

19.07.2021

Appellant present through counsel.

Preliminary arguments heard. Record perused.

Appellant has filed the instant service appeal against the order dated 25.03.2020 whereby he has been awarded penalty of forfeiture of six months approved service. Subject to all just and legal objections, this appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notice be issued to the respondents for submission of reply/comments in office within 10 days of the receipt of notices, positively. If the reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 12.10.2021 before the

Appellant Deposited
Security & Process Fee

15/10/21
12.10.2021
D.B. at Camp Court, Abbottabad.

15-10-21
Rozina Rehman

(Rozina Rehman)
Member (J)

12.10.2021

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Mujahid Shah, Head Constable for the respondents present and seeks further time for submission of written reply/comments. Respondents are directed to furnish reply/comments within 10 days in office. In case they fail to submit reply/comments within stipulated time from today, they shall have to seek extension of time through written application citing sufficient reasons. Otherwise, their right for submission of reply/comments shall be deemed as struck off. To come up for arguments before the D.B on 15.02.2022 at Camp Court Abbottabad.



(Salah-Ud-Din)
Member (Judicial)
Camp Court A/Abad




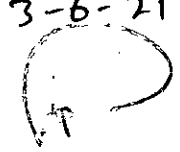

Chairman
Camp Court A/Abad

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 4898/2021 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge		
1	2	3		
1-	19/04/2021	<p>The appeal of Mr. Babar Mukhtiar presented by Mr. Muhammad Aslam Tanoli Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2-</p>	3-6-21 	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>19-7-21</u>. Notices be issued to appellants/ counsel for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p>

**BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Appeal No.....4898

Babar Mukhtiar, IHC No.31, District Police Haripur, presentably posted at Beat No.1, Hazara Motorway, Haripur.

VERSUS

1. Provincial Police Officer, Khyber Paktunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Haripur. **(Respondents)**


SERVICE APPEAL

INDEX

S/No	Description of Document	Ann- exure	Page No.
1.	Appeal and condonation application.		01-08
2.	Show Cause Notice 09-03-2020	"A"	09
3.	Reply to Show Cause Notice 17-03-2020	"B"	10-11
4.	Order dated 25-03-2020 of DPO.	"C"	12
5.	Departmental dated 08-04-2020	"D"	13-15
6.	Appeal rejection order dated 23-02-2021 and application dated 19-03-2021	"E&F"	17
7.	Wakalatnama		

Through


Appellant


(Mohammad Aslam Tanoli)
Advocate High Court
at Haripur

Dated -04-2021

①

**BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Appeal No.....

Babar Mukhtiar, IHC No.31, District Police Haripur, presentably posted at Beat No.1, Hazard Motorway, Haripur.

(Appellant)

VERSUS

1. Provincial Police Officer, Khyber Paktunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Haripur

(Respondents)

SERVICE APPEAL UNDER SECTION-4 OF KPK SERVICE TRIBUNAL ACT 1974 AGAINST ORDER DATED 25-03-2020 OF THE DISTRICT POLICE OFFICER HARIPUR WHEREBY THE APPELLANT HAS BEEN AWARDED THE PENALTY OF "FORFEITURE OF 06 (SIX) MONTHS APPROVED SERVICE" AND ORDER DATED 23-02-2021 (DELIVERED ON 19-03-2020) OF THE REGIONAL POLICE OFFICER HAZARA REGION ABBOTTABAD WHEREBY APPELLANT'S DEPARTMENTAL APPEAL HAS BEEN FILED.

PRAYER: ON ACCEPTANCE OF INSTANT SERVICE APPEAL BOTH THE IMPUGNED ORDERS DATED 25-03-2020 AND 23-02-2021 OF THE RESPONDENTS MAY GRACIOUSLY BE SET ASIDE AND APPELLANT BE RESTORED ONE YEAR FORFEITED SERVICE WITH ALL CONSEQUENTIAL SERVICE BACK BENEFITS.

Respectfully Sheweth:

1. That appellant while posted as Head Constable Police Station Kotnajibullah (Haripur) was served upon with a Show Cause Notice dated 09-03-2020 by the District Police Officer Haripur. **(Copy of Show Cause Notice is attached herewith as Annex-"A").**
2. That aforementioned Show Cause Notice was duly replied by the appellant on 17-03-2020 explaining all facts of the

2

- matter in detail and straightaway denying the allegations made therein being incorrect and baseless. **(Copy of reply to the Show Cause Notice is attached herewith as Annex-"B").**
3. That without taking into consideration the reply of Show Cause Notice submitted by appellant, the District Police Officer Haripur vide his Order dated 25-03-2020 awarded him with the penalty of forfeiture of 06 (Six) months approved service without any reason. **(Copy of order dated 25-03-2020 is attached as Annex-"C").**
 4. That aforementioned order of the DPO Haripur was appealed against by the appellant before the Regional Police Officer, Hazara Region, Abbottabad vide departmental appeal dated 08-04-2020. **(Copy of appeal dated 08-04-2020 is attached as Annex-"D").**
 5. That the appellant's departmental appeal has been turned down by the Appellate Authority without giving any consideration to it vide order dated 23-02-2021 but copy of the same was delivered to the appellant on 19-03-2021 that too on his specific written request. **(Copies of order dated 23-02-2021 & application 19-03-2021 are attached as Annex-"E & F").**
 6. That in the year 2016 when FIR No. 395 dated 10-12-2016 was registered U/S-9C/CNSA at PS Saddar Haripur then appellant was posted in **"Preventive Wing"** of the PS Saddar. The allegations against appellant in Show Cause Notice are incorrect. Appellant has been awarded the

3

punishment without any reason and proof.

7. That so far as the 1st allegation that "there was contradiction in statement of PW" is concerned, in this respect it is stated that I was a witness to "Recovery Memo" in the said case. The statements of prosecution witnesses were recorded by Oll. Appellant statement as **PW-04** in English language was got recorded by the Public Prosecutor before the Trial Court in line with and in verbatim to that which was recorded u/s-161 CrPC by Oll during investigation. In cross-examination the appellant made no contradiction and replied what so ever was correct and in line with the statement u/s-161 Cr.PC. SI Habib-ur-Rehman Oll was **PW-05** and SI Hadi Paristan SHO as **PW-06**. Contradiction, if any could be made by PW-05 & PW-06 because they recorded their statement subsequent to that of appellant. It is incorrect that appellant had made any contradiction. Hence the punishment awarded to appellant was based on wrong and incorrect footings.
8. That 2nd allegation that "IO of the case did not mention presence of constable who took Murasila to PS" transpires that it was the duty of IO and not that of appellant for which he has been penalized.
9. That similarly it is quite clear from the allegation No. 3 that "the court observed that the FSL report was not as per rules" also does not relate to appellant being a witness of only "Recovery Memo." for which he has been awarded the penalty.

4

10. That the 4th allegation that "the accused was acquitted by giving benefit of doubt" is perplexing one to attribute the "the benefit of doubt" to the only performance of appellant in the entire case.
11. That departmental inquiry was not conducted to prove the allegations against the appellant. Even he was not afforded opportunity of personal hearing and was condemned unheard.

GROUND:

- a) That orders dated 25-03-2020 and 23-02-2021 of respondents are illegal, unlawful, against the departmental rules & regulation, issued in a cursory, whimsical and arbitrary manner; hence are liable to be set aside.
- b) That no proper departmental inquiry was conducted. Even opportunity of personal hearing was not afforded to the appellant and he was condemned unheard.
- c) That the appellate authority has also failed to abide by the law and even did not take into consideration the grounds taken by appellant in his memo of appeal. Thus the impugned order of appellate authority is contrary to the law as laid down in Police Rules read with section 24-A of General Clause Act 1897 and Article 10A of the Constitution of Islamic Republic of Pakistan 1973.
- d) That the appellant did not conduct any investigation in

5

the case in question. He was only a witness to the recovery memo of contraband. He was posted in preventive side as IHC and had nothing to do with the investigation of the case. But the appellant has wrongly and incorrectly been awarded the penalty of forfeiture of 06 (six) months approved service without any reason, justification or fault on his part.

- e) That instant service appeal is well within time and this honorable Service Tribunal has got every jurisdiction to entertain & adjudicate upon the lis.

PRAYER:

It is, therefore, humbly prayed that on acceptance of instant Service appeal order dated 25-03-2020 and 23-02-2021 of the respondents may graciously be set aside and the appellant be restored his "forfeited 06 (six) months approved service" with all consequential service back benefits. Any other relief which this Honorable Tribunal deems fit and proper in circumstances of the case may also be granted.


Appellant

Through:


(Mohammad Aslam Tanoli)
Advocate High Court
At Haripur

Dated -04-2021

VERIFICATION

It is verified that the contents of instant Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed thereof.

Dated -04-2021


Appellant

6

BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Babar Mukhtiar, IHC No.31, District Police Haripur, presentably posted at Beat No.1, Hazara Motorway, Haripur.

(Appellant)

VERSUS

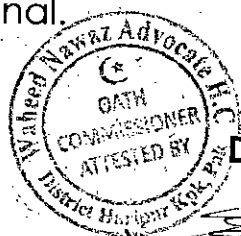
- 1. Provincial Police Officer, Khyber Paktunkhwa, Peshawar.
- 2. Regional Police Officer, Hazara Region, Abbottabad.
- 3. District Police Officer, Haripur.

(Respondents)

SERVICE APPEAL

AFFIDAVIT:

I, Babar Mukhtiar, appellant do hereby solemnly declare and affirm on oath that the contents of the instant Service Appeal are true and correct to the best of my knowledge and belief and nothing has been suppressed from this Honorable Service Tribunal.



[Handwritten signature]

Deponent/Appellant

Dated -04-2021

Identified By:

[Handwritten signature of Mohammad Aslam Tanoli]

Mohammad Aslam Tanoli
Advocate High Court
At Haripur

[Handwritten signature]
17-4-21

[Handwritten signature]

Appellant

7

**BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Babar Mukhtiar, IHC No.31, District Police Haripur, presentably
posted at Beat No.1, Hazara Motorway, Haripur.

(Appellant)

VERSUS

1. Provincial Police Officer, Khyber Paktunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Haripur.

(Respondents)

SERVICE APPEAL

CERTIFICATE

It is certified that no such Appeal on the subject has ever been
filed in this Honorable Service Tribunal or any other court prior to
instant one.


APPELLANT

Dated -04-2021

8

BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Babar Mukhtiar, IHC No.31, District Police Haripur, presentably posted at Beat No.1, Hazara Motorway, Haripur.

(Appellant)

VERSUS

1. Provincial Police Officer, Khyber Paktunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Haripur.

(Respondents)

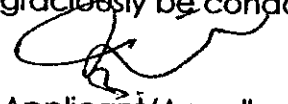

APPLICATION FOR CONDONATION OF DELAY IN FILING SERVICE APPEAL BEFORE THIS HONOURABLE SERVICE TRIBUNAL

Respectfully Sheweth:

17. That applicant/appellant has filed today Service Appeal, which may be considered as part and parcel of this application, against order dated 25-03-2020 & 23-02-2021 passed by respondents whereby departmental authorities have awarded appellant with the penalty of "forfeiture of one year approved service" and his appeal rejected.
18. That as the orders have been passed in violation and derogation of the statutory provisions of law, rules and regulations governing the terms and condition of service of the appellant, therefore causing a recurring cause of action to the applicant/appellant can be challenged and questioned irrespective of a time frame.
19. That impugned order was passed by the respondents on 25-03-2020 and 23-02-2021, but copy of appellate order was provided on 19-03-2021 and that too on the specific written request of appellant. The applicant/appellant has filed departmental as well as service appeals well in time and has rigorously been pursuing his case. The delay, if any, in filing departmental as well as service appeal needs to be condoned.
20. That instant application is being filed as an abundant caution for the condonation of delay, if any. The impugned orders are liable to be set aside in the interest of justice.

It is, therefore, respectfully prayed that on acceptance of the instant application the delay, if any, in filing of above titled appeal may graciously be condoned.

Through:


Applicant/Appellant

(Mohammad Aslam Tanoli)
Advocate High Court
At Haripur

Dated -04-2021

VERIFICATION:

It is verified that the contents of the instant application/appeal are true and correct to the best of my knowledge & belief & nothing has been suppressed.

Dated -04-2021


Applicant/Appellant



(9)

Armed - 'A'

DISTRICT POLICE OFFICER, HARIPUR

No: 86 Dated 04/03/2020
Ph. # 0995-920101 / 0995-920100
Fax # 0995-614714
E-Mail: dpoharipur1@gmail.com

SHOW CAUSE NOTICE

1. That you HC Baber Mukhtiar No.311 while posted at PS Kotnajibullah have rendered yourself liable to be proceeded under Rules 5 (3) of the Khyber Pakhtunkhwa, Police E&D Rules 1975 for following misconduct:-

"That you while posted at PS Saddar, perusal of SP/Investigation Haripur letter Memo No.36/PA dated 04.03.2020 transpires that in case FIR No.395 dated 10.12.2016 u/s 9-C/CNSA PS Saddar following irregularities were made by you during the registration/investigation.

1. There was contradiction in statement of PW.
2. IO of the case did not mention presence of constable who took Murasla to PS.
3. The court observed that the FSL report was not as per rules.
4. The accused was acquitted by giving benefit of doubt.

Your above act is a severe violation of discipline and shows that you are not following the law, which is gross misconduct on your part in terms Police E&D Rules 1975 (Amended-2014)"

2. That by reason of above, sufficient material is placed before the undersigned; therefore it is decided to proceed against you in general Police proceedings without aid of enquiry officer.
3. That the misconduct on your part is prejudicial to good order of discipline is the Police force.
4. The your retention in the Police force will amount to encourage inefficient and unbecoming of good Police Officers;
5. That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action against you by awarding one or more of the kind punishments as provided in the rules.
6. Your, therefore called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa, Police E&D Rules, 1975 for the misconduct referred to above.
7. You should submit reply to this show cause notice within 07 days of the receipt of the notice failing which an ex parte action shall be taken against you.
8. You are further directed to inform the undersigned that you wish to be heard in person or not.


District Police Officer,
Haripur

Received by _____

Dated: / / 2020

Attested


مختصر - ڈیپارٹمنٹ آف سیکورٹی

عنوان :- جو اب پورے شہر کا لوٹن کمانڈر

09/3/2020

عناوین

گذشتہ چند شہر کا لوٹن کمانڈر جو اب بالکل مائل لگا ہے۔
جس کے جوڑ میں حد ذیل موقوفہ عرصہ ہے۔

1۔ یہ کہ من مڈم جھانہ 144/145/146 میں بطور 144/145/146 کے
گواہ - یہ دوران میں عدالتی چارج میں من مڈم فرد مقبول ہو گئی کا
گواہ تھا۔ اور کبھی گواہ نہیں ہوئی من مڈم نے اپنے فرائض
بطور لوٹن کمانڈر انجام دیے۔ کسی قسم کی کوتاہی نہیں ہے۔ اور
نہی اس بابت شہر کا لوٹن کمانڈر میں کوئی چارج لگا یا نہیں ہے۔

2۔ یہ کہ شہر کا لوٹن کمانڈر میں چارج ہے کہ دوران استقامت
کے بیانات میں تضاد تھا۔ اس ضمن میں عرض ہے کہ
بیانات دوران استقامت صواب 110 ہے۔ یہ ریکارڈ
کے ہیں۔ میرا بیانات دوران سے کتنی واسطہ تعلق نہ
ہے۔ یہ الوری ٹیشن آفیسر کا ڈیوٹی ہے۔

3۔ کہ اگر مطالبہ چارج ہے تبھی الوری ٹیشن
آفیسر صاحب نے فریڈم کو جھانہ کے جانے والے کا تفصیل
کی کو عدالتی بارے نہ لکھا ہے۔ تو اس سے ہم میرا کوئی
تعلق نہ ہے۔ یہ 10 کی ڈیوٹی ہے۔

4۔ یہ کہ اس طرح الزام ہے کہ عدالت نے یہ Observer
کیا۔ کہ رپورٹ FSL رولز کے مطابق نہ ہے۔ تو

Allah
کبریٰ

اس چارج کا ہم مجھ ملزم سے کسی قسم کا تعلق نہ ہے۔
مجھ ملزم سے ایسا کوئی چارج منسوب کرنا صرف حقیقت
ہے۔ کیونکہ تو میں ڈیوٹی ہے۔ لہذا یہی ذمہ داری۔

5۔ مختصراً یہ کہ اس کے FIR عدالت پر 395 نوٹس 10/12/2016
میں سری ڈیوٹی اور کردار غیر معقولگی کے ایک واقعہ تک
محدود ہے۔ دیگر سری اس میں کسی قسم کی کوئی کامیابی نہ ہے۔

6۔ یہ مقدمہ باہر چھانچا کی عدالت میں ملزم کو بلاوام
شہر کا نوٹس نڈا دیا گیا ہے۔ جسے بلا فزید کا عدالت دفتر
دفتر کا طابا صرف ہے اور صرف بین الصفا ہے۔

7۔ یہ کہ میں ملزم نے یہ کہ ایسا فراغ حققت میں لہذا
اعلانہ داری سے اس انجام دے میں۔ اور ایسا شکار کا واقعہ
نہ دیکھ۔

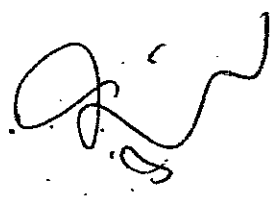
8۔ یہ کہ میں ملزم کو اس لئے جانے کا موقع دیا گیا۔ تو
اسی کا تردید سے اس کو جانے کا لاکو فریڈ سے لہذا۔

اس دعا سے شہر کا نوٹس کو بلا فزید
کا عدالت دفتر فرمایا جائے۔

الموعوم 3/17/20

بالرخصتیار He حال متعینہ عیادت کو کونجیب اللہ
311

Attested



19- Annex 'C'



OFFICE OF THE DISTRICT POLICE OFFICER, HARIPUR

Ph. # 0995-920100 / 0995-920101

Fax # 0995-614714

E-Mail: dpoharipur1@gmail.com

No. 529

Dated 26 /03/2020

ORDER.

Head Constable Babar Mukhtiar No.311, while posted at PS Kotnajibullah. Perusal of SP/Investigation Haripur letter Memo No.36/PA dated 04.03.2020 transpires that in case FIR No.395 dated 10.12.2016 u/s 9C/CNSA PS Saddar following irregularities were made by him during the registration/investigation.

1. There was contradiction in statement of PW.
2. IO of the case did not mention presence of constable who took Murasla to PS.
3. The court observed that the FSL report was not as per rules.
4. The accused was acquitted by giving benefit of doubt.

The acts and omissions of defaulter official were misconduct under the Khyber Pakhtunkhwa, Police Efficiency and Discipline Rules 1975. Hence, he was served with Show Cause Notice, vide this office Endst: No.86/PA dated 09.03.2020. The official submitted his reply to the undersigned, so, he was called in Orderly Room for personal hearing before the undersigned

Having perused the relevant record, the charges of misconduct are proved against the defaulter police official. Therefore, I, Syed Ashfaq Anwar (PSP), District Police Officer, Haripur being competent authority under the Khyber Pakhtunkhwa, Police Efficiency and Discipline Rule 1975, am fully satisfied that Head Constable Babar Mukhtiar no.311, committed gross misconduct. Therefore, he is awarded minor punishment of "FORFEITURE OF SIX MONTHS APPROVED SERVICE" with immediate effect.

Order announced in his presence.

Order Book No.206

Dated 25.03.2020

(Syed Ashfaq Anwar) PSP
District Police Officer,
Haripur

All stand
[Signature]

13

Annex - D

BEFORE HONOURABLE REGIONAL POLICE OFFICER,
HAZARA REGION, ABBOTTABAD.

Departmental Appeal by
Babar Mukhtiar HC No.311
District Police Haripur

(THROUGH PROPER CHANNEL)

DEPARTMENTAL APPEAL AGAINST ORDER OB NO. 206 DATED 25-03-2020 PASSED BY THE DISTRICT POLICE OFFICER HARIPUR WHEREBY THE APPELLANT HAS BEEN AWARDED WITH PENALTY OF "FORFEITURE OF 06 (SIX) MONTHS APPROVED SERVICE".

PRAYER: ON ACCEPTANCE OF INSTANT DEPARTMENTAL APPEAL THE IMPUGNED ORDER DATED 25-03-2020 MAY KINDLY BE SET ASIDE AND APPELLANT BE RESTORED HIS SIX MONTHS FORFEITED APPROVED SERVICE WITH ALL CONSEQUENTIAL SERVICE BACK BENEFITS.

Respected Sir,

With most reverence and humble submission the following few lines are laid down before your Highness for kind consideration and favorable order please:-

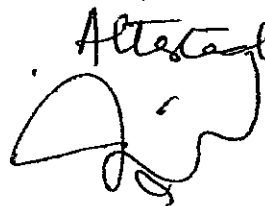
1. That appellant while posted as Head Constable Police Station Kotnajibullah (Haripur) was served upon with a Show Cause Notice dated 09-03-2020 by the District Police Officer Haripur alleging therein:-

"that you while posted at PS Saddar, perusal of SP/Investigation Haripur letter Memo No.36/PA dated 04-03-2020 transpires that in case FIR No. 395 dated 10-12-2016 U/S-9C/CNSA PS Saddar following irregularities were made by him during the registration/investigation.

1. There was contradiction in statements of PW.
2. IO of the case did not mention presence of constable who took Murasila to PS.
3. That court observed that the FSL report was not as per rules.
4. The accused was acquitted by giving benefit of doubt.

(Copy of Show Cause Notice is attached herewith as "A").

2. That aforementioned Show Cause Notice was duly replied by the appellant on 17-03-2020 explaining all facts of the matter in detail and straightaway denying the allegations made therein being incorrect and baseless. (Copy of reply to the Show Cause Notice is attached herewith as "B").

Attested


14

3. That without taking into consideration the reply of Show Cause Notice submitted by appellant, the District Police Officer Haripur vide his Order dated 25-03-2020 awarded him with the penalty of forfeiture of 06 months approved service without any reason. **(Copy of impugned order dated 25-03-2020 is attached as "C")**.
4. That in the year 2016 when FIR No. 395 dated 10-12-2016 was registered U/S-9C/CNSA at PS Saddar Haripur then appellant was posted in "**Preventive Wing**" of the PS Saddar. The allegations against appellant in Show Cause Notice are incorrect. Appellant has been awarded the punishment without any reason and proof.
5. That so far as the 1st allegation that "there was contradiction in statement of PW" is concerned, in this respect it is stated that I was a witness to "Recovery Memo" in the said case. The statements of prosecution witnesses were recorded by Oll. Appellant statement as **PW-04** in English language was got recorded by the Public Prosecutor before the Trial Court in line with and in verbatim to that which was recorded u/s-161 CrPC by Oll during investigation. In cross-examination the appellant made no contradiction and replied what so ever was correct and in line with the statement u/s-161 Cr.PC. However, SI Habib-ur-Rehman Oll was **PW-05** and SI Hadi Paristan SHO as **PW-06** both of them recorded their statement before the Trial Court and principally they were required to have examined and read out appellant's statement. Contradiction, if any could be made by PW-05 & PW-06 because they recorded their statement subsequent to that of appellant. Therefore it is incorrect that appellant had made any contradiction due to which benefit of doubt was given to accused. Hence the punishment awarded to appellant not based on correct footings.
6. That 2nd allegation that "IO of the case did not mention presence of constable who took Murasila to PS" transpires that it was duty of IO and not that of appellant for which he has been penalized.
7. That similarly it is quite clear from the allegation No. 3 that "the court observed that the FSL report was not as per rules" also does not relate to appellant being a witness of only "Recovery Memo"

Attested
A. N.

25

for which he has been awarded the penalty.

8. That the 4th allegation that "the accused was acquitted by giving benefit of doubt" is perplexing one to attribute to the appellant. Detail reply has been given in para-5 above that appellant was PW-04 while IO & SHO were PW-05 & PW-06, appellant had got recorded his statement before them. However, there is no contradiction between the statements of appellant recorded before the IO U/S-161 Cr.PC as well as before the Trial Court.
9. That departmental inquiry was not conducted to prove the allegations against the appellant. The appellant was never confronted with any such documentary proof which based the award of punishment. Even he was not afforded opportunity of personal hearing and was condemned unheard.
10. That in view of the above narrated facts by no stretch of imagination the appellant can be held responsible for the allegations as leveled against him and has been awarded the punishment without any reason & proof.
11. That if the appellant is afforded with the opportunity of personal hearing he will really prove himself as innocent by adducing true picture of the matter.

Sir, in view of the facts and circumstances narrated here above, it is earnestly requested that impugned order dated 25-03-2020 of the District Police Officer Haripur may kindly be set aside and the appellant be restored his 06 months forfeited approved service with all consequential service back benefits. Thanking you sir in anticipation.


Your obedient Servant

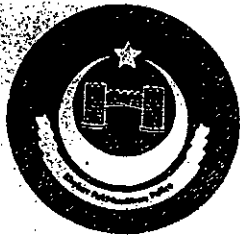

(BABAR MUKHTIAR)

HC No. 311

PS Kotnajibullah
District Haripur

Dated: 08/04-2020

Attested




16

Annex-E

OFFICE OF THE REGIONAL POLICE OFFICER
HAZARA REGION, ABBOTTABAD

0992-931002

0992-931002

r.r.pohazara@gmail.com

0345-9561

NO: 473 /PA DATED 23/2/21

ORDER

This order will dispose off departmental appeal under Rule 11-A of Khy Pakhtunkhwa Police Rules, 1975 submitted by Head Constable Babar Mukhtiar No.311 of Dist Haripur against the order of punishment i.e. Forfeiture of six months approved service awarded District Police Officer Haripur vide OB No.206 dated 25.03.2020.

Brief facts leading to the punishment are that the appellant while posted at Kotnajibullah. After perusal of SP/Investigation Haripur letter Memo No.36/PA dated 04.03.20 transpires that in case FIR No.595 dated 10.12.2016 u/s 9C/CNSA PS Saddar following irregularities/investigation were made by him during course of registration/investigation.

1. There was contradiction in statement of PW.
2. IO of the case did not mention presence of constable who look Murasla to PS.
3. The court observed that the FSL report was not as per rules.
4. The accused was acquitted by giving benefit of doubt.

The appellant was issued show cause notice and heard in person by the competent authority however, he failed to advance any cogent reason in his defence. Consequently, DPO Haripur awarded him minor punishment of forfeiture six months approved service. Hence, the appellant submitted this present appeal.

After receiving his appeal, comments of DPO Haripur were sought and examined/perused. The undersigned called the official in OR and heard him in person. However, he failed to advance any convincing reason in his defence. The punishment awarded by the competent authority seems genuine and appeal liable to be dismissed. Therefore, in exercise of the powers conferred upon the undersigned under Rule 11-4 (a) of Khyber Pakhtunkhwa Police Rules, 1975 the instant appeal is hereby filed with immediate effect.

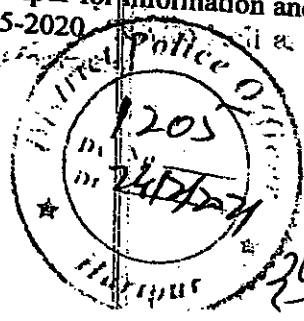
Alistered
[Signature]

[Signature]
Mirvais Niaz (PSP)
REGIONAL POLICE OFFICER
HAZARA REGION, ABBOTTABAD

No. 474 /PA, dated Abbottabad the 23/2/2021

DPO Haripur for information and necessary action with reference to his office Memo No 2616 dated 14-05-2020

SRC/OTC
For information & action
[Signature]
DPO-HR

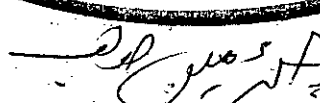



[Handwritten notes in Urdu]

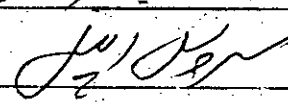
وکالت نامہ

قیمتی

کورٹ فیس

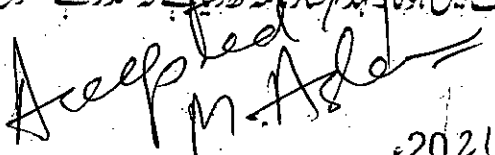
بعدالت جناب  KPK سہیل شریستی لٹاؤر

منجانب اسٹریٹ
بالمبر حیدر  KPK لہو نیشنل لولڈ آفیس

دعویٰ یا جرم  باعث تحریر آنکہ

مندرجہ بالا عنوان میں اپنی طرف سے پیروی و جوابدہی مقام اسٹریٹ کیا د/سٹریٹ

محمد سلیم تنہا کی ایڈووکیٹ بدیں شرط وکیل مقرر کیا۔ کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے وکیل صاحب موصوف کو اطلاع دے کر حاضر کروں گا۔ اگر کسی پیشی پر منظر حاضر نہ ہوں اور حاضری کی وجہ سے کسی وجہ پر مقدمہ میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ کسی اور جگہ یا پکھری کے مقرر اوقات سے پہلے یا بروز تعطیل پیروی کرنے کے مجاز نہ ہوں گے۔ اگر مقدمہ مقام پکھری کے کسی اور جگہ ساعت ہونے پر یا بروز پکھری کے اوقات کے آگیا یا چھپے ہونے پر منظر کو کوئی نقصان پہنچے تو ذمہ دار یا اس کے رابطے کسی معاوضہ ادا کرنے مختار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھے کل ساختہ پرواختہ صاحب مثل کردہ ذات خود منظور و قبول ہوگا اور صاحب موصوف کو عرضی دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل نگرانی دائر کرنے نیز ہر قسم کی درخواست پر دستخط تصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجرا کرنے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرنے کا ہر قسم کا بیان دینے اور پیر و تاشی و راضی نامہ و فیصلہ برخلاف کرنے اقبال دعوے کا اختیار ہوگا۔ اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا ڈگری قبل از فیصلہ اجراءے ڈگری بھی صاحب موصوف کو بشرط ادا ہنگی علیحدہ پیروی مختار نامہ کرینکا مجاز ہوگا۔ اور بصورت ضرورت اپیل یا اپیل کے واسطے کسی دوسرے وکیل یا بیرسٹر کو بجائے اپنے ہمراہ مقرر کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے صاحب موصوف کو۔ پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی حالت میں میرا مطالبہ صاحب موصوف کے برخلاف نہیں ہوگا۔ بعد مختار نامہ لکھ دیا ہے کہ سند ہے مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا اور منظور ہے۔

 Accepted M.A.S.

مورخہ: 19/11/2021ء

العبد العبد العبد



"A"

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

No.

APPEAL No..... of 20

4898

21

Babbar Mukhtar

Appellant/Petitioner

Versus

P.P.O. W.P.P. Pesh.

RESPONDENT(S)

Notice to Appellant/Petitioner.....

Babbar Mukhtar IHC,

No. 31, Distt. Police Haripur

*Posted at Beat No. 1, Hazard Maternity
Haripur*

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

19-7-2021

9:00 AM

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 Peshawar

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"A"

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

No.

APPEAL No..... 4898 of 20 21

Babur Mukhtar Apellant/Petitioner

Versus

P.P.O. K.P.C. Pesh RESPONDENT(S)

Notice to Appellant/Petitioner

Mohammad A Salam Tomali
Advocate High Court
at Haripur

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

19-7-2021 9:00 AM

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 Peshawar

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"B"

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

No.

713

Appeal No. 4898 of 20 21

Babar Mukhtiar Appellant/Petitioner

Versus

P.P.O. 14/11/10 Pesh. Respondent

Respondent No. 2

Notice to: —

Regional Police Officer Hozara
Region Abottabad

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa 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 12-10-2021 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 28th

July
A. Mead 21
at Camp Court

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.

TB

No.

Appeal No.....4898..... of 2021

.....Babar Mukhtar.....Appellant/Petitioner

Versus

.....P.P.O, K.P.C. Pesh:.....Respondent

3

Respondent No.....

Notice to: —

Dstl. Police officer Haripur

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa 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.....12-10-2021.....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~~ 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.....July.....2021

28th

at Camp Court A. Road

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.

TB

No.

Appeal No. 4898 of 20 21

Babar Mukhtiar Appellant/Petitioner

Versus

P.P.O, K.P.K. Pesh. Respondent

Respondent No. 1

Notice to: —

Provincial Police Officer, K.P.K. Pesh.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa 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.....12-10-2021.....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.....25/10/21.....

Day of.....July.....20 21

at Camp Court A. Akad

[Handwritten signature]

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.