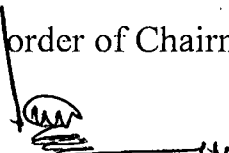


FORM OF ORDER SHEET

Court of _____

Case No.- 1633/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	15/11/2022	<p>The appeal of Mr. Wajid Ali presented today by Mr. Muhammad Arif Jan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____.</p> <p>Notices be issued to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 1633/2022

Wajid Ali No-884 Head Constable

.....Appellant

VERSUS

District Police Officer, Nowshera and others

.....Respondents

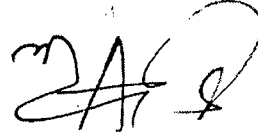
INDEX

S.No.	Description of documents.	Annexure	Pages
1.	Memo of appeal with affidavit.		1-5
2.	Addresses of parties		6
3.	Copy show-cause notice	A	7
4.	Copy of reply to show-cause notice	B	8
5.	Copy of order dated 20-07-2022	C	9
6.	Copies of departmental appeal and order dt 19-10-2022	D & E	10-12
7.	Copy of Naqal Madd	F	13
8.	Wakalatnama		14



Appellant

Through



Muhammad Arif Jan
Advocate High Court
Cell: 0333-2212213

Dated: 11-11-2022

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2022

Wajid Ali No-884 Head Constable Police Lines District Police
Nowshera.

.....Appellant

VERSUS

1. District Police Officer, Nowshera.
2. Deputy Inspector General Police Region Mardan, District
Mardan.
3. Inspector General of Police, Police Headquarters, Police
Line, Peshawar.

.....Respondents

***APPEAL U/S-4 OF KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT, 1974 AGAINST
THE IMPUGNED ORDER DATED 19-10-2022
PASSED BY RESPONDENT NO-2 WHILE
MAINTAINING THE ORDER DATED 20-07-
2022 OF RESPONDENT NO-1 AGAINST THE
APPELLANT IN RESPECT OF REDUCTION
IN RANK (substantive rank of ASI to HC) WITH
IMMEDIATE EFFECT.***

Respectfully Sheweth:-

Appellant humbly submits as under

1. That the appellant being ASI (substantive) was served with a
show-cause notice dated 28-06-2022 by respondent No-1

(brief mentioned therein) while posted at Police Station Akbarpura of District Nowshera. **(Copy of show-cause notice is attached as ANNEX-A).**

2. That by negating the false, frivolous and baseless allegation of the show-cause notice, the appellant has properly been replied mentioning therein the real facts and circumstance vide reply dated 06-07-2022. **(Copy of reply to show-cause notice dated 06-07-2022 is attached as ANNEX-B).**
3. That without holding proper inquiry into the matter and without considering the reasonable reply to the show-cause notice submitted by the appellant, respondent No-1 awarded major punishment of reduction in rank (substantive rank of ASI to HC) with immediate to the appellant vide order No-1726-32 dated 20-07-2022. **(Copy of order dated 20-07-2022 is attached as ANNEX-C).**
4. That the appellant then filed departmental appeal on 03-08-2022 before respondent No-2 but the same is also turned down vide order dated 19-10-2022. It is worth mentioned here that a so called inquiry allegedly been shown in the order ibid just to fill up the legal defect and requirements of law and that too after passing and challenging the impugned order dated 20-07-2022. **(Copies of departmental appeal and order dated 19-10-2022 are attached as ANNEX-D & E respectively).**
5. That feeling aggrieved and having no other remedy except to approach this Hon'ble Tribunal on the following amongst other grounds.

GROUND:

- A. Because, the orders/ letters dated 19-10-2022 and 20-07-2022 (hereinafter impugned) passed by respondents No.2 & 1

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respectively against the appellant are patently illegal, unlawful, without lawful authority, of no legal effect, hence having no value in the eyes of law, thus liable to be set-aside and the appellant may graciously be restored to his substantive rank of ASI with all back benefits.

- B. Because, while passing the impugned orders, the respondents were duty bound to follow the existing Law, Rules and Regulations governing the subject matter but are badly failed and mere upon a show-cause notice (brief mentioned therein), the respondents without holding proper inquiry in proper manner, passed the impugned orders in hasty manner by depriving the appellant from his legal and lawful right of service and service benefits.
- C. Because, the appellant has rightly been posted in PS Akbarpura and being competent and trustworthy officer, an inquiry under 156(3) Cr.P.C was entrusted to the appellant but despite to encourage the appellant upon gallantry performance, the appellant has been enrobed in a factitious story of some connections of facilitation with a wanted criminal namely Shah Poor. It is to be added that the appellant is strong believer in the supremacy of law hence neither facilitated any of the criminal nor even think about such shameful act. **(Copy of Naqal Madd is attached as ANNEX-F).**
- D. Because, the dishonest attitude of the respondents is even established from the non-holding of proper inquiry into the matter and further also deprive the appellant to defend himself before the Inquiry Officer, but astonishingly ex-parte proceedings has been initiated against the appellant, hence invites consideration of this hon'ble Tribunal.
- E. Because, the appellant is highly qualified, well trained and well experience responsible officer serving the department with un-

4

blemished record and sanguine of future promotion but the respondents also badly failed to considered and honor the same while passing the impugned orders thus this act of the respondents is amounts to abuse of Law.

- F. Because, the appellant is a poor person having children, wife & parents and the only bread winner of the entire family, hence there is no alternate source of income except the service, hence the impugned order is not only stigmatized the bright future of the appellant but also suffered the appellant with financial crises, thus the impugned orders are liable to be set-aside.
- G. Because, it is settled law that while passing any major punishment/ penalty, the authorities are required to hold proper inquiry into the matter, but in the present case, the competent authority has badly failed to follow the law, rules and regulation governing the subject matter.
- H. Because, it is also settled law that, no person should be condemned unheard, but in the present case, no opportunity of fair trial along with charge sheet, statement of allegation etc have been provided, thus the impugned orders are based on "mala-fide as well as based upon the principle of "MIGHT IS RIGHT"
- I. That any other ground, which has not specifically been mentioned may also be permitted to raise at the time of hearing.

It is, therefore, humbly prayed that on acceptance of the instant appeal, the impugned order dated 19-10-2022 and order dated 20-07-2022 passed by respondents No.2 & 1 respectively may very graciously be set-aside and the appellant may kindly be restored to his substantive rank of ASI with all back benefits.

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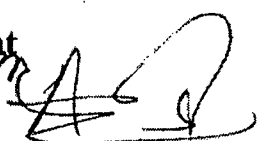
Any other remedy deemed appropriate in the circumstances and not specifically asked for may kindly also be granted in favor of appellant.

Dated: 11-11-2022

Att

Appellant

Through



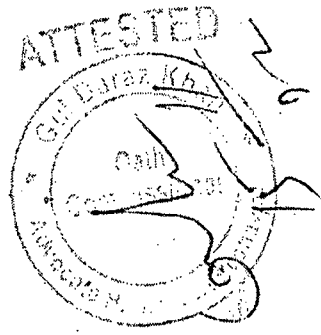
Muhammad Arif Jan
Advocate High Court

AFFIDAVIT

I, the appellant do hereby affirm and declare on oath that the contents of the appeal are true and correct to the best of my knowledge and belief and nothing material has been concealed from this hon'ble Tribunal.

Att

Deponent



⑥

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2022

Wajid Ali No-884 Head Constable

.....Appellant

VERSUS

District Police Officer, Nowshera and others

.....Respondents

ADDRESSES OF PARTIES

APPELLANT

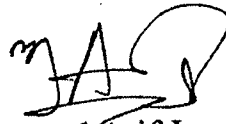
Wajid Ali No-884 Head Constable Police Lines District Police
Nowshera.

RESPONDENTS

1. District Police Officer, Nowshera.
2. Deputy Inspector General Police Region Mardan, District
Mardan.
3. Inspector General of Police, Police Headquarters, Police
Line, Peshawar.

Appellant

Through



Muhammad Arif Jan
Advocate High Court

(7)

3

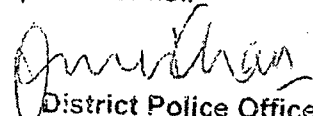
OFFICE OF THE DISTRICT POLICE OFFICER, NOWSHERA

SHOW CAUSE NOTICE


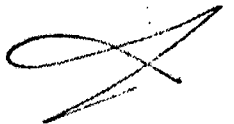
(Under Rule 5 (3) KPK Police Rules, 1975)

Annex-A

1. That you ASI Wajid Ali while posted at PS Akbarpura now under suspension at Police Lines, Nowshera have rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunkhwa Police Rules 1975 for following misconduct:
Reportedly, you have close links with a notorious criminal Jan-Sher r/o Dawood Zai, District Peshawar who is involved/charged in multiple cases of Police Stations, Shah Poor, Sharqi, Cantt and Chamkani, District Peshawar and PS Akbarpura, District Nowshera which is evident from your CDR. The village of aforementioned PO is adjacent to PS Akbarpura and you are continuously giving him information about raids of police, which amounts to grave misconduct on your part.
2. That by reasons of above, as sufficient material is placed before the undersigned, therefore it is decided to proceed against you in general Police proceeding without aid of enquiry officer
3. That the misconduct on your part is prejudicial to good order of discipline in the Police force;
4. That your retention in the Police force will amount to encourage inefficiency 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.
5. You are, therefore, called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police 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,
Nowshera

No. 272 /PA
Dated 28/11/2022

POLICE DEPARTMENT

NOWSHERA DISTRICT

ORDER

ASI Wajid Ali No. 884, while posted at Police Station, Akbarpura was reportedly and having close links with a notorious criminal Jan Sher r/o Dawood Zai, District Peshawar who is involved/charged in multiple cases of Police Stations, Shah Poor, Sharqi, Cantt and Chamkani, District Peshawar and PS Akbarpura, District Nowshera which is evident from his CDR. The village of aforementioned PO is adjacent to PS Akbarpura and he was continuously giving information to aforementioned PO about raids of police.

On account of which, he was suspended; closed to Police Lines and served with Show Cause Notice, to which, he submitted his reply, perused by the undersigned and found unsatisfactory.

He was also heard in person by the undersigned wherein he failed to produce any cogent reason in his defense, therefore, he is hereby awarded major punishment of **reduction in rank (substantive rank of ASI to HC) with immediate effect** and re-instated in service from the date of suspension, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules-1975.

OB No. 709

Dated 20/07/2022

[Signature]
District Police Officer,
Nowshera

No. 1726-32 /PA, dated Nowshera, the 20/07/2022.
Copy for necessary action to the:

1. The Capital City Police Officer, Peshawar for information.
2. DSP HQrs: Nowshera.
3. Pay Officer.
4. Establishment Clerk.
5. OHC.
6. FMC with its enclosures (04 pages).
7. I/C Computer Lab.

CTC

[Signature]

[Signature]
ASi Wajid Ali متعلقہ پولیس لائن نوشہرہ
06/07/2022

Reduction in rank from ASI to HC

بخدمت جناب ڈی آئی جی صاحب ریجن آفس مردان

اپیل برخلاف سزا آرڈر بک نمبری 709 مورخہ 20.07.2022 جس کے تحت
من اپیل کنندہ کو بہ عہدہ ASI سے تنزیلی کر کے HC بنایا گیا۔

جناب عالی!

- 1 مودبانہ گزارش ہے کہ من سائل مورخہ 10.07.1991 کو حکمہ پولیس میں بھرتی ہو کر وقتاً فوقتاً محکمانہ کورس پاس کر کے بہ عہدہ ASI ترقی کر کے تاحال نہایت ہی ایمانداری سے اپنا ڈیوٹی انجام دے رہا ہوں۔
- 2 من اپیل کنندہ نے اپنی تمام تر ملازمت میں انتہائی ایمانداری، دلجوئی اور جان فشانی سے اپنی فرائض منصبی سرانجام دی اور کبھی بھی افسران بالا صاحبان کو کسی قسم کی شکایات کا موقع نہیں دیا ہے۔ اور تاہی قبل ازیں سائل کے خلاف کوئی محکمانہ کارروائی عمل لائی جا چکی ہے۔
- 3 لیکن بد قسمتی سے من اپیل کنندہ نا کردہ گناہ کی بھینٹ چڑھ کر مندرجہ بالا عنوان بالا سز کا مرتکب ٹہرایا گیا ہے۔ اور درحقیقت الزامات کی بابت کسی قسم کی کوئی انکوائری نہیں کی گئی ہے صرف سرسری مبینہ ثبوت و شواہد کی روشنی میں سزا دی ہے۔ جس میں من اپیل کنندہ کو کسی قسم کی صفائی کا موقع نہیں دیا ہے۔ یہ کہ سائل نے کبھی بھی خراکم پیشہ افراد کیساتھ رابطہ نہیں رکھا ہے۔ اگر رابطہ ہوئی ہے تو محکمہ کے مفاد میں کیا ہے تاکہ PO کی گرفتاری عمل میں لائی جاسکے۔

4 یہاں یہ امر قابل ذکر ہے کہ من اپیل کنندہ کے خلاف جرم نامہ پیشی کارروائی عمل میں لائی گئی ہے اس میں من سائل کا کوئی موقف نہیں سنا ہے اور تاہی انکوائری کی گئی ہے۔ جو کہ انصاف کے تقاضوں کے خلاف ہے۔

5 مزید برآں، صرف CDR کے علاوہ من اپیل کنندہ کے خلاف کسی قسم کا کوئی ثبوت موجود نہ ہے بلکہ یہ رابطہ باقاعدہ طور محکمہ کے مفاد کو مد نظر رکھتے ہوئے بہ امید گرفتاری PO کی گئی ہے۔ یہ کہ قبل ازیں بھی افسران بالا صاحبان کے صلح مشورہ پر PO فیاض و زرولی ساکنان بانڈہ ملاخان جو کہ سنگین مقدمات میں مطلوب تھے انکو تھوڑے دنوں کے پوزیشن معلوم کرنے کے بعد انکی گرفتاری عمل میں لائی گئی ہے۔

استدعاء ہے کہ بمنظور مندرجہ بالا معروضات من اپیل کنندہ کی سزا معاف کر کے واپس اپنے عہدہ ASI پر بحال کرنے اور اس کیساتھ جملہ مراعات بشکل تنخواہ وغیرہ کا بھی حکم صادر فرما کر فریاد نہیں۔

تحریر: 03.08.2022

الغرض

تابع حکم فرمان بردار HC واجد علی سہرانی منیجر پولیس لائن نوشہرہ

CTC

ORDER.

(11)
Annex - E

This order will dispose-off the departmental appeal preferred by Head Constable Wajid Ali No. 265 of Nowshera District against the order of District Police Officer, Nowshera, whereby he was awarded major punishment of reduction in rank from substantive rank of ASI to Head Constable vide OB: No. 709 dated 20.07.2022. The appellant was proceeded against departmentally on the allegations that he while posted at Police Station, Akbarpura was reportedly having close links with a notorious criminal namely Jan Sher r/o Dawood Zai, District Peshawar who was involved/charged in multiple cases of Police Stations, Shah Poor, Sharqi, Cantt and Chamkani, District Peshawar and Police Station Akbarpura, District Nowshera which is evident from his Call Data Record. The village of aforementioned proclaimed Offender is adjacent to Police Station Akbarpura and he was continuously giving information to aforementioned proclaimed Offender about raids of Police.

On account of which, he was suspended and closed to Police Lines, Nowshera and was issued Show Cause Notice to which his reply was received/perused by the District Police Officer, Nowshera and found unsatisfactory.

The delinquent Officer was heard in person in orderly Room by the District Police Officer, Nowshera but he failed to present any plausible reasons in his defense, therefore, he was awarded major punishment of reduction in rank from substantive rank of ASI to Head Constable vide OB: No. 709 dated 20.07.2022.


He preferred departmental appeal before the then Regional Police Officer, Mardan and appeared in orderly Room held in this office on 08.09.2022 heard him in person and the same was sent back to District Police Officer, Nowshera for enquiry into the matter vide this office endorsement No. 6081/ES dated 09.09.2022.

The District Police Officer, Nowshera vide his office Memo. No. 2768/PA dated 03.10.2022 submitted enquiry report conducted by Sub Divisional Police Officer, (SDPO), Nowshera according to which he held responsible the delinquent Officer and recommended that his punishment may be kept intact.

Hence, the appellant was again called in Orderly Room held in this office on 19.10.2022 but he bitterly failed to advance any cogent justification in his defense.

From the perusal of the enquiry file and service record of the appellant it has been found that allegations of misconduct against the appellant have been proved beyond any shadow of doubt. Being a member of disciplined/uniformed force, the involvement of the delinquent Officer in such like activities of having contacts with criminals is totally against the norms of force. As instead bringing criminals before the

CTC



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Court of Law, the appellant has extended favour in evading lawful arrest of the above named criminal. He could not present any cogent justification to warrant interference in the order passed by the competent authority.

Keeping in view the above, I, Muhammad Ali Khan, PSP Regional Police Officer, Mardan, being the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being devoid of merit.


Regional Police Officer,
Mardan.


No. 2220 /ES, Dated Mardan the 19/10 /2022.

Copy forwarded to District Police Officer, Nowshera for information and necessary action w/r to his office Memo: No. 2193/PA dated 24.08.2022. His Service record is returned herewith.

(*****)

EC/PMC
For n. action
AM
DPONS
20/10/2022

No. 2252/PA
dt 21/10/2022

CK


16

WAKALATNAMA

BEFORE THE HON'BLE *KP Service Tribunal*

Wajid Ali

VERSUS

DPO NBR Galu

Peshawar
Plaintiff(s)
Petitioner(s)
Complainant(s)

Defendant(s)
Respondent(s)
Accused(s)

By this, power-of-attorney I/we the said _____ in the above case, do hereby constitute and appoint **MUHAMMAD ARIF JAN** Advocate as my attorney for me/us in my/our name and on my/our behalf to appear, plead, give statement, verify, administer oath and do all lawful act and things in connection with the said case on my/our behalf or with the execution of any decree or order passed in the case in my/our favour/ against which I/we shall be entitled or permitted to do myself/ourselves, and, in particular, shall be entitled to withdraw or compromise the case or refer it to arbitration or to agree to abide by the special oath of any person and to withdraw and receive documents and money from the Court or the opposite party and to sign proper receipts and discharges for the same and to engage and appoint any other pleader or pay him as his fee irrespective of my/our success or failure in case, provided that, if the case is heard at anyplace other than the usual place of sitting of the Court the pleader shall not bound to attend except on my agreeing to pay him a special fee to be settled between us.

Signature of Client

Arif Jan

Accepted.
Arif Jan
Muhammad Arif Jan
Advocate High Court
Peshawar

Office No.210, Mumtaz Plaza
G.T Road, Hashtnagri Stop,
Peshawar City.
CNIC No.17201-2275748-7
Bc No.10-6663
Cell: 0333-2212213