

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 12447/2020

Date of Institution ... 21.10.2020  
Date of Decision ... 28.06.2022

Imran Khan, Constable No.511, CCP Peshawar.

... (Appellant)

**VERSUS**

The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar  
and two others.

... (Respondents)

Syed Noman Ali Bukhari,  
Advocate

... For appellant.

Muhammad Rasheed,  
Deputy District Attorney

... For respondents.

Salah Ud Din

... Member (J)

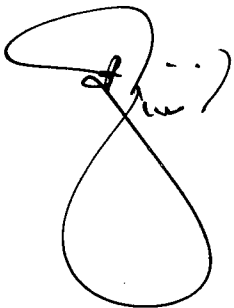
Rozina Rehman

... Member (J)

**JUDGMENT**

Rozina Rehman, Member(J): The appellant has invoked the jurisdiction of this Tribunal through above titled appeal with the prayer as copied below:

**“On acceptance of this appeal, the impugned order dated 06.07.2020 may kindly be set aside and the time scale of pay of the appellant maybe restored to original position as it was before the penalty order dated 06.07.2020 with all back and consequential benefits. The respondents may further be directed to grant benefit for the period (31.10.2017 to 15.05.2020) during which appellant remained out of service as the allegations could not be established against the appellant during inquiry proceedings.”**



2. Brief facts of the case are that appellant was appointed as Constable. During service, he was departmentally proceeded against and was dismissed from service on 13.10.2017. He filed departmental appeal and revision which were also rejected. Feeling aggrieved, he filed Service Appeal No.144/2018 which was partially accepted vide order dated 04.03.2020. The appellant was reinstated into service with direction to the department to conduct de-novo inquiry in the mode and manner prescribed under the Khyber Pakhtunkhwa Police Rules, 1975. In compliance of the judgment of this Tribunal, appellant was reinstated into service on 15.05.2020 for the purpose of de-novo inquiry. Inquiry was conducted but without issuing charge sheet to the appellant and major punishment of reduction to lower stage in a time scale of pay was imposed upon appellant. He filed departmental appeal which was not responded to, hence, the present service appeal.

3. We have heard Syed Noman Ali Bukhari learned counsel for appellant and Muhammad Rasheed learned Deputy District Attorney for the respondents and have gone through the record and the proceedings of the case in minute particulars.

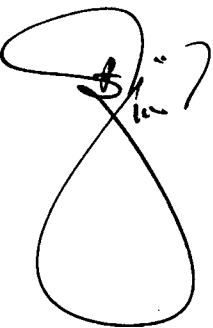
4. Syed Noman Ali Bukhari Advocate, learned counsel for appellant submitted that the impugned order dated 06.07.2020 is against law, facts and norms of justice, therefore, not tenable and liable to be set aside. It was argued that the Inquiry Officer clearly mentioned in his report that the allegations of demanding illegal gratification leveled against the appellant could not be established but despite that major punishment was awarded to the appellant and that too, without any back benefits for the period he remained out of service. Learned counsel submitted that the video which went viral on social media was also not available for examination and it could not be ascertained that



the amount if demanded was an illegal gratification or otherwise. That no charge sheet alongwith statement of allegation was issued to the appellant before the impugned order which is violation of law and rules. Similarly, no show cause notice was issued and that the punishment is silent in respect of time as no time has been specified for reduction to lower stage in a time scale of pay by the competent authority. He further contended that the benefits for the period (13.10.2017 to 15.05.2020) was also not granted he remained out of service despite the fact that the allegations were not established against the appellant.

5. Conversely, learned DDA submitted that the appellant while posted at Police Station Pandu Peshawar was proceeded against departmentally on the charges that a video went viral on social media wherein the appellant was found demanding illegal gratification from public in the jurisdiction of P.S Pandu which tarnished the image of the Department. He submitted that the appellant was associated in the inquiry proceedings and proper opportunity of defense was provided to him. He failed to defend the charges leveled against him and that the Inquiry Officer after thorough probe reported that the charges were proved. It was further submitted that after submission of inquiry report by the Inquiry Officer, the competent authority had minutely gone through the material on record and he was punished after fulfillment of all codal formalities which punishment does commensurate with the gravity of charges.

6. After hearing the learned counsel for the parties and going through the record of the case with their assistance and after perusing the precedent cases cited before us, we are of the opinion that the



appellant was charge sheeted on 03.10.2017 under Police Rules, 1975 on the basis of following allegations:

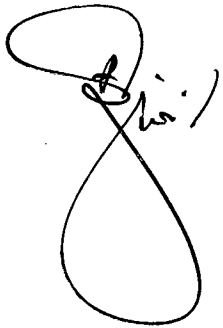
*i. That a video went viral through social medial wherein you found demanding illegal gratification from public in the jurisdiction of Phandu which tarnished the image of the Department.*

*ii. That your act falls within the ambit of corruption and amounts to gross misconduct on your part.*

An inquiry was also conducted by Deputy Superintendent of Police Headquarter CCP Peshawar where-after, appellant was dismissed from service on 13.10.2017. His departmental appeal and appeal under Rule-11A also met the same fate. Feeling aggrieved he filed appeal No.144/2018. The relevant para from the judgment delivered by this Tribunal on 04.03.2020 is hereby reproduced for ready reference.

*"Perusal of record reveals that the appellant was serving in Police Department. He was imposed major penalty of dismissal from service vide order dated 13.10.2017 on the aforesaid allegation.*

*The record further reveals that the inquiry officer has recorded the statements of witnesses DFC Aziz-ur-Rehman, FC Sawar khan, HC Ameer Muhammad, and others including HC Ubaidullah, MASI Noor Muhammad, SHO Taimour Saleem Khan etc. but no opportunity of cross-examination was provided to the appellant as the copy of statement of FC Sawar Khan, DFC Aziz-ur-Rehman and Head Constable Ameer Muhammad are available on record although the inquiry officer was bound to provide opportunity of cross-examination, therefore, the appellant was deprived from his fundamental right of cross-examination/defense. Moreover, the*



*competent authority was also required to hand over the copy of inquiry report with the show cause notice but the copy of final show cause notice available on the record, also reveals that no copy of inquiry report was handed over to the appellant with the final show cause notice, therefore, the appellant was condemned unheard which has rendered the whole proceedings illegal and liable to be set-aside. As such, we partially accept the appeal, set aside the impugned order, reinstate the appellant into service and direct the respondent department to conduct de-novo inquiry in the mode and manners prescribed under the Police Rules, 1975 with further direction to fully associate the appellant in the inquiry proceeding, provide him opportunity of cross-examination and also handover copy of inquiry report with the show cause notice, within a period of 90 days from the date of receipt of copy of this judgment. The issue of back benefits will be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room."*

7. In compliance of the judgment of this Tribunal, appellant was reinstated in service on 15.05.2020 and without issuing any charge sheet alongwith statement of allegation inquiry was conducted by Sarfaraz Ali Shah Senior Superintendent of Police Coordination CCP Peshawar. Admittedly, no charge sheet alongwith statement of allegation and show cause notice were ever issued to the appellant. The inquiry report is also very much interesting and the conclusion is hereby reproduced for ready reference:

*"However in case, whatever the motive or situation was, it is established that the FC Imran Khan was not paid and has not*

*taken any money from Bilal, thus "action did not take place". Although due to insufficient evidence and during the course of de-novo enquiry, defection of Muhammad Bilal from his earlier statement, the allegations of demanding illegal gratification leveled against FC Imran Khan could not established however keeping in view the previous enquiry, punishment awarded to FC Imran Khan and rejection of his appeal by the appellant authority one of the major punishment other than dismissal from service is recommended to be awarded to him."*

From perusal of record, we have come to the conclusion that the so called video which had went viral was never produced before the Inquiry Officer. Complainant Bilal did not charge the present appellant for taking illegal gratification. No evidence was produced before the inquiry Officer which could connect the appellant with the commission of offense and the inquiry report which was rejected by this Tribunal in the earlier round of litigation was once again relied upon not only by the Inquiry Officer but also by the competent authority and the appellant was once again punished on the strength of previous inquiry which had been rejected by this Tribunal.

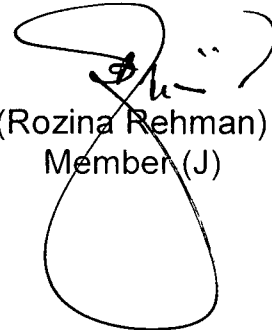
8. The respondents have very blatantly violated the set norms and rules and conducted the proceedings in an authoritarian manner. We have observed that the inquiry conducted by the respondents is not in accordance with law/rules. It is, however, a well-settled legal proposition duly supported by numerous judgments of Apex Court that for imposition of major penalty, regular inquiry is a must.

9. We are unison on acceptance of this appeal in the light of our observation in the preceding paras which immediately call for the acceptance of the instant service appeal with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.  
28.06.2022



(Salah Ud Din)  
Member (J)



(Rozina Rehman)  
Member (J)

**ORDER**

28.06.2022


Appellant present through counsel.

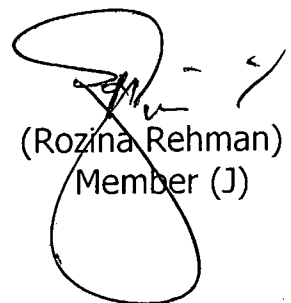
Muhammad Rasheed learned Deputy District Attorney for respondents present. Arguments heard. Record perused.

Vide our detailed judgment of today of this Tribunal placed on file, we are unison on acceptance of this appeal which immediately call for the acceptance of the instant service appeal with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

28.06.2022

  
(Salah Ud Din)  
Member (J)

  
(Rozina Rehman)  
Member (J)



P.S

28.07.2021

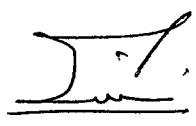
Learned Addl. A.G be reminded about the omission and for submission of Reply/comments within extended time of 10 days.

  
Chairman

06.12.2021

Appellant with Syed Noman Ali Bukhari, Advocate present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Learned counsel for the appellant sought time to furnish rejoinder to the written reply of the respondents. Adjourned. Case to come up for rejoinder and arguments on 07.03.2022 before the D.B.

  
(Salah-ud-Din)  
Member (J)

  
Chairman

7-3-22

*Due to retirement of the Hon.ble  
Chairman the case is adjourned  
on 28-6-22  
Haji  
Razvi*

22.02.2021

Appellant is present in person. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is also present.

Neither written reply on behalf of respondents submitted nor representative of the department is present, therefore, learned Additional Advocate General is directed to contact the respondents and furnish written reply/comments on the next date of hearing. Adjourned to 07.04.2021 on which date file to come up for written reply/comments before S.B.

  
(Muhammad Jamal Khan)  
Member

07.04.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 15.07.2021 for the same as before.

  
READER

15.07.2021

Appellant in person and Mr. Kabirullah Khattak, Addl. AG Muhammad Raziq, H.C for the respondents present.

Respondents have not submitted written reply. They are directed to submit written reply/comments in office within 10 days, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 06.12.2021 before the D.B.

*Stipulated period has passed and reply has not been submitted*

  
Chairman

27.11.2020

Appellant in person alongwith Syed Noman Ali Bukhari, Advocate, are present.

The succinct facts of what have been asserted by the learned counsel representing appellant are that a prayer has been made to set at naught the impugned order dated 06.07.2020 by restoring the time scale of pay of the appellant to his original position as it was recorded prior to the imposition of penalty awarded on the basis of referred to order with all back and consequential benefits. Besides placing a claim for the grant of benefits for the intervening period during which appellant remained out of service i.e 31.10.2017 to 15.05.2020. The learned counsel contended that the allegations leveled against appellant did not prove according to the test of reason.

The points so agitated at the bar need consideration. The appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 22.02.2021 before S.B.

Appellant Deposited  
Security & Process Fee  
27/11/2020



(MUHAMMAD JAMAL KHAN)  
MEMBER (JUDICIAL)

Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- 12447 /2020 20

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	21/10/2020	<p>The appeal of Mr. Imran Khan presented today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2-</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>27/11/2020</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 12447 /2020

Imran Khan

VS

Police Department

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APPELLANT

*Imran Khan*  
Imran Khan

THROUGH:-

*Taimur Ali Khan*  
**TAIMUR ALI KHAN**  
ADVOCATE HIGH COURT

**(S. NOMAN ALI BUKHARI)**  
ADVOCATE HIGH COURT

*M. Asif Yousafzai*  
**M.ASIF YOUSAFZAI**  
ADVOCATE SUPREME COURT  
OF PAKISTAN.

**(SHAHKAR KHAN YOUSAFZAI)**  
ADVOCATE

Room No. FR 8, 4<sup>th</sup> Floor,  
Bilour plaza, Peshawar cantt:  
Cell# 0333-9103240

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 12447/2020

Imran Khan, Constable No. 511,  
CCP Peshawar.

(APPELLANT)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Capital City Police Officer, Peshawar.
3. The Superintendent of Police, Peshawar.

(RESPONDENTS)

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**APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 06.07.2020, WHEREBY THE MAJOR PUNISHMENT OF REDUCTION TO LOWER STAGE IN TIME SCALE OF PAY HAS BEEN IMPOSED UPON THE APPELLANT & BENEFIT WAS ALSO NOT GRANTED FOR THE PERIOD HE REMAINED OUT OF SERVICE AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF 90-DAYS.**

PRAYER:

**THAT ON THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 06.07.2020 MAY KINDLY BE SET ASIDE AND THE TIME SCALE OF PAY OF THE APPELLANT MAY BE RESTORED TO ORIGINAL POSITION AS IT WAS BEFORE THE PENALTY ORDER DATED 06.07.2020 WITH ALL BACK AND CONSEQUENTIAL BENEFITS. THE RESPONDENTS MAY FURTHER BE DIRECTED TO GRANT BENEFIT FOR THE PERIOD (31.10.2017 TO 15.05.2020) DURING WHICH APPELLANT REMAINED OUT OF SERVICE AS THE ALLEGATIONS COULD NOT ESTABLISHED AGAINST THE APPELLANT DURING INQUIRY PROCEEDING. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.**

**RESPECTFULLY SHEWETH:**

**FACTS:**

1. That the appellant was appointed as Constable in Police and the appellant was performed his duties with entire satisfaction of his Superiors and also has good service throughout.
2. That the appellant was charge sheeted contained the allegations of illegal gratifications. But the appellant not able to replied to charge sheet due there was no proper time provided to the appellant by initiating inquiry just after 03-days. **Copy of charge sheet is attached as Annexure-A.**
3. That the inquiry was conducted against the appellant in which no chance of defense was provided to the appellant and during the inquiry proceedings the chance of cross examination was also not provided to the appellant. **Copy of Inquiry Report is attached as Annexure-B.**
4. That on the basis of irregular inquiry the appellant was dismissed from service on 13.10.2017 against which he filed Departmental Appeal and revision which were rejected 02.11.2017 & 05.01.2018 respectively. **Copies of order dated 13.10.2017, 02.11.2017 & 05.01.2018 are attached as Annexure-C, D & E.**
5. That against the impugned order the appellant filed service Appeal No. 144/2018 in this august Service Tribunal which was decided on 04.03.2020. The Honorable Tribunal was kind enough to partially accepted the appeal, set-aside the impugned order, reinstated the appellant into service and direct the respondents to conduct de-novo inquiry in the mode and manner prescribed under Police Rules-1975 with further directions to fully associate the appellant in the inquiry proceeding, provide him opportunity cross examination and also handover copy of inquiry report with the show-cause notice, within a period of 90-days from the date of receipt of the judgment. **Copy of Judgment dated 04.03.2020 is attached as Annexure-F.**
6. That in the compliance of judgment of this august Service Tribunal the appellant was reinstated into service on 15.5.2020 for the purpose of de-novo inquiry and without issuing charge sheet to the appellant, inquiry was conducted against the appellant in which the inquiry officer mentioned that the allegation of demand illegal gratification level against appellant could not be established but despite the inquiry officer recommended one of the major punishment other than

dismissal from service. **Copy of the order dated 15.05.2020 & inquiry report are attached as Annexure-G & H.**

7. That although the allegation was not leveled against the appellant but despite that the Respondent No. 2 passed an order on 06.07.2020 wherein the major punishment of reduction to Lower Stage in a time scale of pay has been imposed upon the appellant and no benefits was granted for the period he remained out of service. The appellant filed departmental appeal against the impugned order dated 06.07.2020 on 10.07.2020 which was not responded within the statutory period of 90-days. **Copies of order dated 06.07.2020 & Departmental Appeal are attached as Annexure-I & J.**
8. That now the appellant come to this august Tribunal on the following grounds amongst others.

**GROUND:-**

- A) That not taking action on the departmental appeal within the statutory period of 90-days and the impugned order dated 06.07.2020 are against the law, facts, norms of justice & material on record, therefore not tenable and liable to be set aside.
- B) That the inquiry officer clearly mentioned in the inquiry report the allegations of demanding illegal gratification leveled against the appellant could not be established but despite that major punishment of reduction to lower scale in a time scale of pay has been awarded to the appellant and benefit was also not granted for the period he remained out of service which is against norms of justice and fair play therefore the impugned order is liable to be set-aside.
- C) That the inquiry officer mentioned as an inquiry report that the presence statement of Mr. Bilal is different from the statement recorded during the course of previous inquiry to the then inquiry officer and now he has denied the allegations of demanding illegal gratification from him by the appellant. Furthermore the video which went viral social media was also not available for examination it is also worth mentioning it could not ascertain that the amount, if demand, was as illegal gratification or otherwise. However in the case, whatever the moto are situation was, it is established that the appellant was not paid has not taken any money from Bilal, thus action did not take place but despite that the appellant was punished for no fault on his part and therefore the impugned order is liable to be set-aside.
- D) That no charge sheet was issued to the appellant before passing the impugned order which is violation of law & rules.



- E) That even Show Cause Notice was not issued to the appellant which is against the norms of justice and fair play.
- F) That the impugned order dated 06.07.2020 the punishment of reductions to lower stage in a time scale of pay has been imposed upon the appellant but no time has been specified for reduction to lower stage in a time scale of pay by the competent authority which is violation of FR-29.
- G) That the impugned order dated 06.07.2020, benefits was also not granted for the period (13.10.2017 to 15.05.2020) he remained out of service despite fact that the allegation was not established against the appellant and as such the appellant could not be penalized by depriving him from the benefits for the period, (13.10.2017 to 15.05.2020).
- H) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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

**APPELLANT**

*Im Khan*  
Imran Khan

THROUGH:-

*Taimur Ali Khan*

**TAIMUR ALI KHAN  
ADVOCATE HIGH COURT**

*M. Asif Yousafzai*

**M.ASIF YOUSAFZAI  
ADVOCATE SUPREME COURT  
OF PAKISTAN.**

**(S. NOMAN ALI BUKHARI)  
ADVOCATE HIGH COURT**

**(SHAHKAR KHAN YOUSAFZAI  
ADVOCATE**

846  
A 5

CHARGE SHEET

Whereas I am satisfied that a Formal Enquiry as contemplated by Police Rules 1975 is necessary & expedient in the subject case against you **FC Imran No. 4644 of CCP Peshawar.**


And whereas, I am of the view that the allegations if established would call for major/minor penalty, as defined in Rule 3 of the aforesaid Rules.

Now therefore, as required by Rule 6 (1) (a) & (b) of the said Rules, I, Sajjad Khan, Senior Superintendent of Police, Operations, Peshawar hereby charge you **FC Imran No. 4644 of CCP Peshawar** under Rule 5 (4) of the Police Rules 1975 on the basis of following allegations:

- i. That a video viraled through social media wherein you were found demanding illegal gratification from public in the jurisdiction of PS Phandu which tarnished the image the department.
- ii. That your act falls within the ambit of corruption and amounts to gross misconduct on your part.

I hereby direct you further under Rule 6 (1) (b) of the said Rules to put forth written defence within 7 days of the receipt of this Charge Sheet to the Enquiry Officer, as to why the action should not be taken against you and also stating at the same time whether you desire to be heard in person.

In case your reply is not received within the specific period to the Enquiry Officer, it shall be presumed that you have no defence to offer and ex-parte action will be taken against you.

  
SR SUPERINTENDENT OF POLICE,  
(OPERATIONS) PESHAWAR

No 709 /E/PA

dated Peshawar the 3 / 10 /2017.

**ATTESTED**

S/O B/G

No. 4645/ST  
Dated 06.10.2017.  
Enclosures (19).

**DEPARTMENTAL ENQUIRY AGAINST CONSTABLE IMRAN NO.4644**  
**OF PS PHANDU PESHAWAR.**

Please refer to your Office Order No.709/E/PA dated 03.10.2017 against **Constable Imran No.4644**. This enquiry has been initiated on the basis of the following allegations:-

That Constable Imran No.4644, while posted at PS Phandu Peshawar and viraled a video through social media wherein he was found demanding illegal gratification from public in the jurisdiction of PS Phandu which tarnished the image of the department. This amounts gross misconduct on his part and against the discipline of force.

In order to scrutinize the conduct of said official with reference to the above allegations, an enquiry is ordered and the undersigned was appointed as Enquiry Officer.

On the receipt of enquiry papers, the alleged FC Imran No.4644 was summoned and served upon him a Charge Sheet and Summary of allegations. The above mentioned Police Official submitted his reply within a stipulated period of time which is placed with enquiry file: -

**FC IMRAN No.4644.**

He stated in his statement that on 10<sup>th</sup> Muharram-2017 he was deployed as Mobile Patrolling Officer due to the shortage of upper subordinates. During Nakabandi at Jamil Chowk Ring Road, he stopped a Honda-125 Motorcycle due to pillion riding. They were checked and asked them regarding the documents of bike but they failed to produce the same on the spot. The bike driver disclosed that they are ready to give fine of challan on the spot but he (Patrolling Officer) was refused to take fine and asked to bike driver that he is not a Traffic Warden. He took the said persons along with his bike to Police Station Phandu and handed over them into the custody of MM Ubaid and Ameer Muhammad. The statement of alleged FC Imran is appended herewith for your kind perusal (F/A).

**ATTESTED**

(8) (2)

**FC Imran No.4644 (Cross Questioned).**

- Quest: How long period you have been spend at PS Phandu?  
Ans: 09 months.
- Quest: Who deployed you as Patrolling Officer?  
Ans: Muharrar Phandu namely Noor Muhammad Khan.
- Quest: Why did you stopped the said Motorcycle?  
Ans: Due to over speeding and having no registration.
- Quest: That why you demanding sum of Rs.400/- from Motorcycle driver?  
Ans: No, I did not ask him.

**DFC Aziz-ur-Rehman PS Phandu:-**

He stated that on the same day he was deployed as mobile driver with above named patrolling officer. He stopped two persons along with bike Honda-125 moreover, he is not aware regarding the happenings between them. Later on, we took them Police Station Phandu and handed over into the custody of MMs. The detail statement of DFC Aziz-ur-Rehman is appended herewith for your kind perusal (F/B).

**FC Sawar Khan No.216 PS Phandu:-**

He stated that he was deployed at mobile duty with patrolling officer Imran Khan. His Incharge stopped a motorcycle along with two persons during Nakabandi and searched them. Later on, after a period of discussion, patrolling officer handed over his motorcycle along with a man to rush him to the Police Station Phandu. He did not listen them or their instruction. The detail statement of FC Sawar Khan No.216 is appended herewith for you kind perusal (F/C).

**HC Ameer Muhammad No.167 MM PS Phandu:-**

He stated in his statement that due to the deficiency in strength MM Imran No.4644 deployed as Mobile Patrolling Officer. He arrested a young boy along with bike-125 vide registration No.FY-4759 and sent him Police Station with FC Sawar Khan No.216. Later on Imran came to Police Station with another man of 45/50 years and told that they did not produce his bike registration therefore, charged u/s 523/550CRPC. Both of the arrested persons requested that they are in emergency and need to go for closing their Godown which has been opened. They also produced bike registrations therefore, after completing the coddle formalities of the Police Station, he took free them. The detail statement of the MM is appended herewith for your kind perusal (F/D).

144  
**ATTESTED**

(10) 8

**HC Ubaidullah MM PS Phandu:-**

He submitted his statement and affirmed the version of above mentioned MM Ameer Muhammad of PS Phandu. The detail statement of MM Ubaidullah No.170 is appended herewith for your kind perusal (F/E).

**MASI Noor Muhammad PS Phandu:-**

He stated that as per the contingency plan of Moharram-2017 all the upper subordinates are deployed at various sectors therefore, he directed to his senior MM Imran regarding Mobile Patrolling. The necessary directions were also conveyed to him and strictly advised to away from Nakabandi. The detail statement of MASI Noor Muhammad is appended herewith for your kind perusal (F/F).

**Taimour Saleem Khan SHO PS Phandu:-**

He stated that as per the contingency plan of Moharram-2017 all the upper subordinates are deployed at various sectors and also affirmed the version of above mentioned MASI Noor Muhammad of PS Phandu. The detail statement of Taimour Saleem Khan SHO PS Phandu is appended herewith for your kind perusal (F/G).

In order to dig out the real/actual facts, the undersigned have also been summoned the complainant (video viraled boy) namely Muhammad Bilal s/o Shahid Ali and Abdur Rehman s/o Sirajuddin. They came and attend the office of undersigned and also submitted their statements which are placed with enquiry file:-

**Muhammad Bilal s/o Shahid Ali:-**

He stated in his statement that on the day of incident, Imran Mobile Patrolling Officer stopped him near Jameel Chowk ring road due to the person along for the ride. The Mobile Officer asked about the papers of his Bike, he (Bilal) showed him his bike registration on the spot. But Mobile Officer Imran demanding rupees 400/- which he refused to pay him. The mobile officer took them to Police Station Phandu, where they showed bike registration to the Moharrar Staff and requested to release them. -The Moharrar staff of the concerned Police Station released them after completing their coddle formalities and confirmations. At the end he stated that he was so angry due to bad attitude of Patrolling Officer Imran, therefore, he viraled the same video at social media. Now he is unhappy/said and wants to forgive the alleged patrolling officer Imran for his bad attitude (F/H).

ATTESTED

Not from enquiry office

Cross Question (Muhammad Bilal).

Quest: How many persons were on bike?

Ans: Two persons were going to Saithi Town.

Quest: Who stopped you and for what reason?

Ans: Mobile Officer Imran due to commuter as well section-144.

Quest: Who demand of sum from you?

Ans: Imran Patrolling Officer demanding Rs.400/-

Quest: Except Imran any other Police Man demanding sum?

Ans: No any other one demanding.

Quest: Any further action you want to taken against him?

Ans: No, I did not want to take further action against Imran.

Abdul Rehman s/o Siraj-ud-din (PILLION) :-

He stated that they were going from shop to home situated at Saithi town and near to Jamil chowk the Patrolling Officer Imran stopped our bike and searched both of us. He also affirmed the version of above mentioned MASI Noor Muhammad of PS Phandu. The detail statement of Taimour Saleem Khan SHO PS Phandu is appended herewith for your kind perusal (F/I).

Azaz Khan (Owner of Bike) :-

He stated that he was at home suddenly Abdul Rehman (Pillion) came and narrated all the story as mentioned above. He rushed to the Police Station immediately and released both of i.e. Muhammad Bilal s/o Shahid and Abdul Rehman s/o Siraj-ud-din after fulfilling the necessary formalities. The detail statement of Taimour Saleem Khan SHO PS Phandu is appended herewith for your kind perusal (F/J).

FINDINGS:

From the foregoing circumstances, statements recorded, events and other material available on record, it came to light that the plea taken by the alleged official is found baseless. So, the following points needs consideration.

1. That as per the report of MASI, the defaulter constable was allowed only for Patrolling checking not for Nakabandi.

**ATTESTED**

10

- 2. That MM Imran No.4644 stopped two persons with motorcycle while they have complete documents as well as Pakistani CNIC.
- 3. That his bad behavior has been recorded by the Complainant in his own mobile and viraled at social media.
- 4. That the victim and defaulter patrolling officer have been seated face to face in the office of undersigned and the victims clearly stand on his version, in which the alleged Patrolling Officer found guilty.

On the basis of above mentioned allegations and actual facts, it came to light that the defaulter constable could not defend himself. Therefore, the undersigned is of the view that the FC Imran No.4644 is found guilty & recommended him for major punishment for the said malfeasance.

Submitted please.



Dy: Superintendent of Police  
HQrs: CCP Peshawar.

W/SSP/Operations.

Issue final show cause notice.

Din Muhammad  
Peshawar  
Senior Superintendent of Police  
Operations CCP Peshawar  
11/11

**ATTESTED**



OFFICE OF THE  
SENIOR SUPERINTENDENT OF POLICE  
(OPERATIONS),  
PESHAWAR

Ph: 091-9210508 Fax: 091-9213054

ORDER

This office order is hereby passed to dispose of the departmental proceedings initiated against Constable Imran No. 4644 of CCP Peshawar vide this office No. 709/E/PA dated 03.10.2017. Allegations leveled against him were that:

1. A video viraled on social media wherein he (Constable Imran) was found demanding illegal gratification from public in the jurisdiction of PS Phandu which tarnished the image of the department.
2. Proper departmental proceedings were initiated against him and Mr. Usman Ghani, DSP HQ Peshawar was appointed as Enquiry Officer. During the course of enquiry, the E.O found him guilty of the charges and recommended him for the award of "major punishment".
3. On receipt of the findings of E.O, Final Show Cause Notice was properly served upon him vide this office No. 1151/PA dated 09.10.2017. In response to FSCN, he submitted his written reply which was examined and found unsatisfactory. Subsequently, he was heard in OR on 10.10.2017. He was provided ample opportunity for defence. He, however, remained as mute as a fish in his defence. Thus, the allegations leveled against him stand proved beyond any shadow of doubt.
4. In the circumstances, the undersigned being Competent under the law, do agree with the findings / recommendations of the E.O and awards him the major punishment of "dismissal from service" with immediate effect.

(SAJJAD KHAN) PSP  
Senior Superintendent of Police,  
Operations, Peshawar

No. 1157-61 /PA dated Peshawar, the 13-10 /2017.

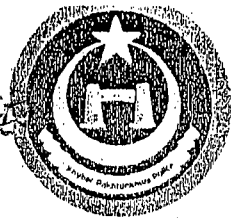
Copy for information and necessary action to the:-

1. Capital City Police Officer, Peshawar.
2. SPs City/HQ Peshawar.
3. AD-II
4. OASI/CRC/FMC/PO.

CB No - 3683  
12-10-17

**ATTESTED**





OFFICE OF THE  
CAPITAL CITY POLICE OFFICER,  
PESHAWAR

Phone No. 091-9210989  
Fax No. 091-9212597

ORDER

This order will dispose off departmental appeal preferred by ex-constable **Imran No. 4644** who was awarded the major punishment of **Dismissal** from service under P.R 1975 vide No. 1157-61/PA dated 13.10.2017 by SSP-Ops: Peshawar.

2 The allegation levelled against him were that he while posted at Police Station Phandu Peshawar a video viriled on the social media wherein ha was found demanding illegal gratification from public in the jurisdiction of PS Phandu which tarnished the image of the department. This amount gross misconduct on his part and against the disciplined of force.

3 Proper departmental proceedings were initiated against him and DSP-HQrs: was appointed as enquiry officer. The enquiry officer found him guilty of the allegations levelled against him. On receipt of the findings of the enquiry officer, the SSP-Ops: Peshawar issued him FSCN, to which he replied. The same was perused and found unsatisfactory by SSP-Ops: Peshawar as such award him the above major punishment.

4 The relevant record has been perused and also heard him in O.R. on 01.11.2017. The enquiry papers were thoroughly examined. He was provided full opportunity to defend himself but he failed to offer any plausible explanation in his favour. He has tarnished the image of police force, hence deserve no leniency. The allegations leveled against him stand proved. There is no need to interfere in the order passed by SSP-Ops: Peshawar, therefore, the appeal is **rejected/ filed**:

*T. Ial*

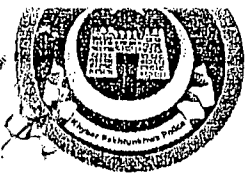
(MUHAMMAD TAHIR) PSP  
CAPITAL CITY POLICE OFFICER,  
PESHAWAR

No. *1426-31* /PA dated Peshawar the *02/11* /2017.

Copies for information and n/a to the:-

1. SSP/Ops: Peshawar.
2. PO/OASI/CRC for making necessary entry in his S.Roll
3. ✓ FMC along with complete F.M
4. Official concerned.

ATTEST



OFFICE OF THE  
INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
PESHAWAR.

No. S/ 291 /18, dated Peshawar the 15/10/2018.

**ORDER**

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-FC Imran No. 4644. The petitioner was dismissed from service by SSP/Operations, Peshawar vide order Endst: No. 1157-61/PA, dated 13.10.2017 on the charge that he while posted at Police Station Phandu Peshawar, a video viraled on social media wherein he was found demanding illegal gratification from public in the jurisdiction of Police Station Phandu which tarnished the image of the department.

His appeal was rejected/filed by Capital City Police Officer, Peshawar vide order Endst: No. 1426-31/PA, dated 02.11.2017.

Meeting of Appellate Board was held on 28.12.2017 wherein petitioner was heard in person. During hearing petitioner contended that he is son of Shaheed DSP Bahadar Khan. Petitioner denied the allegation leveled against him.

Perusal of record revealed that petitioner was dismissed from service on the charges that a video was viraled on social media wherein he was shown demanding illegal gratification from public during Nakabandi at Jamil Chowk Ring Road in the jurisdiction of Police Station Phandu.

Petitioner failed to advance any plausible explanation in rebuttal of the charges. He has tarnished the image of police force before public, therefore, the Board decided that his petition is hereby rejected.

This order is issued with the approval by the Competent Authority.

(AHSAN SAIFULLAH)  
AIG/Establishment,

For Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar.

No. S/ 292-98 /18,

Copy of the above is forwarded to the:

1. Capital City Police Officer, Peshawar.
2. Supdt: of Police, Operations, Peshawar.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E IV CPO Peshawar

**ATTESTED**

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR



APPEAL NO. 144 /2018

Imran Khan , EX- Constable, No.4644 .  
CCP, Peshawar.

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 150

Date: 29-1-2018

.....(Appellant)

VERSUS

1. The AIG Establishment for Inspector General of Police, KPK, Peshawar.
2. The Capital City Police Officer, Peshawar.
3. The Senior Superintendent of Police, operations, Peshawar.


.....(Respondents)

Filed-to-day  
Registrar  
29/1/18

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE REJECTION ORDER DATED 02.11.2017 OF RESPONDENT NO. 2 WHEREBY THE DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER DATED 13.10.2017 HAS BEEN REJECTED AND AGAINST THE ORDER DATED 15.01.2018 WHEREBY, THE REVIEW PETITION UNDER 11-A OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS.

PRAYER:

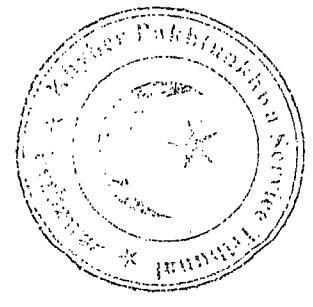
ATTESTED

  
REGISTRAR  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

THAT ON ACCEPTANCE OF THIS APPEAL, THE ORDERS DATED 13.10.2017, 02.11.2017 AND 15.01.2018 MAY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED IN TO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR

15



SERVICE APPEAL NO. 144/2018

Date of institution ... 29.01.2018  
Date of judgment ... 04.03.2020

Imran Khan, Ex-Constable No. 4611  
CCP, Peshawar ... (Appellant)

VERSUS

1. The AIG Establishment for Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Capital City Police Officer, Peshawar.
3. The Senior Superintendent of Police, Operations, Peshawar. ... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE REJECTION ORDER DATED 02.11.2017 OF RESPONDENT NO. 2 WHEREBY THE DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER DATED 13.10.2017 HAS BEEN REJECTED AND AGAINST THE ORDER DATED 15.01.2018 WHEREBY, THE REVIEW PETITION UNDER 11-A OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS.

*M. Asif Yousofzai*  
*4.3.2020*

Mr. M. Asif Yousofzai, Advocate .. For appellant.  
Mr. Muhammad Jan, Deputy District Attorney .. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI .. MEMBER (JUDICIAL)  
MR. MIAN MOHAMMAD .. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Appellant  
alongwith his counsel and Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Muhammad Raziq, Head Constable for the respondents present. Arguments heard and record perused.

ATTESTED

MEMBER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

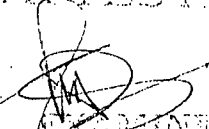


condemned unheard which has rendered the whole proceeding illegal and liable to be set-aside and prayed for acceptance of appeal.

5. On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was serving in Police Department. It was further contended that the appellant was imposed major penalty of dismissal from service on the aforesaid allegation. It was further contended that a proper charge sheet, statement of allegation was framed and served upon the appellant, proper inquiry was conducted and the appellant was recommended for major penalty by the inquiry officer and on the basis of recommendation of inquiry officer, the appellant was rightly imposed major penalty of dismissal from service after fulfilling all the codal formalities and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant was serving in Police Department. He was imposed major penalty of dismissal from service vide order dated 13.10.2017 on the

ATTESTED

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

aforesaid allegation. The record further reveals that the inquiry officer has recorded the statements of witnesses DFC Aziz-ur-Rehman, FC Sawar Khan, HC Ameer Muhammad, and others including HC Ubaidullah, MASI Noor Muhammad, SHO Taimour Saleem Khan etc but no opportunity of cross-examination was provided to the appellant as the copy of statement of FC Sawar Khan, DFC Aziz-ur-Rehman and Head Constable Ameer Muhammad are available on record although the inquiry officer

*M. A. Amman  
4-3-2020*

18

was bound to provide opportunity of cross examination, therefore, the appellant was deprived from his fundamental right of cross examination/defense. Moreover, the competent authority was also required to hand over the copy of inquiry report with the show-cause notice but the copy of final show-cause notice available on the record, also reveals that no copy of inquiry report was handed over to the appellant with the final show-cause notice, therefore, the appellant was condemned unheard which has rendered the whole proceeding illegal and liable to be set-aside. As such, we partially accept the appeal, set-aside the impugned order, reinstate the appellant into service and direct the respondent-department to conduct de-novo inquiry in the mode and manners prescribed under the Police Rules 1975 with further direction to fully associate the appellant in the inquiry proceeding, provide him opportunity of cross examination and also handover copy of inquiry report with the show-cause notice, within a period of 90 days from the date of receipt of copy of this judgment. The issue of back benefits will be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
04.03.2020

*[Signature]*

*[Signature]*  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

(MIAN MOHAMMAD)  
MEMBER

Date of Presentation of Appeal: 18/03/2020  
 Name of Ward: 2000  
 Copy Fee: 22-00  
 Filing Fee: 4-00  
 Total: 26-00  
 Name of Clerk: *[Signature]*  
 Date of Calling of Appeal: 18/03/2020  
 Date of Delivery of Copy: 18/03/2020

Certified true copy  
 Khayter Akhbarkhwa  
 Service Tribunal  
 Peshawar

ORDER

①

G 19

Ex-Constable Imran Khan No.4644 was awarded major punishment of dismissal from service by the then SSP Operation vide No.1157-61/PA dated 13.10.2017 on the charges that he while posted at PS Phandu Peshawar a video went viral on social media wherein the appellant was found demanding illegal gratification from public in the jurisdiction of PS Phandu which tarnished the image of the department.

He was filed an appeal before CCPO, Peshawar against the above mentioned orders which was rejected/filed by the then CCPO, Peshawar vide No.1426-31/PA dated 02.11.2017.

Ex-Constable Imran Khan No.4644 has submitted an application along-with court Judgment, wherein the court of Hon'able Service Tribunal ordered that "as such, we partially accept the appeal, set-aside the impugned order, re-instate the appellant into service and direct the respondent-department to conduct de-novo inquiry in the mode and manner prescribed under the Police Rules 1975 with further direction to fully associate the appellant in the inquiry proceeding, provide him opportunity of cross examination and also handover copy of inquiry report with the show cause notice, within a period of 90-days from the date of receipt of copy of this judgment. The issue of back benefits will be subject to the outcome of de-novo inquiry."

In-light of the Court Judgment & kind approval of W/CCPO, Ex-Imran Khan No.4644 is hereby re-instated in service with immediate effect subject to outcome of de-novo enquiry. Hence, the intervening period i.e period out of service will be decided after receiving finding of the de-novo proceedings.

*Imran Khan*  
SUPERINTENDENT OF POLICE  
HEADQUARTERS, PESHAWAR

OB. NO. 1151 / Dated 15/10 /2020

No. 32-11-17 /PA/SP/dated Peshawar the 15/10 /2020

Copy of above is forwarded for information & n/action to:

- ✓ Capital City Police Officer, Peshawar.
- ✓ DSP/HQrs, Peshawar.
- ✓ Pay Officer
- ✓ OASI, CRC & FMC along-with complete departmental file.
- ✓ Officials concerned.

*11/10/2020*  
*15/10/2020*



H (20)

DENOVO DEPARTMENTAL ENQUIRY AGAINST EX-FC IMRAN KHAN NO.4644

This is a de-novo departmental enquiry against Ex-FC Imran Khan 4644 which was received from CPO vide memo: No. 683-85/CPO/IAB, dated 03.06.2020.

Allegations.

Allegations in the subject enquiry against Ex-FC Imran Khan No.4644 are that, he while posted at Police Station Phandu Peshawar, a video went viral through Social Media wherein he was found demanding illegal gratification from public in the jurisdiction of PS Phandu which tarnished the image of the department.

With reference to the above allegation, he was charge sheeted and Mr. Usman Ghani DSP Headquarters was appointed as Enquiry Officer.

The Enquiry Officer conducted departmental Enquiry against him and recommended him for "**Major Punishment**" vide his office memo: No. 4645/ST, dated 06.10.2017. Upon the recommendation of E.O, Mr. Sajjad Khan the then SSP/Operations dismissed him from services vide Order No. 1157-61/PA, dated 13.10.2017.



The mother of dismissed FC submitted appeal before Mr. Tahir Khan the then CCPO, Peshawar which was rejected vide order No. 1426-31/PA, 02.11.2017.

Latter on, the dismissed constable submitted service appeal before, the Khyber Pakhtunkhwa Service Tribunal, Peshawar and claimed that he was not given opportunity of cross examination neither the copy of enquiry was handed over to the appellant during service of final Show Cause Notice, therefore, the appellant was deprived from the right of defense.

After hearing both the parties, the learned Service Tribunal issued the verdict in favor of appellant and ordered that "**the appeal is accepted, set-aside the impugned order, reinstate the appellant into service**" and directed the department to conduct denovo enquiry in the mode and manners prescribed under the Police Rules 1975 with further direction to fully associate the appellant in the inquiry proceeding, provide him opportunity of cross examination.

On the orders of Honorable Court as well high ups of the department, the undersigned conducted denovo proceeding into the matter and recorded the statements of all concerned, discussed below:-

Statement of Ex. FC Imran Khan No. 4644

He stated in his statement that on 10<sup>th</sup> Muharram 2017 he was deployed as Mobile Patrolling Officer due to the shortage of upper subordinates. During Nakabandi at Jamil Chowk Ring Road, he stopped a Honda-125 Motorcycle due to pillion riding. They were checked and asked the documents of bike but they failed to produce the same on the spot. The bike driver disclosed that they are ready to give fine of challan on the spot but he refused and took them to

(21)

PS along with his bike and handed over them into the custody of MM Muhammad.

**Statement of Aziz-ur-Rehman DFC PS Phandu:-**

He stated that on the same day he was deployed as mobile named patrolling officer. He stopped two persons riding bike Honda-125. How aware regarding the happenings between them. Later on both were taken Phandu and handed over to MMs.

**Statement of FC Sawar Khan No. 216 PS Phandu.**

He stated that he was deployed at mobile duty with patrolling of His Incharge stopped pillion riders at Nakabandi and took them to the Police St did not know more than that.

**HC Ameer Muhammad No. 167 The Then MM PS Phandu:-**

He stated in his statement that due to the deficiency in strength 4644 was deployed as Mobile Patrolling Officer. He arrested a young boy along registration No. FY-4759 and sent him to Police Station in the custody of FC 216. Later on Imran Khan Mobile Officer came to Police Station with another person and told that they did not produce registration of bike therefore; ch 523/550 CrPC. However they produced bike registration which was veri satisfaction they were released on bail.

HC Ubaidullah No.170 also supported the version of MM Ameer N

**Noor Muhammad Ex MASI PS Phandu:-**

He stated that as per the contingency plan of Moharram-2017 subordinates were deployed at different sectors and due to shortage of Officers, N deputed for patrolling purpose.

**Taimour Saleem Khan Ex SHO PS Phandu:-**

He supported the version of the MASI Noor Muhammad PS Phandu.

**Muhammad Bilal s/o Shahid Ali r/o City Town Haji Camp:-**

He stated in his statement that on the same day he and his friend n Rehman were on the way to home on bike, when reached to Jameel Chowk Police J them and asked about the registration of bike. But on the spot he did not produce the of bike. He told the Mobile Officer Imran Khan to challan them on the spot, he did n request. Later on he brought them to PS Phandu for further legal proceedings. /

(22)

called his relative Mr. Azaz Khan (owner of bike) to present the registration, upon which he came to PS Phandu and also brought registration of bike which was verified by the Muharrir Staff and he was released on bail.

During cross examination, he deviated from his previous statement and told that no one demanded money as a bribe from him. Stated that on the same day he was annoyed and due to misunderstanding he complained against Imran Khan. Further told that, no one pressed or approached him to alter the statement. He insisted that his present statement was based on facts and admitted that the police had done their legal job.

One Abdur Rehman who was also riding with Bilal on bike also supported the version of Bilal. During cross examination, he also changed his previous statement and denied the allegations of demanding any amount as bribe by Imran Khan. He disclosed that his present statement was based on facts.

Statement of Azaz Khan s/o Aurangzeb Khan r/o City Town:-

He stated that on the same day he was present in his shop. His worker Mr. Abdur Reham took his motorcycle No. FY-4759. After a while Abdur Rehman informed him about the incident. He went to Police Station Phandu and produced the registration copy of the said bike to Muharrir PS Phandu. After proper verification and satisfaction they were released on bail.

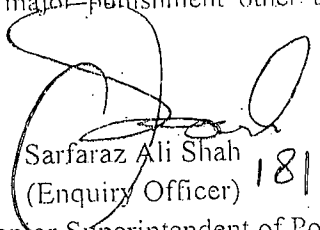
On quarry he also denied the allegations leveled against Imran Khan Police official. He further admitted that his present statement was based on facts.

Conclusion:-

After going through the statements recorded during the course of de-novo enquiry at relevant record, it is concluded that police party headed by Imran Khan FC No. 4644 was patrolling in the area of their jurisdiction, PS Phandu. Due to Muharam there was ban on pillion riding. Imr Khan FC No. 4644 during routine checking for enforcement of ban on pillion riding stop Muhammad Bilal riding motorcycle No. FY-4759 along with another person, Muhammad B could not produce registration/ legal documents and asked Imran Khan FC to take money amount for challan on the spot. It is evident from the statements recorded in de-novo enquiry Imran FC refused to do so and took them to Police Station. Latter on they were released & producing the registration of the said motorcycle. Statement of Muhammad Bilal was supported by Abdur Rehman who was also riding with him on same motorcycle. The present statement of Muhammad Bilal is different from the statement recorded during the course of previous enquiry from him by the delinquent official FC Imran Khan. Furthermore the video which went viral on social media was also not available for examination. It is also worth mentioning that it could not be ascertained that the amount, if demanded, was as illegal gratification or otherwise. However in this case, whatever the motive or situation was, it is established that the FC Imran Khan was not patrolling at the spot.

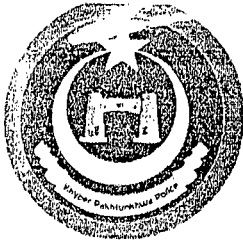
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has not taken any money from Bilal, thus "action did not take place". Although due to insufficient evidence and during the course of de-novo enquiry, defection of Muhammad Bilal from his earlier statement, the allegations of demanding illegal gratification leveled against FC Imran Khan could not established however keeping in view the previous enquiry, punishment awarded to FC Imran Khan and rejection of his appeal by the appellant authority one of the major punishment other than dismissal from service is recommended to be awarded to him.

  
Sarfaraz Ali Shah  
(Enquiry Officer)

18/6/20

Senior Superintendent of Police  
Coordination, CCP Peshawar



doc 3000/-  
Fcc 35000/-

124  
OFFICE OF THE  
CAPITAL CITY POLICE OFFICER  
PESHAWAR  
Phone No. 091-9210989  
Fax No. 091-9212597

ORDER.

In compliance of the Services Tribunal order vide judgment dated 04-03-2020 received in this office from the office of W/IGP-KPK vide No. 1984/Legal, dated 29-04-2020, a Denovo Departmental Enquiry against **Constable Imran Khan of CCP Peshawar** was conducted through SSP/Coordination Peshawar.

2- The allegations levelled against him were that he while posted in Police Station Phandu, a video went viral through social media wherein he was found demanding illegal gratification from public in the jurisdiction of PS Phandu which tarnished the image of the department.

3- The Enquiry Officer after conducting Denovo Departmental Enquiry submitted his finding that the allegations of demanding illegal gratification leveled against constable Imran Khan could not be established, however keeping in view the previous enquiry, punishment awarded to constable Imran Khan and rejection of his appeal by the appellate authority one of the major punishment other than dismissal from service is recommended to be awarded to him.

4. He was heard in O.R. The relevant documents and enquiry report examined. Therefore, keeping in view the finding of the enquiry officer, the delinquent constable Imran Khan No.4644 is hereby awarded major punishment of reduction to lower stage in a time scale of pay. No benefit is granted for the period he remain out of service.

O.B No 1523  
Date 6-7-2020  
Peshawar

*Signature*

(MUHAMMAD ALI KHAN) PSP  
CAPITAL CITY POLICE OFFICER  
PESHAWAR.

No. 790-97 /PA dated Peshawar the 06/07 /2020.

Copies for Information and n/a to the:-

1. AIG/Complaint & Enquiry Internal Accountability Khyber Pakhtunkwha w/r to his office letter No.683-85/CPO/IAB dated 03-06-2020.
2. SSP/Operations Peshawar.
3. SP/HQrs Peshawar.
4. PO/OSI/ CRC
5. FMC along with FM
6. Official concerned.

بخدمت جناب آئی جی پی صاحب، خیبر پختونخوا ایشاور

جناب عالی!

- (1) گزارش ہے کہ سائل پچھلے آٹھ سال سے محکمہ پولیس میں بطور کانسٹیبل اپنی ذیولٹی نہایت ایمانداری سے سرانجام دے رہا ہے۔
- (2) سائل چونکہ ایک شہید DSP / CTD بہادر خان کا بیٹا ہے۔
- (3) لہذا اپنے والد کے نقش قدم پر چلتے ہوئے ہمیشہ قانون کی پاسداری کی اور کبھی بھی اپنے افسران بالا کو شکایت کا موقع نہیں دیا۔
- (4) سائل 2017 میں مجھے بدنام کرنے کے لیے سوشل میڈیا میں ایک منگھڑت ویڈیو منظر عام پر لائی گئی اور یہ پروبانڈ کیا گیا کہ میں کسی سے رشوت طلب کر رہا ہوں اس بناء پر مجھ کو نوکری سے برخاست کیا گیا اور تقریباً تین سال کا عرصہ گزرنے کے بعد سروس ریپیوئل خیبر پختونخوا میں سائل کو اپنی نوکری پر بحال کر کے ڈینوائٹو آئری کرنے کا حکم صادر فرمایا۔
- (5) ڈینوائٹو آئری کرنے کے بعد مجھے پھر MAJOR PUNISHMENT OF REDUCTION TO LOWER STAGE IN A TIME SCALE OF PAY کی سزا دی گئی۔

MAJOR PUNISHMENT OF REDUCTION TO LOWER STAGE IN A TIME SCALE OF PAY

- (6) جناب آئی جی پی خیبر پختونخوا صاحب براہ مہربانی میرے بیٹے کا ڈیپلٹمنٹل عمران خان نمبر 511 کی جتنی بھی تنخواہیں اور دیگر ایجوڈرخواست آپ حضور سے التماس ہے کہ من سائل کا پچھلا ریکارڈ اور بالخصوص میرے شہید والد کا نام جناب DSP/CTD بہادر خان کی شہادت کو مد نظر رکھتے ہوئے مندرجہ بالا سزا معاف فرما کر سائل پر احسان فرمائیں۔ من سائل اور اس کے اہل و عیال آپ کے لیب تاحیات دعا گو رہیں گے۔ سائل کو آپ جناب حضور کے سامنے پیش ہونے کا موقع دے کر مشکور فرمائیں۔

العارض

\_\_\_\_\_

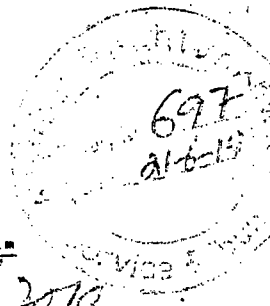
سائل عمران خان بلٹ نمبر 511 ولد شہید DSP بہادر خان CTD

موبائل: 0315-9888282

محرّف: 10-7-2020

APS<sup>o</sup> / TAHER Khan S.i

For Appellate



**BEFORE THE SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA, PESHAWAR.**

*Restoration Application No. 251/2019*

CM No:- \_\_\_\_\_ /2017

In

Service Appeal No: 765/2016

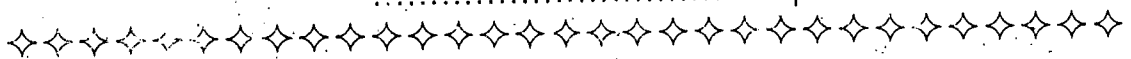
Nauman Khan Constable 5030 Elite force Khyber  
Pakhtunkhwa Peshawar

..... Petitioner

**Versus**

1. Provincial Police, Officer Khyber Pakhtunkhwa
2. Commandant Elite Force Khyber Pakhtunkhwa Peshawar
3. Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar

..... Respondents



APPLICATION FOR RESTORATION OF ABOVE  
TITLED SERVICE APPEAL NO 765/2016.  
WHICH WAS DISMISSED FOR NON  
PROSEUCION VIDE ORDER EDATED  
13/06/2019

*Respectfully Sheweth:-*

*Petitioner very humbly submit as under:-*

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 765/2016

Date of Institution ... 23.06.2016

Date of Decision ... 01.09.2021

Nauman Khan Constable 5030 Elite Force, Khyber Pakhtunkhwa Peshawar  
(Appellant)

VERSUS

Provincial Police Officer Khyber Pakhtunkhwa, Peshawar and two others.  
(Respondents)

ROEEDA KHAN  
Advocate

For Appellant

MUHAMMAD ADEEL BUTT,  
Additional Advocate General

For Respondents

SALAH-UD-DIN  
ATIQ-UR-REHMAN WAZIR

MEMBER (JUDICIAL)  
MEMBER (EXECUTIVE)

**JUDGMENT**

**ATIQ-UR-REHMAN WAZIR MEMBER (E)**:- Brief facts of the case are that the appellant was enlisted as constable in Elite Force on 02-04-2011 and during the course of his service; he was proceeded against on the charges of absence from duty. The appellant was ultimately removed from service vide order dated 04-08-2015, against which the appellant filed departmental appeal which was decided on 05-01-2016. The appellant filed revision petition on 25-11-2015, which was rejected on 23-05-2016, hence the instant service



appeal with prayers that the appellant may be re-instated in service with all back benefits.

02. Learned counsel for the appellant has contended that the impugned orders were passed without considering the defense plea of the appellant; that ex-parte proceedings were conducted and the appellant was penalized without affording proper opportunity of defense; that absence of the appellant was not willful, rather he was managing treatment of his sick mother, who ultimately died in hospital; that the impugned order is void to the effect that it was passed by an incompetent authority, as the appellant was an employee of central police office and was on deputation to Elite force and rule 9 of police rules, 1975 provides that action is required to be taken by the lending authority, but action against the appellant was taken by an incompetent authority; that no opportunity of personal hearing was afforded to the appellant and ex-parte proceedings were conducted at the back of the appellant.

03. Learned Additional Advocate General appearing on behalf of the respondents has contended that the appellant remained absent from lawful duty with effect from 09-11-2014 to 22-12-2014. To this effect charge sheet and statement of allegations were served upon the appellant, to which he failed to advance any plausible explanations; that the appellant was again found absent from duty vide report recorded in the daily diary dated 03-01-2015; that the appellant himself avoided to join the proceedings, hence ex-parte action was initiated against him; that departmental appeal as well as revision petition of the appellant were barred by time and without any force, hence were rejected.

04. We have heard learned counsel for the parties and have perused the record. Available on record is a long list of medical prescriptions in respect of mother of the appellant and her admission in various hospitals and who ultimately died in hospital on 11-12-2014 as per death certificate available on record. The dates of absence recorded in statement of allegations is 09-11-2014 to 22-12-2014(43 days), which is in congruity with the medical prescriptions and her ultimate death and which shows that absence of the appellant was based on some genuine reasons and was not willful. In response to charge sheet the appellant had taken the same stance of illness of his mother, but the respondents, who were required to take sympathetic consideration of his case, did not consider illness of his mother, rather in a slipshod manner conducted an inquiry at the back of the appellant without affording any opportunity of personal hearing to the appellant, and as per comments of the respondents, a final show cause notice, which is not available on record, was served upon the appellant without copy of the inquiry report and ultimately the impugned order dated 04-08-2015 of removal from service in respect of the appellant was issued by Deputy Commandant Elite Force, against which the appellant filed departmental appeal. The impugned order clearly mentions that keeping in view his absence, ex-parte action was taken against him. The impugned order also shows two duration of absence i.e. 09-11-2014 to 22-12-2014 and 03-01-2015 to 04-08-2015. Record reveals that the second period is the time, when the appellant was subjected to disciplinary proceedings and obviously, he was not allowed any posting, but the period was declared absent. Departmental appeal was rejected on 01-10-2015, which shows that his departmental appeal was well within time. The appellant filed

revision petition on 25-11-2015, which was rejected on 23-05-2016 and the appellant filed service appeal on 23-06-2016, so the case otherwise is not barred by time.

05. We have observed that both the appellant as well as the respondents presented incomplete record of the case, as no copy of the inquiry report or final show cause notice is available on record. The information we have gathered are from a letter dated 05-01-2016 issued from the office of Addl. IG Elite Force addressed to IGP. Such letter was addressed in response to the revision petition dated 25-11-2015 presented before IGP and this letter contains valuable information, which shows that the appellant was on deputation to Elite Force and was proceeded against by the borrowing department. The inquiry so conducted by the borrowing department recommended that his absence period be treated as leave without pay and he may be repatriated to his parent department, but the appellant was removed from service by the borrowing department vide order dated 04-08-2015. The appellant preferred departmental appeal before Addl. IG Elite Force, which was rejected on 01-10-2015.

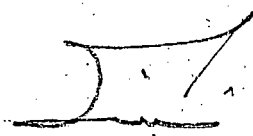
06. Rule-9 of Police Rules, 1975 provides for procedure of inquiry against officers lent to other government or authority, in case the borrowing authority is of the opinion that any punishment should be imposed on him, it shall transmit to the lending authority the record of the proceedings and thereupon the lending authority shall take action as prescribed in these rules. Since the appellant was on deputation to Elite Force, which is evident from the impugned order as well as letter dated 05-01-2015 and his removal from service does not fall within their ambit, hence the impugned order is void, as it


was passed by an authority not competent to pass the same. Reliance is placed on 2019 CLC 394. The Apex Court in another judgment reported in 2014 SCMR 1189 have held that termination order passed by an officer not competent in law to pass such order would be void and without lawful authority, consequently neither bar of limitation would be attracted nor period of limitation would run against such order.

07. Needless to mention that the appellant was condemned unheard and was not afforded proper opportunity of personal hearing and such order has been declared by the apex court as void order. Reliance is placed on 2003 PLC (CS) 365. The proceedings so conducted were not in accordance with law. The Apex Court in its judgment reported in 2008 SCMR 214 have held that absence on medical ground does not constitute gross misconduct entailing major penalty of dismissal from service. The apex court in another judgment have held that regular inquiry is must before imposition of major penalty, which however was not done in the instant case. Reliance is placed on 2021 PLC (CS) 235.

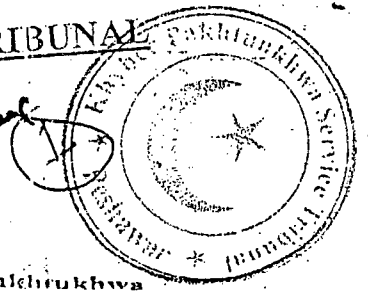
08. In view of the foregoing discussion, the instant appeal is accepted and the appellant is re-instated in service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED  
01.09.2021

  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

  
(ATIQ-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR



Appeal No. 4299 / 2021

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 4289

Dated 30/3/2021

Mr. Qais Khan Ex. Head constable NO. 270,  
Traffic Police Office Peshawar.

APPELLANT

VERSUS

1. The Addl: Inspector General Of Police, KP Peshawar.
2. The Chief Traffic Officer Peshawar.
3. The Central City Police Officer, Peshawar.

(Respondents)

APPEAL UNDER SECTION 4 OF THE SERVICES TRIBUNAL  
ACT, 1974 AGAINST THE APPELLATE ORDER DATED  
04.03.2021 WHEREBY, THE APPEAL OF THE APPELLANT  
HAS BEEN ACCEPTED AND APPELLANT HAS BEEN RE-  
INSTATED INTO SERVICE AND PENALTY OF DISMISSAL  
WAS CONVERTED IN TO PENALTY OF REVERSION FROM  
HEAD CONSTABLE TO CONSTABLE.

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE ORDER  
DATED 01.10.2020, 25.08.2020 MAY KINDLY BE SET-ASIDE  
AND ORDER DATED 04.03.2021 MAY KINDLY BE MODIFIED  
TO THE EXTENT OF REVERSION FROM THE RANK OF  
HEAD CONSTABLE TO CONSTABLE AND MAY KINDLY BE  
RESTORE TO THE ORIGINAL POST WITH ALL BACK AND  
CONSEQUENTIAL BENEFITS AND ANY OTHER REMEDY  
WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND

Filed to-day

30/03/2021

ATTESTED

Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 4279/2021

Date of Institution ... 30.03.2021

Date of Decision ..... 20.01.2022



Mr. Qais Khan Ex-Head Constable No. 270, Traffic Police Office, Peshawar  
(Appellant)

VERSUS

The Addl: Inspector General of Police, Khyber Pakhtunkhwa Peshawar and two  
others. (Respondents)

Qais Khan,  
Appellant

In Person

Muhammad Adeel Butt,  
Additional Advocate General

For respondents

AHMAD SULTAN TAREEN  
ATIQU-UR-REHMAN WAZIR

CHAIRMAN  
MEMBER (EXECUTIVE)

JUDGMENT

ATIQU-UR-REHMAN WAZIR MEMBER (E):-

Brief facts of the case

are that the appellant while serving as head constable in police department was proceeded against on the charges of misconduct and was ultimately dismissed from service vide order dated 25-08-2020. Feeling aggrieved, the appellant filed departmental appeal, which was also rejected vide order dated 01-10-2020. The appellant filed revision petition, which was accepted vide order dated 04-03-2021 and the appellant was re-instated in service and penalty of dismissal was converted into reduction from the rank of head constable to that of constable, hence the instant service appeal with prayers that the impugned order dated 01-10-2020 may be set aside and order dated 25-08-2020 may be modified to the extent of reversion from the rank of head constable to constable and the


ATTESTED

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

appellant may be restored to his original post of head constable with all back and consequential benefits.

02. Appellant has contended that the impugned order is liable to be set aside as the authorities has passed such order without properly evaluating the evidence and material on record; that the penalty so awarded is in violation of FR-29 as the time period has not been mentioned in the impugned order of reversion to lower grade; that sufficient ground of innocence of the appellant exist as per verdict of supreme court judgment cited as NLR 2005 TD SC 78, which has held that no one can be punished for fault of others, hence the impugned order is illegal; that the penalty so awarded is harsh which does not commensurate with gravity of the guilt; that inquiry proceedings were conducted at the back of the appellant and the appellant was not associated with proceedings of the inquiry; that the appellant was not afforded appropriate opportunity of defense, nor any chance of personal hearing was afforded to the appellant; that neither statements of the witnesses were recorded in presence of the appellant nor the appellant was afforded opportunity to cross-examine such witnesses; that inquiry report was not handed over to the appellant alongwith showcuase notice inspite of repeated requests of the appellant to this effect, thus the appellant was left unable to advance his defense in rebuttal of the finding report.

03. Learned Additional Advocate General for the respondents has contended that the appellant was proceeded against on the charges of insubordination as he had impounded a vehicle belonging to DSP Headquarter and upon intervention of DSP, he got furious and squabbled with DSP Headquarters; that upon the compliant of DSP Headquarter, the appellant was issued proper charge sheet/statement of allegations, to which he responded; that showcuase notice was issued to the appellant, and inquiry officer was appointed, who conducted proper inquiry and found him guilty of misconduct; that the appellant was afforded appropriate opportunity of defense, but he failed to prove his innocence,

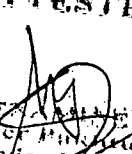
ATTESTED  
  
 AG  
 District Judge  
 District Court  
 District

hence he was awarded with major punishment of dismissal from service; that revision petition of the appellant was considered and accepted and taking a lenient view, the appellant was re-instated into service and major penalty of dismissal from service was converted into reduction from the rank of head constable to that of constable.

04. We have heard both the parties and have perused the record.

05. Record reveals that the appellant while serving as head constable in traffic police and performing his routine duty, had noticed a Suzuki van wrongfully parked on main GT road. The appellant asked for documents of the vehicle, but the driver resorted to misbehavior. The appellant reported the matter to incharge traffic GT Road, who also was present in the vicinity and who reached the spot immediately, but at the same time DSP Headquarter also reached the spot and it was found that driver of the van was son of DSP Headquarter and DSP Headquarter misbehaved with the appellant and threatened him of dire consequences. In a way, the appellant was restrained from performing his legal duty and complaint was registered against the appellant and on the same charges. The appellant was proceeded against departmentally on personal scores of DSP Headquarters and was ultimately dismissed from service. Needless to mention that one-sided departmental proceedings were initiated against the appellant and the respondents were bent upon removing the appellant at any cost. The appellant was kept deprived of the opportunity to cross-examine witnesses, thus skipping a mandatory step and the appellant was dismissed from service without adhering to the method prescribed in law. The appellant however was re-instated in service by converting his major punishment into reduction from the post of head constable to that of constable but with no time period mentioned for such reduction, which however is illegal and not supported by the prevailing law and rule. We have observed that the appellant was targeted by DSP Headquarter due to his personal grudge, as his son was charged by the appellant

ATTESTED

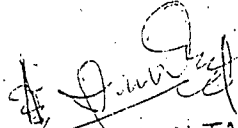
  
 Khyber Pakhtunkhwa  
 Swat District




for wrong parking, for which the appellant was malafiedly involved in departmental proceedings and was penalized for his good performance.

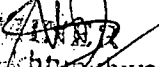
06. In view of the foregoing discussion, the instant appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED  
20.01.2022

  
(AHMAD SULTAN TAREEN)  
CHAIRMAN

  
(ATIQ-UR-REHMAN WAZIR)  
MEMBER (E)

Certified to be true copy

  
EXAMINER  
Khyber Pachtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application 26-01-22  
Number of Words 2000  
Copying Fee 22/-  
Urgent 5/-  
Total 26/-  
Name of Copy \_\_\_\_\_  
Date of Completion of Copy 26-01-22  
Date of Delivery of Copy 26-01-22

*Faw Apalla*

2007 P L C (C.S.) 184

[Supreme Court of Pakistan]

Present: Tanvir Ahmed Khan and Khalil-ur-Rehman Ramday, JJ

MAJID MUHAMMAD SHEHZAD and 22 others

versus

DISTRICT HEALTH OFFICER and another

Civil Petitions Nos.403-L to 425-L, of 2002, decided on 3rd May, 2002.

(On appeal from the judgment, dated 5-12-2001 of the Punjab Service Tribunal Lahore, passed in Appeals Nos.539-542, 545-552, 558, 561-563, 565-567, 569 and 570 of 1999)

Punjab Service Tribunals Act (IX of 1974)---

---S. 4---Reinstatement---Recovery of back-benefits---Order of dismissal of civil servants from service was set aside by Service Tribunal but back-benefits were declined by treating intervening period as extraordinary leave---Validity---Nothing was available on record that the civil servants were lawfully employed anywhere during the relevant period, therefore, it would be unjust and harsh to deprive them of back-benefits for the period for which they remained out of job without any fault from their side---Civil servants were 'proceeded' under Punjab Civil Servants (Efficiency and Discipline) Rules, 1975, for no fault on their part and their services were terminated in an arbitrary manner without providing any reason---Salaries of the civil servants would not be withheld for the intervening period when they remained out of service due to whimsical and arbitrary actions of the functionaries---Civil servants had every right to recover their arrears---Supreme Court converted petition for leave to appeal into appeal and allowed the civil servants all back-benefits---Appeal was allowed.

Pakistan through General Manager, P.W.R., Lahore v Mrs. A.V. Issacs PLD 1970 SC 415 fol.

Haliz Tariq Nasim, Advocate Supreme Court for Petitioners (in all C.Ps.)

M. S. Fowzi Zafar, Assistant Advocate-General for Respondents.

**ORDER**

TANVIR AHMED KHAN, J.---This order shall dispose of all the petitions directed against a consolidated judgment, dated 27-11-2002 of the Punjab Service Tribunal (hereinafter called the Tribunal).

2. Facts briefly stated are that the petitioners in all these cases after having passed their Matriculation

Examination joined "Dispenser Course" held by the Punjab Medical Faculty being conducted under the authority of the Punjab Health Department. After successful completion of the aforesaid course the petitioners were issued Certificates of Dispenser Course by the Punjab Medical Faculty. It is pertinent to mention over here that before admission to the said course the petitioners were required by the Government of Punjab to execute a surety bond in favour of the Government that on successful completion of the said Course the petitioners would be bound to serve the Government Punjab Health Department at least for two years. All the petitioners, according to learned counsel, executed the said bond.

3. In May, 1992 an advertisement appeared in the daily press by the respective Health Officers for appointment to the posts of Medical Technicians in BPS-9 and Dispensers in (BS-6) in various District Hospitals in the Punjab. The required qualification for the post of Dispenser was Matriculation with Dispenser Diploma. All the petitioners applied for the post of Dispenser. They were interviewed by a Recruiting Committee comprising of Additional Director Health Services and other officers from the Health Directorate. Resultantly the petitioners were appointed as Dispensers and respective letters of appointment were issued in the year 1993. They were posted against the posts of Medical Technicians in (BS-9) in their own pay and scale i.e. (BS-6), the scale of the Dispenser against which post they were appointed. Surprisingly after five years of their successful and unblemished service they were issued notices in October, 1998 under Efficiency and Discipline Rules, to show cause why disciplinary action should not be taken against them for violating the Punjab Civil Servants (Appointment and Condition of Service Rules), 1974 in their appointments.

The petitioners submitted their reply. However, without providing any opportunity of hearing their services were terminated and they were removed from service on 20-2-1999. The petitioners submitted Departmental Appeals which were rejected in pursuance to Government Letter No.SO(GIII)1-3/98, dated 9-2-1999, on the ground that their appointments against the posts of Medical Technicians were erratic and contrary to the Government policy/rules.

All the petitioners challenged their termination and the rejection of their Departmental, appeals under section 4 of the Punjab Service Tribunals Act, 1974. The learned Tribunal accepted all the appeals and issued direction for their re-adjustment in the service as Dispensers intervening period was ordered to be treated as extraordinary leave. Hence, these petitions for leave to appeal.

6. Learned counsel appearing for the petitioners has argued that the learned Tribunal has committed a grave error in not allowing them back-benefits as they were ordered by the competent authority to work against the posts of Medical Technicians in their own pay and scale without any fault of their own. The learned Law Officer has opposed the back-benefits simply on the ground that the same had not been allowed by the Tribunal while allowing their appeals.

7. We have considered the contentions and have gone through the documents appended with the petitions. We must say at the very outset that the respondents filed civil petitions earlier against the order of the Tribunal, subject-matter of these Petitions Nos.490, 555-587-L of 2002 which have been dismissed by this Court on 26-4-2002. It must be appreciated and the same is not denied that all the petitioners fully satisfy the requirements for the post of Dispensers. They were appointed by the Recruitment Committee after issuance of public notice for the appointment of Dispensers in the daily press. It is pertinent to mention over here that the petitioners acted according to their bond which they had earlier executed at the time of entry into course of Dispenser. They executed the bond that they would serve the Punjab Health Department for a period of two years. They have got unblemished period of five years service at their disposal. We fail to understand why they were issued show-caused

notices under Efficiency and Discipline Rules without there being any complaint of either nature against them. They have been thrown out of service by the competent authority in a slipshod mechanical manner simply on the basis of direction issued by the Government vide letter, dated 12-1999. The competent authority nor the departmental authority applied its independent mind to the grievance of the petitioners. It is worth mentioning over here that during the course of proceedings before the Tribunal the District Attorney who was representing the respondents after seeking instructions from the departmental authority made a statement before Tribunal that the petitioners could not have been terminated from service. According to him the petitioners/appellants at the most could have been reverted to their original posts of Dispensers in BS-6. At the cost of repetition we must observe that after successful selection of the petitioners by the Recruitment Committee as Dispensers the competent authority adjusted them on its own against the posts of Medical Technicians in the grade of Dispensers. The petitioners are only claiming the back-benefits of the posts of Dispensers and not of Medical Technicians against which they were forced to work. It is also to be appreciated that the petitioners have been meted out discriminatory treatment as admittedly certain other Dispensers who were appointed along with the petitioners were kept in service while the petitioners have been thrown on the road side in an arbitrary manner. Furthermore, there is nothing on record that the petitioners were gainfully employed anywhere during the relevant period. It would be very unjust and harsh to deprive them of back-benefits for the period for which they remained out of service without any fault from their side. At the cost of repetition they were proceeded under (Efficiency and Discipline) Rules for no fault on their part and their services were terminated in an arbitrary manner without providing any reason. The departmental authority rejected their appeals simply on the ground that they were appointed against the post of Medical Technician in an erratic manner without noticing that they were selected as Dispensers in BS-6 and the competent authority of its own adjusted them as Medical Technicians in their own pay and scale. It was not their fault that they held the post of Medical Technician. All these aspects have not been considered and the petitioners were made to suffer throughout this period for no fault of their own. In these circumstances we fail to understand how their salary can be withheld for the said period when they remained out of service due to whimsical and arbitrary actions of the functionaries. The petitioners have got every right to recover their arrears. Reliance in this respect is placed on Pakistan through General Manager, P.W.R., Lahore v. Mrs. A.V. Issacs PLD 1970 SC 415. Accordingly, keeping in view all the aforesaid features of the cases, we convert these petitions into appeals and allow the petitioners all the back-benefits. There shall be no order as to costs.

H/S-136/SC

Appeals allowed.

*Fwd Appellate*

2015 S C M R 77

[Supreme Court of Pakistan]

Present: Iftikhar Muhammad Chaudhry, C.J., Tassaduq Hussain Jilani, Amir Hani Muslim, Gulzar Ahmed and Sh. Azmat Saeed, JJ

INSPECTOR-GENERAL OF POLICE, PUNJAB---Appellant

Versus.

TARIQ MAHMOOD---Respondent

Civil Appeal No. 52 of 2012, decided on 25th April, 2013.

(On appeal from the judgment dated 20-10-2011 of the Punjab Service Tribunal, Lahore passed in Appeal No.3039 of 2010)

Civil Service Rules (Punjab)---

---R. 7.3---Fundamental Rules, R. 54---Reinstatement in service---Back benefits, entitlement to--- Payment of back benefits on reinstatement in service---Scope---Police official was dismissed from service due to registration of F.I.R. and civil suit filed against him---Police official filed revision petition before the Inspector General of Police, which was kept pending till the decision of F.I.R. case and civil suit by the court---Subsequently police official was acquitted from the F.I.R. case and as a result his revision petition was allowed and he was reinstated in service---Service Tribunal allowed payment of back benefits to the police official for the period during which he remained out of service---Validity---Grant of back benefits to an employee who was reinstated by a Court/Tribunal or the department was a rule and denial of such benefits was an exception on the proof that such person had remained gainfully employed during such period---Entitlement of back benefits of a person had to be determined on the basis of facts of each case independently---Police official could not be held responsible for the period during which his revision petition was kept pending due to the F.I.R. and civil suit, because such pendency was on account of the act of the police department---Revision petition filed by police official was kept pending till the decision of the criminal as well as civil case, which had no relevance because unless he had been found guilty by the Court, he was not debarred from performing his duty---Police official was entitled to back benefits, as it was the police department, which on basis of a wrong opinion kept him away from performing his duty---Police official was entitled to back benefits from the date of filing revision petition till his reinstatement in service---Appeal was dismissed accordingly.

Muhammad Hussain and others v. EDO (Education) and others 2007 SCMR 855; Federation of Pakistan through Secretary, Ministry of Education and others v. Naheed Naushahi 2010 SCMR 11; Sher Muhammad Shahzad v. District Health Officer 2006 SCMR 421; Binyamin Masih v. Government of Punjab through Secretary Education, Lahore 2005 SCMR 1032; General Manager/Circle Executive Muslim Commercial Bank Limited v. Mehmood Ahmed Butt 2002 SCMR 1064; Pakistan through General Manager, P.W.R., v. Mrs. A.V. Issacs PLD 1970 SC 415; Muhammad Bashir v. Secretary to the Government of Pakistan 1994 SCMR 1801 and Trustees of the Port of Karachi v. Muhammad Saleem 1994 SCMR 2213 ref.

2015 S C M R 77

[Supreme Court of Pakistan]

Present: Iftikhar Muhammad Chaudhry, C.J., Tassaduq Hussain Jilani, Amir Hani Muslim, Gulzar Ahmed and Sh. Azmat Saeed, JJ

INSPECTOR-GENERAL OF POLICE, PUNJAB---Appellant

Versus

TARIQ MAHMOOD---Respondent

Civil Appeal No. 52 of 2012, decided on 25th April, 2013.

(On appeal from the judgment dated 20-10-2011 of the Punjab Service Tribunal, Lahore passed in Appeal No.3039 of 2010)

Civil Service Rules (Punjab)---

---R. 7.3---Fundamental Rules, R. 54---Reinstatement in service---Back benefits, entitlement to--- Payment of back benefits on reinstatement in service---Scope---Police official was dismissed from service due to registration of F.I.R. and civil suit filed against him---Police official filed revision petition before the Inspector General of Police, which was kept pending till the decision of F.I.R. case and civil suit by the court---Subsequently police official was acquitted from the F.I.R. case and as a result his revision petition was allowed and he was reinstated in service---Service Tribunal allowed payment of back benefits to the police official for the period during which he remained out of service---Validity---Grant of back benefits to an employee who was reinstated by a Court/Tribunal or the department was a rule and denial of such benefits was an exception on the proof that such person had remained gainfully employed during such period---Entitlement of back benefits of a person had to be determined on the basis of facts of each case independently---Police official could not be held responsible for the period during which his revision petition was kept pending due to the F.I.R. and civil suit, because such pendency was on account of the act of the police department---Revision petition filed by police official was kept pending till the decision of the criminal as well as civil case, from performing his duty---Police official was entitled to back benefits, as it was the police department, which on basis of a wrong opinion kept him away from performing his duty---Police official was entitled to back benefits from the date of filing revision petition till his reinstatement in service---Appeal was dismissed accordingly.

Muhammad Hussain and others v. EDO (Education) and others 2007 SCMR 855; Federation of Pakistan through Secretary, Ministry of Education and others v. Naheed Naushahi 2010 SCMR 11; Sher Muhammad Shahzad v. District Health Officer 2006 SCMR 421; Binyamin Masih v. Government of Punjab through Secretary Education, Lahore 2005 SCMR 1032; General Manager/Circle Executive Muslim Commercial Bank Limited v. Mehmood Ahmed Butt 2002 SCMR 1064; Pakistan through General Manager, P.W.R., v. Mrs. A.V. Issacs PLD 1970 SC 415; Muhammad Bashir v. Secretary to the Government of Pakistan 1994 SCMR 1801 and Trustees of the Port of Karachi v. Muhammad Saleem 1994 SCMR 2213 ref.

Jawwad Hassan, Additional A.-G. for Appellant.

Aftab Alam, Advocate Supreme Court for Respondent.

Date of hearing: 25th April, 2013.

**JUDGMENT**

**IFTIKHAR MUHAMMAD CHAUDHRY, C.J.** —Leave to appeal has been granted by this Court vide order dated 1st March, 2012, to examine the following question:-

"Inter alia contends that the learned Service Tribunal could not have exercised discretion to modify the quantum of punishment. Relies on IG (Prisons) N. W.F.P., etc. v. Syed Jaffar Shah (2009 PLC (C.S.) 47). Leave is granted inter alia to consider the issue raised.

2. On 13th March, 2012, the learned Bench, seized of the matter, was required to examine the provisions of rule 7.3 of the Civil Service Rules (Punjab) in the context of the payment of the entire back benefits for a period of 17 years, 8 months and 29 days during which the respondent stood removed from service and in this behalf, two judgments, titled as Muhammad Hussain and others v. EDO (Education) and others (2007 SCMR 855) and Federation of Pakistan through Secretary Ministry of Education and others v. Jahaheed Naushahi, (2010 SCMR 11) were cited. The learned Bench noted that some principles had been laid down in both the above-mentioned judgments but not in a definite way, particularly, when examined in the light of the circumstances of this case, therefore, it was considered appropriate that a rule be enunciated, after considering all the relevant aspects, arising in this and similar cases with further observation that it be placed before a Bench of five learned Judges of this Court for resolving the conflicting judgments.

3. A brief account of the facts of the instant case is that upon a written complaint submitted by one Mst. Sakina Bibi through her husband, a case was registered against the respondent, Constable Tariq Mehmood (No.7607) and others, vide F.I.R. No.52/1992 under sections 109/419/420/468/471, P.P.C. at Police Station Lower Mall, Lahore. Due to registration of the criminal case he was placed under suspension on 6-7-1992 w.e.f. 29-6-1992. Incidentally, the respondent had also been found absent from duty for a period of three months and 26 days w.e.f. 29-6-1992 to 28-7-1992 and 30-8-1992 up till the passing of order dated 26-11-1992, when in pursuance of departmental proceedings, he was dismissed from service under Punjab Police Rules, 1975. Against the order of dismissal from service, respondent preferred an appeal which was dismissed on 21-4-1993.

4. The respondent had been facing trial before the learned Magistrate in pursuance of the above-referred F.I.R. In the meanwhile, he also filed a Revision Petition before the Inspector General of Police. Revision petition so filed by him was entertained but it was kept pending till the decision of the case arising out of the F.I.R. noted hereinabove, as well as adjudication of a civil suit. It may also be noted that in respect of the same subject matter, a civil suit was also pending in which the respondent was not a party. However, in the criminal case noted hereinabove, the respondent was ultimately acquitted from the criminal charge by the learned Magistrate, Section-30, Lahore vide order dated 1-3-2010 not on merits but while disposing of application under section 249-A, Cr.P.C.

5. It may be observed that this Court in the case of Dr. Muhammad Islam v. Govt. of N.-W.F.P. through Secondary Food, Agriculture Live Stock and Cooperative Department Peshawar and 2 others

(1998 SCMR 1993) had declared that all acquittals are certainly honourable. There can be no acquittal which may be said to be dis-honourable and the law has not drawn any distinction between these two types of acquittals. Thus, after recording of acquittal, the revision petition so preferred by him was allowed on 13-8-2010. The relevant paras therefrom are reproduced herein below:--

"This order shall dispose of a revision petition preferred by Ex-Constable Tariq Mehmood No.7607 of Lahore district against the punishment of "dismissal from service" awarded by the SP Headquarters, Lahore vide order No. 5575-80/ST, dated 26-11-1992 on the charge of his involvement in case F.I.R. No.52/92 under sections 419/420/468/471, P.P.C., Police Station Lower Mall, Lahore and absence from duty for a period of about 4 months. His appeal was rejected by the appellate authority vide order No.16150-51/AC, dated 21-4-1993.

(2) The undersigned has gone through the revision petition, parawise comments thereon offered by the punishing as well as appellate authorities and other relevant papers minutely. The petitioner has also been heard in person in the Orderly Room on 11-5-2010.

(3) Upon perusal of the case file it has transpired that on receipt of instant appeal the case was referred to AIG Legal for opinion as the criminal case is under trial who opined that the innocence of the appellant can not be established prior to the decision of the criminal case, which will be however, decided by the court after the disposal of civil suit, In the light of legal opinion the then competent authority directed on 13-2-1994 to pend the case till the decision of the court."

(4) The petitioner in his revision petition as well as during the course of personal hearing denied the allegations levelled against him and stated that he was falsely implicated in the above said criminal case. During personal appearance he has adduced a copy of order dated 1-3-2010 by Magistrate Section-30, Lahore, vide which he has been acquitted in case F.I.R. No.52/92 under sections 419/420/468/471, P.P.C., Police Station Lower Mall, Lahore under section 249-A, Cr.P.C. When asked about his absence from duty, the petitioner stated that he remained absent due to registration of said criminal (case) against him. Now the case has been decided by the competent court of law and there is no reason to keep it pending further.

(5) In the light of his acquittal in the criminal case, a lenient view is taken. The petitioner is reinstated in service with immediate effect and the period of absence/out of service will be treated as leave without pay. No emolument will be paid to him for the period of his absence/out of service."

6. In the opinion of the AIG, back benefits of the period during which the respondent could not join his service could not be established because of the pendency of the decision of the criminal case, which was to be decided by the Court after disposal of the civil suit case to determine the innocence of the respondent. We may observe, at this stage, that this opinion was against the law because the proposition of the law is that a person is innocent unless he is proven guilty by a competent Court of law. Reference may be made to the case of MUHAMMAD ASGHAR alias NANNAH v. State (2010 SCMR 1706).

However, for the redressal of his grievance in respect of grant of back benefits, he approached the Service Tribunal and succeeded in getting the back benefits as prayed for vide impugned judgment dated 20-10-2011. Concluding para therefrom is reproduced herein below:--

"5: The departmental view that according to rule 7.3 of CSR it is discretion of the competent authority to treat the period of absence either on duty or otherwise. But the discretion has to be used



judiciously. After acquittal in the criminal case and his reinstatement by the departmental authority there is no justification for depriving him of the benefits of the period that he remained out of service. Appeal is, therefore, accepted and the impugned orders are set aside. He be paid benefits of the period that he remained out of service."

7. The learned Additional Advocate-General, Punjab, in support of his arguments stated that as this Court in the judgment reported as Naheed Naushahi (Supra) had observed that the question of grant of back benefits in terms of monetary benefits has to be decided by the Department keeping in view the facts whether civil servant had been engaged in any job during the period when he was subjected to departmental proceedings or otherwise. Therefore, the Tribunal could not have passed an order in his favour without determining this aspect of the case. Reliance has also been placed by him on the case of Muhammad Bashir v. Secretary to the Government of the Punjab, Education Department, Lahore and 2 others (1994 SCMR 1801).

Whereas on the other hand in the case of Muhammad Hussain (ibid) it has been held that grant of service back-benefits to an employee who had been illegally kept away from employment was the rule and denial of such benefits to such a reinstated employee was an exception on the proof of such a person having remained gainfully employed during such a period. Therefore, he prayed that under Rule 7.3 of CSR, Service Tribunal may have not allowed him back benefits in view of the judgment which has been relied upon.

8. Learned counsel for the respondent stated that in view of the facts and circumstances of the case, Service Tribunal had given relief which is in accordance with the law laid down in the case of Muhammad Hussain (ibid).

9. We have carefully examined arguments put forward by both the learned counsel for the parties. It would be appropriate to note that a Full Bench of this Court in the case of Muhammad Bashir (ibid), while taking into consideration facts of the case, namely, the appellant therein was compulsorily retired on 26-6-1986 after completing 25 years of service under section 12(ii) of Punjab Civil Servants Act, 1974. After having failed to get his grievance redressed from the departmental authorities, he challenged the order of his retirement before Punjab Service Tribunal on two grounds, firstly, that he had not completed 25 years' service qualifying for pension and secondly, that the order of reinstatement had not been made in accordance with public interest. The Tribunal did not attend to the first ground but allowed appeal on the ground that the record of appellant was satisfactory and good. The Tribunal also held that the intervening period during which he remained out of service would be treated as leave without pay and on having taken into consideration section 16 of Punjab Civil Servants Act, 1974 read with FR 54 held as under:--

"In the present case clause (b) would attract. The Committee shall also take into consideration whether a civil servant has earned any amount by way of salary or as profit on account of his having accepted some employment or been engaged in some profitable business during the intervening period. Similarly, according to proviso (ii) of section 16 of the Punjab Civil Servants Act, 1974, where an order of removal of a civil servant has been set aside, he shall be entitled to such arrears of pay as the authority setting aside the order may determine. In the instant case, the Tribunal has not allowed the arrears of pay without assigning any reason. The learned counsel appearing on behalf of the respondents has referred to comments of the Punjab Service Tribunal, which state as under:--

"While hearing the case the appellant Muhammad Bashir had given his comment to forego arrears in case of his re-instatement in service. Consequently in the last para. of the judgment dated

28-3-1992 it is observed that the intervening period during which the appellant remained out of service shall be treated as leave without pay."

At this stage it would be appropriate to place in juxtaposition FR 54 and CSR 7 3 as under:--

F.R. 54	7.3 Civil Service Rules (Punjab)
<p>When the suspension of a Government servant is held to have been unjustifiable or not wholly justifiable; or when a Government servant who has been dismissed, removed or suspended is reinstated, the revising or appellate authority may grant to him for the period of his absence from duty...</p> <p>(a) if he is honourably acquitted, the full pay to which he would have been entitled if he had not been dismissed, removed or suspended and, by an order to be separately recorded any allowance of which he was in receipt prior to his dismissal, removal or suspension; and</p> <p>(b) if otherwise, such proportion of such pay and allowances as the revising or appellate authority may prescribe. It further provides that in a case falling under clause (a), the period of absence from duty will be treated as a period spent on duty.</p> <p>In a case falling under clause (b) it will not be treated as a period spent on duty unless the revising or appellate authority so directs. Provided that the amount of arrears payable to the government servants concerned, whether he is re-instated as a result of a Court judgment or acceptance of his appeal by the departmental authority, shall be reduced by the amount earned by way of salary or as profit on account of his having accepted some employment or been engaged in some profitable business during the period he remained dismissed, removed or suspended, and for the determination of the said amount a committee shall be constituted consisting of two officers of the Administrative Division and a representative of the Finance Division.</p>	<p>When a Government Servant who has been dismissed or removed from service, is reinstated, the revising or appellate authority may grant to him for the period of his absence from duty:</p> <p>(a) "if he is honourably acquitted, the full pay to which he would have been entitled if he had not been dismissed or removed and by an order to be separately recorded and allowances of which he was in receipt prior to his dismissal or removal; or</p> <p>(b) "if otherwise, such proportion of such pay and allowances as the revising or appellate authority may prescribe". In a case falling under clause (a), the period of absence from duty will be treated as a period spent on duty. In a case falling under Clause (b), it will not be treated as a period spent on duty unless the revising or appellate authority so directs.</p>

In the provisions quoted above, one thing is common namely that on re-instatement either by Court order or by the departmental authority, after acceptance of appeal, the employee would be entitled to back benefits, if it is established that he had not been engaged gainfully during the period when he was

out of job.

10. There is yet another provision on this subject i.e. SL.No.155, Vol-II, Esta Code, 2007 Edition, the contents whereof are reproduced hereinbelow:--

### Reinstatement of Government Servants on Court decision and Functions of Enquiry Committee.

A. reference is invited to the O.M from the Law Division No.F.7(8)-70-Sol(1), dated 12th August, 1970 (SL No.154), which states, inter alias, that, in accordance with the Supreme Court's judgment in C.A. No.28 of 1969 (West Pakistan v. Mrs. A. V Issacs), if the dismissal of a government servant is held to be unlawful, he has to be allowed salary for the period he was kept out of service, reduced by the amount, if any, that he might have earned by way of salary, or as profits, on account of having accepted some employment, or having been engaged in some profitable business, during the above period. Thus, the legal status of Governments' claims for arrears of pay and allowances is no longer the same as had been indicated in para.3 of this Ministry's Circular D.O. No.F.9(15)-RI (Rwp.)/61 dated 23rd December, 1961 (Annex). Consequently, it is no longer appropriate for the enquiry committee referred to in para.4 of that circular D.O. to consider on merits, in cases in which government servants are restored to their posts as a result of Court's decisions, as to whether or not, and not to what extent, pay and allowance for the period of their absence from duty should be restored.

(2) It has accordingly been decided that, in cases where a government servant is reinstated retrospectively as a result of a Court's decision, the functions of the enquiry committee to be set up under para.4 of this Ministry's Circular D.O.No.F.9(15)-RI(RHT)/61 dated 23rd December, 1961 (Annex) would henceforth be as follows:-

(a) The Ministry/Division/Department, as the case may be, may obtain from the government servant concerned, a solemn declaration, supported by an affidavit, as to the particulars of his employment, or engagement in profitable business, during the period of his absence from duty, and the amount earned by him by way of salary from such employment, or as profits in such business.

(b) After examining such evidence as might be available, and cross-examining, if necessary, the government servant, the Ministry/ Division/Department, as the case may be, may give their findings as to whether or not the above declaration is, 'prima facie' acceptable and on what grounds.

(c) If the declaration is found to be, 'prima facie' unacceptable, the Ministry/Division/Department, as the case may be, should refer the case to the committee, which, before giving their finding as to the amount earned by the government servant during the period of absence from duty, may get the declaration properly verified/scrutinized by any agency they consider appropriate. For example, if the case had been dealt with by the Special Police Establishment at any earlier stage in any connection, this verification/scrutiny may be arranged to be carried out by that Establishment. For purpose of this verification/scrutiny, assistance of the relevant Income-tax authorities may also be sought, if the government servant concerned be an Income-tax payer.

(d) In case the reinstatement of the government servant has been ordered by the Court on account of the relevant administrative action having been found to be defective, the committee should also give their findings:

- (i) As to which officers were responsible for that defectiveness of an administrative action; and
- (ii) As to whether any, and what part, of the amount payable to the government servant by way of net salary for the period of his absence from duty, might justifiably be recovered from such officers. The recovery from such officers will, of course, follow departmental proceedings under the Government Servants (Efficiency and Discipline) Rules.
- (3) The above instructions do not apply to cases in which government servants are reinstated as a result of acceptance of appeals by departmental appellate authorities, which will continue to be regulated by provisions of FR-54 as hitherto

(Annex)

(Extract of paras.4 and 5 of the Finance Division letter No.F.1(15)RI (Rwp)/61, dated 23rd December, 1961 as amended).

(4) If as a result of Court decision, a government servant restored to his post, the question whether pay and allowances for the period he was under suspension or was removed from service should be decided on merit of each case. For this purpose, it is suggested that in all cases the Ministry or Department concerned should order a departmental enquiry headed by the representative of the Ministry/Department Administratively concerned with their Financial Adviser/Deputy Financial Adviser as a member of the committee. This committee should consider whether, on the merits of the case, Government would be justified in restoring the official concerned, the pay and allowances for the period involved and, if so, whether in full or in part. In coming to a conclusion whether pay and allowances to the individual should or should not be restored, following considerations will have to be kept in view:--

- (a) Whether the person concerned was acquitted on a purely technical or procedural grounds or whether the actual allegations against him had been gone into and were found to be incorrect;
- (b) Whether the individual during the period he was away from active duty and other sources of income; and so on.

(5) It has further been decided that in cases where the total period involved does not exceed 12 months from the time the individual was suspended or removed from service, the final decision should be taken by the Ministry concerned at the level of Secretary and in all other cases the matter should be referred to the Ministry of Finance for prior concurrence."

In view of the above provisions of F.R. and CSR as well as Esta Code, this Court had been expressing its opinion with regards to the settled law in various pronouncements. Reference may be made to judgments in the cases of Muhammad Hussain (ibid); Naheed Naushahi's case (supra); Sher Muhammad Shahzad v. District Health Officer (2006 SCMR 421); Binyamin Masih v. Government of Punjab through Secretary Education, Lahore (2005 SCMR 1032); General Manager/Circle Executive Muslim Commercial Bank Limited v. Mehmood Ahmed Butt (2002 SCMR 1064); Pakistan through General Manager, P.W.R., v. Mrs. A. V. Issacs (PLD 1970 SC 415).

In the case of Muhammad Hussain (ibid), this Court has clearly settled the law stating that:--

"It is a settled law that grant of service back-benefits to an employee who had been illegally

kept away from employment was the rule and denial of such benefits to such a reinstated employee was an exception on the proof of such a person having remained gainfully employed during such a period."

And further that:-

"It is an admitted fact that there is nothing on record that the petitioners were gainfully employed anywhere during the relevant period and this fact was also not considered by the learned Service Tribunal in para 6 of the impugned judgment. Therefore, it would be very unjust and harsh to deprive the petitioners of back-benefits for the period for which they remained out of job without any fault from their side. It is a settled law that back benefits in such situation cannot be withheld by the respondents or by the learned Service Tribunal."

In the same case, the Supreme Court also distinguished the judgment of this Court in Mansoor-ul-Haq's case, cited above:--

"The learned Service Tribunal has refused back-benefits to the petitioners in view of law laid down by this Court in Mansoor-ul-Haq's case 2004 SCMR 1308 which is distinguished on facts and law wherein PIDC vide order dated 23-6-1986 terminated Mansoor-ul-Haq's lien by stating that the same will be maintained by PACO, a borrowing organization and not in the PIDC and the said proposal was accepted by the PACO, therefore, the judgment relied by the Law Officer and learned Service Tribunal is distinguished on facts and law."

In the case of Sher Muhammad (supra) it was held:--

"...there is nothing on record that the petitioners were gainfully employed anywhere during the relevant period. It would be very unjust and harsh to deprive them of back-benefits for the period for which they remained out of job without any fault from their side. At the cost of repetition they were proceeded under (Efficiency and Discipline) Rules for no fault on their part and their services were terminated in an arbitrary manner without providing any reason. The departmental authority rejected their appeals simply on the ground that they were appointed against the post of Medical Technician in an erratic manner without noticing that they were selected as Dispensers in BS-6 and the competent authority of its own adjusted them as Medical Technicians in their own pay and scale. It was not their fault that they held the post of Medical Technician, All these aspects have not been considered and the petitioners were made to suffer throughout this period for no fault of their own. In these circumstances we fail to understand how their salary can be withheld for the said period when they remained out of service due to whimsical and arbitrary actions of the functionaries. The petitioners have got every right to recover their arrears. Reliance in this respect is placed on Pakistan through General Manager, P.W.R., Lahore v. Mrs. A.V. Issacs (PLD 1970 SC 415). Accordingly, keeping in view all the aforesaid features of the cases, we convert these petitions into appeals and allow the petitioners all the back-benefits."

In the case of Binyamin Masih (supra), the Service Tribunal accepted the appeal preferred on behalf of the petitioner therein. However, it refused to grant back-benefits for the period during which the petitioner remained out of service. It was ordered by this Court that the intervening period be treated as leave of the kind due to him. The Supreme Court converted the petition into appeal and accepted the same while modifying the judgment of the Tribunal to the extent that the salary concerning the period from 24-1-1996 to 11-2-2000 would be paid to the petitioner within a period of four weeks under intimation to the Assistant Registrar of this Court at Lahore.

This Court ruled in the Mahmood Ahmed Butt case (supra) that:--

"It may be added that grant of service benefits to an employee who had been illegally kept away from his employment was the rule and denial of service benefits to such a reinstated employee was an exception on the proof of such a person having remained gainfully employed during such a period. The mere fact that the respondent had left the country and had gone abroad without any proof of his being gainfully employed during the period in question, was not sufficient to deprive him of the benefits in issue. Needless also to add that nothing is available with us to hold that the respondent had remained gainfully employed somewhere during the said period."

The Supreme Court directed in its judgment in the Naheed Naushahi case (supra):--

"Thus we are of the considered opinion that the Service Tribunal instead of granting relief as it is evident from the concluding paras with regard to the financial back-benefits may have referred the case to the department for establishing a Committee for the purpose as noted above. Before parting with this order it is to be noted that the department shall refer the case of the respondent to the Committee, which will be constituted in view of the above instructions contained in Sl.No.151 of the Code for determining whether she is entitled for the claimed financial benefits or not. However, the department is directed to dispose of the matter in respect of her back-benefits expeditiously but not beyond the period of two months on receipt of this order."

In the case of Muhammad Bashir v. Secretary to the Government of Pakistan (1994 SCMR 1801), leave to appeal was granted to the appellant to consider whether the Service Tribunal was justified in refusing back benefits. The brief facts of the case were that:--

"...the appellant was serving as Subject Specialist in Government Comprehensive School, Faisalabad, when he was retired from service under section 12(ii) of Punjab Civil Servants Act, 1974, after having completed 25 years' service, on 26-6-1986. The appellant having failed to get his grievance redressed from the Departmental authorities, approached the Punjab Service Tribunal. He challenged the order of his retirement on two grounds; firstly, the appellant had not completed 25 years' service qualifying for pension, and secondly that the order of retirement had not been made in the public interest. The learned Service Tribunal had not attended to ground No. 1 but allowed the appeal on the ground that the record of the appellant was satisfactory and good. The Character Roll presented in the Court depicts that his service record was quite satisfactory/good. While allowing the appeal the Service Tribunal held that the intervening period, during which the appellant remained out of service, shall be treated as leave without pay."

Citing the provisions of F.R. 54, the Supreme Court held that:--

"In the present case clause (b) would attract. The Committee shall also take into consideration whether a civil servant has earned any amount by way of salary or as profit on account of his having accepted some employment or been engaged in some profitable business during the intervening period. Similarly, according to proviso (ii) of section 16 of the Punjab Civil Servants Act, 1974, where an order of removal of a civil servant has been set aside, he shall be entitled to such arrears of pay as the authority setting aside the order may determine. In the instant case the Tribunal has not allowed the arrears of pay without assigning any reason."

In the case of Trustees of The Port of Karachi v. Muhammad Saleem (1994 SCMR 2213) the

Court has held that the while the entitlement of a reinstated employee to get the back benefits is to be determined on the basis of the facts of each case independently.

In the impugned judgment in this case, the Service Tribunal had held that the appellant had given his comment to forego arrears (back benefits) in case of his re-instatement in service. Consequently, it was observed by the tribunal that the intervening period during which the appellant remained out of service shall be treated as leave without pay. However, the Supreme Court held that this concession of the appellant had not been incorporated in the impugned judgment of the Service Tribunal and that there was also no reference to that back benefits are not allowed in view of the concession of the appellant. Therefore, it was held that these comments cannot be taken into consideration. In view of these facts and circumstances, the appeal was accepted, and the case remanded to the official respondents for deciding the matter in accordance with law. The Committee was ordered to decide the appellant's entitlement of arrears of pay and adjustment, if any, in accordance with Rule F.R. 54 and Civil Services Laws.

11. The crux of the above case-law is that the grant of back benefits to an employee who was reinstated by a Court/Tribunal or the department is a rule and denial of such benefit is an exception on the proof of that such a person had remained gainfully employed during such period. The entitlement of back benefits of a person has to be determined on the basis of facts of each case independently. There would be cases at times when no difficulty is felt by the Court or Tribunal to grant the back benefits when there are admitted facts between the parties but when there is a dispute in respect of the facts then of course, the matter had to be referred to the Department.

12. In the instant case the respondent was dismissed from service was awarded to him vide order dated 26-11-1992 but later on reinstated on 13-3-2010, however, the back benefits were not awarded to him as the intervening period was considered as absence/out of service. The case of the respondent is to be considered at the touchstone of the principles of granting back benefits as deduced from the judgments cited above. It is to be observed that as far as the question of granting back benefits to the respondent with regard to the period during which he remained absent from duty i.e. period of about 4 months could be based on a disputed fact but as far as the period during which his Revision Petition was kept pending for decision of the criminal as well as civil cases are concerned, the respondent cannot be held responsible for the same because it was on account of the act of the Department for which he cannot be held responsible in any manner, therefore, in view of such admitted facts and following the principles as laid down in both the above said judgments as well as in the case of Muhammad Basher (supra), we are of the opinion that minus the period during which he remained absent from duty i.e. four months, he is entitled to back benefits subject to establishing before the department in terms of Rule 7.3 of CSR that he was not gainfully employed during this period. As far as rest of the period is concerned, he is entitled for back benefits, as it was the Department, which on the basis of a wrong opinion kept him away from performing his duty, as it is evident from the order dated 13-8-2010 passed by the Revisional Authority, which has already been reproduced hereinabove:

12(sic.) For the foregoing reasons, we are of the opinion that there is no conflict in the judgments, which has been cited in the subsequent leave granting order dated 13-3-2012, the principles of both the cases are common, as it has been observed hereinabove. In the cases of such like nature, the Department should have decided the cases, depending upon the facts of each case and as far as the instant case is concerned, the respondent is entitled to get back benefits during the period when he had instituted a revision petition, which was kept pending till the decision of the criminal as well as civil cases, which have no relevance as unless he had been found guilty by the Court, he was not debarred from performing his duty. Therefore, from the date of filing of the revision petition and till its decision

he is entitled for back benefits as far as the question of giving him back benefits during the period when he remained absent, it is for the Department to conduct an inquiry and independently decide whether he is entitled for the same or not.

13. Thus, the appeal is dismissed with costs.

Appeal dismissed.

MWA/I-18/SC



*Fed Appeal  
had.*

*gainingly employee*

1999 S C M R 1873

[Supreme Court of Pakistan]

Present: Irshad Hasan Khan and Ch. Muhammad Arif, JJ

ALI NAWAZ --- Petitioner

versus

PAKISTAN RAILWAY through Chairman/Secretary and others ---  
Respondents

Civil Petition No. 1740-L of 1996, decided on 10th July, 1998.

(On appeal from the judgment dated 21-5-1996 passed by, the Federal Service Tribunal, Lahore in Appeal No. 370(L) of 1995).

**Civil service---**

---- Reinstatement --- Entitlement to back benefits --- Civil servant was removed from service on charge of misconduct --- Service Tribunal, on appeal, found that charge had not been proved and ordered his reinstatement --- Back benefits from date of removal from service up to date of reinstatement were, however, denied to civil servant---Validity --- No appeal against order of Service Tribunal reinstating civil servant had been filed by Authority and it was conceded that civil servant was not gainfully employed elsewhere during period of his removal from service --- Service Tribunal, in circumstances, was not right in denying back benefits.

Petitioner -in person.

Nemo for Respondents Nos. 1 and 2

Aslam Sindhu, Advocate Supreme Court with Ch. Mehdi Khan Mehtab,  
Advocate-on-Record for Respondents Nos.3, 4 and 5/Caveators.

Date of hearing: 10th July, 1998.

**JUDGMENT**

IRSHAD HASAN KHAN, J.---This petition for leave to appeal is directed against the Judgment dated 21-5-1996 passed by the Federal Service Tribunal, Lahore (hereinafter referred to as the Tribunal), in appeal No.370-L of 1995.

2. The petitioner is a Railways employee. He was removed from service with effect from 13-7-1995 on the charges of misconduct. On appeal, the charges levelled against him were found not proved and consequently he

was reinstated in service without payment of arrears for the period from the date he was removed to the date of his joining the department vide impugned judgment, dated-21st May, 1996. Admittedly, the petitioner was exonerated of the charges against him and not for technical reasons or by granting him benefit of insufficiency of evidence. It would be advantageous to reproduce paragraph 8 of the impugned judgment, which reads thus: --

"We have looked into all the aspects of the case and clumsy reaction of the department by removing him from service with effect from 13-7-1995 when he had asked for reply to be given by 14-7--1995. The action taken i.e. the removal of the appellant from service is not justified when he is not given even time to explain his case by the ruthless action by the department."

3. After hearing the petitioner in person and Mr. Aslam Sindhu, Advocate Supreme Court, learned Legal Advisor to the Railways, we find that in the facts and circumstances of the case, the Tribunal was not right in denying back benefits to the petitioners, particularly when it is an admitted fact that no appeal has been filed by the respondent-Railways against the impugned order dated 21-5-1996, whereby the petitioner has been reinstated in service, nor so when the learned Legal Advisor has frankly conceded that during the period of his removal and reinstatement the petitioner was not gainfully employed anywhere.

4. We, therefore, convert this petition into appeal and allowing the same set aside the impugned order of the Tribunal dated 21-5-1996 to the extent of denying the appellant back benefits.

5. The result is that the appellant shall be paid back benefits from the date of his removal to the date of his reinstatement. No costs.

I.B.T./A-126/S  
Petition allowed

Dy No 388 : Coord

Daed 19-06-2020

Dy: No. 56 PA-CCPO  
Dt: 24.06.2020  
Rank:

**DENOVO DEPARTMENTAL ENQUIRY AGAINST EX-FC IMRAN KHAN NO.4644**

This is a de-novo departmental enquiry against Ex-FC Imran Khan 4644 which was received from CPO vide memo: No. 683-85/CPO/IAB, dated 03.06.2020.

**Allegations.**

Allegations in the subject enquiry against Ex-FC Imran Khan No.4644 are that, he while posted at Police Station Phandu Peshawar, a video went viral through Social Media wherein he was found demanding illegal gratification from public in the jurisdiction of PS Phandu which tarnished the image of the department.

With reference to the above allegation, he was charge sheeted and Mr. Usman Ghani DSP Headquarters was appointed as Enquiry Officer.

The Enquiry Officer conducted departmental Enquiry against him and recommended him for "Major Punishment" vide his office memo: No. 4645/ST, dated 06.10.2017. Upon the recommendation of E.O, Mr. Sajjad Khan the then SSP/Operations dismissed him from services vide Order No. 1157-61/PA, dated 13.10.2017.

The mother of dismissed FC submitted appeal before Mr. Tahir Khan the then CCPO, Peshawar which was rejected vide order No. 1426-31/PA, 02.11.2017.

Latter on, the dismissed constable submitted service appeal before, the Khyber Pakhtunkhwa Service Tribunal, Peshawar and claimed that he was not given opportunity of cross examination neither the copy of enquiry was handed over to the appellant during service of final Show Cause Notice, therefore, the appellant was deprived from the right of defense.

After hearing both the parties, the learned Service Tribunal issued the verdict in favor of appellant and ordered that "the appeal is accepted, set-aside the impugned order, reinstate the appellant into service" and directed the department to conduct denovo enquiry in the mode and manners prescribed under the Police Rules 1975 with further direction to fully associate the appellant in the inquiry proceeding, provide him opportunity of cross examination.

On the orders of Honorable Court as well high ups of the department, the undersigned conducted denovo proceeding into the matter and recorded the statements of all concerned, discussed below:-

**Statement of Ex. FC Imran Khan No. 4644**

He stated in his statement that on 10<sup>th</sup> Muharram 2017 he was deployed as Mobile Patrolling Officer due to the shortage of upper subordinates. During Nakabandi at Janil Chowk Ring Road, he stopped a Honda-125 Motorcycle due to pillion riding. They were checked and asked the documents of bike but they failed to produce the same on the spot. The bike driver disclosed that they are ready to give fine of challan on the spot but he refused and took them to

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(16) with previous Enquiry file

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PS along with his bike and handed over them into the custody of MM Ubaid and Ameer Muhammad.

**Statement of Aziz-ur-Rehman DFC PS Phandu:-**

He stated that on the same day he was deployed as mobile driver with above named patrolling officer. He stopped two persons riding bike Honda-125. However, he was not aware regarding the happenings between them. Later on both were taken to Police Station Phandu and handed over to MMs.

**Statement of FC Sawar Khan No. 216 PS Phandu.**

He stated that he was deployed at mobile duty with patrolling officer Imran Khan. His Incharge stopped pillion riders at Nakabandi and took them to the Police Station Phandu. He did not know more than that.

**HC Ameer Muhammad No. 167 The Then MM PS Phandu:-**

He stated in his statement that due to the deficiency in strength MM Imran No. 4644 was deployed as Mobile Patrolling Officer. He arrested a young boy along with Bike-125 registration No. FY-4759 and sent him to Police Station in the custody of FC Sawar Khan No. 216. Later on Imran Khan Mobile Officer came to Police Station with another 45/50 years old person and told that they did not produce registration of bike therefore; charged them u/s 523/550 CrPC. However they produced bike registration which was verified and after satisfaction they were released on bail.

HC Ubaidullah No.170 also supported the version of MM Ameer Muhammad.

**Noor Muhammad Ex MASI PS Phandu:-**

He stated that as per the contingency plan of Moharram-2017 all the upper subordinates were deployed at different sectors and due to shortage of Officers, MM Imran was deputed for patrolling purpose.

**Taimour Saleem Khan Ex SHO PS Phandu:-**

He supported the version of the MASI Noor Muhammad PS Phandu.

**Muhammad Bilal s/o Shahid Ali r/o City Town Haji Camp:-**

He stated in his statement that on the same day he and his friend namely Abdur Rehman were on the way to home on bike, when reached to Jameel Chowk Police party stopped them and asked about the registration of bike. But on the spot he did not produce the registration of bike. He told the Mobile Officer Imran Khan to challan them on the spot, he did not accept the request. Later on he brought them to PS Phandu for further legal proceedings. After that he



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called his relative Mr. Azaz Khan (owner of bike) to present the registration, upon which he came to PS Phandu and also brought registration of bike which was verified by the Muharrir Staff and he was released on bail.

During cross examination, he deviated from his previous statement and told that no one demanded money as a bribe from him. Stated that on the same day he was annoyed and due to misunderstanding he complained against Imran Khan. Further told that, no one pressed or approached him to alter the statement. He insisted that his present statement was based on facts and admitted that the police had done their legal job.

One Abdur Rehman who was also riding with Bilal on bike also supported the version of Bilal. During cross examination, he also changed his previous statement and denied the allegations of demanding any amount as bribe by Imran Khan. He disclosed that his present statement was based on facts.

**Statement of Azaz Khan s/o Aurangzeb Khan r/o City Town:-**

He stated that on the same day he was present in his shop. His worker Mr. Abdur Reham took his motorcycle No. FY-4759. After a while Abdur Rehman informed him about the incident. He went to Police Station Phandu and produced the registration copy of the said bike to Muharrir PS Phandu. After proper verification and satisfaction they were released on bail.

On quarry he also denied the allegations leveled against Imran Khan Police official. He further admitted that his present statement was based on facts.

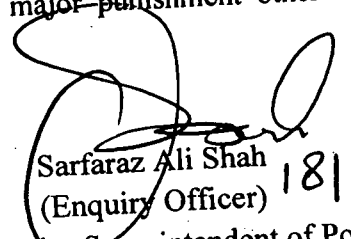
**Conclusion:-**

After going through the statements recorded during the course of de-novo enquiry and relevant record, it is concluded that police party headed by Imran Khan FC No. 4644 was patrolling in the area of their jurisdiction, PS Phandu. Due to Muharam there was ban on pillion riding. Imran Khan FC No. 4644 during routine checking for enforcement of ban on pillion riding stopped Muhammad Bilal riding motorcycle No. FY-4759 along with another person. Muhammad Bilal could not produce registration/ legal documents and asked Imran Khan FC to take money as amount for challan on the spot. It is evident from the statements recorded in de-novo enquiry that Imran FC refused to do so and took them to Police Station. Latter on they were released after producing the registration of the said motorcycle. Statement of Muhammad Bilal was supported by Abdur Rehman who was also riding with him on same motorcycle. The present statement of Muhammad Bilal is different from the statement recorded during the course of previous enquiry by the then Enquiry Officer and now he has denied the allegations of demanding illegal gratification from him by the delinquent official FC Imran Khan. Furthermore the video which went viral on social media was also not available for examination. It is also worth mentioning that it could not be ascertained that the amount, if demanded, was as illegal gratification or otherwise. However in any case, whatever the motive or situation was, it is established that the FC Imran Khan was not paid and

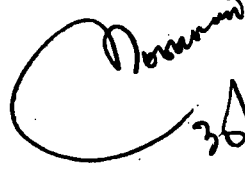


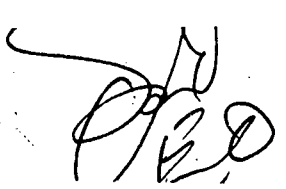
0345-9203611 B-6-2020

has not taken any money from Bilal, thus "action did not take place". Although due to insufficient evidence and during the course of de-novo enquiry, defection of Muhammad Bilal from his earlier statement, the allegations of demanding illegal gratification leveled against FC Imran Khan could not established however keeping in view the previous enquiry, punishment awarded to FC Imran Khan and rejection of his appeal by the appellant authority one of the major punishment other than dismissal from service is recommended to be awarded to him.

  
Sarfaraz Ali Shah  
(Enquiry Officer) 18/6/11  
Senior Superintendent of Police  
Coordination, CCP Peshawar

In the light of the findings of  
enquiry officer, the appellant is  
awarded major punishment of  
reduction in time scale of pay

  
36/6



0345-5203611 3-6-2011

بیان اذان مکران خان ولد سید ڈی۔ اے۔ اے۔  
 T.A. سید درخان. FCS II نمانہ چندو۔ MM  
 D.S.

نے بردیافت بیان کیا کہ ۱۰ محرم الحرام کے دن میری  
 جوابل کٹ دیا گیا اور رگڑ گئی تھی ایک موٹر سائیکل  
 بنوا گیا جس پر دو مسافر سوار تھے میں نے انکو  
 APL سے لایا اور کاغذات کی منت معلومات  
 گزرتی ہیں موقع پر موٹر سائیکل مذکورہ بالہ کی منت  
 نڈا وغیرہ ہیں نہ ٹریک موٹر سائیکل پر سوار ایک  
 نے کہا کہ جیلان 400 کے پیسے لو اور مجھے چھوڑ  
 میں نے جواب میں کہا کہ ہم ٹریفکار ہیں میں کہ  
 4 روپے جیلان کرے میں تجھے جائزن دوں میں کانسٹیبل  
 16 کو موٹر سائیکل مذکورہ حوالہ کر کے نمانے سے جانے  
 پے گیا جسے دستک نہیں کو جوابل میں بیٹھا کر جانے  
 طرف روانہ ہوئے موٹر سائیکل مذکورہ بالا میں نے خود  
 میں عبید، امیر محمد صدر مکران کو حوالہ کیا میں  
 عزیز جوابل کٹ گئے تھے جو اپنے روائے بنوا میں میرا علف  
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ولد: سید ڈی۔ اے۔ اے۔ پی  
 سید درخان

S H I

سوال: کیا وہ بلال کو جانتے ہیں؟

(75)

جواب: جی نہیں۔ ہاں

(2) سوال: کیا وہ بلال کو جانتے ہیں؟

جواب: جی نہیں۔ ہاں

(3) سوال: کیا وہ بلال کو جانتے ہیں؟

جواب: جی نہیں۔ ہاں

(4) سوال: کیا وہ بلال کو جانتے ہیں؟

جواب: جی نہیں۔ ہاں

(5) سوال: کیا وہ بلال کو جانتے ہیں؟

جواب: جی نہیں۔ ہاں



جی ہاں میں تقاضی بیوٹن کے لئے  
 اس کے لئے غیب و دروازہ یہ بیان ہے  
 کہ جس سے جو لوگ اللہ کے عرش کے  
 اہم کا مطالبہ نہ کیا ہے نہ ہی کسی  
 اللہ کے اس ہم کا مطالبہ کیا ہے  
 سوال: کیا وہ عرش کے لئے ایسی بھی  
 جو لوگ اللہ کے خلاف کاروائی کرنا چاہتے ہیں  
 جی ہاں میں میں جو لوگ اللہ کے مشعل  
 عرش کے لئے خلاف کسی قسم سے  
 کاروائی کا خواہاں ہیں یوں بیوٹن  
 جو لوگ اللہ کے لئے اپنی جانوں کو قربان  
 کیا ہے اور اللہ کے خلاف کسی قسم سے  
 کاروائی نہیں کی ہے

Attested  
 [Signature]

[Signature]

بیان ازیل ڈیپارٹمنٹ میں سربراہان کے تحت 871 صفحہ

بہرہ ماخذ بیان کہ کہ دوران ڈیویٹی جمیل جو کہ  
ڈیویٹی اور نہ کے لئے ان کوٹہ سائیکل سوار جو  
کوٹہ ان کوٹہ اور کوٹہ ہر کوٹہ میں ہر ماہانہ  
انکوٹہ تقاضے سے ہوتے ہیں۔ کوٹہ سائیکل  
کوٹہ 125 cc APC جو دو ادائیگیوں کو تقاضے سے لگتے  
جو ان کے علاوہ کوٹی علاقے سے کہ ڈیویٹی  
اور ان کوٹہ اور کوٹہ سائیکل کو درمیان  
کوٹہ ماہانہ جیتا ہوا ہیں۔ یہی ماہانہ بیان ہے  
جو تقاضے کے ہیں۔

Azi

سربراہان کے تحت 871

FC  
0311-1920586

Attested.

CEO





• سوال: کیا ڈیوٹی ماسٹران نے فوٹو سہا سہکل سے

سہیلوں کا وقت لیا ہے کیا تھا؟

جواب: نہیں جی میں اس بات میں علم  
یہوں صوتی میں میں سے کوئی نام  
در تھا...

(69)

Canal Man

8.6.2020

Attested  
JEO

بیان از ان حضرت علی ابن ابی طالب 167

جای خالی

عوض صورتی در آن حضرت 2017 کو قسم الحکم کا ڈالو اور جو نام لکھو  
 قسم ڈالو میں قرآن مجید اور قرآن مدد فرمادیں میں لکھو اور  
 سرانجام در ایضاً جس نے کتب سوار کا 212 کے زوالے میں جو ان کا  
 دسترس سیکل منڈا 125 نمبر 47589 سے سابقہ لایا، ان کے نام کا  
 دلہ سید اللہ سے کو کھانہ لکھا۔ جو ان کے نام کے درمیان میں لکھا  
 اپنے ساتھ ایک شخص سے طالب علم ہے۔ دلہ سید عمران خورشید  
 شہزادہ کا نام لکھو 45/50 سال لکھو پھر اس میں نے کچھ کاغذات  
 دیکھیں جن میں سے اس کو پڑھی صدمہ کرو۔ اس کا نام  
 دنیا نام عبدالرحمان دار سراج الدین سے جو ایک لکھو پھر اس میں  
 سے بات چیت کر کے پھر مزید لکھو اس کا تمام کوغذات اور نہ  
 کوئی اور کوغذات لکھو اس کوغذات میں سے لکھو اور  
 جسے کتہ وقت راستے میں کچھ لکھو پھر اس میں سے لکھو  
 میں لکھو پھر اس میں سے لکھو۔ جنوں کاغذات لکھو  
 کتہ نقل نوٹسٹ لکھو پھر اس میں سے لکھو اور  
 اور فریور میں کوغذات سے باہر لکھو اور اس کا لکھو  
 کتہ لکھو۔ کتہ لکھو اور لکھو اور لکھو اس کوغذات  
 میں لکھو۔ کتہ لکھو۔ کتہ لکھو۔ کتہ لکھو۔

Attested  
[Signature]

[Signature]

Attested: PS  
0345-9203611 B-6-2020

1. ان کے جب ملزخان طبع ہوئے اس وقت تک تمام قانونی کارروائی کیلئے آئے

تو ان کے خلاف کیا قانونی کارروائی عمل میں آئی؟ (71)

2. انہوں نے ملزخان کو M.M. عبید اللہ کے حوالہ کیے۔ اور ساتھ تو گورنر

بعد انہوں نے ایک اور ملزخان کو بھی تمام لے اور کاغذات بھی

دیئے۔ حوالہ اور کیا ایک خلاف M.M. کا دو الٹا ٹریس۔ مگر ہم

بعد از ضروری ویدیو فیڈ بکس مفاعیلہ کو فرما کر 5/11/80

نوٹس میں لکھا۔ ان کے اجازت کے بعد ہم نے انکو سرکار

مچھلکے پر حفوظ کر دیا۔

3. کیا تمام فیڈ موجود ملزخان میں سے کسی سے اٹھ لئے ہیں  
والی بات آپ کے علم میں آئی ہے۔


4. پتہ جی ایس کوئی بات وہاں پر نہیں ہوئی ہے۔

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Attached  
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F.O.

حیاتی

لسلسہ انوائسری خوردگی صورت یوں کہ نو میں حرم الحرام کو 30/07/2020  
 کو کینجی بلڈن میں تھانہ خدا سے عام اپر سپارڈینٹ کی ڈیوٹیوں لٹائی گئی  
 تھی تھانہ میں صرف فرمل خان ASI موجود تھا جبکہ ہی صاحب الحکم صاحب  
 ASP صاحب نے تھانہ گل بھار لکھ رک ڈیوٹی پر لٹایا گیا اور تھانہ میں کوئی  
 اور افسر موجود نہ رہا چونکہ ازان 4644 تھانہ میں بطور سنٹر صدر کمر  
 موجود تھا جبکہ عدلہ کا واقفیت ہی معلوم تھی مذکورہ ازان کو وہاں  
 انچارج ڈیوٹی پر لٹا کر حصول ہدایات یوں کہ دیگر تھانہ جات میں  
 حرم الحرام کی جوسس یوریہ میں عام نئے بندیاں بار بار حب لیا رہے  
 اور ریٹ روڈ پر ماسوائے پر اپر نئے بندی آکیلا وہاں حکم افران بالا  
 نہیں لیا جائے اگر ریٹ روڈ کی طرف گئے اور کمرے پھر رہے تو  
 اسکے فورزم دار یونٹ بدوران گت مذکورہ نے جوئر ماسٹیل 125 نمبری Fy4759  
 تھانہ لایا تھا جہاں کاغذات تیک کر کے درست باکر لکھی وہ پرفیکشن باغزت  
 جوئر ماسٹیل مذکورہ کی ویڈیو وغیرہ سے میں لاعلم تھا مذکورہ نے جو کچھ لکھا ہے  
 اسکا حقہ علم نہیں ہے جہاں تک تھانہ میں افران بالا صاحبان کی طرف سے  
 پبلک کی کہتے جو حکم احکام صادر یوں ہے تھانہ میں افران بالا صاحبان  
 کے حکم پر فطوم و فریاد کی داد رسی کی جاتی ہے اور فریاد کی فریاد  
 سن رہا عزت ٹرنے سے رست لیا جاتا ہے اس بات کی ہدایات تھانہ  
 میں تمام سٹاف کو بار بار کی جاتی ہے۔  
 یہی میرا بیان ہے جو کہ درست ہے۔



Aki-PL  
09/06/2020  
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Attested  
  
E.O.

Superintendent of Police  
HQrs: CCP  
14/5/20

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office



سوال :- کیا آپ اس وقت جو دعوے جہ مغرب سے  
جہ مغرب سے پہلے وہ لوگ جو کھانا کھاتے؟

(65)

جی ہاں ہے

سوال :- کیا آپ نے جو دعوے سے پہلے سفر میں کھانا

کھانا کھایا تھا؟ اگر ہوا تو دیا ہے  
تو ہوا!

جہ مغرب سے پہلے سفر میں کھانا کھانا

کھانا کھانا کھانا کھانا کھانا

کھانا کھانا کھانا کھانا کھانا

سوال :- کیا وہ سفر میں کھانا کھانا  
واقعہ یہ وجود نہیں؟

جی ہاں ہے

جی ہاں

بیان ازالہ تسمیہ سلیمان سابقہ 45 کی فغان پھر وہ سال 1971

بیان کہتا ہے کہ میں قسم اٹھاتا ہوں کہ 30/17 کو فغان نے  
جدا علیہ افسانہ والا غیر سے سکھائی ڈیوٹی بول لاش کی ہوئی تھی  
جدا نام افسانہ بھی کہتے ہیں بیان میں ڈیوٹی لکھی تھی  
صرف منزل خان سے وہ بھی اسے مل گیا ہے ڈیوٹی لکھا  
جدا کے ساتھ فغان میں کئی دور سندھ میں موجود  
فغان میں سے فغان میں موجود سندھ میں کئی  
دور میں افسانہ کو ڈیوٹی لکھی ہے وہ بھی میں نے  
کہ وہ فغان نے ملنے لیا ہے کہ وہ افسانہ سے  
جو وہ سندھ میں سکھائیوں کو فغان جدا لکھا ہے  
فغان نے وہ بھی لکھی ہے جدا لکھی ہے  
بولوں کو چھوڑ دیا ہے کہونک میں افسانہ لکھی ہے  
یا تھا کہ عوام الناس اسکا نہایت خوش  
اظہار سے ہیں آج کل کے فغان میں ہے

Signature  
SI 0300 5714700

Attested  
Signature  
E.O

بیان کاران ٹریڈنگ وڈ سٹاٹسٹیکس علی سہیل سہیل سہیل

بیان کاران ٹریڈنگ وڈ سٹاٹسٹیکس علی سہیل سہیل سہیل  
گھر کو طرہ سے نہ منگام جس کو بولیں بارش  
نے نام بڑی طرہ سے تھی - بولیں بارش نے عیس  
بھی روکا امر کا خدات کا طرہ سے کہہ سہیل سہیل  
کا خدات موجود تھا اور واقعہ کے میں نے سہیل سہیل  
کہ بتلا کر عیس کے ان کو اور ہے حکایت کے سہیل سہیل  
لیکن دینوں کے خانہ کے لئے عیس کے  
میں راشن دار کے نام پر عیس کے  
کا خدات کے سہیل سہیل سہیل سہیل سہیل  
بھی حکایت کے عیس کے سہیل سہیل سہیل سہیل  
میں حکایت کے عیس کے سہیل سہیل سہیل سہیل

علی سہیل سہیل  
سہیل سہیل سہیل  
0304.0225363

Attested  
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سوال: ... اس کے اندر لی اٹلوالٹری صید سے ...  
 صید جو ان اٹلوالٹری کے اندر ہے ...  
 تھا کہ اب 400 طلبہ تھے فقہ ...  
 اب اب جو وجود بیان میں انٹار کالج  
 و جماعت کے ہیں کہ ان کا سا لہذا بیان  
 درست ہے یا جو وجود درست ہے اور  
 اٹلوالٹری وہ جو وجود ہے ...  
 جو وجودہ بیان درست ہے، فقہ سابقہ  
 بیان خلط تھا اور غلط فقہی کے بنیاد  
 دیا تھا جو سے عن ان شکل سے واقعہ  
 طور پر اس وقت کسی قسم کی رقم کی ڈائمنڈ  
 نہیں تھی۔ سابقہ بیان صید کے خلاف  
 صید عنین کی شکل سے جو ہوتے اور کاغذات  
 طلبہ کرت تھی وہ سے اور طبعہ کہ کا وائی  
 حیلہ دیا تھا۔ حلقے میں اب نہ لائے گئے  
 اور نہ ہی صید سے اس کے جو وجود ہے ...  
 سوال: ... لہذا اب سا لہذا بیان سے کسی سے ...  
 کہہ میں مندرجہ دیتے ہیں یا کسی سے  
 دباو صید کے صرف سے ہے۔

*Handwritten signature or note in the right margin.*



جید ایڈیٹر شری گھنٹی مہر علی عبدالرحمان خان  
اللہ فوٹو سٹوریوں سے گہرے اور گہرے  
سابقہ سے گہرا نہیں؟

~~22/9/2020~~  
6/2020

جی مسٹر ایس قضا

(67)

Attest  
C.K.O

بیان امران عبدالرحمن ولد سید الہ الدین ساکن نزدیکی

بیان کرتا ہوں کہ میں نے جو وہاں واقعہ جو خدائی  
چھوڑتے گو خود طاریا تھا منہ تمام چونکہ تحصیل پولیس ناک  
میں ہی پھر عیس اسٹارٹ کرتے ہم گھوم رہے تھے  
کہہتے کاغذات مانگا لیا۔ حکمہ واقعہ پر عمارت  
سابقہ کاغذات نہ تھیں۔ میں نے امر پور سے سادھی سے  
اسی طرح جو پلان دیکھے ہیں لیکن وہ نہ مانا  
میرے ساتھ میری سادھی بلال کو پھانہ فرماتے تھے۔ میرے  
ساتھ دوکان سے ملنے کے لئے آئے۔ کاغذات تھی  
اپنا امر عمارت گمانت تھی کہ۔

BKPS  
عبدالرحمن ولد سید الہ الدین  
ساکن نزدیکی کوئٹہ شہزادی  
میرداد پور - شہین  
212030156663-9  
0334-9102799 -  
9102799

Attested.  
EO

0845-7205611 -  
EO

سوال: کیا آپ سے دیہی ایلیکٹریٹ میں کسی نہ کسی طرح کا مداخلت  
کے وقتا. اگر کیا تھا تو کیا تھا؟ اور اگر  
اپنے پاس وہ ورڈ جو وہ جو دیکھ؟

(72)

جواب: عمر جی نہیں ہے

سوال: کیا آپ نے سابق بیان دوران انٹرویو  
دیہی ایلیکٹریٹ متعلقہ رقم کا تہا ہے؟

جواب: جی نہیں ہے

سوال: کیا آپ نے پہلے کہا تھا کہ بیان درست ہے یا  
الگسی جو بیان دیا گیا ہے؟

جواب: الگسی جو بیان دیا گیا ہے وہی بیان ہے  
تھوڑے وقت میں اس وقت جو ہے

لفظ تھا تو فوراً اس سے میں نے وہ

میں تھا جو تھا اس میں

جو وہ ایلیکٹریٹوں نہ اس میں تھا

Attested by BUR  
TEO



بین ایزل مشا بد علی علی

بین کمر حکم میں بدلی خان کا بیٹا یا بیویوں کو جان  
تلفی کیلئے کہہ سوائے جو کہ 2/3 دن  
میں رات کو رشی آفر کے سامنے رشی ہو گا  
تک سا فو میں رالہ کو ننگا

مشا بد علی ولد مشا بد علی

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17301-2327276-5

Attested.  
EQ

Superintendent of Police  
HQrs: CCP  
14/5/20

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marked which  
official work was  
P

نیا عالی

صورتوں قدرت پرک، خوش 30<sup>9</sup>/<sub>17</sub> کو حرم اکرام کی ڈیوٹی کنس چونکہ عام  
 اعلان حرم ڈیوٹی میں تھے یہیں دیم عمران قدر حرم جوہاں میں لیویر ایجا  
 ڈیوٹی میں رہا تھا جس نے ریل سوار 216 کو اپنے جوان اسم سر کا  
 نوٹہ سائل نمبر 125 نمبر 4759 کے ساتھ کفایت لایا، عمران نے کہا ہے  
 کہ اس وقت قائم ہے جاؤ (جفا نام) بدلی نام سید اختر سے حاجی نجیب تھا گو  
 دیر بعد عمران خود قباغ آتا اور اپنے ساتھ ایک کھنڈا لیم 45/40 سال لارڈیا  
 کہ اس نے حجے کاغذات رجسٹریشن سسٹم میں تھے یہیں اس کو 523/55 حروف  
 میں پرچہ رد اس شخص نے اپنا نام عبدالمجید خان دہ سرایہ اور کنس نام حاجی نجیب  
 بتلایا تھا عبدالمجید سے ماٹے پتے کنس پر فزید بتلایا، اسکا مقصد گواہی  
 اذہ نمبر 27 پر ہمارا جوہاں آئی گی گودام ہے اور میں اس میں ملزم  
 میں کسٹن تھا رتے وقت راستے میں مجھے شک ہوا حکم غائبہ میں نے گودام کے نام  
 میں ٹکائے تھے اس وجہ سے اہم خطی میں تھے جنہوں نے کاغذات سسٹم کے حکم  
 کنس فوٹو سٹیکس کے بعد کلید کنس صلیب کنس میں لایا اور فزید کو اس کو حوالہ  
 قباغ سے باہر لیا گیا تھا کنس عمران بالا صاحبان کے طرف سے پر حکم ہوا تھا  
 کہ جب تک پوری کنس دیر نہیں لگتی ہے تو اس کو حوالہ میں بند نہ کی جائے  
 اور اس کے لیے نو افترام سے سسٹم ہوں لفظ اسمان کو بند کنس فحاشت  
 پر لیویر کے لیے اپنے گاڑی بولیں ہونے کے نالج اپنی خرافتیں جنہیں نیابت احسن  
 فرمیں سے سر ایجا رکی ہے تمام بولیں اور عوام کا آپس میں تعاون ہوں اور  
 محکمہ کا بولیں پر اعتماد کا راستہ بہ قرار ہے۔

یہی میرا بیان ہے جو کہ درست ہے۔

*imed*

09-06-2020

0313.9746925

Attested.  
*[Signature]*  
P.O.

Superintendent of Police  
HQrs: CCF  
14/5/20

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oppo



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.**

**Service Appeal No.12447/2020.**

Constable Imran Khan No.511 of CCP, Peshawar.....**Appellant.**

**VERSUS**

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others. **Respondents.**

**REPLY BY RESPONDENTS NO. 1, 2, &3.**

**Respectfully Sheweth:-**

**PRELIMINARY OBJECTIONS.**

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has not come to Hon'able Tribunal with clean hands.
4. That the appellant has no cause of action and locus standi.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from Honorable Tribunal.
7. That the appeal is not maintainable being devoid of any merit.

**FACTS:-**

- (1) Para pertains to record hence needs no comments.
- (2) Incorrect. In fact the appellant posted at Police Station Phandu Peshawar was proceeded departmentally on the charges, that a Video Viral on Social Media wherein the appellant was found demanding illegal gratification from public in the Jurisdiction of PS Phandu which tarnished the image of the department. In this regard the appellant was issued Charge Sheet with Statement of Allegations. DSP/HQrs: was appointed as Enquiry Officer. During the course of enquiry the enquiry officer found him guilty of the charges leveled against him. On receipt of the finding of the enquiry officer, he was issued with Final Show Cause Notice which he received. In response to Final Show Cause Notice he submitted his written reply, which was examined and found unsatisfactory. The appellant was called and heard in person on 10.10.2017. The charges leveled against him were proved; hence he was awarded major punishment of dismissal from service.
- (3) Incorrect. Para already explained in detailed in the above para. Furthermore, the appellant was associated in the enquiry proceedings and proper opportunity of defense was provided to appellant. He failed to defend the charges leveled against him. The enquiry officer after detail probe reported that the charges were proved.
- (4) Incorrect. In fact, proper departmental enquiry was conducted against him in accordance with law/rules. The enquiry officer after conducting enquiry

recommended that the charges leveled against him proved and found guilty of misconduct. The enquiry officer provided full opportunity of defense during the course of enquiry, but the appellant failed to defend the charges leveled against him. The enquiry was conducted against him on merit.

- (5) Correct to the extent that the appellant filed Service Appeal No.144/2018 before this Honorable Service Tribunal which was accepted and remanded it back to the respondent department for conducting of de-novo enquiry.
- (6) Incorrect. In compliance with the judgment, the appellant was reinstated into service and de-novo enquiry was initiated against him. The enquiry officer provided full opportunity of cross question/defence during the course of enquiry.
- (7) Incorrect. After submission of findings report by the enquiry officer, the competent authority has minutely gone through the material on record and other connected paper including the defense/plea of appellant awarded appropriate punishment under law/rules, which commensurate with gravity of charges. The appellant then filed departmental appeal which after due consideration was filed/rejected.
- (8) That appeal of the appellant being devoid of merits may kindly be dismissed on the following grounds.

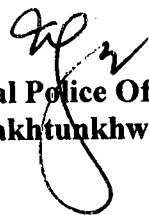
**GROUND:-**

- A) Incorrect. His departmental appeal was filed /rejected with in stipulated period. The punishment order passed by the competent authority as per law/rules and liable to be upheld.
- B) Incorrect. Punishment order passed by the competent authority after completion of all codal formalities, which is legal, hence point raised by the appellant is not maintainable.
- C) Incorrect. The competent authority examined the enquiry along with available material on record and after completion of all the legal formalities passed the punishment order, needs to be upheld.
- D) Incorrect. Para already explained in the above para. Furthermore, after completion of all codal formalities he was awarded the major punishment.
- E) Incorrect. Free and fair proceedings were taking against him. The appellant was treated as per law/rules.
- F) Incorrect. The appellant was dealt legally and no violation of constitution of Pakistan has been done by the respondent department.
- G) Incorrect. All the proceedings connected to the enquiry against the appellant are completed under the law/rules, hence objection over the enquiry is meaningless here. The appellant rightly punished by the competent authority as per law/rules.

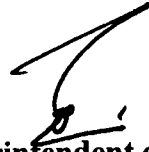
H) Respondents also seek permission of this Honorable Tribunal to raise additional grounds at the time of arguments.

**Prayers:-**

Keeping in view the above stated facts & reasons it is, most humbly prayed that the appeal of the appellant being devoid of merits and limitation, may kindly be dismissed with costs please.

  
**Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.**

  
**Capital City Police Officer,  
Peshawar.**

  
**Superintendent of Police,  
HQs: Peshawar.**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.**

**Service Appeal No.12447/2020.**


Constable Imran Khan No.511 of CCP, Peshawar.....Appellant.

**VERSUS**


1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others. Respondents.

**AFFIDAVIT.**

We respondents 1, 2 and 3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.

  
Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.

  
Capital City Police Officer,  
Peshawar.

  
Superintendent of Police,  
HQrs, Peshawar.

**VAKALAT NAMA**

NO. \_\_\_\_\_/2020

IN THE COURT OF KP Service Tribunal, Peshawar

Imran Khan

(Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Police Deptt:

(Respondent)  
(Defendant)

I/We, Imran Khan

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate Supreme Court 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 costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated 21-10/2020

Imran Khan  
(CLIENT)

ACCEPTED

M. ASIF YOUSAFZAI  
Advocate Supreme Court Peshawar.

(TAIMUR ALI KHAN)  
Advocate High Court Peshawar

(SYED NOMAN ALI BUKHARI)  
Advocate High Court Peshawar

(SHAHKAR KHAN YOUSAFZAI)  
ADVOCATE PESHAWAR

**OFFICE:**

Room # FR-8, 4<sup>th</sup> Floor,  
Bilour Plaza, Peshawar,  
Cantt: Peshawar  
Cell: (0333-9103240)



**"B"**

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

No.

Appeal No..... 12447 ..... of 20 20

..... Imron Khan ..... Appellant/Petitioner

Versus

..... The Provincial Police Officer KPK Peshawar ..... Respondent

Respondent No..... 1 .....

Notice to: -

The Provincial Police Officer  
KPK Peshawar.

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on..... 22/2/2021 ..... at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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

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

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

Given under my hand and the seal of this Court, at Peshawar this..... 22/2 .....

Day of..... Dec ..... 20 20

14/12

[Signature]  
Registrar,

Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

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

**"B"**

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

No.

Appeal No..... 12 447 ..... of 20 20

..... Imran Khan ..... Appellant/Petitioner

Versus

The Provincial Police Officer KPK Peshawar ..... Respondent

Respondent No. 3 .....

Notice to: — The Superintendent of Police Peshawar.

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on..... 22/2/2021..... at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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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..... 8th.....

Day of..... Dec..... 20 20

*Handwritten notes:*  
114/12/2020  
1:45 pm

*Signature of Registrar*

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.....*12467*..... of 20 *20*

.....*Imran Khan*..... Appellant/Petitioner

Versus

the.....*Provincial Police Officer KPK Peshawar*..... Respondent

Respondent No.....*2*.....

Notice to: —

*The capital city Police Officer, Peshawar*

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on.....*22/2/2021*..... at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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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.....*8/11*.....

Day of.....*Dec*.....20 *20*

*[Signature]*  
Registrar

Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

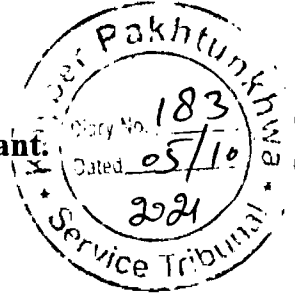
Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

06/12

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.**

**Service Appeal No.12447/2020.**

Constable Imran Khan No.511 of CCP, Peshawar.....Appellant.



**VERSUS**

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others. **Respondents.**

**REPLY BY RESPONDENTS NO. 1, 2, &3.**

**Respectfully Sheweth:-**

**PRELIMINARY OBJECTIONS.**

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has not come to Hon'able Tribunal with clean hands.
4. That the appellant has no cause of action and locus standi.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from Honorable Tribunal.
7. That the appeal is not maintainable being devoid of any merit.

**FACTS:-**

- (1) Para pertains to record hence needs no comments.
- (2) Incorrect. In fact the appellant posted at Police Station Phandu Peshawar was proceeded departmentally on the charges, that a Video Viral on Social Media wherein the appellant was found demanding illegal gratification from public in the Jurisdiction of PS Phandu which tarnished the image of the department. In this regard the appellant was issued Charge Sheet with Statement of Allegations. DSP/HQrs: was appointed as Enquiry Officer. During the course of enquiry the enquiry officer found him guilty of the charges leveled against him. On receipt of the finding of the enquiry officer, he was issued with Final Show Cause Notice which he received. In response to Final Show Cause Notice he submitted his written reply, which was examined and found unsatisfactory. The appellant was called and heard in person on 10.10.2017. The charges leveled against him were proved; hence he was awarded major punishment of dismissal from service.
- (3) Incorrect. Para already explained in detailed in the above para. Furthermore, the appellant was associated in the enquiry proceedings and proper opportunity of defense was provided to appellant. He failed to defend the charges leveled against him. The enquiry officer after detail probe reported that the charges were proved.
- (4) Incorrect. In fact, proper departmental enquiry was conducted against him in accordance with law/rules. The enquiry officer after conducting enquiry

recommended that the charges leveled against him proved and found guilty of misconduct. The enquiry officer provided full opportunity of defense during the course of enquiry, but the appellant failed to defend the charges leveled against him. The enquiry was conducted against him on merit.

- (5) Correct to the extent that the appellant filed Service Appeal No.144/2018 before this Honorable Service Tribunal which was accepted and remanded it back to the respondent department for conducting of de-novo enquiry.
- (6) Incorrect. In compliance with the judgment, the appellant was reinstated into service and de-novo enquiry was initiated against him. The enquiry officer provided full opportunity of cross question/defence during the course of enquiry.
- (7) Incorrect. After submission of findings report by the enquiry officer, the competent authority has minutely gone through the material on record and other connected paper including the defense/plea of appellant awarded appropriate punishment under law/rules, which commensurate with gravity of charges. The appellant then filed departmental appeal which after due consideration was filed/rejected.
- (8) That appeal of the appellant being devoid of merits may kindly be dismissed on the following grounds.

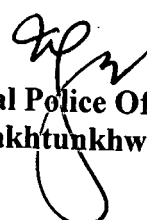
**GROUND:-**

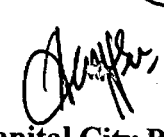
- A) Incorrect. His departmental appeal was filed /rejected with in stipulated period. The punishment order passed by the competent authority as per law/rules and liable to be upheld.
- B) Incorrect. Punishment order passed by the competent authority after completion of all codal formalities, which is legal, hence point raised by the appellant is not maintainable.
- C) Incorrect. The competent authority examined the enquiry along with available material on record and after completion of all the legal formalities passed the punishment order, needs to be upheld.
- D) Incorrect. Para already explained in the above para. Furthermore, after completion of all codal formalities he was awarded the major punishment.
- E) Incorrect. Free and fair proceedings were taking against him. The appellant was treated as per law/rules.
- F) Incorrect. The appellant was dealt legally and no violation of constitution of Pakistan has been done by the respondent department.
- G) Incorrect. All the proceedings connected to the enquiry against the appellant are completed under the law/rules, hence objection over the enquiry is meaningless here. The appellant rightly punished by the competent authority as per law/rules.


H) Respondents ask permission of this Honorable Tribunal to raise additional grounds at the arguments.

**Prayers:-**

Keeping in view above stated facts & reasons it is, most humbly prayed that the appeal of the applicant being devoid of merits and limitation, may kindly be dismissed with costs.

  
Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.

  
Capital City Police Officer,  
Peshawar.

  
Superintendent of Police,  
HQrs: Peshawar.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.**

**Service Appeal No.12447/2020.**

Constable Imran Khan No.511 of CCP, Peshawar.....**Appellant.**

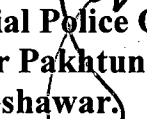
**VERSUS**

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others. **Respondents.**

**AFFIDAVIT.**

We respondents 1, 2 and 3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.



  
**Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.**

  
**Capital City Police Officer,  
Peshawar.**

  
**Superintendent of Police,  
HQrs, Peshawar.**