

25th Oct., 2022

Counsel for the appellant present. Mr. Naseerud Din Shah, Assistant Advocate General alongwith Muhammad Nawaz Khan, ADEO for the respondents present.

Respondents have not submitted reply/comments. Learned Assistant Advocate General sought adjournment. Granted. To come up for reply/comments on 02.12.2022 before S.B.

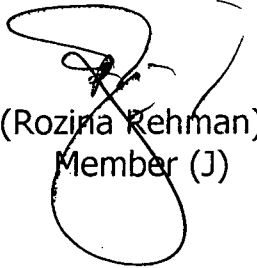

(Fareeha Paul)
Member(E)

15.04.2021

Appellant present through counsel. Preliminary arguments heard. Record perused.

Points raised need consideration. Instant appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notice be issued to respondents for submission of written reply/comments. To come up for reply/comments on 07.07.2022 before S.B.

Rs-500/-
A. Arshad Khan
25/4/22


(Rozina Rehman)
Member (J)

07th July, 2022

Appellant present in person. Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Learned AAG seeks further time to submit reply. Last opportunity is granted. To come up for reply/comments on 12.09.2022 before S.B.



(Kalim Arshad Khan)
Chairman

12.09.2022

The worthy Chairman is on leave, therefore, the case is adjourned to 25.10.2022 for the same.


Reader

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 565 /2022

NAVEED AHMAD

V/S

EDUCATION DEPTT:

I N D E X

S.N	DOCUMENTS	ANNEXUR	PAGE
0		E	
1	Memo of appeal	1 - 3
2	Affidavit	4
3	Service book	A	5-7
4	Regularization order dt: 15.02.2005	B	8-10
5	FIR	C	11-11A
6	Judgment dt: 15.10.2021	D	12-42
7	Order dt: 23.11.2007 and Departmental Appeal	E	42/A-45
8	Letter dt: 10.01.2022	F	46
9	Rejection order dt: 16.03.2022	G	47
10	Wakalat Nama	48

Dated: 14.04.2022

APPELLANT

Through:

NOOR MOHAMMAD KHATTAK
ADVOCATE

0345-9383141

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. _____/2022

Naveed Ahmad, Ex-Qari,
Govt. Primary School, Chamba Gul, Hangu.

.....**APPELLANT**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary (E&S) Education Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director (E&S) Education Department, Khyber Pakhtunkhwa, Peshawar.
- 3- District Education Officer (Male), District Hangu.

.....**RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED TERMINATION ORDER DATED 23-11-2007 WHEREBY MAJOR PENALTY HAS BEEN IMPOSED UPON THE APPELLANT AND AGAINST THE APPELLATE ORDER DATED 16-03-2022 WHEREBY DEPARTMENTAL APPEAL DATED 12-11-2021 OF THE APPELLANT HAS BEEN REGRETTEED ON NO GOOD GROUNDS.

PRAYER:

That on acceptance of this appeal the impugned termination order dated 23-11-2007 may very kindly be set aside and the appellant be reinstated into service with all back benefits. Any other remedy which this august Service Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:

- 1- That appellant was the employee of respondent Department and was appointed as Qari in the year 2004 on contract basis and from the date of termination the appellant has performed his duty with full zeal and zest. Copy of Service Book is attached as annexure **A.**

- 2- That later on the service of the appellant was regularized in light of Regularization Act 2005 vide respondent no. 3 order dated 15-02-2006 w.e.f 23-07-2005. Copy of Regularization order dated 15.02.2006 is attached as annexure **B.**
- 3- That appellant was falsely been implicated into a criminal case as an FIR No. 198 dated 22-04-2006 u/s 302, 324, 337-L (i), 427, 148, 149 PPC PS City District Hangu and was arrested later on. Copy of FIR is attached as annexure **C.**
- 4- That appellant after arrest faced the trail in the competent court of Law and after do completion of the criminal trail the appellant was acquitted from the leveled charges vide Additional Session Judge-II, Hangu dated 15-10-2021. Copy of Judgment dated 15.10.2021 is attached as annexure **D.**
- 5- That soon after acquittal dated 15-10-2021 the appellant approached respondent no. 3 for resuming his duty but the appellant was informed that he has been terminated from service vide order dated 23-11-2007 against which the appellant filed Departmental Appeal dated 12-11-2021. Copy of Order dated 23.11.2007 & Departmental Appeal dated 12.11.2021 is attached as annexure **E.**
- 6- That the departmental appeal of the appellant was forwarded the detail comments of the appellant to respondent no. 2 by respondent no. 3 vide letter dated 10-01-2022 hence in response the respondent no. 2 without any cogent reason rejected the departmental appeal vide appellate order dated 16-03-2022. Copy of Letter dated 10.01.2022 & Rejection Order dated 16.03.2022 is attached as annexure **F & G.**
- 7- That having no other remedy the appellant prefers the instant appeal on the following grounds amongst others.

GROUND:

- A- That the impugned termination order dated 23-11-2007 communicated to the appellant after acquittal on 15-10-2021 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be modified/rectified.
- B- That appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted

above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

- C- That the respondents acted in arbitrary and mala fide manner by issuing the impugned termination order dated 23-11-2007.
- D- That no regular inquiry has been initiated against the appellant while issuing the impugned termination order dated 23-11-2007 by respondents.
- E- That the act of the respondent while issuing the impugned termination order dated 23-11-2007 is against the prevail law and rule on the subject matter.
- F- That under Article 38(e) of the Constitution of Pakistan 1973 state is bound to reduce disparity in the income and earning of the individuals including persons in the various service of Pakistan.
- G- That no show cause, no statement of allegation, no charge sheet what so ever has been served upon the appellant while issuing the impugned termination order dated 23-11-2007 hence the same is void ab-initio.
- H- That the appellant has honorably acquitted from the charges leveled against him and no re-instating the appellant is against the various verdicts passed by the august Supreme Court of Pakistan.
- I- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Dated: 14.04.2022


APPELLANT

NAVEED AHMED

THROUGH:


NOOR MOHAMMAD KHATTAK

Advocate Supreme Court


UMAR FAROOQ

Advocate HC


KAMRAN KHAN

Advocate HC


HAIDER ALI

Advocate HC

4

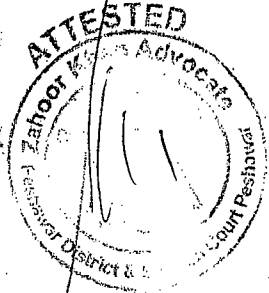
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. _____/2022

HAHIZ NAVID AHMAD VS EDUCATION DEPTT:

AFFIDAVIT

Stated on oath that the contents of the accompanying service appeal are correct to best of my knowledge and belief and nothing has been concealed from this Honorable Service Tribunal.



[Signature]
DEPONENT

CERTIFICATE:

Certify that no earlier service appeal has been filed by the appellant in the instant matter before this Honorable Service Tribunal.

[Signature]
CERTIFICATION

Note:— The entries in this page should be renewed or re-attested at least every five years and the Signature to lines 9 and 10 should be dated.

1. Name: Mr. Naveed Ahmad

2. Race: Aghwan

3. Residence: Vill. Sariki Payla P.O. Teh. 5 Distt. Hangu

4. Father's name and residence: Nazir Basi

5. Date of birth by Christian era as nearly as can be ascertained: 18-01-1974 (18th Jan Seventy Four)

6. Exact height by measurement: 6"

7. Personal marks for identification: Scar on left face.

8. Left hand thumb and Finger impression of (Non-Gazetted) officer:

Little Finger:

Ring Finger:

Middle Finger:

Fore Finger:

Thumb:

9. Signature of Government Servant:

10. Signature and designation of the Head of the Office, or other Attesting Officer.

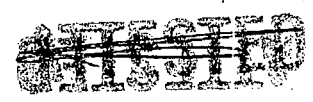
D. & D. O.
G.H.S. Chamba Gul
HANGU

Attested

HEAD MASTER
Govt. High School
Chamba Gul - Hangu

Attested
[Signature]

HEAD MASTER
Govt. High School
Chamba Gul - Hangu



6

1	2	3	4	5	6	7	8
Name of post	Whether substantive or officiating and whether permanent or temporary.	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art 371 C.S.R.	Pay in substantive post.	Additional Pay for officiating	Other emolument falling under the term 'Pay'	Date of Appointment	Signature of Government Servant
Qari Post at GHS Chamba Gul Hangu	Temp		BRS-7 (3990-120-5820/-)			8/4/2004	<i>[Signature]</i>
-do-	-do-		Rs: 2990/-			07/12/2004	<i>[Signature]</i>
-do-	-do-		Rs: 2340/-			01/07/2005	<i>[Signature]</i>
-do-	-do-		BRS-7 (2555-140-6755)			01/12/2005	<i>[Signature]</i>
-do-	-do-		Rs: 2695/-			01/12/2005	<i>[Signature]</i>
-do-	-do-		Rs: 2835/-			01/12/2005	<i>[Signature]</i>
<p>Service of Mr. Navram Ahmed Qari of this school is hereby terminated on A/c of involvement in criminal case 302 vide EDO S/H Hangu E. No: 9774-77 d/12/04</p>							

Attested
[Signature]
 HEAD MASTER
 Govt. High School
 Chamba Gul - Hangu

Attested
[Signature]
 HEAD MASTER
 Govt. High School
 Chamba Gul - Hangu

O & D O
 S. S. Chamba Gul
 HANGU

~~ATTESTED~~

INDEX 14/11/2011
 G.H.S Chamba Gul - Hangu

9	10	11	12
Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8	Date of termination or appointment	Reason of termination (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting officer.
<i>[Signature]</i> D. & D.O. G.H.S. Chamba Gul HANGU	30/11/2011	A/Jan	<i>[Signature]</i> D. & D.O. G.H.S. Chamba Gul HANGU
<i>[Signature]</i> D. & D.O. G.H.S. Chamba Gul Hangu	30/06/2015	Revised BPS-2015	<i>[Signature]</i> D. & D.O. G.H.S. Chamba Gul Hangu
<i>[Signature]</i> D. & D.O. G.H.S. Chamba Gul Hangu	30/11/2015	A/Jan	<i>[Signature]</i> D. & D.O. G.H.S. Chamba Gul Hangu
<i>[Signature]</i> D. & D.O. G.H.S. Chamba Gul Hangu	22/06/2015	TERMINATION	<i>[Signature]</i> D. & D.O. G.H.S. Chamba Gul HANGU
<i>[Signature]</i> D. & D.O. G.H.S. Chamba Gul Hangu			<i>[Signature]</i> D. & D.O. G.H.S. Chamba Gul Hangu
<i>[Signature]</i> HEAD MASTER Govt. High School Chamba Gul - Hangu			<i>[Signature]</i> D. & D.O. G.H.S. Chamba Gul HANGU
<i>[Signature]</i> HEAD MASTER Govt. High School Chamba Gul - Hangu			<i>[Signature]</i> D. & D.O. G.H.S. Chamba Gul HANGU

These 13/11/2011 under:
 Leave
 Allocation of posted of
 upto 12 months for
 Government
 Government to
 which unable
 any petition in
 no objection is made
 in the case of
 medical fitness
 Apppt: as Qasi Post (Contract Basis)
 in BPS-7 vide EDO(S/K) Hangu
 G.No: 856-78/Qasi dt Hangu the 7-4-2011

[Signature]
D. & D.O.
G.H.S. Chamba Gul
HANGU

SERVICE PERIOD W.E.F.
 08-04-2011 to 30-11-2014
 Form Pay Bill & Other
 Office Record.

[Signature]
D. & D.O.
G.H.S. Chamba Gul
Hangu

SERVICE PERIOD W.E.F.
 08-04-2011 to 30-11-2015
 Form Pay Bill & Other
 Office Record.

[Signature]
D. & D.O.
G.H.S. Chamba Gul
Hangu

Under the provision of Govt NWP
 Civil servant (Amendment) ACT-2015
 come in to force w.e.f: 23-7-2015 vide
 Establishment & Administration Deptt.
 (Regulation wing) Govt of NWFP
 No: S.O (Regulation) E & AD-1-13/2015 dt
 10-8-2015 apppt as contract basic as
 regularized of service vide EDO(S/K)
 Hangu G.No: 2777-86 dt 15-2-2016.

[Signature]
D. & D.O.
G.H.S. Chamba Gul
HANGU

[Signature]
D. & D.O.
G.H.S. Chamba Gul
HANGU

[Signature]
HEAD MASTER
Govt. High School
Chamba Gul - Hangu

ATTENDED

OFFICE OF THE EXECUTIVE DISTRICT OFFICER SCHOOLS & LITERACY HANGU

Office Order

Under the provision of Govt. of NWFP Civil servants (Amendment) Act 2005 Came into force w.e.f. 23rd July 2005 notified vide Establishment & Administration Department: (regulation Wing) Govt. of NWFP No.S.O(Regulation) E&AD)-13/2005 dated 10/8/2005. the following employees of school & Literacy Department appointed on Contract basis are hereby regularized on the terms & condition given below if they are regularly posting up to date:

1. CT(Male)

S/No	Name of Teachers	Address	Posted as	Place of Posting
1	S.Bilal Noor	Thall	CT	GHS Thall
2	Waris Khan	Dallan	CT	GHS Darsamand
3	Dilbar Khan	Torawari(N)	CT	GHS Torawari (N)
4	Asghar Iqbal	M.Khawaja	CT	GHS Sarozai
5	Abdul Hafeez	Hangu	CT	GHS Togh Sarai
6	Zafar Iqbal	Hangu	CT	GHS Togh Sarai
7	Aurang zeb Khan	Chani Kahi	CT	GMS Khazina Banda
8	Nasir Mehmood	Bagato	CT	GMS Bagato
9	Javed Akbar	Char Bala	CT	GMS Chappri Togh
10	Sheikh Zaid Bad Shah	Torawari (N)	CT	GMS Khattak Banda
11	S.Kifayat Ullah Shah	Hangu	CT	GMS Khattak Banda

2. PET (Male)

S/No	Name of Teachers	Address	Posted as	Place of Posting
1	Asghar Khan	Thall	PET	GHS kahi
2	Shamsul Aman	Dallan	PET	GMS G/Waziran
3	Muhammad Naseem	Thall	PET	GHS Torawari (N)
4	Salah Ud Din	Saro Khel	PET	GHS Naryab
5	Allah Din	Dallan	PET	GMS Nayano Banda

3. DM (Male)

S/No	Name of Teachers	Address	Posted as	Place of Posting
1	Abdul Nasir	Thall	DM	GHS Torawari (N)
2	Gul Yousaf		DM	GMS Darband
3	Dilawar Khan	Shahu Khel	DM	GHS Shahu Khel
4	Sadiq Ur Rehman	G/Waziran	DM	G/Waziran
5	Muhammad Idress	Thall	DM	GMS Chappri Togh
6	Hazrat Ullah		DM	GHS M.Khawaja
7	Dildar Khan	Chappri	DM	GMS Chappri Naryab
8	Duran Khan	Samana	DM	GMS Samana

4. AT (Male)

S/No	Name of Teachers	Address	Posted as	Place of Posting
1	Abdul Jabbar	Zargari	AT	GMS Dorari Banda
2	Basir Muhammad	Khattak Banda	AT	GMS Khattak Banda
3	Aman Ullah	Thall	AT	GHS Darsamand
4	Momeen Bat Khan	Natyab	AT	GMS Chappri Naryab
5	Abdullah	Chparri Togh	AT	GMS Chappri Togh
6	Muhammad Nawaz	Hangu	AT	GMS Darband
7	Abdul Jabbar	Kotki payan	AT	GHS Togh Sarai
8	Muhammad Shafi ud Din	Dallan	AT	GMS samana
9	Sabir Ali	Ibrahim Zai	AT	GMS Jouzara
10	S.Zamir ul Hassan		AT	GHS Kahi
11	S.Mujtaba Hussain		AT	M.Khawaja
12	Saifoor Rehman	Dallan	AT	GHS Dallan

TESTED

9

5. T.T (Male)

S/No	Name of Teachers	Address	Posted as	Place of Posting
1	Ibrar Muhammad	Bagato	TT	GHS M/Khawaja
2	Akhtar Gul	Dallan	TT	GMS G/Waziran
3	Ijaz Ahmed	Hangu	TT	GCMHS No.1 Hangu
4	Muhammad Farid	Thall	TT	GHS Thall
5	Saleem Ahmed	Mirobak	TT	GHS Shahu khel
6	Abdul Latif	Samana	TT	GMS Samana
7	Abdul Mateen	Azimi Banda	TT	GHS Kahi
8	Salah Ud Din	Khattak Banda	TT	GMS Khattak Banda
9	Muhammad Zaman	Chappri Togh	TT	GMS Chappri Togh
10	Amal Nazir	Mamoon Banda	TT	GHS Darsamand
11	Abdul Qayum	Togh Sarai	TT	GHS Togh Sarai
12	Gul Noor	Karbogha	TT	GHS Karbogha
13	Haji Muhammad	Zargari	TT	GMS Dorari Banda
14	Abdul Nasir	Mainji Khel	TT	GMS Nayano Banda

6. Qari (Male)

S/No	Name of Teachers	Address	Posted as	Place of Posting
1	Kamran Ud Din	Thall	Qari	GHS Thall
2	Tayyab Khan	Naryab	Qari	GHS Shanawari (N)
3	Muhammad Anwar	Hangu	Qari	GHS Shahu Khel
4	Manzoor Ahmed	Hangu	Qari	GHS Shahu Khel
5	Naveed Ahmed	Chamba Gul	Qari	GHS Chamba Gul
6	Muhammad Israr	Sarozai paila	Qari	GHS Togh Sarai
7	Muhammad Idress	Naryab	Qari	GHS Naryab
8	Abdul Mateen	Hangu	Qari	GHS Shanawari(Hgu)
9	Yar Khan	Nayano Banda	Qari	GHS Darsamand
10	Wazir Gul	Torawari	Qari	GHS Torawar (N)
11	Muhammad Haroon	Darband	Qari	GCMHS No.1 Hangu
12	Javed Rehman	Azimi Banda	Qari	GHS Sarozai
13	Muhammad Khan	Dallan	Qari	GHSS Dallan

7. Data Entry Operators (KPOs)

S/No	Name of Official	F/Name	Address	Posted as	Place of Posting
1	Muhammad Arif Jan	Inayat Ullah Jan	Hangu	DEO	O/O EDO(S&L) Hangu
2	Qabil Muhammad	Gul Ahmad	Bagato	DEO	O/O EDO(S&L) Hangu

Terms & Conditions

- All the above officials appointed on contract basis are regularized on their posts after commencement of the said Act but they will not avail of Pension OR gratuity, However such a civil Servant shall in lieu of pension & gratuity, be entitled to receive such amount contributed by him towards the contributory provident Fund, alongwith the contribution made by the Govt. to his account in the said Fund, in the Prescribed manner.
- They are entitled to get the benefit of regular employees Except Pension. They were selected for appointment in the prescribed manner to a service OR post on or after the 1st July 2001 till the commencement of the said Act but on contract Basis on regular Posts.
- Entry to this Effect may be made in Their Service Books.

The Order will be effective wef 23/7/2005.

(ARMAN SHAH KHATTAK)
EXECUTIVE DISTRICT OFFICER
SCHOOLS & LITERACY HANGU

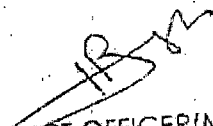
~~ATTESTED~~

Endst: No. 2777-86 Dated: 15-2-2006

10

Copy of the above is forwarded to the:

1. District Coordination officer Hangu.
2. Director School & Literacy NWFP, Peshawar.
3. District Nazim Hangu.
- 4-5. District Officer (M/F) S&L local Office.
6. Accountant Local Office
7. Principal /Head Masters GCMHS/GHSS/GHS/GMS in Dist:Hangu with the remarks that the officials whose name are not included & they are regularly working in your Schools/office or whose name are included in this Notification but actually resign from service/ terminated may be informed writtenly in this office with in a week other wise time bared information will not be considered.
8. District Account Office Hangu.
9. All dealing Asstt: Local Office.


DISTRICT OFFICER (MALE)
SCHOOLS & LITERACY HANGU

~~ATTESTED~~

اپنی سرکاری ڈیوٹی کے دوران

کوئٹہ

(فائیل) ابتدائی اطلاع نسبت مجرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ ۵۲ مجموعہ ضابطہ فوجداری

تھانہ منگ

منسلح ہتھیار

تاریخ و وقت وقوعہ 22/4/82 وقت 15.05

نمبر 198

تاریخ و وقت رپورٹ 22/4/82 وقت 16.55	تاریخ و وقت رپورٹ 22/4/82 وقت
حصول خان ولد عبد جبار نیوی / 23/4/82 سال 22	نام و سکونت اطلاع دہندہ و متبیت
322-324-427/148 سنگھ سٹیٹ روڈ سندھو سڑکی بائیں درخت خانہ سرور خان اچھ سڑکی بائیں بائیں 148/149 714	مختصر کیفیت مجرم (موردفعہ) حال اگر کچھ لیا گیا ہو جائے وقوعہ فاصلہ تھانہ سے اور سمیت
	نام و سکونت ملزم
بوسو (3) حواسل درخت خانہ	کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہو تو وجہ بیان کرو۔
بوسو سٹیٹ روڈ	تھانہ سے روانگی کی تاریخ و وقت

ابتدائی اطلاع کے درجہ کو خطاب ملایا ایک خود سری حواسل
 مہاشانہ صاحب خان 5440 تعانہ سٹیٹ روڈ کوئٹہ میں جو کہ درجہ ذیل ہے خود سب اچارج قائم ہو
 بدووان گنتی اطلاع ملی۔ کہ سب سے پہلے سٹیٹ روڈ کوئٹہ میں ایک خود سب غوربانی
 گئی ہے جو جوئی طور پر سٹیٹ روڈ کوئٹہ میں مقیم ہیں۔ وہ سب کے نام 44/4 سال،
 نورزادہ بعد 49/4 سال سیدان شہزادہ محمد سہیل ولد عبد جبار بعد 20/4 سال،
 حرد بعد 25/4 سال شہزادہ عبد جبار بعد 39/4 سال سیدان سہیل باہل موجود
 باکر سٹیٹ روڈ کوئٹہ میں، محمد جبار بالاسٹریٹ سٹیٹ روڈ کوئٹہ میں بعد 22/4 سال
 سہیل سڑکی باہل، جی خود وقت باہل، خود سب اور سب شہزادہ عبد جبار باہل والدہ ام کوئٹہ
 نورزادہ جی ام، محمد سہیل برادر ام اور سب شہزادہ عبد جبار باہل والدہ ام کوئٹہ
 خود سب 7306 سٹیٹ روڈ کوئٹہ میں محمد جبار عبد جبار باہل والدہ ام کوئٹہ
 جب جائے وقوعہ ہے، تو وہاں پر سہیل خان، ولد سہیل خان، محمد عمر،
 محمد حویلی لہری ظہیر خان، محمد طارق ولد سہیل خان، ولد سہیل خان، ولد سہیل خان،
 عبداللہ ولد سہیل خان، الور خان ولد آدم خان، خود سب حافظہ ولد نورزادہ سہیل خان
 حسیہ ام بیگم سے مل گیا کہ میں بیٹھے ہوئے ہے، جہاں ہم ایک باہل لکھے۔ خود سب دان
 باہل اپنے اپنے اسلحہ سے ہم پر باربارہ حمل کیا اور ہم کو گتے گتے کر کے خود سب سے عبد جبار والد ام
 نورزادہ جی ام، محمد سہیل برادر ام، محمد سہیل برادر ام کے گتے گتے گتے گتے گتے گتے گتے گتے
 سہیل لگا کر گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے
 سے لگا کر گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے
 لگا کر گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے
 حسیہ بعد سہیل باہل کا چہرہ ہے۔ سہیل اپنے اور سب شہزادہ عبد جبار باہل والدہ ام کوئٹہ
 نورزادہ جی ام، محمد سہیل برادر ام کے مل اور سب شہزادہ عبد جبار باہل والدہ ام کوئٹہ
 خود سب کا سہیل باہل نے مختلف ہتھیاروں اور ہتھیاروں سے خود سب کو خود سب
 کشت کیا۔ کئی کئی کئی کئی کئی کئی کئی کئی کئی کئی کئی کئی کئی کئی کئی کئی کئی
 کے ہتھیاروں کو گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے
 حواسل کے ہتھیاروں سے۔ حواسل واسطے ملتی ہتھیاروں سے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے گتے
 P.T.O

ANNEX D

12



کہا کہ فیما بین ریٹائرمنٹ سیشن جج صاحب فاضل کورٹ نے

28/12/18 سے 29/6/21

حصہ 5/10/21

سکرٹا - نام رحمت خان دست

عد 198 سے 302/324 سے 337/427

Order :
15/10/2021

APP for the State present. Accused produced in custody. Learned counsel for accused Rehmat Khan Muhammad Umar and Abdullah present.

Arguments heard and record gone through.

Vide my detailed judgment of today, consisting of thirty pages, separately placed on file. by extending the benefit of doubt, the accused facing trial are hereby acquitted. Accused are in custody on bail, they be set free if not required in any other case.

Case property, if any be kept intact till the arrest, trial and disposal of absconding accused against whom perpetual warrants of arrest have already been issued by the court of learned ASJ-I, Hangu vide order dated 27/05/2008.

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

ANNOUNCED
15/10/2021



Azizullah
(Azizullah Mishwani)
Addl: Sessions Judge-II/JMCTC/JSC.
Hangu

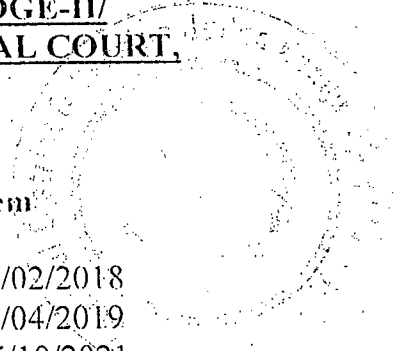
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21/10/21

13

IN THE COURT OF AZIMULLAH MISHWANI,
ADDITIONAL SESSIONS JUDGE-II/
JUDGE MODEL CRIMINAL TRIAL COURT,
HANGU.

Session Case # 52/H-I Neem



Date of Institution..... 28/02/2018
Date of transfer in 26/04/2019
Date of Hearing 15/10/2021
Date of Decision..... 15/10/2021

The State

VERSUS

- 1)- Rehmat Khan s/o Ashraf Khan.
- 2)- Abdullah s/o Hanif Khan.
- 3)- Umar Khan s/o Mazhar Khan.
- 4)- Hafiz Naveed Ahmad s/o Nazar Ban.

145

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(all residents of village Sarki Pyala, District Hangu).

.....(Accused facing trial)

FIR # 198 DATED 22/04/2006.

U/S 302-324-337L(i)-427-148-149 PPC, PS CITY, DISTRICT HANGU.

JUDGMENT

1. The accused facing trial namely Rehmat Khan, Abdullah, Umar Khan and Hafiz Naveed Ahmad faced trial in afore captioned case.
2. Compendium facts as per the FIR are such that: on 22/04/2006, the police party while on patrolling, received information that three dead

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21/10/21

bodies were brought to the Civil Hospital. Hangu. In pursuance of the information, the police party rushed to the hospital, wherein the emergency room the complainant Faisal Khan reported the matter to the effect that: on the fateful day he alongwith his deceased father Mir Janan, his uncle Noor Zada, brother Muhammad Sohail and step mother Mst Rubina were proceeding from Sarki Pyala towards Peshawar in a motorcar bearing No.7306/IDM, being driven by his deceased father. On reaching near the place of occurrence, the accused facing trial alongwith absconding co-accused Muhammad Musa, Muhammad Fariq, Wali ur Rehman and Anwar Khan, already present on the spot, duly armed with firearms, started indiscriminate firing upon them with intent to commit their Qatl-e-Amd. As a result, thereof, his father Mir Janan, uncle Noorzada, and brother Muhammad Sohail got hit and succumbed to their injuries on spot, whereas, his step mother Mst Rubina Shaheen got hit and sustained firearm injuries, while he luckily remained safe and unhurt. With the firing of accused party, the motorcar also got hit and damaged. Motive for the offence is stated to be previous blood feud enmity between the parties. Beside him the occurrence is stated to be witnessed by her step mother injured Mst Rubina Shaheen. Report of the complainant was scribed in shape of Murasila (Ex.PA/1) culminated into registration of instant case FIR (Ex.PA).

3. After completion of investigation, prosecution submitted complete challan against all the absconding accused u/s 512 Cr.PC. Later, on 13/02/2018 accused facing trial Rehmat Khan and Abdullah got arrested. Prosecution submitted supplementary challan against them. Trial was commenced. Charge against accused facing trial framed on 14/03/2018 to which they claimed trial by pleading not guilty. Hence.

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 15/10/21

15

prosecution was accorded opportunity to adduce its evidence. Detail of evidence so recorded is given in table given below;

PWs	Name	Role	Documents exhibited
PW-1	Saeed Khan DSP	Drafted Murasila, Prepared the injury sheets, Prepared inquest reports of deceased, Submitted complete challan against the accused.	Murasila Ex.PA/1, Injury sheets of deceased Ex.PW-1/1 to Ex.PW-1/4. Inquest reports of deceased Ex.PW-1/5 to Ex.PW-1/7. Complete challan Ex.PW-1/8.

147

4. On 26/06/2018. accused facing trial Hafiz Naveed Ahmad got arrested and prosecution submitted supplementary challan against him. Charge was framed on 28/07/2018 to which he claimed trial by pleading not guilty. Hence, prosecution was again accorded opportunity to adduce its evidence. Detail of evidence so recorded is given in table given below;

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PWs	Name	Role	Documents exhibited
PW-1	Shah Dauran Khan SHO	Arrested the accused facing trial Rehmat Khan and Abdullah and issued their card of arrest. Submitted supplementary challans against the accused.	Card of arrest Ex.PA/1/1 Supplementary challans Ex.PW-1/2 & Ex.PW-1/3
CW-1	Jan Muhammad DFC No.516	Entrusted with the execution of summon and has	Summon Ex.CW-1/1 Report overleaf the

21/10/21

16

		submitted his report.	summon Ex.CW-1/2
PW-2	Dr. Zia ul Hassan	Conducted autopsy on the dead bodies of deceased and examined the injured.	PM reports Ex.PM/1. Ex.PM/2 and Ex.PM/3. Examination report of injured Ex.PM/4.
PW-3	Saeed Khan DSP	Drafted Murasila. Prepared the injury sheets. Prepared inquest reports of deceased. Submitted complete challan against the accused.	Murasila Ex.PA/1, Injury sheets of deceased Ex.PW-1/1 to Ex.PW-1/4. Inquest reports of deceased Ex.PW-1/5 to Ex.PW-1/7. Complete challan Ex.PW-1/8.
PW-4	Ali Ahmad Khan Inspector	Conducted partial investigation	Application for obtaining physical custody of accused Rehmat Khan and Abdullah Ex.PW-4/1 Application for obtaining further physical custody of accused Ex.PW-4/2 Application for obtaining physical custody of accused Hafiz Naveed Ahmad Ex.PW-4/3. Application for obtaining further physical custody of accused Ex.PW-4/4.
CW-2	Jamal Hussain No.25/DFC	Entrusted with execution of non bailable warrants of arrest issued against PW Faisal Khan.	Warrant Ex.CW-2/1. Statements of attesting witnesses Ex.CW-2/2. Report overleaf the warrant Ex.CW-2/3.
CW-3	Constable Noor Ali DFC No.779	Entrusted with execution of, summon issued against PW Khan Ullah.	Court process Ex.CW-3/1. Report overleaf Ex.CW-3/2.

148
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21/10/21

EXAMINED

SW	Yaseen Ali DFC No.65	Entrusted with the warrants of arrest u/s 204 Cr.PC and proclamation notices 87 Cr.PC issued against the accused.	Warrants u/s 204 Cr.PC Ex.SW-1/1 and Ex.SW-1/8 Reports Ex.SW-1/9 and Ex.SW-1/16. Proclamation notices Ex.SW-1/17 & Ex.SW-1/24 Reports Ex.SW-1/25 & Ex.SW-1/32.
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5. On 30/05/2019, accused facing trial Muhammad Umar got arrested. Prosecution submitted supplementary challan against him. Charge against accused was framed on 27/06/2019 to which he claimed trial by pleading not guilty. Hence, prosecution was once again accorded opportunity to adduce its evidence. Detail of evidence so recorded is given in table given below;

PWs	Name	Role	Documents exhibited
PW-1	Saeed Khan DSP	Drafted Murasila, Prepared the injury sheets, Prepared inquest reports of deceased, Submitted complete challan against the accused.	Murasila Ex.PA/1. Injury sheets of deceased Ex.PW-1/1 to Ex.PW-1/4. Inquest reports of deceased Ex.PW-1/5 to Ex.PW-1/7. Complete challan Ex.PW-1/8.
PW-2	Hakim Zada	Identifier of dead bodies of deceased before the police and doctor.	...
PW-3	Dr. Zia ul-Hassan	Conducted autopsy on the dead bodies of deceased and examined the	PM reports Ex.PM/1, Ex.PM/2 and Ex.PM/3.

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15/10/21

EXHIBIT

		injured.	Examination report of injured Ex.PM/4.
PW-4	Ali Ahmad Khan Inspector	Conducted partial investigation	Application for obtaining physical custody of accused Rehmat Khan and Abdullah Ex.PW-4/1 Application for obtaining further physical custody of accused Ex.PW-4/2 Application for obtaining physical custody of accused Hafiz Naveed Ahmad Ex.PW-4/3. Application for obtaining further physical custody of accused Ex.PW-4/4.
PW-5	Mst Robina Shaheen	Injured victim	...
PW-6	Faisal Khan	Complainant	...
PW-7	Abdur Rehman Inspector	Issued card of arrest of accused Umar Khan. Interrogated the accused and has taken his physical custody from competent court.	Card of arrest Ex.PW-7/1 Application for obtaining physical custody of accused Ex.PW-7/2. Prepared pointation memo Ex.PW-7/3. Application for recording confessional statement of accused Ex.PW-7/4.
PW-8	Shah Dauran Khan SHO	Arrested the accused facing trial Rehmat Khan and Abdullah and issued their card of arrest. Submitted supplementary challans against the accused.	Card of arrest Ex.PA/1/1 Supplementary challans Ex.PW-1/2 & Ex.PW-1/3
PW-9	Mohib Ullah Khan	Conducted	Site Plan Ex.PB

150

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21/10/21

Inspector	investigation	Recovery memo Ex.PW-2/2. (Motorcar (Ex.PD) Recovery memo Ex.PW-2/1. Memo Ex.PW-2/3. Search memo Ex.PW-8/1. Snap shots Ex.S to Ex.S7. Mechanic report Ex.PK. FSL result Ex.PZ Application for issuance of warrants u/s 204 Cr.PC Ex.PW-5/4 to Ex.PW-8/11 Reports Ex.PW-8/12 to Ex.PW-8/19. Proclamation notices Ex.PW-8/20 to Ex.PW-8/27 Reports Ex.PW-8/28 to Ex.PW-8/34.

151

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6. Rest of the prosecution witnesses were abandoned by the prosecution.
7. On completion of the prosecution evidence, statements of accused were recorded u/s 342 Cr.PC on 17/10/2021. Arguments were heard and vide judgment/ order dated 29/10/2019 of the court of learned ASJ-I, Hangu the accused facing trial were convicted and sentenced, whereas, rest of absconding accused were declared as proclaimed offenders and perpetual warrants of their arrest were issued.
8. The convicted accused then preferred an appeal before the Hon'ble Peshawar High Court, Peshawar against the order/ judgment of the court of learned ASJ-I, Hangu dated 29/10/2019, which was accepted on

21/10/21

11/03/2020 by setting aside the order of learned ASJ-I, Hangu and the case was remanded back to the trial court with the direction to record the statement/ evidence of complainant Faisal Khan on his physical appearance before the trial court and, if it is not possible then it may be recorded through video-link by following the guidelines circulated vide judgement of Hon'ble Peshawar High Court, Peshawar reported in PLD 2021 105 Peshawar.

9. After receiving back, the case file on remand, accused as well as complainant were summoned. Upon which the accused put their appearance before the court through Zamima Bay, whereas, the complainant failed to appear. On 17/09/2020, learned counsel for complainant submitted an application for recording statement of complainant through video-link, which was turn down on 25/09/2020 with the direction to prosecution to produce the complainant before the court with intimation to DPO, Hangu to provide escort and security to the complainant to facilitate his safe appearance before the court.
10. On 01/10/2020, learned counsel for complainant submitted second similar nature application before this court contending therein that complainant is abroad and is unable to appear personally before the court, which was also rejected on 26/11/2020.
11. Feeling aggrieved, the learned counsel for complainant then impugned the referred order before Hon'ble Peshawar High Court, Peshawar, where vide order dated 19/02/2021 revision against the order of this court was declined and order of this court was maintained. It is worth mentioning that after the rejection of revision petition, by Hon'ble Peshawar High Court, Peshawar, the learned counsel for complainant then preferred a revision before august Supreme Court of Pakistan

152

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27/10/21

against the order dated 19/02/2021 passed by Hon'ble Peshawar High Court, Peshawar.

12. Meanwhile, learned counsel for accused submitted bail petition in favour of accused Hafiz Naveed Ahmad, which was rejected by this court on 15/01/2021. Learned counsel for accused then assailed the order passed by this court in bail petition No.358/IV before Hon'ble Peshawar High Court, and during hearing the learned counsel for accused Hafiz Naveed Ahmad conceded before the Hon'ble Peshawar High Court to the contention of the learned complainant counsel for recording statement of the complainant through video-link for which the plea of the learned complainant counsel was declined twice as referred to in the preceding paras without bringing the fact of pending a revision before the august Supreme Court to the notice of Hon'ble Peshawar High Court, Peshawar. Hence, vide order dated 16/08/2021 the Hon'ble Peshawar High Court, Peshawar while declining the plea for bail for the accused Hafiz Naveed issued directives to the worthy Registrar, Peshawar high Court to make arrangement for recording the statement of the complainant through video-link as per the guideline already circulated and referred to above.
13. Instead of making arrangements as per the guideline, the case file was sent back to worthy Sessions Judge, Hangu with further direction by the office of worthy Registrar to make necessary arrangements for recording the statement of complainant through video-link. In compliance thereof, the worthy Sessions Judge Hangu while sending the case file back to this court for trial issued direction to the IT. Incharge for doing the needful. On receiving the case file back, it was fixed for recording of the statement of the complainant Faisal Khan through

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video-link. On the date fixed i.e. 16/09/2021 the undersigned was called upon to the court of worthy Sessions Judge, Hangu, where the arrangements for recording statement of the complainant through video-link were made. Accordingly, the learned counsel for the complainant accompanied by the learned DPP and learned defense counsel appeared and after identification of complainant Faisal Khan and verification of his CNIC by his counsel, his statement was recorded as PW-06/R through video-link and learned defense counsel completed their cross examination as well.

14. As only the statement of the complainant was remaining, hence, on recording his statement and on completion of prosecution evidence, statements of the accused were once again recorded u/s 342 Cr.PC on 23/09/2021, wherein the accused facing trial professed innocence, however, did not wish to produce defense evidence.
15. Learned counsel for complainant as well as learned DPP while forwarding the argument on behalf of the prosecution contended that the accused have been charged in a prompt lodged FIR. That the medical and ocular account commensurate with each other, minor discrepancies and contradictions found in the depositions of PWs is natural for lapse of about sufficient period. The learned counsel relied on 2005 PCrLJ 1939, 2011 SCMR 1394 and 2008 PCrLJ 405.
16. On the other hand, learned counsel for defense argued that the accused facing trial are innocent and have falsely been implicated. That the ocular account of the PWs and the expert evidence very materially from each other. That the witnesses have made unqualified improvements and the circumstances and peculiar facts of the case does not support the mode and manner of the commission of the offence as contended by the

prosecution. That the case of prosecution suffers from material doubt, benefit of which is to be extended to the defense. He further contended that the complainant and injured witness despite of admitting to be able to differentiate between different weapons have not specified the weapon allegedly held by the different accused.

17. Heard and case file gone through.

18. Conspectus of the prosecution case is that Saeed Khan PW-1 received information as the then SHO of PS Hangu on 22/06/2006 that three dead bodies and one injured lady were brought to the Civil Hospital Hangu. In pursuance of which, he rushed to the hospital where he found dead bodies of the deceased Noor Zada, Mir Janan and Muhammad Sohail alongwith the injured lady Mst Rubina Shaheen. The complainant Faisal present there reported the matter as per Murasila Ex.PA/1 that on the fateful day he alongwith his father Mir Janan deceased, his uncle Noor Zada, his brother Muhammad deceased and his step mother the injured Rubina Shaheen were on their way from Sarki Pyala to Peshawar in a motorcar bearing No.7306/IDM, being driven by his deceased father Mir Janan. When reached the place of occurrence, there the accused facing trial Rehmat Khan, Muhammad Umar, Abdullah and Hafiz Naveed Ahmad alongwith absconding co-accused Muhammad Musa, Muhammad Tariq, Wali ur Rehman and Anwar Khan duly armed ambuscaded there and on seeing them all the accused made indiscriminate firing with intent to commit their murder. With the fire shots of all the accused his father Mir Janan, uncle Noor Zada, brother Muhammad Sohail got hit and succumbed to their injuries, his step mother Mst Rubina got injured, while, he escaped unhurt from the firing of the accused.

19. To substantiate the indictment against the accused facing trial the prosecution got examined almost 13 PWs. out of whom Saeed Khan, who has been examined thrice as PW-1, PW-3 and PW-1 is the scribe of the Murasila who after reiterating the proceeding, he conducted as per the preceding table, narrates in his cross examination that after receiving the information at 16:05 hours he reached to Civil Hospital Hangu at 16:15 hours and on his reaching there he noticed all the three dead bodies alongwith the injured lady in the emergency room, who was able to talk and he inquired from her regarding the occurrence but instead he drafted the report of one Faisal Khan (complainant) as he was in best position to talk coherently, however, he has not mentioned the fact regarding the injured lady to be not in position to talk in the Murasila. Thus he further admits that he did not make the injured lady Mst Rubina Shaheen as verifier of the report of complainant.

20. PW Dr. Zia-ul-Hassan who has been examined twice as PW-2 and in the second round examined as PW-3 has conducted autopsy on the dead body of deceased Muhammad Sohail, which is as follows:

Symptom observed before death. Received dead body. Information furnished by police. FAI.

External Appearance: marks of ligature and dissection etc. nil.

Conduction of subject. Stout bloodstained clothes.

Wounds, bruises, position, size and nature.

One fire arms entrance wound left side medial aspect of thigh left pelvic region size about 1/4x1/4 inch.

One fire arms exit wound left lateral aspect of the thigh, left size about 1/2x1/2 inch.

Cranium and Spinal Cord: Intact.

Handwritten signature and date:
21/10/21

156

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Thorax: The entire portion was intact.

Abdomen: Intact.

Muscles, Bones and Joints: Left pelvic thigh was injured. Left femur fractured. Dislocation nil.

Remarks: In his opinion, the cause of death was FAI to pelvic origin. injury to the great vessels i.e. femoral leading to profuse bleeding, shock, death.

Probable time that elapsed between injuries and death 01 to 04 hours.

Between death and PM about 04 to 06 hours. The PM report is EXPM/1.

Similarly, he has also conducted the PM examination of Noor Zada s/o Sher Zada r/o Sarki Pyala Hangu aged about 49/50 years. body brought by police and identified Abid Ullah and Hakim Zada. The body was received dead. Information furnished by police FAI.

External Appearance: Nil.

Condition of subject. Stout bloodstained clothes.

Wounds, bruises. position, size and nature.

One fire arms entrance wound right front of forearms size about 1/4x1/4 inch.

One fire arms exit wound on the back of right forearm size about 1/2x1/2 inch.

One FA entrance wound left lateral flank size 1/4x1/4 inch.

One FA exit wound right side flank region size about 1/2x1/2 inch.

Cranium and Spinal Cord: Intact.

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Thorax: The entire portion was intact.

Abdomen: Walls, peritoneum, small intestines, large intestines and their contents, liver and kidney are injured while rest of abdomen are intact.

Muscles, Bones and Joints: Abdominal muscles injured. Right elbow joint fractured.

Remarks: In his opinion, the cause of death was FAI to various parts of the body i.e. kidneys, lever, intestines, leading to profuse blood loss, shock, death.

Probable time that elapsed between injuries and death instantaneous.

Probable time between death and PM about 04 to 06 hours.

The post mortem report is EXPM/2.

Similarly, he has also conducted the PM examination of Mir Janan son of Sher Zada r/o Sarki Pyala Hangu aged about 44/45 years, body brought by police and identified by Abid Ullah and Hakim Zada. The body was received dead. Information furnished by police FAI.

External Appearance: Nil.

Condition of subject. Stout bloodstained clothes.

Wounds, bruises, position, size and nature.

One fire arms entrance wound right lower abdomen 1/4x1/4 inch.

One fire arms exit wound on the back of left flank region 1/2x1/2 inch.

One FA entrance wound front of right arm size 1/4x1/4 inch.

One FA exit wound back of right arm size about 1/2x1/2 inch.

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15/10/21

EXAMINED

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One FA entrance wound epigastric region size about 1/4x1/4 inch.

One fire arm exit wound back left chest size 1x1 inch.

One FA puncture entrance wound on front of right neck.

One FA exit wound back of right neck.

One FA grazing wound vertex of skull size about 2x1 inch.

Cranium and Spinal Cord: Scalp, skull and vertebra injured.

Membrane, brain and spinal cord are intact.

Thorax: Walls, ribs and cartilages, left lung and blood vessels are injured while the rest of the organs are intact.

Abdomen: Walls, peritoneum, small intestines, large intestines injured while the rest of the organs are intact.

Muscles, Bones and Joints: Injuries to abdomen and chest muscles humerous of right side fractured.

Remarks: In his opinion, the cause of death was FAI to various parts of the body leading to profuse hemorrhage shock and death. Probable time that elapsed between injuries and death instantaneously.

Probable time between death and PM about 04 to 06 hours.

The PM report is EXPM/3.

Similarly, he has also examined the injured namely Mst Robina Shaheen w/o Mir Janan aged about 30/40 years r/o Sarki Pyala Hangu on the same day, produced before him by constable Junaid No.2342 and found the following.

Patient brought to emergency with following findings.

Multiple FA puncture wounds on the back of body i.e. chest and lower region. Called to surgeon. Blood transfusion given. Patient

159

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21/10/21

was serious, referred to LRH Peshawar for further treatment and management.

Nature of injuries.....LO

Kind of injuries.LO

Kind of weapon.....FA

Probable duration of injuries i.e. 2 to 4 hours.

The MLC report is EXPM/4.

During his cross examination, he contends categorically that all the three deceased were brought to the hospital at 05:30 pm. Firstly, he examined the injured Mst Rubina Shaheen and thereafter conducted the autopsy on each dead body turn by turn. He shows the probable duration between the death and post-mortem of the deceased as 4-6 hours and by further explaining it he narrates that the time between death and PM is not less than 04 hours and not more than 06 hours. He further contends that the dead bodies and the injured were brought to the hospital by police and he would have consumed 15/30 minutes on conducting the PM examination on each deceased. Further explains that normally it is mentioned in the MLC report that whether the injured was unconscious or semiconscious but accepts that he has not mentioned any such fact in the MLC of Mst Rubina Shaheen.

21. Hakim Zada as PW-2 has identified the dead bodies of the deceased and is also marginal witness to the recovery memos as per the preceding table vide which the IO took into possession the blood stained earth, pebbles, 22 empties of 7.62, 12 empties of .30 bore, blood stained clothes of the deceased were taken into possession by the IO as indicated in the preceding table. During his cross examination, he

160
FA
21/10/21

narrates that all the deceased were his first cousins and that he came to know about the occurrence at 03:30 pm in his village, where after he proceeded to the hospital in a vehicle and when he passed from the place of occurrence at that time the dead bodies were being put in the vehicle for taking to the hospital and from there he accompanied the dead bodies to the hospital. Further contends that he reached to the spot at about 18:45/19:00 hours coming from his village. He shows the distance between the place of occurrence and his village at a close distance of about 2/3 minutes and by further explaining the distance he contends that the distance between his village and place of occurrence can be covered by vehicle in 2/3 minutes and by foot 4/5 minutes. He admits that it was raining on the eventful day and that no blood was recovered from inside the motorcar. He deposes regarding the recovery of twenty-six empties but is not in position to clarify that which side of the motorcar on which he observed bullet marks on the front, rear and right side of the motorcar, however, these were lying at about 5/6 paces from the motorcar. He remembers that the clothes of complainant Faisal were stained with blood but does not know as to whether his hands were also stained with blood or not. While explaining the situation around the place of occurrence, he contends that there is an Algada (Raven) near the place of occurrence, which is in depth more than his height which situates on both the sides of Hangu to Lachi road.

22. Ali Ahmad Khan Inspector has recorded his statement twice as PW-4, wherein he has explained the proceedings of partial investigation of the case, he conducted. During his cross examination admits that during interrogation of all the three accused facing trial neither any incriminating thing has been recovered on their instance or from their

21/10/21

possession and that they have also not admitted or confessed their guilt. Further admits that the accused facing trial Abdullah and Rehmat Khan in their statements u/s 161 Cr.PC told him that during the days of occurrence they were in Karachi for earning their livelihood, while, the accused facing trial Hafiz Naveed Ahmad took the plea in his statement u/s 161 Cr.PC that at the relevant time of the occurrence he was present in the Masjid of his village. The witness being the IO admits in a bold manner that he has not investigated the case in light of the stance of the accused in their statement u/s 161 Cr.PC.

23. Mst Rubina Shaheen as PW-5 the injured witness has reiterated that on the fateful day on 22/04/2006, she alongwith deceased husband Mir Janan, brother in law (dewar) Noor Zada and her son deceased Muhammad Sohail and son Muhammad Faisal the complainant was on their way and the accused facing trial alongwith absconding accused were standing near their houses situated at left and right sides of the road. As their car reached near the accused all the accused started firing at them with which her husband Mir Janan, brother in law Noor Zada, his son Sohail got hit and succumbed to injuries, she sustained injuries, while her son the complainant Faisal luckily escaped unhurt. She disclosed the motive for the offence to be an earlier attempt at life of her brother in law Noor Zada (deceased) by the accused party and by then a compromise was effected but the accused party had still ill-will resulted into the instant occurrence. During her cross examination, she narrates that she married to deceased Mir Janan in the year 1983 and that she belonged to Kohat and the occurrence postulating motive for the instant case had taken place before her marriage. She admits that their relation with accused party were strained. That she was residing with her

162

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husband Mir Janan (deceased) in Dubai after getting marriage and that the accused party and the complainant party were not relatives. however, were only co-villagers. That she is a Parda Nasheen lady and at the time of occurrence she was wearing Abaya (Burqa) and the firing started firing upon them abruptly. She while explaining the purpose of journey contends that they were proceeding to Peshawar as her husband was to leave abroad for which the flight was scheduled on 23rd. Further admits that she has not produced the passport or ticket of her husband to the police. That the place of occurrence is about 100/150 paces from their village and the people of the locality gathered there after 5/8 minutes of the occurrence. Further narrates that her relatives alongwith co-villagers attracted to the spot, whose names she did not remember however, one Noor Hakim Zada came there later on. Explaining the situation, she contends that the deceased and she herself got hit inside the motorcar and the deceased after getting injured were trying to save themselves. Hence, they fell down from the motorcar, while she remained inside the motorcar. That her deceased husband was on the driving seat flanked by her deceased brother in law Noor Zada while her son deceased Sohail and the complainant Faisal were seated with her in the rear seat of the motorcar. She affirms that she was conscious after receiving injuries and remained on the spot for about 40 minutes. That they were taken to the hospital in two pick-ups, in one she alongwith her deceased son Sohail while in the other Pickup her husband deceased Mir Janan and brother in law deceased Noor Zada were taken and that she was quite conscious when brought to the hospital. That on their reaching to the hospital police also arrived but her statement was not recorded as she was in pain and not able to talk. That she was put in the pickup by

163

EXAMINEE

her son the complainant Faisal with the help of the relatives and clothes and hands of the complainant were besmeared with blood. As per her assertion her husband deceased Mir Janan, brother in law deceased Noor Zada died on the spot while, her deceased son Sohail breathed his last later on, who remained alive for about 40 minutes on the spot. She does not remember the exact date of her recording of her statement by the police however, it was recorded of about 14/15 days of the occurrence. Admits that she did not mention in her statement u/s 161 Cr.PC the fact that the deceased Sohail remained alive for about 40 minutes on the spot. That she remained in the motorcar after getting injured for about 5/10 minutes and thereafter was taken out from the motorcar by her relatives and remained lying on the ground till the arrangement for a vehicle. That it was raining torrentially. She contends to have uttered the fact that on reaching the place of occurrence all the accused were in standing position but on confronting to her statement it was not so recorded. That when they left their house it was raining continuously till their reaching to the place of occurrence and later on. That on reaching the place of occurrence the firing was made on the motorcar from right and back side. That the absconding accused Anwar and the accused facing trial Abdullah fired upon the motorcar from the back side at a distance of about 15 paces, while the accused facing trial Umar and Rehmat and absconding accused Tariq were on the right side of the motorcar to somewhat in front direction. She knows the pistol and Kalashnikov however admits that she has not specified the respective weapons held by the accused for the commission of offence.

24. Faisal Khan (complainant) firstly examined as PW-6 and examined after remand as PW-6/R through video-link. He being the perpetrator/

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21/10/21

EXAMINED

164

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complainant has reiterated the contents of his report. During his cross examination on behalf of counsel for accused Hafiz Naveed Ahmad, he contends that he was born in Pakistan at village Sarki Pyala and thereafter shifted to Dubai, lived for some time in Canada and presently living in Dubai and that during the days of occurrence he was of the age of 22/23 years. Admits that he has not shown in his report the pursue of going to Peshawar on the fateful day, however, further narrates that they were proceeding towards their destination in a calm manner feeling no fear as they had already effected compromise with their opponents, so they did not expect the like happening which happened all of a sudden. He can differentiate between pistol and Kalashnikov and admits that he has not specified the kind of weapon used by the accused and has only mentioned "Asleha-Atashin" in his report. The defense while confronting him with the address mentioned in his ID Card admits that he obtained his ID Card in the year 2006, wherein his address is mentioned as Mohalla Naseer Abad, PO Kalu Channa, Tehsil & District Kohat, however, he negates that he was residing in the days of occurrence at his Kalu Channa address at Kohat. While explaining the scenario of the occurrence, he contends that as they were fired at, they opened the doors to save their lives and he himself jumped towards the Algada (Raven), hence, he does not know whether his deceased father, uncle, brother and step mother got hit inside the motorcar or not, however, her mother was inside the car. He was confronted with his report made in the FIR where the fact regarding jumping to Algada is not found. He admits that at the time of occurrence it was raining, however, does not remember the speed of the motorcar but it was in slow motion. Further narrates that though it was a cloudy weather at the

165

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15/10/21

time of occurrence but it was not too much dark. That at the time of occurrence he was sitting on the left side of the rear seat of the motorcar and his mother was seating in between him and his deceased brother Sohail and as the firing started, he as well as his brother tried to jump and that he has not sustained a single scratch despite sitting with his injured step mother, while, the rest of all the family members i.e. father, uncle, brother and step mother got hit. Further explains that though her mother was conscious but due to pain she could not give statement, hence he lodged the report. Further admits that no blood or blood stained articles were recovered from inside the motorcar. During his cross on behalf of the counsel for accused facing trial Muhammad Umar, Rehmat Khan and Abdullah, he narrates that at the time of the occurrence some of the accused were sitting while some of them were in standing position, out of whom the accused facing trial Abdullah and absconding accused Anwar were sitting near the house of Tariq, while accused facing trial Rehmat, Umar and absconding co-accused Tariq were sitting on Lachi road on retaining wall on the road duly armed with pistol and accused facing trial Hafiz Naveed and absconding co-accused Musa and Wali Rehman were standing on Lachi road armed with Kalashnikoy. He was confronted with his report where his stance "while they were to turn towards Lachi" occurrence took place is not mentioned therein. The site plan as per his assertion was prepared on his pointation but he did not explain the details of various positions regarding their sitting and standing on various parts. That as the firing started he opened the door of the motorcar, jumped out and after taking few steps he then jumped in to Algada (raven) situated at the front side of the motorcar. That the height of the retaining wall on the bank of

166

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21/10/21

Algada (raven) would be 1/2 feet and that when he jumped out of the motorcar and then to Algada the firing was still continued for about 4/5 minutes. That the house of accused Tariq is at the height from the place of occurrence. Admits that he had separately come to the hospital after coming out of the place where he had hidden himself after about 6/7 minutes and as he came out, he noticed the villagers gathered there on the spot. That he reached to the hospital at 04:00/04:15 hours from the spot. He does not know whether the SHO Saeed Khan examined the injuries on the persons of the deceased and the injured before lodging his report or not. Admits it correct that at the time of lodging his report so many relatives were present there, however, he is not able to say with specification that whether Hakim Zada was present there or not. It is also admitted that no one from the relatives have verified his report and the SHO would have consumed about 20/25 minutes on scribing his report. Thus he is also not able to say whether the dead bodies were taken to the autopsy before lodging of his report or not, however, when he reached the hospital the SHO called him for lodging report, therefore, he cannot say whether his injured mother was examined by the doctor before his report or not.

25. Mohib Ullah Inspector as PW-9 has conducted investigation of the case and in his court statement has reiterated the proceedings he has conducted during investigation as per the preceding table. During his cross examination, he contends that he received the copy of FIR alongwith other document at 16:55 hours, where after he went to the hospital and reached there at 17:45 hours and picked up the complainant for visiting the spot and reached to the place of occurrence at 18:40 hours/ 18:45 hours. While explaining the situation around the place of

21/10/21

occurrence, he explains that while going from Hangu towards the place of occurrence the Algada (raven) lies on the left side, the width of which is quite much, which will be approximately about 40/50 feet in depth from the road and there was no retaining wall on the side of Algada on the road. That while coming from village Sarki Pyala to Hangu the Algada lies on the right side of the road. He admits that initially he showed the Algada in the site plan on point No.6 & 7 on the left side but was thereafter crossed on the instance of complainant. He further narrates to have sent the empties to the FSL for chemical examination but in the same breath admits the floating fact on record that neither any application for sending the empties to FSL nor any result of FSL is available on the case file. Further explains that at the time of spot inspection the complainant did not tell him that he jumped to Algada for hiding. Further admits that he has not inquired from the complainant as to for what purpose they were proceeding to Peshawar on the day of occurrence. That as per the photographs of the motorcar there were bullet marks on front, back and right side of the motorcar which was accidented and as per the mechanic report the bumper was also broken. That as per his investigation all the three deceased and injured lady received the firearm injuries inside the motorcar and the IO also admits that no blood was found inside the motorcar rather it was recovered from the place in ditch and that it was raining heavily at the time of spot inspection, which continued from the last one hour. That the village Abadi of Sarki Pyala starts from about of 10/20 paces from the place of occurrence which is thickly populated area. That he has not asked the complainant as to how he escaped unhurt and spared in the indiscriminate firing of the accused. Regarding any overwriting over the

168
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21/10/21
EXAMINER

digit 30 indicated in the site plan Ex.PB the learned predecessor in office has left the determination of the objection of defense on the referred overwriting for arguments on both the sides and finding in the final judgment of the case. Both the sides were invited to the referred point and with their able assistance the court also observed and examined the overwriting over the digit 30 and later on written digit 10 over it. Perusal of the site plan (Ex.PB) clearly indicates that initially the digit 30 was written and by putting overwriting thereon it has been shown as digit 10. The witness being IO of the case further admits categorically that he has not collected any evidence regarding the motive as contented by the complainant.

26. Having cast a panoramic view over the peculiar facts and circumstances and having made a comparative and close analysis of the prosecution evidence in light of the divergent stances advanced by learned counsel in-pro and contra, the resume of prosecution evidence is as follow:

(a)- As per the report of the complainant and stance of the injured lady they were assaulted by almost eight accused with indiscriminate firing from front, left and back side when they were proceeding towards their destination in a motorcar with formidable and lethal weapons. The deceased father of the complainant on the driving seat flanked by uncle of the complainant on the front seat, while deceased brother of the complainant on right side of the rear seat, in the middle mother of the complainant received firearm injuries but the complainant allegedly present on the right side of the rear seat does not received a single scratch on his body. On one side the episode as narrated seems improbable and also depicts the unnatural conduct of the assailants particularly when all the boarders of the motorcar were on their mercy

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and control. Again sparing the complainant by the accused when as per his alleged stance he jumped out the motorcar and during this time span of his jumping out and hiding himself near the road side the firing continued but neither was chased nor was aimed by the accused again speaks about the impossible deliberate leaving the complainant alive. Keeping in view the numbers of the accused as contended by the complainant. it seems that the assailants had determined their object not to spare anyone alive but even then the complainant was so valour that the accused decamped leaving him alive behind to become a witness against them is nothing else but the unbelievable curtesy not expecting of one's to extend.

(b)- As earlier commented upon, not only the complainant but the injured lady has also termed themselves to be able to differentiate between pistols and Kalashnikov but neither the complainant while lodging his report nor the injured witness during her belated statement recorded after twelve days could have uttered about the specification of the weapons held by respective felons.

(c)- Admittedly, it was cloudy and rainy day and as per the assertion of the complainant they were proceeding towards their destination in a clam and safe mood having no fear and that the firing was suddenly happened. hence. it does prick prudent mind as to how then the complainant and injured witness when they were not cautious about any danger in the surroundings, were able to see and identify all the accused present on their places. Again it seems not believable that one could be able to recount as to who was making firing from behind the motorcar, when the boarders were admittedly in a sudden panic by the spontaneous indiscriminate firing upon them. Admittedly the weather at

the relevant time was cloudy and it was raining, hence, in the normal course of affair the visibility from inside the motorcar becomes more blurred and particularly for a lady who observes Parda like the injured Rubina Shaheen (PW-5) who was by then wearing Burqa. Further as contended by injured PW-5 and the complainant (PW-6) that the injured Mst Rubina Shaheen remained inside the motorcar after getting firearm injuries then how is possible that blood would not be oozed or pasted on the seat of the motorcar while admittedly no blood or blood stained article has been recovered from inside the car. The stance of both the complainant and the injured witness that after the occurrence the villagers arrived there within 5/8 minutes and they remained there for about 40 minutes, while during this time the deceased Sohail was still alive, hence, question arises as what they were doing there for about 40 minutes when it is admitted that the villagers had their vehicles which is situated at about distance of 4/5 minutes is not believable. When the injured and all the deceased were shifted to the hospital in two pickups, then why the complainant chose to go separately to the hospital as contended by him. This stance further has not appealable to any degree of prudence but rather creates noticeable doubts in the prosecution case.

(d)- Admittedly the injured Mst Rubina Shaheen was conscious, hence, question arises as to what then needed it to get the report of the complainant verified from someone else instead of her being the injured witness. As per the assertion of identifier PW-2 he got information regarding the occurrence at 03:30 hours, where after he left for the place of occurrence at a distance of 2/3 minutes then how he reached there at 18:45/19:00 hours as contended by him.

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171

21/10/21

(c)- As per the contention of the doctor PW-3, all the deceased were brought to the hospital by the police at 05:30 pm. while as per the PM reports of all the deceased the examination time is mentioned as 05:30 pm, which not only seems possible but gives space to doubts particularly when the time of examination of the injured as per his MLC is also 05:30 pm. Again the relevant column of identifier of the dead body of Sohail is blank. In the PM report of all the three deceased the time between the death and PM is mentioned as 4-6 hours, hence, if counted from 5:30 pm as earlier mentioned then the occurrence seems to have been happened before the time as contended by the complainant.

(f)- Admittedly no weapon of offence has been recovered from either of the accused facing trial and the empties recovered from the spot have also not been got examined through FSL, hence, the court is constrained to hold that the prosecution could not substantiate as to whether the occurrence is the job of one or more than one of the assailants, giving birth to considerable and material doubt into the prosecution story. Thus, the IO (PW-9) and the complainant (PW-6) are also not at variance about the situation of retaining wall on the road side on the bank of Algada (Raven). The IO has also not taken any step toward investigating the motive or the stance taken by the accused during their statement u/s 161 Cr.PC which renders the investigation to have been conducted in a routine cursory way without making efforts to bring the truth to light behind the occurrence. Further the IO has sent the blood stained clothes of deceased for chemical analysis to FSL on 3/05/2006 for about twelve days of the occurrence and no plausible explanation in this regard has been furnished by the IO in this regard.

172

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21/10/21

41

27. As after math of the afore stated discourse coupled with comparative analysis, the court is of the considered view that case of the prosecution pregnant with material doubts, discrepancies in the ocular account of the PWs. unqualified improvements. The backdrop of a remote motive which though is not necessary to be proved or taken in each and every case. but once the prosecution has taken a particular motive, then it becomes imperative to be substantiated which could not be done in the case in hand. All the circumstances when taken together spell out a scenario diametrically incompatible with the case set up by the complainant and the prosecution narrative is not qualified with the requisite evidentiary certainty to exclude hypothesis of innocence. By now it has been the axiomatic principle expounded by the august Supreme Court reported in 2019 PLJ 265 that a witness who lied about any material fact is not to be believed to the rest of facts of the case in light of the rule "falsus in uno' falsus in omni bus".

28. So far the long abscontion of the accused facing trial is concerned, as per the trite principle enunciated by the Hon'ble Superior courts that mere abscontion would not be sufficient in isolation for substantiating the culpability of the felon unless it has been got corroborated through admissible oral and circumstantial evidence. In the instant case the prosecution while putting the various aspects of the case to the accused during statement of the accused u/s 342 Cr.PC recorded after remand for second time has put no question regarding abscontion of the accused facing trial, therefore. it cannot be taken into consideration against the accused facing trial.

Wisdom derived from;

2020 YLR 1139 and 2012 YLR 442.

173

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29. Hence, by extending the benefit of doubt the accused facing trial namely Rehmat Khan, Abdullah, Hafiz Naveed Ahmad and Umar are hereby acquitted. Accused are in custody; they be set free if not required in any other case.

Wisdom derived from:

2015 SCMR 1142, 2017 SCMR 596, 2017 YLR 243, 2020 YLR 1278, 2016 PCrLJ Note 30, 2019 PLJ 874 Peshawar and 2018 PCrLJ 131, 2015 PCrLJ 585 and 2018 PCrLJ 922 citation (b).

30. Case property, if any be kept intact till the arrest, trial and disposal of absconding accused against whom perpetual warrants of arrest have already been issued by the court of learned ASJ-I, Hangu vide order dated 27/05/2008.

31. File be consigned to record room after its necessary completion and compilation.

Announced:

15/10/2021

Azizullah
(Azizullah Mishwani)
ASJ-II/JMCTC, Hangu

CERTIFICATE

Certified that this Judgment consists of thirty (30) pages, separately placed on file. Each page has been checked, signed, and corrected accordingly.

Azizullah
(Azizullah Mishwani)
ASJ-II/JMCTC, Hangu



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EXAMINER
COPYING AGENCY HANGU

174

3937
Date of presentation of copy 20/10/21
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Number of Pages 30
Pages for
Name of
Signature

OFFICE OF THE EXECUTIVE DISTRICT OFFICER SCHOOLS & LITERACY HANGU

TERMINATION ORDER

In the light of Enquiry conducted by enquiry officers the services of Mr. Navid Ahmad Qari of QHS Chamba Gul Hangu is hereby terminated on account of involvement in criminal case 102 under special powers ordinance 2001 w.e.f 22-04-2006. As all codal formalities have been observed / fulfilled by the enquiry officer.

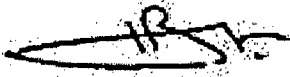
(FAZLE IMRAN)
EXECUTIVE DISTRICT OFFICER
SCHOOLS & LITERACY HANGU

Enquiry No. 9774-77

Dated 21/11/2007

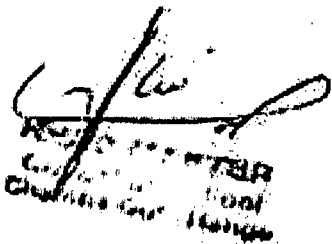
Copy to the:-

- 1) District Coordination Officer District Hangu.
- 2) District Account Officer District Hangu.
- 3) Head Master QHS Chamba Gul with the remarks to make proper entry in the service book of the above named official.
- 4) Official concerned.
- 5) Office Copy.



DISTRICT OFFICER MALE
SCHOOLS & LITERACY HANGU

Attested



To

~~XXXXXXXXXX~~

43

The Worthy Director (Elementary & Secondary Education),
Khyber Pakhtunkhwa, Peshawar.

SUBJECT: DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 23.11.2007, RECEIVED BY THE APPELLANT AFTER ACQUITTAL FROM CRIMINAL CASE ON 15.10.2021, WHEREBY THE APPELLANT WAS TERMINATED FROM SERVICE.

RESPECTED SIR,

1. That the appellant was appointed in the respondent department as Qari in the year 2004. The appellant since appointment has performed his duty duties with zeal and devotion, whatsoever, assigned to him and no complaint has been filed whatsoever regarding his performance.
2. That the appellant, while serving in the in the said capacity was falsely implicated in a criminal case vide FIR No.198 dated 22.04.2006 U/S 302, 324, 3371(i)-427-148-149 PPC PS City District Hangu.
3. That as the appellant was implicated in criminal case, the authority should be suspended him as per rule, but no order has been passed by the authority regarding his suspension and he has regularly performed his duty till March 2007.
4. That the appellant was behind the bar in the above mentioned FIR and after proper trail, the appellant was acquitted in the criminal case on 15.10.2021 and after acquittal the appellant went to department to know about the fate of his service on which he was informed that he has terminated from service with effect from 22.04.2006 vide order dated 23.11.2007 and that termination order dated 23.11.2007 was handed over to the appellant. **(Copy of documents are attached)**
5. That the appellant wants to file the departmental appeal against the order dated 23.11.2007 received after acquittal on 15.10.2021 on the following grounds.

~~ATTESTED~~

GROUNDS:

- A. That the termination order dated 23.11.2007 received by the appellant after his acquittal from criminal case on 15.10.2021 is against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B. That no inquiry was conducted against the appellant and the inquiry would be one sided, if so conducted, as the appellant was not associated with the inquiry proceeding which is against the law and rules.
- C. That no charge sheet and statement of allegations were not communicated to the appellant before imposing punishment of termination from service, which is violation of law and rules.
- D. That even show cause notice was not served to the appellant before imposing the punishment of termination from service which is violation of law and rules.
- E. That the reason mentioned in termination order dated 23.11.2007 was the involvement of the appellant in criminal case and appellant was acquitted by the competent court of law after proper trial vide order dated 15.10.2021 and there remain no ground to penalize the appellant on the basis of criminal in which he was acquitted.
- F. That the appellant was falsely implicated in the criminal case and the competent authority should suspended the appellant till the conclusion of criminal case under CSR-194, but without waiting to the conclusion of criminal case, the appellant was terminated from service, which is violation of CSR-194-A.
- G. That as per Superior Court judgments, mere filling of FIR does not proves a person to be guilty of the commission of offence, rather he would be presumed innocent unless convicted by the court of competent jurisdiction.
- H. That the appellant has been condemned unheard and has not been treated according to law and rules.
- I. That the appellant belong to a poor family and the whole is dependent of the appellant and that service is the only source of income and due to jobless he is his family are affecting badly financially, therefore the appellant may be reinstated into his service due to his unbearable financial position.

~~ARRESTED~~

45

It is therefore, most humbly requested that on the acceptance of the departmental the order dated 23.11.2007 may kindly be set aside and appellant may kindly be reinstated into his service with all back and consequential benefits.

Dated: 12/4/2021

APPELLANT

Naveed Ahmad, Ex Qari
GPS, Chamba Gul, Hangu

~~ATTESTED~~



Registered /r

ANNEX "F"

46

**OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) DISTRICT HANGU.**

No. 79

Dated the Hangu 10/01 2022.

To

The Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar.

Subject: - **DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 23-11-2007, RECEIVED BY THE APPELLANT AFTER AQUITTAI FROM CRIMINAL CASE ON 15-10-2021, WHEREBY THE APPELLANT WAS TERMINATED FROM SERVICE**

Memo:

Reference your letter No.2257/F. No. Departmental Appeal for Re-Instatement in service in r/o Naveed Ahmad Ex-Qari Hangu Dated Peshawar the 23/11/2021 on the subject cited above and to state that one Mr. Naveed Ahmad Qari was appointed as Qari in the year 2004. An FIR was registered against the above named Qari vide FIR No.198 Dated: 22/04/2006 U/S 302, 324, 3371 (I)-427-148-149 PPC District Hangu.

1. As per above the Headmaster submitted an absent notice by informing the Executive District Officer School & Literacy District Hangu vide No.1021/P.File Naveed Ahmad Qari/F-04/Dated GHS Chamba Gul Hangu 03/05/2006, stating that the above named Qari was absent from duty w.e.f. 24/04/2006 without any information to the Headmaster concerned.

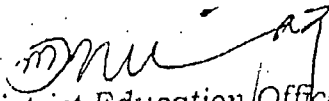
2. Upon the direction of this office vide No.5973 Dated:06/05/2006, the Headmaster GHS Chamba Gul issued three absent Notices to the above named Qari. The following absent notices were issued to him with the remarks to follow his trial in a court against the Sections registered in FIR No. & dated as quoted above.

- i. Absent Notice-I, vide Headmaster GHS Chamba Gul No.1157 Dated 03/05/2007
- ii. Absent Notice-II, vide Headmaster GHS Chamba Gul No.1187 Dated 01/06/2007
- iii. Absent Notice-III, vide Headmaster GHS Chamba Gul No.1194 Dated 06/06/2007

3. The Deputy Superintendent of Police submitted an FIR copy as information report to the EDO (S&L) Hangu vide his office No.551/Investigation Dated Hangu 06/05/2006 and requested for taking necessary legal action against the above named Qari.

4. The trial was started on 28/02/2018 and decided on 15/10/2021 while the above named Qari was remained absconder w.e.f. 22/04/2006 upto 28/02/2018 and eventually announced and acquitted the above named Qari of the charges labeled against him on 15/10/2021. (Copy of Court verdict is attached for ready reference)

It is pertinent to mention here that the above named Qari, while rendering services has not been found guilty of any departmental/criminal offence during his entire service except the above mentioned incident.


District Education Officer
(Male) Hangu. 10/01/2022

~~RECEIVED~~

ANNEX 4

47

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.

No. 668 / No./Dept/ Appeal for Re-instatement in Service/Hangu
Dated Peshawar the 16/03/2022

The District Education Officer
(Male) Hangu

Subject

DEPARTMENTAL APPEAL AGAINST THE ORDER DATED: 23-11-2007
RECEIVED BY THE APPELLANT AFTER ACQUITTAL FROM CRIMINAL
CASE ON 15-10-2021, WHEREBY THE APPELLANT WAS
TERMINATED FROM SERVICE

Memo

I am directed to refer to your letter No. 79 dated 10-01-2022 on the subject
noted above and to enclose herewith an departmental appeal lodged by Mr. Naveed
Ahmad Ex Qon GHS Chamba Gul District Hangu and to ask you to inform the appellant
that his appeal has rejected being time barred under E&D Rules 2011.

[Handwritten Signature]

Assistant Director (Estab-1)
Directorate of Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

Encl: No

Copy forwarded to the: -
1. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa
Peshawar.
2. Master File

[Handwritten Signature] 16/3/22

Assistant Director (Estab-1)
Directorate of Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

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DEPARTMENTAL APPEAL AGAINST THE ORDER DATED: 23-11-2007 RECEIVED BY THE APPELLANT AFTER ACQUITTAL FROM CRIMINAL CASE ON 15-10-2021, WHEREBY THE APPELLANT WAS TERMINATED FROM SERVICE

~~SECRET~~

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO: _____ OF 2022

Naveed Ahmad (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Deptt.: (RESPONDENT)
(DEFENDANT)

I/We Naveed Ahmad

Do hereby appoint and constitute **NOOR MUHAMMAD KHATTAK Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2022

[Signature]
CLIENTS

[Signature]
ACCEPTED

NOOR MUHAMMAD KHATTAK

[Signature]
UMER FAROOQ MOHMAND

[Signature]
KAMRAN KHAN

[Signature]
MOHAMMAD MAAZ MADNI

[Signature]
**HAIDER ALI
ADVOCATES**

"B"

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

No.

Appeal No. 565 of 2022Naveed Ahmad Appellant/Petitioner

Reply The Govt. of KPK ^{Versus} ERSE Respondent

Respondent No. 3

Notice to: —

Distt. Education Officer (Male)
Distt. Hangu

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 7/7/2022 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 10th

Day of June 2022

for Reply

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 PAKHTUN KHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD, S.B
PESHAWAR.

No.

Appeal No. 565 of 20 22

Naveed Ahmad Appellant/Petitioner

Versus

The Govt. of KP Secy: ERSE Respondent

Respondent No. 2

Notice to: — the Director ERSE KP Peshawar.

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 7/7/2022 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 10th

Day of June 20 22

for Reply

22/6/22

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. *S.B*

No.

Appeal No. 565 of 2022
Naveed Ahmad Appellant/Petitioner

Versus
 The Court of KPK Reg. ERSE Respondent

Respondent No. 1

Notice to: —

The Court of KPK through Secretary
(ERSE) Peshawar. *9/7/22*

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 7/7/2022 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 10/6

Day of June 2022

for Reply

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.