek permission of this honorable tribunal to adduce additional grounds at the time of arguments.

PRAYER:-

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Keeping in view the above narrated facts, it is most humbly prayed that the appeal of the appellant being badly barred by law and limitation, may kindly be dismissed with costs please.

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar (Respondent No. 03)

Regional Police Officer, Mardan. (Respondent No. 02)

District Police Officer, Mardan. (Respondent No. 01)

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 570/2022

Tariq Ali Ex-LHC No. 627 r/o Charsadda Road Mirwas Mohallah Kohistani Mardan......Appellant

VERSUS

The Inspector General of Police Khyber Pakhtunkhwa, Peshawar and others

COUNTER AFFIDAVIT.

We, the respondents do hereby declare and solemnly affirm on oath that the contents of the Para-wise comments in the service appeal cited as subject are true and correct to the best of our knowledge and belief and nothing has been concealed from this Honourable Tribunal.

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar. (Respondent No. 03)

Regional Police Officer, Mardan. (Respondent No. 02)

District Police Officer, Mardan. ndent No. 01)

A monoxules 8 Concld 14. COMMENDATORY ENTRIES a manage and the OKER Suspension and Classed to Police tion primition of sill imprections. Alle? Fei officili Asi TED MRSD 3 AZI ALMOS ISOG 4. Koi 5. Mu Saji 6. 7. Sajj 8. Imr Hair 9 10 Kas Kas 11. Muł 12. Shal 1.3 14 Ijaz 15. Inay Faw 16. Ham 17. Shah 1.8. 19. Mud Bakh 20. Soha 21. 22. Sarta Fero 23. 24. Luqn Asif / 25. Arsh 2.6. Amji 27 Aftab 28. Muha 29. Fahe 30. Laiq 31. Gul H 32 Fahe 33. Anwa 34.

R ROLL OF (Continued) 5. CENSURES AND PUNISHMENTS. CEDIL Arranded him Major prinishment of dismisal From service With immediate effect in exercise of The power vested is sure under prince Pales 1975 CPS 100 - 634 1. Waltan Dated 5 04.05.2022 District Ending Offices A Murdan CRDER .. the paperal is rejected and faired while Ester mandam office order MD 2768 11: David 5-04-2022. after o'ret

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OFFICE OF THE DISTRICT POLICE OFFICER

MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111 Email: dpomdn@gmail.com

/PA

Dated 0 1.1/2 /2021

DISCIPLINARY ACTION

I, Dr. Zahid Ullah (PSP), District Police Officer Mardan, as competent authority

am of the opinion that LIIC Tarig Ali No.627, himself liable to be proceeded against, as he committed

the following acts/omissions within the meaning of Police Rules 1975.

STATEMENT OF ALLEGATIONS

Whereas, LIIC Tarig Ali No.627, while posted at PAL Office Mardan (now under suspension Police Lines Mardan) was found negligence for the following irregularities, as per SDPO Rural Mardan office letter No.1299/R dated 07-09-2021:-

On 01-09-2021, IHC Abid Khan No.3293 & LHC Niaz Ali No.2697 etc of PP Shaheedan (now under suspension Police Lines) arrested one Kamran r/o Nawan Killey Toru with a (30) bore without number and unlicensed pistol & (05) rounds during routine patrolling vide case FIR No.1057 dated 01-09-2021 U/S 15AA PS Rustam.

On 02-09-2021, IHC Abid Khan has prepared Remand Judicial Challan and sent it to the Court through Constable Ayaz No.1663 with advice that the accused is waiting at Mardan Katcheri. On reaching Mardan Katcheri, he found LHC Niaz Ali No. 2697 along-with accused Kamran, so he handed-over the Remand Judicial papers to LHC Niaz Ali & then he produced the accused to the Court wherein the accused couldn't produce any surety, so the Court fined him of Rs.1000/-, but intentionally the accused regretted by not paying the fined amount, so he was sent to Indicial Lock-up. The main purpose behind preferring Judicial Lock-up was that on 03-09-2021, brother of accused namely Amir Sajjad committed murder vide case FIR No.889 dated 03-09-2021 U/S 302/324/34 PPC PS Toru. in which. he (accused Kamran) was also charged for the commission of crime.

As per SP/Investigation Mardan vide his office letter No.531/PA/Inv: dated 06-09-2021, highlighting that accused Kamran in connivance with LHC Tariq Ali No.627 of PAL Office Mardan and his brother LHC Niaz Ali No. 2697 of PP Shaheedan (Now both suspended) registered the above quoted case against himself, because on the day and at the time of occurrence. accused Kamran was not present on the spot and no direct recovery has been made from him, while on the next day (02-09-2021), accused Kamran was handed-over to Constable Ayaz Ali No. 1663 without handcuffs in the Court, wherein hefore the concerned Magistrate, accused Kamran resiled from his statement and was sent to Judicial Lockup Mardan. From the preliminary enquiry, it has been found that accused Kamran in connivance with LHC Tariq Ali has planned his entrance to Mardan Jail and this fact has been accepted by all.

From the above discussion, the involvement of LHC Tariq Ali in this 4) episode/plan can't be ruled-out.

District Police Officer

T/10 Mardan

For the purpose of scrutinizing the conduct of the said accused official with reference to the affore allegations. Mr. Adnan Azam SDPO SMT is nominated as Enquiry Officer.

The Enquiry Officer shall, in accordance with the provision of Police Rules 1975. belyides reasonable opportunity of hearing to the accused Police Officer, record/submit his findings and make within (30) Ages of the receipt of this order, recommendations as to punishment or other appropriate

action against the accuse Official. before the Enquiry Officer on the date i LIIC Tarig Ali is directed to appea time and place fixed by the Enquiry Officer. (Dr. Zahid Ullah) /PSP

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OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

CHARGE SHEET

I, <u>Dr. Zahid Ullah (PSP)</u>, District Police Officer Mardan, as competent authority, hereby charge <u>LHC Tariq Ali No.627</u>, while posted at PAL Office Mardan (now under suspension Police Lines Mardan), as per attached Statement of Allegations.

1. By reasons of above, you appear to be guilty of misconduct under Police Rules. 1975 and have rendered yourself liable to all or any of the penalties specified in Police Rules, 1975.

2. You are, therefore, required to submit your written defense within <u>07 days</u> of the receipt of this Charge Sheet to the Enquiry Officer, as the case may he.

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

4.

Intimate whether you desired to be heard in person.

(Dr. Zahid Ullah) PSP District Police Officer Mardan 1...

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As Prin Say (mand many which the office hatter and our of the life many sources of the former com Com rooms focus of it yound no inset 29 200 NE- 202 - 202 2/1 12 P. 2 10-20 th 988 ducto sees with reduces bettimes Entrestiments planer warmen to make the property 1 = P. E. m Sout, C. on our bushen fundton hundred engendnism sis . yn eber he swart or anos cours of a formal some for in gripped ture for the point of the Accurate more than your the and so the cound fine sources the pro reading bur hours from and in inder fines Nigo Ali and Than his Produced the A consect de la over the Overnard Orderich Popurs to LHC; for alme work Heard Heardy 30 how guts 1902 an inter on 242 June for in inter a show All cuting at madaus reactions i an reacting a beeben sill but some show the concerta Adaking Ngure 14 hunces and other Such the mistlesdes hosporg from of Quegard and redress his program of 100. 9. 4 we was forbolo 2 201 avisit see and 201 Just 2 milar quite abund rat have g former hours for reduce to him gradie a nice wrat illast he was of mornes I sud hestornal monogenes when with share any for the and a for the and Manora 21, 142 Abididuanto 2292 and 249 100 100 . 1.6. p. r gabe A-pp21 on withat a hat a how bund of 12 with a random and and the light on a loss and mada,) win frond my high gues for the follow ARice mendion (and when supervision peror is diver -199 to Justing aline (xed on 190 and 24 2 24 - C. annul U. cmi drogt . 940 grindlef and min un with ag 1) at Duran hand i served ile subfaul change show men have rish of agree of av eningable for prominue + Loods questo and of probable for the ford and the probable for the properties of the ford of the probable to a second to a secon . wolhour of a site worked

Forman in Connviance with the Taxid Ali NO 627 & PAL office marlar and to brother L. He Min 2 AR MO 2697 of Pp Shahindan registeral the show Amber Cose against himself, becase on the y and Time of secures Accord to anonan was not prease on 98 The sport and no direct recovery his baser made from him, while on the next day 2.9.21 Hears f leans an was handlink over to constable Ages Ali ve 1603 visit hand couffs in The count when in before the Concerned mapilonal Acand Icomic n revilact from his statement and wer south of Juchtal lock. up martan trom in Prilimeny inouniz , into hand been fund, that A carsal transcar in Connerviace win the LAR Taria Adi hos & lanned bis entire to marlan jail out - 1ms -ful his been accerption by still. 4, from the above discursion, the involvenul of Lite Trano Ali in This episode / plan can not be roled out. (Copy enclosed.) 1: Jt & Submitted, Wal- Petrimor has been ported at PAL /office mailan. The Retainmen has port no concern work The affaire of pp Schaheedan. The Pelvioner is not amove about the story of Core FID NO 1057 datel 1. 9.21 M/s 15 AA P& Roston. The officer and his accompaniel pilies officials will be knowing back republic this case." The pathioner is not associated with the said case I am stape. The charged Accord in care Fin No 889 dated 3.9.21 39 4/2 2.2 U. Sal. 24 PDr Paroru is nut known to me Nirthen Acas-Plasman falls in my relation, Nor Pathinar his got any contract white home pethioner has not planned the entrace of Accord ٣) learning to madow Jourf - Petrioner Cannot amapin to novolv. hims of in such lite wepannos activis. 51 Them is no endence again to the petitioner to connect him write the allegations have bleef again for mon. Paper (3)

4) -that petitioner wis enlisted on contrable on 1-x. 2011 mi Police department and his Parformed his ability waiter gread and affaciney. The Bokhisman was alcall de part-mutally Prive to this All what frate an evident from the shining service record of the Petritions. The Petritionar helongs to apour Police family. Petrioner. is the sun of Rating He Barchtog, who serviced in manday abstrict - petrition is marined with 02 kids and old father. All - 1 hrs family is deput upon the Publice Source of the Polimina Betitionar's acaducally great ute curf wish to get further Promotion in Autore. leavying in verial this above funde and circumsten as, it is hubbly areamtell - 14 de being increased the Eulogical chara should may kindly be filled Plano. yours obediently, Datiol: 14. x. 21. (He | Muhamman] Jorri D. 100 627 Bolica lim Marlan.

DISCIPLINARY ACTION AGAINST LHC TARIQ ALI No. 627.

Kindly refer to your office diary No.229PA, dated 01.10.2021.

ALLEGATIONS:-Whereas. LHC <u>TARIO ALI NO.627</u>. (now under suspension Police Lines Mardan) was found negligence for the following irregularities. as per SDPO rural Mardan office letter No.1299/R dated 07-09-2021:-

1) On 01.09.2021, he accompanied by IHC Abid khan No.3293 and NIAZ ALI NO.2697 etc PP Shaheedan (Now Under suspension police line) arrested one kamran r/o nawan kaly Toru with a(30) bore without number and unlicensed pistol & (05) rounds during routine patrolling vide case FIR No.1057 dated 01.09.2021 ISAA PS Rustam.

2) On 02.09.2021 HIC Abid khan has prepared Remand judicial challan and sent to the court through Constable Ayaz No.1663 with advice that the accused is waiting Mardan kacheri. On reaching Mardan kacheri, he found (LHC Niaz Ali No.2697) along with accused kamran, so he handed over the remand judicial papers to LHC Niaz Ali, Who produced the accused to the court wherein the accused couldn't produced any surety, so the court fined him of RS.1000/-, but intentionally the accused regretted by not paying the fined amount, so he was sent to judicial Lock up. The main purpose behind preferring judicial lock up was that on03.09.2021, Brother of Accused Namely Amir sajjad committed a murder while FIR No.889 Dated 03.09.2021 u/s 302.324.34 PS Toru in which he (accused kamran) was also charged for the commission of

crime. 3) As per SP/Investigation Mardan vide his office letter No.531/PA/Inv: dated 06.09.2021, highlighting that accused kamran in connivance with LHC Muhammad Tariq No. 627 of PAL Branch office Mardan and his brother LHC Niaz Ali No. 2697 of PP Shaheedan (Now both suspended) registered the above case against himself, because on the day and at the time of occurrence accused kamran was not present on the spot and no direct recovery has been made from him, while on the next day (02.09.2021), accused Kamran was handed over to Constable Ayaz ali No. 1663 without handcuffs in the court, wherein before court magistrate accused Kamran resiled from his statement and was sent to judicial lock up Mardan, from the preliminary inquiry, it has been found that accused Kamran in connivance with LHC Muhammad Tariq has planned his entrance to Mardan jail and this fact has been accepted by all.

planned his entrance to Mardan jan and this fact has been accepted by and
From the above discussion the involvement of LHC TARIO ALI NO.627 in this plan/episode cannot ruled out.

PROCEEDINGS:-

The undersigned conducted departmental enquiry where the delinquent officer LHC Tariq Ali was called to the office and enquired. His written statement was also recorded and placed on enquiry file. The delinquent police officer stated that he was posted at PAL office Mardan and has got not concern with the officers of PP Shahedan. Further added that he is not aware of actual story of case FIR No.1057 dated 01.09.2021 u/s 15AA PS Rustam and showed ignorance from the whole scenario. Similarly, he denied any relation with the accused Kamran charged in case FIR No. 889 dated 03.09.2021 u/s 302/324/34 PS Toru. Moreover, he stated that neither the accused Kamran is known to me nor is my relative. That he has not planned the entrance of the accused Kamran to Mardan Jail as he can't to do such illegal activities and denied all the leveled allegations against him.

To dig out facts, secret information/report was obtained where it was found that the accused Kamran and LHC Tariq are friends. Besides this, LO of the case was called to the office and enquired. SI Niaz Muhammad, LO of the case stated that accused Ameer Sajjad was arrested on the spot. However, during investigation it came to surface that accused Kamran was in Jail in case FIR No. 1057 dated 01.09.2021 u/s 15AA PS Rustam who was later arrested by the local police after getting bail.

It is pertinent to mention that in the subject matter SDPO Rural circle has also submitted a detail report vide his office letter No.1299/R dated 07.09.2021 and recommended the alleged officer for departmental proceedings. Besides, preliminary enquiry in the instant matter was conducted by w/SP Investigation Mardan which reveals that the accused in connivance with LHC Tariq Ali and other police officers created the whole scenario in order to save him from the murder case. Hence, they were recommended for proper departmental enquiry.

(et al

RECOMMENDATION:

From the enquiry conducted, hearing of the concerned officers and going through the record, the undersigned reached to the conclusion that the alleged officer has indirectly assisted the accused Kamran to confine himself in jail. This helped the accused in the murder case which adversely affected the investigation of the case. Therefore, he is found guilty and is recommended for **Major Punishment** if agreed, please.

No. <u>6.32</u> /St-SMT Dated. <u>7.342</u> /2021

(Adnan Azam Khan) Deputy Superintendent of Police, S.M.T-Circle.

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OFFICE OF THE DISTRICT POLICE/OFFICER,

MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111 Email: dpomdn@guaul.com

No 1079 23 /PA

7 12 12022 Dated

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FINAL SHOW CAUSE NOTICE

LHC Tarig Ali, while posted at PAL Office Mardan (now under suspension Police Lines Mardan) was found of negligence for the following irregularities, as per SDPO Rural Mardan office letter No.1299/R dated 07-09-2021:-

1) On 01-09-2021, HIC Abid Khan No.3293 & LHC Miaz Ali No.2697 etc of PP Shaheedan (now under suspension Police Lines) arrested one Kamran r/o Navan Killey Toru with a (30) bore without number and unlicensed pistol & (05) rounds during routine patrolling vide case FIR No.1057 dated 01-09-2021 U/S 15AA 28 Rustam.

2) On 02-09-2021, IIIC Abid Khan has prepared Remand Judicial Challan and sent it to the Court through Constable Ayaz No.1663 with advice that the accused is waiting at Mardan Katcheri. On reaching Mardan Katcheri, he (C/Ayaz) forind LHC Niaz Ali No. 2697 along-with accused Kamran, so he handed-over the Remand Judicial papers to LHC Niaz Ali & then he produced the accused to the Court wherein the accused couldn't produce any surety, so the Court fined him of Rs.1000/-, but intentionally the accused tegretted by not paying the fined amount, so he was sent to Judicial Lock-up. The main purpose behind preferring Judicial Lock-up was that on 03-09-2021, brother of accused namely Amir Sajjad committed murder vide case FIR No.889 dated 03-09-2021 U/S 302/324/34 PPC PS Toru, in which, he (accused Kamran) was also charged for the commission of crime.

3) As per \$P/Investigation Mardan vide his office letter No.531/PA/Inv: dated 06-09-2021, highlighting that accused Kamran in connivance with LHC Tariq Ali No.627 of PAL Office Mardan and his brother LHC Niaz Ali No. 2697 of PP Shaheedan (Now both suspended) registered the above quoted case against himself, because on the day and at the time of occurrence, accused Kamran was not present on the spot and no direct recovery has been made from him, while on the next day (02-09-2021), accused Kamran was handed-over to Constable Ayaz Ali No.1663 without handcuffs in the Court, wherein before the concerned Magistrate, accused Kamran resiled from his statement and was sent to Judicial Lockup Mardan. From the preliminary enquiry, it has been found that accused Kamran in connivance with LHC Tariq Ali has planned his entrance to Mardan Jail and this fact has been accepted by all.

he ruled-out.

1)

- From the above discussion, your involvement in this episode/plan can't

In this connection, during the course of Departmental Enquiry, conducted by Mr. Adnan Azam SDPO Sheikh Maltoon vide his office letter No.632/SI-SMT dated 13-12-2021, in pursuance of this office Statement of Disciplinary Action/Charge Sheet No.225/PA dated 01-10-2021, holding responsible you of gross misconduct & recommended for major punishment. You were heard in OR on 02-02-2022, during which, you have failed to present any plausible reason in your defense.

Therefore, it is proposed to impose Major/Minor penalty as envisaged under Rules 4 (b) of the Khyber Pakhtunkhwa Police Rules 1975. 11^{-3}

Hence, I Dr. Zahid Ullah (PSP) District Police Officer Mardan, in exercise of the power vested in me under Rules 5 (3) (a) & (b) of the Khyber Pakhtunkhwa Police Rules 1975 call upon you to Show Cause Finally as to why the proposed punishment should not be awarded to you.

Your reply shall reach this office within 07 days of receipt of this Notice, failing which; it will be presumed that you have no explanation to offer.

You are liberty to appear for personal hearing before the undersigned.

Received by

Dated: 0 / 102 /2022

(Dr. Zahid Ullah) PSP District Police Officer ^ Mardan

Copy to RI Police Lines Mardan (Attention Reader) to deliver this Notice upon the alleged official & the receipt thereof shall be returned to this office within (05) days positively for onward necessary action.

<u>طال</u>الی تحذارس حسال غير مسرج لركس Worne 1627 de Gite Opinie Gib 2 Co-Ko flow of Cond in Gpt. as Min 1 RI-PL-MRO 07/02/022

Before the Worthy DPO MARDAN

Subject

REPLY TO FINAL SHOW CAUSE NOTICE NO 1074-75/PA DATED 07.02.2022.

Projected Sir. In response to the Final Show cause, it is submitted that the petitioner was posted at PAL Officer Mardan and has no connection with the affairs of

(P)Shaheedan.
 That the petitioner is not aware about the story of case FIR No.
 (0.7)dated 01.09.2021 u/s 15AA PS Rustam. The In-charge PP Shaheedan and his staff will know best regarding the said case at any stage.

The charged accused in case FIR No. 889 dated 03.09.2021 u/s 302/324/34 PPC PS Toru is not known to me. Neither accused Kamran falls in my relation, nor has petitioner got any contact with him.

The petitioner has not planned the entry of accused Kamran to Mardan Jail. The petitioner cannot imagine involving himself in such activities.

 \succ There is no evidence against the petitioner to connect him with

the allegations levelled against him.

That the petitioner was enlisted as Constable on 01.10.2011 in Police Department and has performed his duty with good and efficient behavior. That the petitioner was not dealt departmentally prior to this. All facts are evident from the shining service record of the petitioner as there is no bad entry in service record of the

pentioner.

at petitioner belongs to a police family. The petitioner is the son of a retired police fficer HC Bakht Taj who served in Police department. The petitioner is married with 02 kids and old father. The family depends upon the police service of the petitioner.

The petitioner is well educated officer and wishes to get further success in future.

Keeping in view the above facts and circumstances, it is humbly prayed that being innocent, the subject charge sheet may kindly be filed.

Dated: /02/2022

Yours Obediently

Muhammad Thriq No. 627/LHC

DPY



OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111 Email: dpemdn@gmail.com

No 2132-24 IPA

Dated 10 13 /2022

ORDER ON ENQUIRY OF LUC TARIO ALI NO.627

This order will dispose off a Departmental Enquiry under Police Rules 1975, initiated against the EHC Tariq Ali on the report of SDPO Rural circle containing the allegations of cruminal negligence and gross misconduct. Brief facts of the case are that:-

During routine patrolling on 01-09-2021, HIC Abid Khan No.3293 & LHC Niaz Ali No.2697 etc of PP Shaheedan arrested Kamran r/o Nawan Killey Toru with a 30 bore unliscenced pistol along with five bullet rounds and a case FIR No.1057 dated 01-09-2021 U/S 15AA PS Rustam was registered against him.

On the next day IIIC Abid Khan prepared a report for obtaining judicial remand and sent it to the Court through Constable Ayaz No.1663 with advice that the evened Kamran will be waiting at Mardan Kateheri. On reaching Mardan Kateheri, constable Ayaz found EUC Niaz Ali No. 2697 who was standing with accused Kamran, so constable Ayaz banded-over the report for obtaining judicial remad to LHC Niaz Ah. The evened was produced in the Court by LHC Niaz Ah wherein, the adcused couldn't produce any surety so the Court fined him Rs.1000/-, but the accused did not pay the above mentioned fine due to which he was sent to judicial lock up. The main motive behind sending the accused to judicial lock-up was that on 03-09-2021 the brother of accused namely Amir Saijad had to commit murder with the contivance of his brother and the definquent official, bater on, a case vide FIR No.889 dated 03-09-2021 U/S 302/324/34 PPC PS Toru was fegistered in which the accused Kamran was also charged for the commission of official.

 b is worth mentioning that SP/Investigation Mardan vide his office to be 1/0/3/31/2/3/line dated 06/09/2021 also highlighted the fact that accused Kamran in 2/0/a mananee with 1/10 Tang Ah. HTC Ahid Khan and LHC Mizz Ali No. 3697 malafidely got registered the above mentioned case so as to entitle the accused for plea of alibr in a marder case and the accused Kamran was presented in court without handcoffs for entiting hito to fuorcial lock up.

Page 1 of 2

M During the course of Departmental Enquiry, conducted by Mr. Adnan Azem SUPO Sheikh Maltoon vide his office letter No.632/St-SMT dated 13 12-2021, it was proved that the definquent official acted in contivance by falsely implicating the accused hap run in a minor officie to save him from FIR No.889 dated 03-09-2021 US 302/324/34 2001 US Torn, holding 1.101 Tariq Ali guilty of gross misconduct and hence recommended for major punishment. During his hearing in O.R on 02-02-2022, he failed to present any bill-t-ible is as in his defense, therefore, he (I-HC Tariq Ali) was served with a Final Show lates. Notice, under Khyber Pakhtunkhwa Police Rules-1975, issued vide this office No.1074-75/PA dated 07-02-2022, to which, his reply was received and found unsatisfactory.

Final Order

LHC Tariq Ali was heard in OR on 09-03-2022, during which, he fulled to present any plausible reasons in his defense, therefore, keeping in view the findings of the Enquiry Officer & material on record, the allegations leveled against the delinquent official hole been proved, therefore, awarded him major punishment of dismissal from arrive with including effect in exercises of the power vested in me under Police Rules-

CHENO. 634 Dated 9 3 2022

District Policy Stricer Mardan

Copy forwarded for information & n/action to-

D. The DSP/HOrs Maycan

2) The P.O.& E.C. Police Office) Mardan.

3) The OSI (Police Office) Mardan with (--) Sheets

ORDER.

This order will dispose-off the departmental appeal preferred by Ex-LHC Tariq Ali No. 627 of Mardan District Police, against the order of District Police Officer, Mardan, whereby he was awarded major punishment of dismissal from service vide OB: No. 634 dated 09.03.2022. The appellant was proceeded against departmentally on the basis of report of Sub Divisional Police Officer, (SDPO) Rural, Mardan containing the allegations of criminal negligence and gross misconduct.

(As on 01.09.2021 during routine patroliing, IHC Abid Khan No.3293 and LHC Niaz Ali No.2697 etc of Police Post Shaheedan Police Station Rustam, Mardan arrested Kamran r/c Nawan Killey Toru with a 30 bore unlicensed pistol along with five live rounds and a case vide FIR No.1057 dated 01.09.2021 U/S 15-AA Police Station Rustam was registered against him.

On the next day i.e 02.09.2021 IHC Abid Khan drafted application for obtaining judicial remand and sent it to the Court through Constable Ayaz No.1663 with advice that the accused Kamran will be waiting at Mardan Katcheri. On reaching Mardan Katcheri, constable Ayaz found that LHC Niaz Ali was also present in Mardan Katcheri and was standing with accused Kamran, so constable Ayaz handed-over the said documents to LHC Niaz Ali. The accused was produced in the Court by LHC Niaz Ali as he (accused) couldn't produce any surety so the Court awarded him punishment of fine to the tune of Rs.1000/-, but the accused did not pay the above mentioned fine due to which he was sent to judicial lock up. The main motive behind sending the accused to judicial lock-up was that on 03-09-2021 the brother of accused namely Amir Sajjad had to commit murder with the connivance of his brother and the delinquent Officer. Later on, a case vide FIR No.889 dated 03.09.2021 U/S 302/324/34-PPC Police Station. Toru was registered in which the accused Kamran was also charged for the

It is worth mentioning that Superintendent of Police Investigation, Mardan commission of offence.

vide his office letter No.531/PA/Inv: dated 06-09-2021 also highlighted the fact that accused Kamran in connivance with LHC Tariq Ali, IHC Abid Khan and LHC Niaz Ali No. 2697 malafidely got registered the above mentioned case so as to entitle the accused for plea of alibi in a murder case and the accused Kamran was presented before the Court without handcuffs. It is pertinent to mention here that the appellant had friendship with accused Kamran and he (appellant) staged the entire drama of involving accused Kamran in the above mentioned case through his brother Niaz Ali who was performing his duties at Police Post Shaheedan Police Station Rustam.)

Proper departmental enquiry proceedings were initiated against him and enquiry was entrusted to Mr. Adnan Azam Sub Divisional Police Officer (SDPO) Sheikh Maltoon, Mardan. During the course of enquiry it was proved that the delinquent Officer in active connivance with accused Kamran booked him in the aforementioned case for extending benefits as the accused and his brother had managed/planned the murder as a result of which they succeeded in their design and 02 persons lost their lives vide case FIR No.889 dated 03-09-2021 U/S 302/324/34 PPC Police Station Toru. The enquiry Officer held the delinquent Officer guilty of gross misconduct and recommended

The delinquent Officer was again heard in Orderly Room on 09.03.2022 by the District Police Officer, Mardan but this time too he failed to present any cogent reasons in his defense, therefore, he was awarded major punishment of dismissal from service with immediate effect

Feeling aggrieved from the order of District Police Officer, Mardan, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 31.03.2022.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations leveled against the appellant have been proved beyond any shadow of doubt. Moreover, the Investigating Officer of case FIR No. No.889 dated 03-09-2021 U/S 302/324/34 PPC Police Station Toru also affirmed the involvement of appellant in this heinous criminal case because Call Data Record of accused Kamran revealed that he was present in his village Toru despite his arrest in case FIR No. 1057 dated 01.09.2021 U/S 15-AA Police Station Rustam and on the very next day he came to District Courts. Mardan from his home where from he was sent to District Jail, Mardan. The accused Officer namely Tariq Ali No. 627 (appellant) staged the drama of the FIR for sending accused Kamran to Jail just to facilitate him in a murder which the brother of the accused planned to commit after two days. Hence, the involvement of appellant in such like activities is clearly a stigma on his conduct. Therefore, the retention of appellant in Police Department will stigmatize (he prestige of entire Police Force as instead of fighting crime, he has himself indulged in criminal activities. Moreover, he could not present any cogent justification regarding his innocence.

Keeping in view the above, I, Yaseen Farooq, PSP Regional Police Officer. Mardan, being the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being devoid of merit.

Order Announced.

Regional Police Officer, Mardan.

No. <u>2768</u> /ES, Dated Mardan the <u>OS</u> / <u>it</u> /2022. Copy forwarded to District Police Officer, Mardan for information and necessary w/r to his office Memo: No. 62/LB dated 25.03.2022. His Service Record is returned herewith.





BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 570/2022

Tariq Ali Ex-LHC N	vo. 627	r/o Charsadda	Road Mirwas	Mohallah Kohistani
Mardan		· · · · · · · · · · · · · · · · · · ·	,	Appellant

VERSUS

AUTHORITY LETTER.

Mr. Atta-ur-Rehman Inspector Legal Branch, (Police) Mardan is hereby authorized to appear before the Honourable Service Tribunal, Khyber Pakhtunkhwa, Peshawar in the above captioned service appeal on behalf of the respondents. He is also authorized to submit all required documents and replies etc. as representative of the respondents through the Addl: Advocate General/Govt. Pleader, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

Inspector General/of Police, Khyper Pakhtunkhwa, Peshawar. (Respondent No. 03)

Regional Police Officer, Mardan. (Respondent No. 02)

District Police Officer, Mardan. (Respondent No. 01)

Ens L

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 570/2022

Tariq Ali Ex-LHC No. 627 r/o Charsadda Road Mirwas Mohallah Kohistani Mardan......Appellant

VERSUS

The Inspector General of Police Khyber Pakhtunkhwa, Peshawar and others

Para-wise comments by respondents:-

Respectfully Sheweth,

PRELIMINARY OBJECTIONS

- 1. That the appellant has not approached this Hon'ble Tribunal with clean hands.
- 2. That the appellant has concealed the actual facts from this Hon'ble Tribunal.
- 3. That the appellant has got no cause of action or locus standi to file the instant appeal.
- 4. That the appellant is estopped by his own conduct to file the instant Service Appeal.
- 5. That the appeal is unjustifiable, baseless, false, flawless and vexatious and the same is liable to be dismissed with special compensatory cost in favour of respondents.
- 6. That the appeal is barred by law & limitation.

REPLY ON FACTS

- 1. Correct to the extent that the appellant was initially appointed as constable in Police Department.
- 2. Incorrect. Plea taken by the appellant is not plausible because every Police Officer is under obligation to perform his duty upto the entire satisfaction of his superiors. Moreover, non receipt of complaint against the appellant does not mean a clean chit for the future wrong deeds, but service record of the appellant is tainted with bad entries (Copy of list of bad entries and punishment enclosed as Annexure "A").
- 3. Correct to the extent that the appellant was issued charge sheet with statement of allegations to which his reply was received but found unsatisfactory.

4. Correct to the extent that the appellant was issued Final Show Cause Notice to which his reply was received but found unsatisfactory.

5. Incorrect. Plea taken by the appellant is not plausible, because he has been properly proceeded against departmentally on the basis of report of Sub Divisional Police Officer, (SDPO) Rural, Mardan containing the allegations of criminal negligence and gross misconduct.

As on 01.09.2021 during routine patrolling, IHC Abid Khan No.3293 and LHC Niaz Ali No.2697 etc of Police Post Shaheedan Police Station Rustam, Mardan arrested Kamran r/o Nawan Killey Toru with a 30 bore unlicensed pistol along with five live rounds and a case vide FIR No.1057 dated 01.09.2021 U/S 15-AA Police Station Rustam was registered against him.

On the next day i.e 02.09.2021 IHC Abid Khan drafted application for obtaining judicial remand and sent it to the Court through Constable Avaz No.1663 with advice that the accused Kamran will be waiting at Mardan Katcheri. On reaching Mardan Katcheri, constable Ayaz found that LHC Niaz Ali was also present in Mardan Katcheri and was standing with accused Kamran, so constable Ayaz handed-over the said documents to LHC Niaz Ali. The accused was produced in the Court by LHC Niaz Ali as he (accused) couldn't produce any surety so the Court awarded him punishment of fine to the tune of Rs.1000/-, but the accused did not pay the above mentioned fine due to which he was sent to judicial lock up. The main motive behind sending the accused to judicial lock-up was that on 03-09-2021 the brother of accused namely Amir Sajjad had to commit murder with the connivance of his brother and the delinquent Officer. Later on, a case vide FIR No.889 dated 03.09.2021 U/S 302/324/34-PPC Police Station, Toru was registered in which the accused Kamran was also charged for the commission of offence.

It is worth mentioning that Superintendent of Police Investigation, Mardan vide his office letter No.531/PA/Inv: dated 06-09-2021 also highlighted the fact that accused Kamran in connivance with LHC Tariq Ali, IHC Abid Khan and LHC Niaz Ali No. 2697 malafidely got registered the above mentioned case so as to entitle the accused for plea of alibi in a murder case and the accused Kamran was presented before the Court without handcuffs. It is pertinent to mention here that the appellant had friendship with accused Kamran and he (appellant) staged the entire drama of involving accused Kamran in the above mentioned case through his brother Niaz Ali who was performing his duties at Police Post Shaheedan Police Station Rustam by issuing him Charge Sheet with Statement of Allegations and enquiry was entrusted to the then SDPO Sheikh Maltoon Mardan. The enquiry officer during the course of enquiry recorded statements of all concerned and fulfilled all legal and codal formalities by extending right of self defense to the appellant to produce evidence/grounds in his defense but in fiasco. The Enquiry Officer after fulfilling necessary process, submitted his finding report and recommended the appellant for major punishment. Therefore, the appellant was issued Final Show Cause Notice to which his reply was received but found un-satisfactory and the appellant was also called in Orderly Room on 09.03.2022, but this time too, the appellant failed to justify his innocence, hence, he was awarded major punishment of dismissal from service, which does commensurate with the gravity of misconduct of the appellant (Copies of Charge Sheet with statement of allegations, enquiry report and Final Show Cause Notice are annexed as annexure "B, C & D").

- 6. Correct to the extent that the appellant preferred departmental appeal which was also decided on merit because he was called in orderly room on 31.03.2022 but this time too he bitterly failed to produced any cogent justification in his defense. Therefore, his departmental appeal was also rejected/filed being devoid of any merit.
- 7. That appeal of the appellant is liable to be dismissed on the following grounds amongst the others.

REPLY ON GROUNDS:

- A. Incorrect. Order passed by the competent authority is legal, lawful and passed it after fulfilling all legal and codal formalities, hence, liable to be maintained.
- B. Incorrect. Plea taken by the appellant is not plausible, because he has been properly proceeded against departmentally by issuing him Charge Sheet with Statement of Allegations and enquiry was entrusted to the then SDPO Sheikh Maltoon Mardan. The enquiry officer during the course of enquiry recorded statements of all concerned and fulfilled all legal and codal formalities by extending right of self defense to the appellant to produce evidence/grounds in his defense but in fiasco. The Enquiry Officer after fulfilling necessary process, submitted his finding report and recommended the appellant for major punishment. Therefore, the appellant was issued Final Show Cause Notice to which his reply was received but found un-satisfactory and the appellant was also called in Orderly

Room on 09.03.2022, but this time too, the appellant failed to justify his innocence, hence, he was awarded major punishment of dismissal from service, which does commensurate with the gravity of misconduct of the appellant.

- C. Correct to the extent that no one can be condemned unheard but the appellant cannot take this plea as he has duly been provided fulfledged opportunity of defending himself.
- D. Incorrect. Stance taken by the appellant is totally devoid of merit because during the course of enquiry the appellant was extended fulfledged opportunity of defending himself but he bitterly failed to justify his innocence.
- E. Incorrect. Para already explained needs no comments.
- F. The respondents also seek permission of this honorable tribunal to adduce additional grounds at the time of arguments.

PRAYER:-

Keeping in view the above narrated facts, it is most humbly prayed that the appeal of the appellant being badly barred by law and limitation, may kindly be dismissed with costs please.

Inspèctor General of/Police Khyber Pakhtunkhwa, Peshawar (Respondent No. 03)

Regional Police Officer,

Mardan. (Respondent No. 02)

District Police Officer, ardan. (Respondent No. 01)

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 570/2022

Tariq Ali Ex-LHC No. 627 r/o Charsadda Road Mirwas Mohallah Kohistani Mardan......Appellant

VERSUS

COUNTER AFFIDAVIT.

We, the respondents do hereby declare and solemnly affirm on oath that the contents of the Para-wise comments in the service appeal cited as subject are true and correct to the best of our knowledge and belief and nothing has been concealed from this Honourable Tribunal.

of Police, Inspector Gene Khyber Pakh unkhwa, Peshaw laf. (Respondent No. 03)

Regional Police officer, Mardan. / (Respondent No. 02)



ATTESTED

District Police Officer, Jardan. (Respondent No. 01)

A.monest the A 8 14. COMMENDATORY ENTRIES --- Concid. He is hereby Placed under Suspension and Closed to Police Line Mardan, With immediate JPO/MRD Fei offect -Asi Azı OB ND = 1506 Dated = 06-09-202 4. Koi 5. Mu Sajj 6. 7. Sajj Imr 8. 9. Haid Kas 10. Kasl 11. Muł 12. Shal 13. ljaz 14. Inay 15. Faw 16. Ham 17. Shal 1.8. Mud 19. Bakł 20. Soha 21. Sarta 22. Fero 23. Lugn 24. 25. Asif 1 Arsh 26. 27. Amii AftaŁ 28. Muha 29. Fahe 30. 31. Laig! Gul H 32. 33. Fahee ٦. 34. Anwa

R ROLL OF (Continued) 15. CENSURES AND PUNISHMENTS. ORDER Arvarded him Major Punishment oF dismisal From service With immediate effect in exercise of The power vested in me under police Rules-1975. OB NO 2 634 Dated - 09-03-2022 District Police Officer of Mardan ORDERF the prepart is rejected and failed Nide DIG Manddan Office Orden NO 2768 ES Dated 5-04-2022 DPO MRD

11 OLL OF (Continued) 15. CENSURES AND PUNISHMENTS. --- Conted. O day entra drill for his absence. OBNO- 2137 21-1074 pagmar day extra drill for his absence OB NO: 1614 11-9-15 DPOIMR



OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111 Email: dpomdn@gmail.com



Dated 01 1/2 /2021

DISCIPLINARY ACTION

/PA

I, Dr. Zahid Ullah (PSP), District Police Officer Mardan, as competent authority

am of the opinion that LIIC Tariq Ali No.627, himself liable to be proceeded against. as he committed the following acts/omissions within the meaning of Police Rules 1975.

STATEMENT OF ALLEGATIONS

Whereas, <u>LIIC Tariq Ali No.627</u>, while posted at PAL Office Mardan (now under suspension Police Lines Mardan) was found negligence for the following irregularities. as per SDPO Rural Mardan office letter No.1299/R dated 07-09-2021:-

1) On 01-09-2021, IHC Abid Khan No.3293 & LHC Niaz Ali No.2697 etc of PP Shaheedan (now under suspension Police Lines) arrested one Kamran r/o Nawan Killey Toru with a (30) bore without number and unlicensed pistol & (05) rounds during routine patrolling vide case FIR No.1057 dated 01-09-2021 U/S 15AA PS Rustam.

2) On 02-09-2021, IHC Abid Khan has prepared Remand Judicial Challan and sent it to the Court through Constable Ayaz No.1663 with advice that the accused is waiting at Mardan Katcheri. On reaching Mardan Katcheri, he found LHC Niaz Ali No. 2697 along-with accused Kamran, so he handed-over the Remand Judicial papers to LHC Niaz Ali & then he produced the accused to the Court wherein the accused couldn't produce any surety, so the Court fined him of Rs.1000/-, but intentionally the accused regretted by not paying the fined amount, so he was sent to Judicial Lock-up. The main purpose behind preferring Judicial Lock-up was that on 03-09-2021, brother of accused namely Amir Sajjad committed murder vide case FIR No.889 dated 03-09-2021 U/S 302/324/34 PPC PS Toru, in which, he (accused Kamran) was also charged for the commission of crime.

3) As per SP/Investigation Mardan vide his office letter No.531/PA/Inv: dated 06-09-2021, highlighting that accused Kamran in connivance with LHC Tariq Ali No.627 of PAL. Office Mardan and his brother LHC Niaz Ali No. 2697 of PP Shaheedan (Now both suspended) registered the above quoted case against himself, because on the day and at the time of occurrence, accused Kamran was not present on the spot and no direct recovery has been made from him, while on the next day (02-09-2021), accused Kamran was handed-over to Constable Ayaz Ali No.1663 without handcuffs in the Court, wherein before the concerned Magistrate, accused Kamran resiled from his statement and was sent to Judicial Lockup Mardan. From the preliminary enquiry, it has been found that accused Kamran in connivance with LHC Tariq Ali has planned his entrance to Mardan Jail and this fact has been accepted by all.

4) From the above discussion, the involvement of LHC Tariq Ali in this

episode/plan can't be ruled-out.

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For the purpose of scrutinizing the conduct of the said accused official with

reference to the prove allegations, Mr. Adnan Azam SDPO SMT is nominated as Enquiry Officer.

The Enquiry Officer shall, in accordance with the provision of Police Rules 1975. The Enquiry Officer shall, in accordance with the provision of Police Rules 1975. The Enquiry Officer shall, in accordance with the provision of Police Rules 1975. The Enquiry Officer shall, in accordance with the provision of Police Rules 1975. The Enquiry Officer shall, in accordance with the provision of Police Rules 1975.

action against the accused Official.

LHC Tarig Ali is directed to appear before the Enquiry Officer on the date 1

time and place fixed by the Enquiry Officer.

11/2001

(Dr. Zahid Ullah) PSP **District** Police Officer Mardan



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OFFICE OF THE DISTRICT POLICE OFFICER,

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CHARGE SHEET

I, <u>Dr. Zahid Ullah (PSP)</u>, District Police Officer Mardan, as competent authority, hereby charge <u>LHC Tariq Ali No.627</u>, while posted at PAL Office Mardan (now under suspension Police Lines Mardan), as per attached Statement of Allegations.

By reasons of above, you appear to be guilty of misconduct under Police Rules.
 1975 and have rendered yourself liable to all or any of the penalties specified in Police Rules, 1975.

2. You are, therefore, required to submit your written defense within <u>07 days</u> of the receipt of this Charge Sheet to the Enquiry Officer, as the case may be.

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

Intimate whether you desired to be heard in person.

SP Ullah (Dŕ. District Police Officer

Mardan

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021

Before the DPO Imailan. Subject: Ropby to the chaps sheet + Summony of allepolicins 225- PA dated 7.10.2021 Rospeelul Sir. your honow hal 1 somed the subject chap. sheel to the Relikioner min in folling alle leahins. where on Lite Taxia plino bay I while proted at PAL Africe marian (now under susparsion publice line marlan) was found nepligance for the following Margulardies & Peu S.D.Po | Rund madar office letter 1299. R datel 7. 9. 21 NO 1) on 1.9.21, The Abid 1 chan NO 3293 and LHe Man Ahi no 2097 of pp shaheeday (now under suspersion) arrested brie Kemran mp Nameri Kalli Toru. Noin à 30 bore significant number and une disenced pistoil to 5 rounds dung rohine Patrolling vide case P12 NO 1057 detal 1. 9. 21 MS 13AM P& Rusham. on 2.9.21 mc Abidichan his Preparel Remail Judical challon and sand into the count through constable Agae no 1603 with radice that the Acadral is Monting at mailan kachary. on reaching mail an Descharry he found LHC mashli mo abay along with A could know ran, So he handed over the Greman Judich Papers to LHE Nias Ali and Then he Produced the Accessed to the cound when in the Acanal could not produce any survives. So the could fined him of Rejus but intentionally the Accural regrated by not paying The fince amond so he was sand to Analical loode up. The main Burpus behind Preffing qualicid locele up W.S. That m 3.921 breather of Account learnean namely Amir Sarpia committed multer vide ese PILWO 88P dated 3.9.21 MS 3.2. 202-34 Ppe 83 Jorus in which he keensof lamoran was abs charged for the commission - of coime. AS Per SP (must mom vide his office latter mu 531-PA datael 6.9.21 highlighing Hat Acces of

(*) Forman in Connviace with the Tasic Ali no bay & PAL office marlon and to bother Like Mar AR no 2697 of PP shahudan repistuel the those Amtral case against himself, becase on the day and Time of secure Acard - amran was not Prest on the sport and no direct recovery his base made from him, while on the next day 2.9.21 Hearsof reamson was handled over to constable Ayaz Ali vo 1663 visit hand cuffs in The count when in before the Concard magistral Acamp Icomen reviled from his statement al way south of practical loek. up marlan. From ihr Prilimeny inomij , ul- hand been found, that Acarsel Komman in Connoniace win In the Terrid Alinos & lanned this enternee to marlan jarl and - 1ms And his been accerpted by All. 4, from the above dis envision, the involvenul of LHC (Tan'o Ali in this episode plan can not be ruled out. (Copy enclosed.) U: JHB Submitteel, that - Petrionar has been ported at PAL office mailan. The Petrilina has pot no concern winit the affaire of pp Shaheedan. The Palvioner is not amore about the story of Cose File NO 1059 datel 1.9.21 M/S 15AA PS Ristom. The officer and his accompaniel pulies officials will be Knowing berof regarding This case. The petrolioner is not associated write the savid cose I am stage. 3) The Charged Accord in car Fin NO 889 daluf 3.9.21 4/2 3.2 U.B24. 24 Pp: Ps Toru is nut Known to me Neither Acasepterman falls in my relation, our Patrioner has get any contract white hom . Pethioner has not planned the entrace of Accurel kanvan to mandon "Jail - Petrioner Cannot amagin to novulv. himself in such like repairing activity Them is no evidence apaint the patitions to connect thim with the allegistic leve bleef apaint him. 51 Page (3)

4) Mal- Pehitioner was enlisted as controlide on 1-x. 2011 m Police department and my Panformed mosthing wain Jeand and affectiney. The Petrionar was deall departmetally prive to this All what frate and emidlant from the shining service record of the Petrin The Petritionar helongs to apour Police family. Petrioner. is the sun of Retirell He Barchtog, who served in manday dustriet. Jetuhin is marined with 02 kinds and old father. All-Ims family is deput upon the Publice Serine of the Petrioner Petitionar is acaducelly great to cul wish to get further Promotion in future. le ceping in venie the alure faite and circumsten as, il is hubbly arounted - That being increased the Subject chape should may kindly be filed plans. yours obediantly Dated : 14. X. 21. $(\ \)$ (He | Muhammad Tarri O. NO 627 Police limo Mailan.

DISCIPLINARY ACTION AGAINST LHC TARIQ ALI No. 627.

Kindly refer to your office diary No.225/PA, dated 01.10.2021.

ALLEGATIONS:-

Whereas, LHC TARIO ALI NO.627, (now under suspension Police Lines Mardan) was found negligence for the following irregularities, as per SDPO rural Mardan office letter No.1299/R dated 07-09-2021:-

Ammexude

On 01.09.2021, he accompanied by IHC Abid khan No.3293 and NIAZ ALI NO.2697 etc PP Shaheedan (Now Under suspension police line) arrested one kamran r/o nawan kaly Toru with a(30) bore without number and unlicensed pistol & (05) rounds during routine patrolling vide case FIR No.1057 dated 01.09.2021 15AA PS Rustam.

On 02.09.2021 IHC Abid khan has prepared Remand judicial challan and sent to the court through Constable Ayaz No.1663 with advice that the accused is waiting Mardan kacheri. On reaching Mardan kacheri, he found (LHC Niaz Ali No.2697) along with accused kamran, so he handed over the remand judicial papers to LHC Niaz Ali, Who produced the accused to the court wherein the accused couldn't produced any surety, so the court fined him of RS.1000/-, but intentionally the accused regretted by not paying the fined amount, so he was sent to judicial Lock up. The main purpose behind preferring judicial lock up was that on03.09.2021, Brother of Accused Namely Amir sajjad committed a murder while FIR No.889 Dated 03.09.2021 u/s 302.324.34 PS Toru in which he (accused kamran) was also charged for the commission of crime.

As per SP/Investigation Mardan vide his office letter No.531/PA/Inv: dated 06.09.2021. highlighting that accused kamran in connivance with LHC Muhammad Tariq No. 627 of PAL Branch office Mardan and his brother LHC Niaz Ali No. 2697 of PP Shaheedan (Now both suspended) registered the above case against himself, because on the day and at the time of occurrence accused kamran was not present on the spot and no direct recovery has been made from him, while on the next day (02.09.2021), accused Kamran was handed over to Constable Ayaz ali No. 1663 without handcuffs in the court, wherein before court magistrate accused Kamran resiled from his statement and was sent to judicial lock up Mardan. from the preliminary inquiry, it has been found that accused Kamran in connivance with LHC Muhammad Tariq has planned his entrance to Mardan jail and this fact has been accepted by all.

From the above discussion the involvement of LHC TARIQ ALI NO.627 in this 4) plan/episode cannot ruled out.

PROCEEDINGS:-

The undersigned conducted departmental enquiry where the delinquent officer LHC Tariq Ali was called to the office and enquired. His written statement was also recorded and placed on enquiry file. The delinquent police officer stated that he was posted at PAL office Mardan and has got not concern with the officers of PP Shahedan. Further added that he is not aware of actual story of case FIR No.1057 dated 01.09.2021 u/s 15AA PS Rustam and showedignorance from the whole scenario. Similarly, he denied any relation with the accused Kamran charged in case FIR No. 889 dated 03.09.2021 u/s 302/324/34 PS Toru. Moreover, he stated that neither the accused Kamran is known to me nor is my relative. That he has not planned the entrance of the accused Kamran to Mardan Jail as he can't to do such illegal activities and denied all the leveled allegations against him.

To dig out facts, secret information/report was obtained where it was found that the accused Kamran and LHC Tariq are friends. Besides this, I.O of the case was called to the office and enquired. SI Niaz Muhammad, I.O of the case stated that accused Ameer Sajjad was arrested on the spot. However, during investigation it came to surface that accused Kamran was in Jail in case FIR No. 1057 dated 01.09.2021 u/s 15AA PS Rustam who was later arrested by the local police after getting bail. r f

It is pertinent to mention that in the subject matter SDPO Rural circle has also submitted a detail report vide his office letter No.1299/R dated 07.09.2021 and recommended the alleged officer for departmental proceedings. Besides, preliminary enquiry in the instant matter was conducted by w/SP Investigation Mardan which reveals that the accused in connivance with LHC Tariq Ali and other police officers created the whole scenario in order to save him from the murder case. Hence, they were recommended for proper departmental enquiry.

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RECOMMENDATION:

From the enquiry conducted, hearing of the concerned officers and going through the record, the undersigned reached to the conclusion that the alleged officer has indirectly assisted the accused Kamran to confine himself in jail. This helped the accused in the murder case which adversely affected the investigation of the case. Therefore, he is found guilty and is recommended for **Major Punishment** if agreed, please.

No. <u>6.32</u>/St-SMT Dated. <u>73/12</u>/2021

(Adnan Azam Khan)

Deputy Superintendent of Police, S.M.T-Circle.

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FINAL SHOW CAUSE NOTICE

Police Lines Mardan) Mardan office letter No.1299/R dated 07-09-2021:-

1) On 01-09-2021, IHC Abid Khan No.3293 & LHC Maz Ali No.2697 etc of PP Shaheedan (now under suspension Police Lines) arrested one Kamran r/o Navan Killey Toru with a (30) bore without number and unlicensed pistol & (05) rounds during routine patrolling vide case FIR No.1057 dated 01-09-2021 U/S 15AA PS Rustam.

2) On 02-09-2021, HIC Abid Khan has prepared Remand Judicial Challan and sent it to the Court through Constable Ayaz No.1663 with advice that the accused is waiting at Mardan Katcheri. On reaching Mardan Katcheri, he (C/Ayaz) found LHC Niaz Ali No. 2697 along-with accused Kamran, so he handed-over the Remand Judicial papers to LHC Niaz Ali & then he produced the accused to the Court wherein the accused couldn't produce any surety, so the Court fined him of Rs.1000/-, but intentionally the accused togretted by not paying the fined amount, so he was sent to Judicial Lock-up. The main purpose behind preferring Judicial Lock-up was that on 03-09-2021, brother of accused namely Amir Sajjad committed murder vide case FIR No.889 dated 03-09-2021 U/S 302/324/34 PPC PS Toru, in which, he (accused Kamran) was also charged for the commission of crime.

3) As per \$P/Ip/estigation Mardan vide his office letter No.531/PA/Inv: dated 06-09-2021, highlighting that accused Kamran in connivance with LHC Tariq Ali No.627 of PAL Office Mardan and his brother LHC Niaz Ali No. 2697 of PP Shaheedan (Now both suspended) registered the above quoted case against himself, because on the day and at the time of occurrence, accused Kamran was not present on the spot and no direct recovery has been made from him, while on the next day (02-09-2021), accused Kamran was handed-over to Constable Ayaz Ali No.1663 without handcuffs in the Court, wherein before the concerned Magistrate, accused Kamran resiled from his statement and was sent to Judicial Lockup Mardan. From the preliminary enquiry, it has been found that accused Kamran in connivance with LHC Tariq Ali has planned his entrance to Mardan Jail and this fact has been accepted by all.

4) From the above discussion, your involvement in this episode/plan can't

be ruled-out.

In this connection, during the course of Departmental Enquiry, conducted by Mr. Adnan Azam SDPO Sheikh Maltoon vide his office letter No.632/St-SMT dated 13-12-2021, in pursuance of this office Statement of Disciplinary Action/Charge Sheet No.225/PA dated 01-10-2021, holding responsible you of gross misconduct & recommended for major punishment. You were heard in OR on 02-02-2022, during which, you have failed to present any plausible reason in your defense.

Therefore, it is proposed to impose Major/Minor penalty as envisaged under Rules 4 (b) of the Khyber Pakhtunkhya Police Rules 1975. \pm

Hence, 1 Dr. Zahid Ullah (PSP) District Police Officer Mardan, in exercise of the power vested in me under Rules 5 (3) (a) & (b) of the Khyber Pakhtunkhwa Police Rules 1975 call upon you to Show Cause Finally as to why the proposed punishment should not be awarded to you.

Your reply shall reach this office within 07 days of receipt of this Notice. failing which; it will be presumed that you have no explanation to offer.

You are liberty to appear for personal hearing before the undersigned.

Received by

Dated: <u>c 1</u> / <u>c 2</u> /2022

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(Dr. Zahid Ullah) PSP District Police Officer

Copy to RI Police Lines Mardan (Attention Reader) to deliver this Notice upon the alleged official & the receipt thereof shall be returned to this office within (05) days posilively for onward necessary action.

ولما بل تحذارس حسيل يعدد سولاز فولس worne 1:627 June () is 2 Conformal Conding Charles 4 na Ri-pr-MRD 07/02/022

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Before the Worthy DPO MARDAN

Subject:

REPLY TO FINAL SHOW CAUSE NOTICE NO 1074-75/PA DATED 07.02.2022.

Pespected Sir. \succ In response to the Final Show cause, it is submitted that the petitioner was posted at PAL Officer Mardan and has no connection with the affairs of

PP Shaheedan.

That the petitioner is not aware about the story of case FIR No. 1037 dated 01.09.2021 u/s 15AA PS Rustam. The In-charge PP Shaheedan and his staff will know best regarding the said case at any stage.

The charged accused in case FIR No. 889 dated 03.09.2021 u/s 302/324/34 PPC PS Toru is not known to me. Neither accused Kamran falls in my relation, nor has petitioner got any contact with him.

The petitioner has not planned the entry of accused Kamran to Mardan Jail. The petitioner cannot imagine involving himself in such activities.

> There is no evidence against the petitioner to connect him with

the allegations levelled against him.

That the petitioner was enlisted as Constable on 01.10.2011 in Police Department and has performed his duty with good and efficient behavior. That the petitioner was not dealt departmentally prior to this. All facts are evident from the shining service record of the petitioner as there is no bad entry in service record of the

petitioner.

at petitioner belongs to a police family. The petitioner is the son of a retired police fficer HC Bakht Taj who served in Police department. The petitioner is married with 02 kids and old father. The family depends upon the police service of the petitioner.

 \succ The petitioner is well educated officer and wishes to get further success in future.

Keeping in view the above facts and circumstances, it is humbly prayed that being innocent, the subject charge sheet may kindly be filed.

Dated: /02/2022

Yours-Obediently Muhammad Tariq No. 627/LHC

p. 1072 10-12-122



OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

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Tel No. 0937-9230109 & Fax No. 0937-9230111 Email: dpomdn@gmail.com

No 2122-29 IPA

Dated 10 13 /2022

ORDER ON ENQUIRY OF LHC TARIO ALL NO.627

This order will dispose-off a Departmental Enquiry under Police Rules 1975, initiated against the LHC Tariq Ali on the report of SDPO Rural circle containing the allegations of criminal negligence and gross misconduct. Brief facts of the case are that:-

During routine patrolling on 01-09-2021, IHC Abid Khan No.3293 & LHC Niaz Ali No.2697 etc of PP Shaheedan arrested Kamran r/o Nawan Killey Toru with a 30 bore unliscenced pistol along with five bullet rounds and a case FIR No.1057 dated 01-09-2021 U/S 15AA PS Rustam was registered against him.

On the next day IHC Abid Khan prepared a report for obtaining judicial remand and sent it to the Court through Constable Ayaz No.1663 with advice that the coursed Kamran will be waiting at Mardan Katcheri. On reaching Mardan Katcheri, constable Ayaz found LHC Niaz Ali No. 2697 who was standing with accused Kamran, so constable Ayaz handed-over the report for obtaining judicial remad to LHC Niaz Ali. The accused was produced in the Court by EHC Niaz Ali wherein, the accused couldn't produce any surety so the Court lined him Rs.1000/-, but the accused did not pay the above mentioned fine due to which he was sent to judicial lock up. The main motive behind sending the accused to judicial lock-up was that on 03-09-2021 the brother of accused namely Amir Sajjad had to commit murder with the contivance of his brother and the delinquent official. I ater on, a case vide FIR No.889 dated 03-09-2021 U/S 302/324/34 PPC PS Toru was registered in which the accused Kamran was also charged for the commission of officiace.

It is worth mentioning that SP/Investigation Mardan vide his office tenter No.331/PA.Inv. dated 06-09-2021 also highlighted the fact that accused Kamran in 249@officerance with LHC Tariq Alt. HC Abid Khan and LHC Niaz Ali No. 2697 malafidely got registered the above mentioned case so as to entitle the accused for plea of alibi in a murder case and the accused Kamran was presented in court without handcuffs for entitling him to judicial lock up. Azem SDPO Sheikh Maltoon vide his office letter No.632/St-SMT dated 13-12-2021, it was proved that the delinquem official acted in connivance by falsely implicating the accused kanoran in a minor officing to save him from FIR No.889 dated 03-09-2021 U/S 302/324/34 DEC PS Toru, holding LHC Tariq Ali guilty of gross misconduct and hence recommended for major punishment. During his hearing in O.R on 02-02-2022, he failed to present any plausible reason in his defense therefore, he (LHC Tariq Ali) was served with a Final Show Cause Notice, under Khyber Pakhtunkhwa Police Rules-1975, issued vide this office No.1074-75/PA dated 07-02-2022, to which, his reply was received and found unsatisfactory.

Final Order

LHC Tariq Ali was heard in OR on 09-03-2022, during which, he failed to present any plausible reasons in his defense, therefore, keeping in view the findings of the Enquiry Officer & material on record, the allegations leveled against the delinquent official have been proved, therefore, awarded him major punishment of dismissal from scruce with immediate effect, in exercise of the power vested in me under Police Rules-

OB No. 634

Dated 9/3 2022.

District Policy Officer Mardan

Copy forwarded for information & n/action to:-.

- 1) The DSP/HQrs Mayean.
- 2) The P.O & E. (Police Office) Mardan.
- 3) The OSI (Police Office) Mardan with (-) Sheets.

O'R D E R. This order will dispose-off the departmental appeal preferred by Ex-LHC This order will dispose-off the departmental appeal preferred by Ex-LHC Tariq Ali No. 627 of Mardan District Police, against the order of District Police Officer, Mardan, whereby he was awarded major punishment of dismissal from service vide OB: Mardan, whereby he was awarded major punishment of dismissal from service vide OB: No. 634 dated 09.03.2022. The appellant was proceeded against departmentally on the basis of report of Sub Divisional Police Officer, (SDPO) Rural, Mardan containing the allegations of criminal negligence and gross misconduct.

allegations of criminal negligence and gross misseries. (As on 01.09.2021 during routine patroliing, IHC Abid Khan No.3293 and LHC Niaz Ali No.2697 etc of Police Post Shaheedan Police Station Rustam, Mardan arrested Kamran r/o Nawan Killey Toru with a 30 bore unlicensed pistol along with five arrested Kamran r/o Nawan Killey Toru with a 30 bore unlicensed pistol along with five live rounds and a case vide FIR No.1057 dated 01.09.2021 U/S 15-AA Police Station Rustam was registered against him.

On the next day i.e 02.09.2021 IHC Abid Khan drafted application for obtaining judicial remand and sent it to the Court through Constable Ayaz No.1663 with advice that the accused Kamran will be waiting at Mardan Katcheri. On reaching Mardan Katcheri, constable Ayaz found that LHC Niaz Ali was also present in Mardan Katcheri and was standing with accused Kamran, so constable Ayaz handed-over the said documents to LHC Niaz Ali. The accused was produced in the Court by LHC Niaz Ali as he (accused) couldn't produce any surety so the Court awarded him punishment of fine to the tune of Rs.1000/-, but the accused did not pay the above mentioned fine due to which he was sent to judicial lock up. The main motive behind sending the accused to judicial lock-up was that on 03-09-2021 the brother of accused namely Amir Sajjad had to commit murder with the connivance of his brother and the delinquent Officer. Later on, a case vide FIR No.889 dated 03.09.2021 U/S 302/324/34-PPC Police Station, Toru was registered in which the accused Kamran was also charged for the

commission of offence. It is worth mentioning that Superintendent of Police Investigation, Mardan It is worth mentioning that Superintendent of Police Investigation, Mardan vide his office letter No.531/PA/Inv: dated 06-09-2021 also highlighted the fact that accused Kamran in connivance with LHC Tariq Ali, IHC Abid Khan and LHC Niaz Ali No. 2697 malafidely got registered the above mentioned case so as to entitle the accused for plea of alibi in a murder case and the accused Kamran was presented before the Court without handcuffs. It is pertinent to mention here that the appellant had friendship with accused Kamran and he (appellant) staged the entire drama of involving friendship with accused Kamran and he (appellant) staged the entire drama of involving friendship his duties at Police Post Shaheedan Police Station Rustam.)

Proper departmental enquiry proceedings were initiated against him and enquiry was entrusted to Mr. Adnan Azam Sub Divisional Police Officer (SDPO) Sheikh Maltoon, Mardan. During the course of enquiry it was proved that the delinquent Officer in active connivance with accused Kamran booked him in the aforementioned case for extending benefits as the accused and his brother had managed/planned the murder as a result of which they succeeded in their design and 02 persons lost their lives vide case FIR No.889 dated 03-09-2021 U/S 302/324/34 PPC Police Station Toru. The enquiry Officer held the delinquent Officer guilty of gross misconduct and recommended



BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 530/2022

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Tariq Ali Ex-LHC No. 627 r/o Charsadda Road Mirwas Mohallah Kohistani Mardan......Appellant

VERSUS

AUTHORITY LETTER.

Mr. Atta-ur-Rehman Inspector Legal Branch, (Police) Mardan is hereby authorized to appear before the Honourable Service Tribunal, Khyber Pakhtunkhwa, Peshawar in the above captioned service appeal on behalf of the respondents. He is also authorized to submit all required documents and replies etc. as representative of the respondents through the Addl: Advocate General/Govt. Pleader, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

Inspector Genera of Police, Khyber Pakhtunkhwa, Peshawar. (Respondent No. 03)

Regional Police Officer, Mardan. (Respondent No. 02)

District Police Officer, Mardan. (Respondent No. 01)