25.10.2022

Junior to counsel for appellant present.

Kabir Ullah Khattak, learned Additional Advocate General alongwith Khalil Khan S.I for respondents present.

Reply not submitted. Representative of respondents requested for time to submit reply. Opportunity is granted. To come up for reply/comments on 23.11.2022 before S.B at Camp Court, D.I Khan.

SCANNED KPST Peshawar

(Rozina Rehman)
Member (J)
Camp Court, D.I.Khan

27th September, 2022 Learned counsel for the appellant present and submitted application for condonation of delay as well as application for annexing necessary document in the instant appeal which is placed on file.

Learned counsel for the appellant submits that against the impugned order of awarding major punishment of dismissal from service passed by the DPO, D.I.Khan on 03.06.2020, the appellant filed departmental appeal on 15.06.2020 which was rejected by the Regional Police Officer on 08.10.2020. Whereafter revision petition was filed before the IGP which was dismissed vide order bearing endorsement No. S/3195/21 dated 29.07.2021 and according to the appellant that was not communicated to him and he had applied for copy of the same was supplied on 17.09.2021. The appellant filed this appeal on 04.10.2021 which is though slightly barred by limitation. This appeal is admitted to full hearing subject to all just and legal objections by the other side regarding limitation. Appellant is directed to deposit security fee. Out district respondents be summoned through TCS, the expenses of which be deposited by the appellant within three days, while the local respondents No.344 be summoned through process serving agency of the learned To come up for written Senior Civil Judge, reply/comments on 25.10.2022 before S.B at camp court D.I.Khan.

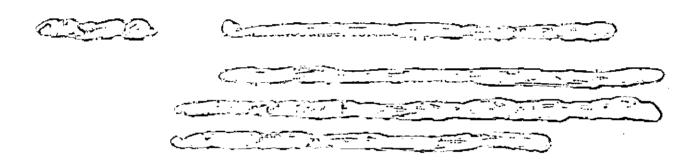
Appellant Deposited
Security & Process Fee

(Kalim Arshad Khan) Chairman Camp Court D.I.Khan 30th June 2022

Counsel for the appellant present.

Learned counsel for the appellant intends to submit condonation of delay application. He may do so within a week. Adjourned. To come up for preliminary hearing on 22.08.2022 before S.B at camp court D.I.Khan.

(Kalim Arshad Khan) Chairman Camp Court D.I.Khan





Form- A

FORM OF ORDER SHEET

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	Case No	/6/2 _{3/2021}
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	18/10/2021	The appeal of Mr. Muhammad Qadeer resubmitted today by Mr. Muhammad Idrees Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.
		This case is entrusted touring S. Bench at D.I.Khan. Notice be issued
2-		to appellant/counsel for preliminary hearing to be put there on 13(12).
		CHATRMAN
	15.12.2021	Nemo for appellant.
		Notice be issued to appellant/counsel for 21.02.2022 for preliminary hearing before S.B at Camp Court, D.I.Khan. (Rozina Rehman) Member (J) Camp Court, D.I.Khan
	21,02-2027	Due do refirment of the Honrible Chairman to come of For the same as before on 30/6/2020

The appeal of Mr. Muhammad Qadeer S/O Wali Muhammad, Constable, R/O Panyala, Mohallah Siraj Khel, Tehsil & District Dera Ismail Khan received today i.e. on 04.10.2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- (1-) Check list is not attached with the appeal.
- ✓2- Appeal has not been flagged/marked with annexures marks.
- ✓3- Annexures of the appeal may be attested.
- √4- Affidavit may be got attested by the Oath Commissioner.
- → 5- Certificate be given to the effect that the appellant has not been filed any service

One more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal

7-. Approved file cover is not used.

No. 1970 /S.T, Dt. °5/10 /2021

> SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Mr. Muhammad Idrees Khan Adv. DI Khan.

Expertally Sir!.

Objution's litel above from ferial no. a to 5 and 7 has been Cused; while as for as objection no. 6 is concerned, complete Photocopies sets numbering 6 in number, has already been Sent with Origional, while Format of chiek Pist is not available at thus Station, hence be condoned.

10/2021

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR, CAMP COURT DIKHAN.

Service Appeal No. _/(12,/2021

Muhammad Qadeer

VERSUS

Secretary Home & Affairs Department etc

INDEX

S.No	Description of documents	Annexure	Page
01	Grounds of appeal along with affidavit.		1-3
02	Copy of application dated	"A"	4
03	Copy of order dated 03/06/2020, appeal dated 15/06/2020 and order dated 08/10/2020	"B, C & D"	5-7,7A
04	Copy of second appeal and impugned order dated 29/07/2021	"E & F"	3-17.
05	Vakalatnama	<u> </u>	18.

Your Humble Appellant

Muhammad Qadeer

Through counsel

Dated:02/00/2021

MUHAMMAD IDREES KHAN

Advocate High Court Dera Ismail Khan.

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR, CAMP COURT DIKHAN.

Service Appeal No. _____/2021

Muhammad Qadeer (Constable) son of Wali Muhammad Caste Siraj Khel, R/o Panyala, Mohallah Siraj Khel, Tehsil & District Dera Ismail Khan.

....(Appellant)

VERSUS

1. Secretary Home & Tribal Affairs, Khyber Pakhtunkhwa, Peshawar.

2. Inspector General Of Police, KPK, Peshawar.

3. Regional Police Officer / DIG, Dera Ismail Khan Division.

4. District Police Officer, Dera Ismail Khan.

.....(Respondents)

SERVICE APPEAL UNDER SECTION 4 OF SERVICE **PAKHTUNKHWA** KHYBER **AGAINST** 1974 ACT TRIBUNAL IMPUGNED ORDER BEARING NO. 1259 03/06/2020 PASSED BY DATED WHICH RESPONDENT NO. 4 VIDE DISMISSED APPELLANT | WAS_ SERVICE. AND AGAINST THE IMPUGNED ORDER NO. 2149 DATED 08/10/2020, VIDE WHICH **APPELLANT** WAS THE OF APPEAL DISMISSED BY RESPONDENT NO. 3. AND AGAINST IMPUGNED ORDER 3195 DATED 29/07/2021, VIDE WHICH SECOND APPEAL TO RESPONDENT NO. 2 WAS ALSO DISMISSED BY THE IBID RESPONDENT.

Respectfully Sheweth:-

That the appellant is serving in Police Department as "Constable" was on study leave from 20/01/2020 to 20/05/2020, and after expiry of the above leave period, the appellant again applied

The same of the sa

for extension of study leave till 20/07/2020. Copy of application dated 20/01/2020 is enclosed as Annexure "A".

2. That respondent No. 4, without adopting any formal procedure, issued impugned order dated 02/06/2020, which was delivered to the appellant by the copying branch on 13/07/2020, against which appellant preferred an appeal to the next higher authority / RPO DIKhan / Respondent No. 3 on 15/06/2020, which was dismissed too vide impugned order No. 2149 dated 08/10/2020. Copies of order dated 02/06/2020, copy of appeal dated 15/06/2020 and impugned order dated 08/10/2020 are enclosed as Annexure "B, C & D".

That being aggrieved from the orders of lower authorities, the appellant preferred a second appeal to the respondent No. 2 / IGP, KPK, Peshawar, which was dismissed too on 29/07/2021 Copy of second appeal and impugned order dated 29/07/2021 are enclosed as Annexure "E & F".

That being aggrieved from the act of the respondents, the Appellant knocks the door of this Honourable Tribunal Court, inter alia, on the following grounds:-

Grounds:-

- 1- That the act of the respondents is totally illegal, void, without jurisdiction and ineffective upon the rights of Appellant.
- 2- That respondent No. 4 vide issuing first impugned order was without any substance and is violative upon the statutory provisions mention therein.
- 3. That respondent No. 2 violation of impugned order have never bothered to serve the appellant with any single notice or statement of allegation in order to gave the appellant affair opportunity of defense, which is against the dictum of natural justice.
- That respondents authority have violated all the statutory provisions as well as the right of fair trial of the appellant, which is not maintainable in the eyes of law and un-constitutional at the same time.

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5- That beside affording the appellant, an opportunity of defense, respondent No. 2 has acted against his own order, vide which the appellant was allowed for study leave, which is above the prudent mind and the act of commission of the respondent authority (Respondent No. 2) is seem to be upon the basis of personal grudge or alike thing which is not appreciable.

That counsel for the appellant may kindly be allowed to raise additional grounds during the course of arguments.

In wake of submissions made above, it is respectfully prayed that by accepting this appeal, the respondents may kindly be ordered to reinstate the Appellant in service as Constable with all back benefits w.e.from 20/01/2020.

This Honourable Tribunal may kindly be grant any other relief, if deemed appropriate in the best interest of justice & equity.

Your Humble Appellant

Muhammad Qadeer

Through counsel

Dated: 02/09/2021

MUHAMMAD IDREES KHAN

Advocate High Court Dera Ismail Khan.

AFFIDAVIT:-

б-

I, Muhammad Qadeer (Constable) son of Wali-Muhammad Caste Siraj Khel, R/o Panyala, Mohallah Siraj Khel, Tehsil & District Dera Ismail Khan, the appellant, do hereby solemnly affirm declared on oath contents of the above Appeal are true and correct to the of my knowledge and nothing has been concealed from this Honourable Tribunal Court.

Identified by Counsel;

MUHAMMAD IDREES KHAN Advocate High Court, Dera Ismail Khan. Deponent

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OFFICE OF THE DISTRICT POLICE OFFICER, DERA ISMAIL KHAN

> Tel: (0966) 9280062 Fax (0966) 9280293

> > Dated. 0) / 06 /2020

No.3890 /EC,

ORDER

Amex-B

This order will dispose of departmental proceedings conducted against Constable Muhammad Qadeer No.1132, of this district Police, under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014).

As reported by Moharrir PS/Gomal University vide DD No.18 dated 28.03.2020, that while he posted at PS Gomal University and deployed at Gomal University for Security Guard duty, he were relieved for 01-month on 27.02.2020, and due for report on 28.03.2020, but he absented himself from law full duties till date without any leave or permission from the high ups.

He was served with charge sheet/statement of allegations. An enquiry was conducted into the matter through Mr. Iftikhar Ali Shah DSP/Paroa Circle DI Khan, under Police Rules-1975 ammended-2014. The Enquiry Officer submitted his finding report in which he stated that the allegations against the delinquent Constable Muhammad Qadeer No.1132 has been proved due to absence from lawful duty w.e.from 28.03.2020 till date. He (EO) further added that he has not submitted the reply of charge sheet neither appear before the Enquiry Officer. Therefore, it is recommended that the aforementioned delinquent Constable Muhammad Qadeer No.1132 may kindly be awarded Major Punishment.

Keeping in view of finding and recommendations of the Enquiry Officer, the undersigned came to the conclusion that the charges of misconduct stand proved against him beyond any shadow of doubt.

Therefore, in exercise of powers conferred upon me under the ibid rules I, Capt. ® Wahid Mehmood, District Police Officer, DI Khan, award him a Major Punishment Dismissal from service with immediate effect.

OB No. 1259
Dated. 03 106/ 2020

Capt: ® WAHID MEHMOOD, PSP

District Police Officer,

Dera Ismail Khan

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Annex-D

OFFICE OF THE REGIONAL POLICE OFFICER DERA ISMAIL KHAN REGION

1743 69 -10-2=

Dated

07/10/2020

ORDER

This order is almed to dispose of the departmental appeal of Ex-Constante Muhammadi Ondeer No.1132 of District Police Olkhan against the Major Purishmedorder i.e. Dismissal from Service by DPO DIKhar vide C3 No. 1259 dates of the lowing allegations:

Tailed of the case are that as reported by Mohandr PS Gomai University stillede Ph No.16 Jated 28,03,2020 that while he posted at PS Gomal University and deployed at Gonnal University for security duty, he was relieved for 01 month on 27,02,2020 and due for Yeport on 28-03-2020, but he absented himself from lawful duties till dary without any leave **០។ (pennission** from the high ups.

He was issued charge sheet and proper departmental proceedings were Initialed against leist Enquiry into the matter was conducted by Mr. Iftilchay All Shah DSP. Paros Civelle D. Filtan, who submitted his findings report in which he repositions the allegations a first the delinquent Constable Muhammad Qadeer No.1132 has been proved discome lawful duty w.e.from 28.03.2020 till date. The English Officer further pulled that he had not submitted the reply of charge sheet neither appears before the Enquiry officer. Therefore, it is recommended that the differementioned delinquent Construit may Kindly be awarded Major Punishment. Hence, DPO Dikhan has passed the order dated as at 2020.

He preferred an appeal to the undersigned on 15.06.2020 against the order of UTO Dallan. His appeal was sent to DPO DIKhan for comments and to provide his service Pariod vide this office Endst: No. 2915/ES dated 21,07.2020. DPO DI Khan vide his office memo: No: 5081 dated: 30.07.2020 has furnished the command and he subject appeal.

The undersigned perused the file of the appelled thoroughly as well as heard him in person in Orderly Volum dated 23:09.2020. Enquiry into the case was conducted by DSP Paroa Circle DI Khan who found him guilty of the charges leveled against him and recommended him for Mator punishment. His edgener is of 65-days which shows that he Page of the office his job and it is not ignorable.

Therefore, I, YASEEN : AROOQ, Regional Police Officer, Dera Ismail Khan, in exercise of the powers conferred upon me under Pale-11(4)(a) of Police, Rules 1975 amended 2014, the Major punishment of Dismissal from Service worded by DPO D.I Kuan uphold the order of penalty and his appeal is hereby rejected.

(YASEEN FARGOD) PSP REGIONAL POLICE OFFICERS (Etti ra Ismail Khan

No. 9121

Copy of above is sent to the DPO DIKhan alongwith service recode

w.r.t his office memo: No.50/1/EC dated 30.07.2020.

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OFFICE OF THE REGIONAL POLICE OFFICER DERA ISMAIL KHAN REGION

FA

No. 9120/ES

Dated

D I Khan the

07/10/2020

ORDER

This order is aimed to dispose of the departmental appeal of Ex-constable Muhammad Qadeer No.1132 of District police D I Khan against the Major Punishment order i.e Dismissal from Service by DPO D I Khan vide CB No. 1259 dated 03/06/2020 on the following allegations:

Facts of the case are that as reported by Moharir PS Gomal University vide DD No. 18 dated 28/03/2020 that while he posted at PS Gomal University and deployed at Gomal University for security duty, he was relieved for 01 month on 27/02/2020 and due for report on 28/03/2020, but he absented himself from lawful duties till date without any leave or permission from the high ups.

He was issued charges sheet and proper report mental proceedings were initiated against him. Enquiry into the matter was conducted by Mr. Iftikhar Ali Shah DSP Paroa Circle D I Khan who submitted his findings report in which he reported that the allegations against the delinquent Constable Muhammad Qadeer No. 1132 has been proved from lawful duty w.e from 28/03/2020 till date. The Enquiry officer further added that he has not submitted the reply of charge sheet neither appears before the Enquiry Officer. Therefore, it is recommended that the aforementioned delinquent constable may kindly be awarded Major Punishment. Hence, DPO D I Khan has passed the order dated 03/06/2020.

He preferred an appeal to the undersigned on 15/06/2020 against the order of DPO D I Khan. His appeal was sent to DPO D I Khan for comments and to provide his service period vide this office Endst: No. 2915/ES dated 21/07/2020. DPO D I Khan vide his office memo: No. 5081 dated 30/07/2020 has furnished the comments on the subject appeal.

The undersigned perused the file of the appellant thoroughly as well as heard him person in Orderly room dated 23/09/2020. Enquiry into the case was conducted by DSP Paroa Circle D I Khan who found him guilty of the charges leveled against him and recommended him for major punishment. His absence is of 65-days which shows that he has no interest in his job and it is not ignorable.

Therefore, I, Yaseen farooq, Regional Police officer, Dera Ismail Khan, in exercise of the powers conferred upon me under Rule-11(4)(a) of Police Rules 1975 amended 2014, the Major Punishment of Dismissal from since awarded by DPO D I Khan uphold the order of penalty and his appeal is hereby rejected.

(YASEEN FAROOQ)PSP REGIONAL POLICE OFFICER DERA ISMAIL KHAN

No.9121 /ES

Copy of above is sent to the DPO D I Khan along with service record w.r.t his office memo: No.5081/ES dated 30/07/2020

(YASEEN FAROOQ)

REGIONAL POLICE OFFICER
DERA ISMAIL KHAN

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OFFICE OF THE INSPECTOR GENERAL OF POLICE KHYBER PAKHTUNKHWA Central Police Office, Peshawar.

No. 8/ 3/95 /21, dated Peshawar the 29/17 /2021.

To

The

DSP/PAS.

CPO, Peshawar,

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Subject: -

REQUEST FOR RE-INSTATMENT IN SERVICE.

Memo:

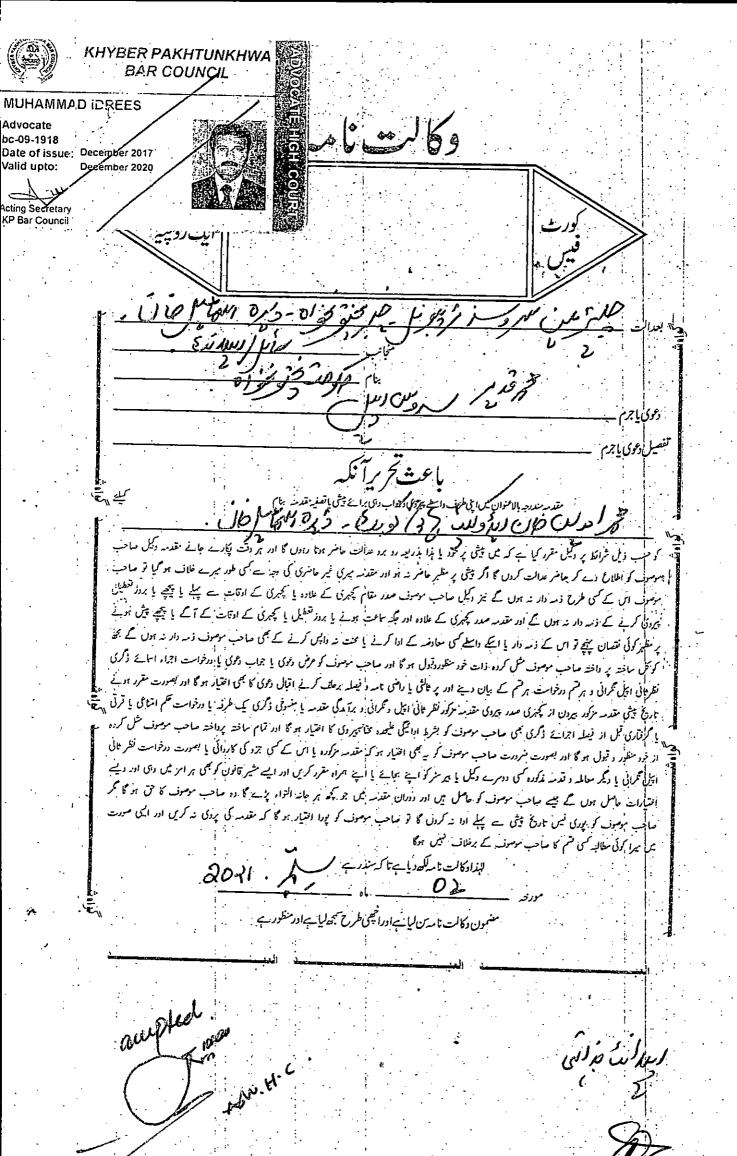
Please refer to your office Memo No. 2091-92/CPO/IAB/PAS, dated 16.06.2021, The competent Authority has examined and filed the revision petition submitted by Ex-Constable Muhammad Qadeer No. 1132 of Dera Ismail Khan District Police against the punishment of dismissal from service awarded by District Police Officer, D. Khan vide OB No. 1259, dated 03.06.2020, being badly time barred.

The applicant may please be informed accordingly.

(NOOR AFGHAN)

Registrar,

For Inspector General of Police Khyber Pakhtunkhwa, Peshawar



سن كابيرسشرا ندرون سين زر ماركيك بالقابل جانز مول ويره اساحيل خان

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KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR. JUDICIAL COMPLEX (OLD), KHYBER ROAD,

No.

APPEAL No. 7613 of 20 21

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Apellant/Petitioner

Versus

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Notice to Appellant/Petitioner District Police office

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on at a fine of the fixed for Preliminary hearing,

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

at earl Court.

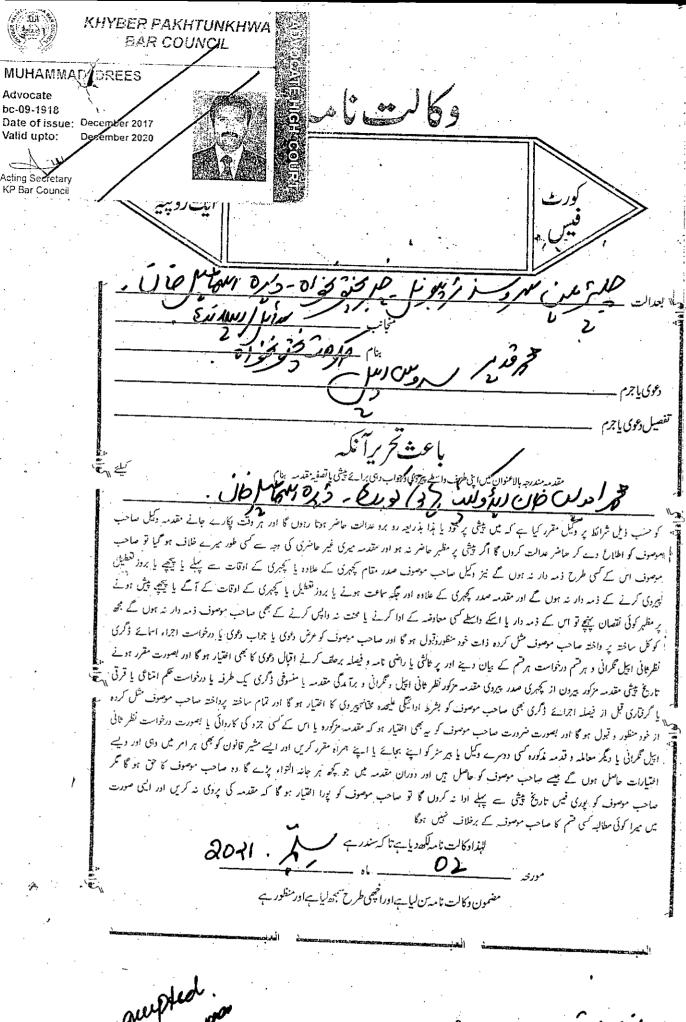
Registrar,

Khyber Pakhtunkhwa Service Tribunal, Peshawar.

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