

1

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 7071/2021

BEFORE: **MR. KALIM ARSHAD KHAN, ... CHAIRMAN**
MISS. FAREEHA PAUL, ... MEMBER(E)

Naseer Ullah S/O Hasham Ali, IHC No. 3934, R/O Nodeh Bala Tehsil and District Peshawar.(Appellant)

Versus

1. **Government of Khyber Pakhtunkhwa through Inspector General of Police Peshawar.**
2. **Capital City Police Officer, Police Head Quarter, Peshawar.**
3. **Senior Superintendent of Police (Operation) Peshawar.**
4. **SDPO Hayatabad, Peshawar. (Respondents)**

Mr. Nazir Ahmad, ... For appellant.
Advocate

Mr. Muhammad Riaz Khan Paindakhel, ... For respondents.

Date of Institution.....19.07.2021.

Date of Hearing.....23.05.2022

Date of Decision.....23.05.2022

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN. Through the instant service appeal, the appellant Naseer Ullah has challenged order dated 21.10.2020 whereby major penalty of dismissal from service was awarded to him, against the order dated 10.12.2020, whereby his departmental appeal was rejected and against the order dated 12.07.2021, whereby his mercy petition was rejected.

2. The facts gathered from the file of this appeal are; that the appellant had joined the Police Department as Constable in July, 1998 and was

promoted to the rank of IHC with 23 years spotless service; that the appellant had sufficient sources of immovable property shared and joined with other co-owners and for declaration, partition, pre-emption or other related issues, civil litigations were processed in different courts at Peshawar; that on 17.06.2020, in the at evening, the appellant was informed that his elder brother was called by the SHO of the Police Station. Pushtakhara, Peshawar. In order to enquire about his brother, the appellant went to the Police Station and when he introduced himself, the SHO got annoyed and registered three consecutive FIRS against him and his brother with the connivance and support of their opponents. That the appellant was on bail and the cases were still pending adjudication before the Magistrate/Civil Judge Peshawar; that the SHO being an influential one in the Police Department managed a departmental enquiry against the appellant and the SSP (Operation) Peshawar served the appellant with charge sheet alongwith summary of allegations which was duly replied by him and that the appellant was dismissed from service vide impugned order dated 21.10.2020 on the basis of alleged enquiry report.

3. Feeling aggrieved, the appellant filed departmental appeal on 29.10.2020, which was rejected on 10.12.2020. The appellant then filed a Revision Petition on 14.12.2020, which was also rejected on 12.07.2021, hence, the present appeal.

4. After admission of appeal for full hearing, the respondents were put on notice. The respondents No. 1 to 4 have submitted their joint reply/parawise comments wherein it was mainly contended that the appellant was proceeded against departmentally on charges of his involvement in criminal cases and scuffled

23.05.22

with the then SHO Police Station, Pushtakhara, Peshawar and that the appellant had not a clean service record and was proceeded against departmentally as per Police Disciplinary Rules, 1975; that on the recommendations of the enquiry officer, he was rightly dismissed from service vide order dated 12.10.2020 .

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


6. Learned counsel for the appellant argued that no show cause notice was served upon the appellant nor proper enquiry was conducted to probe into the matter; that the appellant had been condemned unheard as no opportunity was provided to him to cross examine the witnesses produced against him; that the copy of enquiry report was also not provided to the appellant which was not only a formality but was mandatory under the law; that the appellant had 23 years service at his credit and was punished on the basis of surmises and conjectures; and that the appellant was on bail in the criminal cases which were still pending adjudication before the competent court of law.

7. Learned Law Officer while representing the respondents argued that the appellant being a member of a disciplined force had indulged himself in three criminal cases of land grabbing, interference in government affairs, criminal intimidation and also scuffled with his senior officer.

8. It appears from the record that the appellant was dismissed from service because of registration of criminal cases against him. The record reveals that the appellant was released on bail and criminal cases are still pending before the competent court of law. Be that as it may, mere involvement of a person in a criminal offence is not sufficient to hold him

guilty unless he is ultimately convicted and that too in a case or matter which could be said to be the misconduct under the relevant rules. Therefore, the punishment awarded to the appellant seems premature and on allowing this appeal we set aside the order of dismissal of the appellant dated 21.10.2020 as well as orders dated 10.12.2020 and 12.07.2021 passed on the departmental appeal/revision petition, respectively. The respondents are directed to reinstate the appellant in service from the date of his dismissal. The period of absence of the appellant shall be treated as leave of the kind due. Needless to say that in case the appellant is found guilty and convicted in the criminal case, the relevant Conduct Rules shall follow. Consign.

9. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 23rd day of May, 2022.*



(KALIM ARSHAD KHAN)
Chairman





(FAREEHA PAUL)
Member (E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 7071 /2021

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|--|
| 1 | 2 | 3 |
| 1- | 19 /07/2021 | <p>The appeal of Mr. Naseerullah presented today by Mr. Nazir Ahmad Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2-</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>03/09/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> |

Naseerullah, 7071/2021

03.09.2021

Counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant contended that the appellant was dismissed from service vide impugned order dated 21.10.2020 for the reason that he was nominated in three FIR'S No.1 FIR No. 817 dated 17.06.2020 u/s 447/506/148/149 PPC. No.2 FIR No. 818 dated 17.06.2020 u/s 506/186/34/15-AA PPC and No.3 FIR No. 823 dated 20.06.2020 u/s 447/448/188/506/34 PPC. He preferred departmental appeal to the appellate authority on 29.10.2020 which was also dismissed on 10.12.2020. The appellant, there-after submitted revision petition to respondent No.1 on 14.12.2020. However, he did not get any relief and it was also dismissed on 12.07.2021, hence, the instant service appeal instituted under Section-4 of the Service Tribunal Act, 1974 on 19.07.2021. Learned counsel for the appellant further contended that the appellant is not yet judicially convicted in criminal cases, he was therefore required to have been kept under suspension as required under CSR 194-A read with F.R. 53 till conclusion of criminal cases against him.

Points raised need consideration. The appeal is admitted to regular hearing, subject to all just and legal objections. The appellant is directed to deposit security and process-fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time or extension of time is not sought, the office shall submit the file with a report of non-compliance. File to come up for arguments on 21.12.2021 before the D.B.

Appellant Deposited
Security & Process Fee

3/9/21

(Mian Muhammad)
Member(E)

05.11.2021 Counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate General alongwith Muhammad Raziq H.C for respondents present.

Reply on behalf of respondents is still awaited. Request for adjournment was made by the representative of respondents in order to submit reply/comments; granted with direction to submit the same within 10 days in office, positively. If the reply/comments are not submitted within the stipulated time, right of respondents shall be deemed as struck off. To come up for arguments on 14.12.2021 before D.B.


(Rozina Rehman)
Member (J)


Chairman

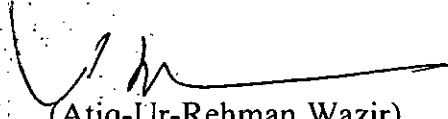
14.12.2021 Appellant in person present. Mr. Noor Zaman Khattak, District Attorney for respondents present.

Written reply/comments not submitted. Learned District Attorney seeks time to contact the respondents for submission of written reply/comments. Adjourned but as a last chance. To come up for written reply/comments on 24.01.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)

24.01.2022 Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG for respondents present.

Reply/comments on behalf of respondents have already been submitted through office which is placed on file. To come up for arguments before the D.B on 23.05.2022.



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

SA 7071/2021


23rd May, 2022

Mr. Nazir Ahmad Advocate for appellant present. Mr. Muhammad Riaz Khan Paindakhel, Asstt. AG for the respondents present. Arguments heard and record perused.

2. Vide our detailed judgment of today, containing 04 pages, this appeal is allowed as per Para-8 of the judgment. Consign.
3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 23rd of May, 2022.*



(KALIM ARSHAD KHAN)
Chairman



(FAREEHA PAUL)
Member (E)

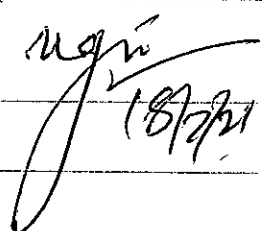
**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
CHECK LIST**

Case Title: Naseer ullah (HC) vs Govt of K.P. through I.G.P & others

| S.# | Contents | Yes | No |
|-----|--|-----|----|
| 1. | This appeal has been presented by: <u>Nazir Ahmad Advocate</u> | | |
| 2. | Whether Counsel / Appellant / Respondent / Deponent have signed the requisite documents? | ✓ | |
| 3. | Whether Appeal is within time? | ✓ | |
| 4. | Whether the enactment under which the appeal is filed mentioned? | ✓ | |
| 5. | Whether the enactment under which the appeal is filed is correct? | ✓ | |
| 6. | Whether affidavit is appended? | ✓ | |
| 7. | Whether affidavit is duly attested by competent oath commissioner? | ✓ | |
| 8. | Whether appeal/annexures are properly pagged? | ✓ | |
| 9. | Whether certificate regarding filing any earlier appeal on the subject, furnished? | ✓ | |
| 10. | Whether annexures are legible? | ✓ | |
| 11. | Whether annexures are attested? | ✓ | |
| 12. | Whether copies of annexures are readable/clear? | ✓ | |
| 13. | Whether copy of appeal is delivered to A.G/D.A.G? | ✓ | |
| 14. | Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents? | ✓ | |
| 15. | Whether numbers of referred cases given are correct? | - | - |
| 16. | Whether appeal contains cuttings/overwriting? | | ✓ |
| 17. | Whether list of books has been provided at the end of the appeal? | ✓ | |
| 18. | Whether case relate to this Court? | ✓ | |
| 19. | Whether requisite number of spare copies attached? | ✓ | |
| 20. | Whether complete spare copy is filed in separate file cover? | ✓ | |
| 21. | Whether addresses of parties given are complete? | ✓ | |
| 22. | Whether index filed? | ✓ | |
| 23. | Whether index is correct? | ✓ | |
| 24. | Whether Security and Process Fee deposited? on | | |
| 25. | Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? on | | ✓ |
| 26. | Whether copies of comments/reply/rejoinder submitted? on | | |
| 27. | Whether copies of comments/reply/rejoinder provided to opposite party? on | | |

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: Nazir Ahmad Advocate

Signature: 

Dated: 18/7/21

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No _____/2021

Naseer Ullah IHC versus Govt: of KPK through IGP and others

INDEX

| S. No | Description | Annexure | Pages |
|-------|---|----------|-------|
| 1. | Memo of Appeal | - | 1-5 |
| 2. | Application for interim relief & affidavit | - | 6-7 |
| 3. | Copies of FIRs and Bail granted | A | 8-24 |
| 4. | Copy of 22-A against SHO Kamran Khan Marwat | B | 25-32 |
| 5. | Copy of charge sheet, enquiry, show cause and impugned order dated 21.10.2020 | C | 33-40 |
| 6. | Departmental Appeals and rejection impugned orders | D | 41-44 |
| 7. | Relevant laws on which the Appellant depend. | E | 45-79 |
| 8. | Wakalat nama | | 88 |

Naseer Ullah
Appellant

Through *Nazir Ahmad*
Nazir. Ahmad advocate,
High Court Peshawar.
Cell: 0301-8571879/03328540783

①

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No 7071 /2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No 7351

Dated 19/7/2021

Nasser Ullah S/O Hasham Ali, IHC(Inter passed Head Constable) No 3934 R/O Nodeha Bala Tehsil and District Peshawar.**Appellant**

Versus

1. Government of KhberPakhtunkhwa through Inspector General of Police KPK Peshawar.
2. Capital City Police Officer, Police Head Quarter, Peshawar.
3. Senior Superintendent of Police (Operation) Peshawar.
4. SDPO Hayatabad Peshawar. **Respondents**

Service Appeal under Section 4 of the K.P Service Tribunal Act, 1973, against the Order No-2419-24/PA dated 21.10.2020 whereby major Penalty of dismissal from service with immediate effect is awarded to the Appellant and order dated 1554-61/ PA dated 10.12.2020 and order dated No s/ 3067-73/21 dated 12.07.2021 whereby the Departmental Appeal of the Appellant is rejected/regretted and the punishment is retained .

Prayer:-

Filed to-day

Registered That on acceptance of this Appeal :

19/7/2021 A. The Honourable Tribunal may graciously set aside the Order No- 2419-24/PA dated 21.10.2020 whereby major Penalty of dismissal from service with immediate effect is awarded to the Appellant, Order dated 1554-61/ PA dated 10.12.2020 and Order dated No s/ 3067-73/21 dated 12.07.2021 whereby the Departmental appeal of the Appellant is regretted/rejected and declare it against the law and rules as the Appellant is not yet judiciously convicted so far , therefore, as per rule may be kept under suspension under CSR 194-A read with FR -53 till the final decision of his criminal cases by court of competent jurisdiction and be provided subsistence allowance / salary..

- B. If during pendency of this appeal the appellant is acquitted honourably may be re-instated as per law and Rules with all back benefits.
- C. Any other relief which this Honourable Tribunal may deem just in the circumstances.

Respectfully Sheweth: - The need for the instant Appeal before this Honourable Tribunal arises due to the following facts:

Facts:

1. That the Appellant is a disciplined civil servant, a law abiding citizen and belong to a noble recognized family of the locality and with an emotional attachment joined the Police department as constable in July 1998 and is promoted to IHC (inter passed Head Constable) , with 23 years' service and been in good books of the officials was posted to American Consulate at Peshawar to protect and safeguard the foreign dignitaries.
2. That the Appellant has a sufficient measure of immovable property shared and joined with other co-owners and for declaration, partition, pre-emption or other related issues a civil litigations are processed in the courts of Peshawar which are purely of civil nature for decaling the rights of the parties inter-se.
3. That on 17.06.2020 at evening when the Appellant came to home back from his official duty was informed that your elder brother is called by the police to a Police station Pishtakhara by Station House Officer concerned for the reason best known to him and the Appellant in order to enquire about his brother when introduced himself to the SHO concerned, he in the meanwhile got annoyed , beaten up, mishandled and arrested him and his brother and to put himself on safe side registered three consecutive fake FIRS against him and his brother with the connivance and support of his opponents and with warming of his palms for providing assistance against the stay order of the Trial

Court, consequent thereof the Appellant got bail from the court of competent jurisdiction and is now on bail and the cases are still pending adjudication before the magistrate/civil judge Peshawar as the concerned Police station has not submitted challan till today. This is pertinent to mention that while granting BBA in FIR No-823 the Learned ASJ held that the case of the accused is malafide. (The **FIRS with full details and the bail Orders of the Appellant are attached as Annexure A**).

4. That the Appellant reported against the SHO concerned to the respective police station and even filed a complaint against him to the Inspector General of Police and with no action against him filed a Petition under 22-A of the Code of Criminal Procedure which is accepted and the SHO Pishtakhara is asked to register an FIR against him but he is not registered any FIR up till now. The District and Session Judge Peshawar has initiated judicial enquiry against the SHO concerned through Noor-Ul Haq Judicial Magistrate VI Peshawar which under process and the finding of which is awaited.....(**The copy of order under 22-A of Cr.PC is attached as Annexure B**).

5. That the SHO being an influential one in the police department managed a departmental enquiry against the Appellant and the SSP (Operation) Peshawar charge sheeted him with a summary of allegation which the Appellant replied and the enquiry was conducted against the prescribed procedure and the SSP (Operation) through Order No-1419-24 dated 21.10.2020 dismissed him from service with immediate effect.....(**copies of charge sheet/ allegation, enquiry proceeding and impugned dismissal order is attached as Annexure C**).

6. That the Appellant filed a departmental Appeal before the Capital city Police Peshawar and the Inspector General Police KPk but both are dismissed/ regretted

.(**The copies of Appeals and impugned dismissal/rejection orders are attached as Annexure D**).

Being aggrieved therefore this Appeal inters alia is preferred on the following grounds:

Grounds:-

- A. That the punishment to the Appellant without prescribed manner under Police Rules 1975 only is against Section 155 of Police Order 2002, Volume II Chapter XVI (16.2) of Police Rules 1934 , Efficiency and Discipline Rules 2011 and CSR 194-A and FR 53 and therefore is liable to be set aside and the appropriate order may be issued for dealing the Appellant in accordance with law. **(All the concerned Rules and law is attached as Annexure E)**
- B. That no fist show cause has been issued to the Appellant and no proper personal hearing is given to him but was asked by SSo(Operation to wait outside as the concerned SHO was deputed his Ps at that time which is against Rules , arbitrary, tainted malafide and is Principles of fair trial.
- C. That this is pertinent to mention that those on whose complaint the SHO registered FIRs did not appeared before the court even for opposing the bail application of the appellant or for attendance.
- D. That the Appellant is condemned un- heard with no chance of cross examining the witnesses and the punishment awarded so harsh that 23 years of his service completely ignored.
- E. That who are witnesses against the Appellant for proving the allegation of land grabbing against him or his involvement in any such kind of activities are not known to the Appellant till today.
- F. That the appellant has not been provided any copy of any enquiry and is punished on mere allegation based on conjecture and surmises despite the fact that his 23 years service is cogent evidence of the fact that there is no adverse remarks against him till his entire service.

- G. That the SHO against whom the Appellant filed report to the officer is posted by the Respondent No- 3 as his personal secretary for the reasons best known to him and an FIR is directed by the Justice of Peace against him but even no FIR is registered meaning thereby he is blue eyed of the department which is unfair and unjust.
- H. That the whole process till dismissal against the Appellant is tainted malafide and is smacked of arbitrariness which is not an example of good governance.
- I. Article 4 of the Constitution of Islamic Republic of Pakistan provides that every citizen shall be dealt with in accordance with law and no act shall be done which harm the person or his property. The conduct of the Respondents is against the Constitution and is liable be struck down.
- J. That Section 24-A of the General Clauses Act provides that the state functionaries must act fairly, justly and in a transparent manner.
- K. That the dismissal of the appellant before the conviction speaks volumes of injustice meted out to him as it is clear rule that in such circumstances the civil servant may be suspended and subsistence allowance under FR-53 may be provided to him till his final conviction..

Therefore it is prayed that the appeal of the Appellant be accepted with the prayer as above.

R. Adil
Appellant

Through *Nazir*
Nazir Ahmad, Advocate
High court, Peshawar

Cell: 0301-8571879/03328540783

NAZIR AHMAD
Advocate
PESHAWAR

(6)

The KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No _____/2019

Nasser Ullah **versus** Govt: of KPK through Inspector
General of Police and others

Application for Interim Relief in the form of payment of subsistence allowance under FR-53 with arrears w.e.f. 21.10.2020 till the final decision of this Appeal .

Respectfully Sheweth:-

That the above Appeal is pending adjudication before this Honourable Tribunal, the Appellant prays for the **for Interim Relief in the form of above till final decision of this Appeal** on the following grounds.

Grounds:-

- A. That the impugned order is arbitrary, malafide and is clear violation of rules and law in such circumstances.
- B. That the when the Appellant is accused and is not convicted and the accusation is in a private dispute with no concern to his official duty then he has a prima facie case.
- C. That the balance of convenience is in the favour of the Appellant.
- D. That if the interim relief as mentioned above is not granted then the Appellant will suffer irreparable loss in the form of no source of income and wastage of family life..

It is therefore very humbly prayed that the Interim relief may be granted as prayed above.

Through

N.R. Ahmad
NAZIR AHMAD
Advocate
Appellant M.A, LLB LL.M.
Nazir Ahmad
Nazir Ahmad. Advocate
High Court Peshawar .
Cell # 03018571879

Certificate

(7)

Certified that the appellant has not earlier filed any appeal in respect of the same subject matter before this Tribunal.

N. Ullah
Appellant

Affidavit

I Naseer Ullah S/O Hasham Ali IHC do hereby affirm and declare on oath that contents of this Appeal and the **Application accompanying** with are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Honorable Tribunal.

I identify by

Nazir Ahmad
18/7/21

NAZIR AHMAD
Advocate
M.A.S.L.B LL.M



N. Ullah
Deponent

17301-9634568-9

ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زبردفعہ ۱۵۴ مجموعہ ضابطہ فوجداری

ضلع لشکر آباد
 تاریخ خاک معلوم
 نمبر ۸۲۳

39

| | |
|--|---|
| وقت رپورٹ | 06 13 وقت 09 200 |
| مکثت اطلاع دہندہ مستغنیث | حاجی محمد اجمل ولد صاحبی سلطان سکنہ بھول حال صحت آباد نمبر 3/6/10 |
| کیفیت جرم (معد دفعہ) حال اگر کچھ لیا گیا ہو۔ | PPC 447-448-168-506-34 |
| ذوقہ فاصلہ تھانہ سے اور سمت | حاشیہ اڈا اڈال (مدری) واقع تاج آباد |
| مکثت ملزم | ① مظہر علی (2) محمد علی |
| روائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا تو وجہ بیان کرو | مدری کے رپورٹ میں لکھا کہ انڈیا سے روانہ ہوئے ہیں |
| تہ سے روانگی کی تاریخ و وقت | بہر صیقل علی |

ابتدائی اطلاع نیچے درج کرو۔ مستغنیث سرد صاحبانہ نمبر 3 نے جو کے تاج آباد میں درخبر ملے تھے انہیں (8) مرد واقع تاج آباد کے بابت بہ فراغت و سنہ سال خانہ نمبر (5) درخواست پیش کر کے جو وقت احتیاج کیا کہ مدری اور بھول صاحبانہ صیقل علی تاج آباد عدالت میں نام لے کر سفر ہو چکا ہے اور علاقہ میں مقیم رہ رہے ہیں اور (stay) کیا باوجود سمائل بالانے اسی صاحبانہ میں سے (18) مردوں نے نقد جملہ دو دسم 10/10 پر ملے ہیں اور یہ صاحبانہ کے صادر دیوار بنی ہوئے ہیں اور جب ہم سمائل بالانے بابت بات چیت کرتے ہیں تو ہم کو وہاں سے ہارنے کی دھمکیاں دیتے ہیں۔ مدری کی درخواست پر مورخہ 11/06/2011 کو تاج آباد میں درج کروڑ ناچر ہو کر دوران انڈیا گیا تھا کہ وہ وقت پر ہم بالانے اور بھول صاحبانہ کے لہذا مقدمہ نمبر 3/6/10 پر فراغت و سنہ سال بالانے درج رہنے کے بعد 55 صاحبانہ تفتیش حوالہ ارشد ضلع اداسی تفتیش کے ساتھ لے گئے ہیں۔ کیفیت عدالت ضمنی ① کا مقدمہ لکھو۔ مورخہ 15/06/2011 کو تاج آباد میں 20 مردوں اور 11 اورٹ میں حاجی محمد سلطان سکنہ بھول حال صحت آباد نمبر 3/6/10 میں 6-6 مشریت نمبر کا مقدمہ چوکے آکر ایک نمبر پر درخواست پیش کی جو یہ ضمنی ذیل سے عبارت صاحبانہ اجازت صاحبانہ چوکے تاج آباد ضمنی عالی گزارش کی جاتی ہے کہ جن ضمنی نے سہمی نامہ انڈیا کوٹ سے زمین پر رقم 84 مل کر واقع تاج آباد میں سال 2005 میں مبلغ 350000 روپے کی رقم لہ رقم کر صیقل علی تفتیش میں من سائل کو برادر عدالت لے گیا ہو چکا ہے صیقل علی حاجی خان صاحب اور سائل بھول اب سمائل مظہر علی، لکھن سائل بالانے علی مان سائل کوڈیم بالانے وغیرہ جو مقدمہ قائم ہے

اور پھر اس سے جائیداد میں سے حصہ لیا جالا نہ کہ قریباً (8) فیصد میں بڑو ریزلر دسویں طبقہ تکمیل
 کیا ہے اور اس کے علاوہ دو دیگر 1950ء میں بدلاؤ کی تفصیل کے چار دیواری کے حصے کے
 ساتھ ہی دارالحدیث میں آئیس بھی چل رہا ہے اور اس کے باوجود بھی دارالحدیث کے تمام اخراجات
 دوران تعمیراتی کام جاری رکھے ہوئے ہیں۔ اور جیسا کہ کوئی بات کہ نہ لکھا جاتا ہے میں تو ہمیں
 جان سے مارنے کے لیے درگاہ کمال بھی دیا ہے جس سے قطعاً جان محفوظ کرنا ہوا اور اس کے نتیجے میں
 حاجی محمد اقبال کے روائی نو لکھنوی پیش کردہ رقم پر درگاہ حریفہ میں درج ہوا ہوا کہ چند حالات
 ضابطہ 5110 ص 110 کے نوٹس میں لائی گئی ہیں جو کہ معاملہ انکواری کے خلاف تاج ہے جس سے یہ بات منظر آئی
 کی جائیگی کہ عدلیہ عدلیہ سے یہ نوٹس انکواری کے تحت صادر علی خان ASI بدست گنپل جیل خانہ
 1534 بھی لایا جاتا ہے اور انکواری جسی بھی صورت پائی گئی اس کے بارے میں حسب ضابطہ عمل میں
 لائی جائیگی۔ ضابطہ 5110 کے نقل کے مطابق اصل ہے۔

Anwar
 Asi Ps. Pk
 20/06/20

دستخط

عہدہ

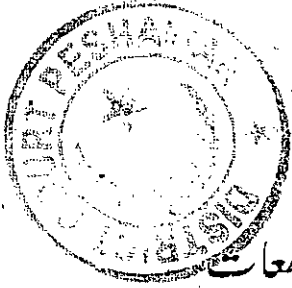
اطلاع کے نیچے اطلاع دہندہ کا دستخط ہوگا یا اس کی مہر یا نشان لگایا جائے گا۔ اور اس پر تحریر کنندہ ابتدائی اطلاع کا دستخط بطور تصدیق ہوگا۔ حروف الفبایاب
 ایک لازم یا مشترک علی الترتیب واسطے باشندگان علاقہ غیر یا وسط ایشیا یا افغانستان جہاں موزوں ہوں، لکھنا چاہئے۔

Amirul

A

11

انڈکس



بعدالت جناب نور الحق جوڈیشل مجسٹریٹ - IV پشاور۔

عنوان: نصر اللہ و عہ بنام سکر

مقدمہ نمبر

رجوعہ

فیصلہ

قطعہ

32

20-6-2020

18-6-2020

407/BA

نوعیت

نمبر شمارہ

سیریل نمبر

اتا 8 - انڈکس، آرڈر شیٹ، درخواست - FIR - وکالتا 2 -

8 تا 32 - متفرق لٹریچر، پروانہ لٹریچر، ضابطہ نامہ

23-6-2020

32 کل قطعہ داخل شد دفتر

ba

جوڈیشل مجسٹریٹ قیام پشاور

ATTESTED

07 DEC 2020

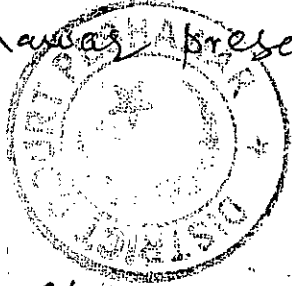
(Examiner)

Civil Court Peshawar

Before the Court of Judicial Magistrate Peshawar

(12)

Naseer Ullah & Mazhar Ali s/o Hashim Ali
R/o Peshawar presently in judicial lock up Peshawar
--- Accused/Petitioners



versus

The State

(1)

Case F.I.R. NO 817-~~818~~

Dated 17-06-2020

U/Sec 447-448-506-148-149

P-S Peshawar

Application for grant of
pre-arrest bail to the
accused/petitioners till
the disposal of the case.

ATTESTED

07 DEC 2020

(Examiner)
Civil Court Peshawar

Respected Sir,

① That the accused/petitioners have been charged & arrested by the local police and now behind the bars copies of P.I.R and waqalnama attached.

- 2- That the accused/petitioners are innocent and has falsely been implicated in the instant F.I.R.
- 3- That there is no ocular or circumstantial evidence on record which could prima facie connect the accused/petitioners with the commission of offence.
- 4- That there is no recovery made from any of the accused/petitioners.
- 5- That Section of law is level against the accused/petitioners are bailable in nature & not applicable at all.
- 6- That the accused/petitioners are ready to furnished local, reliable sureties if release on bail.

ATTESTED
 07 DEC 2020
 (Examiner)
 Civil Court Peshawar

Therefore it is humbly prayed that the acceptance of this application the accused may release on bail.

----- Accused/petitioners
 Yousaf Khan
 Advocate
 Peshawar High Court.

Dated: 18/6/2020 Through

Notes: - As such like applications have ever been filed in this court except this one

فائل

ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زبردفعہ 1542 مجموعہ ضابطہ فوجداری

ضلع _____ تاریخ _____

| | |
|--|--|
| تاریخ و وقت رپورٹ | 817 |
| نام و سکونت اطلاع دہندہ | 0300-24-06/20/3840-03487815 |
| مختصر کیفیت جرم (موردہ) حال اگر چھوٹا یا بڑا ہو۔ | 17/20/06 وقت 10.45 نیم چاندنی |
| جائے وقوعہ فاصلہ تھانہ سے اور سمت | مہر آباد ر ولد امیر خان قوم جٹ پورہ 36 مکان ستر و سما حال اپنی پایاں |
| نام و سکونت ملزم | 148/448-506-149 |
| کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں تاخیر ہو تو اس کی وجہ بیان کریں | جائیداد اذان خوارہ ملک دینی فلاح واقعہ سنگھ پورہ نڈرا جی پورہ |
| تھانہ سے روانگی کی تاریخ و وقت | لی سائنس اور سی بی اے پورہ پورہ |

ابتدائی اطلاع نیچے درج کردہ بہ سبیل ذات

بوقت صدر مجھ آیت گدی جہان پورہ

صحت میں ASI جیو سنور جھیری سے بدست عالمزیب 4201 سے وصول ہوا ہے۔ پولیس ذرا بچ کر دست لگے۔ پانچ گھنٹہ لکھنؤ میں سہ لکھان گول داو شاہ 1553 عالمزیب 4201

باصطلاح کسٹم ہوا۔ پیل ٹنٹ لسٹریٹ آف سیکرٹری پھول ڈرا سٹورز شہت اللہ 1542

بلاتذہ میں موجود ہے کہ درمی الا خمد از ریکارڈ راستہ روزہ بہ لڑائی قیل ملا فی پورہ لکھنؤ پورٹ

لکھنؤ میں سہ لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ

سی اور اپنی جائیداد و اسٹورٹ روٹ ریزنگ اپنی بہترین زمینیں وغیرہ علی و شہدہ بتدبیر لکھنؤ مالائے

ساختہ نماز نما اور عداوت رسول گورٹ میں قتل کیلئے بدعتی بدعتی بدعتی بدعتی بدعتی بدعتی بدعتی

پشاور نے تفتیش ام فواد احمد سے حق میں فیصلہ کرنا بدعتی بدعتی بدعتی بدعتی بدعتی بدعتی بدعتی

قریباً دو سال 1994ء میں چاہہ پورہ پورہ پورہ پورہ پورہ پورہ پورہ پورہ پورہ پورہ

اس دوران میدان مظہری، لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ

نفس دگر باسٹ لسان نے اندھا دگر لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ

بھی اسلئے ان کے خطرات نتایج کو پیش آتی دھمکان رہیں۔ کوہ لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ

کہ دو تہ اند دو بارہ کام شروع کیا تو اچانک ہو گیا۔ اور جو و لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ

سے نکال رکھو و لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ

تفتیش ام کی جائیداد بہر مالکین جو تہ بہر مالکین جو تہ بہر مالکین جو تہ بہر مالکین جو تہ

صوبہ گفٹہ ساٹھی رہے صرف جنس میں بالا پورہ پورہ پورہ پورہ پورہ پورہ پورہ پورہ پورہ

جس میں تفریق آئی ہو، سر بدست لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ

عالمزیب 2014 سال قحاح ہے۔ پورہ پورہ پورہ پورہ پورہ پورہ پورہ پورہ پورہ

میں کسٹم پورہ پورہ پورہ پورہ پورہ پورہ پورہ پورہ پورہ

قحاح 17 دنہ قدر میں سراسر حد سے دور رہے۔ پورہ پورہ پورہ پورہ پورہ پورہ پورہ پورہ

جان انسپکٹ اور جو لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ

Handwritten signatures and stamps at the bottom right of the page.

تاریخ 10



پشاور بار ایسوسی ایشن، خیبر پختونخواہ



15

علت نمبر: 817
مورخہ: 17-6-2020
تھانہ: 148-149

467-468-506

PPC

بعدالت فوجداری پاکستان

جرم

سرکار بنام نصیر الرحمٰن ولد یا شمس علی ساکن ٹوڈیہ بالا کابھوں
مذکورہ ولد ساکن

TESTED

بذریعہ چنگہ ہذا اقرار کر کے لکھ دیتا ہوں کہ تا فیصلہ مقدمہ ہذا ہر ایک تاریخ پیشی پر حاضر عدالت ہوتا ہوں گا۔ اگر مقدمہ تجویز کے لئے دوسری عدالت کے سپرد ہو تو وہاں بھی حاضر ہوتا ہوں گا، نیز تا فیصلہ مقدمہ نقصان وار روپیہ بطور ضمانت 9000/- کروں گا اور نیک چلن رہوں گا، اور بصورت خلاف ورزی مبلغ 9000/- چنگہ خداداد پاکستان حکومت پاکستان کو چھروں گا، لہذا چنگہ ہذا تحریر ہے۔

العبد نصیر اللہ ملزم مذکور

مذکورہ حیات محمد ولد جان محمد ساکن پشاور
مذکورہ رفصوان اللہ ولد یا شمس علی ساکن حذیفہ

مقرر ہیں کہ تا تصفیہ مقدمہ ملزم مذکور عدالت حضور میں کسی دوسری عدالت میں جس میں

ATTESTED

07 DEC 2020

(Examiner)
Civil Court Peshawar

9000/- روپیہ ضمانت

مورخہ: 17301-7403443-9

العبد

حیات محمد

21-9126155

0333-9165874

گواہ شاہ
گواہ شاہ
میں تصدیق کرتا ہوں کہ ضمانت صاحب جائیداد ہیں۔
0336-1188188
26
17301-1653338-9

IN THE COURT OF NOOR UL HAQ,
JUDICIAL MAGISTRATE-IV, PESHAWAR

(16)

Order..
18/6/2020

Instant Bail/Superdari/Misc. petition submitted by the accused/petitioner through counsel. Be entered.

Counsel for the accused/petitioner stated at the bar that no such petition is pending before any higher forum.

Notice for record/complainant/SHO report for 19-6-2020.

(NOOR UL HAQ)
JMIC-IV, Peshawar

دکٹر سربا خان - سائل نذیر علی خان -
صیغہ کی طرف سے کوئی کارروائی نہ ہے -
جولہ افکار نے اپنے طرف سے صیغہ / درکار ڈاکٹر احمد
جزیرہ 20/6/2020 تک جاری ہے -

19/6/2020

IN THE COURT OF NOOR UL HAQ,
JUDICIAL MAGISTRATE-IV, PESHAWAR

(2)

FIR No. 817 dated 17/6/2020 u/s 506/447/448/148/149 PPC of Police
Station Pishtakhara, Peshawar

Order.....
20/6/2020

APP for the State present. Accused/petitioners present through counsel. Complainant present through counsel. Record is available before the court.

Accused/petitioners namely **Naseer Ullah and Mazhar Ali** both sons of **Hashim Ali** through instant bail application seeks post arrest bail in above referred FIR.

Arguments heard and file perused.

Learned counsel for the petitioner argued that accused/petitioners are malafidely been charged by the complainant

20.6.2020

ATTACHED

07 DEC 2020

(Examiner)
Civil Court Peshawar

only for the purpose of harassing them and the story sketched by the complainant in the instant FIR are based on malafide intention, requested for acceptance of instant bail petition.

In rebuttal learned counsel for the complainant produced copies of that vary Civil Suit and argued that there is a property dispute between the parties, and in connection with the said dispute, offence has been committed by them and they were correctly charged by the complainant being known to each other, hence, requested for rejection of instant bail petition.


(17)


Having heard arguments, tentative assessment of the available record that accused/petitioners are charged for the offence u/s 506 r/w 447, 448, 147, 148 PPC. Neither any incriminating material has been recovered from the possession of the accused/petitioners nor any confession been made by him. Though there is a family dispute between the parties but here in the criminal proceedings the facts of the offence allegedly committed by the accused would be determined and in the case in hand, neither statement u/s 161 Cr.P.C of the witness is recorded by the IO nor any specific role has been given by the complainant to the present accused/petitioners, thus, this court holds the case of accused/petitioners one of further inquiry. Besides, section 506 PPC leveled against the accused/petitioners doesn't fall within the ambit of prohibitory clause of section 497 Cr.P.C while the others sections are bailable in nature.

Since, no exceptional circumstances exist which may warrant refusal of bail application hence, accused/petitioners are entitled for the concession of bail.


In view of the above, present application is accepted. Accused/petitioners be released from custody subject to furnishing surety bonds in the tune of Rs. 90,000/-, with two sureties each in the like amount to the satisfaction of this court/MOD. A copy of this order be placed on police file. Requisitioned record be returned to the quarters concerned while file of this court be consigned to record room after completion.

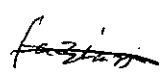
Announced.
20/6/2020


Noor Ul Haq
Judicial Magistrate-IV,
Peshawar

| | |
|------------------------|---|
| No. | 305-25 |
| Dated of Application | 17-05-2020 |
| Name of Applicant | Adil Khan |
| Word / Page | P-05 |
| For | |
| Signature of Applicant |  |
| Dated of Preparation | 17-05-2020 |
| Dated of Delivery | 17-05-2020 |

CERTIFIED TRUE COPY


Copy to Civil Court,
Peshawar
17-05-2020



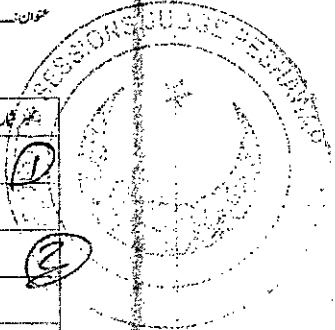
بعدالت جناب محمد طیب جان ایڈیشنل ڈسٹرکٹ ایڈیشنل جج - V پشاور

22/6/2024 544/B/2024 A

23/11/2024 (تعداد) 19

صاف علی

18



| تعداد | تعداد | تعداد |
|-------|---------|-------|
| 11 | 11/11 | 1 |
| 8 | 12/11/9 | 2 |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

Certified that the details above have properly been indexed.

19 عدد قسطوں داخل دفتر شد۔

ایڈیشنل ڈسٹرکٹ ایڈیشنل جج - V پشاور

[Signature]

Session Court Peshawar

[Large handwritten signature]

BEFORE THE COURT OF SESSIONS JUDGE, PESHAWAR

(19)

1. Mazhar Ali

2. Naseer Ullah sons of Haji Hashim Ali

Both residents of Hazrat Khudaifa, Nodch Bala, P.O
Peshawar University, Tehsil & District Peshawar.

... **ACCUSED/PETITIONERS****VERSUS**

1. The State

2. Haji Muhammad Iqbal S/o Haji Muhammad Sultan

R/o Bannu, presently residing at Phase-III, Hayatabad,
Peshawar.

..... **RESPONDENTS****Case FIR No.823 dated 13.06.2020****Charged U/S 447, 448, 188, 506, 34 P.P.C****Police Station Pishtakhara.**

**PETITION UNDER SECTION 498 Cr.P.C
FOR THE GRANT OF PRE-ARREST BAIL
TO THE ACCUSED/ PETITIONERS, TILL
FINAL DECISION OF THE CASE.**

ATTACHED**02 DEC 2020**(Examiner)
Session Court Peshawar

Respectfully Sheweth:-

1. That the Accused/Petitioners having been charged in the above captioned case, hence apprehend their arrest. (COPY OF THE FIR IS ATTACHED HEREWITH).
2. That the Accused/Petitioners approach this Hon'ble Court for grant of pre-arrest bail on the following grounds inter alia:-

GROUND S:-

- A. That the Accused/Petitioners are quite innocent and have falsely been implicated in above captioned case, with malafide intention and ulterior motive for the purpose of undue harassment and humiliation.
- B. That the prosecution case is based on conjectures and surmises and the accused have been enropped in the case without lawful justification and reasonable ground.
- C. That an iota of evidence is not available to prove the nexus of accused/ petitioners with the alleged crime.
- D. That no independent ocular or circumstantial evidence is available to prima facie establish involvement of the accused/ petitioners.

D:\Paizan DATA\Yousaf Khan Adv\Muzhar Ali B.D.A in 447, 448, 188, 506, 34 P.P.C (S.J) 2020.docx

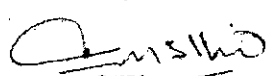
ATTESTED

02 DEC 2020

(Examiner)
Session Court Peshawar

- E. That keeping in view the facts and circumstances of the case, the prosecution version comes within the domain of further probe and on this ground alone the petitioners are entitled for pre-arrest bail.
- F. That there is no apprehension of abscondance of the Accused/Petitioners and if the accused/ petitioners are not granted pre-arrest bail, they will suffer an irreparable loss and their reputation will be damaged in the society.
- G. That the Accused/Petitioners are peaceful and law abiding citizens and in case of pre-arrest bail, they are ready to furnish reliable surety to the entire satisfaction of this Hon'ble Court.
- H. That any other grounds will be raised at the time of arguments with the permission of this Hon'ble Court.

It is, therefore, respectfully prayed that on acceptance of this Petition, Accused/Petitioners may graciously be granted pre-arrest bail till the final disposal of captioned case.

Accused/Petitioners
Through

Yousaf Khan
Advocate, Peshawar

Dated: 22.06.2020

02 DEC 2020
(Examiner)
Session Court Peshawar

22

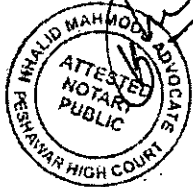
NOTE:

No such like **Pre-Arrest Bail Petition** has earlier been filed before this Hon'ble Court as per instruction given by my clients.

[Signature]
ADVOCATE

AFFIDAVIT

We, the accused/ petitioners, do hereby solemnly affirm and declare on oath that the contents of the **BBA Application** are true and correct to the best of our knowledge and belief and nothing has been kept concealed from this Honourable Court.

[Signature]
22-6-2020


[Signature]
DEPONENT

[Signature]
1. Mazhar Ali

2. Naseer Ullah
[Signature]

ATTESTED
02 DEC 2020
(Examiner)
Session Court Peshawar

[Signature]

IN THE COURT OF MUHAMMAD TAYYIB JAN,
ADDITIONAL DISTRICT & SESSIONS JUDGE-V, PESHAWAR.

Mazhar Ali etc ...vs....State.
FIR No: 823
Dated: 13.06.2020
U/S: 447/448/188/506/34 PPC
PS: Pishtakhara

Or.....10
23.11.2020

Ms. Beenish Gul, learned APP for the state present.

Accused/petitioners on ad interim bail along with counsel present. Complainant absent.

The accused/petitioners namely 1. Mazhar Ali, and 2. Naseer Ullah sons of Haji Hashim Ali both residents of Hazrat Khudaifa, Nodeh Bala, P.O Peshawar University, Peshawar seek confirmation of their bail before arrest application in case FIR No.823 dated 13.06.2020 u/s 447/448/188/506/34 PPC registered at PS Pishtakhara, Peshawar.

Arguments heard and record perused.

Perusal of file shows that the accused have been charged in the FIR but nothing incriminating has been recovered from the accused/petitioners. There is no record available on the file which may connect the accused/petitioners with the commission of the offence. The accused/petitioners have joined investigation but no useful purpose would be served by arresting and sending

02 DEC 2020
(Examiner)
Session Court Peshawar

Handwritten signature

6

(24)

Muzhar ab vs State
FIR No 823, dated 12.06.2020 FOS 47/43/158/508234 PCC PS Peshawar

the accused/petitioners behind the bars particularly when the accused/petitioners does not appear to be hardened criminal. The case of accused/petitioners is not only open to further inquiry but malafide and false implication on the part of complainant is floating over the case.

Consequently, the present BBA of the accused/petitioners is accepted and the ad-interim pre-arrest bail already granted vide dated 22.06.2020 to the accused/petitioner is confirmed on the existing bail bonds. Copy of this order be placed on judicial file, which be returned to the concerned quarter immediately.

File of this Court be consigned to Record Room of Sessions Judge, Peshawar after its necessary completion & compilation.

Announced
23.11.2020

(Muhammad Tayyib Jan)
Adal: District & Sessions
Judge-V, Peshawar

| | |
|-------------------------------|-----------------------|
| No. | 17794 |
| Dated of Application | 2-12-2020 |
| Name of Application | محمد تائبان |
| Word | 3600 |
| Fee | |
| Signature of Applicant & Date | (Signature) 2-12-2020 |
| Dated of Preparation | 2-12-2020 |
| Date of Delivery | 2-12-2020 |

WRITTEN FOR TRUE COPY

02 DEC 2020

(Signature)
Copying Room, Sessions Court
Peshawar

(Signature)
Raj

Amirul B.

25

| مقدمہ نمبر | رجسٹر | اصل رجسٹر | نمبر | تفصیلات |
|------------|------------|------------|------|---------|
| 148/4 | 29.06.2020 | 29.06.2020 | 25 | 43. |

صطیل نام SHG پتہ

| نمبر شمار | تفصیلات | تفصیلات | نوعیت کاغذات |
|-----------|---------|-------------------------|-----------------------|
| | | | بستہ 2 |
| 1 | 05 | انڈسٹری | رہنما اور رہنما |
| 2 | 06 | درخواست 22A | 2 |
| 3 | 14 | فصل روایت - نغزات لکھنؤ | نغزات لکھنؤ |
| 4 | 26 | نغزات 15 | نغزات 15 |
| 5 | 27 | ہکات | ہکات |
| 6 | 31 | نقل سماجی کار (مخارج) | نقل سماجی کار (مخارج) |
| 7 | 36 | مہینہ 540 | مہینہ 540 |
| 8 | 39 | نقل روایت - نغزات 15 | نقل روایت - نغزات 15 |
| 9 | 43 | نقل و نغزات FIR | نقل و نغزات FIR |
| 10 | | | |
| 11 | | | |
| | | | بستہ 2 |
| 12 | | | |
| 13 | | | |
| 14 | | | |
| 15 | | | |
| 16 | | | |

کل تفصیلات ... دراصل نغزات

ایڈیشن و سٹرک ایڈیشن ج 17 پشاور

بستہ 2

ATTESTED

30 SEP 2020

(Examiner)
Session Court Peshawar

Handwritten signature

(26)

(6)

BEFORE THE COURT OF SESSIONS JUDGE,
PESHAWAR

Mazhar Ali S/o Hashim Ali R/o Nodeh Bala, Tehsil &
*District Peshawar.***PETITIONER**

VERSUS

1. *The State*
2. *Capital City Police Officer, Peshawar.*
3. *S.S.P Operations, Peshawar.*
4. *D.S.P, Hayatabad, Peshawar.*
5. *Kamran Khan Marwat, SHO Police Station*
*Pishtakhara, Peshawar.***RESPONDENTS**

APPLICATION U/S 22-A Cr.P.C
FOR ISSUANCE OF DIRECTIONS
TO THE RESPONDENT NO.1 TO 4
TO REGISTER FIR UNDER
RELEVANT PROVISIONS OF LAW
AGAINST THE ACCUSED/
RESPONDENT NO.5.

29/6/2020

Respectfully Sheweth:

Compendium of facts out of which the present petition arises are as under:

1. *That the petitioner is the law-abiding citizen of Pakistan, he is a permanent resident of District Peshawar.*

D:\Faizan DATA\Yousaf Khan Adv\ Mazhar Ali 22-A (SJ) 2020.docx

Alish

myr

ATTESTED

30 SEP 2020

(Examiner)
Session Court Peshawar

2. That the petitioner is the owner and in possession of land situated at Nodeh Bala in different Khasra numbers of which cases are subjudice before the competent court of law. (Copy of the plaint is attached).
3. That the competent court issued interim relief to the effect that the respondents/ defendants be restrained from further alienation/ construction in the suit property, but inspite of that the concerned defendants started interference in the suit property with connivance of SHO concerned (respondent No.5).
4. That on 17.06.2020 about 09:00 PM, ASI concerned (Sehat Gul) took away the petitioner to Police Station.
5. That brother of the petitioner namely Naseer Ullah, who also himself is a police official and having 22 years service in Police Department as IHC to inquire about his brother i.e. petitioner, because the petitioner is an aged person and a Diabetic and Cardiac patient.
6. That the SHO concerned (respondent No.5) used filthy language to both the petitioner and his brother in front of the police officials.
7. That the brother of petitioner told the SHO concerned to restrain from using such filthy language but the SHO concerned started physical

ATTESTED

30 SEP 2020

(Examiner)
Session Court Peshawar

28

assault on both the petitioner and his brother.
(Copies of Photographs are attached).

8. That thereafter the SHO concerned lodged two FIRs bearing No.817 and 818 dated 17.06.2020 of various sections of law.
9. That on the next day, the police concerned produced both the accused to JMIC for further custody, who declined the custody and referred brother of the petitioner to hospital for medical examination. (Copies of medical examination are attached).
10. That the offence committed by the accused/ respondent No.5 is a cognizable offence, the petitioner visited the respondent No.2 to 4 for lodging the FIR through a written application, which was duly marked by the DSP Hayatabad, Peshawar but all his efforts to get the FIR registered proved to be a wild goose chase. (Copy of Application is attached).
11. That from the facts narrated above it has become crystal clear that the accused/ respondent No.5 has committed a cognizable offence within the territorial jurisdiction of PS Pishtakhara, the petitioner/ complainant made his best efforts to lodge report against the accused/ respondents No.5, but in vain, hence the instant petition.

Submittion
Session Court Peshawar
29/6/20

Abdul
Majeed

ATTESTED

30 SEP 2020

(Examiner)
Session Court Peshawar

It is, therefore, most humbly prayed that on acceptance of this petition, respondent No.2 to 4 may be directed to register the case against the respondent No.5 under relevant sections of law.

Any other relief, which deems appropriate, may kindly be granted.

[Signature]

Petitioner

Through

[Signature]

Yousaf Khan

Advocate, Peshawar

Dated: 29.06.2020

AFFIDAVIT

It is stated on oath that the contents of this **Petition** are true and correct to the best of my knowledge and belief and nothing has been kept concealed or mis-stated from this Hon'ble Court.

Superintendent
Court
29/6/2020

[Signature]

DEPONENT

[Signature]
29-6-2020
ATTESTED
NOTARY
PUBLIC
KHALID MAHMOOD
ADVOCATE
PESHAWAR

ATTESTED

30 SEP 2020

(Examiner)
Session Court Peshawar

[Signature]

30

IN THE COURT MUHAMMAD FAISAL
ADDITIONAL SESSIONS JUDGE-IV, PESHAWAR
MAZHAR ALI ... VS ... SHO ETC
CASE NO. 148/4 OF 2020

ORDER
25/09/2020

1. Present: Petitioner through counsel and respondent No.5 through counsel.
2. Petitioner/ applicant namely Mazhar Ali S/o Hashim Ali filed instant application u/s 22-A Cr.PC for issuance of directions to respondents No. 1 to 4 to register an FIR against respondent No. 5 namely Kamran Khan Marwat S.H.O P.S Pishtakhara, Peshawar.
3. Arguments of learned counsel for the petitioner, respondent No. 5 in the light of comments heard and available file perused.
4. Perusal of the contents of the petition filed under section 22-A Cr.PC and comments P.S Faqirabad reveals that petitioner is seeking the registration of FIR against respondent No. 5 with the averments that petitioner is the owner and in possession of land situated at Nodeh Bala in different Khasra numbers which cases are subjudice before the competent courts of law; the competent court issued interim relief to the effect that the contesting respondents be restrained from further alienation/ construction in the suit property, but inspite of that the concerned defendants started interference in the suit property with the connivance of SHO concerned (respondent No. 5). On 17/06/2020 about 09:00 p.m. ASI Sehat Gul took away the petitioner to Police Station and the brother of the petitioner namely Naseer Ullah who ~~is~~ himself is a police official and having 22 years service in Police Department as IHC to inquire about his brother i.e. petitioner, because the

Jawab
25/9/20

1

M. Ullah
25/9

ATTESTED

30 SEP 2020

(Examiner)
Session Court Peshawar

31

6


petitioner is an old age person and a Diabetic and Cardiac patient. The respondent No. 5 used filthy language to both the petitioner and his brother in presence of the police official; and the brother of the petitioner told the SHO concerned to restrain from using such filthy language but the SHO started physical assault on both petitioner and his brother; thereafter the SHO lodged two FIRs bearing No. 817 and 818 dated 17/06/2020 of various sections of law; the petitioner visited the respondent No. 2 to 4 for lodging the FIR through written application, but in vain; hence the petition.

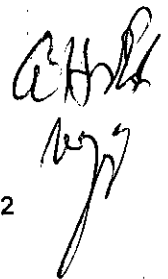
5. The information disclosed by the applicant/ petitioner supported by Medical evidence and alleged photographs, but on the other hand stance taken by respondent No. 5 while submitting his comments supported by copies of FIRs and charge sheet dated 17/07/2006 speaks different story. As per medical reports the assault has been committed and petitioner is nominating the respondent No. 5; therefore application is partially accepted and local police is directed to initiate proceedings against respondent No. 5 and ask opinion from prosecution in respect of the allegation, if opinion of the prosecution favours any cognizable offence then FIR be lodged otherwise to proceed as per law as provided for non-cognizable offences.

6. Copies of this order be sent to respondents No. 2 and 4 through process of the court, for compliance.

7. File be consigned to record room after necessary completion and proper compilation.

Announced:
25/09/2020


Muhammad Faisal
Additional Sessions Judge-IV
Peshawar


2

14375

| | | |
|-----|------|---------|
| ... | 30 | 9-10-20 |
| ... | 2800 | |
| ... | 30 | 9-10-20 |
| ... | 30 | 9-10-20 |
| ... | 30 | 9-10-20 |

ATTESTED
30 SEP 2020
(Examiner)
Session Court Peshawar

CHARGE SHEET

Amir

(C)

(2)

(32)

Whereas I am satisfied that a Formal Enquiry as contemplated by Police Rules 1975 is necessary & expedient in the subject case against you **IHC Naseer Khan No. 3934 while posted to American Consulate at Peshawar.**

And whereas, I am of the view that the allegations if established would call for major/minor penalty, as defined in Rule 3 of the aforesaid Rules.

Now therefore, as required by Rule 6 (1) (a) & (b) of the said Rules, I, Senior Superintendent of Police, Operations, Peshawar hereby charge you **IHC Naseer Khan No. 3934 while posted to American Consulate at Peshawar** under Rule 5 (4) of the Police Rules 1975 on the basis of following allegations:-

- i. Reportedly, you been involved/charged in the following criminal cases registered at Police Station Pishtakhara.
 - FIR No. 817 dated 17.06.2020 u/s 447/506/148/149 PPC.
 - FIR No. 818 dated 17.06.2020 u/s 506/186/34/15-AA PPC.
 - FIR No. 823 dated 20.06.2020 u/s 447/448/188/506/34 PPC.
- ii. That during arresting, you started scuffling with SHO Pishtakhara due which he sustained injuries.
- iii. By doing, you have committed a gross misconduct and are liable to be proceeded against departmentally under Police Rules 1975.

I hereby direct you further under Rule 6 (1) (b) of the said Rules to put forth written defence within 7 days of the receipt of this Charge Sheet to the Enquiry Officer, as to why the action should not be taken against you and also stating at the same time whether you desire to be heard in person.

In case your reply is not received within the specific period to the Enquiry Officer, it shall be presumed that you have no defence to offer and ex-parte action will be taken against you.

SENIOR SUPERINTENDENT OF POLICE,
(OPERATIONS) PESHAWAR

No. 383 E/PA dated Peshawar the 03/07/2020

Copy of the above along with Summary of Allegations is forwarded for information and necessary action to the:-

- 1. Enquiry Officer.
- 2. The accused official.

[Handwritten signature]

PA

Call him in OR.

[Signature]
SDPO Hayatabad Circle
Peshawar

[Handwritten signature]

SUMMARY OF ALLEGATIONS

I, Mansoor Aman PSP, SSP/Operations, Peshawar as competent authority, am of the opinion that you IHC Naseer Khan No. 3934 while posted to American Consulate at Peshawar have rendered yourself liable to be proceeded against, as you have committed the following acts/omission within the meaning of section 03 of the Khyber Pakhtunkhwa Police Rules, 1975.

- i. Reportedly, he has involved/charged in the following criminal cases registered at Police Station Pishtakhara.
 - FIR No. 817 dated 17.06.2020 u/s 447/506/148/149 PPC.
 - FIR No. 818 dated 17.06.2020 u/s 506/186/34/15-AA PPC.
 - FIR No. 823 dated 20.06.2020 u/s 447/448/188/506/34 PPC.
- ii. That during arresting, he started scuffling with SHO Pishtakhara due which he sustained injuries.
- iii. Being a police official, his this act is against the norms and discipline of police force.
- iii. By doing, he has committed a gross misconduct and is liable to be proceeded against departmentally under Police Rules 1975.

For the purpose of scrutinizing the conduct of afore said police official in the said episode with reference to the above allegations SDPO Hayatabad is appointed as Enquiry Officer under Rule 5 (4) of Police Rules 1975.

The Enquiry Officer shall in accordance with the provision of the Police Rules (1975), provide reasonable opportunity of hearing to the accused Official and make recommendations as to punish or other action to be taken against the accused official.

SENIOR SUPERINTENDENT OF POLICE,
(OPERATIONS), PESHAWAR

No. 383 E/PA, dated Peshawar the

03/07/2020

*Ali Akbar
Mansoor Aman*

34

(2)

35

28

جناب عالی!

بحوالہ مشمولہ شوکار نوٹس جس میں میرے خلاف درجہ مقدمات درج کرنے اور میرے SHO پشترہ کیساتھ مشتمل و

الزامات لگائے ہیں:-

- 1- مقدمہ علت 817 مورخہ 17-06-2020 جرم 447,506,148,149/PPC تھانہ پشترہ
- 2- مقدمہ علت 818 مورخہ 17-06-2020 جرم 506,186,34,15-AA تھانہ پشترہ
- 3- مقدمہ علت 823 مورخہ 20-06-2020 جرم 447,448,188,506/34-PPC تھانہ پشترہ

جناب عالی! درج بالا الزامات جو میرے خلاف لگائے گئے ہیں وہ بالکل غلط من گھڑت اور بے بنیاد ہیں۔ سائل محکمہ پولیس میں بطور I.H.C تعینات ہے اور تاحال کوئی غیر ڈسپن حرکت نہیں کی ہے۔ اور انکم و ضبط کا پابند ہوتے ہوئے سائل نے کاسٹریبل سے IHC تک ترقی کی ہے سائل کا سروس ریکارڈ صاف ہے جو کہ اس بات کی عکاسی کرتی ہے کہ سائل ایک شریف انٹنس اور ایماندار شخص ہے لہذا SHO کیساتھ Scuffling ہاتھ پائی کا سوال ہی پیدا نہیں ہوتا ہے۔

جہاں تک مقدمات مذکورہ بالا کے اندر راج کا ذکر ہے اس بارے میں حلفاً بیان دیتا ہوں کہ سائل کا یہ خود میں فواد ناصر وغیرہ کیساتھ جانبدار کا تنازعہ چلا آ رہا ہے۔ تنازعہ جانبدار کی بابت عدالت میں سول مقدمہ زیر سماعت ہے اور تنازعہ بلاٹ بر عدالت سے Stay Order بھی جاری ہوا ہے۔ جس تمام سے جناب SHO صاحب کو روشناس کرایا ہے اور متعلقہ دستاویزات بشمول Stay Order میں نے بذات خود جناب SHO صاحب کو حوالہ کی ہیں۔ مگر اس سب کچھ کے باوجود SHO صاحب نے مدعی بن کر تنازعہ جانبدار کو ناجائز طور پر قبضہ کرنے اور ہم پر دباؤ ڈالنے کی خاطر بے بنیاد مقدمات کو درج رجسٹر کر دیا جو کہ سراسر زیادتی اور نا انصافی ہے۔ علاوہ ازیں SHO صاحب نے تھانہ میں میرے کافی بے عزتی کی ہے اور مجھے حد سے زیادہ مارا پیٹا ہے۔ اور مجھ پر کافی تشدد بھی کیا ہے۔ جس کا پتہ منسلک میڈیکل رپورٹ سے لگ سکتا ہے۔

جناب عالی!

یہ امر قابل ذکر ہے کہ سائل ایک شریف انٹنس بندہ ہے۔ میرے کسی سے جھگڑا نہیں کیا ہے۔ جہاں تک چارج شیٹ میں مذکورہ الزامات کا ذکر ہے۔ تو یہ سائل کے پدری جانبدار سے منسل ہے۔ سائل ایک پرائس شہری ہے اور سائل کے حقوق آئین پاکستان کے تحت محفوظ ہیں اور ان ہی حقوق کی خاطر سائل کے خلاف مختلف قسم کے ناجائز الزام تراشی ہو رہے ہے اور اختیارات کا ناجائز استعمال ہو رہا ہے۔ جسرت علی کرم اللہ وجہہ کا قول ہے کہ پیسہ، اختیار اور طاقت انسان کو بدلنے نہیں بلکہ بے نقاب کر دیتے ہیں۔ لہذا درج بالا حقیقت کو پیش نظر رکھ کر سائل کے خلاف محکمانہ انکوائری کو داخل دفتر فرما کر مشکور فرمائیں۔ کیونکہ سال کے ساتھ بے حد نا انصافی ہو رہی ہے۔

نصیر اللہ IHC پولیس لائن

شناختی کارڈ نمبر 9-17301-9634568

موبائل نمبر 0315-9254855

Attest
Majri

Wardah 13919 and

the defendant

TET

2020

or

2020



OFFICE OF THE

DEPUTY SUPERINTENDENT OF POLICE,

HAYATABAD SUB-DIVISION, PESHAWAR.

No. 35/E/Steno, dated Pesh: the 28/08/2020

To: The Senior Superintendent of Police,
Operations, Peshawar.

Subject: DEPARTMENTAL ENQUIRY

Please refer to your office Endt: No.383/E/PA, dated 03.07.2020 pertaining to, departmental enquiry against IHC Naseer Khan No. 3934

STATEMENT OF ALLEGATION

- i) Reportedly, he been involved/ charged in the following cases registered at police station Pishtakhara.
 - FIR No. 817 dated 17.06.2020 u/s 447/506/148/149/ PPC
 - FIR No. 818 dated 17.06.2020 u/s 506/186/34/15-AA PPC
 - FIR No. 823 dated 20.06.2020 u/s 447/448/188/506/34 PPC
- ii) That during arresting, he start scuffling with SHO PS Pishtakhara due to which he sustained injuries.
- iii) By doing, you have committed a gross misconduct and are liable to be proceeded against departmentally under Police rules 1975.

PROCEEDING

Enquiry officer provided reasonable opportunity to HC Naseer Khan No. 3934. Statement of allegation was served upon him and his written reply was recorded. He was verbally cross examined. Statements of the following were also recorded.

- Inspector Saif Ur Rehman OII/ IO of the case PS Pishtakhara.
- ASI Muhammad Arshad khan IO of the case.
- ASI Shahid Ali Shah MASI PS Pishtakhara.
- ASI Sehat Gul Ps Pishtakhara (wetness).
- HC Midrar MM PS Pishtakhara.
- FC Gul Dad shah No. 1553 PP Sufaid Deri (wetness).
- FC Alam zeb PP Sufaid Deri (wetness).

STATEMENT OF IHC NASEER KHAN

HC Naseer Khan stated in his statement that the allegations against him are baseless. Neither he done anything illegal nor will do. The fact is that there was a dispute over land which under process in the court. On that day he was produced statu que order of the court to SHO PS concerned. But, SHO did illegal act and beaten him at PS (medical certificates are enclosed). He further stated that he is a noble man and did not scuffle in whole life. He mentioned that SHO concerned along with respondents are try to take possession of the land as they instituted baseless cases against him. He requested to file the subject enquiry without any further action as he is innocent.

Naseer


STATEMENT OF THE ABOVE MENTIONED SEVEN POLICE OFFICIALS

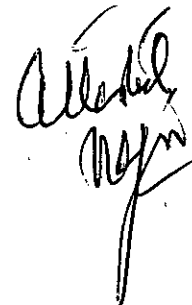
37

- ⇒ Inspector Saif Ur Rehman Oll Pishtakhara stated that in his statement that he was at court on the day of occurrence and when he came to PS, knows about the cases. Now the accused is on bail from the court.
- ⇒ ASI Muhammad Arshad stated in his statement that case vide FIR No: 823 dated 20.06.2020 U/S 447/448/186/506/34 PS Pishtakhara was registered on complaint submitted by Muhammad Iqbal, s/o Sultan Muhammad r/o Bannu present Hayatabad. To this effect, accused got BBA from the court. As for as repetition in concerned, on the day of occurrence he was at the court.
- ⇒ MASI Shahid Ali Shah stated that two "Murasilas" were received from ASI Sihat Gul in which two cases were registered against them vide FIRs No: 817 dated 17.06.2020 U/S 447/448/506/148/149 and 818 dated 17.06.2020 U/S 186/506/34/15-AA. As for as the concerned of scuffling, the accused was started scuffling with SHO and after this act they locked up. Neither SHO beaten them nor did anything illegal.
- ⇒ ASI Sehat Ali stated in his statement that they were received two different application against accused nominated in the case i.e Mazhar Ali, Naseer Ullah, Habib Ur Rehman Ss/o Hazrat Rehman. To this effect, cases were registered against them vide FIRs No: 817 dated 14.06.2020 and 818 dated 17.06.2020 PS Pishtakhara. As far as the concerned of beating, neither they were beaten nor did any illegal act by the SHO.
- ⇒ Hc Midrar, FC Gul Dad Shah and FC Alamzeb have agreed with the above mentioned officials and confirmed their statements.

FINDINGS

In the light of above circumstances, statement of the above mentioned officials and statements of IOs of the cases, it has found that there are witnesses/ evidences against HC Naseer Khan No. 3934. It is therefore recommended that the subject enquiry may please kept pending till the final decision of the court.


RAAM HUSSAIN
Enquiry Officer,
Deputy Superintendent of Police,
Hayatabad: Sub-Division,
Peshawar.





OFFICE OF THE
SENIOR SUPERINTENDENT OF POLICE,
(OPERATIONS),
PESHAWAR
Phone. 091-9213054

38

FINAL SHOW CAUSE NOTICE
(Under Police Disciplinary Rules, 1975)

1. I, Mansoor Aman (PSP), Senior Superintendent of Police (Operations) Peshawar as competent authority, under the Police disciplinary Rules 1975, do hereby serve you HHC Naseer Khan No. 3934 of CCP Peshawar as follows:-
2. (i) That consequent upon completion of the departmental enquiry conducted against you by SDPO Hayatabad Peshawar, who found you guilty of the charges for which you were given the opportunity of a hearing.
- (ii) Ongoing through the findings and recommendations of the inquiry officer, the material on record and other connected papers including your defense before the said officer, I am satisfied that you have committed misconducts and have been charged in the below mentioned criminal cases.
 - FIR No. 817 dated 17.06.2020 u/s 447/506/148/149 PPC
 - FIR No. 818 dated 17.06.2020 u/s 506/186/34/15-AA PPC
 - FIR No. 823 dated 20.06.2020 u/s 447/448/188/506/34 PPC
3. As a result thereof I, Mansoor Aman (PSP), Senior Superintendent of Police (Operations) Peshawar as Competent Authority decided to impose upon you major/minor penalty including dismissal from service under the said Rules.
4. You are, therefore, required to Show Cause as to why the aforesaid penalty should not be imposed upon you.
5. If no reply to this notice is received within 7-days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.
6. You are at liberty to be heard in person, if so wished.

MANSOOR AMAN, PSP
SR: SUPERINTENDENT OF POLICE,
OPERATIONS, PESHAWAR

No. 2154 /PA dated Peshawar the 20-09-2020

re: HHC

ASI, 21-09-20

Attested
Mansoor Aman

جناب عالی!

39

بحوالہ مشمولہ شوکاژ نوٹس جس میں میرے خلاف درج ذیل مقدمات درج کرنے اور میرے SHO پستجرہ کیساتھ مشت و گریبان ہونے کے الزامات لگائے ہیں۔ وہ بالکل بے بنیاد ہیں اور میں حلفاً بیان کرتا ہوں کہ مقدمات نمبر 1 اور 2 کیا اندراج کے وقت میں تھانہ کے حوالات میں بند/مقید تھا اور SHO صاحب نے مخالف فریق سے میل میلاپ کر کے میرے خلاف یہ مقدمات درج کر کے مجھ سے تھانہ میں غیر انسانی سلوک کر کے کافی تشدد بھی کیا ہے۔

1- مقدمہ علت 817 مورخہ 17-06-2020 جرم 447,506,148,149/PPC تھانہ پستجرہ

2- مقدمہ علت 818 مورخہ 17-06-2020 AA17-06-2020 506, 186, 34,15 تھانہ پستجرہ

3- مقدمہ علت 823 مورخہ 20-06-2020 جرم 447, 448, 188, 506/34-PPC تھانہ پستجرہ

جناب عالی! درج بالا الزامات جو میرے خلاف لگائے گئے ہیں وہ بالکل غلط، من گھڑت اور بے بنیاد ہیں۔ سائل محکمہ پولیس میں بطور I.H.C تعینات ہے اور تاحال کوئی غیر ڈسپلن حرکت نہیں کی ہے۔ اور نظم و ضبط کا پابند ہوتے ہوئے سائل نے کانسٹیبل سے IHC تک ترقی کی ہے سائل کا سروس ریکارڈ صاف ہے۔ جو کہ اس بات کی عکاسی کرتی ہے کہ سائل ایک شریف انفس اور ایماندار شخص ہے لہذا SHO کیساتھ Scuffling ہاتھ پائی کا سوال ہی پیدا نہیں ہوتا ہے۔

جہاں تک مقدمات مذکورہ بالا کے اندراج کا ذکر ہے اس بارے میں حلفاً بیان دیتا ہوں کہ سائل کا ذہن خود میں فواد ناصر وغیرہ کیساتھ جائیداد کا تنازعہ چلا آ رہا ہے۔ تنازعہ جائیداد کی بابت عدالت میں سول مقدمہ زیر سماعت ہے اور تنازعہ پلاٹ پر عدالت سے Saty Order بھی جاری ہوا ہے۔ جس تمام سے جناب SHO صاحب کو روشناس کرایا ہے اور متعلقہ دستاویزات بشمول Stay Order میں نے بذات خود جناب SHO صاحب کو حوالہ کی ہیں۔ مگر اس سب کچھ کے باوجود SHO صاحب نے مدعی بن کر تنازعہ جائیداد کو ناجائز طور پر قبضہ کرنے اور ہم پر دباؤ ڈالنے کی خاطر بے بنیاد مقدمات کو درج رجسٹر کر دیا جو کہ سراسر زیادتی اور نا انصافی ہے۔ جبکہ یہ منسک میڈیکل رپورٹ سے لگ سکتا ہے۔

جناب عالی!

یہ امر قابل ذکر ہے کہ سائل ایک شریف انفس بندہ ہے۔ عمر بھر کسی سے جھگڑا نہیں کیا ہے۔ جہاں تک شوکاژ مذکورہ الزامات کا ذکر ہے۔ تو یہ سائل کے پدری جائیداد سے متصل ہے۔ سائل ایک پرامن شہری ہے اور سائل کے حقوق آئین پاکستان کے تحت محفوظ ہیں اور ان ہی حقوق کی خاطر سائل کے خلاف مختلف قسم کے ناجائز الزام تراشی ہو رہے ہے اور اختیارات کا ناجائز استعمال ہو رہا ہے۔ حضرت علی کرم اللہ وجہہ کا قول ہے کہ پیسہ، اختیار اور طاقت انسان کو بدلتے ہیں بلکہ بے نقاب کر دیتے ہیں۔ لہذا درج بالا حقیقت کو پیش نظر رکھ کر سائل کے خلاف محکمانہ انکوائری کو داخل دفتر فرما کر مشکور فرمائیں۔ کیونکہ سائل کے ساتھ بے حد نا انصافی ہو رہی ہے۔

R. S. Habib

نصیر اللہ IHC پولیس لائن گیٹ نمبر 2

شناختی کارڈ نمبر: 9-17301-9634568

موبائل نمبر: 0315-9254855

Attest
Rajni



OFFICE OF THE
SR: SUPERINTENDENT OF POLICE,
(OPERATIONS)
PESHAWAR

Phone. 091-9210508

46

ORDER

1. IHC Naseer Khan No. 3934, while posted to American Consulate at Peshawar was placed under suspension and proceeded against departmentally vide this office No. 383/E/PA dated 03.07.2020 on account of his involvement in the following criminal cases. Besides, the accused official also resisted his lawful arrest and scuffled with the then SHO PS Pishtakhara.

- i) FIR No. 817 dated 17.06.2020 u/s 447/506/148/149 PPC.
- ii) FIR No. 818 dated 17.06.2020 u/s 506/186/34/15-AA PPC.
- iii) FIR No. 823 dated 20.06.2020 u/s 447/448/188/506/34 PPC

2. Enquiry was conducted through SDPO Hayatabad Peshawar who submitted his findings on 28.08.2020 wherein he concluded that there are witnesses/evidences against the IHC Naseer Khan No. 3934.

3. On receipt of the findings, Final Show Cause Notice was issued to the accused official vide No. 2154/PA dated 20.09.2020 which he personally received on 21.09.2020. His written reply received and perused. The same was found unsatisfactory.

4. Findings of the E.O along with relevant record gone through which revealed that the accused official has been charged in three criminal cases on counts of land grabbing, interference in government affairs and criminal intimidation. Besides, classified sources have confirmed his nexus with land grabbers. In the circumstances, charges levelled against him stand proved as such there is no need to keep the departmental enquiry pending till the decision of the court. Therefore, I, Mansoor Aman PSP, SSP (Operations) Peshawar in exercise of the powers vested in me under Police Rules, 1975 hereby awards IHC Naseer Khan No. 3934 the major punishment of dismissal from service with immediate effect.

MANSOOR AMAN, PSP
Senior Superintendent of Police,
Operations, Peshawar

No. 2419-24/PA dated Peshawar, the 21/10/2020.

Copy for information and necessary action to:-

1. The Capital City Police Officer Peshawar.
2. EC-I/EC-II/AS/OSI
3. RI Lines with the direction to collect government articles (if any) issued to him.
4. PO with the direction to recover government dues (if any) as per law and procedure.
5. FMC along with complete enquiry file containing 53 pages for record.

Mansoor Aman

Dy: No. 1130 CCPO
Dt: 29-10-2020
Encl:

41

بخدمت جناب کیپٹل سٹی پولیس آفیسر صاحب پشاور

مضمون: حکمانہ اپیل برائے بحالی ملازمت و برخلاف حکمانہ نمبری 2419-24/PA مورخہ 21-10-2020

جسکی بناء پر سائل کو ملازمت سے برخاست کیا گیا ہے۔

Answer
D
129
29/10/2020

جناب عالی!

مودبانہ گزارش ہے کہ سائل محکمہ پولیس میں بطور IHC تعینات ہے۔ سائل نو دیہ بالا کارہائشی و پیدائشی ہے۔ اور سائل کا گاؤں خود میں پدری جائیداد ہے۔ جسکی بناء پر اہل علاقہ کے کیمنوں کے ساتھ تازمیہ چلا آ رہا ہے۔ اور سول مقدمات عدالت میں زیر تجویز پنڈنگ ہیں۔

یہ کہ تھانہ پشترہ کے SHO کا مران مردوت S.I نے ہمارے سول مقدمات اور جائیداد کے لین دین میں غیر قانونی طور پر حصہ لیکر ہمارے مخالفین کے ساتھ ساز باز کر کے سائل کے ساتھ کافی نا انصافی کی ہے اور بے جا طور پر سائل کے خلاف 03 مقدمات جو کہ ارڈر مذکورہ بالا میں درج ہے دائر کئے جسمیں انکو ایمری ہو کر E.O صاحب مقدمات کے تصفیہ از عدالت تک التواء میں رکھنے کی سفارش کی چونکہ صاحب موصوف S.I اثر و رسوخ کا مالک ہے اس نے مجاز آفیسر کو مس گائیڈ کر کے مجھے سماعت و عدالتی کا موقع دینے بغیر مجھے ملازمت سے برطرف کر دیا گیا ہے۔ جو کہ سائل کے ساتھ سراسر نا انصافی اور زیادتی ہے۔

سائل مکمل بے گناہ ہے اور بے جا طور پر یکے بعد دیگرے مختلف مقدمات میں گھسیٹ کر کے سائل کام تھانہ میں کافی تشدد بھی کی ہے اور سائل کی بہت زیادہ بے عزتی بھی کی ہے۔ اس لیے درج بالا حقیقت کو پیش نظر رکھ کر سائل کو ملازمت پر دوبارہ بحال فرمانے اور ظالم SHO اہلکاروں کے خلاف قانونی کارروائی کرنے کا حکم صادر فرما کر مشکور فرمائیں۔ عمر بھر ڈعا گورہوونگا۔
نوٹ: دوران پیشی میں اصل حقیقت بیان کروونگا۔

الغاض MR-h-habil

آپ کا تابعدار نصیر اللہ نمبر 3934 سابقہ ہیڈ کنسٹیبل

رابطہ نمبر: 0315-9254855

29-10-2020

F.M.C

Put up second pt

Dy. Supt. Police
Legal, C.C.P. Peshawar

DSP/ Legal

For Con. at

Pl.

h/j

29/10

Attest
aggr

Attest
aggr



OFFICE OF THE
CAPITAL CITY POLICE OFFICER
PESHAWAR

Phone No. 091-9210989

Fax No. 091-9212597

92

This order will dispose of the departmental appeal preferred by Ex-IHC Nascer Ullah No.3934 who was awarded the major punishment of "Dismissal from Service" by SSP/Operations Peshawar vide order No. 2419-24/PA, dated 21-10-2020.

2- He was proceeded against departmentally on account of his involvement in criminal cases vide FIR No.817, dated 17-06-2020 u/s 447/506/148/149/PPC, FIR No.818, dated 17-06-2020 u/s 506/186/34/15-ASA PPC and FIR No.823, dated 20-06-2020 u/s 447/448/188/506/34/PPC PS Pishtakhara Peshawar.

3- He was issued Charge Sheet and Summary of Allegations by SSP/Operations and SDPO Hayatabad Peshawar was appointed as enquiry officer to dig out the real facts. The enquiry officer after conducting proper enquiry submitted his finding recommended therein that the subject enquiry may be kept pending till the final decision of the court. The competent authority after perusal of the finding of the enquiry officer issued him Final Show Cause Notice to which his reply was found unsatisfactory and hence was awarded the above major punishment.

4- He was heard in person in O.R. The relevant record along with his explanation perused. He remained involved in 03 criminal cases of land grabbing, interference in government affairs and criminal intimidation. There is no need to interfere in the order awarded to him by SSP/Operations Peshawar. His appeal for reinstatement in service is hereby dismissed/rejected.

(MUHAMMAD ALI KHAN)PSP
CAPITAL CITY POLICE OFFICER,
PESHAWAR

No. 1554-61 /PA dated Peshawar the 10-10- 2020

Copies for information and n/a to the:-

1. SSP/Operations Peshawar.
2. SDPO Hayatabad Peshawar.
3. OSI/CRC/EC-II/AS/FMC.
4. Official concerned.

(Handwritten signature)

(42)

"خدمت جناب انسپکٹر جنرل آف پولیس خیبر پختونخواہ"

عنوان: محکمانہ اپیل برائے بحالی ملازمت و بر خلاف حکمنامہ نمبری PA/61-1554 مورخہ

10.12.2020 جسکی بناء پر سائل کا محکمانہ اپیل مسنوخ کیا گیا ہے۔


جناب عالی!

مودبانہ گزارش ہے کہ سائل محکمہ پولیس میں بطور IHC تعینات ہے۔ سائل نو دیہ بالا کارہائشی و پیدائشی ہے اور سائل کا گاؤں خود میں پدری جائیداد ہے۔ جسکی بناء پر اہل علاقہ کے مکینوں کے ساتھ تنازعہ چلا آرہا ہے اور سول مقدمات عدالت میں زیر تجویز پنڈنگ ہیں۔

یہ کہ تھانہ پشتہ خرہ کے SHO کا مران مردوت SI نے ہمارے سول مقدمات اور جائیداد کے لین دین میں غیر قانونی طور پر حصہ لیکر ہمارے مخالفین کے ساتھ ساز باز کر کے سائل کے ساتھ کافی نا انصافی کی ہے اور بے جا طور پر سائل کے خلاف 03 مقدمات جو کہ آرڈر مذکورہ بالا میں درج ہے دائر کئے جسمیں انکو اٹری ہو کر EO صاحب مقدمات کے تصیفہ از عدالت تک التواء میں رکھنے کی سفارش کی چونکہ صاحب موصوف SI اثر و رسوخ کا مالک ہے اس نے مجاز آفیسر کو مس گائیڈ کر کے مجھے سماعت و صفائی کا موقع دیئے بغیر مجھے ملازمت سے برطرف کر دیا گیا ہے۔ جو کہ سائل کے ساتھ سراسر نہ انصافی اور زیادتی ہے۔

سائل مکمل بے گناہ ہے اور بے جا طور پر یکے بعد دیگرے مختلف مقدمات میں گھسیٹ کر کے سائل کو تھانہ میں کافی تشدد بھی کی ہے۔ اور سائل کی بہت زیادہ بے عزتی بھی کی ہے۔ اس لیے درجہ بالا حقیقت کو پیش نظر رکھ کر سائل کو ملازمت پر دوبارہ بحال فرمائے اور ظالم SHO اہلکاروں کے خلاف قانونی کارروائی کرنے کا حکم صادر فرما کر مشکور فرمائیں۔ عمر بھر ڈعا گور ہو نگا۔

العارض



آپکا تابعدار سابقہ IHC نصیر اللہ نمبر 3934

رابطہ نمبر 0315-9254855 | 0308-8018151

مورخہ 14.12.2020



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

(48)

No. S/ _____ /21, dated Peshawar the 11/07/2021.

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Ex-IHC Naseer Ullah No. 3934. The petitioner was dismissed from service by Senior Supdt: of Police, Operations, Peshawar vide order Endst: No. 2419-24/PA, dated 21.10.2020 on the allegations that he while posted to American Consulate at Peshawar was involved in criminal cases vide FIR No. 817, dated 17.06.2020 u/s 447/506/148/149 PPC, FIR No. 818, dated 17.06.2020 u/s 506/186/34/15-AA PPC and FIR No. 823, dated 20.06.2020 u/s 447/448/188/506/34 PPC Police Station Pishtakhara, Peshawar. Besides, he also resisted his lawful arrest and scuffled with the then SHO Police Station Pishtakhara. His appeal was rejected by Capital City Police Officer, Peshawar vide order Endst: No. 1554-61/PA, dated 10.12.2020.

Meeting of Appellate Board was held on 22.06.2021 wherein petitioner was heard in person. Petitioner contended that the allegations are baseless and he has dispute over land with his co-villagers which is under process in the court.

The petitioner was involved in three (03) criminal cases of land grabbing, interference in government affairs and criminal intimidation. During hearing, petitioner failed to advance any plausible explanation in rebuttal of the charges. The Board see no ground and reasons for acceptance of his petition, therefore, the Board decided that his petition is hereby rejected.

Sd/-

KASHIF ALAM, PSP

Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar.

No. S/ 3067-73 /21,

Copy of the above is forwarded to the:

1. Capital City Police Officer, Peshawar. One Service Roll, one Fauji Missal and one original enquiry file (61-pages) of the above named Ex-IHC received vide your office Memo: No. 3421/EC-II, dated 17.02.2021 is returned herewith for your office record.
2. Senior Supdt: of Police, Operations, Peshawar.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

(IRFAN ULLAH KHAN) PSP
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

Code No.

FSL = 04

Answer
(E)

COMBINED SET
OF
F. R. & S. R.
VOLUMES I & II

(45)

APPLICABLE TO THE FEDERAL CIVIL SERVANTS IN PAKISTAN

With Model Questions & Answers

by

HAMID ALI
(M.A., M.Ed., LL.B.)

ZAKA ALI
(ADVOCATE HIGH COURT)

REVISED EDITION

2008

Attended
by

THE IDEAL PUBLISHERS
POST BOX NO. 3514, KARACHI - 74800

PRICE Rs. 450.00

46

CHAPTER VIII. - DISMISSAL, REMOVAL AND SUSPENSION

F. R. 52. The pay and allowances of a Government servant who is dismissed or removed from service cease from the date of such dismissal or removal.

F. R. 53. A Government servant under suspension is entitled to the following payments:-

- (a) In the case of [an employee of the Armed Forces] who is liable to revert to Military duty, to the pay and allowances to which he would have been entitled had he been suspended while in military employment.
- ²[(b) In the case of a Government servant under suspension, other than that specified in clause (a), he shall be entitled to full amount of his salary and all other benefits and facilities provided to him under the contract of service, during the period of his suspension.]

Government decision -

It has been decided that the rate of the subsistence grant payable to suspended Government servants governed by F.R. 53(b) shall be enhanced from one-third to one-half of the pay of the suspended Government servant.

A doubt has been raised as to whether, in the case of a Government servant who has been suspended while on leave, the subsistence grant should be calculated with reference to his leave salary or with reference to his pay. Attention in this connection is invited to F.R. 55, which prohibits grant of leave to Government servants under suspension. Such a Government servant, therefore, ceases to be on leave as soon as he is placed under suspension, and the subsistence grant in his case also has to be calculated with reference to the pay which was admissible to him on the eve of the commencement of the leave.

These orders take effect from the 1st of December, 1969.

[G.P., M.F., O.M. No. F. 12(32)-R3/70, dated the 14th February, 1970.]

¹In F.R. 53, in clause (a) substituted by the S.R.O. 718(I)/93, 2nd August, 1993, Gaz. of Pak., Extra., Pt. II, P. No. 1339, Aug. 22, 1993.

²In F.R. 53, clause (b) substituted by the S.R.O. 1173 (I)/94, dt. 21-9-1994, Gaz. of Pak. Extra., Pt. II, dated 5th December, 1994.

*[F. R. m gr (a)

(b)

In a case will be treated

In a case spent on duty

Explanatory " or: " at (Efficiency and case and not.

97

A question arose as to which date viz., the date of first conviction or the date of conviction on retrial should be taken as the date of termination of the first final. It has been decided that in such case the date of termination of the first final should be the date of issue of the orders on retrial.

(D.G.,P & T's letter No. Eg. B-III 29/41, date the 25th September 1942.)

{**CSR 194-A:** A Government Servant who has been charged for a criminal offence or debt and is committed to prison shall be considered as under suspension from the date of his arrest. In case such a Government Servant is not arrested or is released on bail, the competent authority may suspen him, by specific order, if the charge agaisnt him is connected with his position as Governmetn Servant, or is likely to embarrass him in the discharge of his duties or involve moral turpitude. During suspension period the Government servant shall be entitled to the subsistence grant as admissible under "FR-53"}.

(CSR 194 subs and CSR 194-A omitted vide Finance Division S.R.O No.25(KE)/97, dated 4.2.1997)

Suspension of a Government servant accused of criminal offences.

Sl.No.4

In cases where Government servants are accused of criminal offences, frequent references are made to the Establishment Division on issues such as:

- (i) Whether, on their committal to prison, they are to be suspended by a specific order or their suspension is automatic;
- (ii) Whether or not on their release on bail after arrest, they can be reinstated in service;
- (iii) Whether their continued suspension requires approval of the authority after every three months.

2. The matter has been considered in the Establishment Division in consultation with the Law Division. It has been held that cases of the above nature are to be dealt with under Article 194 and 194-A of the Civil Service Regulations which are existing rules and which can not be over-ridden by administrative instructions contained in section IV of the Appendix-3 of Fundamental Rules and Supplementary Rules Vol.II.

48

3. In the context of the points mentioned in paragraph 1, the position that emerges from Article 194 and 194-A of CSR is explained below:-

- (a) A Government servant committed to prison either for debt or on a criminal charge should be considered as under suspension from the date of his arrest and until the termination of the proceedings against him i.e. his suspension is automatic from the date of arrest till termination of proceedings against him;
- (b) A Government servant against whom a criminal charge or proceeding for arrest for debt is pending should also be placed under suspension by the issue of specific orders to this effect during periods when he is not actually detained in custody or imprisoned (e.g. whilst released on bail) if the charge made or proceedings taken against him is connected with his position as a Government servant or is likely to embarrass him in discharge of his duties as such or involves moral turpitude; and
- (c) the requirement of obtaining approval of authority for extension of suspension period after every 3 months laid down in Government Servants (Efficiency and Discipline) Rules, 1973 applies to suspension ordered under these rules. Articles 194 or 194-A do not mention any such requirement.

4. In view of the position stated above, the answers to the queries mentioned in Para 1 are as follows seriatim:-

- (i) suspension under Article 194 is automatic. Suspension under Article 194-A requires specific approval of the competent authority;
- (ii) in the light of what is stated in the preceding paragraph, the competent authority can, in case the accused official is no longer detained in custody, reinstate him in service unless it like him to continue to be under suspension on the consideration that the charges against him are connected with his position as a Government servant or is likely to embarrass him in the discharge of his duties as such or involve moral turpitude. From the date of reinstatement onwards, the Government servant will no doubt be paid full pay. However adjustment of allowances for the period he remained under suspension will be made as Article 194 and 194-A envisage after the termination of the proceedings;

Handwritten signature

(44)

- (iii) approval of competent authority for suspension under Article 194 or 194-A is not required after every 3 months.

5. With reference to (i) and (ii) in the preceding paragraph, the following administrative instructions may also be followed:-

- (a) a report may be made immediately to the "competent authority" whenever a person is committed to prison and is considered to be under suspension under article 194 CSR in order to ensure that the competent authority remains in touch with the position of the official and his case; the fact of suspension may also be notified under advice to all concerned including the audit authorities in terms of Article-194 CSR; and
- (b) a report on the progress of the criminal case leading to the suspension of a Government servant under Article 194 or 194-A. CSR, as the case may be, be submitted to the authorized officer every three months for his information to ensure that he remains in touch with the position of the official and his case.

6. The O.M, issues with the concurrence of the Ministry of Finance.

[Authority:-O.M No.4/12/74-DI, dated the 10th March, 1980]

Detention of Government Servants under the Public Safety Acts.

Sl.No.5

A question has arisen whether an employee of the Federal Government who is detained in prison for a period of time under the provisions of the Sind Maintenance of Public Safety Act, 1948 or a similar enactment and is released without any trial, loses his service under the Government and whether such a person is entitled to any leave salary or subsistence allowance for the period he remained under detention. As some doubts seemed to exist in the matter, the question has been fully considered in consultation with the Law Division and it has been decided that the following procedure should be adopted to regulate cases of detention in prison and subsequent acquittal or conviction:-

- (i) As soon as it comes to notice that an employee has been detained in prison, action should be taken to place him under suspension, the period of the employee's detention *[should be treated as period spent under] committal to prison within the meaning of

Ally
Dy

L

(S)

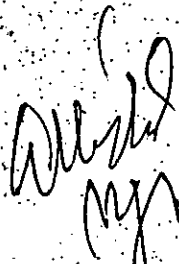
POLICE RULES 1934

(Vols. I, II & III)

With
POLICE ORDER, 2002

By

SHAHID HUSSAIN QADRI
Advocate Supreme Court-High Court



**Mansoor
Book**



7245991
7355418

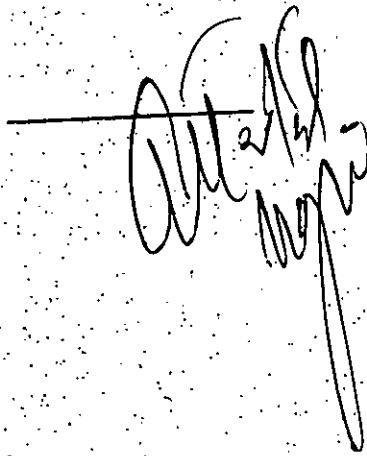
House Katchery Road, Lahore

52

**POLICE RULES
1934**

CONTENTS

| | |
|--|--------|
| 1. Police Order, 2002 | 5--96 |
| 2. Police Rules, 1934 (Vol. I) | 1--480 |
| 3. Police Rules, 1934 (Vol. II) | 1--254 |
| 4. Police Rules, 1934 (Vol. III) | 1--408 |
| 5. INDEX | 1--113 |



isher]

rs,

3

CHAPTER XVII
OFFENCES BY AND PUNISHMENTS
FOR POLICE OFFICERS

155. Penalty for certain types of misconduct by police officers : (1) Any police officer who--

- (a) makes for obtaining release from service as police officer, a false statement or a statement which is misleading in material particulars or uses a false document for the purpose;
- (b) is guilty of cowardice, or being a police officer of junior rank, resigns his office or withdraws himself from duties without permission;
- (c) is guilty of any wilful breach or neglect of any provision of law or of any rule or regulation or any order which he is bound to observe or obey;
- (d) is guilty of any violation of duty;
- (e) is found in a state of intoxication, while on duty;
- (f) malingers or feigns or voluntarily causes hurt to himself with the intention to render himself unfit for duty;
- (g) is grossly insubordinate to his superior officer or uses criminal force against a superior officer; or
- (h) engages himself or participates in any demonstration, procession or strike or resorts to or in any way abets any form of strike or coercion or physical duress to force any authority to concede anything.

Amended

shall, on conviction, for every such offence be punished within imprisonment for a term which may extend to three years and with fine.

(2) Prosecution under this Article shall require a report on writing by an officer authorized in this behalf under the rules 40 [to be made by the Government].

156. Penalty for vexatious entry, search, arrest, seizure of property, torture, etc. : Whoever, being a police officer-

- (a) without lawful authority, or reasonable cause, enters or searches or causes to be entered or searched any building, vessel, tent or place;
- (b) vexatiously and unnecessarily seizes the property of any person;

40. Words added by the Police Order (Amendment) Ordinance, IV of 2006.

d in this
st half of

ver shall
ll, tank,
n, nullah
the same
onviction
nd to six
l rupees,

gives or
or to any
ned with
s or with
both.

e under
ention of
tion, be
onths, or
both.

orm : If
without
ving the
f police
isonment
ip to one

nt : Any
enquiry
olous or
ment for
thousand

standing
icles 148

rt trying
offences
own for

PUNISHMENTS

Chap. XVI

89

A Deputy Inspector-General may prohibit by special order a Superintendent officiating in a vacancy of less than six months' duration from carrying out an award made by him of dismissal, reduction, stoppage of increment, or forfeiture of approved service for increment unless and until such award has been confirmed by him.

The Assistant Superintendent Government Railway Police, and (except in cases where the offenders are sergeants) Deputy Superintendents in charge of Railway Police Sub-Divisions exercise the full disciplinary powers of a Superintendent of Police in respect of the provisions of this Chapter, within the limits prescribed in the above Table.

(3) For the purposes of these rules, the term "major punishment" shall be held to mean any authorized punishment of reduction, withholding of increments, forfeiture of approved service, dismissal and every judicial conviction on a criminal charge.

The term "minor punishment" shall mean all other authorized punishments.

16.2. Dismissal : (1) Dismissal shall be awarded only for the gravest acts of misconduct or as the cumulative effect of continued misconduct proving incorrigibility and complete unfitness for police service. In making such an award regard shall be had to the length of service of the offender and his claim to pension.

(2) An enrolled police officer sentenced judicially to rigorous imprisonment exceeding one month or to any other punishment not less severe, shall, if such sentence is not quashed on appeal or revision, be dismissed. An enrolled police officer sentenced by a criminal Court to a punishment of fine or simple imprisonment, or both, or to rigorous imprisonment not exceeding one month, or who, having been proclaimed under Section 87 of the Code of Criminal Procedure, fails to appear within the statutory period of thirty days, may be dismissed or otherwise dealt with at the discretion of the officer empowered to appoint him. Final departmental orders in such cases shall be postponed until the appeal or revision proceedings have been decided, or until the period allowed for filing an appeal has lapsed without appellate or revisionary proceedings having been instituted. Departmental punishments under this rule shall be awarded in accordance with the powers conferred by Rule 16.1.

(3) When a police officer is convicted judicially and dismissed, or dismissed as a result of a departmental enquiry, in consequence of corrupt practices, the conviction and dismissal and its cause shall be published in the Police Gazette. In other cases of dismissal when it is desired to ensure that the officer dismissed shall not be re-employed elsewhere, a full descriptive roll, with particulars of the punishments, shall be sent for publication in the Police Gazette.

16.3. Action following on a judicial acquittal : (1) When a Police Officer has been tried and acquitted by a criminal Court he shall not be punished departmentally on the same charge or on a different charge based upon the evidence cited in the criminal case, whether actually led or not, unless:-

| | Inspectors. | Sub-Inspectors. |
|--|-------------|-----------------|
| exceeding 10 days. | "" | "" |
| 9. Punishment drill not exceeding 10 days. | "" | "" |
| 10. Punishment drill not exceeding 3 days. | "" | "" |

Handwritten signature

GOVERNMENT OF THE KHYBER PAKHTUNKHWA
ESTABLISHMENT AND ADMINISTRATION DEPARTMENT.

NOTIFICATION

Peshawar dated the 16th September, 2011.

58

No.SO(REG-VDE&AD/2-6/2010. -In exercise of the powers conferred by section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), the Chief Minister of the Khyber Pakhtunkhwa is pleased to make the following rules, namely:

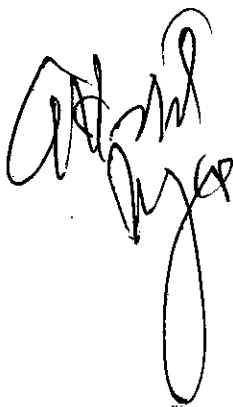
1. Short title, application and commencement.—(1) These rules may be called the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

(2) These shall apply to every person who is a member of the civil service of the Province or is the holder of a civil post in connection with the affairs of the Province and shall also apply to or in relation to a person in temporary employment in the civil service or post in connection with affairs of the Province.

(3) These shall come into force at once.

2. Definitions.—(1) In these rules, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say-

- (a) "accused" means a person in Government service against whom action is initiated under these rules;
- (b) "appellate authority" means the authority next above the competent authority to which an appeal lies against the orders of the competent authority;
- (c) "appointing authority" means an authority declared or notified as such by an order of Government under the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973) and the rules made thereunder or an authority as notified under the specific laws/rules of Government;
- (d) "charges" means allegations framed against the accused pertaining to acts of omission or commission cognizable under these rules;



3

(e) "Chief Minister" means the Chief Minister of the Khyber Pakhtunkhwa;

(f) "competent authority" means-

- (i) the respective appointing authority;
- (ii) in relation to a Government servant of a tribunal or court functioning under Government, the appointing authority or the Chairman or presiding officer of such tribunal or court, as the case may be, authorized by the appointing authority to exercise the powers of the competent authority under these rules:

Provided that where two or more Government servants are to be proceeded against jointly, the competent authority in relation to the accused Government servant senior most shall be the competent authority in respect of all the accused.

(g) "corruption" means-

- (i) accepting or obtaining or offering any gratification or valuable thing, directly or indirectly, other than legal remuneration, as a reward for doing or for bearing to do any official act; or
- (ii) dishonestly or fraudulently misappropriating, or indulging in embezzlement or misusing Government property or resources; or
- (iii) entering into plea bargain under any law for the time being in force and returning the assets or gains acquired through corruption or corrupt practices voluntarily; or
- (iv) possession of pecuniary sources or property by a Government servant or any of his dependents or any other person, through his or on his behalf, which cannot be accounted for and which are disproportionate to his known sources of income; or
- (v) maintaining a standard of living beyond known sources of income; or
- (vi) having a reputation of being corrupt;

Attest
Mys

- 57
- (h) "Governor" means the Governor of the Khyber Pakhtunkhwa;
 - (i) "inefficiency" means failure to efficiently perform functions assigned to a Government servant in the discharge of his duties;
 - (j) "inquiry committee" means a committee of two or more officers, headed by a convener, as may be appointed by the competent authority under these rules;
 - (k) "inquiry officer" means an officer appointed by the competent authority under these rules;
 - (l) "misconduct" includes-
 - (i) conduct prejudicial to good order or service discipline; or
 - (ii) conduct contrary to the Khyber Pakhtunkhwa Province Government Servants (Conduct) Rules, 1987, for the time being in force; or
 - (iii) conduct unbecoming of Government servant and a gentleman; or
 - (iv) involvement or participation for gains, directly or indirectly, in industry, trade, or speculative transactions by abuse or misuse of official position to gain undue advantage or assumption of such financial or other obligations in relation to private institutions or persons as may compromise the performance of official duties or functions; or
 - (v) any act to bring or attempt to bring outside influence, directly or indirectly, to bear on the Governor, the Chief Minister, a Minister or any other Government officer in respect of any matter relating to the appointment, promotion, transfer or other conditions of service; or
 - (vi) making appointment or promotion or having been appointed or promoted on extraneous grounds in violation of any law or rules; or
 - (vii) conviction for a moral offence by a court of law.

(2) Words and expressions used but not defined in these rules shall have the same meanings as are assigned to them in the Khyber Pakhtunkhwa Province Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973) or any other statutory order or rules of Government for the time being in force.

3. **Grounds for proceedings.**---A Government servant shall be liable to be proceeded against under these rules, if he is-

- (a) inefficient or has ceased to be efficient for any reason; or
- (b) guilty of misconduct; or
- (c) guilty of corruption; or
- (d) guilty of habitually absenting himself from duty without prior approval of leave; or
- (e) engaged or is reasonably believed to be engaged in subversive activities, or is reasonably believed to be associated with others engaged in subversive activities, or is guilty of disclosure of official secrets to any un-authorized person, and his retention in service is prejudicial to national security; or
- (f) entered into plea bargaining under any law for the time being in force and has returned the assets or gains acquired through corruption or corrupt practices voluntarily.

4. **Penalties.**---(1) The following are the minor and the major penalties, namely:

(a) Minor penalties:

- (i) censure;
- (ii) withholding, for a specific period, promotion or increment subject to a maximum of three years, otherwise than for unfitness for promotion or financial advancement, in accordance with the rules or orders pertaining to the service or post:

Provided that the penalty of withholding increments shall not be imposed on a Government servant who has reached the maximum of his pay scale:

- (iii) recovery of the whole or any part of any pecuniary loss caused to Government by negligence or breach of order;

(b) Major penalties:

- (i) reduction to a lower post or pay scale or to a lower stage in a time scale.

- 59
- (ii) compulsory retirement;
 - (iii) removal from service; and
 - (iv) dismissal from service.

(2) Dismissal from service under these rules shall disqualify a Government servant from future employment under Government.

(3) Any penalty under these rules shall not absolve a Government servant from liability to any other punishment to which he may be liable for an offence, under any other law, committed by him while in service.

5. Initiation of proceedings.---(1) If on the basis of its own knowledge or information placed before it, the competent authority is of the opinion that there are sufficient grounds for initiating proceedings against a Government servant under these rules it shall either:-

- (a) proceed itself against the accused by issuing a show cause notice under rule 7 and, for reasons to be recorded in writing, dispense with inquiry:

Provided that no opportunity of showing cause or personal hearing shall be given where-

- (i) the competent authority is satisfied that in the interest of security of Pakistan or any part thereof, it is not expedient to give such an opportunity; or
 - (ii) a Government servant has entered into plea bargain under any law for the time being in force or has been convicted on the charges of corruption which have led to a sentence of fine or imprisonment; or
 - (iii) a Government servant is involved in subversive activities; or
 - (iv) it is not reasonably practicable to give such an opportunity to the accused; or
- (b) get an inquiry conducted into the charge or charges against the accused, by appointing an inquiry officer or an inquiry committee, as the case may be, under rule 11:

Provided that the competent authority shall dispense with the inquiry where-

64

- (i) a Government servant has been convicted of any offence other than corruption by a court of law under any law for the time being in force; or
- (ii) a Government servant is or has been absent from duty without prior approval of leave:

Provided that the competent authority may dispense with the inquiry where it is in possession of sufficient documentary evidence against the accused or, for reasons to be recorded in writing, it is satisfied that there is no need to hold an inquiry.

(2) The charge sheet or statement of allegations or the show cause notice, as the case may be, shall be signed by the competent authority.

6. **Suspension.**—A Government servant against whom action is proposed to be initiated under rule 5 may be placed under suspension for a period of ninety days, if in the opinion of the competent authority, suspension is necessary or expedient, and if the period of suspension is not extended for a further period of ninety days within thirty days of the expiry of initial period of suspension, the Government servant shall be deemed to be reinstated:

Provided that the competent authority may, in appropriate case, for reasons to be recorded in writing, instead of placing such person under suspension, require him to proceed on such leave as may be admissible to him, from such date as may be specified by the competent authority.

7. **Procedure where inquiry is dispensed with.**—If the competent authority decides that it is not necessary to hold an inquiry against the accused under rule 5, it shall-

- (a) inform the accused by an order in writing, of the grounds for proceeding against him, clearly specifying the charges therein, alongwith apportionment of responsibility and penalty or penalties proposed to be imposed upon him;
- (b) give him a reasonable opportunity of showing cause against the proposed action, within seven days of receipt of the order or within such extended period, as the competent authority may determine;
- (c) on receipt of reply of the accused within the stipulated period or after the expiry thereof, if no reply is received, determine whether

Albert
My

the charge or charges have been proved against the accused or not:

(59)

Provided that after receipt of reply to the show cause notice from the accused, the competent authority, except where the Chief Minister himself is the competent authority, shall decide the case within a period of ninety days, excluding the time during which the post held by the competent authority remained vacant due to certain reasons:

Provided further that if the case is not decided by the competent authority within the prescribed period of ninety days, the accused may file an application before the appellate authority for early decision of his case, which may direct the competent authority to decide the case within a specified period;

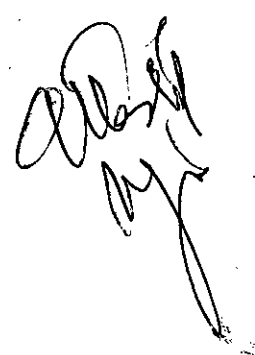
- (d) afford an opportunity of personal hearing before passing any order of penalty under clause (f), if it is determined that the charge or charges have been proved against him;
- (e) exonerate the accused, by an order in writing, if it is determined that the charge or charges have not been proved against him; and
- (f) impose any one or more penalties mentioned in rule 4, by an order in writing, if the charge or charges are proved against the accused:

Provided that where charge or charges of grave corruption are proved against an accused, the penalty of dismissal from service shall be imposed, in addition to the penalty of recovery, if any.

8. Action in case of conviction or plea bargain under any law.—Where a Government servant is convicted by a court of law on charges of corruption or moral turpitude or has entered into plea bargain and has returned the assets or gains acquired through corruption or corrupt practices, or has been acquitted by a court of law as a result of compounding of an offence involving moral turpitude under any law for the time being in force, the competent authority, after examining facts of the case, shall-

- (a) dismiss the Government servant where he has been convicted on charges of corruption or moral turpitude or has entered into plea bargain and has returned the assets or gains acquired through corruption or corrupt practices voluntarily:

Provided that dismissal in these cases shall be with immediate effect from the date of conviction by a court of law; and



(57)

- (b) proceed against the Government servant under rule 5, where he has been convicted of charges other than corruption or moral turpitude.

9. **Procedure in case of wilful absence.**—Notwithstanding anything to the contrary contained in these rules, in case of wilful absence from duty by a Government servant for seven or more days, a notice shall be issued by the competent authority through registered acknowledgement on his home address directing him to resume duty within fifteen days of issuance of the notice. If the same is received back as undelivered or no response is received from the absentee within stipulated time, a notice shall be published in at least two leading newspapers directing him to resume duty within fifteen days of the publication of that notice, failing which an ex-parte decision shall be taken against the absentee. On expiry of the stipulated period given in the notice, major penalty of removal from service may be imposed upon such Government servant.

10. **Procedure to be followed by competent authority where inquiry is necessary.**—(1) If the competent authority decides that it is necessary to hold an inquiry against the accused under rule 5, it shall pass an order of inquiry in writing, which shall include-

- (a) appointment of an inquiry officer or an inquiry committee, provided that the inquiry officer or the inquiry committee, as the case may be, shall be of a rank senior to the accused and where two or more accused are proceeded against jointly, the inquiry officer or the convener of the inquiry committee shall be of a rank senior to the senior most accused;
- (b) the grounds for proceeding, clearly specifying the charges along with apportionment of responsibility;
- (c) appointment of the departmental representative by designation; and
- (d) direction to the accused to submit written defense to the inquiry officer or the inquiry committee, as the case may be, within reasonable time which shall not be less than seven days and more than fifteen days of the date of receipt of orders.

(2) The record of the case and the list of witnesses, if any, shall be communicated to the inquiry officer or the inquiry committee, as the case may be, along with the orders of inquiry.

(3) In a case where preliminary or fact finding inquiry was conducted, and the competent authority decides to hold formal inquiry, the inquiry officer or the inquiry committee for the purpose of conducting formal inquiry shall be different from the inquiry officer or the inquiry committee which conducted the preliminary inquiry.

Adm
app

63

11. Procedure to be followed by inquiry officer or inquiry committee.---(1) On receipt of reply of the accused or on expiry of the stipulated period, if no reply is received from the accused, the inquiry officer or the inquiry committee, as the case may be, shall inquire into the charges and may examine such oral or documentary evidence in support of the charges or in defense of the accused as may be considered necessary and where any witness is produced by one party, the other party shall be entitled to cross-examine such witness.

(2) If the accused fails to furnish his reply within the stipulated period, the inquiry officer or the inquiry committee, as the case may be, shall proceed with the inquiry ex-parte.

(3) The inquiry officer or the inquiry committee, as the case may be, shall hear the case on day to day and no adjournment shall be given except for reasons to be recorded in writing, in which case it shall not be of more than seven days.

(4) Statements of witnesses and departmental representative(s), if possible, will be recorded in the presence of accused and vice versa.

(5) Where the inquiry officer or the inquiry committee, as the case may be, is satisfied that the accused is hampering or attempting to hamper the progress of the inquiry, he or it shall administer a warning and if, thereafter, he or it is satisfied that the accused is acting in disregard to the warning, he or it shall record a finding to that effect and proceed to complete the inquiry in such manner as may be deemed expedient in the interest of justice.

(6) If the accused absents himself from the inquiry on medical grounds, he shall be deemed to have hampered or attempted to hamper the progress of the inquiry, unless medical leave, applied for by him, is sanctioned on the recommendations of a Medical Board; provided that the competent authority may, in its discretion, sanction medical leave up to seven days without such recommendations.

(7) The inquiry officer or the inquiry committee, as the case may be, shall submit his or its report, to the competent authority within thirty days of the initiation of inquiry:

Provided that the inquiry shall not be vitiated merely on the grounds of non-observance of the time schedule for completion of the inquiry.

12. Powers of the inquiry officer or inquiry committee.---(1) For the purpose of an inquiry under these rules, the inquiry officer or the inquiry committee, as the case may be, shall have the powers of a Civil Court trying a suit under the Code of Civil Procedure, 1908 (Act No.V of 1908), in respect of the following matters, namely:

- (a) summoning and enforcing the attendance of any person and examining him on oath;

[Handwritten signature]

64

- (b) requiring the discovery and production of documents, and receiving evidence on affidavits; and
- (c) issuing commissions for the examination of witnesses or documents.

(2) The proceedings under these rules shall be deemed to be the judicial proceedings within the meaning of sections 193 and 228 of the Pakistan Penal Code, 1860 (Act No. XLV of 1860).

13. Duties of the departmental representative.—The departmental representative shall perform the following duties, namely:

- (a) render full assistance to the inquiry officer or the inquiry committee, as the case may be, during the proceedings where he shall be personally present and fully prepared with all the relevant record relating to the case, on each date of hearing;
- (b) cross-examine the witnesses produced by the accused, and with the permission of the inquiry officer or inquiry committee, as the case may be, may also cross-examine the prosecution witnesses; and
- (c) rebut the grounds of defense offered by the accused before the inquiry officer or the inquiry committee, as the case may be.

14. Order to be passed on receipt of report from the inquiry officer or inquiry committee.—(1) On receipt of report from the inquiry officer or inquiry committee, as the case may be, the competent authority, shall examine the report and the relevant case material and determine whether the inquiry has been conducted in accordance with the provisions of these rules.

(2) If the competent authority is satisfied that the inquiry has been conducted in accordance with the provisions of these rules, it shall further determine whether the charge or charges have been proved against the accused or not.

(3) Where the charge or charges have not been proved, the competent authority shall exonerate the accused by an order in writing, or it shall follow the procedure as given in sub-rule (6) of this rule.

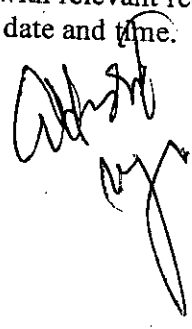
(4) Where the charge or charges have been proved against the accused, the competent authority shall issue a show cause notice to the accused by which it shall-

- (a) Inform him of the charges proved against him and the penalty or penalties proposed to be imposed upon him;

Handwritten signature/initials

(65)

- (b) give him reasonable opportunity of showing cause against the penalty or penalties proposed to be imposed upon him and to submit as to why one or more of the penalties as provided in rule 4 may not be imposed upon him and to submit additional defense in writing, if any, within a period which shall not be less than seven days and more than fifteen days from the day the charge or charges have been communicated to him: provided that the accused shall, in his reply to show cause notice, indicate as to whether he wants to be heard in person or not;
 - (c) Provide a copy of the inquiry report to the accused; and
 - (d) Direct the departmental representative to appear, with all the relevant record, on the date of hearing.
- (5) After affording personal hearing to the accused the competent authority shall, keeping in view the findings and recommendations of the inquiry officer or inquiry committee, as the case may be, facts of the case and defense offered by the accused during personal hearing, by an order in writing-
- (i) Exonerate the accused if charges had not been proved; or
 - (ii) Impose any one or more of the penalties specified in rule 4 if charges have been proved.
- (6) Where the competent authority is satisfied that the inquiry proceedings have not been conducted in accordance with the provisions of these rules or the facts and merits of the case have been ignored or there are other sufficient grounds, it may, after recording reasons in writing, either remand the inquiry to the inquiry officer or the inquiry committee, as the case may be, with such directions as the competent authority may like to give, or may order a de novo inquiry through different inquiry officer or inquiry committee.
- (7) After receipt of reply to the show cause notice and affording opportunity of personal hearing, the competent authority shall decide the case within a period of fifteen days, excluding the time during which the post held by the competent authority remained vacant due to certain reasons.
- (8) If the case is not decided by the competent authority within the prescribed period of fifteen days, the accused may submit an application before the appellate authority for early decision of his case, which may direct the competent authority to decide the case within a specified period.
15. **Personal hearing.**—The competent authority may, by an order in writing, call the accused and the departmental representative, alongwith relevant record of the case, to appear before him, for personal hearing on the fixed date and time.



66

16. Procedure of inquiry against Government servant lent to other governments or organizations etc.---(1) Where the services of Government servant to whom these rules apply are transferred or lent to any other government department, corporation, corporate body, autonomous body, authority, statutory body or any other organization or institution, hereinafter referred to as the borrowing organization, the competent authority for the post against which such Government servant is posted in the borrowing organization may-

- (a) Suspend him under rule 6; and
- (b) Initiate proceedings against him/her under these rules:

Provided that the borrowing organization shall forthwith inform the authority which has lent his services, (hereinafter referred to as the lending organization) of the circumstances leading to the order of his suspension or the initiation of the proceedings, as the case may be:

Provided further that the borrowing organization shall obtain prior approval of the competent authority in the lending organization before taking any action under these rules against a Government servant holding a post in basic pay scale 17 or above.

Handwritten initials and signature on the left margin.

(2) If, in the light of findings of the proceedings taken against the accused in terms of sub rule (1), the borrowing organization is of the opinion that a penalty may have to be imposed on him, it shall transmit the record of the proceedings to the lending organization, and the competent authority in the lending organization shall thereupon take action against the accused under rule 14.

(3) Notwithstanding anything to the contrary contained in sub-rules (1) and (2), the Chief Minister may, in respect of certain Government servant or class of Government servants to whom these rules apply, authorize any officer or authority in the borrowing organization to exercise all the powers of the competent authority under these rules.

17. Departmental appeal and review.---(1) An accused who has been awarded any penalty under these rules may, within thirty days from the date of communication of the order, prefer departmental appeal to the appellate authority:

Provided that where the order has been passed by the Chief Minister, the accused may, within the aforesaid period, submit a review petition directly to the Chief Minister.

(2) The authority empowered under sub-rule (1) shall call for the record of the case and comments on the points raised in the appeal from the concerned

67

department or office, and on consideration of the appeal or the review petition, as the case may be, by an order in writing-

- (a) Uphold the order of penalty and reject the appeal or review petition; or
- (b) Set aside the orders and exonerate the accused; or
- (c) Modify the orders or reduce the penalty.

(3) An appeal or review petition preferred under these rules shall be made in the form of a petition, in writing, and shall set forth concisely the grounds of objection in impugned order in a proper and temperate language.

18. **Appearance of counsel.**--No party to any proceedings under these rules at any stage of the proceedings, except proceedings under rule 19, shall be represented by an advocate.

19. **Appeal before Khyber Pakhtunkhwa Province Service Tribunal.**--(1) Notwithstanding anything contained in any other law or rules for the time being in force, any Government servant aggrieved by any final order passed under rule 17 may, within thirty days from the date of communication of the order, prefer an appeal to the Khyber Pakhtunkhwa Province Service Tribunal established under the Khyber Pakhtunkhwa Province Service Tribunals Act, 1974 (Khyber Pakhtunkhwa Act No. I of 1974).

(2) If a decision on a departmental appeal or review petition, as the case may be, filed under rule 17 is not communicated within a period of sixty days of filing thereof, the affected Government servant may file an appeal in the Khyber Pakhtunkhwa Province Service Tribunal within a period of thirty days of the expiry of the aforesaid period, whereafter, the authority with whom the departmental appeal or review petition is pending, shall not take any further action.

20. **Exception.**--Notwithstanding anything to the contrary contained in these rules, in cases where Government servants collectively strike work, wilfully absent themselves from duty or abandon their official work, the competent authority in respect of the senior most accused may serve upon them, through newspapers or any other mean, such notice as may be deemed appropriate to resume duty and in the event of failure or refusal to comply with the directive contained in the notice, impose upon the defaulting Government servants any of the major penalties prescribed in these rules.

21. **Indemnity.**--No suit, prosecution or other legal proceedings shall lie against the competent authority or any other authority for anything done or intended to be done in good faith under these rules or the instructions or directions made or issued there-under.

68

22. **Jurisdiction barred.**—Save as provided under these rules, no order made or proceedings taken under these rules shall be called in question in any court and no injunction shall be granted by any court in respect of any decision so made or proceedings taken in pursuance of any power conferred by, or under these rules.

23. **Repeal.**—(1) The Khyber Pakhtunkhwa government servants (Efficiency & Discipline) Rules, 1973 are hereby repealed.

(2) Notwithstanding the repeal of the aforesaid rules, all proceedings pending immediately before the commencement of these rules against any Government servant under repealed rules shall continue under these rules.

(3) Notwithstanding the repeal of the aforesaid rules, all proceedings pending immediately before the commencement of these rules against any employee under the said repealed rules or under the Khyber Pakhtunkhwa Civil Servants Act, 1973 and rules made thereunder, or any other law and rules shall continue under that law and rules, in the manner provided thereunder.

SECRETARY TO
GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT.

Handwritten signature
Eyo

(59)

GOVERNMENT OF THE KHYBER PAKHTUNKHWA
ESTABLISHMENT AND ADMINISTRATION DEPARTMENT.

NOTIFICATION

Peshawar dated the 18th July, 2012.

No.SO(REG-VI)E&AD/2-6/2010.-In exercise of the powers conferred by section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), the Chief Minister of the Khyber Pakhtunkhwa is pleased to direct that in the Khyber Pakhtunkhwa (Efficiency & Discipline) Rules,2011, the following amendments shall be made, namely:

AMENDMENTS

1. In rule 4, in sub rule (1), in clause (b), for sub-clause (i), the following shall be substituted, namely:

“(i) reduction to a lower post of pay scale or to a lower stage in a time scale for a maximum period of five years:

Provided that on restoration to original pay scale or post, the penalized Government servant will be placed below his erstwhile juniors promoted to higher posts during subsistence of the period of penalty;”

2. In rule 8, in clause (a), in the proviso, the word “immediate Committee”, occurring second time, the words “subject to sub-rule (7) of rule 11” shall be added.
3. In rule 14, in sub-rule (6), after the words “Inquiry Committee”, occurring second time, the words “subject to sub-rule (7) of rule 11” shall be added.
4. In rule 19, in sub-rule (2), for the word “thirty”, the word “ninety” shall be substituted.
5. Rule 22 shall be deleted.

CHIEF SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA

56

- (iii) in section 1, in sub-section (1) and in sub-section (2), for the words and hyphen, "North-West Frontier Province", "Sarhad", "Frontier" and for letters, dots and hyphen, "N.-W.F.P", wherever occurring, the words "Khyber Pakhtunkhwa" or the words "Province of the Khyber Pakhtunkhwa", as the case may be, shall be substituted; and
- (iv) in any other section, for the words and hyphen, "North-West Frontier Province", "Sarhad", "Frontier" and for letters, dots and hyphen, "N.-W.F.P", as the case may be, wherever occurring, the words, "Khyber Pakhtunkhwa", shall be substituted; and

(b) In the rules, regulations, notifications, orders, bye-laws, issued or framed under the provisions of any Act or Ordinance or any other legal instrument of the works and hyphen, "North-West Frontier Province", "Sarhad", "Frontier" and for letters, dots and hyphen, "N.-W.F.P", as the case may be, where ever occurring, the words "Khyber Pakhtunkhwa", shall be substituted.

Police Rules, 1975

[Gazette of Khyber Pakhtunkhwa, Extraordinary, 27th January 1976]

No. SOS-III(S&GAD) 1-80/73-K ---. In exercise of the powers conferred under section 7 of Police Act 1861, the Government of Khyber Pakhtunkhwa, is pleased to make the following Rules, namely:-

1. Short title, commencement and application:-

- (i) These rules may be called the Police Rules, 1975.
- (ii) They shall come into force at once and shall apply to all Police Officers of and below the rank of Deputy Superintendent of Police.

2. Definitions:-

In these rules, unless the context otherwise requires:-

- (i) 'Accused' means a Police Officer against whom action is taken under these rules;
- (ii) 'Authority' means authority competent to award punishment as per Schedule
- (iii) 'Misconduct' means conduct prejudicial to good order of discipline in the Police Force, or contrary to Government Servants (Conduct) Rules or unbecoming of a Police Officer and a gentleman, any commission or omission which violates any of the provisions of law and rules regulating the function and duty of Police Officer to bring or attempt to bring political or other outside influence directly or indirectly to bear on the Government or any Government Officer in respect of any matter relating to the appointment, promotion, transfer, punishment, retirement or other conditions of service of a Police Officer.
- (iv) 'Punishment' means a punishment which may be imposed under these rules by authority as indicated in Schedule I.

3. Grounds of punishment.-

Where a Police Officer, in the opinion of the authority-

- a) Is inefficient or has ceased to be efficient; or
- b) Is guilty of misconduct; or
- c) Is corrupt or may reasonably be considered corrupt because-
- (i) He is or any of his dependents or any other person through him or on his behalf is, in possession (for which he cannot reasonably account) of pecuniary resources of property disproportionate to his known sources of income; or
- (ii) He has assumed a style of living beyond his ostensible means; or

- (iii) He has a persistent reputation of being corrupt; or
- (d) Is engaged Or is reasonably suspected of being engaged in subversive activities; or is reasonably suspected of being associated with others engaged in subversive activities or is guilty of disclosure of official secrets to any unauthorized person, and his retention in service is, therefore, prejudicial to national security, the authority may impose on him one or more punishments.

Handwritten signature

4. Punishments.-

1. The following are the minor and major punishments, namely:---

(a) Minor punishments-

- (i) Confinement of Constables and Head Constables for 15 days to Quarter Guards;
 - (ii) Censure;
 - (iii) Forfeiture of approved service* up to 2 years;
 - (iv) With holding of promotion up to one year;
 - (v) Stoppage of increment for a period not exceeding 3 years with or without cumulative effect;
- 3 [(iv) Fine up to Rs 15000/- as per schedule-I.]

(b) Major punishments-

- (i) Reduction in rank/pay;
- (ii) Compulsory retirement;
- (iii) Removal from service; and
- (iv) Dismissal from service.

72

2. (a) Removal from service does not but dismissal from service does, disqualify for future employment.
- (b) Reversion from an officiating rank is not a punishment.
3. In this rule, removal or dismissal from service does not include the discharge of a person.
 - (a) Appointed on probation, during the period of probation, or in accordance with the probation or training rules applicable to him; or
 - (b) Appointed, otherwise than under a contract, to hold a temporary appointment on the expiration of the period of appointment; or
 - (c) Engaged under a contract, in accordance with the terms of the contract.

*Admitted
myself*

4-A.

In case a Police Officer is accused of subversion, corruption or misconduct the Competent Authority may require him to proceed on leave or suspend him.

5. Punishment proceedings.-

The punishment proceedings will be of two kinds. I.e.

(a) Summary Police Proceedings and

(b) General Police Proceedings and the following procedure shall be observed when a Police Officer is proceeded against under these rules:---

- (1) When information of misconduct or any act of omission or commission on the part of a Police Officer liable for punishment provided in these rules is received by the authority, the authority, shall examine the information and may conduct or cause to be conducted quick brief inquiry if necessary, for proper evaluation of the information and shall decide whether the misconduct or the act of omission or commission referred to above should be dealt with in a Police Summary Proceedings in the Orderly Room or General Police Proceedings.
- (2) In case the authority decides that the misconduct is to be dealt with in Police Summary Proceedings, he shall proceed as under-
 - (i) The accused officer liable to be dealt with in the Police Summary Proceedings shall be

73

brought before the authority in an Orderly room.

- (ii) He shall be apprised by the authority orally the nature of the alleged misconduct, etc. The substance of his explanation for the same shall be recorded and if the same is found unsatisfactory, he will be awarded one of the minor punishments mentioned in these rules.
 - (iii) The authority conducting the Police Summary Proceedings may, if deemed necessary, adjourn them for a maximum period of 7 days to procure additional information.
- (3) If the authority decides that the misconduct or act of omission or commission referred to above should be dealt with in General Police Proceedings he shall proceed as under-
- a) The authority shall determine if in the light of facts of the case or in the interests of justice, a departmental inquiry, through an Inquiry Officer if necessary. If he decides that is not necessary; he shall-
 - b) By order in writing inform the accused of the action proposed to be taken in regard to him and the grounds of the action: and
 - c) Give him a reasonable opportunity of showing cause against that action: Provided that no such opportunity shall be given where the authority is satisfied that in the interest of security of Pakistan or any part thereof it is not expedient to give such opportunity.

(4)

If the authority decides that it is necessary to have departmental inquiry conducted, through an Inquiry Officer, he shall appoint for this purpose an Inquiry Officer, who is senior in rank to the accused.

(5)

On receipt of the findings of the Inquiry Officer or where no such officer is appointed, on receipt of the explanation of the accused, if any, the authority shall determine whether the charge has been proved or not. In case the charge is proved the authority shall award one or more of major or minor punishments as deemed necessary.

[Handwritten signature]

574

6.

Procedure of Departmental Inquiry:-

i. Where an Inquiry Officer is appointed the authority shall-

a. Frame a charge and communicate it to the accused together with statement of the allegations explaining the charge and of any other relevant circumstances which are proposed to be taken into consideration;

b. Require the accused within 7 days from the day the charge has been communicated to him to put in a

written defence and to state at the same time whether he desires to be heard in person;

- ii. The Inquiry Officer shall inquire into the charge and may examine such oral or documentary evidence in support of the charge or in defence of the accused as may be considered necessary and the witnesses against him.
- iii. The Inquiry Officer shall hear the case from day to day and no adjournment shall be given except for reasons to be recorded in writing and where any adjournment is given,
 - a. It shall not be more than a week; and
 - b. The reasons therefore shall be reported forthwith to the authority.
- iv. Where the Inquiry Officer is satisfied that the accused is hampering, or attempting to hamper the progress of the inquiry he shall administer a warning and if thereafter he is satisfied that the accused is acting in disregard of the warning, he shall record a finding to that effect and proceed to complete the departmental inquiry ex parte.
- v. The Inquiry Officer shall within 10 days of the conclusion of the proceedings or such longer period as may be allowed by the authority, submit his findings and grounds thereof to the authority.

dismissal of appellant from service set aside and appellant re-instated with all back benefits.

7. Powers of Inquiry Officer:-

- 1) For the purpose of departmental inquiry under these rules, the Inquiry Officer shall have the powers of a Civil Court trying a suit under Code of Civil Procedure, 1908 (Act V of 1908) in respect of the following matters, namely:---
 - (a) Summoning and enforcing the attendance of any person and examining him on oath;
 - (b) Requiring the discovery and production of documents;
 - (c) Receiving evidence on affidavits;
 - (d) Issuing commission for the examination of witnesses or documents.
- 2) The proceedings under these rules shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Pakistani Penal Code (Act XLV of 1860).

76

while directing them to face detailed proceedings, for which steps had already been taken by Department.¹

8. Rules 5 and 6 not to apply in certain cases.-

Nothing in rules 5 and 6 shall apply in a case-

- (a) where the accused is dismissed or removed from service or reduced in rank, on the ground of conduct which has led to a sentence of imprisonment; or
- (b) where the authority competent to dismiss or remove a person from service, or to reduce a person in rank, is satisfied that for reasons to be recorded in writing by that authority, it is not reasonably practicable to give the accused an opportunity of showing cause.

Handwritten signature

the borrowing authority shall have the powers of the authority for the purpose of placing him under suspension or requiring him to proceed on leave and of initiating proceedings against him under these rules.

- ii. Provided that the borrowing authority shall forthwith inform the authority which has lent his services, hereinafter in this rule referred to as the lending authority, of the circumstances leading to the order of his suspension or the commencement of the proceedings, as the case may be.
- iii. If in the light of the findings in the proceedings taken against the Police Officer in terms of sub-rule (1) the borrowing authority is of opinion that any punishment should be imposed on him, it shall transmit to the lending authority the record of the proceedings and thereupon the lending authority shall take action as prescribed in these rules.

10. No party to any proceedings under the rules before the authority or Inquiry Officer shall be represented by an Advocate.

11. Appeal

- (1) An accused, who has been awarded any penalty under these rules except the penalty of confinement of constable and head constable for fifteen days to quarter guards, may, within thirty days from the date of communication of the order, prefer an appeal to the Appellate Authority as provided in sub-rule (2).
- (2) The appeal, against the orders of the officer, specified in Schedule-I, who passes it shall lie to the Appellate Authority as may be specified in the table below:

| Sl. No. | Punishing Authorities | Appellate/Reviewing Authorities |
|---------|--|------------------------------------|
| 1 | Provincial Police Officer | Provincial Police Officer (Review) |
| 2 | Regional Police Officer/ Deputy Inspector General of Police/ Capital City Police | Provincial Police Officer. |

77

| | | |
|---|---|--|
| | Officer/ Additional Inspector General of Police. | |
| 3 | District Police Officer/ Senior Superintendent of Police/ Superintendent of Police. | Regional Police Officer/Deputy Inspector General of Police/ Capital City Police Officer/ Additional Inspector General of Police. |
| 4 | Assistant Superintendent of Police/ Deputy Superintendent of Police. | District Police Officer/ Senior Superintendent of Police/ Senior Superintendent of Police Operations. |

Provided that where the order has been passed by the Provincial Police Officer, the delinquent officer/official, may within a period of thirty days submit review Petition directly to the Provincial Police Officer.

- (3) There shall be only one appeal from the original order and the order of the Appellate Authority, in appeal, shall be final.
- (4) The Appellate Authority or Review Authority, as the case may be, may call for the record of the case and comments on the points raised in the appeal or review, as the case may be, from the concerned officer, and on consideration of the appeal or the review petition, as the case may be, by an order in writing-
- uphold the order of penalty and reject the appeal or review petition; or
 - set aside the orders and exonerate the accused; or
 - modify the orders and reduce or enhance the penalty; or
 - set aside the order of penalty and remand the case to the authority, where it is satisfied that the proceedings by the authority or the inquiry officer or inquiry committee, as the case may be, have not been conducted in accordance with the provisions of these rules, or the facts and merits of the case have been ignored, with the directions to either hold a de novo inquiry or to rectify the procedural lapses or irregularities in the proceedings:

Provided that where the Appellate Authority or Review Authority, as the case may be, proposes to enhance the penalty, it shall by an order in writing-

- inform the accused of the action proposed to be taken against him and the grounds of such action; and
 - give him a reasonable opportunity to show cause against the action and afford him an opportunity of personal hearing.
- (5) An appeal or review preferred under this rule, shall be made in the form of a petition, in writing, and shall set forth concisely the grounds of objection to the impugned order in a proper and temperate language.]

POWER OF PUNISHMENT TABLE

| S # | DEPARTMENTAL PUNISHMENTS | AUTHORITIES COMPETENT TO AWARD PUNISHMENT TO: | | | | | | |
|-----|--|---|----------------------------|------------------------------------|-------------------------|--------------------|--------------------|--------------------|
| | | Deputy Superintendent of Police/Deputy Superintendent of Police (Legal) | Inspector/Inspector(Legal) | Sub Inspector/ Sub Inspector Legal | Assistant Sub Inspector | Head Constable | Constable | |
| 1 | A-Major Punishments: (i) Dismissal, removal from service, compulsory retirement. (ii) Reduction from substantive rank to lower rank or from higher stage to lower stage in the same time scale of pay. | Provincial Police Officer | DPO/SSP | DPO/SSP | DPO/SSP/SP | DPO/SSP/SP | DPO/SSP/SP | DPO/SSP/SP |
| 2 | B-Minor Punishments: *Withholding of promotion for one year or less. | PPO/Addl: IGP/CCPO/RPO/DIG | DPO/SSP/SP | DPO/SSP/SP | DPO/SSP/SP | DPO/SSP/SP/ASP/DSP | DPO/SSP/SP/ASP/DSP | DPO/SSP/SP/ASP/DSP |

1. Amended vide Notification No: 3859/ legal, dated 27/08/2014 issued by IGP, KPK

78

- (2) If an award of dismissal is annulled, the officer annulling it shall state whether it is to be regarded as suspension followed by re-instatement, or not. The order should also state whether service prior to dismissal should count for pension or not.
- (3) In all cases in which officers propose to enhance an award the officer shall, before passing final orders, give the defaulter concerned an opportunity of showing cause, either personally or in writing, why his punishment should not be enhanced.
- (4) The revision petition shall lie or taken cognizance by the authorities under sub rule-(1) within thirty days of the order passed on original appeal.

Provided that the Provincial Police Officer, while acting as revisional authority, in certain cases, may constitute a Revision Board for the speedy disposal of revision petitions, before passing any orders." And

12. No order passed under these rules shall be subject to review by any Court/Tribunal.

7

79

In the KPK Service Tribunal Peshawar

Naseer Ullah S/O Hasham Ali IHC.....Appellant

VS

Government of Khyber Pakhtunkhwa through IGP and others.

Respondents

I Mr. Naseer Ullah IHC in police the Appellant, do hereby appoint Mr. Nazir Ahmad Advocate, High Court at Peshawar as my Counsel in subject proceedings and authorize him to appear, plead, compromise, withdraw or refer the matter for arbitration for me without any liability for his default and with the authority to engage/appoint any other advocate/counsel at my expense if necessary and receive all sums and amounts payable to me and to all such acts which he may deem necessary for protecting my interests in the matter. He is authorized to file Appeal, Revision, Review and Application for restoration or Application for setting-aside ex-parte decree proceedings on my behalf.

Naseer Ullah
Appellant

Dated: 18/7/21
Accepted and Attested

Nazir Ahmad
18/7/21
Nazir. Ahmad Advocate
High Court
Cell: 0301-8571879
0332-8540783
bc-10-7897

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.7071 /2021.

Ex- IHC Naseer Ullah No.3934 of CCP Peshawar..... **Appellant.**

VERSUS

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

INDEX

| S.NO | DOCUMENTS | ANNEXURE | PAGE NO |
|------|------------------------|----------|---------|
| 1. | Memo of comments | ---- | 1-3 |
| 2. | Affidavit | ---- | 4 |
| 3. | Copy of Bad entries | A | 5 |
| 4. | Copy of charge Sheet | B | 6 |
| 5. | Copy of allegations | C | 7 |
| 6. | Copy of inquiry report | D | 8 |
| 7. | Copy of FSCN | F | 9 |

MR. Naseer Ullah
IHC
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.7071 /2021.

Ex- IHC Naseer Ullah No.3934 of CCP Peshawar..... Appellant.

VERSUS

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

REPLY BY RESPONDENTS NO. 1, 2, 3 &4.

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS:-



1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has not come to Hon'able Tribunal with clean hands.
4. That the appellant has no cause of action and locus standi to file instant appeal.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from Honorable Tribunal.
7. That the appeal is not maintainable being devoid of any merit.

REPLY ON FACTS:-

1. Incorrect. The appellant has not a clean service record and contains 12 bad entries and 01 minor punishment on different occasions in his service. Record shows that he was an unwilling and unprofessional officer, thereby not interested in discharging of his official duties. (copy of list as annexure A)
2. Para not related to answering respondents record. Furthermore, the appellant involved himself in criminal cases.
3. Incorrect. Only to the extent that the appellant was proceeded departmentally on charges of his involvement in criminal cases and also resisted his lawful arrest and scuffled with the then SHO PS Pishtakhara, while rest of para not related to answering respondents record.
4. Para not related to answering respondents record. However, the appellant was charged in three criminal cases of land grabbing, interference in Government affairs and criminal intimidation.
5. Incorrect. In fact the appellant while posted to American Consulate at Peshawar was involved himself in three criminal case vide FIR No.817 dated 17.06.2020 u/s 447/506/148/149 PPC, Fir No.818 dated 17.06.2020 u/s 506/186/34/15-AA and FIR No.823 dated 20.06.2020 u/s 447/448/188/506/34 PPC PS Pishtakhara and also resisted his lawful arrest and scuffled with the then SHO PS Pishtakhara. In this regard, he was issued Charge Sheet with Statement of Allegations. SDPO Hayatabad was appointed as Enquiry Officer. Upon the findings of enquiry officer he was issued final show cause

notice, which he received but his reply was found unsatisfactory. After fulfilling all codal formalities, he was awarded major punishment of dismissal from service by SSP/Operations Peshawar. (Copy of charge sheet, statement of allegations and enquiry report, are annexed as annexure "B" "C" "D").

6. Incorrect. The appellant filed departmental appeal, which was thoroughly processed and an ample opportunity of hearing was provided to appellant by appellate authority but appellant failed to defend himself with plausible/justifiable grounds, hence his appeal was rejected/filed. The appellant then filed review petition before the Competent Authority which was also filed/rejected because the appellant failed to advance any plausible explanation in the rebuttal of the charges.

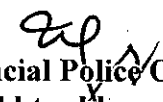
REPLY ON GROUNDS:

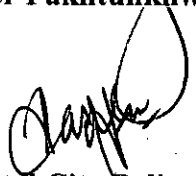
- A. Incorrect. The appellant being a member of a disciplined force was proceeded departmentally as per the Police Disciplinary Rules 1975. The punishment order passed by the competent authority is legal and liable to be upheld.
- B. Incorrect. The competent authority before imposing the major punishment had completed all codal formalities and provided the opportunity of personal hearing but he failed to disprove the charges. The appellant was issued final show cause notice, which he received but his reply was found unsatisfactory.
- C. Para not related to answering respondents record. However, the appellant being a member of a disciplined force, committed gross misconduct.
- D. Incorrect. The appellant was issued charge sheet with summary of allegations, proper departmental enquiry was conducted against him. He was provided full opportunity of defense, but he failed to defend himself. After fulfilling of all codal formalities, he was found guilty, hence awarded major punishment of dismissal from service.
- E. Incorrect. The appellant being a member of a disciplined force committed gross misconduct. The charges leveled against him were stand proved, hence he was awarded the major punishment.
- F. Incorrect. The appellant was treated as per law/rules. The charges leveled against him were proved. The appellant has not a clean service record and contains 12 bad entries and 01 minor punishment on different occasions in his service.
- G. Incorrect. para already explained in detail in the proceeding para. However, the appellant failed to rebut the charges during the course of enquiry and the inquiry officer conducted thorough probe into the matter and found the appellant guilty of the charges.
- H. Incorrect. Charge sheet with statement of allegations was served upon him. Regular inquiry was conducted and thereafter he was issued a final show cause notice hence after fulfilling of all the codal formalities he was awarded the major punishment of dismissal from service as per law/rules.

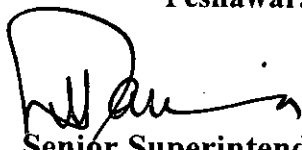
- I. Incorrect. Detail departmental enquiry was conducted against him in accordance with law/rules. Enquiry officer after detailed probe into the matter reported that the charges against the appellant were proved. The appellant was provided full opportunity of defense to prove himself innocent, but he failed to prove himself innocent and no violation of Constitution Of Pakistan 1973 has been violated by the respondents department.
- J. Incorrect. The whole enquiry was conducted purely on merit. The appellant was provided full opportunity of defense, but the appellant failed to defend himself. After fulfilling of all the codal formalities he was awarded the major punishment.
- K. Incorrect. The appellant was rightly dismissed due to his misconduct by involving himself in three criminal cases of land grabbing, interference in Government affairs and criminal intimidation, hence the punishment order is liable to be upheld.

PRAYER.

It is, therefore, most humbly prayed that in light of above facts and submissions, the appeal of the appellant being devoid of merits and legal footing, may kindly be dismissed with costs please.


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.


Capital City Police Officer,
Peshawar.


Senior Superintendent of Police,
Operations, Peshawar.


Deputy Superintendent of Police,
SDPO Hayatabad Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.7071 /2021.

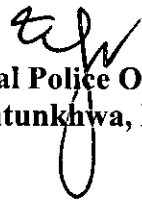
Ex- IHC Naseer Ullah No.3934 of CCP Peshawar:..... **Appellant.**


VERSUS


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

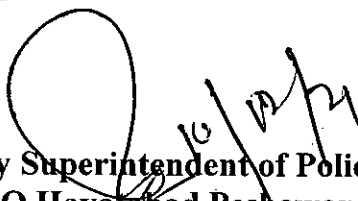
AFFIDAVIT.

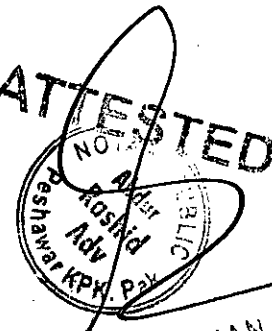
We respondents 1, 2, 3 and 4 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.


**Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.**


**Capital City Police Officer,
Peshawar.**


**Senior Superintendent of Police,
Operations, Peshawar.**


**Deputy Superintendent of Police,
SDPO Hayatabad Peshawar.**

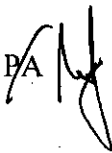
ATTESTED

Peshawar K.P.K. P.A.

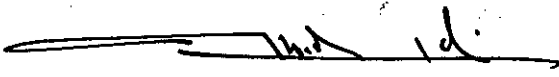
18 JAN 2022

cc A

- 1. Name of Official: IHC Naseer Ullah 3934
- 2. D/O Birth: 01.12.1975
- 3. D/O enlistment: 25.07.1998
- 4. Education: BA
- 5. Courses Passed: Lower & Intermediate Courses Passed
- 6. Total Qualifying Service: 22 Years, 04 Months & 01 Days
- 7. Good entries: 11
- 8. Punishment (Previous): 01
 - > Minor 01
 - > Major Nil
- 9. Bad entries: 12

| | | | | |
|--------------------------|--------------------|----------------|----------------------|-------------|
| <u>Leave without pay</u> | <u>Extra Drill</u> | <u>Warning</u> | <u>Quarter Guard</u> | <u>Fine</u> |
| 08 | 03 | 01 | Nil | Nil |
- 10. Punishment (Current): Dismissed from service by SSP/Operations vide order No. 2419-24/PA dated 21.10.2020.

PA 


EC-II 18/11/20

W/CCPO:

2

CHARGE SHEET "B"

Whereas I am satisfied that a Formal Enquiry as contemplated by Police Rules 1975 is necessary & expedient in the subject case against you **IHC Naseer Khan No. 3934 while posted to American Consulate at Peshawar.**

And whereas, I am of the view that the allegations if established would call for major/minor penalty, as defined in Rule 3 of the aforesaid Rules.

Now therefore, as required by Rule 6 (1) (a) & (b) of the said Rules, I, Senior Superintendent of Police, Operations, Peshawar hereby charge you **IHC Naseer Khan No. 3934 while posted to American Consulate at Peshawar** under Rule 5 (4) of the Police Rules 1975 on the basis of following allegations:-

- i. Reportedly, you been involved/charged in the following criminal cases registered at Police Station Pishtakhara.
 - FIR No. 817 dated 17.06.2020 u/s 447/506/148/149 PPC.
 - FIR No. 818 dated 17.06.2020 u/s 506/186/34/15-AA PPC.
 - FIR No. 823 dated 20.06.2020 u/s 447/448/188/506/34 PPC.
- ii. That during arresting, you started scuffling with SHO Pishtakhara due which he sustained injuries.
- iii. By doing, you have committed a gross misconduct and are liable to be proceeded against departmentally under Police Rules 1975.

I hereby direct you further under Rule 6 (1) (b) of the said Rules to put forth written defence within 7 days of the receipt of this Charge Sheet to the Enquiry Officer, as to why the action should not be taken against you and also stating at the same time whether you desire to be heard in person.

In case your reply is not received within the specific period to the Enquiry Officer, it shall be presumed that you have no defence to offer and ex-parte action will be taken against you.

SENIOR SUPERINTENDENT OF POLICE,
(OPERATIONS) PESHAWAR

No. 383 E/PA dated Peshawar the 03/07 2020

Copy of the above along with Summary of Allegations is forwarded for information and necessary action to the:-

1. Enquiry Officer.
2. The accused official.

PA
Call him in OR.

SDPO Hayatabad Circle
Peshawar

2

SUMMARY OF ALLEGATIONS

I, Mansoor Aman PSP, SSP/Operations, Peshawar as competent authority, am of the opinion that you **IHC Naseer Khan No. 3934** while posted to **American Consulate at Peshawar** have rendered yourself liable to be proceeded against, as you have committed the following acts/omission within the meaning of section 03 of the Khyber Pakhtunkhwa Police Rules, 1975.

- i. Reportedly, he has involved/charged in the following criminal cases registered at Police Station Pishtakhara.
 - FIR No. 817 dated 17.06.2020 u/s 447/506/148/149 PPC.
 - FIR No. 818 dated 17.06.2020 u/s 506/186/34/15-AA PPC.
 - FIR No. 823 dated 20.06.2020 u/s 447/448/188/506/34 PPC.
- ii. That during arresting, he started scuffling with SHO Pishtakhara due which he sustained injuries.
- iii. Being a police official, his this act is against the norms and discipline of police force.
- iii. By doing, he has committed a gross misconduct and is liable to be proceeded against departmentally under Police Rules 1975.

For the purpose of scrutinizing the conduct of afore said police official in the said episode with reference to the above allegations SDPO Hayatabad is appointed as Enquiry Officer under Rule 5 (4) of Police Rules 1975.

The Enquiry Officer shall in-accordance with the provision of the Police Rules (1975), provide reasonable opportunity of hearing to the accused Official and make recommendations as to punish or other action to be taken against the accused official.

**SENIOR SUPERINTENDENT OF POLICE,
(OPERATIONS), PESHAWAR**

No. 383 E/PA, dated Peshawar the

03 / 07 / 2020

OFFICE OF THE

DEPUTY SUPERINTENDENT OF POLICE,

HAYATABAD SUB-DIVISION, PESHAWAR.

No. 35/E/Steno, dated Pesh: the 28/08/2020

To The Senior Superintendent of Police,
Operations, Peshawar.

Subject: **DEPARTMENTAL ENQUIRY**

Please refer to your office Endt: No.383/E/PA, dated 03.07.2020 pertaining to departmental enquiry against IHC Naseer Khan No. 3934

STATEMENT OF ALLEGATION

- i) Reportedly, he been involved/ charged in the following cases registered at police station Pishtakhara.
 - FIR No. 817 dated 17.06.2020 u/s 447/506/148/149/ PPC
 - FIR No. 818 dated 17.06.2020 u/s 506/186/34/15-AA PPC
 - FIR No. 823 dated 20.06.2020 u/s 447/448/188/506/34 PPC
- ii) That during arresting, he start scuffling with SHO.PS Pishtakhara due to which he sustained injuries.
- iii) By doing, you have committed a gross misconduct and are liable to be proceeded against departmentally under Police rules 1975.

PROCEEDING

Enquiry officer provided reasonable opportunity to HC Naseer Khan No. 3934. Statement of allegation was served upon him and his written reply was recorded. He was verbally cross examined. Statements of the following were also recorded.

- Inspector Saif Ur Rehman OII/ IO of the case PS Pishtakhara.
- ASI Muhammad Arshad khan IO of the case.
- ASI Shahid Ali Shah MASI PS Pishtakhara.
- ASI Sehat Gul Ps Pishtakhara (witness).
- HC Midrar MM PS Pishtakhara.
- FC Gul Dad shah No. 1553 PP Sufaid Deri (witness).
- FC Alam zeb PP Sufaid Deri (witness).

STATEMENT OF IHC NASEER KHAN


HC Naseer Khan stated in his statement that the allegations against him are baseless. Neither he done anything illegal nor will do. The fact is that there was a dispute over land which under process in the court. On that day he was produced statu que order of the court to SHO PS concerned. But, SHO did illegal act and beaten him at PS (medical certificates are enclosed). He further stated that he is a noble man and did not scuffle in whole life. He mentioned that SHO concerned along with respondents are try to take possession of the land as they instituted baseless cases against him. He requested to file the subject enquiry without any further action as he is innocent.

STATEMENT OF THE ABOVE MENTIONED SEVEN POLICE OFFICIALS

- ⇒ Inspector Saif Ur Rehman Oll Pishtakhara stated that in his statement that he was at court on the day of occurrence and when he came to PS, knows about the cases. Now the accused is on bail from the court.
- ⇒ ASI Muhammad Arshad stated in his statement that case vide FIR No: 823 dated 20.06.2020 U/S 447/448/186/506/34 PS Pishtakhara was registered on complaint submitted by Muhammad Iqbal s/o Sultan Muhammad r/o Bannu present Hayatabad. To this effect, accused got BBA from the court. As for as repetition in concerned, on the day of occurrence he was at the court.
- ⇒ MASI Shahid Ali Shah stated that two "Murasilas" were received from ASI Sihat Gul in which two cases were registered against them vide FIRs No: 817 dated 17.06.2020 U/S 447/448/506/148/149 and 818 dated 17.06.2020 U/S 186/506/34/15-AA. As for as the concerned of scuffling, the accused was started scuffling with SHO and after this act they locked up. Neither SHO beaten them nor did anything illegal.
- ⇒ ASI Sehat Ali stated in his statement that they were received two different application against accused nominated in the case i.e Mazhar Ali, Naseer Ullah, Habib Ur Rehman Ss/o Hazrat Rehman. To this effect, cases were registered against them vide FIRs No: 817 dated 14.06.2020 and 818 dated 17.06.2020 PS Pishtakhara. As far as the concerned of beating, neither they were beaten nor did any illegal act by the SHO.
- ⇒ Hc Midrar, FC Gul Dad Shah and FC Alamzeb have agreed with the above mentioned officials and confirmed their statements.

FINDINGS

In the light of above circumstances, statement of the above mentioned officials and statements of IOs of the cases, it has found that there are witnesses/ evidences against HC Naseer Khan No. 3934. It is therefore recommended that the subject enquiry may please kept pending till the final decision of the court.


RAAM HUSSAIN
Enquiry Officer,
Deputy Superintendent of Police,
Hayatabad: Sub-Division,
Peshawar.

بیان از ان الکریم صیف الرضا علیہ السلام

صاف عالی ۱

حصول خدمت میں آج صیف خدمت عدد ۱۰۱۷ ۹-۲۰ جرم 365B 16/11/2017
 تصویر مدعی خدمت سبکی میں ساکن بارہ کی رٹیشن ٹاؤن بلا سیکورڈ ٹاؤن
 صیقلی ٹاؤن میں ٹوٹا ہوا ۱۷-۱۶ کو (جوا) 35 روزانہ 6-17 البتہ 820
 بصری پیشی کے ساتھ ساتھ اور ایسا فارم کو (توتہ) 1700 کے بعد فراغت پیشی ٹاؤن بلا سیکورڈ
 واپس آئے اور معلوم ہوا کہ خدمات عدد 817 و عدد 818 جو 6-17 کلیم 449/448
 و 186/506 ملنگان خط علیا - گووانڈ (ان شعلی) 148/149/504
 ساکنان ٹوڈیہ بالا رہتے اور ترقی اجیہ پر لکھ و
 خط علیا - گووانڈ (ان شعلی) ساکنان ٹوڈیہ بالا - جب آرمی کے لئے توتہ (ان
 ساکنان بلا سیکورڈ حال ٹوڈیہ بالا اور خدمات درجہ رہتے اور ملنگان خط علیا
 گووانڈ - جب آرمی کے لئے توتہ (ان شعلی) ساکنان ٹوڈیہ بالا - جب آرمی کے لئے توتہ (ان
 پولیس کے اختتام پر حال ملنگان کے ہیں اور خدمات سے برطرف ہیں
 چھ ماہ تک تھا کے ملنگان کے انڈر ملنگان اور پولیس کے مابین توں ملنگان آیا تھا پالی
 کی بات ہے تو میں جو دیکھا ہے وہاں لکھ پیشی ٹاؤن بلا سیکورڈ ٹاؤن ساتھ ساتھ

Qamir
 INSP/011 PS PR
 C4/8/20

بیان آذان محمد ارشد خان Asi حقانہ کشتی

فار عالی

معرض ہوں کہ مدرس محمد امتیاز ولد محمد سلطان سکڑیہ

حال حیات آباد کی قوم میں درخواست پر خلاف ملزمان مظہر علی

نصیر اللہ پسران یا بشم علی ساکنان فورینہ بالا پیر والہ درلا

روزنا 13 کا عاقد خان Asi اجراج جو کی تاج آباد نے انکو اپنی

شروع کر کے بعد انکو اپنی وقوع سرزد ہونے پر عاقد خان Asi نے

مقدمہ علی 823 ورڈ کا 20 جو 447-448-186 پر خلاف ملزمان

مظہر علی نصیر اللہ دراج جسٹس کے نقول پر عدالت میں قیام

کی والد کی مقدمہ ہذا میں قیام کر کے اگلے روز ورڈ کا 21

کو ملزمان نے عدالت میں سے BBA منظر رو اور اسٹڈنہ تاریخ

میں 30 کا منظر میں ملزمان کے بیانات ملینڈ کیے تھے

جہاں تک HSO کا پیران خان اور نامزد ملزمان نصیر اللہ

مظہر علی کے مابین ورڈ کا 16 کو توں تکرار حکم کی بات ہے

تو اس روز میں دیگر کارس کار چالان کیلئے منہج گیری کیسٹ اور گیاوا

حقانہ دیگر اعلیٰ علم ہوں میں سیرا بیان ہے

Mad
Asi - ps - pk
4 / 8 / 20

میاں اذیان سید صاحب علی شاہ آسٹریا کے دفتر

میں سید صاحب علی شاہ آسٹریا کے دفتر میں موجود ہے۔ اس کے بارے میں مزید جاننے کے لیے براہ کرم
17⁰⁶ 2020 کے دفتر میں موجود ہے۔ اس کے بارے میں مزید جاننے کے لیے براہ کرم

میرا نام جو کہ آزاد ذوالفقار ہے۔ اس کے بارے میں مزید جاننے کے لیے براہ کرم
لغیر اللہ میرا نام علی ماکنہ ٹوڈی ہے۔ اس کے بارے میں مزید جاننے کے لیے براہ کرم

جس پر دفتر عدالت 817 حوالہ 17⁰⁶ 2020
447-448 کے دفتر میں موجود ہے۔ اس کے بارے میں مزید جاننے کے لیے براہ کرم

میرا نام قمر سید 1542 حوالہ 17⁰⁶ 2020
186-506-34 کے دفتر میں موجود ہے۔ اس کے بارے میں مزید جاننے کے لیے براہ کرم

میرا نام ظہیر علی لغیر اللہ میرا نام علی ہے۔ اس کے بارے میں مزید جاننے کے لیے براہ کرم
حالات میں 80% کے ملزمان سٹو کے دفتر میں موجود ہیں۔ اس کے بارے میں مزید جاننے کے لیے براہ کرم

ظہیر اللہ ظہیر علی کے سٹو کے دفتر میں موجود ہیں۔ اس کے بارے میں مزید جاننے کے لیے براہ کرم
مبارک دے سٹو کے دفتر میں موجود ہیں۔ اس کے بارے میں مزید جاننے کے لیے براہ کرم

حالات میں 80% کے ملزمان سٹو کے دفتر میں موجود ہیں۔ اس کے بارے میں مزید جاننے کے لیے براہ کرم
میں قمر و شاف کی موجودگی میں ملزمان کو کسی قسم کا تہذیبی نہیں کیا گیا ہے۔

23-7-2020

23720

بیان اذان عبدالرحمن در مکان شریف

اسی تحریر کا اوسے اور کتب کما بین نے مورخ 17/26 مکان شریف

کو دفتر تحریر کما بین میں دلوایا / موجود تھا کہ علمبرداران (1) نظریہ

تعمیر و سرنگی پانچ علی مالکاً نو در ماہ ۱۴۲۰ عذراہ فیہ سے

صفحہ 17/26 448 / 447 / 149 / 148 / 586 ff مکان شریف

میں ایک کو دیکھ کر علی علی کما بین سے ملا کر دیکھی، تعمیر اللہ

دفعہ کے خلاف دیکھ کر اور اس کے ساتھ ساتھ اللہ 1548 مورخ

کی صفحہ 818 مورخ 17/26 186-506-84 مکان شریف

15 AA

MMPS Pr
2310712020

Accessed 23/7/20

بیان اولیٰ جل دادشاه 1553 طبعه لغات الخیر / ج 1 صفحہ 237

دوران گشت میں احمد علی خان (A) سے لیا تو کچھ وقت پر موجود
احمد علی خان (A) سے ملکر خان (B) فطیر علی (C) بعد اللہ لیسراں یا
علی سلطان فوریہ والا (D) احمد علی خان (E) حضرت راجا سنگھ ملا نے
فوریہ والا کے خلاف جو کارروائی کی ہے۔ جس میں ان کی جائیداد ضبط کر لی گئی ہے
جو کہ قصبت پر نہیں ہے۔ یہ سب چیزیں جیل میں ہیں۔ چونکہ درستی اور قصبت
پر نہیں ہے۔

جل دادشاه
جل دادشاه 1553 طبعه لغات الخیر / ج 1 صفحہ 237
الله اعلم
237

پہاں آذان عالمگیری 4201 کچھ لکھنؤ / جوبلی مندر

دوران گشت علی ایسی عمل آواز لکھنؤ ۱۰ عام صحت و خوش حال ہو جو درخت
 ایسی عمل آواز صحت لکھنؤ ۱۰ قطب علی - لکھنؤ لکھنؤ لکھنؤ لکھنؤ
 سکتا تو دیکھ مالا ۱۰ حسب لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ
 باہ کھلا جو کاروانی - میں ان کی مانند لکھنؤ لکھنؤ لکھنؤ
 جو لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ
 لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ

Alend

عالمگیری 4201 کچھ لکھنؤ / جوبلی مندر
 2372 لکھنؤ


جناب عالی!

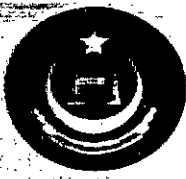
بدوران گشت مسی آزاد ولد امیر خان سکنہ سرگودھا حال اچینی پایان نے من ASI کورپورٹ کی کہ محمد آزاد کی تصدیق بشیر کا ناظر و میجر ہوں۔ اور یہ کہ مسی فواد احمد کی وراثتی جائیداد برقبہ 115 مرلے واقع ریگ روڈ اچینی بریکر جسکے گرد سال 2010 میں نے چار دیواری بنا کر تعمیراتی کام پر مظہر علی وغیرہ نے سول کورٹ سے (STAY) حاصل کر کے جو بعدہ بعدالت بلال خان خان سول صاحب پشاور نے ہمارے حق میں فیصلہ کر کے جو عدالتی فیصلہ کے بعد ہم تعمیراتی کام کر رہے تھے کہ مسیان مظہر علی، نصیر اللہ، ہاشم علی وغیرہ نے مسلح آکر ہمیں قتل کی دھمکیاں دیں اور ہمارے مزدورں کو جائیداد سے نکال کر ہماری جائیداد پر قابض موجود ہیں جسکی رپورٹ پر من ASI کے مراسلہ پر برخلاف نصیر اللہ وغیرہ مقدمہ علت 817 مورخہ 14/06/2020م SHO صاحب ودیگر نفری پولیس PPC 447/448/506/148/149 تھانہ پشتخترہ درج رجسٹر ہو کر جو من ASI زیر قیادت SHO صاحب ودیگر نفری پولیس جائیداد آذان محمد فواد اکر واقعی، مظہر علی، نصیر اللہ، حبیب الرحمن ولد حضرت رحمان کو جائیداد میں موجود پا کر جنکو قابو کر کے مظہر علی کے قبضہ سے پستول 30 بور بمعہ سپر میگزین 25 عدد کارتوس جبکہ حبیب الرحمن کے قبضہ سے بھی پستول 30 بور بمعہ 08 عدد کارتوس برآمد کر کے اس دوران متذکرہ کسان نے ہم پولیس پارٹی کے ساتھ مزاحمت شروع کر کے ہاتھ پائی کی اور دھمکیاں دیں۔ دوران گرفتاری مسی نصیر وغیرہ کے مزاحمت ہاتھ پائی کے دوران SHO مضروب بھی ہوا۔ حالات واقعات کے متعلق مقدمہ علت 818 مورخہ 17/06/2020 جرم 186/506/15AA تھانہ پشتخترہ درج رجسٹر ہو کر ملزمان کو زیر حراست ہمراہ لا کر بند بھوالات کیا جا کر چالان عدالت کئے گئے۔ اور SHO صاحب یاد دیگر نفری پولیس نے نصیر وغیرہ پر کسی قسم تشدد وغیرہ نہیں کیا بلکہ ملزمان نصیر وغیرہ نے پولیس پارٹی کے ساتھ مزاحمت ہاتھ پائی کی ہے۔ یہی میرا بیان ہے۔ جو حقیقت پر مبنی ہے۔



ASI تھانہ پشتخترہ

23-07-2020


23-07-2020



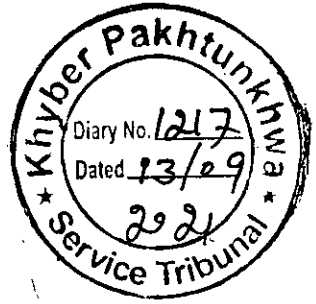
FINAL SHOW CAUSE NOTICE
(Under Police Disciplinary Rules, 1975)

1. **I Mansoor Aman (PSP)**, Senior Superintendent of Police (Operations) Peshawar as competent authority, under the Police disciplinary Rules 1975, do hereby serve you **IHC Naseer Khan No. 3934 of CCP Peshawar** as follows:-
 2. (i) That consequent upon completion of the departmental enquiry conducted against you by **SDPO Hayatabad Peshawar**, who found you guilty of the charges for which you were given the opportunity of a hearing.
 - (ii) Ongoing through the findings and recommendations of the inquiry officer, the material on record and other connected papers including your defense before the said officer; I am satisfied that you have committed misconducts and have been charged in the below mentioned criminal cases.
 - FIR No. 817 dated 17.06.2020 u/s 447/506/148/149 PPC
 - FIR No. 818 dated 17.06.2020 u/s 506/186/34/15-AA PPC
 - FIR No. 823 dated 20.06.2020 u/s 447/448/188/506/34 PPC
3. As a result thereof I, Mansoor Aman (PSP), Senior Superintendent of Police (Operations) Peshawar as Competent Authority decided to impose upon you major/minor penalty including dismissal from service under the said Rules.
4. You are, therefore, required to Show Cause as to why the aforesaid penalty should not be imposed upon you.
5. If no reply to this notice is received within 7-days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.
6. You are at liberty to be heard in person, if so wished.

MANSOOR AMAN, PSP
SR: SUPERINTENDENT OF POLICE,
OPERATIONS, PESHAWAR

No. 2154 /PA dated Peshawar the 20-09, 2020

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.



CM-----/2021

in

Service Appeal No 7071/2021

*Put up to the worthy chair-man
with relevant appmt.*

Nasser Ullah S/O Hasham Ali, IHC (Inter passed Head Constable) No
3934 R/O Nodeha Bala , Tehsil and District Peshawar.**Appellant**

13/9/2021

Versus

Government of KhberPakhtunkhwa through Inspector General of Police
KPK Peshawar and others..... **Respondents**

Application for early hearing

Respectfully Sheweth: - The need for the instant Application before
this Honourable Tribunal arises due to the following facts:

Facts:

1. That the Appellant has filed a Service Appeal before this Honourable Tribunal for re-instatement in service.
2. That the Appeal is admitted for full hearing and the Respondents has asked to file comments and is fixed for arguments on 21.12.2021.
3. That the Appellant is the only bread earner of his family and is jobless with no income at all and is removed from service on fake FIRS registered against him by his opponents with whom his family has a property dispute.
4. That delay defeats equity and such a late date is against the Principle of justice and equity.

*Reminder to respondents for filing
of reply. Be fixed in November, 2021.
i.e 05/11/21*

20/9/2021

5. That delay in the hearing is causing loss to the Appellant in term of mental torture and is adversely affecting his school going children.

Therefore, it is prayed that on acceptance of this Application the date may be fixed at the earliest for hearing and arguments.

R. Shabir

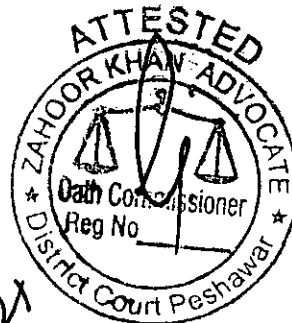
Appellant

(In person)

Affidavit

I Naseer Ullah S/O Hasham Ali IHC do hereby affirm and declare on oath that contents of this **Application** are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Honorable Tribunal.

R. Shabir
Deponent





KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No: 1643 /ST Dated: 10/06/2022

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

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

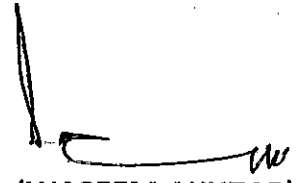
To

Senior Superintendent of Police (Operation)
Peshawar.

Subject: JUDGMENT IN APPEAL NO 7071/21 NASEER ULLAH VS SSP

I am directed to forward herewith a certified copy of judgment dated 23.05.2022 passed by this Tribunal on the above subject for information please.

Encl: As Above.


(WASEEM AKHTAR)

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.