

27th September, 2022

Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for respondents present.

Learned counsel for the appellant seeks adjournment on the ground that he has not gone through the brief of the instant appeal. Last opportunity granted to argue the case on the next date positively. Adjourned. To come up for arguments on 25.10.2022 before the D.B at Camp Court D.I.Khan.



(Salah Ud Din)
Member (Judicial)
Camp Court D.I.Khan



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

25.10.2022

Appellant present through counsel.

Kabir Ullah Khattak, learned Additional Advocate General for respondents present.

Bench is incomplete, therefore, case is adjourned. To come up for arguments on 22.11.2022 before D.B at Camp Court, D.I Khan.



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

24.01.2022

Tour is Cancelled, therefore, case is adjourned to
23.05.2022 for the same as before.


Reader.

23.05.2022

Nemo for the appellant. Mr. Muhammad Adeel Butt,
Additional Advocate General for the respondents present.

Previous date was changed on Reader Note, therefore,
notice for prosecution of the appeal be issued to the appellant as
well as his counsel through registered post and to come up for
arguments on 26.07.2022 before the D.B at Camp Court
D.I.Khan.



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



(Salah-ud-Din)
Member (J)
Camp Court D.I.Khan

26/07/2022


Due to Summer vacation
Come in 27/09/2022


Reader

13.12.2021

Counsel for appellant and Mr. Muhammad Adeel Butt, learned Additional Advocate General alongwith Daud Jan, H.C for the respondents present.

Learned counsel for the appellant seeks time to prepare the brief. Request is granted. To come up for arguments on 24.01.2022 before the D.B at camp court, D.I.Khan.



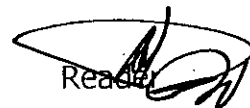
(Rozina Rehman)
Member (J)
Camp Court, D.I.Khan



Chairman
Camp Court, D.I.Khan


25.01.2021

Due to COVID 19, the case is adjourned to 26.03.2021 for the same as before.


Reader

26.03.2021

Appellant in person present. Mr. Muhammad Zubair, Head Constable alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present and sought further time for filing of written reply/comments. Adjourned. To come up for written reply/comments on 22.06.2021 before S.B at Camp Court D.I.Khan.


(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT D.I.KHAN

27.6.21

Due to COVID-19, the case is adjourned to 26-10-21 for same.

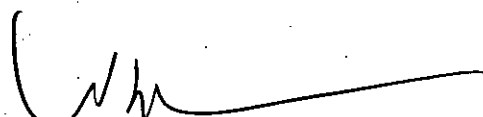


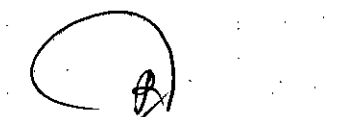
26.10.2021

Appellant present in person.

Asif Masood Ali Shah learned Deputy District Attorney alongwith Muhammad Zubair H.C for respondents present.


Reply on behalf of respondents was submitted. Request for adjournment was made on behalf of appellant; granted. To come up for arguments on 13.12.2021 before D.B at Camp Court, D.I.Khan.


(Atiq ur Rehman Wazir)
Member(E)
Camp Court, D.I.Khan


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

24.09.2020

Counsel for appellant present and requested for adjournment. Adjourned. To come up for preliminary hearing on 25.09.2020 before S.B at Camp Court D.I Khan.


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

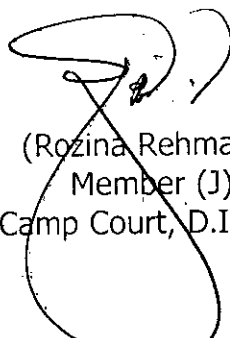
25.09.2020

Counsel for appellant present. Preliminary arguments heard. File perused.

Points raised need consideration. Admitted to regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to respondents for written reply/comments. To come up for written reply/comments on 24.11.2020 before S.B at Camp Court, D.I.Khan.

Appellant Deposited
Security Process Fee


36/9/20


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

24.11.2020

Counsel for the appellant and Muhammad Jan, learned DDA alongwith Muhammad Zubair H.C for respondents present.

Written reply not submitted. Representative of respondents seeks time to submit reply/comments. Granted. To come up for reply/comments on 25.01.2021 before S.B at Camp Court, D.I. Khan.

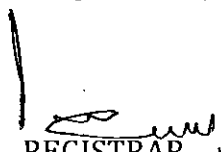


(Atiq-Ur-Rehman Wazir)
Member (E)
Camp Court, D.I. Khan

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 8637 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	27/07/2020	<p>The appeal of Mr. Saadullah presented today by Mr. Burhan Latif Khaisori 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>
2-	14-9-20	<p>This case is entrusted to touring S. Bench at D.I.Khan for preliminary hearing to be put up there on <u>24-9-2020</u></p> <p style="text-align: right;"> CHAIRMAN</p>

(18)

DISCIPLINARY ACTION

I, MR. AMAN ULLAH KHAN SUPERINTENDENT OF

POLICE FRP, D.I.KHAN RANGE, as competent authority am of opinion that

You Constable Saad Ullah No.857/FRP (Old SPL), have rendered yourself liable to be proceeded against and committed the following acts/omissions within the meaning of section-3 of the NWFP removal from service (Spl: power) Ord: 2000.

STATEMENT OF ALLEGATION.

It has been Proved by the Investigating Officer of Case FIR No.81, dated 24.04.2011, U/S 324/353/34 /7ATA, Police Station Paroa, Distt: D.I.Khan that you during Investigation narrated a Concocted story to the I.O of the Case. As in fact Constable Muhammad Sohail No.847/FRP (Old SPL) was injured due to firing made by you with Pistol 30-Bore as evident from the report of FSL/Peshawar. So by changing section of Law into 337-H, you have been Charged for the Commission of offence.

This act on your part reflects lack interest towards the performance of Your duties and also gross misconduct. which is punishable under the rules.


Hence the statement of allegation.

2. For the purpose of scrutinizing the said defaulter with reference to the above allegation Mr. GUL MANAN KHAN LINE OFFICER/FRP D.I.Khan is appointed as Enquiry Officer to conduct proper Departmental Enquiry under section-3 of the ordinance.
3. The enquiry officer shall in accordance with the provision of the ordinance, provide reasonable opportunity of the hearing to the defaulter, record its findings and make with in twenty five days of the receipt of this order recommendations as to punishment or other appropriate action against the defaulter.
4. The defaulter and a well conversant representative of the department shall join the proceedings on the date time and place fixed by the Enquiry Officers.

Superintendent of Police,
FRP,D.I.Khan Range, D.I.Khan.

No. 876-74/FRP, dated D.I.Khan the 23-05-/2011.
Copy to:-

1. Mr. GUL MANAN KHAN LINE OFFICER/FRP D.I.Khan, the enquiry officer Initiating proceedings against the defaulter under the provision of NWFP Removal from Service Special Ordinance-2000, enquiry papers counting _____ pages are enclosed.
2. Constable Saad Ullah No.857/FRP (Old SPL), with the direction to appear before the E.O on the date, time and place fixed by the E.O for the purpose of enquiry proceeding.


Superintendent of Police,
FRP, D.I.Khan Range D.I.Khan.

23-05-2011 870.71 SP, FRP D.I.K لیسٹ نمبر جناب

معروض ہوں کہ جو بیان میں نے تفتیشی افسر کو دیا ہے واضح ہے اور میں اس پر قائم ہوں۔ مجھے اس مقدمے میں تفتیشی افسر نے صرف اس لئے نامزد کیا ہے کہ اس کو 7ATA کو ثابت کرنے میں تکلیف تھی۔

اگر میرے فائر سے کانسٹیبل سہیل زخمی ہوتا، تو اس وقت FIR میں مجھے نامزد کیا جاتا، اور ساتھ ہی دوسرے پولیس کانسٹیبلان اور پلٹون کمانڈر کو بتلاتا۔ مگر چونکہ حقیقت میں وہ نامعلوم کے ہاتھوں زخمی ہوا تھا اس لئے اس نے حقیقت بیان کی میں اور پلٹون کمانڈر چوکی میں موجود تھے اور سہیل کے شور پر باہر نکلے میں نے اپنے پستل سے ہوائی فائرنگ کی اور پلٹون کمانڈر نے اپنی کلاشکوف سے فائرنگ کی۔ کانسٹیبل محمد ارشد اور سراج الدین بھی موقع پر پہنچ چکے تھے۔

انہوں نے بھی سہیل کی بات سنی کہ وہ نامعلوم افراد کی فائرنگ سے زخمی ہوا ہے۔ تفتیشی افسر نے صرف 7ATA کو ختم کرنے کیلئے تفتیش کارخ موڑ کر مجھے گناہ گار کیا چونکہ میں نے اپنے پستل سے فائرنگ کی ہے۔ اس لئے خالی رائونڈ تفتیشی افسر نے برآمد کر کے مقدمہ میرے اوپر ڈال دیا حالانکہ یہ حقیقت نہیں ہے۔ تفتیشی افسر نے اپنی طرف سے رائے لے کر مقدمہ 7ATA ختم کیا ہے۔ اور 337H میرے خلاف بنا دیا ہے۔

حالانکہ کسی پولیس افسر جو کہ موقع پر موجود تھے تفتیشی افسر کی رائے کو Support نہیں کیا تمام لوگوں نے FIR کی تائید کی ہے۔ مضروب سہیل اور میں اچھے دوست ہیں اور ہانڈ یوال ہیں۔ ہمارے درمیان کوئی کسی قسم کا تنازعہ نہیں تھا، اور نہ ہے۔ ہمارا راضی نامہ عدالت میں انشاء اللہ ہو جائے گا۔ میں بے قصور ہوں میرا چارج شیٹ فائل فرمایا جاوے۔

کانسٹیبل سعد اللہ 857



ORDER:-

"Anex F"

20

This Order will dispose off departmental enquiry conducted against Constable Saad Ullah No.857/FRP (Old SPL), of FRP, D.I.Khan Range, on the Charges that it has been proved by the Investigation Officer of case FIR No.81 dated 24.04.2011 U/S 324/353/34/7ATA police Station Paroo Distt: D.I.Khan that he during Investigation narrated a Concocted story to the I.O. of the case. As in fact Constable Muhammad Sohail No 847/ FRP (Old SPL) was injured due to firing made by him with pistol 30 Bore as evident from the report of FSL Peshawar.

On the basis of his above, he was Suspended and close to Police Line FRP DIKhan vide this Office OB No.418 dated 18.05.2011 and proceeded against departmentally and served with proper Charge Sheet and Statement of allegations. Mr. GUL MANAN KHAN LINE OFFICER/FRP D.I.KHAN was appointed as Enquiry Officer. After completion of all codal formalities, the Enquiry Officer submitted his finding report along with other relevant papers, where in he recommended the said Constable for Re-instate him in from the date of suspension i.e 18.05.2011 and award for Minor Punishment.

Keeping in view the facts stated above, ~~as well as~~ recommendation of Enquiry Officer, I MR. AMAN ULLAH KHAN, Superintendent of Police FRP D.I.Khan Range, D.I.Khan, in exercise of powers conferred upon me under the NWFP Removal from Service (Special Powers) Ord:- 2000 Amendment Act- 2005, award Constable Saad Ullah No.857/FRP(Old SPL), minor Punishment of with holding of one year increment with cumulative effect. Re-instate in service from the date of Suspension i.e 18.05.2011; He is also warned to be Careful in future. His pay is also released.

ORDER ANNOUNCED.

Dated. 15.07.2011.

OB No. 639 /FRP

Dated 15/07/2011.

(AMAN ULLAH KHAN)
Superintendent of Police,
FRP, D.I.Khan Range, D.I.Khan.

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(21)

BETTER

This Order will dispose off departmental enquiry conducted against Constable Saad Ullah No.857/FRP(Old SPL) of FRP, D.I.Khan Range on the Charges that it has been proved by the Investigation Officer of Case FIR No.81 dated 24/04/2011 U/S 324/353/34/7-ATA Police Station Prova Distt; D.I.Khan that he during Investigation narrated a concocted story to the I.O of the case. As in fact Constable Muhammad Sohail No.847/FRP (Old SPL) was injured due to firing made by him with pistol 30 Bore as evident from the report of FSL Peshawar.

On the basis of his above he was Suspended and close to Police Line FRP DIKhan vide this Office OB.No.418 dated 18/05/2011 and proceeded against departmental and served with proper Charge Sheet and Statement of allegations **Mr. GUL MANAN KHAN LINE OFFICER/FRP D.I.KHAN.** was appointed as Enquiry Officer. After completion of all codal formalities the enquiry officer submitted his finding report along with other relevant papers, wherein he recommended the said Constable for Re-instate him in from the date of suspension i.e. 18/05/2011 and award for minor punishment.

Keeping in view the fact stated above as well as recommendation of enquiry officer I, Mr. AMAN ULLAH KHAH superintendant of police FRP, DIKhan Range, DIKhan inpowers conferred upon me under the NWFP Removal from service (Special Powers) Ord;- 2000 Amendment Act 2005, award Constable said Saad Ullah 857/FRP(Old SPL), Minor punishment of withholding one year increment with cumulative effect. Re-instate in service from the date of suspension i.e. 18/05/2011 he is also warned to be Careful in future. His pay is also release.

ORDER ANNOUNCED**Dated;15/07/2011**

OB No.639/FRP

Dated; 15/07/2011

Aman Ullah Khan

Superintendant of Police
FRP, D.I.Khan, Range, D.I.KhanDASC
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ORDER.

Anex A
880/MP
23-8-13
22

This order shall dispose off on the appeal preferred by Constable Saad Ullah No.857/ FRP OLD SPL DI Khan Range against the order of SP FRP DI Khan Range

Brief facts are that Constable Saad Ullah No.857/ FRP OLD SPL DI Khan hited a constable Muhammad Sohail No. 847 of FRP OLD SPL with 30 Bore Pistol due to which he was injured .Later on during investiaton he narrated concocted story, but the report of FSL Peshawar, as well as IO of the case disclosed that constable Saad Ullah No. 857 hited constable Muhammad Sohail No. 847 thus a case vide FIR No. 81 dated 24.04.2011 u/s 324/34/7 ATA Police Station Paroa District Dikhan was registered. He was issued charge sheet/statement of allegation and LO/FRP DIK Range was appointed as enquiry officer. After enquiry the EO submitting finding wherein he recommend the defaulter for minor punishment. Therefore he was awarded minor punishment of withholding of one year annual increment with cumulative effect by the SP FRP DIK Range vide his OB NO.639 dated 15.07.2011.

However from the perusal of record and finding of enquiry officer there is no cogent reason to interfere in the order of SP FRP Dikhan Range. Therefore his appeal is rejected.

Add: IGP/Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa Peshawar

No. 344 /FC dated Peshawar the 25

19/8/2013
19/8/2013

Copy of above is sent to the Superintendent of Police FRP Dikhan Range for information w/r to his Memo: No. 905 dated 15.07.2013. His service record and departmental file are returned herewith.

D.S. Roll
Received
23/8/13

O F Masood
23-8-13

OB. 500
22.08.13

ASAC

Signature
23/8/13

BETTER COPY

This order shall dispose off on the appeal preferred by Constable Saad Ullah No. 857/FRP OLD SPL DI Khan Range against the order of SP FRP DI Khan Range.

Brief facts are that Constable Saad Ullah No.857/FRP OLD SPL DI Khan hited a constable Muhammad Sohail No.847 of FRP OLD SPL with 30 Bore Pistol due to which he was injured. Later on during investigation he narrated concocted story, but the report of FSL Peshawar as well as I.O of the case disclose that constable Saad Ullah No.857 hited constable Muhammad Sohail No.847 thus a case vide FIR No. 81 dated 24/04/2011 U/S 324/34/7-ATA Police Station Prova District Dera Ismail Khan was registered. He was issued charge sheet/ statement of allegations and LO/FRP DIKhan Range, was appointed as inquiry officer. After inquiry the EO submitting finding wherein he recommended the defaulter for minor punishment. Therefore, he was awarded minor punishment of withholding of one year annual increment with cumulative effect by the SP FRP DIK Range, vide his OB No. 639 dated 15/07/2011.

However, from the perusal of record and finding of inquiry officer there is no cogent reason to interfere in the order of SP FRP DIKhan Range. Therefore his appeal is rejected.

**Addl; IGP/ Commanded
Frontier Reserve Police
KPK Peshawar.**

Dated: 19-8-13

No.5441/EC dated Peshawar the. 20-8-2013

Copy of the above sent to the Superintendent of Police, FRP DIKhan Range, for information w/r to his Memo; No.905 dated 18/07/2013. His service record and departmental file are returned here with.

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ایف آر بی
ذات قرابہ گمانڈنٹ ہمارے لوئیس FRP - KPK

نشاوری
۲

"Anex H"

24

درخواست یافتگی کی ایک کنٹریٹ - سائل کنٹریٹ نمبر 8625
سعد اللہ متعین تھانہ ٹی ڈی اے LHC
with cumulative effect

وفا عالی = گذارش ہے کہ سائل کنٹریٹ مذکور کو پرو آرڈر مورخہ 07-15
کے تحت سزاوار کیا گیا کہ آپ پر جو الٹے وعدے 81 مورخہ 04 2011
پر دفعہ 324-353-34 P.C. تھانہ پرو آرڈر 07-15
TATA

عالیجاہ - گذارش ہے کہ FIR کے اندراج کے بعد محمد پرو اسیکوریشن انڈر لیمٹڈ
پبلک پرو اسیکوریشن ڈی اے کے تحت کاغذات اطلاق کیے گئے اور دفعہ 07-15
P.C. 337-H اینڈ کیا تھا جس پر باقاعدہ بعد ازاں 07-15 کنٹریٹ ہمارے
میں حل دلانے کے لیے Put in court ہو کر سماعت ہوئی اور عدالت نے سائل کنٹریٹ
کو پرو اسیکوریشن ڈی اے کے تحت 07-15 کے ساتھ ہی - اور انڈرس
سے کنٹریٹ کے خلاف حوالہ دینے سے verification کی جاتی ہے۔

اس لیے پندرہ درخواستیں ایسے کی جاتی ہیں آرڈر مورخہ 07-15
OB No 639 FRP کے عدم وقوع و فرار سائل کنٹریٹ کا - - - - -
2011

With cumulative effect

ایک کنٹریٹ بحال کیا جانا اور دہنوری و صین الہ آباد سے

مورخہ 03-17
2020

یورینٹ لٹریچر لٹریچر

Mob No - 0344 9393850

سعد اللہ کنٹریٹ نمبر 8625
LHC FRP
متعین تھانہ ٹی ڈی اے

Case

درخواست بابت بحالی انگریمنٹ سائل کا نشیبل نمبر 8625/LHC سعد اللہ متعینہ تھانہ شی ڈی

With Cumulative Effect

جناب عالی! گزارش ہے کہ سائل کا نشیبل مذکورہ کو بروئے آرڈر مورخہ 15/07/2020 کے تحت سزاوار کیا

گیا کہ آپ پر بحوالہ مقدمہ نمبر 81 مورخہ 24/04/2011 بجرم زیر دفعہ

324/353/34/7ATA-PPC تھانہ پرواڈیرہ اسماعیل خان درج ہے۔

علاجاً! گزارش ہے کہ محکمہ FIR کے اندراج کے بعد محکمہ پراسیکوشن بذریعہ ڈسٹرکٹ پبلک پراسیکوشن DIK نے

دفعات کا غلط اطلاق ہونے پر دفعات کو ختم کر کے دفعہ 337-H-PPC ایزاڈ کیا تھا جس پر باقاعدہ بعدالت جناب

جوڈیشل مجسٹریٹ صاحب علاقہ تھانہ میں چالان مکمل Putt in court ہو کر سماعت ہوئی اور عدالت نے سائل

کا نشیبل مذکور کو بری کیا تھا۔ بطور ثبوت حکم عدالت مورخہ 06/07/2011 ہمراہ لف ہے اور اندر میں نسبت

ڈسٹرکٹ محافظ خانہ سے Verification بھی کی جاسکتی ہے۔

اس لیے بذریعہ درخواست استدعا ہے کہ جاتی ہے کہ آرڈر مورخہ 15/07/2011، OB No.639

FRP کو کالعدم و منسوخ فرما کر سائل کا نشیبل کا With Cumulative Effect انگریمنٹ

بحال کیا جانا از حد ضروری و عین انصاف ہے۔ بطور ثبوت نقولات لف ہذا ہیں۔

مورخہ 17/03/2020

موبائل نمبر 0344-939-3850

سعد اللہ کا نشیبل نمبر FRP 8625/LHC متعینہ تھانہ شی ڈی

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"Anex 9"

From , The Commandant,
Frontier Reserve Police,
Khyber Pakhtunkhwa, Peshawar

To The Superintendent of Police, FRP
DI Khan Range, DI Khan.

OFFICE OF THE SUPERINTENDENT OF POLICE
FRONTIER RESERVE POLICE
By No. 579
Date 10-7-2020
26

No. 4932 /SI, Legal dated Peshawar the 03/07/2020.

Subject: APPEAL

Memo:

Please refer to your office No. 1058/FRP, dated DI Khan the 24.06.2020.

The Service record alongwith D-file of LHC Saad Ullah No. 8625 of FRP DI Khan Range is hereby returned for your office record as his first appeal was already rejected vide this office order Endst; No. 5441/EC, dated 20.08.2013.

SRC
For information.

For: Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa, Peshawar.

10/7
10/7
10/7

Sir
PPs attached
Cpt P20

Service Roll
Received

Superintendent of Police
FRP, DI Khan Range

10-7-2020
10/7

جواب چارج شیٹ

بحوالہ چارج شیٹ مجاریہ ازان جناب SP, FRP D.I.K لیٹر نمبر 875.76 23-05-2011

معروض ہوں کہ میرا FIR کا بیان مفصل ہے۔ اور میں FIR کی تائید کرتا ہوں۔ میں دو نامعلوم افراد کی فائرنگ سے زخمی ہوا ہوں۔ میرے زخمی ہونے کے بعد میرے شور پر چوکی میں موجود اشخاص آئے اور انہوں نے ہوائی فائرنگ کی مگر دونوں ملزمان رات کی تاریکی کا فائدہ اٹھاتے ہوئے دور جا چکے تھے۔

جہاں تک تفتیشی افسر کی تفتیش کا تعلق ہے، چوکی کے کسی ملازم نے یہ نہیں کیا کہ چوکی کے اندر ڈرامہ مچایا گیا ہے۔ بلکہ ہر ایک نے حقیقت بیان کی ہے۔ میری سمجھ سے بالاتر ہے۔ کہ اگر مجھے کانسٹیبل سعد اللہ نے زخمی کیا ہوتا۔ تو پہلے FIR میں اسکو نامزد کرتا۔

مگر سرکل افسر نے صرف TATA کو ختم کرنے کیلئے بناوٹی شوری بنائی، اور TATA کو ختم کیا اور اپنی جان چھڑائی اور اپنے ایک ملازم کو بغیر قصور کے ملزم بنا دیا میرا بیان واضح ہے اور میں اس پر قائم ہوں۔ میرا چارج شیٹ داخل دفتر فرمایا جاوے۔ میں نے کوئی جرم نہیں کیا۔ اور نہ ہی FIR کے بیان سے کوئی فائدہ ملتا۔

کانسٹیبل محمد سہیل 847

ASL



**SUPREME COURT
BAR ASSOCIATION
PAKISTAN**

Burhan Latif Khaisori
Advocate Supreme Court



Life Member

President

Secretary

وکالت نامہ

28

کورٹ
فیس

Before the Services Tribunal KPK, Peshawar
From Appellant منجانب
Saadullah و/س Provincial Police Officer
Service Appeal دعویٰ باجرم

تفصیل دعویٰ باجرم

باعث تحریر آنگ

مقدمہ مقدمہ بالا عنوان میں اپنی طرف دائرے بیرونی وجوہات دی برائے پیش یا تصدیق مقدمہ نام
BURHAN LATIF KHAISORI ADVOCATE SUPREME COURT AT D.I. KHAN

کاحسب ذیل شرائط پر وکیل مقرر کیا ہے کہ پیش پیش پر خود یا ذرا بذریعہ رو برو عدالت حاضر ہوتا رہوں گا اور ہر وقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا اگر پیش پر مظہر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام پشہری کے علاوہ یا پشہری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل بیرونی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ صدر مقام پشہری کے علاوہ اور جگہ سمیت ہونے یا بروز تعطیل یا پشہری کے اوقات کے آگے یا پیچھے پیش ہونے پر مظہر کوئی نقصان پہنچے تو اس کے ذمہ دار یا اسکے واسطے کسی معاوضہ کے ادا کرنے یا محنت نہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ بحج کواکل ساختہ پر دائرہ صاحب موصوف مثل کردہ ذات خود منظور قبول ہوگا اور صاحب موصوف کو عرض دعویٰ یا جواب دعویٰ یا درخواست اجراء اسمائے ذمیری نظر ثانی اپیل مگرانی و ہر قسم درخواست ہر قسم کے بیان رسید اور پر پالی یا راضی نامہ و فیصلہ برطرف کرنے اقبال دعویٰ کا بھی اختیار ہوگا اور بصورت مقرر ہونے تاریخ پیش مقدمہ مذکور ہیرن از پشہری صدر بیرونی مقدمہ مقرر نظر ثانی اپیل و مگرانی و برآمدگی مقدمہ یا مسودہ ذمیری یک طرفہ یا درخواست حکم اقامتی یا قرضی یا گرفتاری لگی از فیصلہ اجراءے ذمیری بھی صاحب موصوف کو بشرط ادا لگی علیہ عتاق بیرونی کا اختیار ہوگا اور تمام ساختہ پرداخت صاحب موصوف مثل کردہ از خود منظور و قبول ہوگا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکورہ یا اس کے کسی جزو کی کارروائی یا بصورت درخواست نظر ثانی اپیل مگرانی یا دیگر معاملہ و قدمہ مذکورہ کسی دوسرے وکیل یا ہیر مقرر کو اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے شیر قانون کو بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر جانب التزام پڑے گا وہ صاحب موصوف کا حق ہوگا مگر صاحب موصوف کو پوری فیس تاریخ پیش سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پردی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا

لہذا وکالت نامہ لکھ دیا ہے تاکہ سزا دے
مورثہ 27 جولائی 2020

مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے

Accepted

Saadullah
(Appellant)

CNIC # 12101-2315263-3
cell # 0344-939-3850

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twice: once for provision and then for rendition of service was no. When this being the case. The whole exercise embarked upon appears to be academic.

7. The argument that when petitioner denied inception of the proceeding its status as a franchisee levy was misconceived is also without force when the record, as the learned counsel for the respondent, proves to the contrary. Even if it be as it was contended by the learned counsel for the petitioner, a question of fact could not have been raised in a reference to the High Court which always invariably lies only on a question of law. In this view of the matter, we don't think impugned judgment suffers from any infirmity much less legal or jurisdictional so as to justify interference therewith.

8. For the reasons discussed above, this petition being without merit is dismissed and the leave asked for is refused.

MWA/C-3/SC

2013 S C M R 752

[Supreme Court of Pakistan]

Present: Nasir-ul-Mulk and Tariq Parvez

CHAIRMAN, STATE LIFE INSURANCE CORPORATION OF PAKISTAN, KARACHI and others---Appellants

versus

SIDDIQ AKBAR---Respondent

Civil Appeal No. 1186 of 2012, decided on 30th January, 2013.

(On appeal from the judgment/order dated 12-9-2012 passed by Lahore High Court, Lahore in W.P. No.7249 of 2012).

(a) Civil service---

---Dismissal from service---Rights of employee on reinstatement in service---Employee reinstated in service after exoneration of the charge--- Right/entitlement of such employee to continuation of service, increment in salary and pro forma promotion for the period he remained suspended or dismissed---Scope---Employee (respondent), in the present case, was charge-sheeted for misappropriation and embezzlement on the basis of which he was dismissed from service---Fresh inquiry committee was constituted on the directions of the Supreme Court, which

2013] Chairman, State Life Insurance Corporation of Pakistan v. Siddiq Akbar (Tariq Parvez, J)

committee exonerated employee of the charges---Competent authority treated period during which employee remained dismissed as extra ordinary leave without pay and he was denied salary for such period on the ground that he physically remained out of service---Competent authority also denied the employee increment of two years during which he remained dismissed from service and also did not consider him for promotion with retrospective effect as he was dismissed from service and his Annual Confidential Reports for such period were not available---High Court allowed constitutional petition filed by employee and ordered that period for which he remained dismissed was to be considered as period spent on duty; that annual increment for the two years during which he remained dismissed were to be granted to him, and that he should also be considered for pro forma promotion with effect from the date when his batchmates were promoted---Validity---Once an employee was reinstated in service after exoneration of the charges levelled against him, the period during which he remained either suspended or dismissed could not be attributed as a fault on his part---Absence of employee, in the present case, during period of his suspension and subsequent dismissal was not voluntary on his part but it was due to the order of the employer-Corporation (appellant), which restrained him from attending his job/duty---Exoneration of the charge meant that employee stood restored in service, as if he was never out of service of the employer-Corporation---Period during which employee remained dismissed, therefore, was to be considered as period he "remained in service"---Since absence/non-attendance of employee at work was not voluntary on his part and it was due to the steps taken by the employer-Corporation, therefore, his service record could neither be adversely affected nor could he be denied any benefit to which he would have been entitled had he not been suspended or dismissed---Appeal was dismissed accordingly. [pp. 758, 759] A & C

(b) Limitation---

---Bar of limitation---Principles---Limitation was a bar against a party in pursuing its cause and not a bar regarding assumption of jurisdiction by a court because the court for justified reasons could condone the time limitation. [p. 759] B

Ali Muhammad v. Muhammad Shafi PLD 1996 SC 292 and Chairman, State Life Insurance Corporation v. Hamayun Irfan 2010 SCMR 1495 ref.

Raja M. Ibrahim Satti, Senior Advocate Supreme Court for Appellants.

M. Munir Paracha, Advocate Supreme Court for Respondent.

Date of hearing: 30th January, 2013.

JUDGMENT

TARIQ PARVEZ, J.---Lengthy round of litigation had finally reached to this Court through Civil Petition for Leave to Appeal No.1710 of 2010. The petition came up for hearing on 21-12-2012 and the same was converted into appeal, *inter alia*, on the grounds to consider the following questions as formulated in the leave granting order:--

- (a) whether for the period the respondent remained suspended/dismissed from service, he shall be entitled to annual increment?
- (b) when the department has considered the respondent on extra-ordinary leave without pay for the period of 456 days; whether under the law, he could be held entitled for payment of the salary for these days, treating him to be present on duty?
- (c) whether the period during which the respondent remained suspended/dismissed from service can be considered while determining his seniority?

2. The respondent, while serving as Zonal Head, Sahiwal Zone of State Life Insurance Corporation of Pakistan was charge sheeted on 28-8-1996 and 10-9-1996 on the charges of misappropriation and embezzlement. He was proceeded against departmentally and was dismissed from service on 8-5-1997. The dismissal order was challenged by filing Writ Petition before the Lahore High Court, Multan Bench where dismissal order was suspended on 20-5-1997 and ultimately the said Writ Petition was allowed and dismissal order was quashed by the High Court vide order dated 30-3-1998. The appellant then filed Civil Petition for leave to appeal before this Court, which petition was converted into appeal and allowed and the judgment of the High Court dated 30-3-1998 was set aside with direction to the respondent to seek redressal of his grievance before the competent forum i.e. the Federal Service Tribunal. Consequently, the respondent filed two Service Appeals before the Federal Service Tribunal but both were dismissed on 9-3-1999; the judgment of the Service Tribunal was challenged by the respondent again by two separate Civil Petitions before this Court. This Court on 15-7-1999 allowed and set aside the order of the Service Tribunal with the observation that the disciplinary proceedings before the Department shall be deemed to be pending and shall be decided after constitution of enquiry committee in accordance with law. A freshly constituted enquiry committee on 2-3-2001 exonerated the respondent from the charges served upon him through the charge sheet mentioned hereinabove. After exoneration the competent authority

decided that the period during which the respondent remained dismissed from service i.e. from 8-5-1997 to 2-3-2001 shall be treated as extra ordinary leave without pay. The above decision of the authority was challenged by the respondent through representations dated 16-1-2001 and 21-4-2002. His representations were not acceded to. However, after about 8/9 years, the respondent filed yet another representation on 1-7-2010 and this time the competent authority vide order dated 27-7-2010 decided that the period from 8-5-1997 to 2-7-1997 (56 days) and from 9-6-1998 to 5-8-1999 (445 days), when the respondent was not in service be treated as extra ordinary leave without pay. This was again challenged by the respondent through Constitution Petition No.1829 of 2010, which was disposed of in the terms that the respondent shall file representation which shall be decided by the department within three months. It appears that since no order was passed on the representation, a fresh Writ Petition was filed by the respondent bearing No.1318 of 2012, which was disposed of on 20-1-2012 with direction that if the appeal of the respondent is pending, the same shall be decided within two weeks.

Upon fresh appeal filed on 6-7-2011, the competent authority vide order dated 15-2-2012 decided the appeal and granted relief to the respondent only to the extent that 56 days i.e. w.e.f. 8-5-1997 to 2-7-1997 be treated as spent on duty whereas rest of the relief was declined.

Being not satisfied, the respondent filed yet another Writ Petition bearing No.7249 of 2012, which was subject matter of instant proceedings and on 12-9-2012, the said Writ Petition was allowed with the following relief given to the respondent:--

- (a) That the period of 456 days as noted above is liable to be considered as a period spent on duty.
- (b) The annual increment for the years 1999 and 2000 may be granted to the petitioner as the same have been granted to other similarly placed employees; and
- (c) The petitioner may be considered for pro forma promotion w.e.f. the date when his batch mate were promoted with due record to the petitioner's right to seniority;

Hence, this appeal by leave of the Court.

3. The principal contention of the learned counsel for the appellant-Corporation is that no relief as claimed by the respondent could be granted to him and that the learned High Court in Constitutional jurisdiction has acted in a manner as if it was hearing an appeal.

His submission is that as far as awarding relief of considering the respondent to be on duty for the period he remained under suspension or dismissal, is against the law and facts because when the respondent has not attended the office physically nor he was assigned any duty/job, he cannot be held entitled to any remuneration on the principle 'no work, no salary' and thus the respondent has been awarded something which was not his entitlement.

The learned counsel submits that similarly, the relief of awarding two increments for two years i.e. 1999-2000 and 2000-2001 have wrongly been granted to the respondent against the fact that in these two years, he had not provided any services to the appellant and thus is not entitled to increment for the period, he has not worked.

The learned counsel has also challenged the relief of giving pro forma promotion to the respondent on the ground that when in the year 2002, the cases of batch mates of the respondent were placed before the competent authority for consideration for promotion, the respondent could not be promoted because of non-availability of his three previous ACRs, as during such period he was either under suspension or was dismissed by the order of competent authority, as such, according to the learned counsel, he cannot claim pro forma promotion. He has added that, however, when the right of promotion became due to the respondent in the year 2007, he was given promotion but he cannot be given promotion with retrospective effect.

The learned counsel has further argued that on the principle of *laches*, the learned High Court should have dismissed the case of the respondent at preliminary stage because the order of the competent authority fixing his pay, etc. was passed in the year 2001, which for the first time was challenged by the respondent through filing the Constitution Petition before the High Court, subject matter of instant proceedings, after a lapse of 9/10 years. He submits that if a party approaches the Court after the period of limitation or whose case is hit by *laches*, the Court has no jurisdiction to entertain the claim which has become barred by time. His submission is that in view of above, the respondent was not entitled to equitable relief sought after almost 10 years from the High Court.

In support of his submission regarding limitation that the same could not have been condoned by consent of the parties and the question of filing petition with the delay and to be hit by principle of *laches*, reliance has been placed on Ali Muhammad v. Muhammad Shafi (PLD 1996 SC 292) and Chairman, State Life Insurance Corporation v. Hamayun Irfan (2010 SCMR 1495).

4. On the other hand, learned counsel appearing for the respondent submits that the question of *laches* cannot be raised by the appellant for more than one reason because it was never the case of the appellant before the learned Judge in Chambers of the High Court nor in the memo of the appeal as the same has been raised before this Court for the first time.

He submits that the respondent remained vigilant in pursuing his grievance though by making repeated representation both against his suspension/dismissal and later on, after his reinstatement regarding fixation of his emoluments, etc. He states that the respondent filed Constitution Petition No. 18629 of 2010 before the High Court, which came up for hearing on 25-3-2010 and it was observed by the learned Single Judge in Chambers of the High Court as under:-

- "(2) Both the counsel agree that let the petitioner file a representation to the competent authority in this behalf, who shall examine the same and decide the matter fairly, justly and strictly in accordance with law after affording full opportunity of hearing to the petitioner including the right of producing evidence.
- (3) Disposed of in the above terms with direction that the competent authority shall decide the matter expeditiously within three months of the receipt of such representation."

The learned counsel submits that in view of consent order, the respondent was to file a representation to the competent authority, which was accordingly filed but his representation was not entertained and he was advised by the department itself that he shall file an appeal, as envisaged under Regulation No.33 of the State Life Employees Service Regulations, 1973; thus, according to the learned counsel, no question of limitation or *laches* arises when the department i.e. the appellant itself has been asking the respondent to prefer an appeal pursuant to the consent order referred to hereinabove.

Qua the relief of pro forma promotion given to the respondent w.e.f. the date when his batch mates were promoted, the learned counsel has argued that same is his right because if the respondent was charged and was removed from service or if in the year 2002, his other colleagues were promoted, but because of deficiency of his ACR, his case was not considered, which fault could not be attributed to the respondent and relief in this regard has rightly been granted to him. He also states that the order of the competent authority dated 2-3-2001 exonerating the respondent from the charges levelled against him vide charge sheets dated 28-8-1996 and 10-9-1996, is a clear chit in his favour and would be considered as if he was never suspended nor

dismissed and shall assume the position as was held by him, deeming him to be in service w.e.f. the date when the said two charge sheets were served upon him.

5. We have heard the arguments of the learned counsel for the parties and have also gone through different documents, so brought on record. Undisputed facts are that the respondent was issued two charge sheets mentioned in the preceding paras herein above, on the basis of which he was dismissed from service but was reinstated under the order of this Court with the directions that fresh enquiry should be held against him. In the later enquiry, the respondent was exonerated from the charges, which result of the enquiry was duly communicated to him vide letter dated 12-3-2001. The precise question before this Court is when an employee of the appellant was issued charge sheets, which charges were ultimately not proved and he was exonerated of the charges and that during the period he remained suspended or was dismissed, shall it adversely affect the service record of the respondent, both in terms of continuation of service and in terms of his right to receive pay and salary, etc.

6. Although the competent authority has held that the respondent be treated on duty for 56 days i.e. w.e.f. 8-5-1997 to 2-7-1997 and that the period from 9-6-1998 to 16-9-1999 (456 days) be treated as extraordinary leave but they have denied him salary for such period because he physically remained out of service and, therefore, he was held not entitled to any pay for having done no work. The competent authority has also granted him two annual increments for the year 1999-2000 and 2000-2001 but denied him increments for the year 1999 and 2000, which became due on 1-1-2001. He was also refused pro forma promotion because of deficiency of his ACR for the year 2003.

7. Once an employee is reinstated in service after his exoneration of the charges levelled against him, the period during which he remained either suspended or dismissed cannot be attributed as a fault on his part. His absence during this period was not voluntary on his part but it was due to order of the appellant that he was restrained not to attend his job/duty because on the basis of charge sheets, he was suspended and later on dismissed. At the moment, his exoneration from the charges would mean that he shall stand restored in service, as if he was never out of service of the appellant. If the absence of the respondent or non-attending the work was not volunteer act on the part of the respondent and was due to steps taken by the appellant, in no manner the service record of the respondent can be adversely affected nor he can be denied any benefit to which he was entitled, if he had not been suspended nor dismissed.

8. So far as the question of *laches* is concerned, apparently the consenting order was passed by the learned Single Judge in Chambers of the High Court on 25-3-2011 where no question of *laches* was raised and subsequent thereto when the representation was filed by the respondent, he was advised by the department itself that he shall instead file an appeal and no question of *laches* was even raised by the departmental authority. Even before this Court except oral arguments in this regard, this question has not been setup specifically in the memo of appeal.

9. Argument of the learned counsel for the appellant that the order of the High Court is without jurisdiction on the ground that the matter was brought before it beyond the limitation and the High Court should have dismissed the petition *in limine*, does not appear to be a valid argument; limitation is a bar against a party in pursuing its cause and not bar regarding assumption of jurisdiction by a Court because the Court for justified reasons can condone the time limitation. Even otherwise, question of limitation is not involved in this case except *laches* as raised but since the department has never raised any objection of delay against the respondent in approaching the High Court, it cannot react against the respondent. Even otherwise, perusal of record reveals that the respondent had been pursuing his grievance qua re-fixation of pay and promotion, etc. throughout when he has filed his departmental appeal back in the year 2007 on 20th August.

10. For the above stated reasons, we find no force in this appeal, as such the same is dismissed; however, in para-14 of the impugned judgment it is recorded that "*the period of 456 days as noted above is liable to be considered as a period 'spent on duty'*" (emphasis provided); the said sentence is modified in the terms that it shall be read as "*the period of 456 days as noted above is liable to be considered as a period 'remained in service'*" (emphasis provided).

MWA/C-2/SC

Petition dismissed.

2013 S C M R 759

[Supreme Court of Pakistan]

Present: Anwar Zaheer Jamali and Ejaz Afzal Khan, JJ

AHMED KHAN DEHPAL---Petitioner

versus

GOVERNMENT OF BALOCHISTAN

and others---Respondents.

C.P. No.14-Q of 2013, decided on 23rd January, 2013.

"B"

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

No.

Appeal No.....8637..... of 20 . 20

.....Saeed Appellant/Petitioner
Versus

..... Respondent

Respondent No.....

Notice to: - Superintendent of Police, Frontier Reservoir

Police - District D.I Khan

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....

Day of.....20

At and signed D.I Khan

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

“B”

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

No.

Appeal No..... 8037 of 20 20

..... Saad Ullah Appellant/Petitioner
Versus

..... PPO Respondent
Respondent No..... 2

Notice to: - Deputy Inspector General of Police,
Headquarters K.P.K Pesh

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on..... at 8.00 A.M. If you wish to urge anything against the appellat/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this

office Notice No..... dated.....

Given under my hand and the seal of this Court, at Peshawar this..... 2 / 10 /

Day of..... oct 20 20

A camp court D.I khair

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

[Handwritten signature and date 12-10]

"B"

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

No.

Appeal No..... of 20

8637

Appellant/Petitioner

Saadullah *versus*

Respondent

PPO K.P.K. Pesh.

Respondent No.....

Notice to:

— Provincial Police officers, K.P.K. Pesh.

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. Copy of appeal has already been sent to you vide this

office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this...2.../...10.../...20

Day of.....Oct.....20 . 20

At camp court D.I Khan

Registrar,

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

- Note:
1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
 2. Always quote Case No. While making any correspondence.

[Signature]
12-10

"B"

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

No.

Appeal No.....8637..... of 20 20

.....Saeed Ullah..... Appellant/Petitioner

Versus

.....PPo KPSC Pesh..... Respondent

Respondent No.....3.....

Notice to: - Deputy Inspector General of Police,
 Commandant Frontier Reserve Police Pesh.

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....24.11.20.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No.....dated.....~~

Given under my hand and the seal of this Court, at Peshawar this 2/11/20

Day of.....Oct.....20

At camp court D.I Khan

Registrar,
 Khyber Pakhtunkhwa Service Tribunal,
 Peshawar.

- Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
 2. Always quote Case No. While making any correspondence.

Office of the Addl: IGP/Commandant
 F.R.P KPK Peshawar.
 Diary No _____ Encl _____
 Date _____/_____/20_____

[Signature]
 19/11/20

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 8637/2020.

Saad Ullah (constable No. 8625/LHC) S/o Atta Muhammad R/o village Muryaly Tehil
and Distrect Dera Ismail KhanAppellant.

VERSUS

1. **Inspector General of Police,**
Khyber Pakhtunkhwa, Peshawar.
2. **Deputy Inspector General of Police, HQ:**
Khyber Pakhtunkhwa, Peshawar.
3. **Commandant FRP,**
Khyber Pakhtunkhwa, Peshawar.
4. **The Superintendant of Police, FRP**
Dera Ismail Khan Range, DIKhan.....Respondents.

WRITTEN REPLY ON BEHALF OF RESPONDENTS.

RESPECTFULLY SHEWETH.

PRELIMINARY OBJECTIONS

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

FACTS:-

1. Pertain to the appellant record needs no comments.
2. Incorrect During the investigation of criminal case it has been found that constable Muhammad Sohail No. 847 was injured by the firing of his colleague constable Saad Ullah i.e appellant.(copy of report annexed as "A")
3. Correct to the extent that as per the report of investigation officer of the criminal case vis-à-vis the report of Forensic Science Laboratory, it has been dig out that Constable Muhammad Sohail was injured by the firing of his colleague Constable Saad Ullah i.e appellant. Thus the section of 7-ATA alongwith other sections of law were deleted from FIR and converted into section 337-H and the accused constable i.e the appellant was arrested on the allegations of above quoted criminal case.
4. Incorrect. The appellant has effected compromise with the said injured constable. Therefore he was acquitted from the criminal case by the court of law on the basis of compromise.

5. Correct to the extent that the appellant is being a member of disciplined force involved himself in the above criminal case, thus he was placed under suspension and closed to Line. Proper departmental enquiry was initiated against him as he was issued Charge Sheet with summary of allegations and enquiry officer was nominated to conduct enquiry into the matter, to dig out the actual facts.
6. Correct to extent that reply to Charge Sheet submitted of appellant was found unsatisfactory by the enquiry officer.
7. Correct to the extent that after completion of enquiry, the enquiry officer submitted his findings report wherein the appellant was recommended for minor punishment. After fulfillment of all codal formalities, the appellant was awarded minor punishment of stoppage of one annual increment without cumulative effect.
8. Correct to the extent that the appellant was awarded minor punishment as recommended by the enquiry officer.
9. Correct to the extent that departmental appeal submitted by the appellant was thoroughly examined and rejected on sound grounds.
10. Incorrect. The first appeal of the appellant was earlier rejected vide order Endst: No. 5441/EC, dated 20.08.2013 and there is no provision of 2nd appeal in law.
11. The appellant has no cause of action to file the instant appeal and the same is also barred by law and limitation.


GROUND:-


- A. Incorrect and denied. The orders were issued by the respondents in the case of appellant are legally justified and in accordance to law/rules.
- B. Incorrect the allegations are false and baseless. The appellant was treated in accordance with the existing law/Rules within the meaning of Article 4 & 25 of the constitution by giving him sufficient opportunities at every level of defence and that the entire proceedings were carried out in accordance with existing laws and rules.
- C. Incorrect and denied. The reply of injured constable is a connected story as the matter had already been patched up through compromise between the parties. In facts Muhammad sohail constable was injured by the firing of appellant and it is evident from the report of investigation officer of the case, vis-à-vis the opinion of Forensic Science Laboratory.
- D. Incorrect. The appellant while posted at Police Post NIAWEALA District DIKhan was involved him self in a criminal case by opening firing on his colleague constable Muhammad Sohail, which subsequently fully established against him during the course of investigation and in the opinion of Forensic Science Laboratory as well.

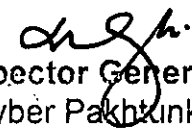
- E. Incorrect that after perusal of record it has been come to light that the 1st appeal of the appellant was already rejected, thus the relevant record of the case was returned to the quarter concerned vide office letter No. 4932/SI Legal dated 03.07.2020 without passing of any order.
- F. The respondents may also be permitted to raise additional grounds at the time of arguments.

PRAYERS:-

In the light of aforesaid facts/submission it is prayed that the service appeal may kindly be dismissed with costs please . . .


Superintendent of Police, FRP
DIKhan Range, DIKhan
(Respondent No.4)


Commandant FRP,
Khyber Pakhtunkhwa, Peshawar
(Respondent No.3)


Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No.1 and 2)

مقدمہ نمبر 81 مورخہ 11.4.24 جرم 324/353/34/7ATA تھانہ پروا

عنوان: درخواست دریاہ ترمیم جرم 337H

بنام: نامعلوم دو ملزمان

جناب عالی!

مقدمہ بالا میں مضروب محمد سہیل کنشٹیل نمبر 847 متعینہ پولیس پوسٹ مائیو لیلے نے اپنے اوپر نامعلوم ملزمان کی جانب سے بہ نیت قتل فائرنگ کرنا رپورٹ کی۔ مسلح ملزمان میں سے ایک ملزم کی طرف سے کلاشنکوف سے ایک فائر کرنا جبکہ دوسرے ملزم نے ہسپتال سے دو فائر کرنا بیان کیے۔ جسکے نتیجے میں بائیں کندھے پر لگ کر زخمی ہوا ہے۔ فائرنگ کی آواز پر رحمت اللہ SI/PC اور سعد اللہ کنشٹیل نمبر 857 جو کہ چوکی میں موجود تھے کا فوری طور پر آنا اور ملزمان نامعلوم جگہ انہوں نے نہیں دیکھا کا پتہ چھوڑ کر فائرنگ کرنا بیان کیا۔ اسی طرح خود مضروب کنشٹیل سہیل نمبر 347 کا بھی ملزمان پر فائرنگ کرنا بیان ہوا ہے۔ SI/PC رحمت اللہ اور کنشٹیل سعد اللہ نمبر 857 کا بھی ملزمان نہ دیکھنا بیان ہوا اور نہ ہی ملزمان کو شناخت کیا گیا کیونکہ اندھیرا ہونا وجہ بتلایا۔ اسی طرح مضروب کنشٹیل محمد سہیل 847 نے اپنی رپورٹ میں ایک شخص کے نیلے کپڑے اور دوسرے شخص کے سفید کپڑے پہنے ہوئے بیان کیا۔ نیلے کپڑے والے کا ہسپتال سے فائر کرنا اور سفید کپڑے والے کا کلاشنکوف سے فائر کرنا بتلایا۔ کسی کے ساتھ دشمنی نہ ہونا بھی بیان کیا۔ ایسی صورت میں وہشت گردی میں نہ تو ایک کارٹوس کلاشنکوف سے چلایا جاتا ہے اور نہ ہی دو فائر ہسپتال سے کیے جاتے ہیں۔ اسی طرح پڑوسیوں کا فائرنگ کی آواز سن کر پولیس پوسٹ پر آنا اور محمد سہیل کو زخمی پا کر بغرض علاج سول ہسپتال ڈیرہ پینچا کر مدد کرنا بیان ہوا ہے اور پڑوسیوں کا اپنے اپنے گھروں کی طرف سے کسی قسم کی فائرنگ نہ ہونا بیان ہوئی ہے اور نہ ہی کسی کو بھاگتے ہوئے دیکھنا بیان ہوا ہے۔ جس مقام سے ملزمان کا فائرنگ کرنا کنشٹیل مضروب نے بتلایا وہاں سے کسی قسم کا باوجود کافی تلاش سے کوئی خول وغیرہ دستیاب نہیں ہوا ہے۔ بوقت وقوعہ دوران ذیوبی کنشٹیل محمد سہیل نمبر 847 کا منہ شمال کی طرف ہونا بتلایا۔ فائرنگ مشرق کی طرف سے ہونا بیان ہوئی اور سہیل مغرب کی طرف بائیں کندھے پر لگ کر زخمی ہوا ہے۔ البتہ سعد اللہ کنشٹیل نمبر 857 کا کمرہ رہائشی جو مغرب کی طرف ہے کے اندر سے ایک خول 30 بور ہسپتال برآمد ہوا ہے جو تازہ چلیدہ پایا گیا اور اسی طرح ایک خول 30 بور مضروب کے عقب سے کچھ فاصلے پر برآمد ہوا وہ بھی تازہ چلیدہ پایا گیا۔ ایک عدد ہسپتال 30 بور نمبر KAC3467 سعد اللہ کنشٹیل نے پیش کیا جس سے فائرنگ کرنا بتلایا جو قبضہ پولیس کیا گیا ہے۔ اسی طرح جانے موجودگی SI/PC رحمت اللہ خان و مضروب کنشٹیل محمد سہیل کی جوابی فائرنگ کے نتیجے میں 6 عدد خول 7.62 بور 8/9 قطر کے فاصلے میں بکھرے پڑے پا کر قبضہ پولیس ہوئے ہیں۔ مضروب کنشٹیل محمد سہیل کی رپورٹ میں ہسپتال سے فائرنگ کرنے والے شخص کے نیلے کپڑے بیان ہوئے ہیں۔ اتفاق سے بوقت وقوعہ سعد اللہ کنشٹیل نمبر 857 نے نیلے رنگ کے کپڑے پہنے ہوئے تھے جو قبضہ پولیس ہوئے۔ لائن آف فائر سعد اللہ کی جانب دراز ہوتی ہے۔ کنشٹیل مضروب بھی بائیں کندھے پر زخمی ہوا ہے۔ دو عدد خول ہسپتال 30 بور پر ہسپتال متذکرہ از قبضہ سعد اللہ کنشٹیل ہند پارسل کر کے FGL پشاور بھجوانے گئے ہیں۔ نتیجہ موصول ہونے پر خول اسی ہسپتال سے چلیدہ بیان ہوئے ہیں۔ حالات واقعات موقع سعد اللہ کنشٹیل 857 کے ہسپتال سے فائر کیے گئے سے کنشٹیل سہیل 847 کا زخمی ہونا معلوم ہوتا ہے۔ معاملہ پولیس پوسٹ کا اندرونی ہے۔ نفری پولیس پوسٹ متعینہ کا جہاں تک وقوعہ چرکی کا تسلیم نہ کرنا وجہ خوف ہے کہ حکمانہ طور پر انہیں نقصان نہ ہو جائے۔

حالات واقعات و کی گئی تفتیش سے وقوعہ 337H کا پایا جاتا ہے۔ ترمیم جرم کے لئے درخواست

گزارش ہے۔ حکم افسران بالا افضل ہوگا۔

سرکل افسر پروا

انوشی کشن ڈیرہ اسماعیل خان
011

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**PESHAWAR**Service Appeal No. 8637 /2020

Saad Ullah

VERSUS


Inspector General of Police

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Dated: 27/07/2020

Your humble appellant


Saad Ullah

Through Counsel


Burhan Latif Khaisori
 Advocate Supreme Court

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**PESHAWAR**Khyber Pakhtunkhwa
Service TribunalService Appeal No. 8637/2020Diary No. 8091Dated 27/7/2020

Saad Ullah (Constable No.8625/LHC) son of Atta Muhammad R/o Village Muryali Tehsil & District Dera Ismail Khan, Constable No.8625/LHC (BPS-07) attached with District Police Officer Office Dera Ismail Khan, posted at P.S City Dera Ismail Khan. **Cell #0344-939-3850.**

(Appellant)**VERSUS**

1. Provincial Police Officer, Khybar Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police Headquarters K.P.K., Peshawar.
3. Deputy Inspector General of Police, Commandant Frontier Reserve Police, Peshawar, KPK.
4. Superintendent of Police, Frontier Reserve Police, District Dera Ismail Khan.

..... **(RESPONDENTS)**

SERVICE APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974, AGAINST THE IMPUGNED ORDERS DATED 03/07/2020, 20/08/2013 PASSED BY RESPONDENT NO.3 AND AGAINST THE IMPUGNED ORDER DATED 15/07/2011 PASSED BY RESPONDENT NO.4.

ASc
Filed to-day
27/7/2020
Registrar

Prayer:

On acceptance of the instant appeal and by setting aside the impugned order dated 15/07/2011, 20/08/2013 and 03/07/2020 passed by Respondents No.3 & 4 respectively and by restoring the one year increment to the appellant w.e.f the impugned order dated 15/07/2011 along with all the back benefits.

Respectfully Sheweth;

1. That the appellant was inducted in the police department on 10/08/2009 and was posted as Constable in BPS-07 in the office of FRP, Dera Ismail Khan presently serving as **Constable No.8625/LHC in BPS-07** then **857(Initial appointment)** at the time of appointment.
2. That in the year 2011 the appellant was posted at police check post Naivela (Village), Police Station Prova and on an unfortunate day of 24/04/2011, the unknown persons attacked on the check post and resultantly one constable namely Muhammad Sohail was injured. Copy of the FIR along with its better copy is annexed as **Annexure-A.**
3. That unfortunately during the course of investigation, section 7-ATA along with others sections of law were deleted and section 337-H was inserted and the appellant was roped as accused. Copy of Investigation report dated 04/05/2011 is annexed as **Annexure-B.**
4. That initially the complainant Muhammad Sohail effected compromise with the appellant during the course of Bail and later when the case was fixed for trial before the learned court of **Judicial magistrate -II, DIKhan** and resultantly the appellant was acquitted from the charges levelled against him. Copies of the Compromise deed along with the statement of complainant and the court order dated 06/07/2011 regarding acquittal of the appellant with record are jointly annexed as **Annexure-C.**
5. That the inquiry was initiated against the appellant and the appellant was charge sheet by Respondent No.4 along with the issuance of statement of allegations and one Mr. Gul Manan (Line Officer) was appointed as Inquiry Officer. Copies of Charge Sheet along with Statement of allegations are jointly annexed as **Annexure-D.**

Q. 15/16

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6. That the appellant submitted the reply of charge sheet and complied the directions issued by Respondent no.4. Copy of Charge Sheet reply of appellant is annexed as **Annexure-E**.
7. That the inquiry officer in his findings recommended for the reinstatement of the appellant w.e.f 18/05/2011 with the award of Minor punishment as apparent from the impugned order dated 15/07/2011 issued by respondent no.4.
8. That after the recommendations of inquiry officer, the respondent no.4 issued the impugned order dated 15/07/2011 vide which the appellant was reinstated in to his services w.e.f 18/05/2011 but his one year increment with cumulative effect was withheld. Copy of the impugned order dated 15/07/2011 is annexed as **Annexure-F** with its better copy.
9. That the appellant submitted his appeal to the respondent no.3 for setting aside the impugned order dated 15/07/2011 through proper channel but the appeal of the appellant was rejected vide impugned order dated 20/08/2013 by the worthy respondent no.3. Copy of the impugned order dated 20/08/2013 is annexed as **Annexure-G** along with its better copy.
10. That the appellant being from a poor family again and again remained in practice to knock at the door of respondents for the redressal of his grievances and lastly the appellant submitted his appeal to the respondent no.3 on 17/03/2020 and resultantly the said appeal was once again rejected vide impugned order dated 03/07/2020. Copies of appeal along with order dated 03/07/2020 are jointly annexed as **Annexure-H** with better copy of appeal.
11. That the appellant feeling aggrieved with the impugned orders dated 03/07/2020, 20/08/2013 and 15/07/2011 issued by Respondent no.3 & 4 respectively, the appellant is

ASU

having no other remedy but to knock at the door of this Honourable Tribunal for the redressal of his grievances from the following amongst other grounds.

GROUNDS

- a. That the impugned orders dated 03/07/2020, 20/08/2013 and 15/07/2011 passed by the respondents#3 & 4 are against law, facts and material available on record.
- b. That the impugned orders of the respondents# 3 & 4 were by itself illegal because the appellant was punished under NWFP Removal from Service (Special Powers) Ordinance 2000 Amendment Act 2005 while the said act was not in field and thus the illegality has been committed by the respondents and resultantly the respondents not only violated the fundamental rights of the appellant but also played with the future of the appellant. Thus the impugned orders could be termed as void and illegal orders.
- c. That the constable Muhammad sohail in his reply to the charge sheet clearly negated the version of the respondents but the respondents just only to penalize the appellant issued the impugned orders which are against law. Copy of Reply of Charge Sheet (Muhammad Sohail) is annexed as **Annexure-I.**
- d. That it is clear from the record that the appellant was innocent and was charged due to the act of constable

8/15/20

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Muhammad Sohail and there was no misconduct on the part of appellant but the act of the respondents by the punishing the appellant for which even the appellant has not committed is totally against the norms of justice.

- e. That the appeal of the appellant is well within time after the impugned order dated 03/07/2020 passed by respondent no.3 but if even the impugned order dated 15/07/2011 is taken into consideration even then the same is illegal and no limitation runs against the illegal impugned orders.
- f. That counsel for the appellant may kindly be allowed to raise additional grounds at the time of arguments.

It is therefore, humbly prayed that *On acceptance of the instant appeal and by setting aside the impugned order dated 15/07/2011, 20/08/2013 and 03/07/2020 passed by Respondent No.3 & 4 respectively and by restoring the one year increment to the appellant w.e.f the impugned order dated 15/07/2011 along with all the back benefits.*

Dated: 27/07/2020

Your humble appellant


Saad Ullah

Through Counsel


Burhan Latif Khaisori
Advocate Supreme Court

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2020

Saad Ullah **VERSUS** Inspector General of Police

CERTIFICATE

Certified that appellant have not filed an appeal regarding the subject controversy, earlier in this august Tribunal.

Dated 27/07/2020


Appellant

NOTE

Appeal with annexure along-with required sets thereof are being presented in separate file covers.

Dated 27/07/2020


Appellant's counsel

AFFIDAVIT

I, **Saad Ullah**, the appellant, do hereby solemnly affirm on oath:-

1. That the accompanying appeal has been drafted by counsel following our instructions;
2. That all para-wise contents of the appeal are true and correct to the best of my knowledge, belief and information;
3. That nothing has been deliberately concealed from this Honourable Court, nor anything contained therein, based on exaggeration or distortion of facts.


Deponent

Identified By:-


Burhan Latif Khaisori
Advocate Supreme Court,

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2020

Saad Ullah **VERSUS** Inspector General of Police

APPLICATION FOR THE CONDONATION OF DELAY IN CASE
THE PRESENT APPEAL BE DEEMED TO BE TIME BARRED AND
THE APPELLANT CASE MAY PLEASE BE DECIDED ON MERITS.

Respectfully Sheweth;

The appellant humbly submits as under;

1. That the above titled service appeal is being filed before this honourable Tribunal and the instant applicant may kindly be treated as integral part of it.
2. That the appellant has prima facie case and balance of convenience also tilts in favour of the appellant.
3. That the respondents issued the illegal impugned order dated 15/07/2011 under RSO, 2005 and the impugned order is illegal and void and now it is a settled principle of law that no limitation runs against the illegal order, thus, the appeal of the appellant can not be treated as time barred.
4. That on merit the appeal of the appellant is fit for acceptance and the appellant has filed the appeal just after the issuance of the impugned order dated 03/07/2020, thus, the appeal of the appellant is well within time.

ASL

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5. That this honourable Tribunal has got vast and ample powers to entertain the instant application.

It is therefore, humbly prayed that the limitation period for filling the present appeal may please be condoned in the light of above submissions and the appeal of the appellant may please be heard on merit.

Dated: 27/07/2020

Your humble appellant.



Saad Ullah

Through Counsel



Burhan Latif Khaisori
Advocate Supreme Court

AFFIDAVIT:

I, **Saad Ullah**, the appellant, do hereby solemnly affirm and declare on Oath that contents of the application are true and correct to the best of my knowledge and nothing has been deliberately concealed from this Hon'ble Court.

Dated: 27/07/2020



Deponent

مقدمہ نمبر 81 مورخہ 24.4.11م 324/353/34/7ATA تھانہ پروا

عنوان: درخواست دریاہ ترمیم جرم 337H

نام: نامعلوم دو ملزمان

جناب عالی!

مقدمہ بالا میں مضروب محمد سہیل کنشیل نمبر 847 متعینہ پولیس پوسٹ نائیویلڈ نے اپنے اوپر نامعلوم ملزمان کی جانب سے بہ نیت قتل فائرنگ کرنا رپورٹ کی۔ مسلح ملزمان میں سے ایک ملزم کی طرف سے کلاشکوف سے ایک فائر کرنا جبکہ دوسرے ملزم نے پستل سے دو فائر کرنا بیان کیے۔ جسکے نتیجے میں بائیں کندھے پر لگ کر زخمی ہوا ہے۔ فائرنگ کی آواز پر رحمت اللہ SI/PC اور سعد اللہ کنشیل نمبر 857 جو کہ چوکی میں موجود تھے کا فوری طور پر آنا اور ملزمان نامعلوم جگہ انہوں نے نہیں دیکھا کا چچھا کرنا اور فائرنگ کرنا بیان کیا۔ اسی طرح خود مضروب کنشیل سہیل نمبر 847 کا بھی ملزمان پر فائرنگ کرنا بیان ہوا ہے۔ SI/PC رحمت اللہ اور کنشیل سعد اللہ نمبر 857 کا بھی ملزمان نہ دیکھنا بیان ہوا اور نہ ہی ملزمان کو شناخت کیا گیا کیونکہ اندھیرا ہونا وجہ بتلایا۔ اسی طرح مضروب کنشیل محمد سہیل 847 نے اپنی رپورٹ میں ایک شخص کے نیلے کپڑے اور دوسرے شخص کے سفید کپڑے پہنے ہوئے بیان کیا۔ نیلے کپڑے والے کا پستل سے فائر کرنا اور سفید کپڑے والے کا کلاشکوف سے فائر کرنا بتلایا۔ کسی کے ساتھ دشمنی نہ ہونا بھی بیان کیا۔ ایسی صورت میں روہت گردی میں نہ تو ایک کارتوس کلاشکوف سے چلایا جاتا ہے اور نہ ہی دو فائر پستل سے کیے جاتے ہیں۔ اسی طرح پڑوسیوں کا فائرنگ کی آواز سن کر پولیس پوسٹ پر آنا اور محمد سہیل کو زخمی پا کر بغرض علاج سول ہسپتال ڈیرہ پنچا کر مدد کرنا بیان ہوا ہے اور پڑوسیوں کا اپنے اپنے گھروں کی طرف سے کسی قسم کی فائرنگ نہ ہونا بیان ہوئی ہے اور نہ ہی کسی کو بھاگتے ہوئے دیکھنا بیان ہوا ہے۔ جس مقام سے ملزمان کا فائرنگ کرنا کنشیل مضروب نے بتلایا وہاں سے کسی قسم کا باجوہ کافی تلاش سے کوئی خول وغیرہ دستیاب نہیں ہوا ہے۔ بوقت وقوع دوران ڈیوٹی کنشیل محمد سہیل نمبر 847 کا مشال کی طرف ہونا بتلایا۔ فائرنگ مشرق کی طرف سے ہونا بیان ہوئی اور سہیل مغرب کی طرف بائیں کندھے پر لگ کر زخمی ہوا ہے۔ البتہ سعد اللہ کنشیل نمبر 857 کا کمرہ رہائشی جو مغرب کی طرف ہے کے اندر سے ایک خول 30 بور پستل برآمد ہوا ہے جو تازہ چلیدہ پایا گیا اور اسی طرح ایک خول 30 بور مضروب کے عقب سے کچھ فاصلے پر برآمد ہوا وہ بھی تازہ چلیدہ پایا گیا۔ ایک عدد پستل 30 بور نمبر KAC3467 سعد اللہ کنشیل نے پیش کیا جس سے فائرنگ کرنا بتلایا جو قبضہ پولیس کیا گیا ہے۔ اسی طرح جائے موجودگی SI/PC رحمت اللہ خان و مضروب کنشیل محمد سہیل کی جوابی فائرنگ کے نتیجے میں 6 عدد خول 7.62 بور 8/9 قطر کے فاصلے میں بکھرے پڑے پا کر قبضہ پولیس ہوئے ہیں۔ مضروب کنشیل محمد سہیل کی رپورٹ میں پستل سے فائرنگ کرنے والے شخص کے نیلے کپڑے بیان ہوئے ہیں۔ اتفاق سے بوقت وقوع سعد اللہ کنشیل نمبر 857 نے نیلے رنگ کے کپڑے پہنے ہوئے تھے جو قبضہ پولیس ہوئے۔ لائن آف فائر سعد اللہ کی جانب برابر ہوتی ہے۔ کنشیل مضروب بھی بائیں کندھے پر زخمی ہوا ہے۔ دو عدد خول پستل 30 بور پستل متذکرہ از قبضہ سعد اللہ کنشیل بند پارسل کر کے FSL پشاور بھجوائے گئے ہیں۔ نتیجہ موصول ہونے پر خول اسی پستل سے چلیدہ بیان ہوئے ہیں۔ حالات واقعات موقع سعد اللہ کنشیل 857 کے پستل سے فائر کیے گئے سے کنشیل سہیل 847 کا زخمی ہونا معلوم ہوتا ہے۔ معاملہ پولیس پوسٹ کا اندرونی ہے۔ نفری پولیس پوسٹ متعینہ کا جہاں تک وقوعہ چوکی کا تسلیم نہ کرنا وجہ خوف ہے کہ حکمانہ طور پر انہیں نقصان نہ ہو جائے۔

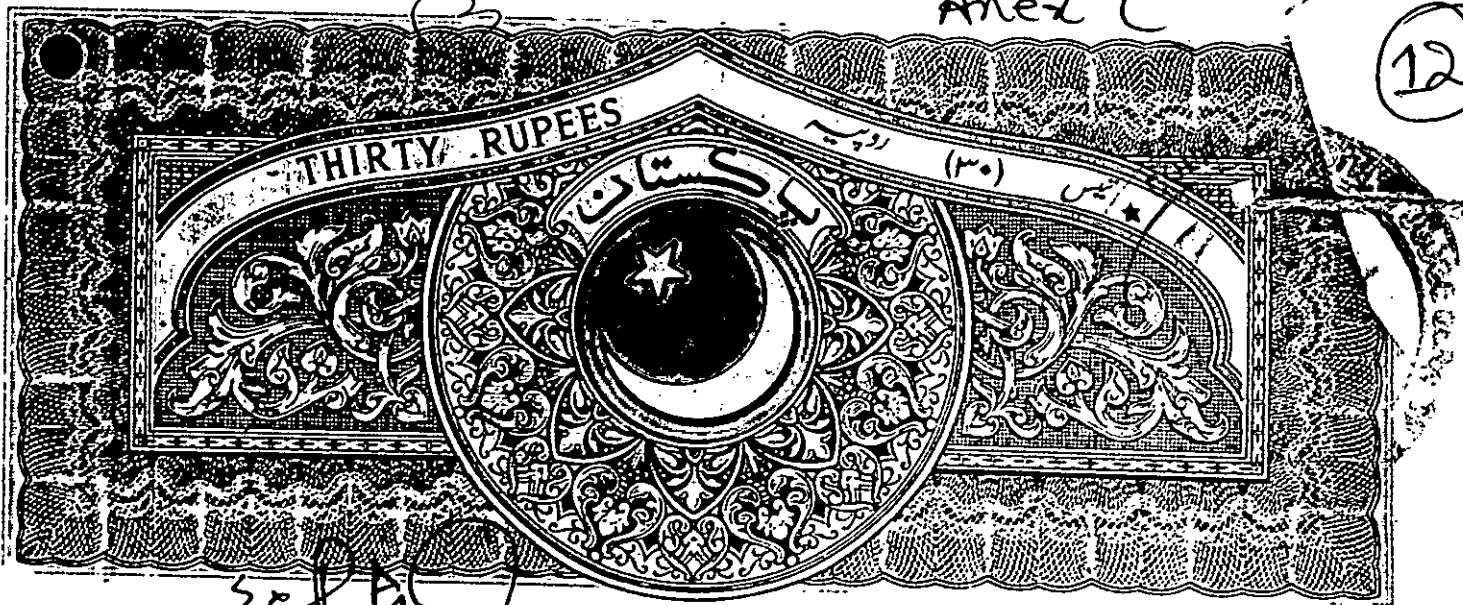
حالات واقعات و کی گئی تفتیش سے وقوعہ 337H کا پایا جاتا ہے۔ ترمیم جرم کے لئے درخواست

گزارش ہے۔ حکم افسران بالا انقض ہو گا۔

سرکل آفیسر، پروا

انوسی گیشن، ڈیرہ اسماعیل خان
011

8/11/11



Civil Judge - Muzaffargarh
Muhammad Yaqub Khan

06/07/2011

کدات جناب جوڈیٹل جسٹس
محترمہ فوڈاری

سرکار - سید اللہ

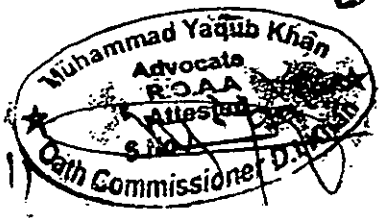
337 H, MC
جناب عالی منتہی بالا ڈیر کبیر عدالت صدر الراجہ
جسٹس اسرارز تاریخ بدی

قریباً
دیکھا میں مشتاق نے نام سید اللہ
کو معاف کیا ہے اور ایک خلاف کسی قسم
کی دعویٰ داری نہیں کرنا چاہتا ہوں۔
مزید یہ کہ عدالت نے سید اللہ کو
بھی معاف نہیں کیا ہے اور نہ ہی اس نے کوئی
عقلمند فیروہ کیا ہے۔ وہ شروع دن سے بے
فکر ہے۔ میں نے اس کو نہ پہلے جائز کیا
اور نہ اب جائز کرتا ہوں۔ نام سید اللہ بالکل
بے فکر ہے۔ نام سید اللہ نے اپنے کو
عدالت سے معاف کیا ہے۔ اگر عدالت صدر الراجہ سید اللہ کو
عدالت سے باخبر نہ ہو تو وہ تو مجھے کوئی
بڑا اعتراض نہیں ہے۔

شرف
سید الرحمن صاحب لکھنؤ
ڈیر ایسٹریٹ

23/7/2011
Ad 2/11/11

ATTESTED
Examiner



محمد سید اللہ خان قوم بلوچ ملک نے
آجاری لکھی عالیہ ڈیر

6/9/11

13

Statement of Muhammad Sohail s/o Haji Khan
Caste Baloch r/o Nai Abadi Basti Alansher
complainant on oath.

Stated that the instant case vide
FIR No. 21 dated 24/07/2011 was initially u/s 324/353/34
7 ATA was registered against the unknown persons on my
report but later on I@ of the instant case suamate
on upon his own behalf investigation and inquiry involved
the Sadullah as accused in the present case. I never
charge the accused during whole the investigation as
culprits in the present case and the accused Sadullah
is absolutely innocent and he is not involved in the
present case and I am no more interested for further
to prosecute the present accused further more. I have
pardoned the accused in the name of Almighty ALLAH and
waiving my right of Zar-e-Baddar, if this Hon,ble court
acquit the accused I would have got no objection over it.

Compromise deed/affidavit is EX.PA while photo copy of
NIC is EX.PB.

RO & AC
06/07/2011.

Sohail
Muhammad Sohail
complainant.

[Signature]
M-11, BIKhan.
ATTESTED
Examiner
21/7/12

TREASURY
D.I.Khan

Copy of No 64 Jinn No 3 (SI) 2-11

General No. 7703
Application received on 22-7-20
Date of Copying —
Date of Delivery 23-7-20
No of Words 1200
Copying Charges —
Urgent Charges —
Total Charges —
Name of Customer [Signature]
Copy Order No. —
Signature of Examiner 23/7/20

[Signature]
23/7/20

CHARGE SHEET

"Amex D"

(17)

I, MR. AMAN ULLAH KHAN, SUPERINTENDENT OF POLICE

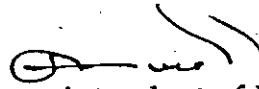
FRP D.I.KHAN RANGE, D.I.KHAN, as competent authority, hereby charge you

Constable Saad Ullah No.857/FRP (Old SPL), as follow:

It has been Proved by the Investigating Officer of Case FIR No.81, dated 24.04.2011, U/S 324/353/34 /7ATA, Police Station Paroa, Distt: D.I.Khan that you during Investigation narrated a Concocted story to the I.O of the Case. As in fact Constable Muhammad Sohail No.847/FRP (Old SPL) was injured due to firing made by you with Pistol 30-Bore as evident from the report of FSL/Peshawar. So by changing section of Law into 337-H, you have been Charged for the Commission of offence.

This act on your part reflects lack interest towards the performance of your duties and also gross misconduct, which is punishable under the rules.

2. By reasons of the above , you appear to be guilty of misconduct under section-3 of the NWFP (Removal From Service) Special Powers, Ord: 2000 and have rendered yourself liable to all or any of penalties in section-3 of the ordinance ibid.
3. You are therefore required to submit your written defence within seven days of the receipt of this charge sheet to the Enquiry Officer.
4. Your written defence , if any should reach the enquiry officer/committee within the specified period failing which if shall be presumed that you have no defence to put in and in that case ex-parte action shall follow against you.
5. Intimate whether you desire to be heard in person.
6. A statement of allegation is enclosed.


Superintendent of Police,
FRP, D.I.Khan Range D.I.Khan.

