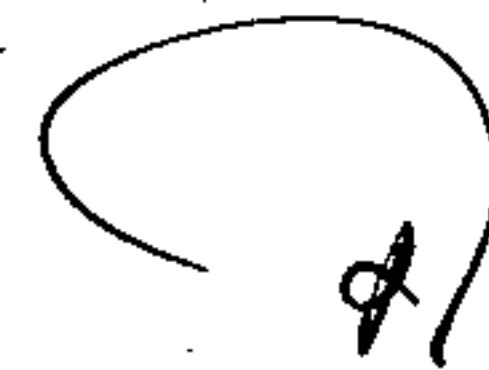


05.10.2022

Appellant present in person.

Riaz Khan Paindakhel, learned Assistant Advocate General alongwith Inamul Haq S.I (Legal) for respondents present.

Representative of respondents submitted reply/comments. Copy of the same was handed over to appellant. To come up for rejoinder, if any, and arguments on 06.12.2022 before D.B at Camp Court, Swat.




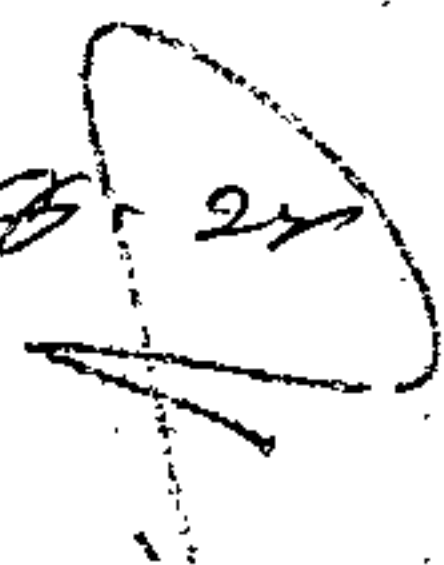
(Rozina Rehman)
Member (J)
Camp Court Swat

04.07.2022

Appellant present in person. Mr. Noor Zaman, District Attorney present.

On previous date notices were not issued due to lack of funds. Therefore, notices be issued to respondents for submission of written reply/comments. To come up for written reply/comments on 03.08.2022 before S.B at camp court, Swat.


(Fareeha Paul)
Member (E)
Camp Court, Swat

3.08.22


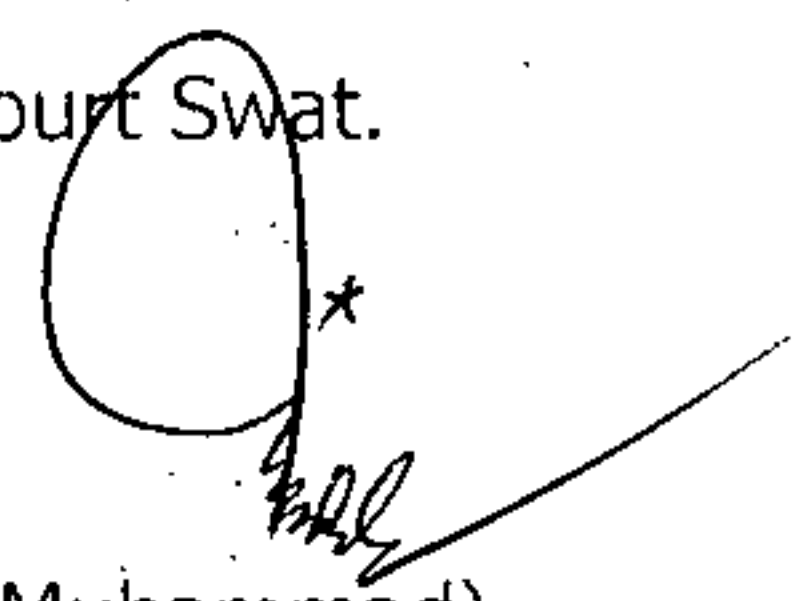
Due to summer vacation the case is adjourned to 7-9-22 for the same.



07.09.2022

Appellant in person present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Mr. Inam-ul-Haq, S.I (Legal) for the respondents present.

Reply/comments on behalf of respondents not submitted. Representative of the respondents requested for time to submit reply/comments. Last opportunity is granted. Adjourned. To come up for reply/comments on 05.10.2022 before S.B at Camp Court Swat.

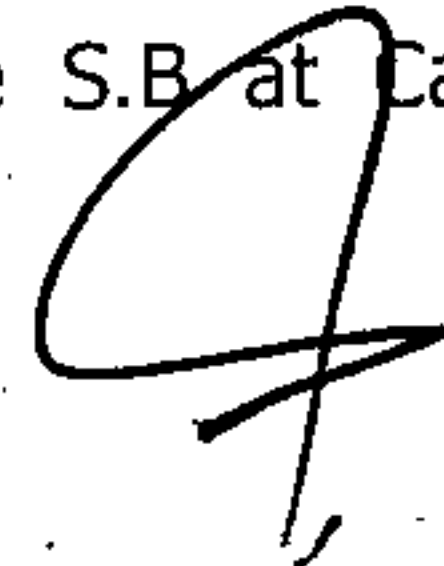

(Mian Muhammad)
Member (E)
Camp Court Swat

SA No. 488/2022 (Latif Khan)

06.04.2022

Counsel for the appellant present and heard.

The appeal is admitted for full hearing, subject to all just and legal objections by the other side. The appellant is directed to deposit security and process fee and security within 10 days. Thereafter, notices be issued to the respondents. To come up for Written reply/comments have not been submitted. Learned AAG seeks further time to furnish reply/comments. Adjourned. To come up for written reply/comments on 12.05.2022 before S.B at Camp Court, Swat.

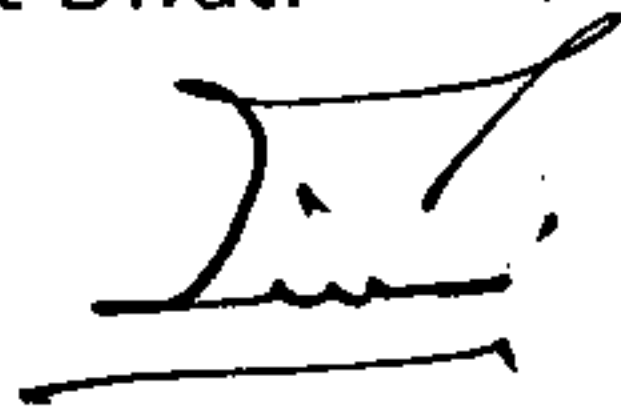


Chairman

12.05.2022

Appellant in person present. Mr. Noor Zaman Khattak, District Attorney present.

Notices be issued to the respondents through registered post with the directions to submit written reply/comments on the next date positively. Adjourned. To come up for submission of written reply/comments on 04.07.2022 before the S.B at Camp Court Swat.



(Salah-Ud-Din)
Member (J)
Camp Court Swat


Rs-600/-
Appellant deposited
Security & Process Fee
A. J. Khan
06/04/22

The appeal of Mr. Latif Khan, Ex HC No. 582 District Police Buner received today i.e. on 01.04.2022 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1. Index of the appeal is not attached with the appeal.
2. Certificate be given to the effect that appellant has not been filed any service appeal earlier on the subject matter before this Tribunal.
3. Copy of charge sheet, statement of allegation, show cause, enquiry report and replies thereto are not attached with the appeal which may be placed on it.

No. 848 /S.T,


Dt. 5-4- /2022


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Akhter Ilyas Adv. Pesh.

1. Index has already been attached with the appeal.
2. Certificate has been given, which is available at page (4) of the Appeal.
3. The Appellant has not received any charge sheet, statement of allegation, show cause, nor he has been provided any enquiry report. He was in Judicial lock up when he was dismissed from service. Kindly see page (35) of the Appeal.

Re-submitted after its completion.


6/4/22

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 488 /2022

Latif Khan

VERSUS

Superintendent of Police and Others

INDEX

S#	Description Of The Documents	Annex	Pages
1.	Service Appeal along with Affidavit	*	1-4
2.	Copy of FIR	A	5
3.	Copy of impugned order dated 02/06/2021	B	6
4.	Copy of departmental appeal	C	7-8
5.	Copy of order of ASJ Buner dated 24/02/2022	D	9-35
6.	Copy of order dated 24/03/2022	E	36
7.	Vakalat Nama		37

Through


Appellant


AKHTAR ILYAS
ADVOCATE HIGH COURT

CHANGAIZ KHAN
ADVOCATE, PESHAWAR

Dated: 01-04-2022

OFF: TF-287, DEANS TRADE CENTER, PESHAWAR CANTT.

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 488 /2022

Latif Khan, Ex HC No. 582 district police Buner
R/O village Nawagai, Tehsil Mandaur, Distt Buner.

..... Appellant

VERSUS

1. Superintendent of Police (Investigation), District Police, Buner.
2. District Police Officer, Buner at Daggar.
3. Regional Police Officer /DIG Malakand region at Saidu Sharif, Swat.
4. Provincial Police Officer/Inspector General of Police, KPK Peshawar.

..... Respondents

APPEAL U/S 4 OF KP SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 02/06/2021 WHEREBY THE APPELLANT WAS AWARDED MAJOR PENALTY OF DIMISSAL FROM SERVICE AS WELL AS AGAISNT THE ORDER DATED 24/03/2022 WHEREBY HIS DEPARTMENTAL APPEAL WAS TURNED DOWN.

Respectfully Sheweth

1. That the appellant has rendered his services in the Police Department District Buner as he was appointed way back in the year 2007.
2. That on 20/12/2020, one Shah Farman S/O Said Karam lodged an FIR No. 493 dated 20/12/2020 U/S 302, 324/34 PPC PS Nawagai District Buner wherein the appellant was also nominated as an accused due to personal enmity. (Copy of FIR is attached as Annexure A)

3. That the appellant was sent to the judicial lockup by the competent court of law about which the respondent-department was duly informed. To the dismay of the appellant, respondent No. 1 issued the impugned order dated 02/06/2021 (when he was in judicial custody) wherein he was dismissed from services without waiting for the fate of trial. (Copy of impugned order dated 02/06/2021 is attached as annexure B)
4. That the appellant preferred a departmental appeal through Superintendent District Jail Buner at Daggar on 15/06/2021 which was kept pending till the decision of the case in question. (Copy of departmental appeal is attached as annexure C)
5. That on 24/02/2022, the learned ASJ-I Buner acquitted the appellant from the charges levelled against him. (Copy of Order dated 24/02/2022 is attached as annexure D)
6. That respondent No. 3 rejected the departmental appeal with a single stroke of pen. (Copy of rejection order dated 24/03/2022 is attached as annexure E)
7. That feeling aggrieved, the appellant seeks indulgence of this honorable Tribunal, *inter alia*, on the following grounds.

GROUND.

- A. That the impugned order as well as the order passed by the Departmental Authority are based on conjectures and surmises, hence untenable.
- B. That admittedly, the appellant was in judicial custody and his trial was under process; he was not associated with any sort of inquiry, therefore, the impugned order has nullity in the eyes of law.
- C. That the impugned order carries no reason, what to speak of a plausible one, hence goes contrary to section 24-A of the General Clauses Act 1897. On this score too, the impugned order needs rectification by the Honorable Tribunal.

- D. That the order passed by the Departmental Authority is also non speaking one, as the same lacks reason and logic which is against the principles of fair play and justice.
- E. That on the one hand, the respondent No. 1 has not waited for the fate of trial and on the other hand, the Departmental Authority has not considered the acquittal of the appellant by a competent Court of Law, hence needs indulgence of this Hon'ble Tribunal.
- F. That the impugned order has been passed at the back of the appellant hence it is against the norms of justice.
- G. That the appellant has not been treated in accordance with law rather he has been discriminated, which goes contrary to Articles 4 and 25 of the Constitution of Pakistan 1973, hence needs rectification by the Hon'ble Tribunal.
- H. That the impugned orders are against the law, rules and policy on the subject, hence untenable.
- I. That the impugned orders are against the various pronouncements of the superior courts, wherein the Hon'ble courts have reinstated officials on the basis of acquittal from a competent court of law.
- J. That the appellant seeks leave of the Hon'ble Tribunal to urge additional grounds at the time of arguments.

PRAYER:

In view of the foregoing facts, it is, therefore, most humbly prayed that the impugned orders dated 02/06/2021 and 24/03/2022 may please be set aside and the respondents be please directed to reinstate the appellant into service with all back benefits.

Any other remedy to which the appellant is found fit in law, justice and equity may also be granted.

[Signature]
Appellant

Through

[Signature]

AKHTAR ILYAS
ADVOCATE HIGH COURT

TF-287, DEANS TRADE CENTER, PESHAWAR,
CANTT.

AFFIDAVIT

It is hereby verified and declared on oath that the contents of above Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

[Signature]
Deponent

15/01-0421154-3



Certificate:

It is affirmed that the appellant has not filed any Service Appeal before this honorable Tribunal on the subject matter.

[Signature]
Advocate

CP&SD-PP-133/76-20.02.2020 Form Store & Office Form No.5.24

فارم نمبر 23-5 (1)

ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ 153 مجموعہ ضابطہ فوجداری

ناوہ گی

ضلع لوئیہ

تاریخ 20 12 وقت 16:00

493

تاریخ وقت رپورٹ	
20 12	وقت 17:00
نام سکونت اطلاع دہندہ	
محمد آصف خان	رقبہ سواتی 9270341 03215
تفصیلی پتہ (معدومہ) حال اگر کچھ پتہ نہ ہو۔	
15101-0368467-7	نہان پورہ
شمارہ شناختی	
168AA	302-324-34
جائے وقوعہ فاصلہ مقام سے اور سمت	
محکمہ تعلیم	علاء آباد لوئیہ
نام سکونت ملزم	
میر سراج	شاہ بیروز خان سائمان ناوہ گی
کارروائی جو تفتیش کے حصول کی گئی اگر اطلاع دہندہ کو قلعہ ہو تو وجہ بیان کرے	
	میر سراج
مقام سے روانگی کی تاریخ و وقت	
	بطور پیدائش رپورٹ

ابتدائی اطلاع پیش درج کرو ایک قمیضی سلاسل بھارت فوجداری نمبر 18051 جو مول سوکھو کے پاس ہے۔ در وقت آفس آج صاحب خانہ ناوہ گی
میر آصف خان کے پاس ہے۔ صاحب خانہ ناوہ گی اکثر پورٹی وارڈ میں بیٹھ کر ٹی وی دیکھتا ہے اور اپنے گھر میں
15:30 بجے والد ام متوٹی سید محمد خان کے ساتھ کھانے کے لیے گیا تھا۔ سید لطف خان، گل محمد سراج لکڑی
خانہ بیرون اور میر بزرگ علی رزاق صاحب کے پاس سے موجود ہے۔ سید لطف خان، گل محمد سراج لکڑی
سید سید حسین سائلتان دینے آئے ہیں۔ سید لطف خان، گل محمد سراج لکڑی
میر سراج خان کے پاس ہے۔ سید لطف خان، گل محمد سراج لکڑی
میر سراج خان کے پاس ہے۔ سید لطف خان، گل محمد سراج لکڑی
میر سراج خان کے پاس ہے۔ سید لطف خان، گل محمد سراج لکڑی
میر سراج خان کے پاس ہے۔ سید لطف خان، گل محمد سراج لکڑی
میر سراج خان کے پاس ہے۔ سید لطف خان، گل محمد سراج لکڑی

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خود انکو قناعت کی حد تک رہنے دیں اور اگر اس سے بچاوت ہے
تحت کی جگہ سے تصدیق کی ہے۔ بعض کاموں میں اس کے
لئے ضروری ہے کہ اس کا حال اس کے لئے ضروری ہے کہ اس کے
دو ہوشی کی حالت میں اس کا حال اس کے لئے ضروری ہے کہ اس کے
تحت بالابا وقوع ہوا ہے اس لئے ضروری ہے کہ اس کے
اس لئے اس کے لئے ضروری ہے کہ اس کے لئے ضروری ہے کہ اس کے
اطراف کی حالت ہے اس لئے ضروری ہے کہ اس کے لئے ضروری ہے کہ اس کے
کا روحانی نفاذ اس لئے ضروری ہے کہ اس کے لئے ضروری ہے کہ اس کے
تحت اس کے لئے ضروری ہے کہ اس کے لئے ضروری ہے کہ اس کے
اس لئے اس کے لئے ضروری ہے کہ اس کے لئے ضروری ہے کہ اس کے
اس لئے اس کے لئے ضروری ہے کہ اس کے لئے ضروری ہے کہ اس کے

آپنی

PS NAWAN
20-2-2020

بہترین برساتی شہ فالتی پور پور میں
اس لئے اس کے لئے ضروری ہے کہ اس کے لئے ضروری ہے کہ اس کے
اس لئے اس کے لئے ضروری ہے کہ اس کے لئے ضروری ہے کہ اس کے
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اس لئے اس کے لئے ضروری ہے کہ اس کے لئے ضروری ہے کہ اس کے
اس لئے اس کے لئے ضروری ہے کہ اس کے لئے ضروری ہے کہ اس کے

Annex-B. (6)

OFFICE OF THE SUPERINTENDENT OF POLICE INVESTIGATION, BUNER
Phone No.0939-512009 Fax 0939-513024 Email spinvestigationbuner@yahoo.com

ORDER.

This order will dispose-off the departmental enquiry initiated against HC Latif Khan No.582 of this district police, issued vide this office enquiry No.3057/Invest., dated 31.12.2020.

Brief facts are that:-

HC Latif Khan No.582 while posted at Investigation Police Station Pir Baba has found involved in case FIR No.493, dated 20.12.2020 u/s 302/324/34 PPC PS Nawagai. He was suspended and closed to Investigation HQrs vide this office OB No.65, dated 22.12.2020. He was issue Charge Sheet and Summary of Allegation, proper Departmental Enquiry was conducted through Mr. Zahir Rahman Khan DSP Investigation and the Enquiry Officer submitted his finding report. The above named official failed to produce any cogent reason/document in his defense.

Now therefore, I Abdur Rasheed, Superintendent of Police Investigation, Buner as Competent Authority and in exercise of the power vested in me under Police Disciplinary Rules-1975, award HC Latif Khan major punishment dismissed him from service with immediate effect and his absence period from 22.12.2020 to 02.06.2021 total period 05 Months 10 Days be treated as unauthorized absence.

Order announced.

OB No. 28
Dated: 02/06/2021
No. _____/EC, dated Daggar the 02/06/2021.

CC:-

1. Pay Officer
2. Establishment Clerk
3. OHC

SUPERINTENDENT OF POLICE,
INVESTIGATION, BUNER

SUPERINTENDENT OF POLICE,
INVESTIGATION, BUNER

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OFFICE OF THE
SUPERINTENDENT
DISTRICT JAIL BUNER AT DAGGAR
No. 2000-VII dated 15/06/2021


Annex-C 7

To: The Divisional Inspector General,
Malakand Region Swat.

Subject: APPLICATION (SELF-EXPLANATORY)

Respected Sir :

Enclosed please find herewith an application (self-explanatory) submitted by
under trial prisoner namely HC Lateef Khan PS Pir Baba involved in FIR No 493 dated 20-12-
2020 U/S 302-324-34 for information, please.


SUPERINTENDENT
DISTRICT JAIL BUNER


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مختدمت جناب ڈی آئی جی صاحب ملا کٹھریجن، سوات

بوساطت جناب سپرنٹنڈنٹ صاحب ڈسٹرکٹ جیل ڈگر، بونیر

عنوان :- درخواست ہمدردی بحالی نوکری

جناب عالی!

بحوالہ آرڈر بک نمبر 28 مورخہ 02.06.2021 مجاریہ جناب ایس پی صاحب انوشی گیشن بونیر معروض خدمت ہوں کہ من سائیل کو بحوالہ مقدمہ علت 493 مورخہ 20.12.2020 بجرم 34/4، 302/32 ت پ تھانہ ناوہ گی بونیر میں بے گناہ چارج ہو کر بندہ سلاسل ہے۔ سائیل محکمہ پولیس بونیر میں بحیثیت ہیڈ کنسٹیبل انوشی گیشن دینگ بونیر تھانہ پیر بابا میں تعینات تھا۔ بوجہ چارج ہونے مقدمہ عنوان جرم بالا میں افسران بالانے سائیل کو مورخہ 02.06.2021 کو نوکری سے برخاست کیا ہے۔ چونکہ سائیل بے گناہ ہے اور ذاتی عناد کے بنیاد پر سائیل کے خلاف جھوٹی دعویٰ کی گئی ہے۔ اور تا حال مقدمہ عدالت ایڈیشنل سیشن جج-II بونیر میں زیر سماعت ہے۔ بذریعہ درخواست استدعا ہے کہ سائیل بندہ سلاسل ہے اور سائیل کے چھوٹے چھوٹے بچے جو سکول میں زیر تعلیم ہے۔ نوکری سائیل کے بچوں کا واحد ذریعہ روزی و تعلیم ہے۔ التجا ہے کہ سائیل کے مشکلات کو مد نظر رکھ کر سائیل کو نوکری پر بحال کرنے کے احکامات صادر فرمائی جاوے۔ تو سائل تاحیات دعا گو رہے گا۔

العارض

آپکا تابعدا سابقہ ہیڈ کنسٹیبل لطیف خان نمبر 582

L.I. Attended

حال ڈسٹرکٹ جیل ڈگر، بونیر

Assistant Superintendent
District Jail Dargu, Buner

مورخہ 15.06.2021

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Annex - D (9)

In the Court of
IHTESHAM UL HAQ DANISHMAND KHAN
ADDL. SESSIONS JUDGE-1/IZAFI ZILLA QAZI, BUNER (AT
DAGGAR)

56

Sessions Case No. 75/7 of 2021

Date of Institution: 04.02.2021

18.09.2021

Date of Decision: 24.02.2022

تسلیہ کیلئے
مہر
گور

THE STATE

...VERSUS...

(1)Latif Khan (2)Gul Muhammad Khan alias Gullan (3)Sartaj
Khan sons of Shah Baroz Khan, Resident of Nawagai, District
Buner.

AP 2

31-3-22

JUDGMENT

1. Accused named above faced trial in case FIR No. 493, dated 20.12.2020 U/s 302/324/34 PPC R/w 15-AA, PS Nawagai.
2. According to the contents of FIR, accused facing trial are charged for committing the murder of Said Karam Khan alias Ajar S/o Yousaf Khan.
3. Brief facts of the case are that on 20.12.2020, complainant, Shah Farman S/o Said Karam who was available with the dead body of his father at Civil Hospital, Nawagai, reported to the local police to the effect that today at 1530 hours, their father was available in the fields while he and his brother Gul Zaman were already present there. Accused Latif Khan, Gul Muhammad and Sartaj Sons of Gul Zaman duly armed were also present there. When at 04 PM, they started firing at their

24.2.22

IHTESHAM UL HAQ DANISHMAND KHAN
Additional District Sessions Judge-1/IZAFI
Buner

TRUE COPY
EXAMINER
District & Session Judge Buner
Authorized under 187 of
RO No. 10 of 1983
31-03-22

father with intention to kill him because of which he got hit on various body parts and died at the spot while he and his brother escaped unhurt. The occurrence was witnessed by him and his brother Gul Zaman. The motive for the offence is dispute over the property. He charged the accused for the murder of his father. Hence instant FIR was registered against the accused.

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- 4. After the occurrence, accused were arrested, they were formally interrogated and after completion of investigation, challan against them was submitted. Case was entrusted to this court for trial, accused were formally charged sheeted on 24.03.2021 to which they pleaded not guilty and claimed trial.
- 5. It is worth mentioning that in the earlier framed charge, certain section of laws were not inserted because of which this court on 07.02.2022 framed fresh charge. The accused denied the allegations but as evidence was already completed, they were asked whether wanted to examine the witnesses again, however counsel for the parties relied on the earlier recorded evidence. Hence, no further evidence were recorded. The prosecution has produced as many as 12 witnesses and the following is the gist of their evidence.

24-3-22

IHTESHAM UL HAQ DANISHMAND KHAN
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Buner

i. PW-1 DR.IHSAN UL HAQ MO: Stated that on 20/12/2020 at 04:50 PM, he examined the dead body of deceased Said Karam Khan s/o Yousaf Khan r/o Nawagai, Buner aged about 58 years brought by his sons Shah Zaman, Gul Zaman and his relative

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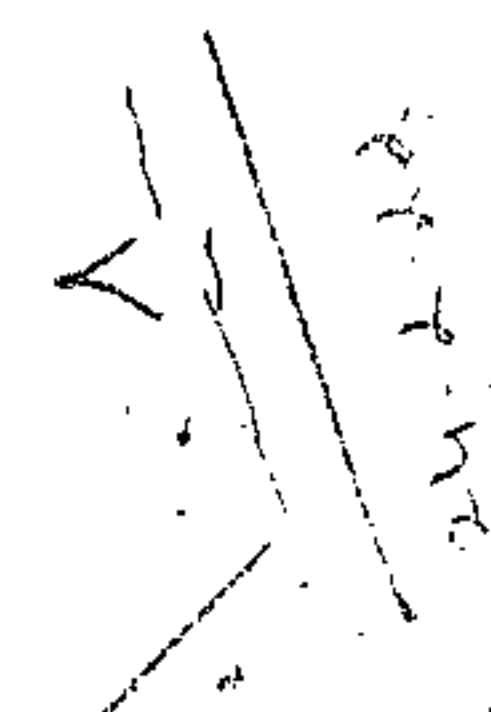
Dilawar and was identified by Noorul Faileen s/o Sherin and Shujaat Ali s/o Ihsanullah r/o Nawagai. He examined the dead body externally on arrival and was internally examined from 05:30 pm to 07:30 pm. His findings are as under:

No mark of ligature and dissection seen on neck.

Clothes: light colour shawl/Chadar, waist coat with black strips, sweater brown colour, light brown colour Shalwar Qamis, blue colour inner/Bunyan. All clothes were blood stained. There were tears in clothes.

Wounds:

1. Fire arm entry wound of .5 cm on right fore head with inverted edges and oozing of blood.
2. Exit wound on occipital area of skull with open "L" shape fracture from occipital vertical and then to right about 6X10cm with brain matter exuded out.
3. Fire arm entry wound on right arm (deltoid) about .5 cm with inverted edges.
4. Exit wound of size 1.5 cm on right shoulder superior aspect with everted margins.
5. Fire arm entry wound of size about .5 cm on posterior (back) of right shoulder with inverted margins. No exit wound found (bullet is inside shoulder joint as seen in X-ray).
6. Fire arm entry wound of size 1.00 cm on left side of chest at 2nd to 3rd intercostal space with inverted margins. No exit found. Bullet is in right chest cavity lower side.
7. Fire arm entry wound of .5 cm on upper right quadrant of right buttock with inverted margins.


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- 8. Exit wound on left side of abdomen with everted margins, size about 1.5 cm.
- 9. Fire arm fraction wound on the abdomen through skin horizontally near umbilicus.
- 10. Note: All wounds are oozing of blood. Both ears are oozing of blood.

X-ray chest, skull, hip done.

X-ray chest shows one shadow of bullet in right shoulder joint and one shadow of bullet in right lower chest cavity, two ribs fractured and haemothorax observed.

On the inquest report, he had scribed the detail report given on the post mortem form. Similarly, on the injury sheet, he had also given his note as well as the pictorial attached with the PM report comprising six pages. He had also given his report about the cause of death, weapon used in the offence, time duration between the injury and death and between the death and Post mortem. The documents are ExPw1/1 to ExPw1/3, on which he endorsed his signatures.

ii. **PW-2 AFSAR ALI KHAN ASI:** Stated that during the day of occurrence, he was posted in Police Station Nawagai. He received Murasila from Wahid Khan ASHO through constable Farid Gul No.1806 and incorporated the contents of Murasila into FIR which is Ex.PA. He endorsed his signature on the afore mentioned document.

PW-3 CONSTABLE MISAL KHAN NO.484: Stated that during the days of occurrence, he was posted in police station Nawagai in the investigation wing. On 30.12.2020, the accused namely Gul Muhammad led the police party to the place of

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recovery of pistol where he had hidden. The accused took out the 30 bore pistol with fixed charger containing two live rounds of even bore from the place where he had hidden it and produced to the Investigating Officer and disclosed that through said pistol he had committed the offence. The Investigating Officer sealed the pistol with fixed charger in parcel No.6 (Ex.P1) and live rounds in parcel No.7 (Ex. P2) and in this respect prepared recovery memo Ex. PW-3/1. He is also the marginal witness of the recovery memo vide which the accused Latif Khan led the police party to his Tobacco Kiln and took out Kalashnikov (Ex.P3) No.665615081960 with fixed charger containing ten live rounds (Ex.P4) and sealed in parcel No.8 while the live rounds were sealed in parcel No.9. He endorsed his signature on Ex.PW-3/2 and signature of the co-marginal witness Qamar Zaman. On 21.12.2020, he was present with Inspector Muhammad Khalid and he visited the place of occurrence where inspector Muhammad Khalid collected blood stained earth and sealed it in parcel No.2. Similarly, he also recovered and collected six empties of 30 bore pistol and sealed it in parcel No.3 Ex.P-5 and also recovered six empties of 7.62 bore and sealed in parcel No.4. Ex. P-6 on the spot. In this regard, he prepared recovery memo of empties of 30 bore, 7.62 bore, blood stained earth on the spot. He endorsed his signature on Ex.PW-3/3 and signature as well as the thumb impression of one Shah Zaman and signature of Muslim Khan No.434. His statements u/s 161 Cr.P.C was also recorded by the investigating officer.

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iv. **PW-4 WAHEED KHAN ASHO:** Stated that during those days of occurrence, he was on duty in Police Station Nawagai, Buner. On information, he came to emergency ward of Civil Hospital Nawagai where the dead body of deceased Said Kareem Khan alias Ajar s/o Yousaf Khan lying on bed. With the dead body his son Shah Zaman Khan was present who reported to him about the occurrence. He scribed the report of the complainant in shape of murasila Ex.PA/1. The murasila was read over to the complainant and by admitting the contents of murasila as correct, he put his thumb impression as token of its correctness while his brother Shahab put his thumb impression on the murasila as verifier. He cursorily examined the dead body of the deceased and prepared injury sheet and inquest report (consisting of two pages) of the deceased which are Ex.PW-4/1 and Ex.PW-4/2. After preparing the injury sheet and the inquest report, he handed over it to the doctor on duty. After drafting of murasila, he sent it to the Police Station through constable Farid Gul No.1806. He endorsed his signatures on the afore mentioned documents.

v. **PW-5 MUSLIM KHAN HC NO.434:** Stated that during those days of occurrence, he was posted in police station Nawagai in the investigation wing. On 21.12.2020, he visited the spot with Investigating Officer Khalid Khan and during the spot inspection, he recovered blood stained earth from the place of deceased and sealed it in parcel No.2 Ex.P-7. The Investigating Officer also collected six empties of 30 bore pistol and sealed it in parcel No.3 already Ex.P-5 and also recovered six empties of 7.62 bore and

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sealed in parcel No.4, Ex.P-6 from the spot. In this regard, Investigating Officer prepared recovery memo of empties of 30 bore 7.62 bore, blood stained earth on the spot. He endorsed his signature and signature as well as the thumb impression of one Shah Zaman and signature of constable Misal Khan No.484, on Ex.PW-3/3. Moreover, he vide transit receipts Numbers sent the parcel No.5 and parcel No.6 to FSL through constable Misal Khan No.484. The transit receipts No.550/21 Ex.PW-5/1 and 549/21 Ex.PW-5/2. In this regard Investigating Officer has recorded his statements u/s 161 Cr.P.C.

vi. **PW-6 AFSAN KHAN SI:** Stated that during those days, he was posted in Police Station Nawagai as SHO. On 08.11.2021, he submitted complete challan against the accused Gul Muhammad Khan and Sartaj Khan while for proceedings under section 512 Cr.P.C accused Latif Khan Ex.PW-6/1. On 10.02.2021 he arrested accused Latif Khan s/o Shah Bro Khan r/o Nawagai, Buner and issued his card of arrest Ex.PW-6/2 and handed over the accused to the Investigating Officer for investigation. After the complete investigation I submitted that challan against the accused facing trial. He endorsed his signatures on the afore mentioned documents.

vii. **PW-7 QAMAR ALI KHAN S/O FAIZ MUHAMMAD:** Stated that he is the marginal witness of the recovery memo Ex.PW-7/E vide which Investigating Officer took into possession garments of the deceased handed over by Shahab s/o of the deceased, waist coat, gray color having two bullet marks on back side Ex.P-7. One sweater having two

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bullet marks, Qamees half white blood stained Ex.P-8 having one bullet mark on the right hand. On back side two bullet marks as well as on the pocket having one bullet mark and sweater yellow color having two bullet marks in the front side and on the back side of the left arm as well as having one bullet mark trouser fold. All the articles were sealed into parcels in his presence as well as in the presence of co-marginal witness Muhammad Ali. He endorsed his signatures on the afore mentioned documents.

viii. **PW-8 AHMAD NASEEB NO.311:** Stated that on 22.12.2020, Muharrir investigation Saeed Khan handed over to him parcel No. 1 and 2 through road receipt No. 531/21 for transmitting it to FSL. Upon which he took the same to FSL. The FSL authorities issued acknowledgement receipt which he brought back and handed over to Muharrir of the Police Station. He is marginal witness to recovery memo Ex:Pw 8/1 vide which the investigating officer took into possession USB. Likewise, he is also marginal witness to recovery memo regarding CDR Ex:Pw 8/2. He endorsed his signatures on the afore mentioned documents. Similarly, he is also marginal witness of the pointation memo of the spot pointed out by accused Gul Muhammad Ex:Pw8/3 (STO: by the defence counsel that mere pointation is not admissible u/s 40 of QS). On 12.02.2021, Muharrir investigation Saeed Khan handed over to him parcel No. 8 and 4 through road receipt No. 96/21 for transmitting it to FSL. Upon which he took the same to FSL. The FSL authorities issued acknowledgement receipt which he

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brought back and handed over to Muharrir of the Police Station.

ix. **PW-9 MUMTAZ ALI KHAN DFC:** Stated that he was entrusted with warrant u/s 204 Cr.P.C, (Ex.PW9/1) issued against accused Latif Khan s/o Shah Baroz Khan R/o Nawagai. He searched the accused on the given address but it was reported to him that the above named accused had gone into hiding and was intentionally avoiding his lawful arrest. In this respect he obtained verification from the locals and thereupon, given his report which is Ex:Pw9/2. Similarly, he was also entrusted the proclamation notice u/s 87 Cr.P.C, Ex:Pw9/3, which were duly served according to the law by him, upon which his report and verification report is Ex:Pw9/4. He endorsed his signatures on the afore mentioned documents.

x. **PW-10 SHAH ZAMAN S/O SAID KARAM KHAN:** Stated that on the day of occurrence i.e. 20.12.2020 on Sunday, at 04:00 PM, he was passing through the place of occurrence along with his brother Gul Zaman and deceased father. His father was going ahead of them while they were proceeding behind him. The accused facing trial namely Latif, Gul Muhammad and Sartaj were present in the disputed property. They have not seen the accused before firing, because they were behind a "Pula". Firstly the accused namely Latif Khan started firing on his father, because of which he got hit on his head. Gul Muhammad also started firing. That he and his brother were unarmed therefore, they could not respond. His father got wounded at different parts of

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the body and fell down on the ground after covering some distance. The accused decamped from the spot after the commission of offence. He called his brother Shahab about the incident on mobile. The people who were working in the adjacent fields were attracted to the spot. The dead body was lying on the spot for about 8 to 10 minutes. The body of the deceased was put on a cot and shifted to the Civil Hospital Nawagai. The police came to the hospital and he reported the matter to them. His report was reduced into writing in shape of Murasila which was signed by him and the dead body was examined by the doctor. On 21.12.2020 on Monday he was asked by the police officials to come to the spot for the purpose of pointation which they have made. He charged the accused facing trial for the commission of the offence.

xi. **PW-II GUL ZAMAN S/O SAID KARAM:** Stated That on the day of occurrence, he and his brother Shah Zaman had come to their property. Their father came behind them. He went ahead of us. The accused were hiding behind a *Pula* so they were not aware about the presence of accused. In the meanwhile firing started and his father got hit. They were empty handed, therefore, they ran away from the spot for fear of their lives. When the accused decamped from the spot, they came back to attend their father. The people working in the adjacent fields were attracted to the spot. They arranged a cot and shifted the dead body to the hospital on foot. On the next day of occurrence his statement was recorded by the police u/s 161 Cr. PC.

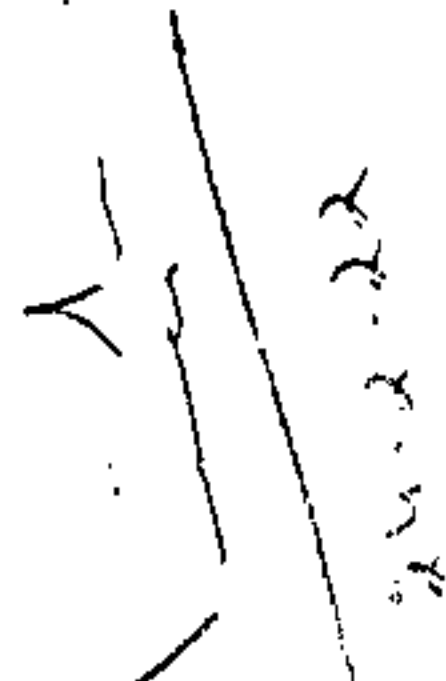
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xii. PW-12 KHALID KHAN SI: Stated that after registration of FIR the case was assigned to him for investigation. On 20.12.2020, one Shahab S/o deceased produced blood stained garments of deceased Said Karam Khan consisting of *waskatnuma* jacket and sweater having two bullet hole on its back side Ex:P7 and Ex:P8, blood stained Qamees Ex:P9 having one hole on right arm and two holes on back side. He sealed the same into parcel No. 1 in presence of marginal witnesses. In this respect he prepared the recovery memo already Ex:Pw7/1. On the following day he visited the spot and prepared the site plan (consisting of two sheets) Ex:Pw12/1 at the instance of complainant. Similarly, vide recovery memo Ex:Pw3/3 during spot inspection, he took into possession blood stained earth from point "1A" and 6 empty shells of 30 bore lying in scattered position emitting smell of fresh discharge and from point "C". He also recovered 6 empty shells of 7.62 bore lying in scattered position emitting smell of fresh discharge which is Ex:P5, 6 and P7, respectively. Vide application Ex:Pw12/2 he had applied for sending parcel No. 1 & 2 to FSL for analysis. As accused Latif and Sartaj were police official, therefore, he vide application Ex:Pw12/3 applied for departmental proceedings against them. He had prepared the list of legal heirs which is Ex:Pw12/4. The accused were avoiding their lawful arrest, therefore, vide application Ex:Pw12/5, he had applied for warrant u/s 204 Cr. PC which was allowed and he handed over the same to DFC concerned for execution. He had also issued memo Ex:Pw12/6 of correction of the



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name of complainant. During investigation vide recovery memo Ex:Pw8/2, he have taken into possession the CDR Ex:Pw12/7. (consisting of 9 sheets along with info report) in respect of accused. On 29.12.2020, he arrested the accused Gul Muhammad Khan and issued his card of arrest Ex:Pw12/8. On the following day he vide application Ex:Pw12/9 produced the said accused before the Judicial Magistrate for police custody and one custody was allowed. The accused during interrogation confessed his guilt and led them to the place of occurrence and pointed out his place of presence as well as the places of presence of other accused on the spot. In this respect he prepared the pointation memo Ex:Pw8/3. He vide recovery memo Ex:Pw3/1 recovered one pistol of 30 bore along with fixed charger Ex:P1 & Ex:P2 having two live rounds at the instance of accused and disclosed it as weapon of offence. In this respect he also prepared the sketch of recovery Ex:Pw12/10. Vide memo Ex:Pw12/11, he made addition of S. 15-AA in the case. On 31.12.2020, he produced the accused vide application Ex:Pw12/12 before the Judicial Magistrate for recording his confessional statement which was turned down and the accused was sent to judicial lockup. Vide application Ex:Pw12/13, he have applied for sending parcel No. 6 to FSL for analysis. On 02.01.2021, he have applied for proclamation u/s 87 Cr. PC vide application Ex:Pw12/14 which was allowed and handed over to DFC concerned for execution against accused Latif Khan. Likewise, during the stage of investigation he had obtained the


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attested copies of civil suits between the parties which are consisting of 13 sheets Ex:PW12/15. He received the FSL reports in respect of sending articles which are Ex:PW12/16 to Ex:PW12/18. He had recorded the statement u/s 161 Cr. PC of all relevant witnesses. After completion of investigation, he handed over the case file to SHO for submission of challan u/s 512 Cr. PC against the accused Latif Khan and complete challan against the accused. After the arrest of accused Latif Khan the case was again assigned to him for investigation. On 11.02.2021, he vide application Ex:PW12/19 produced the said accused for police custody and obtained two days custody. On 12.02.2021, the accused led them to the place of occurrence and pointed out the different places of the occurrence. In this respect he prepared the pointation memo Ex:PW12/20. Likewise, on the same date, he recovered Kalashnikov (unlicensed) along with fixed charger having 10 live rounds Ex:P3 & Ex:P4 at the instance of accused which was taken into possession vide recovery memo Ex:PW3/2. He had also issued memo Ex:PW12/21 for addition S.15-AA. He had prepared the sketch Ex:PW12/22 of recovery. Vide application Ex:PW12/23, he produced the accused Latif for recording his confessional statement and he was sent to judicial lockup. Vide application Ex:PW12/24, he had applied for sending parcel No. 8 & 4 to FSL for analysis. He had recorded the statement u/s 161 Cr. PC of witnesses and accused. After his transfer, he handed over the instant case to the Muharrir of Police Station. He endorsed his signatures on the afore mentioned documents.

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6. Prosecution abandoned remaining PWs being unnecessary. After closing of the prosecution's evidence, accused facing trial was examined U/s 342 Cr.P.C, wherein, accused facing trial denied the allegation of the prosecution case and has refused to give statement on oath or to produce evidence in defence. Thereafter, arguments of learned counsel for the parties were heard.

7. Learned counsel for complainant party opening the arguments said that prosecution has proved its case beyond any shadow of doubt; complainant has charged the real culprits in promptly lodged report, therefore, no room for consultation and deliberation exists; three accused are charged for broad day light occurrence. He further argued that the deposition of eyewitnesses has not been shattered on material points, therefore, prosecution has relieved its burden to bring home the guilt of accused facing trial through consistent and confidence inspiring ocular account; it was also argued that parties are the residents of same village and related with each other, therefore, there is no chance of mistaken identity; that motive has also been proved by the prosecution, as the testimony of PWs. in this respect has not been denied, hence, strong motive existed behind the crime; the presence of deceased and witnesses at the spot was natural as they were available in the fields. Medico-

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legal evidence brought on record fully proves that the deceased was fired at with murderous intention, therefore, strongly corroborates the version of prosecution; that the recovery of crime empties, weapon of offence, blood, blood stained garments of the deceased and the positive results of FSL also corroborates the version of prosecution of venue of occurrence and presence of deceased and accused at the spot; In the end the learned counsel for complainant party prayed for awarding appropriate punishment to the accused.

8. Learned counsel for accused facing trial resisted the contention of learned counsel for complainant and argued that prosecution has badly failed to substantiate the charge contained in the FIR; that the case of prosecution is full of doubts and a doubtful case cannot culminate in conviction. That eyewitnesses are planted one and were not available at the spot. He next argued that accused Sartaj was alleged to be available on the spot with his other brothers and shown to have taken active part in the commission of offence but the investigating officer did not believe their this version as on day of occurrence, he was performing his duty as traffic constable in swari bazaar and I.O therefore, filed challan against him under section 169 Cr.P.C. He also relied on certain FIRs registered against the deceased and stated that he had many enmities in the locality and

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Buner

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occurrence might have been committed by any of them but for ulterior motives present accused have been charged, further that there are glaring contradictions in between the statements of PWS on material points, which renders the case of prosecution highly doubtful. He disputed the Site Plan and argued that it does not corroborate the version of prosecution, as has been prepared on the pointation of incompetent PWS. He prayed for the acquittal of accused facing trial.

9. Record transpires that the case of prosecution is based upon direct evidence/ocular account supported by corroborative pieces of evidence.

10. The ocular account is based on the direct testimonies of two eye witnesses Shah Zaman and Gul Zaman; both of them sons of deceased. The report was lodged by Shah Zaman and he reported that they were present in the fields along with their father (deceased) when at about 04:00 PM, accused Latif Khan, Gul Muhammad, Sarraj who were hiding nearby, suddenly appeared and started firing upon them, because of which, his father got hit on various body parts and died at the spot. They miraculously escaped unhurt. His report was reduced into writing and after admitting the contents correct, the Murasila Ex:PA/1 was thumb impressed by complainant. As per Murasila, the occurrence took place on 20.12.2020 while site

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plan Ex: PW-12/1 was prepared on 21.12.2020 at the pointation of complainant Shah Zaman and his brother Gul Zaman. In that site plan Ex:PW-12/1, the points of deceased party are point No.1, 1A, 5 and 6 where point No.1 is given to the deceased Said Karam, point 1A is where deceased fell on the ground and blood was recovered, point No.5 is the place of complainant Shah Zaman (PW-10), point No.6 is the place of eye witness Gul Zaman (PW-11). The accused on the other hand are given point No.2, 3 and 4 where point No.2 is the place of accused Gul Muhammad, point No.3 has been given to accused Latif Khan while point No.4 is the place of accused Sartaj. The IO who prepared site plan Ex:PW-12/1 in his foot notes noted that all the places given to the complainant party as well as accused are clearly visible from each other and in between these points there is no obstacle/hindrance. Hence, in the light of Murasila and site plan, the prosecution was now required to prove its case against the accused.

11. As mentioned above, accused Sartaj has been given point No.4 in the site plan with accusation of active firing upon the deceased and complainant party, anyhow this eyewitness account was belied by the investigation officer when during the course of investigation, he reached to the conclusion that accused Sartaj, constable in traffic police Buner and posted in

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Swari Bazar, had never left his place of duty that day and so was not involved in commission of offence. In this regard, he drafted application u/s 169 Cr.P.C on 07.01.2021. The investigation officer appeared before court as PW-12, and during cross examination he affirmed that he had come to know that accused Sartaj was available in Sawari Bazar and in this respect, FSL screen shots of accused are already available on file. He also stated that in connection of this accused he recorded statements of Munir Khan, HC Kifayatullah, IHC Haji Bahadar, constable Musharaf Khan and Basit Ali and they stated before him that accused Sartaj was available with them on duty on 20.12.2020 from morning till evening time. In this respect, defense side also produced daily dairies as Ex:PW-12/D1 recorded by the IO wherein these witnesses have recorded their statements in favour of accused Sartaj. Even the CCTV footage confirmed that accused Sartaj was available at Swari Bazar when the alleged occurrence was shown taking place at the relevant time. Prosecution made no efforts to controvert the above stated position in any manner, meaning thereby that at the relevant time and date, the accused Sartaj was not available at the place of occurrence. Now the fact that accused Sartaj was not present at the place of occurrence, has shattered the credibility of the eye witnesses and site plan

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prepared at their instance because therein accused Sartaj was given point No. 4 and role of actively firing on deceased and eyewitnesses. The complainant party also seems to have realized this aspect of their case when these two eyewitnesses in their court statements have improved the story line by giving active role of firing to Gul Muhammad and Latif while spoke nothing about the role of Sartaj, accepting that he was not available at the spot. Hence same has become dishonest improvement, going against the case of prosecution. They have charged three persons for the commission of single murder and the above narrated fact alone has put the court to caution regarding the guilt of the other accused and now there is no certainty that they have been charged fairly.

12. The above contradiction is not the only flaw in the case and eyewitnesses have made many other contradictory statements regarding the mode and manner of the occurrence, raising considerable doubt about their truthfulness. It is so because in the initial report Shah Zaman stated that they were already present in the fields while their father came after them later on. But during court statement this witness stated that they went to the fields together from their house at 3:30 PM. PW-11 on the other hand stated that he and his brother (complainant) came to the spot on 3:00 PM while their father reached there on 3:30

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PM. They both are witness of one and the same event but it is baffling that they are not in consonance over a trivial detail of how they reached to the spot.

13. In the court statement, complaint stated that Murasila was signed by him but Murasila Ex PA/1 is instead thumb impressed by the complainant and it does not bear his signature anywhere.

14. In Murasila there is no mention of any hiding place where accused were hiding before the commission of offence. In the court statement however complainant and his brother introduced this fact for the first time that accused were hiding behind a Pulla, hence were not spotted by the eyewitnesses. The site plan EX PW 12/1 on the other hand does not show any pulla behind which the accused were hiding nor such place was shown to the investigation officer during spot inspection.

15. PW 10 and 11 in court statement stated that their father was ahead of them and they were going behind him when accused appeared and started firing. The site plan prepared by the investigation officer nonetheless states the following:

"مقام نمبر 1 وہ مقام بیان ہوا جہاں پر بوقت وقوعہ مقتول سید کرم خان کا جانب جنوب پولہ اراضی پر پیدال روانی
مقام نمبر 3 پر موجود ملزم لطف خان کے فائرنگ سے لگ کر بیان ہوا۔ جبکہ مقامات 5، 6 پر موجود مدعی شاہ زمان،
گواہ چشم دید گل زمان پر بھی فائرنگ کر کے جس سے بال بال بچ جانا بیان ہوئے"

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B.O. No-19 of 1984

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This again is another contradiction in the case as to support the eyewitness account, the deceased should have been moving towards the North side and not Southern side because as per site plan if deceased was going towards Southern Side then eyewitnesses were ahead of him and were not going behind him.

The statement of eyewitnesses then suffer again from the fact that they are not aware about the names of persons who arranged cot for shifting of the dead body to the hospital nor do they remember ~~their~~ ^{the} names. ^{as they get attracted to the spot.} The place of occurrence is the village of the complainant and eyewitness, hence it is not impossible to give names of the persons who arranged for shifting of the body and who were attracted to the spot after hearing fire shots. Failure to give names of the people means that eyewitnesses have been arranged later on in the case and the occurrence was unseen. The eyewitnesses' actions of not attending their father after the occurrence also raises suspicion about their presence on the spot as PW-11 stated that they did not touch the body of their father, therefore their cloths were not stained with blood. PW-11 further stated that after firing they had run away from the spot and came back once the accused left the area (This fact was not supported by the other Eyewitness nor this fact is available on case file). PW-11 in his

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HAM UL HAQ DANISHMAND KHAN
Additional District & Sessions Judge-IHQ
Buner

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District & Session Judge Buner
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P.O. No-20 of 1984

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examination in chief also did not give names of the accused who were responsible for firing on his father and consequently his death. It is also strange that despite indiscriminate firing attributed to the accused, both of the eye witnesses did not even suffer a single scratch on their body (no medical report is available of them on case file nor any such fact is alleged by them) which in the circumstances of the case is not believable.

As a consequence of above flaws, the whole ocular account is adjudged to be unworthy of reliance.

16. The time of preparation of site plan and recoveries made from the spot is also in doubt, so because IO of the case appeared as PW-12 and stated during cross examination that he went to the place of occurrence on 21.12.2020 at 09:10 hours and remained there for 5 hours and 25 minutes and completed the spot proceedings at about 03:45 PM (day time). He further stated that during the spot inspection, complainant and eye witnesses were present with him. PW-3, who is witness of recovery memo Ex:PW-3/3, vide which the blood stained earth and empties were recovered, stated that Ex:PW-3/3 was prepared in torch light on 21.12.2020. This statement by the recovery witness is not in-line with the statement of investigating officer who as reproduced above has stated that he completed spot inspection during the day. This fact of the case does not appeal to a prudent mind so because the occurrence took place on

21.12.22
ESHAM UL HAQ DANISHMAND KHAN
Additional District & Sessions Judge-II/20
Buner

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District & Sessions Judge Buner
Appointed under 187 of
P.O. No. 19 of 1984

178

20.12.2020 and was shown to be witnessed by the sons of deceased therefore the investigating officer should have made recoveries on the following day without any effort. If in fact he took considerable time in locating the empties and other recoveries, it simply shows that eye witnesses have been introduced later on and the occurrence has not taken place in the mode and manner as alleged in the Murasila. It therefore also makes the place of occurrence and recoveries doubtful.

17. PW-1, who conducted Post Mortem of the deceased during cross examination, stated that he had handed over the clothes of the deceased to the police at hospital. However, PW-7 Qamar Ali Khan stated in examination in chief that the garments of the deceased were handed over to the police in their *Hujra* by the son of deceased namely, Shahab. Whereas PW-11 eye witness of the case stated that on the day of occurrence, police officials did not come to their *Hujra*. Along with this fact, medico legal officer exhibited his Post Mortem Report as Ex:PW-1/3, wherein time of arrival of the dead body to the hospital is shown as 20.12.2020 at 04:50 PM where after he made external examination upon the arrival of the dead body while conducted Post Mortem from 05:30 to 07:30 PM, which shows that he conducted the Post Mortem for about two and half hours but strangely PW-10 and PW-11 (eye witnesses of the case) during

25.2.22
TESHAM UL HAQ DANISHMAND KHAN
Additional District & Sessions Judge-1/120
Buner

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District & Session Judge Buner
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LO No. 19 of 1984

cross examination stated that they had brought the dead body of the deceased to their house after spending 05 to 10 minutes in the hospital and it was handed over to them at about 05:00 PM. These glaring contradictory statement of the prosecution witnesses clearly reveals that the occurrence is un-witnessed one and accused have been nominated on the basis of suspicion instead of some direct evidence.

18. It is alleged that motive behind the occurrence was dispute over the landed property and in this behalf; accused party had instituted civil suits against the complainant side before the court. IO of the case had placed on file the said record and exhibited the same in shape of Ex:P.W-12/15. The said record reveals that accused had filed suit for declaration as well as injunction against four persons, wherein deceased Said Karam was one of the defendants. To support motive, apart from the above documents, the complainant party has not alleged any other thing or incident which could show desperateness on the part of accused. Moreover, filing of suit on the part of accused shows that they wanted their rights enforced through the writ of the state, which act does not show any ill-will against complainant party. The two eye witnesses of the occurrence when appeared in witness box, also did not utter a word about the motive of the case. Hence the motive advanced does not

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INTESHAM UL HAQ DANISHMAND KHAN
Regional District & Sessions Judge-Buner

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District & Sessions Judge Buner
Memorandum No. 187 of
C.O. No. 19 of 1984


seems sufficient for the offence alleged against the accused. It is however observed that motive by itself is not sufficient for conviction or acquittal rather it is corroboration in support of evidence brought on file. Weakness of motives, too, does not help the accused if their guilt is proved through reliable and convincing evidence. But, in the instant case, being interested ocular witnesses, prosecution should have proved this piece of corroborative evidence through unimpeachable evidence, but no independent witness in this respect has been brought forth. The motive therefore remained unproved.

19. So far as indirect evidence is concerned, the police officials had shown recovery of the pistol from accused Gul Muhammad while Kalashnikov (Ex.P3) No.665615081960 with fixed charger containing ten live rounds (Ex.P4) was allegedly recovered on the pointation of accused Latif Khan. Anyhow, the recovery memos were prepared by the IO in the presence of eye witnesses who are all police officials and no private person was associated with the recovery proceedings, which could give it some authenticity. Moreover, PW-3 who is the witness to recovery during cross examination stated that the house of complainant Shah Farman (Shah Zaman) is situated near the place of recovery of the Kalashnikov. It is normal practice and conduct of culprits that accused tried his level best to conceal

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SHAM UL HAQ DANISHMAND KHAN
 District & Sessions Judge-Buneri

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EXAMINER
 District & Session Judge Buneri
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or destroy each piece of incriminating evidence which might be used against him/them in future as such it defies logic that the incriminating articles would be hidden near their own houses. Then the pistol and Kalashnikov were not recovered from the direct possession of accused and its recovery was made from an open field easily accessible by general public. Likewise, the record further shows that, the empties recovered from the spot and weapon of offence i.e. pistol and Kalashnikov, were sent to FSL, by investigating officer for chemical analysis and as per FSL report Ex:PW-12/17 and Ex:PW-12/18, the empties recovered from the spot were not fired from either the pistol or from the Kalashnikov and there were dissimilarities in the striker pin marks, breach face marks and ejector marks. This report had totally dented the prosecution case and the alleged recoveries are also totally doubtful.

20. Corroborative pieces of evidence such as, the medico-legal report showing the unnatural death of the deceased and recovery of incriminating stuff from the spot immediately, after the emergence of charge against them, could not be termed to be the replacement of evidence, and these could only confirm the venue of occurrence and the mode of death of the deceased, but to establish that the murder of the deceased was committed by the accused, evidence either direct or circumstantial was

25.2.22
 HATESHAM UL HAQ DAHSHIMAND KHAN
 Additional District & Sessions Judge-Buner

26/11/2017

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 Additional District & Sessions Judge-Buner
 Authorized under 187 of
 R.O No. 12 of 1988

required, which is full of doubt in the instant case, therefore, corroborative evidence is of no help for the case of prosecution.

21. In a nutshell, because of glaring contradiction in the statements of prosecution witnesses and presence of other lacunas in the case, prosecution has not been able to prove its case against the accused facing trial beyond shadow of doubt, hence, accused are entitled for benefit of doubt. Therefore, while extending benefit of doubt, accused (1)Latif Khan (2)Gul Muhammad alias Gullan (3)Sartaj sons of Shah Baroz Khan, are hereby acquitted from the charges leveled against them. Accused Latif Khan and Gul Muhammad alias Gullan are in custody, be set free forthwith, if not required in any other case/crime. Accused Sartaj is on bail; his sureties are discharged from the liabilities of bail bonds. Case property (if any) be dealt with in accordance with law, after the expiry of period provided for appeal/revision. File be consigned to record room after its completion and compilation.

Announced
24.02.2022

Ihtesham Ul Haq Danishmand Khan
Additional Sessions Judge/IZQ-I

~~IHTESHAM UL HAQ DANISHMAND KHAN~~
~~Additional District & Sessions Judge/IZQ,~~
~~Buner~~

CERTIFICATE

Certified that this judgment consists of Twenty Seven (27) Pages and each page has been signed by me after reading and correction.

CD No: 1901
Date of Application 31-03-22
Date of Receipt of File تقریرت ختم 31-03-22
Date of Preparation 31-03-22
Date of Notice _____
Words 27P
Fees Fr
Urgent Fees _____
Date of Delivery 31-03-22
Signature [Signature]

Ihtesham Ul Haq Danishmand Khan
Additional Sessions Judge/IZQ-I
Buner

~~IHTESHAM UL HAQ DANISHMAND KHAN~~

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EXAMINER
District & Session Judge Buner
Authorized under 187 of
PO No-10 of 1983

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Annex E (36)

OFFICE OF THE
REGIONAL POLICE OFFICER, MALAKAND
AT SAIDU SHARIF SWAT.
Ph: 0946-9240388 & Fax No. 0946-9240390
Email: ebmalakandregion@gmail.com

ORDER

This order will dispose of appeal of Ex-Head Constable Latif Khan No.582 of Investigation Wing, Buner for reinstatement in service, who is dismissed from service by Superintendent of Police, Investigation Wing, Buner vide OB No.28, dated 02-06-2021.

Brief facts of the case are that Ex-Head Constable Latif Khan No.582 of Investigation Wing, Buner while posted at Investigation PS Pir Baba was charged in case FIR No.493, dated 20-12-2020 U/S 302,324,34 PPC Police Station Nawagai. He was closed to Police Line Daggar and placed under suspension and departmental enquiry was initiated against him. DSP Investigation, Buner was appointed as Enquiry Officer. During the course of enquiry statements of all relevant witnesses were recorded by the Enquiry Officer. After completion enquiry proceedings the Enquiry Officer in his findings report and recommended that, the Enquiry proceedings be kept pending till the decision of the court in criminal case registered against delinquent official. However, in compliance of this office letter Endst: No.6560-76/E, dated 01-06-2021 the Superintendent of Police, Investigation Buner awarded him major punishment of dismissal from service with immediate effect and his absence period from 22-12-2020 to 02-06-2020 total 05 months 10 days treated as unauthorized absence.

He was called in Orderly Room on 09-03-2022 and heard him in person, but he did not produced any cogent reason to defend the charges leveled against him, therefore, his appeal is hereby rejected.

K. Afghan
Regional Police Officer,
Malakand Region Swat

No. 3432 /E,
Dated 29/03 /2022.

Copy for information and necessary action to the Superintendent of Police, Investigation Wing, Buner with reference to his office Memo: No.2396/EC, dated 29-06-2021 and No.382/EC, dated 28-02-2022. His Service Roll and enquiry file received with your memo: under reference are returned herewith for record in your office.

Enak S. Reel
Enquiry File

ATTESTED TO BE
TRUE COPY

VAKALAT NAMA**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR**

SA No. _____/2022

Latif Khan

Appellant)

VERSUS

Superintendent of Police and Others _____ Respondent(s)

I **Appellant**, do hereby appoint and constitute **Mr. AKHTAR ILYAS Advocate High Court, CHANGAIZ KHAN advocate** Peshawar, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our 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: 31/03/2022

Latif Khan
(CLIENTS)

(Latif Khan)
15101-0421154-3

ACCEPTED

Akhtar Ilyas
AKHTAR ILYAS
ADVOCATE HIGH COURT.
BC: 11-1572
CNIC: 17301-9777330-1
CHANGAIZ KHAN
BC: 19-1507

OFFICE: TF-287 DEANS TRADE CENTER PESHAWAR SADDAR
0333-9417974/03419245730

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR. *TB Swat*

No.

Regd
Appeal No. *488* of 20 *22*

Latif Khan Appellant/Petitioner

Versus

S.P Investigation Buner Respondent

Respondent No. *1*

Notice to:

*Superintendent of Police Investigation
Distt Police Buner*

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 *12-5-2022* at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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

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

Given under my hand and the seal of this Court; at Peshawar this *8*.....

Day of..... *4* 20 *22*

at CAMP Court Swat,

~~Signature~~

Q

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.

Regd

JUDICIAL COMPLEX (OLD), KHYBER ROAD, PESHAWAR. *FB Swat*

No.

488

22

Appeal No. *Latif Khan* of 20

..... Appellant/Petitioner

SP Investigator Messrs Buner

..... Respondent

Distt Police ~~Office~~ *at Dargax* ^{Respondent No.} *BUNER*

Notice to: —

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

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Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated..... *8*

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

Day of *at camp court*20

Swat

Registrar,

Khyber Pakhtunkhwa Service Tribunal, Peshawar.

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

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

**JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.**

No. *Regd*

TB Swat

Appeal No. *488* of 20 *22*

Latif Khan Appellant/Petitioner

Versus

S.P Investigation Bureau Respondent

Respondent No. *3*

Notice to: *Regional Police office: D/G Malakand
Region at Saidu Sharif Swat*

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 *12-5-2022* at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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

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

Given under my hand and the seal of this Court, at Peshawar this *8*.....

Day of..... *4* 20 *22*

*at Camp Court
Swat*

[Signature]
Registrar, *eb*

**Khyber Pakhtunkhwa Service Tribunal,
Peshawar.**

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

"B"

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

No.

TB Swat

Appeal No..... 488 of 2022

Latif Khan Appellant/Petitioner

Versus

SP Investigation Burrey Respondent

Respondent No..... 4

Notice to: - Provincial Police officer Inspector
General of Police KP 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..... 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... 8

Day of..... 20

at Camp Court
Swat

19/11/22



Registrar,

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

- Note:
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 2. Always quote Case No. While making any correspondence.

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

TR Swat

No.

488

Appeal No. of 20 *22*

Latif Khan

Appellant/Petitioner

Versus

SP investigation Buner

Respondent

Respondent No. *4*

Notice to:

*Provincial Police officer IGP
Peshawar*

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on *4-7-22* 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,

8

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

Day of..... 20 *6 22*

at camp court

14.06.22 Swat

[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.

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

Revised

No.

TB Sweet

Appeal No. 488 of 2022

Latif Khan

Appellant/Petitioner

Versus

SP Investigation Buner Respondent

Respondent No. 1

Notice to:

Superintendent of Police (Investigation)
Distt Police Buner

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 15-1-22 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 15th 2022

Day of 15 2022

at court

Sweet

Q

Registrar,

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

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

"B"

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

No. *Page*

TB Swat

Appeal No. *488* of 20 *22*
..... Appellant/Petitioner

Latif Khan Versus

S P investigation Buner Respondent
Respondent No. *2*

Notice to: —

District police officer Buner at

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....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 adjourned 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*.....

Day of.....*6*.....*22*

at camp court

Swat

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 (COLD), KHYBER ROAD,
PESHAWAR. *TB Swat*

No.

Regd
Appeal No. 488 of 22
Letif Khan Appellant/Petitioner

SP investigation *V. vs* BUNNEY Respondent

Notice to: Regional Police Officer DIG Malakand
Said Sharif Swat Respondent No. 3

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

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

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

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

Day of 22 20
of court

Swat  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.