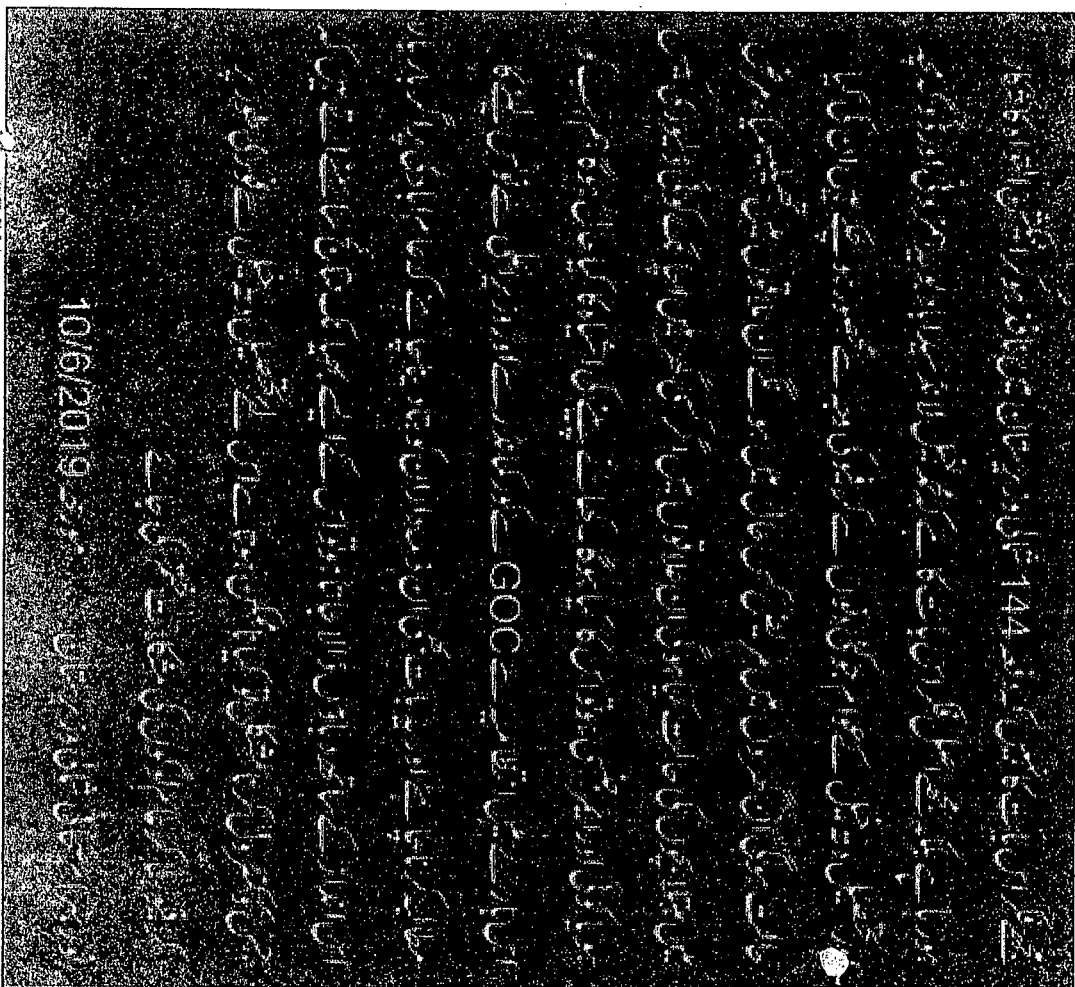




Syed Anwar Khan Dawar

June 10 at 7:05 PM



10/6/2019

10/6/2019



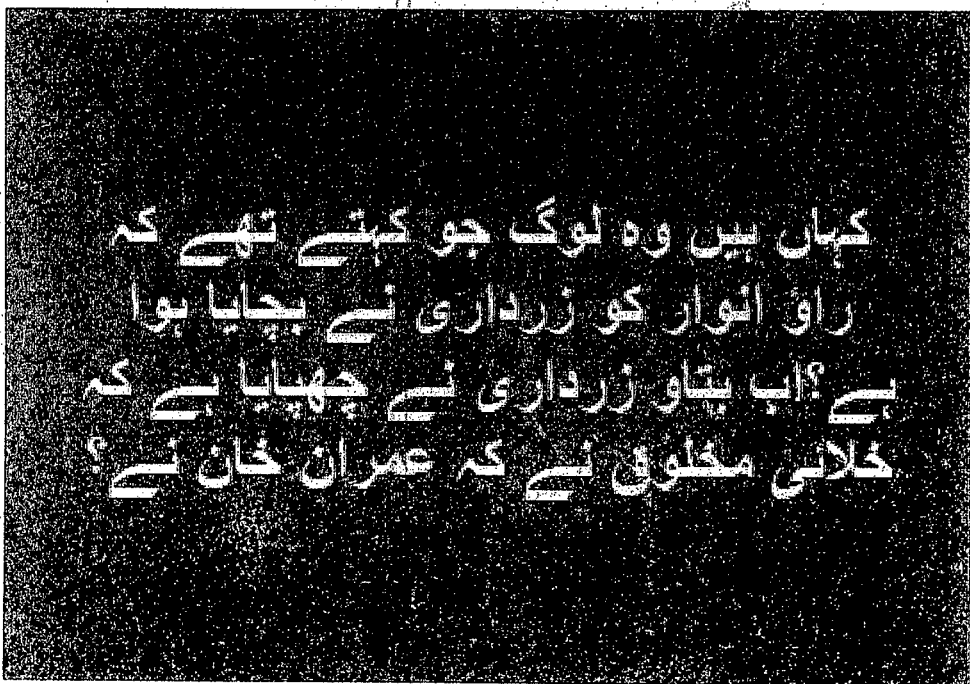
Syed Anwar Khan Dawar

June 10 at 6:47 PM



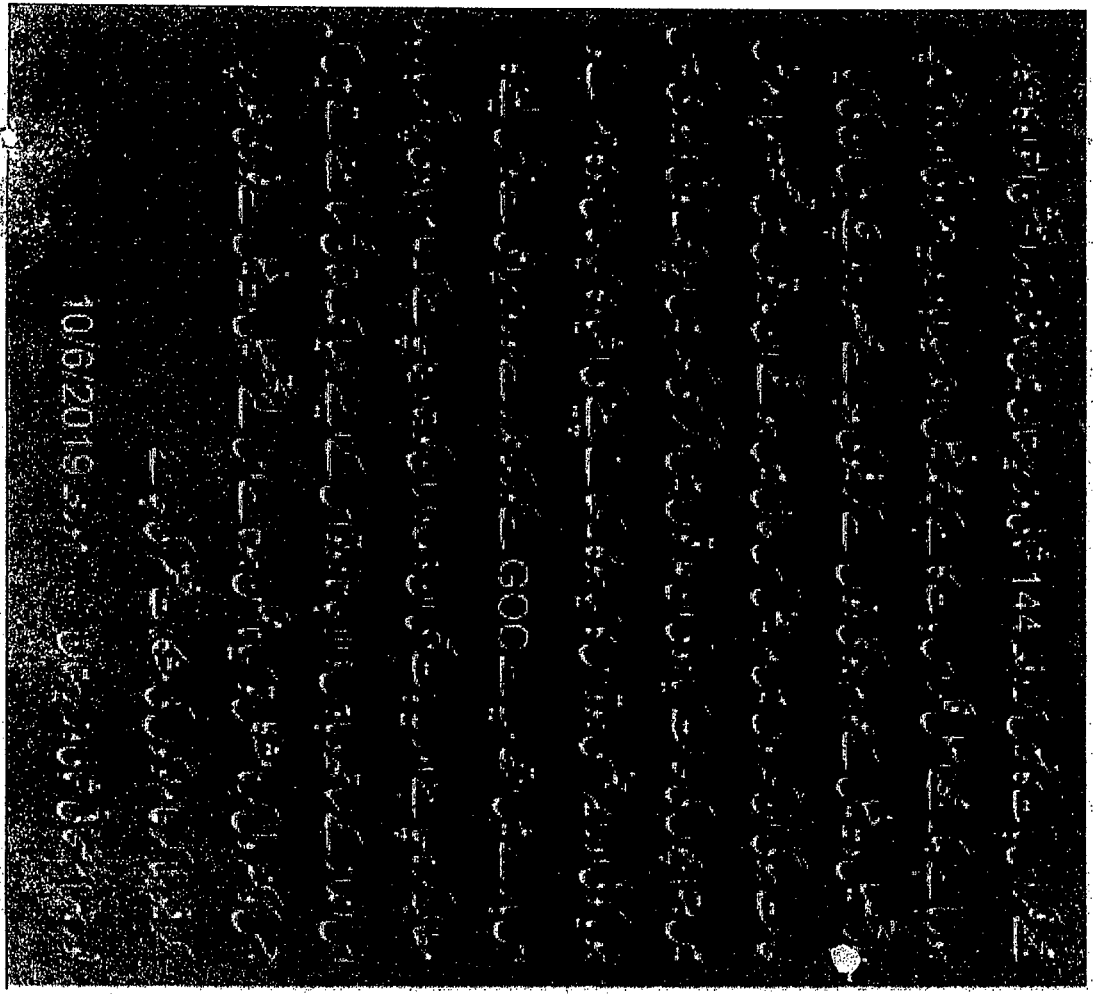
Sana Pashtans PTM Swat

June 10 at 6:40 PM



126
(78)

Syed Anwar Khan Dawar
June 10 at 7:05 PM



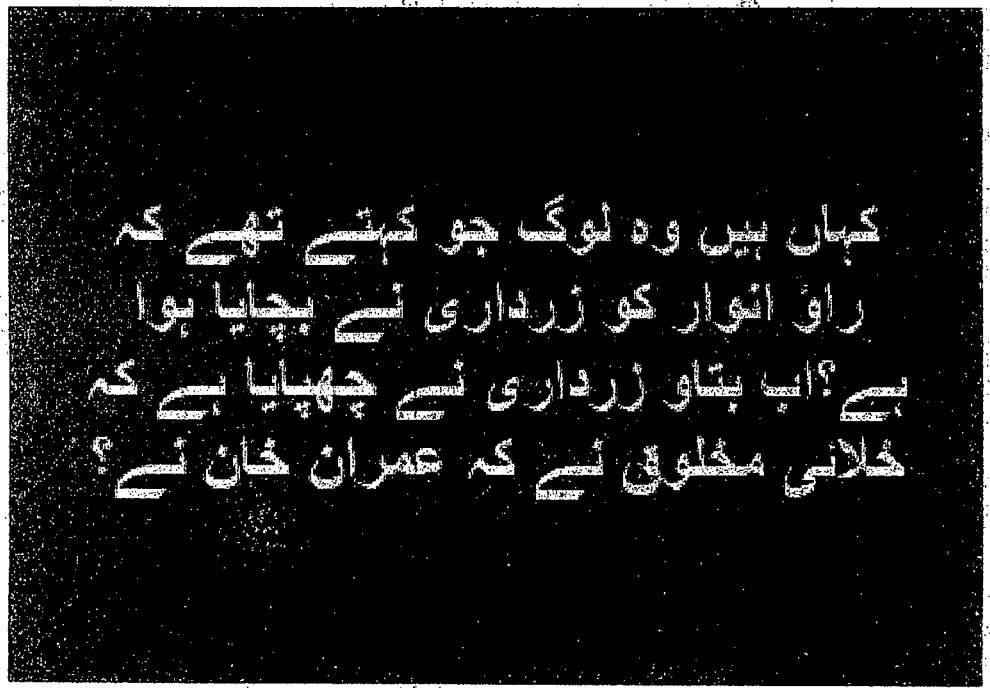
10/6/2019



Syed Anwar Khan Dawar
June 10 at 6:47 PM



Sana Pashtana PTM Swat
June 10 at 6:40 PM



18

2 Comments 6 Shares

Syed Anwar Khan Dawar

June 9 at 4:33 PM

...

محمد خیل شمالی وزیرستان کے ملک صابر
 اور اس کے والد صاحب کو کل فوج نے
 گرفتار کیاہیں۔ جسکی ہم شدید الفاظ میں
 مذمت کرتے ہیں۔ اس ظلم کے خلاف ہم اپنا
 قانونی جنگ لڑیں گے



Syed Anwar Khan Dawar

June 8 at 10:47 PM

...



Ahmad Abbas Al-Maasi

June 8 at 2:51 PM

حملے کی ذمہ داری TTP نے قبول کر
 لی ہے۔

لیکن اعلان تو یہ ہوا تھا کہ وزیرستان
 کلیئر ہے؟

پھر طالبان کہاں سے آتے ہیں :-

کرنا
 اجتناب سے رکھنا ہے کہ کسی بھی طرح سے
 کسی اور شخص سے کسی بھی چیز کے بارے میں
 کوئی بات نہ کہیں۔ یہ سب چیزیں
 ان کے لیے ہیں۔

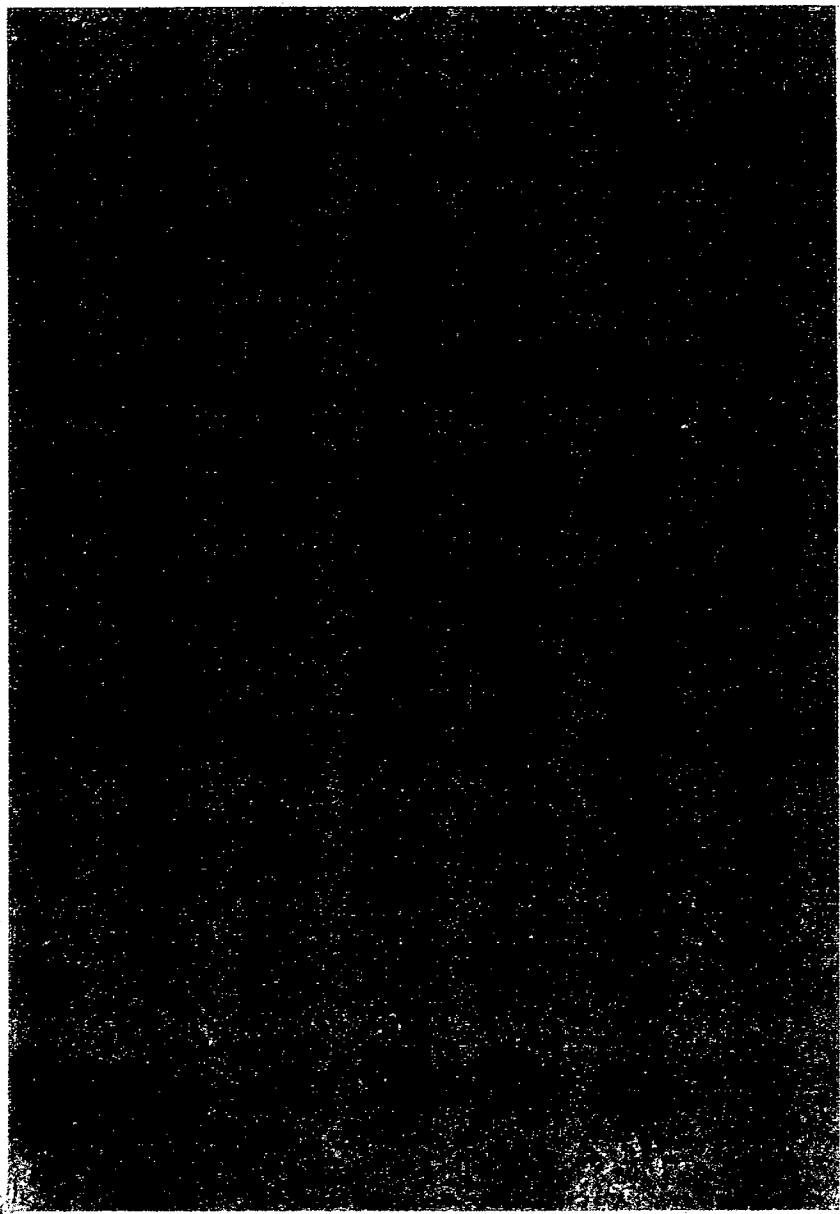
Syed Anwar Khan Dawar
 June 6 at 6:47 PM

کہ جو اس کے
 ان کے لیے ہیں۔ یہ سب چیزیں
 ان کے لیے ہیں۔ یہ سب چیزیں
 ان کے لیے ہیں۔ یہ سب چیزیں
 ان کے لیے ہیں۔ یہ سب چیزیں

Syed Anwar Khan Dawar
 June 6 at 6:55 PM

128 (16)

Handwritten initials or signature inside a circle.



Syed Anwar Khan Dawar
June 5 at 11:59 PM · 🌐

Syed Anwar Khan Dawar
June 4 at 10:33 PM · 🌐

← Tweet

👤 Aimal Tareen and 11 others follow



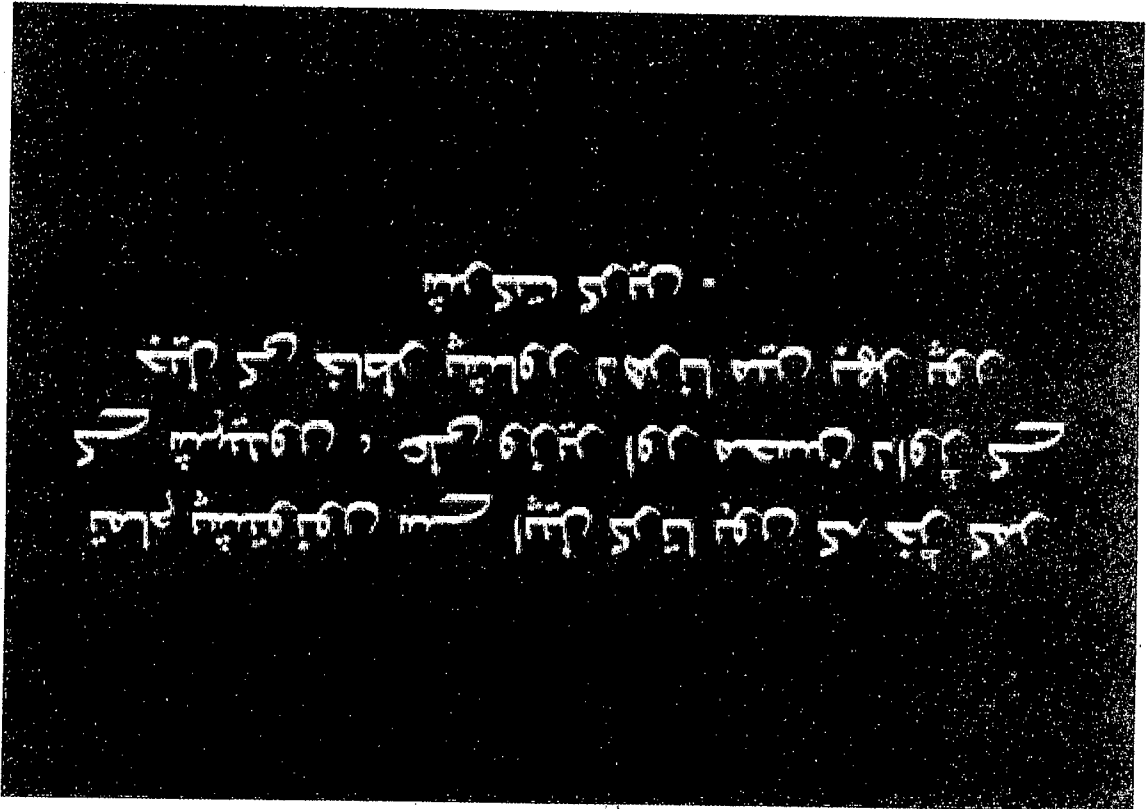
Amnesty International South Asia
@amnestysasia

We are alarmed to hear reports of the police attacking peaceful protestors from the #PTM right before Iftar in Hayatabad, Pakistan. The use of unnecessary force is prohibited by international law and the incident must be investigated without delay.

8:40 AM · 04 Jun 19 · Twitter for iPhone

14 Comments 17 Shares

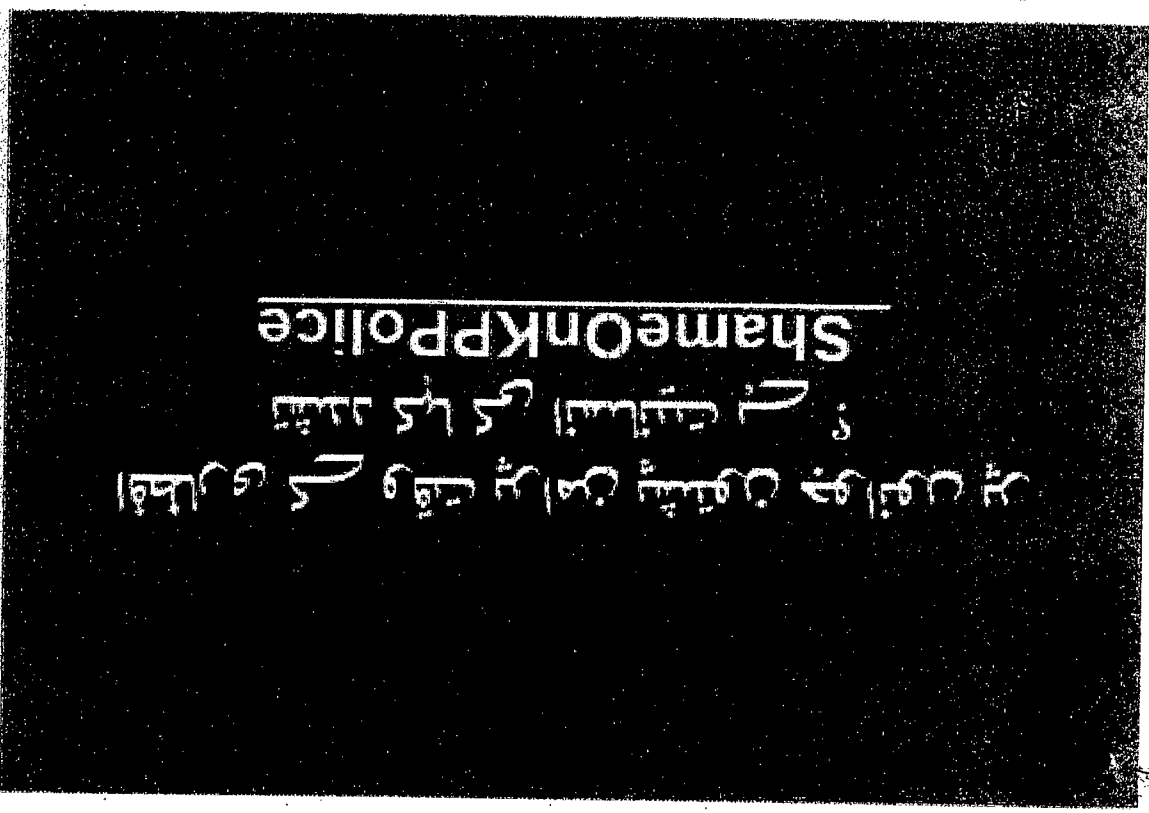
ibni Amin and 105 others



Syed Anwar Khan Dawat June 1 at 6:47 PM

7 Comments 11 Shares

58



Syed Anwar Khan Dawat June 2 at 8:56 PM

Handwritten signature/initials in a circle.



Syed Anwar Khan Dawar

May 31 at 12:04 PM · 🌐

777

علی وزیر اور محسن داوڑ کے دشمن کی پرورش سیاسی
ماحول میں نہیں ہوا ہے۔

وہ سیاسی یا شائستہ بات سمجھنے سے قاصر ہیں۔
ان کا دشمن صرف طاقت کی زبان سمجھتا ہے مثال
سالانہ چیک پوسٹ، ابھینندن، ایبٹ آباد واقعہ، ڈرون
حملے

👍👍 45

4 Comments 2 Shares

👍 Like

💬 Comment

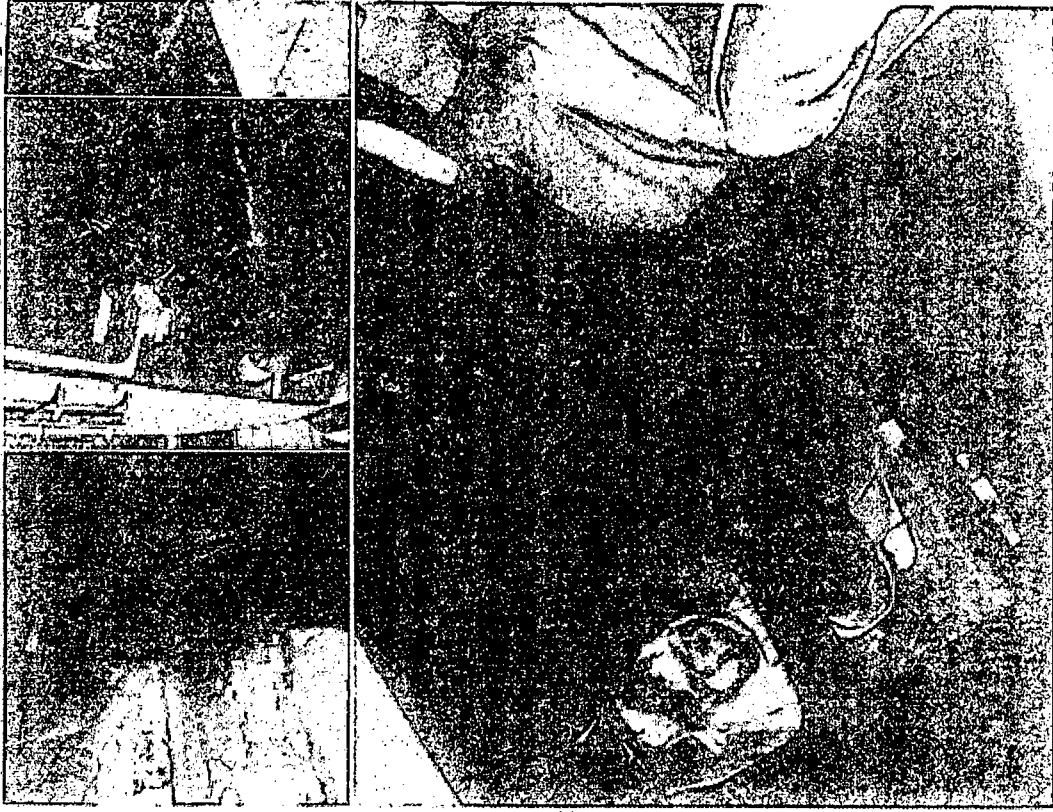
➦ Share



Syed Anwar Khan Dawar

May 30 at 2:07 PM · 🌐

محسن داوڑ کو فوج نے کئی دنوں سے گرفتار کرنے کی
کوشش کی لیکن قوم نے انہیں پکڑنے نہیں دیا۔ آج
انہوں نے خود گرفتاری پیش کی۔ ورنہ قوم کے ہونے
ہونے کوئی بھی اس پر ہاتھ نہیں ڈال سکتا تھا



پہلے ہی ہسپتال سے زخمی ہونے کے بعد

Syed Anwar Khan Dawar
May 26 at 12:06 PM

...



اف اے ایف | بڑا کمر شمالی وزیرستان کے فائرنگ میں زخمی عورتوں میں سے ایک

Syed Anwar Khan Dawar

May 30 at 9:49 AM



80

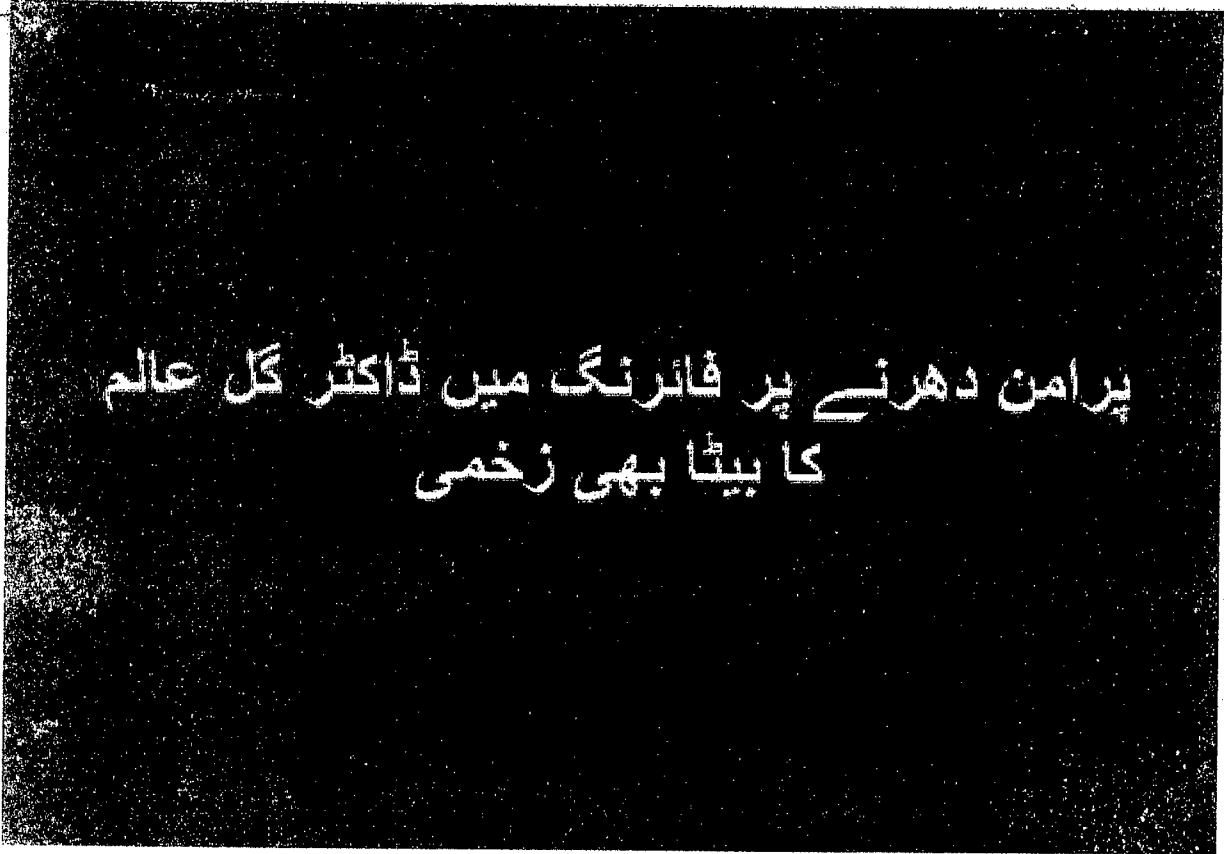


Syed Anwar Khan Dawar

May 26 at 12:05 PM · 🌐

81

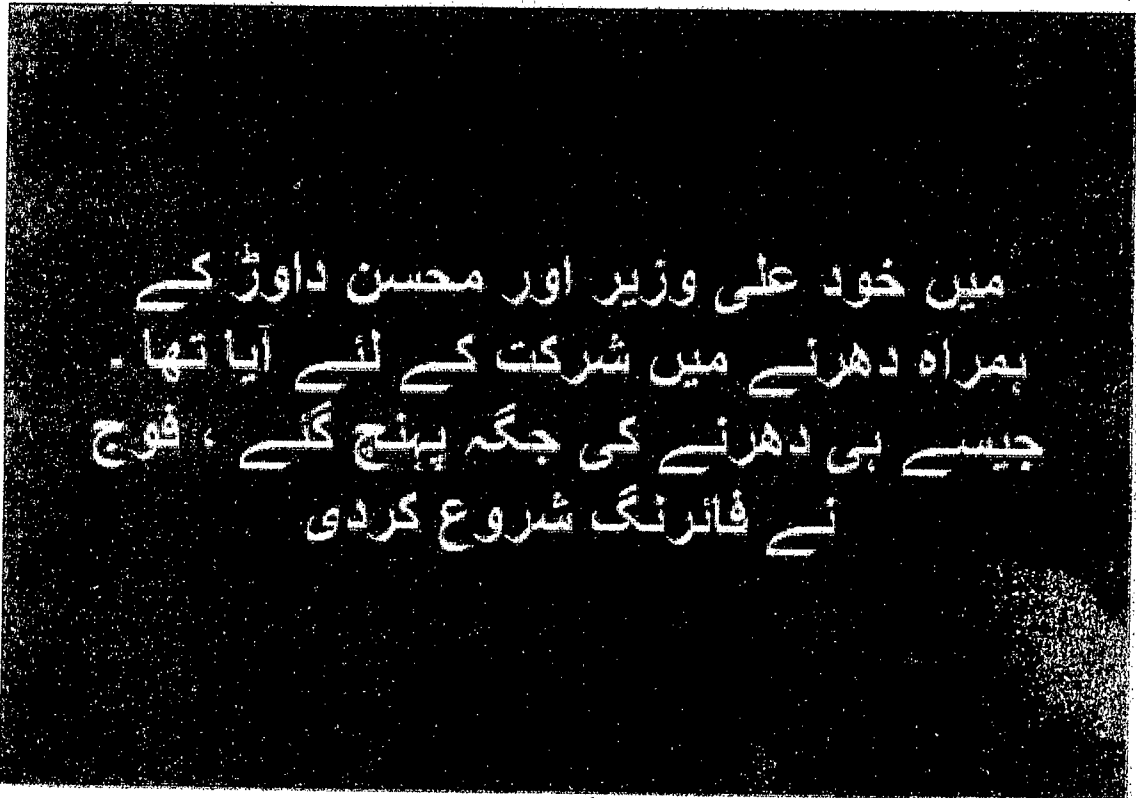
133



Syed Anwar Khan Dawar

May 26 at 12:04 PM · 🌐

...



👍👍👍 146

29 Comments 230 Shares



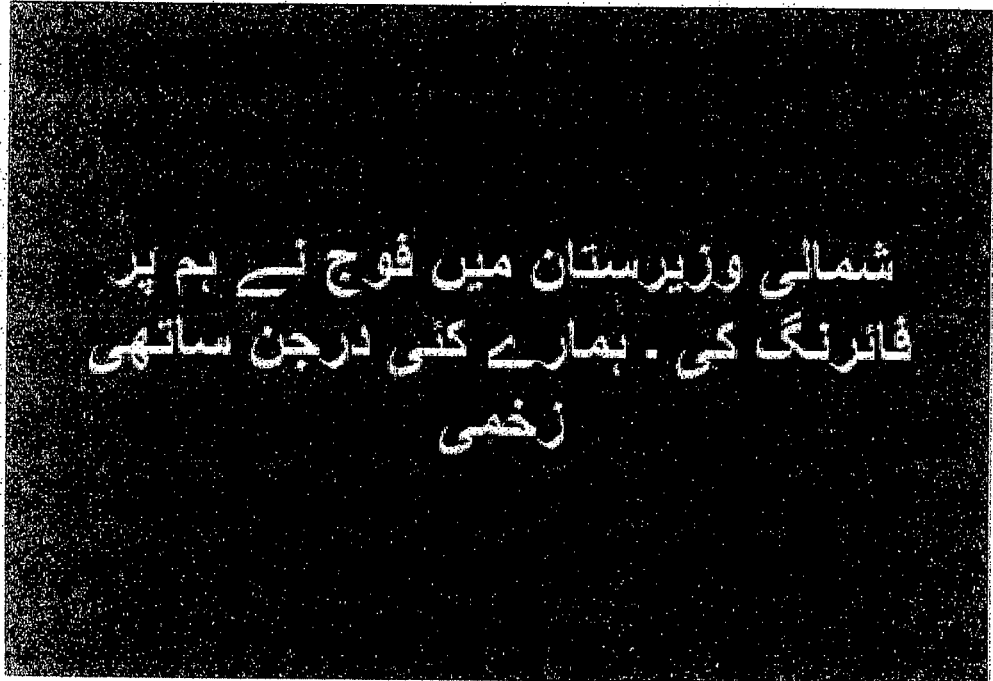
Syed Anwar Khan Dawar

May 26 at 12:00 PM · 🌐



Syed Anwar Khan Dawar

May 26 at 12:00 PM



👍 13

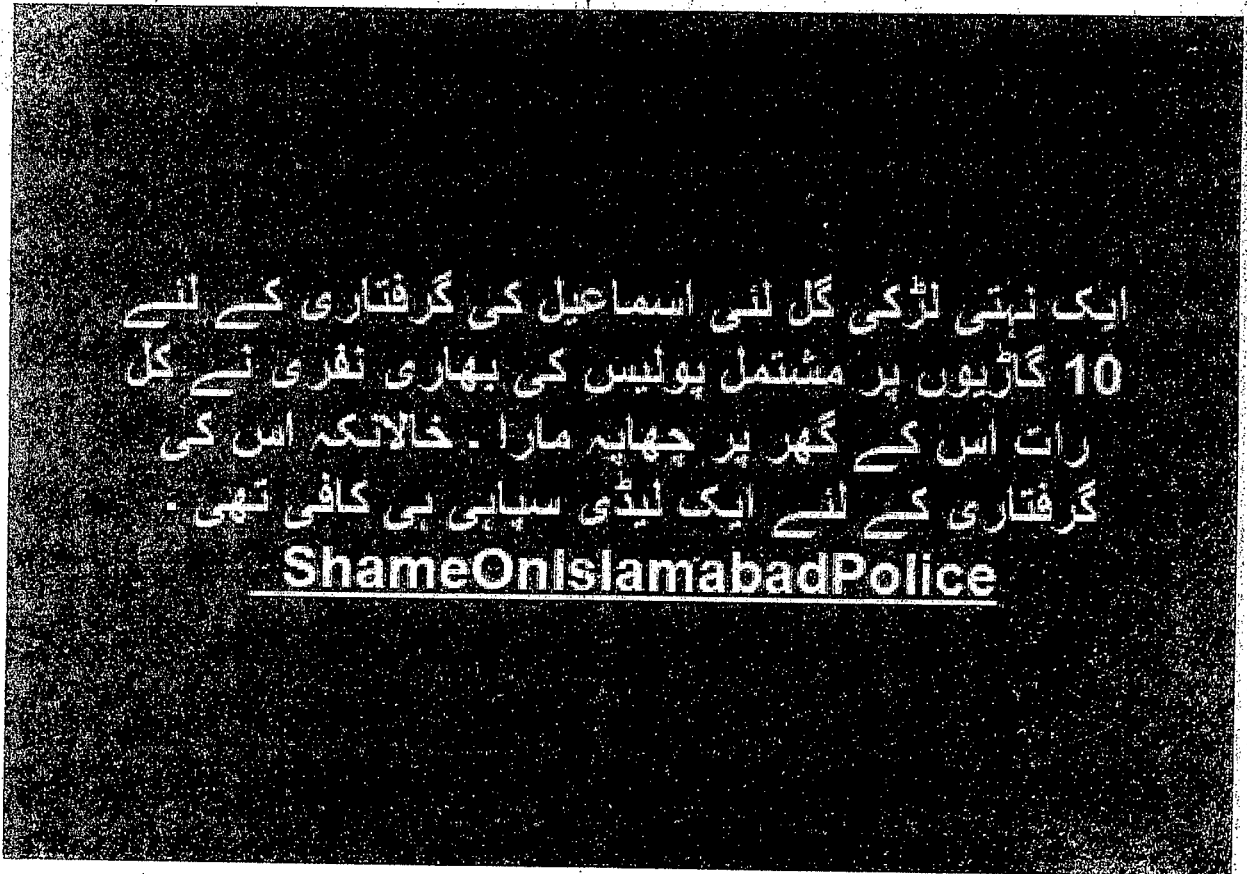
1 Comment 2 Shares



Syed Anwar Khan Dawar

May 25 at 3:24 PM · 🌐

...

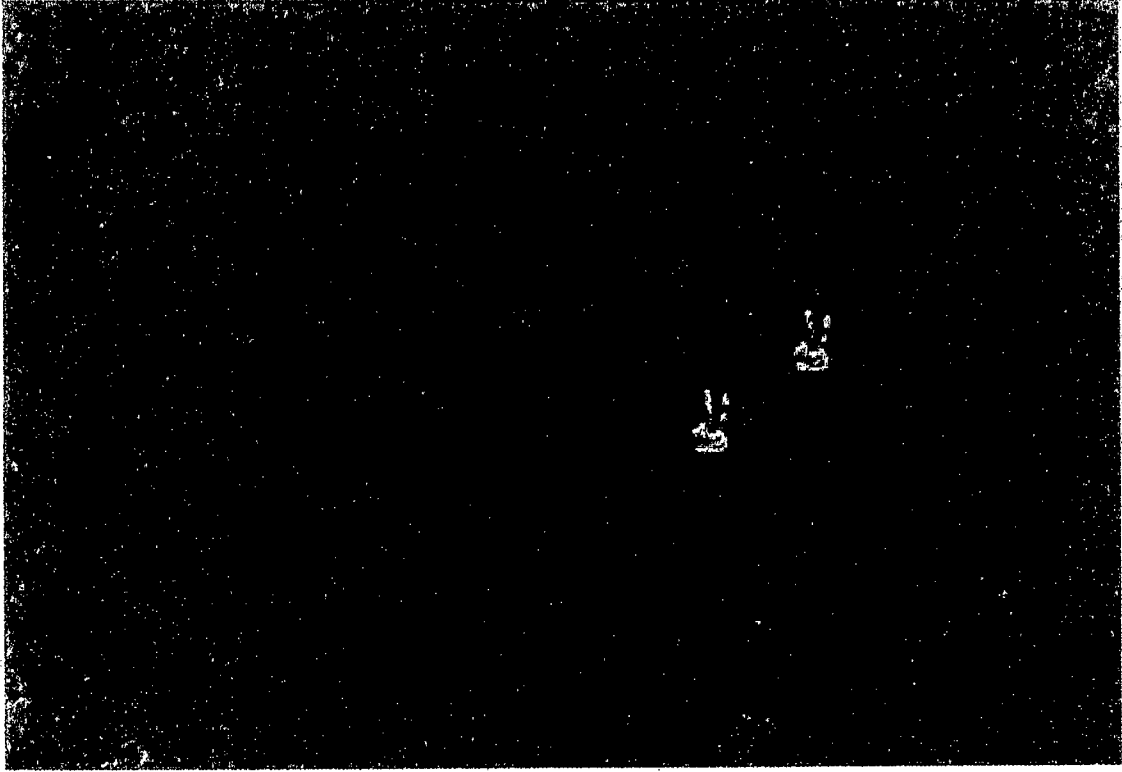




Syed Anwar Khan Dawar

May 24 at 10:18 PM

135



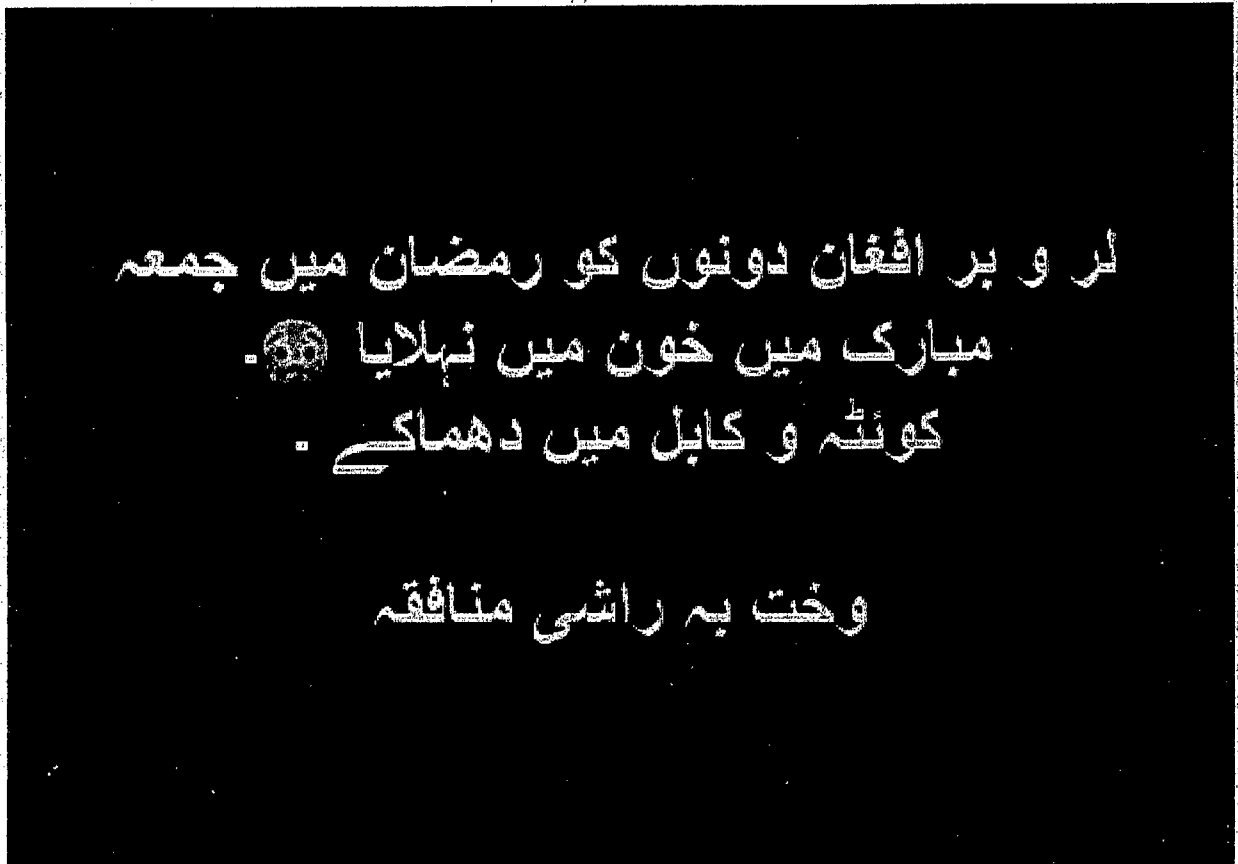
42

10 Comments



Syed Anwar Khan Dawar is feeling sad.

May 24 at 3:35 PM



84

136



Syed Anwar Khan Dawar is feeling angry with Ghafar Pashteen and 7 others.

May 24 at 10:20 AM

آج صبح 9:30 بجے تھاتہ حیات آباد کے S.H.O نے تھاتے بلایا اور فون پر بتایا کہ آپ کو افغان دہشت گردوں سے خطرہ ہے۔ آپ اپنی نقل و حرکت محدود کریں۔ ابھی میں تھاتہ جا رہا ہوں تاکہ میں وہاں ان کو بتا دو کہ میرے ذمہ دار کون لوگ ہوں گے۔ "یہ جو نامعلوم ہیں یہ ہمیں معلوم



Syed Anwar Khan Dawar

May 23 at 1:11 PM

اختلاف اپنی جگہ لیکن یہ بات مائنی پڑے گی کہ عمران خان واقعی غریبوں کے لئے فرشتہ بن کر سامنے آیا ہے۔ وہ بھی موت کا

Syed Anwar Khan Dawar
May 23 at 5:53 AM

توڑ کر پھینک دیں

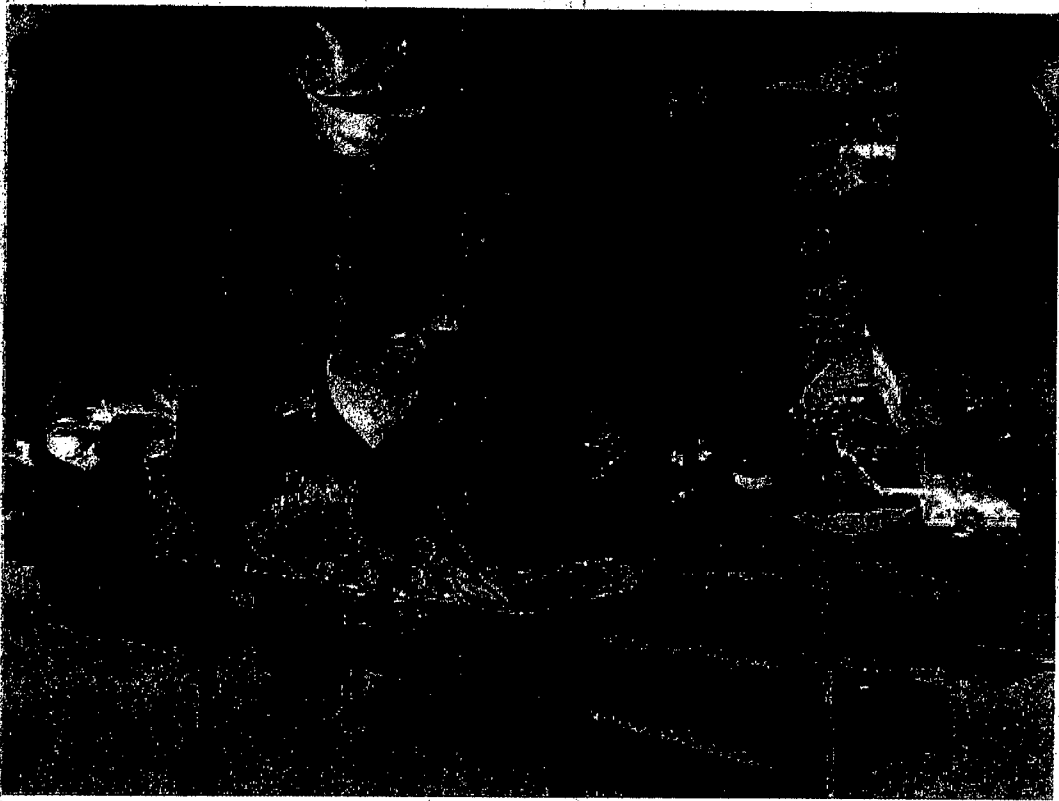
ARY NEWS



Syed Anwar Khan Dawar
May 22 at 10:48 AM

ایک نئی دنیا کی تلاش
ایک نئی دنیا کی تلاش
ایک نئی دنیا کی تلاش
ایک نئی دنیا کی تلاش

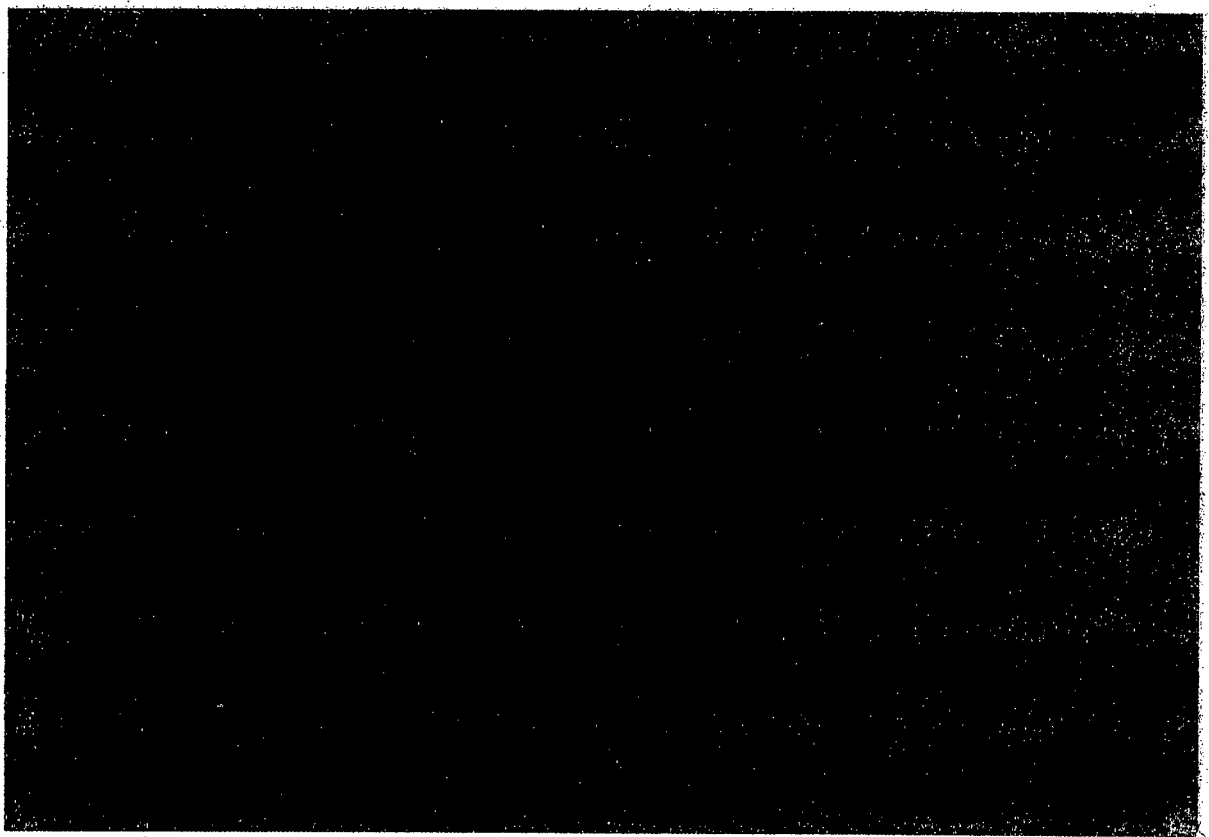
13/



Syed Anwar Khan Dawar

May 21

...
...
...
...
...



Syed Anwar Khan Dawar

May 22 at 10:45 AM



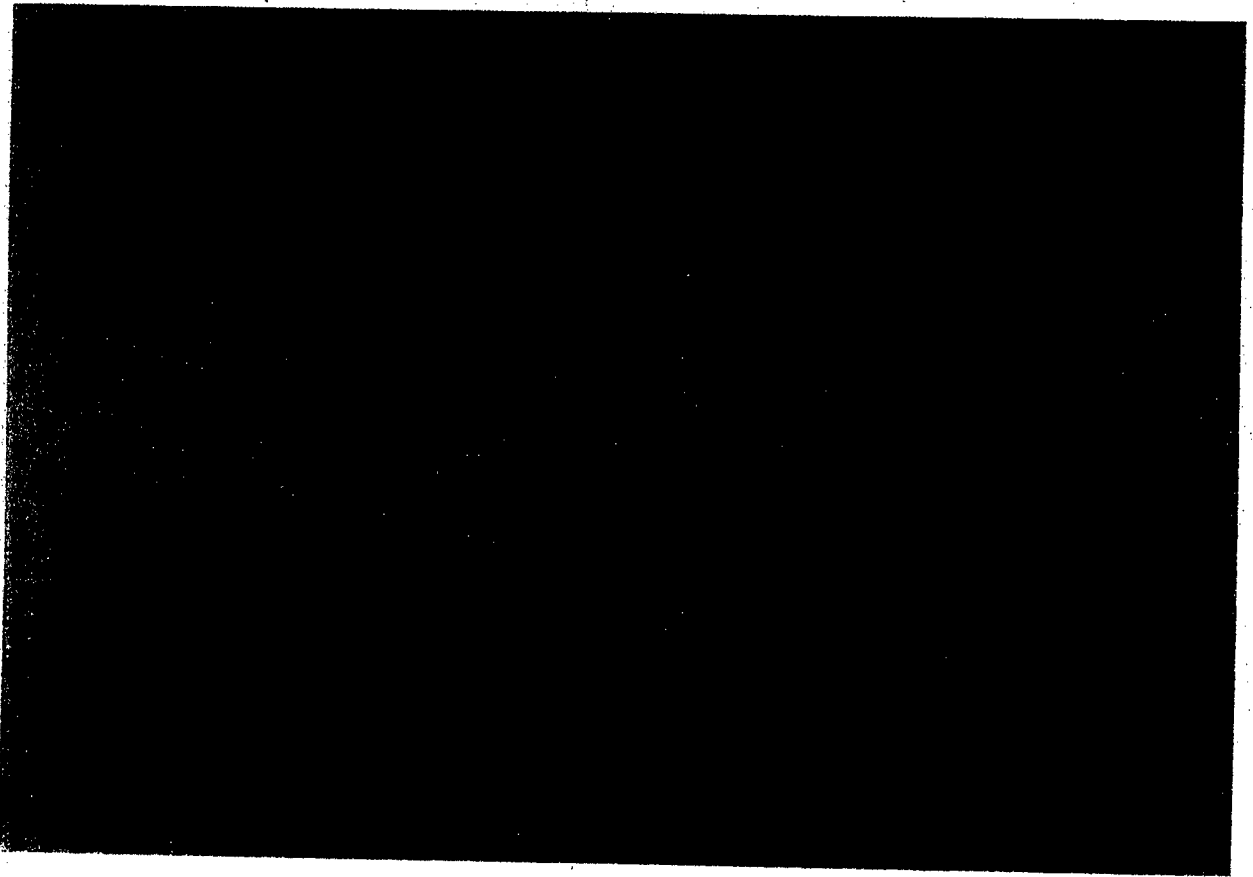
معصوم فرشتہ کا قتل اور پاکستانی میڈیا

میدانور، داوڑ

آج پشتون جوان قیوم اتمان خیل کو انصاف دلانے کے لئے رمضان کے اس مہینے میں جنوبی پشتون خوا کے 10 اضلاع میں سراپا احتجاج تھے۔ قیوم پر سیکورٹی فورسز نے 24 گھنٹے تشدد کرنے کے بعد فریب لمرگ کیا تھا۔ ہم اس احتجاج کے حق میں پشاور سے سوشل میڈیا پر کمپین اور ٹویٹر پر ٹرینڈ چلانے میں مصروف تھے کہ اگلی میں خیر آئی کہ پاکستان کے دارالخلافہ اسلام آباد سے 5 روز پہلے اغوا ہوئی والی 10 سالہ فرشتہ نامی پشتون بچی کی مسخ شدہ لاش ملی ہے۔ اسی اثناء میں مقرر منظور پشکین کا مہیج آیا کہ اسلام آباد میں رہنے والے تمام پشتون پولی کلینک پہنچ جائے جہاں یہ پنجابی ہسپتال انتظامیہ نے بچی کی پوسٹ مارٹم کرنے سے انکار کر دیا ہے۔ فیسبک کیلا ٹو دیکھا کہ ہمارے دو ایم این ایز علی وزیر اور محسن پشتون نوجوانوں کے ہمراہ پولی کلینک کے سامنے دھرنا دہیے روڈ پر بیٹھے ہیں۔ لیکن مجال ہے کہ اسلام آباد ضلعی انتظامیہ اور ہسپتال عملہ اس سے منہ پھریا۔ ہم نے ٹویٹر پر ٹرینڈ بننے اور نیا ٹرینڈ #JusticeForParishta کے لئے شروع کیا۔ ساری دنیا کے پشتونوں نے فرشتہ کے لئے اس ٹرینڈ میں حصہ لیا۔ اور مختصر وقت میں ہمارا یہ ٹرینڈ پورے پاکستان میں ٹاک پر آگیا۔ اب میں نے سوچا کہ پاکستانی ٹی وی چینلز پر اس انڈیوناکب واقع کو ضرور کوریج دیا جائے گا لیکن جب ٹی وی ان کیا تو بڑا حیران ہو گیا کہ کسی چینل پر بھی اس واقع کا ذکر نہیں تھا۔ زینب اور سانیوال کا واقع میرے سامنے آیا جس پر میڈیا نے آسمان سر پر اٹھایا تھا اور پورا پاکستان چیخ اٹھا تھا۔ مجھے شدید حسد اور مایوسی اسلئے ہوئی۔ کہ اس بچی میں اور زینب میں کیا فرق ہے؟ کیا اس بچی پر بھی دہشت گردی یا عداری کا الزام تھا؟ اس میڈیا نے ارمان لونی کو کوریج نہیں دیا کیونکہ اس پر الزام تھا۔ یہ میڈیا منظور پشکین، علی وزیر اور محسن داوڑ کو اسلئے کوریج نہیں دے رہے ہیں کہ ان پر عداری کا الزام لگایا ہے۔ لیکن دس سالہ فرشتہ کو فرشتہ تھی اس نے کونسی عداری یا دہشت گردی کی ہوئی تھی۔ لیکن آج بڑا کلڈر ہو گیا کہ پشتون چاہے فرشتہ ہو یا باچا خان سب عداری ہیں اور اس کے قتل کو پاکستان میں ثواب سمجھا جاتا ہے۔

Syed Anwar Khan Dawar

May 21





Syed Anwar Khan Dawar

May 20 · 0

ہم صرف اس صورت میں کرکٹ ورلڈ کپ
 جیت سکتے ہیں کہ ہمیں وہ امپائرز
 دیئے جائیں جو پاکستان میں انتخابات منعقد
 کراتے ہیں۔
 سرفراز احمد



Manzoor Ahmad pashteen
 May 18 · 0

Like Page

Abdu Qayyum : کہہ رہے ہیں کہ اگر ہمیں کسی بھی صورت میں اس ورلڈ کپ میں جیتنے کی اجازت دی جائے تو ہمیں اسے جیتنا پڑے گا۔
 Ummankhalil : یہی ہے جو ہمیں دیکھنا چاہیے۔
 See More

Syed Anwar Khan Dawar

May 18

89

شمالی وزیرستان / دتہ خیل میں ٹارگٹ کنگ
دیگان بازار میں نامعلوم افراد کی فائرنگ،
فائرنگ میں مولانا خان دراز دیگان جاں
 بحق،: فائرنگ کے بعد ملزمان فرار ہونے
میں کامیاب،



Syed Anwar Khan Dawar is with Latif WaXini and 4 others.

May 15

د پی ٹی ایم بنوں یو تکڑہ ملگرے سفیر حنان
د

گرفتاری پہ سختوٹکو غندنہ کوم - او حکومت
تہ وایم چہ دوی د زر ر اخلاص کڑے شی -

ReleasePTMActivists



Syed Anwar Khan Dawar is with Kochai Lewanai and 2 others.

May 8 · 🌐

لاہور اور پنجاب کے بیشتر شہروں اور دیہاتوں میں
پنجابی

دہشت گردوں کے خلاف وزیرستان طرز اپریشن کی
سخت ضرورت ہے۔ البتہ گھروں کے سامان گاڈرز،
دروازے قالین، فریج وغیرہ سے سرف نظر کیا جائے۔



Syed Anwar Khan Dawar

May 8 · 🌐

زہ 5 زرہ کالہ نہ پشتون یم او پہ د خاورہ
میشٹ یم۔ گل خانہ مزغہ ما را خرابہ وہ۔ تہ
خو د رنجیت سنگھ د لماسو غلام ئ

143
(97.1)



Syed Anwar Khan Dawar

May 6 · 🌐

ہمارے بھائی احمد عباس کو پولیس والے تنگ کر رہے ہیں۔ اب سب احمد عباس کو سپورٹ کرے



Ahmad Abbas Al-Maasi

May 6

تہاتہ استرالی کی پولیس ٹیم گھیر یہ آئی تھی۔ ایجنسیوں کی طرف سے دیا گیا لیٹر بھی ان کے پاس تھا، جس میں لکھا تھا کہ میں اس علاقے کی تنظیم سازی کر رہا ہوں اور فوج کے خلاف نوجوانوں کو استعمال دلا رہا ہوں۔ جس کی بنیاد پر پولیس نے مجھ سے میرے گاؤں کے مہران سمیت یہ لکھ کے دینے کا مطالبہ کیا ہے کہ میں یہاں گاؤں میں نہیں گھوموں گا اور نہ کوئی سیاسی اکٹیوٹی کروں گا۔ کل تہاتہ میں حاضری کا کیا ہے۔



Syed Anwar Khan Dawar and 4 others

1 Comment 1 Share



Syed Anwar Khan Dawar

May 5 · 🌐

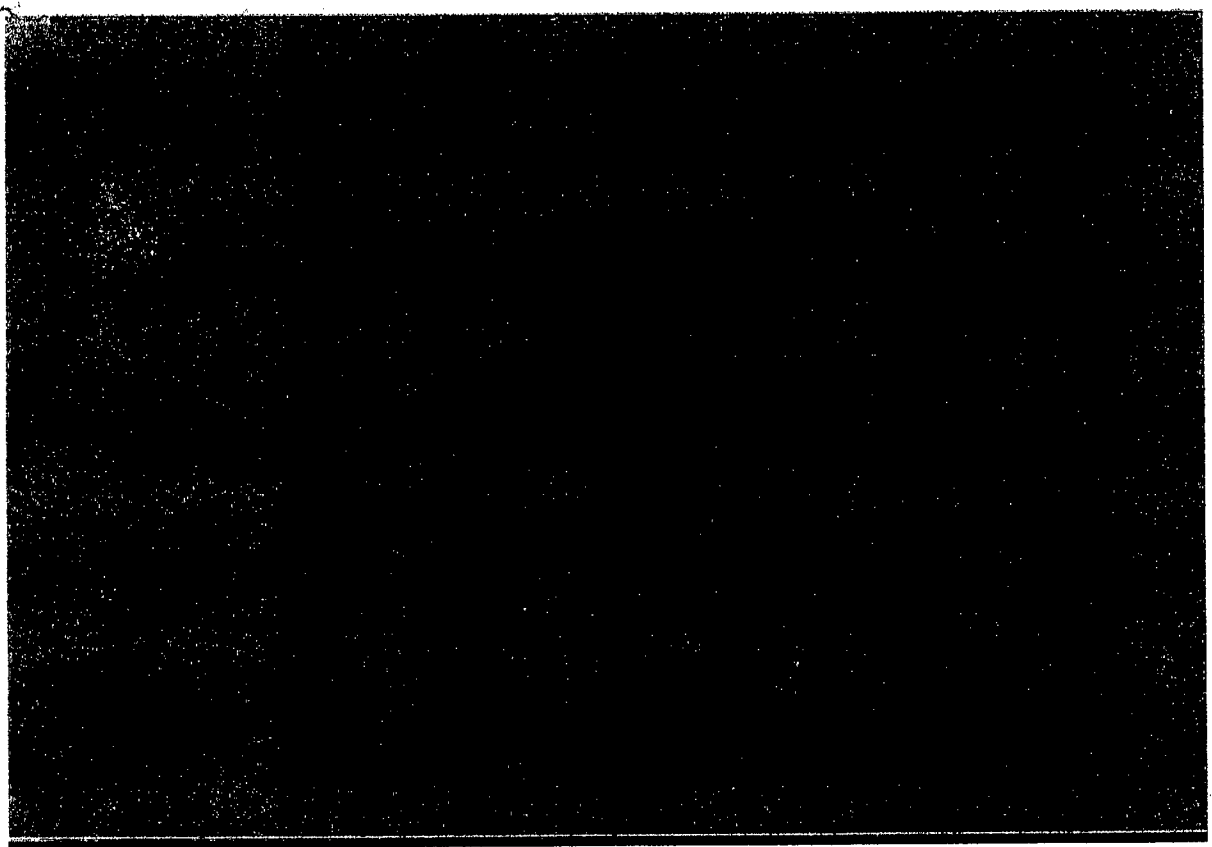


149



Syed Anwar Khan Dawar

May 2 · 🌐



Syed Anwar Khan Dawar

April 30 · 🌐

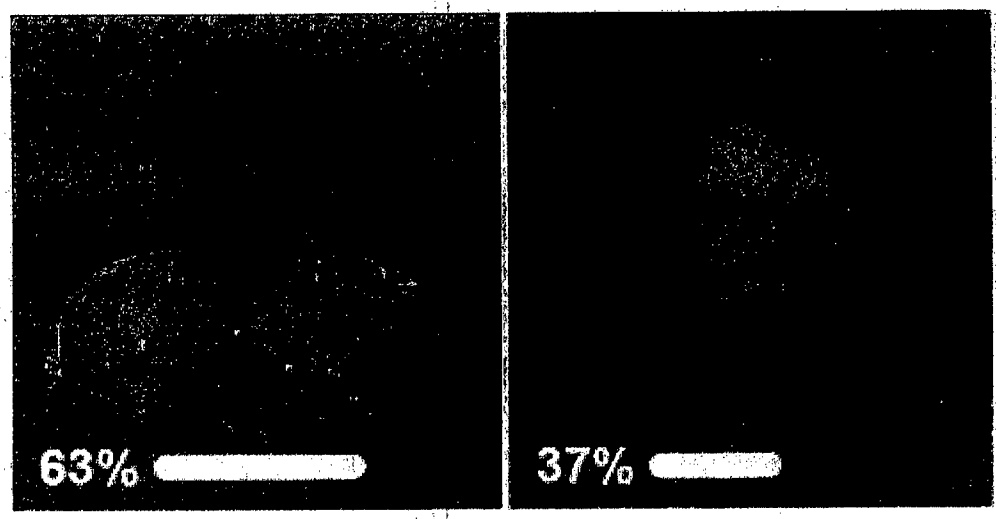
Piz vote for Manzoor pashteen



Hamid Mir (Capital Talk) created a poll.

April 30 · 🌐

یہ بھی ایسے کے خلاف رشتے سے ٹوکن لیا ہو بشکون کس کا ساپہ ہینگے؟



ریاست پاکستان

منظور بشکون

This poll has ended.

208.2K Votes

Syed Anwar Khan Dawar is with Pear Mohammad and 8 others.

April 29 · 6

چند بیٹوں پہلے کی بات یاد ہوگی۔۔۔۔۔

طافور نشمن (بھارت) سے امن کی بیبک منگنے والے ہمسایوں جو کلاڑوں کی اصلیت عدم تعلق پہ کاربہ پختون تحفظ موٹھ کو دھمکیوں کو صورت میں دیاں۔ انکے اپنے جریٹھ "ا" کے ساتھ ملکر کشمیں لکھتے ہیں اور عوامی تحریکوں کو بندام کرنے کے نئے "ا" کا نوا استعمال کرتے ہیں، انکے مطابق تو داخلہ جناح یعنی جناح تھی۔ انکا کیا کام بتاتا ہے کسی سیدھی تحریک پہ لب کشائی ۱۹۴۵ کیا یہ بلتوق برادر نشمن سے متوراء ہیں ۱۹۴۴ ان ہمسایوں کے لیے تحریک کے الفاظ۔۔۔۔۔

جلی محب الوطنوں کے نام۔۔۔۔۔

1954 سے لیکر آج تک شریکی ڈاروں پہ پائے والے اور ایسے آقا کے معذات کے لیے اس ملک کے عوام کو نغہ ملتی بنائے والے کو پر کوئی ایسی مزاج کماں پر لگتا ہے۔۔۔۔۔
ہنگال سے لیکر بلوچستان کو قبائل تکج کھٹ و خون کے میدان اب اور لیکے ہائے ہوئے جوتیوں سے سجکتے ہیں۔۔۔۔۔ اس نئے پھرا اعروہ حق بجانب ہے کہ "ہ" جو ہشتنگاری سے اسکے پیچھے وردی ہے "۔۔۔۔۔
33 ٹوب ڈالو ایسے عوام کو تیار و بوند کرلیسے کے نئے کسے سے لیتے تیسے ۱۹۴۴ فوج سے یا منظور ہشتین سے ۱۹۴۴

جہاں تک مسلخ طلبان کی بات سے تو وہ تو لیکے ہی ہائے ہوئے ہمسایں تیسے احسان اللہ احسان پکا مہمان سے نا کہ منظور ہشتین۔۔۔۔۔

آپ کو بد سے برداشت کیا اس سرزمین پر، جو گیدار ملک بننے کی دھکاری چھوڑ نیوں تو پیش ہے۔۔۔۔۔
پختون اب اور آپکی ترویج اتی اسلوں کی حقیقت سے واقف ہے۔ نگر پختون وطن سے لیش اور ایسے گھروں اور عشتوں میں لے جاؤ کوہک، پھیں ایسی سرزمین پہ امن چاہتے۔۔۔۔۔

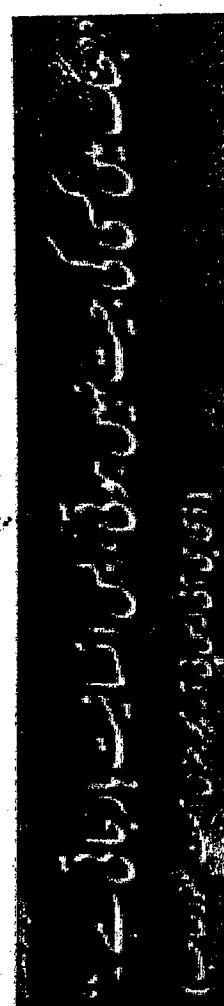
روز یوں سے جو عوروں کا وندار رہا۔۔۔۔۔

جو حفظ ایسے ہی لوگوں کے گلے کشتی ہو۔۔۔۔۔

ایسی تلوار مع صاحب تلوار پہ تلو۔۔۔۔۔

روز کے ساتھی گھروں، شو کھروں پہ روز۔۔۔۔۔

ظلم خیر نورو ظلم کے مہار پہ تلو۔۔۔۔۔ شہر بد پخت کے امن موٹھے کر مال پہ تلو۔۔۔۔۔



Mustaqem Khan Waziri is with Syed Anwar Khan Dawar and 3 others

April 29 · 3

Mustaqem Khan Waziri is with Syed Anwar Khan Dawar and 3 others
Ismat Raza Shahjahan
great game

Like Comment Share

Handwritten signature or mark at the bottom left corner.

94



Syed Anwar Khan Dawar

April 24

یہاں تک کہ
April 24

جنگ کے ہاتھ پشتونوں کے خون سے رنگے ہوئے
ہے اور جنہوں نے افغانستان میں فساد کو جہاد
قرار دیا تھا، آج وہی لوگ وائے میں عمران خان
کے ساتھ سٹیج پر پراجمان ہے۔ اپنے دوست اور
دشمن کو جان کر جیو



Syed Anwar Khan Dawar

April 23

منتر کے ساتھ شنگ کے دوران ایک pic



UD Khan Utmankhel and 132 others

28 Comments 1 Share



Syed Anwar Khan Dawar

April 22 · 🌐

ہم خبر A.s.i جہانگیر جو asp عطا الرحمن کریم کے ساتھ تھا اُس وقت جب ارمین کو شہید کرنے سے اور انصاف سے کہنا پڑا رہا ہیں کہ اُس کو سزا دینے کے بجائے جہانگیر کو گولی پر موتن دے دیا ہیں ریاست کیونکہ اُس نے ایک استاد ایک ایب ایک شاعر ایک قائم پرست ایک وطن پرست بلکہ ساری انسانیت کا قتل کرنے کے انعام میں پر موتن مل رہا ہیں ... تاکہ ایسے قاتل لوگ ہم عہدوں تک پہنچ جائے ہم ایسے قاتلوں کو پر موتن ہونے نہیں دینگے ہماری سزا تو ازل آگیا ہے ...

👍👍👍 26

1 Comment 4 Shares

👍 Like

💬 Comment

➦ Share

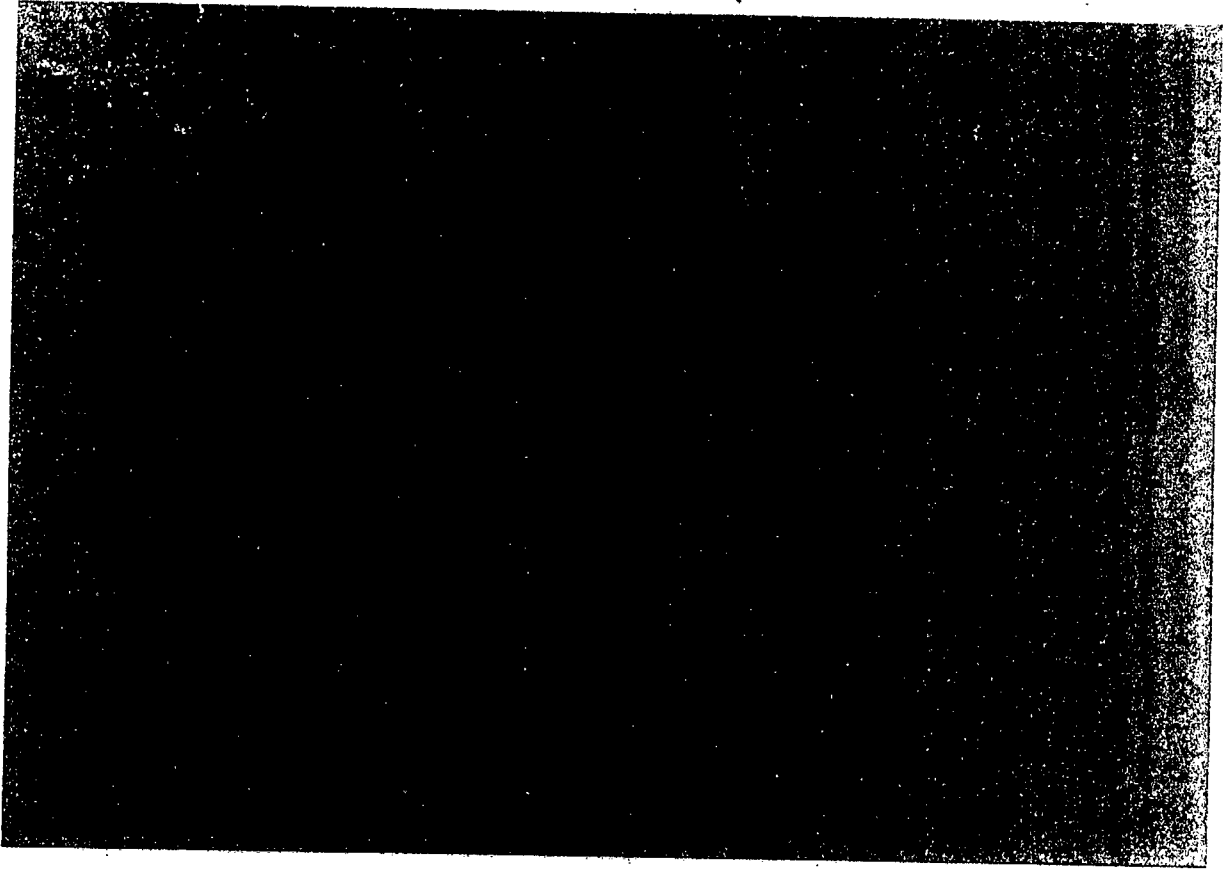
Most Relevant +



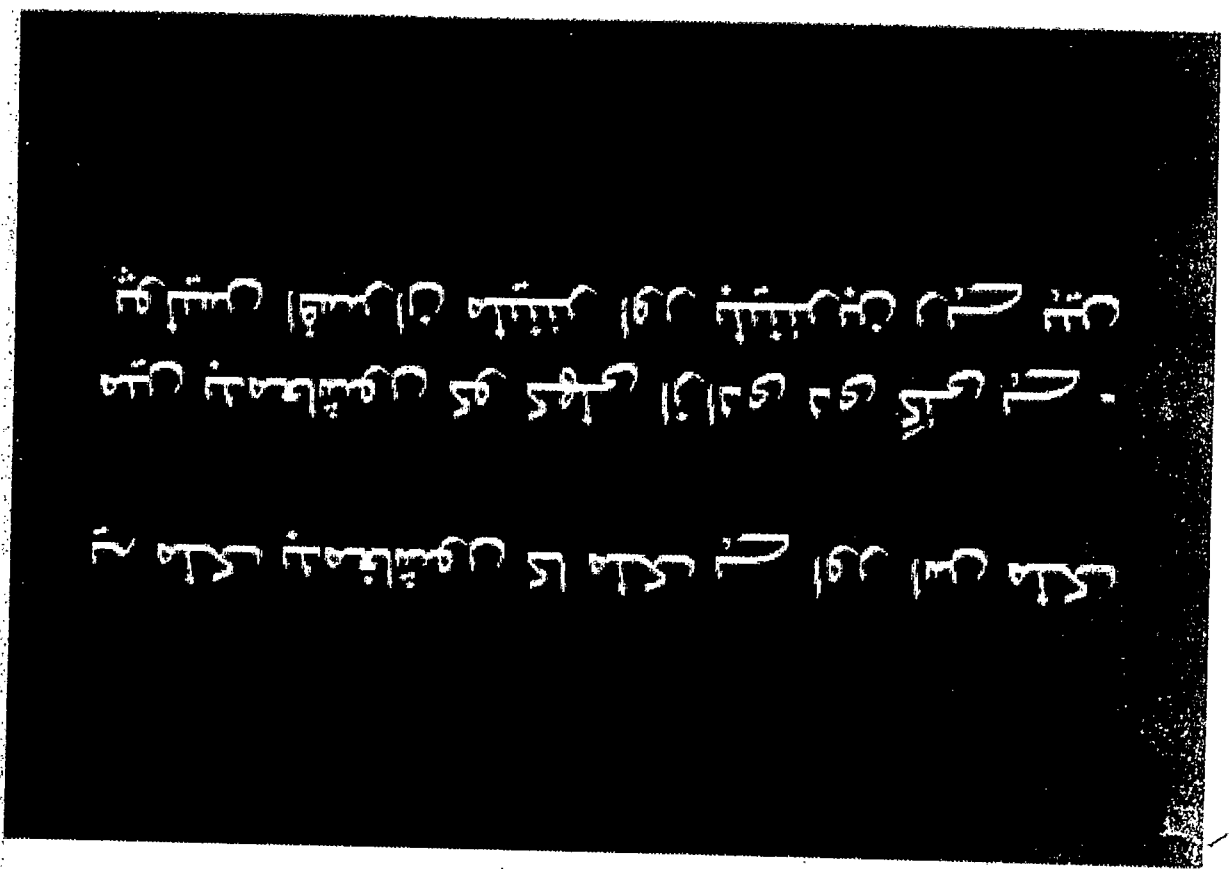
Syed Anwar Khan Dawar

April 22 · 🌐

ہم نے ایک کام کرنا ہے کہ ہم نے عوام کو پی ٹی ایم کے پلیٹ فارم پر جمع کرنا ہے اور اس قنڈار پر قابض ٹولے کے ظلم پر مبنی نظام کو جڑ سے اکھاڑ کر پھینکنا ہے اور اس کی جگہ عادلانہ نظام قائم کرنا ہے



Syed Anwar Khan Dawar April 19



Syed Anwar Khan Dawar April 22

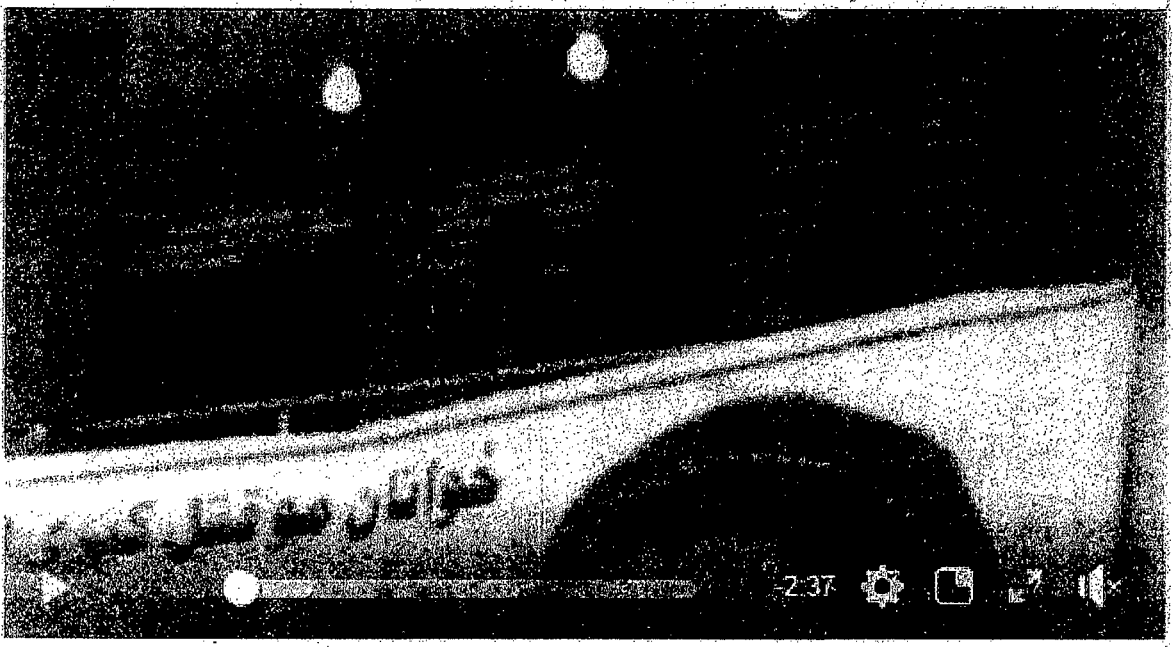
97149



Syed Anwar Khan Dawar is feeling motivated with Anwar Wazir Pashteen and 13 others.

April 15

یہ ٹی ایم میرانشاہ جلسہ سے میری تقریر کا ایک حصہ
A part of my speech to PTM Miranshah jalsa



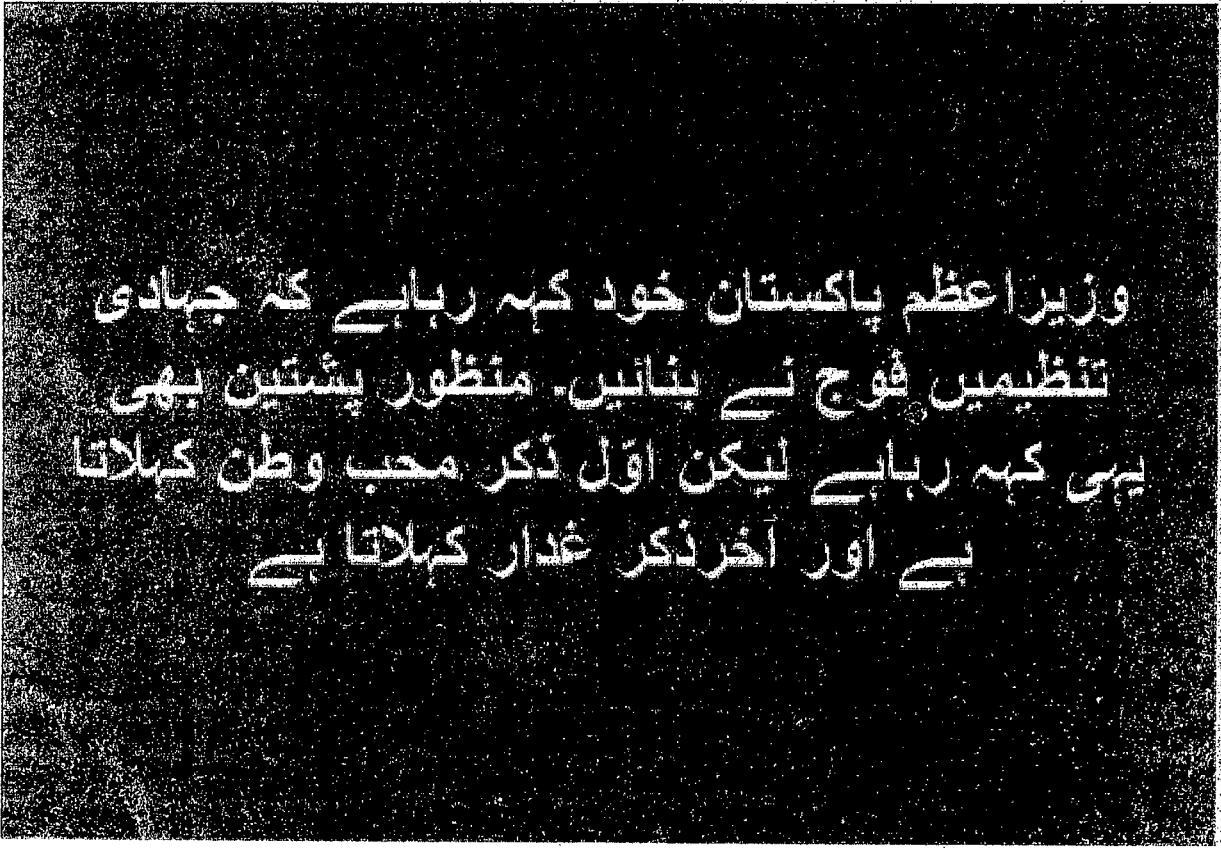
Syed Anwar Khan Dawar and 169 others

66 Comments 25 Shares



Syed Anwar Khan Dawar

April 11



150



Syed Anwar Khan Dawar

April 4



Rahim Dawar

April 4

میرانشاہ جلسے میں ہم ریاست سے یہ
سوال بھی پوچھیں گے کہ چیف آف
وزیرستان ملک قادر خان کو کیسی نے
مارا اور کیس کے کہنے پر مارا ؟
PashtunLongMarch2Mira
nshah



Syed Anwar Khan Dawar

April 4



Akhtar Khan

April 3

جس ریاست میں انسانیت اور انسانی
قدریں پامال ہو رہی ہوں وہ ریاست کل
کے بجائے آج تباہ ہونی چاہیے۔

انوار احمد خان

(829)

Syed Anwar Khan Dawar

April 4

ضلع بلجوڑ میں ایٹانجس ادارے کے یہ چار ہندے میجر احمد انسپکٹر انسٹیبلر انسپکٹر زاہد اور خٹک پرنسپل
والا یختون تحفظ مومنا کے ہندوں کو دھمکیاں دے رہے ہیں لوگوں کے مذاکراتی کارڈ بلاک کی پورے جن
سے گراؤنڈ چیف کے نام پر پیسے لے رہے ہیں۔
زاہد اور ہندوں بہت سے ایٹانجس کلموں میں ملوث ہے
بلجوڑ میں جتنے بھی زمینیں تفریح ہیں اس میں میجر احمد پیسے لیکر لوگوں کو تھانگہ لایہ کرتے ہیں۔
اس کے دفتر میں ہر وقت گورڈ طالبان موجود ہوتے ہیں اور جو بھی اس سے مخالفت کرتے ہیں ان گورڈ
طالبان پر لایہ کرتے ہیں۔
مختصر یہ بلجوڑ میں جو بھی غلط کام پورے ہیں ان میں ان کا ہاتھ پوتا ہیں۔



Syed Anwar Khan Dawar

March 29

علامہ نگر چائز پشٹون

March 29

لعنت ہو ان پشتون افسرو پر جو اسلام
اباد کے گیسٹ ہاؤس میں عیاشیاں
کر رہے ہیں اور نوکری کی خاطر اپنا قلم
ظلم کے خلاف استعمال نہیں کر سکتے



Syed Anwar Khan Dawar

February 27 · 🌐

100 152

طیارہ گرنے کے بعد so called

نیشنلسٹس گل خاتیت کی آخری حدوں کو
چونے لگے با با با با

👍👍👍 31

3 Comments



Syed Anwar Khan Dawar

February 23 · 🌐

...

کوئٹہ ریلوے میں کل 1800 ملازمین ہیں۔ جن
میں 15 پشتون۔ 25 بلوچ اور باقی 1760
پنجابی ہیں۔

کس پرچم کے سائے تلے ہم ایک ہیں؟

101/53



Syed Anwar Khan Dawar is feeling concerned with Adalat Khan Yousufzai and 6 others.

February 18 · 🌐

پاکستان میں ظالم جو ظلم کر رہا ہے خان صاحب کو چاہئے کہ ایک ریکویسٹ ان کو بھی کریں کہ ظلم بس بند کریں اور لاپتہ افراد کو رہا کریں

👍👍 67

1 Comment 14 Shares



Syed Anwar Khan Dawar

February 13 · 🌐

اپ ہمارے لوگوں کو قتل کر رہے ہیں اور غداری کے مقدمات میں جیلوں میں ڈال رہے ہیں۔ ہم آپکو پھولوں کے بار تو پہنانے سے رہے۔



Syed Anwar Khan Dawar

February 13 · 🌐

ارباب اختیار آج تک یہ سادہ سا اصول سمجھ ہی نا پائے
کہ جب آپ خطرے کو باہر کی طاقتوں پر پھینکنا ہی تمام
خطرات کے ختم ہونے کی ضمانت سمجھیں گے تو آپ
کے ساتھ بالکل وہی ہوگا جیسا کہ بنگلہ دیش کے وقت
پر ہوا تھا۔

👍👍👍 Muhammad Sadaqat Dx and 20 others

1 Comment



Syed Anwar Khan Dawar

February 6 · 🌐

اگر اپنا حق مانگنا غداری ہے تو اس سے
دستبردار ہو کر ٹٹو بننے والوں کو کیا کہا
جائے گا؟



GOVERNMENT OF KHYBER PAKHTUNKHWA
INFORMATION & PUBLIC RELATIONS
DEPARTMENT

103

88-

Dated Peshawar the 3rd July, 2020

OFFICE ORDER

No.SO.Estt:(INF)4-115/Inquiry/2018: Whereas Mr. Syed Anwar, Ex- Assistant of the Directorate General Information & Public Relations, Khyber Pakhtunkhwa was proceeded under the Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules, 2011 by the Directorate General Information & PRs and major penalty of removal from service has been imposed upon the above said official.

2. **AND WHEREAS.** the Ex-official preferred an appeal to the appellate authority against the said penalty.

3. **AND WHEREAS.** the appellate authority heard the ex-official in person and also perused the record-on file. During the hearing, he did not put before any new defense rather requested to withhold the proceedings on the plea that the case is subjudice in the court of law. He further requested for yet another chance to mend his ways and would restrain from such illegal acts in future.

4. **AND WHEREAS.** the representative of Directorate General Information & PRs further produced fresh posts of the ex-official on the same lines which testifies that he is not mending his ways rather finding lame excuses.

5. **AND WHEREAS.** the stance of the ex-official that the matter is subjudice. is not tenable as the court is looking after the criminal aspect of the matter, whereas, the instant case is of disciplinary nature under Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules, 2011.

6. **NOW THEREFORE,** I, in capacity of the Appellate Authority, after having perused the record, explanation of the accused official and hearing him in person, and in exercise of powers under Rule (5) (1) (c) of the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules. 1986, am pleased to confirm the major penalty of removal from service upon the accused official by the Directorate General Information & PRs.

-sd-

SECRETARY
GOVT. OF KHYBER PAKHTUNKHWA,
INFORMATION & PUBLIC RELATIONS DEPARTMENT

Dated Peshawar the 3rd July, 2020

Endst: No. SO.Estt:(INF)4-115/2018

Copy of the above is forwarded to the :-

1. Director General, Directorate General Information & Public Relations Khyber Pakhtunkhwa w/r to his letter No. INF/Estt:/PF/1779 dated 15th June. 2020.
2. P.S to Secretary to Govt. of Khyber Pakhtunkhwa. Information & P.Rs Department.
3. Mr. Syed Anwar. Ex- Assistant of the Directorate General Information & Public Relations, Khyber Pakhtunkhwa.

DD (A)
6/7/2020

SECTION OFFICER (ESTABLISHMENT)

1691
7/7/20

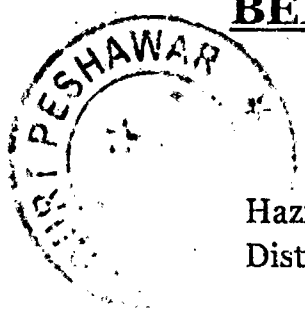
ADD
AO

26/07

Handwritten text in Urdu at the top of the page.

07/4/21 25/6/18 513/2

BEFORE THE JUDICIAL MAGISTRATE
PESHAWAR



Hazrat Noor S/o Jannat Noor R/o P.O Miranshah Tehsil Thappi
District North Waziristan Agency.

Accused/Petitioner

VERSUS

1. Principal Abdul Saeed Supervisor Examination GHSS-III
Peshawar.
2. The State

Respondents

APPLICATION U/S 249-A Cr.PC
FOR THE ACQUITTAL OF THE
ACCUSED/PETITIONER ON THE
AVAILABLE RECORD IN A CASE
FIR NO 412, DATED 04-12-2018,
U/S 419/420/468/471/109 PPC OF
POLICE STATION GULBERG
PESHAWAR.

RESPECTFULLY SHEWETH

Handwritten signature and date: 10/02/2021

1. That the captioned case is pending before this Hon'ble Court which is fixed for today 10.02.2021.
2. That the accused/petitioner request before this Hon'ble Court for his acquittal under Section 249-A Cr.PC on the following grounds inter alia:

AT GROUNDS:-

Handwritten signature and date: 25/6/18

- A. That the accused/petitioners are innocent, already on bail, and falsely been implicated and charged in the instant case.
- B. That the instant case is in the stage of recording witnesses but continuously lingering on the part of

prosecution & complainant for more than one & half years.

- C. That except the bare & mare allegations in the FIR there is no material evidence available on the record to connect the accused/petitioners with the commission of alleged offence.
- D. That there is no independent witness who are ready to come up and record his evidence before this Hon'ble Court, therefore prosecution is taking lake of interest to record his evidence.
- E. That the charged has been framed on 14.09.2019 and yet no prosecution evidence has been recorded its statement before this Hon'ble Court.
- F. That the complainant seems not interested to attend the court proceedings and trying to linger on the instant case that leads waste of precious time of this Hon'ble Court.
- G. That after framing of charges Number of notices has been served to the complainant and the prosecution witnesses but of no avail.
- H. That no incriminating articles has been recovered from the personal possession of accused/ petitioner in the above noted case.
- I. That material available on file or concocted, fabricated and based on personal grudges against the accused/petitioner on the part of prosecution. In order to falsely charged & convict the accused/petitioner in the commission of offense.
- J. That the story narrated by the prosecution is unbelievable, planted, therefore further proceeding of the case is futile exercise and waste of precious time of this Hon'ble Court.
- K. That there is no probability of conviction of accused/petitioner because the case is totally based on personal grudges.

L. That this Hon'ble Court has ample power to acquit the Accused / petitioner under section 249-A Cr.PC at any stage of the case, even after framing of the charge.

M. That other legal and factual ground not mentioned here will be raised at the time of arguments with the prior permission of this Hon'ble Court.

It is, therefore, most humbly prayed that on acceptance of this application the Accused/Petitioners may kindly be acquitted from the charges level against them, in the best interest of justice.

Date: 10 / 02 / 2021

Accused/Petitioner:

Through


SYED MANSOOR SALAM
ADVOCATE PESHAWAR

AFFIDAVIT

I, do hereby solemnly affirm and declare on oath that the contents of this Application is true and correct to the best of my knowledge and belief and nothing has been concealed therein.


DEPONENT


10-02-2021
ATTESTED

23 FEB 2021

(Examiner)
Civil Court Peshawar

In the court of
SANA ULLAH KHAN JUDICIAL MAGISTRATE-VIII,
PESHAWAR

ORDER
20/02/2021

SPP Naseeruddin Shah for the State present. Accused Hazrat Noor and Said Anwar present on bail alongwith their counsel namely Syed Mansoor Salam Advocate. Accused Mumtaz still absconding. Complainant and PWs not present.

Arguments on the application heard and record perused.

Facts of the case are that the accused facing trial were charged for cheating and impersonation for attempting examination of Tehsildar and Naib Tehsildar held through Public Service Commission Peshawar as a fake candidate instead of a candidate with name Hazrat Noor/accused facing trial by the complainant. Both of them were arrested in the instant case FIR No.412 dated 05/12/2018 u/s 419-420-468-471-109 PPC of P.S Gulberg. During interrogation, the accused facing trial disclosed the name of accused Mumtaz s/o Ghulam Habib who was an employee of Public Service Commission Peshawar and helped them in committing the offence. The said co-accused Mumtaz still absconding. Both the accused facing trial were later released on bail. After completion of investigation, complete challan has been submitted by the prosecution to the extent of accused facing trial while challan u/s 512 Cr.P.C also submitted against absconding accused.

Accused facing trial appeared during trial and after compliance of section 241-A Cr.P.C, formal charge against both the

SANA ULLAH KHAN
JUDICIAL MAGISTRATE-VIII
PESHAWAR

accused facing trial was framed on 14/09/2019. Proceedings u/s 512 Cr.P.C also initiated against absconding accused Mumtaz vide order dated 18/07/2019 and the prosecution was allowed to produce the evidence in his absentia and in presence of accused facing trial. Till date not a single PW has been examined by the prosecution in support of its stance. Similarly, neither complainant nor any other private witness has been produced by the prosecution to prove the charges leveled against accused facing trial which could lead the conviction of the accused facing trial. Now, the accused facing trial Hazrat Noor and Said Anwar have submitted the instant application u/s 249-A Cr.P.C for their acquittal on different grounds.

Perusal of record shows that both the accused have been charged by the complainant for cheating and impersonation as they were apprehended by attempting examination of Tehsildar and Naib Tehsildar through false means. Though both the accused have been charged by the complainant directly but he has not bothered to appear as a witness against the accused during trial despite repeated notices and summons. This non-appearance of the complainant shows his lack of interest in the prosecution of present accused facing trial. No recovery or discovery made in respect of the charges leveled against the accused facing trial. The record available on file also shows that the local police failed to collect any material evidence against the accused facing trial in the instant case. No private witness from the vicinity/examination hall appeared to support the stance of the prosecution. The accused facing trial have neither confessed nor admitted their guilt. No criminal history is available on file to suggest that

43 FEB 2021

20.02.2021

the accused facing trial are habitual offenders or they remained involved in the commission of like offences. Even otherwise IO during the investigation failed to collect any sufficient material which could show that the accused facing trial Said Anwar was present in the alleged examination or he was in possession of any document which could show that he was appeared and attempted the exams of Tehsildar and Naib Tehsildar on behalf of accused facing trial Hazrat Noor. The FIR was lodged against the accused facing trial on 05/12/2018 with a delay of one day without explaining any plausible reason. The prosecution is always burdened with heavy responsibility to prove guilt of accused through cogent and convincing evidence, whereas single doubt about the guilt of accused is sufficient for their acquittal. In the instant case if this Court proceed with the subject case and record the statements of rest of the PWs even these would not be sufficient for the conviction of accused facing trial.

Though in the subject case the statements of the prosecution witnesses have not yet been recorded but use of words "at any stage" in section 249-A Cr.P.C indicate the intention of legislature that such order could be passed even before recording of evidence, if the facts of the case are such that the Court is satisfied that no useful purpose would be served by prosecution further in the matter.

In the attending circumstances as dilated upon above, the entire case of prosecution stands upon insufficient and trembling evidence which could not result the conviction of the accused facing trial rather further proceedings in the case would be just a futility, therefore, the

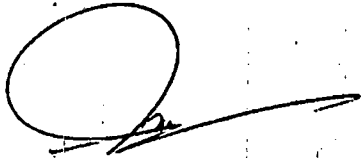
23 FEB 2021

SAAD ULLAH KHAN
JIC-VIII
20.02.2021

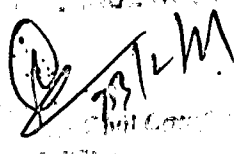
accused namely Hazrat Noor s/o Janat Noor and Said Anwar s/o Mir Khanan charged in case FIR No. 412 dated 05/12/2018 U/S 419-420-468-471-109 PPC of PS Gulberg, Peshawar are hereby acquitted under Section 249-A Cr.P.C. Their Sureties are also discharged from the liabilities of bail bonds.


PWs to the extent of absconding accused Mumtaz be noticed for 07.4.2021

ANNOUNCED
20/02/2021



SANA ULLAH KHAN
Judicial Magistrate-VIII, Peshawar
SANA ULLAH KHAN
JMIC-VIII
Peshawar



No.....	7303
Dated of Application.....	22/2/21
Name of Applicant.....	Mir Mumtaz
Address.....	P-7
Signature.....	
Date.....	23/2/21

2001 S C M R 269

[Supreme Court of Pakistan]

Present: Muhammad Bashir Jehangiri, Munir A. Sheikh
and Nazim Hussain Siddiqui, JJ

ATTAULLAH SHEIKH---Petitioner

versus

WAPDA and others---Respondents

Civil Appeal No.668 of 1999, decided on 20th September, 2000.

(On Appeal from the judgment, dated 1-9-1997 passed by the Federal Service Tribunal in Appeal No.295(L) of 1997).

(a) Constitution of Pakistan (1973)----

----Art. 212(3)---Fundamental. Rules, F.R.' No.54(b)---Leave to appeal was granted by Supreme Court to consider if F.R. No.54(b) already having been declared as repugnant to Injunctions of Islam as per judgment of Supreme Court reported as Dr. Muhammad Islam, Instructor, Animal Husbandry In-Service Training Institute, Daudzai, Peshawar District v. Government of N.W.F.P. (1998 PLC (C.S.) 1430) could be invoked.

Dr. Muhammad Islam, Instructor, Animal Husbandry In-service Training Institute Daudzai, Peshawar District of N.-W.F.P. (1998 PLC (C.S.) 1430 ref.

(b) Fundamental Rules----

----F.R. 54(b)---Pay and allowances, grant of---Period of absence from duty- --Entitlement of reinstated civil servant---Scope---Authority under the provision of F.R.54(b) of Fundamental Rules may withhold part of allowance and pay of a Government servant on his reinstatement---Rule 54(b) could be invoked by the Departmental Authority in appropriate cases--Where the civil servant is not honourably acquitted and his case is not covered by F.R.54(a) of Fundamental Rules, Revising or Appellate Authority may under the provision of F.R.54(b) of Fundamental Rules, still grant to the civil servant for the period of his absence from duty such portion of such pay and allowances as the Authority deems fit---Normally the period of absence from duty in a case covered by F.R. 54(b) of Fundamental Rules is not to be treated as period spent on duty, but in deserving cases, the Revising/Appellate Authority can direct so.

(c) Criminal trial---

----Acquittal---All acquittals are "honourable" and there can be no acquittal which can be termed as "dishonourable".

Dr. Muhammad Islam, Instructor, Animal Husbandry In-service Training Institute Daudzai, Peshawar District of N.-W.F.P. (1998 PLC (C. S.) 1430 ref.

(d) Fundamental Rules---

---- F.R. 54---Pay and allowance for period of suspension---Acquittal of civil servant from criminal case--- Civil servant was reinstated in service after acquittal from a criminal case---Payment of subsistence allowance only to the civil servant---Validity---Where the criminal charges were not established before a

(c) All acquittals
are honorable
(Fee Appellant)

Stamp

competent Court of law and the civil servant was acquitted on those specific charges, the departmental proceedings exactly on the same charges, would be wholly irrelevant and unjustified---Civil servant was acquitted by the competent Court of law which would mean that civil servant had not been suspended and would be entitled to all pay and allowances admissible under the rules, minus the amount which the civil servant had already drawn.

Dr. Muhammad Islam, Instructor, Animal Husbandry In-service Training Institute Daudzai, Peshawar District of N.-W.F.P. (1998 PLC (C.S.) 1430 and Government of N.-W.F.P. v. I.A. Sherwani and another PLD 1994 SC 72 ref.

Ch. Amir Hussain, Advocate Supreme Court for Appellant.
Muhammad Sharif, Advocate Supreme Court for Respondents.

Date of hearing: 20th September, 2000.

JUDGMENT

NAZIM HUSSAIN SIDDIQUI, J.----This appeal with leave of this Court is directed against the judgment, dated 1-9-1997 passed by learned Federal Service Tribunal in Appeal No.295(L) of 1997.

2. Leave to appeal was granted to consider if the Fundamental Rule No.54(b) already having been declared as repugnant to Injunction' of Islam as per judgment, dated 11-11-1990 of Federal Shariat Court passed in Shariat Petition No.4/1/1988 and this finding having been affirmed by this Court through judgment, dated 2-6-1998 reported as Dr. Muhammad Islam, Instructor, Animal Husbandry In-service Training Institute, Daudzai, Peshawar District of N.-W.F.P. (1998 PLC (C.S.) 1430) could be invoked. Fundamental Rules Nos.53 and 54, which are relevant for this case are reproduced below for reference:----

"F.R. No.53.--A Government servant under suspension is entitled to the following payments:--

(a) In the case of [an employee of the Armed Forces] who is liable to revert to Military duty, to the pay and allowances to which he would have been entitled had he been suspended while in military employment.

(b) In the case of a Government servant under suspension, other than that specified in clause (a), he shall be entitled to full amount of his salary and all other benefits and facilities provided to him under the contract of service, during the period of his suspension.

"F.R. No.54.--Where a Government servant has been dismissed or removed is reinstated, the revising or appellate authority may grant to him for the period of his absence from duty--

(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, any allowance of which he was in receipt prior to his dismissal/removal; or

(b) if otherwise, such portion 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 sent on duty.

In a case falling under clause (b), it will not be treated as period spent on duty unless the revising appellate authority so directs.

Explanation.----In this rule, "revising authority" means the "authority" or "authorised Officer" as defined in the Government Servants (Efficiency and Discipline) Rules, 1973, who passes the final order on the case and not the authority who passes an order on appeal. "

3. In F. R. 53, clause (b) was substituted by the S.R.O. 1173(1)/94, dated 21-9-1994, Gazette of Pakistan, Extraordinary, Part II, dated 5-12 1994 and FR No.54 substituted by S.R.O. 718(1)/93, dated 2-8-1993, Gazette of Pakistan, Extraordinary, Part II, page No.1339. August. 22, 1993. (Effective from 30th June, 1993)."

4. The relevant facts for decision of this appeal are that the appellant previously was working as Senior Clerk, VVAPDA, Operation Division, Kot Addu, District Muzaffargarh. On 24-4-1982, F.I.R. No.31 P.S. FIA, Multan under section 161, P.P.C. read with section 5(2) of the Prevention of Corruption Act, 1947 was registered against him with an allegation of having accepted illegal gratification from one Ghulam Abbas, complainant. Vide judgment; dated. 17-10-1991 of learned Special Judge (Central) Multan, the appellant was acquitted extending him the benefit of doubt.

5. He on 8-5-1982 was suspended and reinstated on 4-11-1982. Again on 20-8-1984 he was suspended and reinstated on 20-9-1993. While reinstating, the respondent No.3, Superintending Engineer (E), WAPDA, Multan Circle, Multan ordered that nothing shall be paid to the appellant over and above the subsistence allowance already paid to him during suspension period. On the contrary, the appellant claimed that he was entitled to full dues during the suspension period and above order denying him any payment over and above the subsistence allowance, was contrary to law. He preferred departmental appeal on 11-10-1993, which was rejected on 5-6-1997. The department maintained that respondent No.3 had rightly held that the appellant was not entitled to any amount over and above the subsistence allowance already paid to him. A plea was also taken by the department that the appellant was simultaneously proceeded under WAPDA (E&D) Rules and was reverted as LDC for one year, hence was not entitled to full dues under F.R. No.54(b).

6. The matter was taken up to the Federal Service Tribunal and learned Tribunal maintained the above order and rejected the appeal by the judgment, which has been impugned in this appeal.

7. Adverting to the leave granting order, it is noted that the leave was granted to consider whether under the circumstances, Rule 54(b) could be invoked. It is significant to note that in the case of Dr. Muhammad Islam the following was observed:--

"It may also be noted that the provisions of F.R. 54(a) have been declared un-Islamic by the Shariat Appellate Bench of the Court vide Government of N.-W.F.P. v. I.A. Sherwani and another (PLD 1994 SC 72). In other words, the F.R. 54(a) under which the appellant has been deprived of his pay and other financial benefits, does not exist on the statute book, It is admitted by the learned counsel for the parties that term "acquittal" shall be pressed into service."

8. It appears that in the case of Dr. Muhammad Islam reliance was placed upon the case reported as Government of N.-W.F.P. v. I.A. Sherwani and another (PLD 1994 SC 72). In the latter case the Fundamental Rules under consideration was 53 and not 54. Both the rules are on the statute book. The scope of both these rules is distinct. Under the existing rule 53(b) a Government servant under suspension shall be entitled to the relief mentioned therein. In fact, since 21-9-1994 when clause (b) was substituted by S.R.O. 1173(1)/94, a Government servant under suspension shall as a matter of right, be entitled to full amount of his salary and all other benefits and facilities provided to him under the contract of service.

9. The import of F.R. No.54 (b) is that an authority may withhold part of allowance and pay of a Government servant on his reinstatement. This rule may be invoked by the departmental authority in appropriate cases. It is noted that under clause (b) of F.R. No.54, if the Government servant is not honourably acquitted and his case is not covered by clause (a) of said Rule, still the revising or appellate authority may grant to him for the period of his absence from duty such portion of such pay and allowances as it deems fit. Normally the period of absence from duty in a case covered by clause (b) is not to be treated as period spent on duty, but in deserving cases, the revising/appellate authority can so direct.

10. It is an admitted fact that the appellant was acquitted by learned Special Judge (Central), Multan from

the charges which were levelled against him. This Court, in the case of Dr. Muhammad Islam has laid down a dictum that all acquittals are "honourable" and there could be no acquittal which I could be termed as "dishonourable".

11. SGA&I Department, Government of Punjab, in Curricular No.1-90/87, dated 4-2-1988 on the subject 'Treatment of period under suspension' stated:--

"It has been decided that since a person acquitted by the Court by giving him benefit of doubt has no judicial remedy available to him to get such acquittal declared as honourable, all acquittals including those based on benefit of doubt should be treated as honourable for the purposes."

12. Learned Service Tribunal declined the relief to the appellant on the basis of its judgment in Appeal No.246(L) of 1992, wherein it was held that where a penalty is imposed under the Efficiency and Discipline Rules, the appellant would not be entitled to full emoluments of the period of suspension. It was also held that for entitlement to full pay, acquittal should not only be in the criminal case, but also in the proceedings under the Efficiency and Discipline Rules.

13. It appears that the Tribunal was of the view that, since after registration of the case, the appellant was placed under suspension, as such, the penalty imposed by the respondent No.3 was altogether separate than the findings in the criminal case. The record does not show that any different charge was levelled against the appellant in the departmental proceedings. On the contrary, it is evident that subject-matter was the same and action against appellant was taken on the basis of said criminal proceedings. Where the criminal charges are not established before a competent Court of Law and the accused is acquitted on those specific charges, the departmental proceedings exactly on the same charges, would be wholly irrelevant and unjustified. Since the appellant was acquitted by the Competent Court of Law, it shall be deemed that he had not been suspended and would be entitled to all pay and allowances, admissible under the rules, minus the amount which he had already drawn.

14. Under the circumstances, the impugned order of the Tribunal is set I aside and the appeal. is allowed with above observations.

Q.M.H./M.A.K./A-102/S

Appeal allowed

(b) 249-A or 265-K case

(acquittal)

P L D 2010 Supreme Court 695**Present: Tassaduq Hussain Jillani and Asif Saeed Khan Khosa, JJ****CHAIRMAN AGRICULTURAL DEVELOPMENT BANK OF PAKISTAN and another---
Appellants****Versus**

(For Appellant)

MUMTAZ KHAN---Respondent

Civil Appeal No.589 of 2002, decided on 8th April, 2010.

(On appeal from the judgment dated 3-7-2000 of the Federal Service Tribunal Islamabad passed in Appeal No.81(P) of 1999).

(a) Service Tribunals Act (LXX of 1973)---

---S. 4---Penal Code (XLV of 1860), S.53---Constitution of Pakistan (1973), Art. 212 (3)---Leave to appeal was granted by Supreme Court to consider; whether appeal before Service Tribunal was not time barred; whether convicted person, who was released after payment of Diyat amount could be said or could be declared as a person acquitted honourably and in that eventuality could such person, who was released on payment of Diyat, was liable to be reinstated into service; whether payment of Diyat could absolve a person from accusation of murder; and whether respondent was an acquitted person or was a convicted person even after payment of Diyat.

(b) Penal Code (XLV of 1860)---

---Ss. 309 & 310-Criminal Procedure Code (V of 1898), Ss.249-A & 265-K--- Islamic law---Crime and punishment---Acquittal---Scope---Benefit of doubt---Prior to introduction of Islamic provisions in Penal Code, 1860, acquittal of an accused person could be recorded when prosecution failed to prove its case against him beyond reasonable doubt or when faced with two possibilities, one favouring prosecution and the other favouring defence, Court decided to extend benefit of doubt to accused person--Acquittal could also be recorded under S.249-A, Cr. P. C. or S.265-K, Cr. P. C., when charge against accused person was found to be groundless or there appeared to be no probability of his being convicted of any offence---After introduction of Islamic provisions in Penal Code, 1860; it has now also become possible for accused person to seek and obtain his acquittal in a case of murder either through waiver/Afw under S.309 P.P.C. or on the basis of compounding/Sulk under S. 310 P.P.C.---In case of waiver/Afw acquittal can be earned without any monetary payment to the heirs of deceased but in case of compounding/Sulh an acquittal may be obtained upon acceptance Badal-i-Sulh by the heirs of deceased from the accused person.

(c) Penal Code (XLV of 1860)---

---Ss. 53, 299(e), 310(5) & 323---Diyat' and 'Badal-i-Sulh'---Distinction---Concept of Badal-i-Sulh is totally different from the concept of Diyat inasmuch as provisions of S.310(5), P.P.C. and the Explanation attached therewith show that Badal-i-Sulh is to be "mutually agreed" between the parties as a term of Sulh between them---Diyat, under S. 53, P.P.C. is punishment and provisions of S.299(e), P.P.C. and S. 323, P.P.C. manifest that amount of Diyat is to be fixed by Court.

(d) Penal Code (XLV of 1860)---

---S. 310 (5)---Criminal Procedure Code (V of 1898), S.345---Compounding of offence of murder---Payment of Badal-i-Sulh---Effect---Compounding of offence of murder upon payment of

Badal-i-Sulh is not a result of payment of Diyat which is form of punishment and that such compounding of offence leads to nothing but an acquittal of accused person.

Dr. Muhammad Islam v. Government of N.-W.F.P. through Secretary Food, Agricultural, Live Stock and Cooperative Department, Peshawar 1998 SCMR 1993 rel.

(e) Penal Code (XLV of 1860)---

----S. 310(5)---Criminal Procedure Code (V of 1898), S.345---Compounding of offence of murder--- Admission of guilt---Scope---It is not always that a compromise is entered into by accused person on the basis of admission of guilt by him---In many cases of false implication or spreading net wide by complainant party accused persons compound the offence only to get rid of the case and to save themselves from the hassle or trouble of getting themselves acquitted from Courts of law after arduous, expensive and long legal battle---Compounding of an offence does not amount to admission of guilt on the part of accused person or that an acquittal earned through such compounding of an offence may not have ramification regarding all spheres of activity of acquitted person's life, including his service or employment, beyond criminal case against him.

(f) Criminal Procedure Code (V of 1898)---

----S. 403---Constitution of Pakistan (1973), Art. 13(a)---Acquittal---Maxim autrefois acquit--- Principle of Afw---Scope---Ultimate acquittal in a criminal case exonerates accused person completely for all future purposes vis-a-vis the criminal charge against him---Concept of autrefois acquit embodied in S. 403, Cr.P.C., protection guaranteed by Art.13(a) of the Constitution. Afw (waiver) or Sulh (compounding) in respect of an offence has the effect of purging the offender of the crime.

(g) Service Tribunals Act (LXX of 1973)---

----S. 4---Penal Code (XLV of 1860), Ss.302 & 310 (5)---Criminal Procedure Code (V of 1898), S.345---Reinstatement in service---Acquittal by compounding offence of murder---Payment of Badal-i-Sulk---Respondent was employee of a Bank and was convicted on the charge of murder but later on offence was compounded between the parties and respondent was acquitted after payment of Badal-i-Sulh---After the respondent was convicted under the charge of murder, Bank proceeded against him and removed him from service---Bank declined to reinstate him in service, after he was acquitted of the charge but Service Tribunal allowed the appeal and reinstated him in service--- Validity---No allegation was levelled against respondent regarding any illegality, irregularity or impropriety committed by him in relation to his service and acquittal in the case of murder had removed the only blemish cast upon him---Conviction of respondent in murder was the only ground on which he had been removed from service and that ground had subsequently disappeared through his acquittal, making him re-emerge as a fit and proper person entitled to continue with his service---Even order of removal of respondent from service had provided that his case would be considered by competent authority for his reinstatement in service in case he was acquitted of the criminal charge---Respondent was justified in claiming his reinstatement in service upon earning acquittal from the competent criminal court--Supreme Court declined to interfere in the judgment passed by Service Tribunal, whereby respondent was reinstated in service---Appeal was dismissed.

Shehzad Ahmad alias Mithu and another v. The State 2005 PCr.LJ 1316 and Muhammad Siddique v. The State PLD 2002 Lah. 444 ref.

(h) Service Tribunals Act (LXX of 1973)---

----S.4---Appeal---Limitation---Civil servant sought reinstatement in service, after he was acquitted from murder case---Service Tribunal allowed the appeal filed by civil servant and reinstated him in service---Plea raised by employer/bank was that appeal was barred by limitation---Validity---Civil

servant was acquitted in criminal case on 22-9-1998 and he filed his departmental appeal on 12-10-1998, i.e. within three weeks of his acquittal in criminal case---It would have been a futile attempt on the part of civil servant to challenge his removal from service before earning acquittal in the relevant criminal case---It was unjust and oppressive to penalize civil servant for not filing his departmental appeal before earning his acquittal in criminal case which had formed the foundation for his removal from service---Appeal before Service Tribunal was not barred by limitation.

The Chairman P.I.A.C. and others v. Nasim Malik PLD 1990 SC 951 and Muhammad Aslam v. WAPDA and others 2007 SCMR 513 distinguished.

Raja Aleem Abbasi, Advocate Supreme Court for Appellants.

Shakeel Ahmad, Advocate Supreme Court for Respondent.

Mudassar Khalid Abbasi, D.A.G. (On Court notice).

Date of hearing: 8th April, 2010.

JUDGMENT

ASIF SAEED KHAN KHOSA, J.---The appeal in hand throws up an issue which has never been brought up before this Court earlier and, thus, the case in hand is a case of first impression. The facts leading to filing of this appeal are quite simple and admit of no ambiguity but the question raised before the Court is novel and, therefore, the same has been attended to by us with acute consideration.

2. Mumtaz Khan respondent was a Mobile Credit Officer serving with the Agricultural Development Bank of Pakistan when he was implicated in a case of murder through F.I.R. No.327 registered at Police Station Naurang, District Lakki Marwat on 8-9-1991 in respect of an offence under section 302, P.P.C. read with section 34, P.P.C. As a result of trial of that criminal case the respondent was convicted by the learned Sessions Judge, Lakki Marwat for an offence under section 302(b), P.P.C. read with section 34, P.P.C. vide judgment dated 15-11-1995 and was sentenced to imprisonment for life and a fine of Rs.40,000 or in default of payment whereof to undergo simple imprisonment for five years. The respondent preferred an appeal in that regard but his appeal was dismissed by the Peshawar High Court, Dera Ismail Khan Bench vide judgment handed down on 1-4-1998. We have been informed that the respondent had not challenged his conviction and sentence any further and after a few months of the decision of his appeal an application had been submitted by him before the learned Sessions Judge, Lakki Marwat seeking his acquittal on the basis of a compromise arrived at between him and the heirs of the deceased. That application submitted by the respondent was allowed by the learned Sessions Judge, Lakki Marwat on 22-9-1998 and the respondent was acquitted of the charge on the basis of compromise. On the departmental side, the respondent was served with a show cause notice on 22-1-1996 as by then he had already been convicted and sentenced by the criminal Court on the charge of murder and the respondent submitted a reply thereto on 28-1-1996. In view of the respondent's already recorded conviction on the charge of murder by the criminal Court the respondent was removed from service on 3-3-1996. After earning his acquittal from the criminal Court on the basis of compromise the respondent filed a departmental appeal on 12-10-1998 seeking his reinstatement in service with all the back benefits but that appeal was dismissed by the competent authority on 26-2-1999. Thereafter the respondent preferred an appeal before the Federal Service Tribunal, Islamabad in that regard which appeal was allowed by a majority of two against one by the Federal Service Tribunal, Islamabad vide judgment dated 3-7-2000 and the respondent was ordered to be reinstated in service with all the back benefits. That judgment rendered by the Federal Service Tribunal, Islamabad had been assailed by the appellants before this Court through C.P.L.A. No.1391 of 2000 wherein leave to appeal was granted on 14-2-2002 to consider the following points:--

"(a) Whether the appeal before the Federal Service Tribunal was not time barred?

(b) Whether a convicted person, who is released after payment of Diyat amount, could be said or could be declared as a person acquitted honourably and in that eventuality, could such a person, who is released on payment of Diyat, was liable to be reinstated into service?

(c) Whether the payment of Diyat absolves a person from the accusation of murder? and

(d) Whether the respondent was an acquitted person or was a convicted person even after the payment of Diyat?"

- Hence, the present appeal before this Court.

3. We have heard the learned counsel for the parties at some length and have gone through the record of this case with their assistance.

4. It has been argued by the learned counsel for the appellants that the judgment passed by this Court in the case of *Dr. Muhammad Islam v. Government of N.-W.F.P. through Secretary Food, Agricultural, Live Stock and Cooperative Department, Peshawar 1998 SCMR 1993* and relied upon by the Federal Service Tribunal, Islamabad in the impugned judgment was not relevant to the facts of this case as the said precedent case did not pertain to an acquittal in a criminal case on the basis of compromise. It has also been argued by him that by virtue of the provisions of section 53, P.P.C. Diyat is a form of punishment and it was also held so in the case of *Shehzad Ahmad alias Mithu and another v. The State 2005 PCr.LJ 1316* and, thus, acquittal earned by the respondent in the case of murder by payment of Diyat to the heirs of the deceased had not washed away the blemish of the respondent regarding his being a punished person and such blemish had rendered him incapable of pressing into service his acquittal for the purpose of seeking reinstatement in service. It has further been argued by him that the compromise entered into by the respondent on the charge of murder amounted to admission of guilt on his part, as held in the case of *Muhammad Siddique v. The State PLD 2002 Lahore 444*, and, thus, it even otherwise offends against public policy to reinstate a person in service who is a self-condemned murderer. The learned counsel for the appellants has lastly argued that the departmental appeal filed by the respondent was barred by time and, therefore, the Federal Service Tribunal, Islamabad ought to have dismissed his appeal on this score. In support of this submission the learned counsel for the appellants has placed reliance upon the cases of *The Chairman P.I.A. C. and others v. Nasim Malik PLD 1990 SC 951* and *Muhammad Aslam v. WAPDA and others 2007 SCMR 513*.

5. As against that the learned counsel for the respondent has maintained that the entire controversy presented before the Federal Service Tribunal, Islamabad and also before this Court regarding acquittal of the respondent on the basis of paying Diyat to the heirs of the deceased is misconceived because the respondent had earned his acquittal after paying *Badal-i-Sulh* to the heirs of the deceased under section 310, P.P.C. and not upon payment of Diyat. He has elaborated that Diyat may be a punishment contemplated by the provisions of section 53, P.P.C. but *Badal-i-Sulh* is surely not a punishment mentioned in that section. He has also argued that the respondent's appeal before the Federal Service Tribunal, Islamabad had been filed well within the period of limitation and in the comments submitted by the appellants before the Federal Service Tribunal, Islamabad no objection had been raised by them regarding the appeals filed by the respondent before the Service Tribunal or before the departmental authority being barred by time. He has further maintained in this respect that there is nothing available on the record of this case to establish that the respondent's appeal filed before the departmental authority was barred by time or any objection had ever been raised before the departmental authority in that regard or that the said appeal had been dismissed on the ground of limitation. The learned counsel for the respondent has gone on to submit that no allegation had ever been levelled against the respondent regarding commission of any illegality, irregularity or impropriety by him in his service and the blemish upon the respondent on the basis of his conviction in a case of murder stood washed away on the basis of his acquittal in that criminal case and, thus, there was no impediment in his reinstatement in service with all the back benefits. The learned counsel for the respondent has highlighted that even in the order passed on 3-3-1996 regarding the respondent's removal from service it had specifically been mentioned that the

said removal from service was conditional and was reversible in case of his acquittal in the relevant criminal case. With these submissions the learned counsel for the respondent has supported the majority verdict rendered through the impugned judgment handed down by the Federal Service Tribunal, Islamabad.

6. The learned Deputy Attorney-General appearing on the Court's notice has also maintained before us that the respondent had earned his acquittal in the relevant case of murder not on the basis of payment of Diyat to the heirs of the deceased but upon payment of Badal-i-Sulh to them and, therefore, his acquittal was without any blemish and the same warranted his reinstatement in service with all the back benefits. The learned Deputy Attorney-General has also supported the majority opinion recorded by the Federal Service Tribunal, Islamabad through the impugned judgment rendered by it on 3-7-2000.

7. After hearing the learned counsel for the parties and going through the record of this case with their assistance and after perusing the precedent cases cited before us we, have entertained no manner of doubt that the majority verdict delivered by the Federal Service Tribunal, Islamabad reinstating the respondent in service with all the back benefits was quite justified both on facts and in law. We may observe that prior to introduction of the Islamic provisions in the Pakistan Penal Code, 1860 an acquittal of an accused person could be recorded when the prosecution failed to prove its case against him beyond reasonable doubt or when faced with two possibilities, one favouring the prosecution and the other favouring the defence, the Court decided to extend the benefit of doubt to the accused person and an acquittal could also be recorded under section 249-A, Cr. P. C. or section 265-K, Cr. P. C. when the charge against the accused person was found to be groundless or there appeared to be no probability of his being convicted of any offence. After introduction of the Islamic provisions in the Pakistan Penal Code, 1860 it has now also become possible for an accused person to seek and obtain his acquittal in a case of murder either through waiver/Afw under section 309, P.P.C. or on the basis of compounding/Sulh under section 310, P.P.C. In the case of waiver/Afw an acquittal can be earned without any monetary payment to the heirs of the deceased but in the case of compounding/Sulh an acquittal may be obtained upon acceptance of Badal-i-Sulh by the heirs of the deceased from the accused person. In the present case the respondent had been acquitted of the charge of murder by the learned Sessions Judge, Lakki Marwat as a result of compounding of the offence and such compounding had come about on the basis of acceptance of Badal-i-Sulh by the heirs of the deceased from the respondent. It is true that Diyat is one of the forms of punishment specified in section 53, P.P.C. but any discussion about Diyat has been found by us to be totally irrelevant to the case in hand because the respondent had not paid any Diyat to the heirs of the deceased but he had in fact paid Badal-i-Sulh to them for the purpose of compounding of the offence. It goes without saying that the concept of Badal-i-Sulh is totally different from the concept of Diyat inasmuch as the provisions of subsection (5) of section 310, P.P.C. and the Explanation attached therewith show that Badal-i-Sulh is to be "mutually agreed" between the parties as a term of Sulh between them whereas under section 53, P.P.C. Diyat is a punishment and the provisions of section 299(e), P.P.C. and section 323, P.P.C. manifest that the amount of Diyat is to be fixed by the Court. The whole edifice of his arguments built by the learned counsel for the appellants upon Diyat being a form of punishment has, thus, appeared to be utterly misconceived.

8. The provisions of the first proviso to subsection (1) of section 338-E, P.P.C. clearly contemplate acquittal of an accused person on the basis of compounding of an offence by invoking the provisions of section 310, P.P.C. and the effect of such compounding has also been clarified in most explicit terms by the provisions of subsection (6) of section 345, Cr.P.C. in the following words:--

"The composition of an offence under this section shall have the effect of an acquittal of the accused with whom the offence has been compounded."

9. The legal provision mentioned above leave no ambiguity or room for doubt that compounding of an offence of murder upon payment of Badal-i-Sulh is not a result of payment of Diyat which is a form of punishment and that such compounding of the offence leads to nothing but an acquittal of the accused person. It has already been clarified by this Court in the case of Dr. Muhammad Islam v. Government of N.-W.F.P. through Secretary Food, Agricultural, Live Stock and Cooperative

Department Peshawar 1998 SCMR 1993 as follows:--

"We are inclined to uphold the above view inasmuch as all acquittals even if these are based on benefit of doubt are Honourable for the reason that the prosecution has not succeeded to prove their cases against the accused on the strength of evidence of unimpeachable character. It may be noted that there are cases in which the judgments are recorded on the basis of compromise between the parties and the accused are acquitted in consequence thereof. What shall be the nature of such acquittals? All acquittals are certainly honourable. There can be no acquittals, which may be said to be dishonourable. The law has not drawn any distinction between these types of acquittals."

The said precedent case also involved a question of reinstatement in service of an accused person implicated in a criminal case who had been acquitted by the criminal Court and this Court had declared that an acquittal had no shades and there was no concept of Honourable or dishonourable acquittals. It had specifically been noted by this Court in that case that there could also be cases involving acquittals on the basis of compromise between the parties and after raising a query regarding the status of such acquittals this Court had hastened to add that "All acquittals are certainly honourable". If that be the case then the respondent in the present case could not be stigmatized or penalized on account of his acquittal on the basis of compromise. In view of the discussion made above and also in view of the novel situation presented by this case the precedent cases cited by the learned counsel for the appellants have been found by us to be missing the mark, if not irrelevant to the controversy in hand.

10. As regards the submission made by the learned counsel for the appellants based upon the issue of propriety of reinstating in service a person who, by virtue of compounding of an offence of murder, is a self-condemned murderer we may observe that we have pondered over the said issue from diverse angles and have not felt persuaded to agree with the learned counsel for the appellants. Experience shows that it is not always that a compromise is entered into by an accused person on the basis of admission of guilt by him and in many cases of false implication or spreading the net wide by the complainant party accused persons compound the offence only to get rid of the case and to save themselves from the hassle or trouble of getting themselves acquitted from Courts of law after arduous, expensive and long legal battles. Even in the present case the respondent and his brother were accused of launching a joint assault upon the deceased upon the bidding and command of their father and before the learned trial Court the respondent's brother had maintained in unequivocal terms that he alone had murdered the deceased and the respondent and their father had falsely been implicated in this case. Be that as it may, an ultimate acquittal in a criminal case exonerates the accused person completely for all future purpose vis-a-vis the criminal charge against him as is evident from the concept of *autrefois acquit* embodied in section 403, Cr.P.C. and the protection guaranteed by Article 13(a) of the Constitution of Islamic Republic of Pakistan, 1973 and, according to our humble understanding of the Islamic jurisprudence, *Afw* (waiver) of *Sulh* (compounding) in respect of an offence has the effect of purging the offender of the crime. In this backdrop we have found it difficult as well as imprudent to lay it down as a general rule that compounding of an offence invariably amounts to admission of guilt on the part of the accused person or that an acquittal earned through such compounding may have ramifications qua all spheres of activity of the acquitted person's life, including his service or employment, beyond the criminal case against him. We may reiterate that in the case of Dr. Muhammad Islam (*supra*) this Court had categorically observed that "All acquittals are certainly honourable. There can be no acquittals, which may be said to be dishonourable. The law has not drawn any distinction between these types of acquittals". The sway of those observations made by this Court would surely also encompass an acquittal obtained on the basis of compounding of the offence. It is admitted at all hands that no allegation had been levelled against the respondent in the present case regarding any illegality, irregularity or impropriety committed by him in relation to his service and his acquittal in the case of murder had removed the only blemish cast upon him. His conviction in the case of murder was the only ground on which he had been removed from service and the said ground had subsequently disappeared through his acquittal, making him re-emerge as a fit and proper person entitled to continue with his service.

11. It may not be out of place to mention here that even the order of removal of the respondent from service passed on 3-3-1996 had expressly provided that the respondent's case would be considered by the competent authority for his reinstatement in service in case he was acquitted of the criminal charge. Thus, on this score as well we have found the respondent to be quite justified in claiming his reinstatement in service upon earning an acquittal from the competent criminal Court.

12. As far as the submission made by the learned counsel for the appellants regarding the respondent's appeal being barred by time is concerned suffice it to observe in this context that admittedly the respondent's appeal before the Federal Service Tribunal, Islamabad was preferred within the requisite period of limitation. There is no material available before us to conclude or hold that the respondent's departmental appeal was barred by time and, if so, whether the delay in the respect, if any, had been condoned or not and on what basis the said appeal had been dismissed. The order of dismissal of the respondent's appeal by the departmental authority did not mention that his appeal had been filed beyond the period of limitation or that the same was dismissed on the ground. We have further noticed that no such objection had been raised by the appellants before the Federal Service Tribunal, Islamabad. As the assertion of the learned counsel for the appellants regarding the respondent's departmental appeal being barred by time does not find support from any document produced before us, therefore, it is not possible for us to follow the principle laid down in the cases of *The Chairman P.I.A.0 and others v. Nasim Malik* PLD 1990 SC 951 and *Muhammad Aslam v. WAPDA and others* 2007 SCMR 513 cited by the learned counsel for the appellants in that regard. We may also observe in this context that the respondent had been acquitted in the criminal case on 22-9-1998 and he had filed his departmental appeal on 12-10-1998, i.e. within three weeks of his acquittal in the criminal case. It would have been a futile attempt on the part of the respondent to challenge his removal from service before earning an acquittal in the relevant criminal case and, thus, in the peculiar circumstances of this case, we have found it to be unjust and oppressive to penalize the respondent for not filing his departmental appeal before earning his acquittal in the criminal case which had formed the foundation for his removal from service.

13. For what has been discussed above this appeal is dismissed and the impugned majority verdict rendered by the Federal Service Tribunal, Islamabad on 3-7-2000 is upheld and maintained.

M.H./C-3/S

Appeal dismissed.

(b) 249-A or 265-K

(acquittal)

PLD 2010 Supreme Court 695**Present: Tassaduq Hussain Jilani and Asif Saeed Khan Khosa, JJ****CHAIRMAN AGRICULTURAL DEVELOPMENT BANK OF PAKISTAN and another---
Appellants****Versus**

(For Appellant)

MUMTAZ KHAN---Respondent

Civil Appeal No.589 of 2002, decided on 8th April, 2010.

(On appeal from the judgment dated 3-7-2000 of the Federal Service Tribunal Islamabad passed in Appeal No.81(P) of 1999).

(a) Service Tribunals Act (LXX of 1973)---

---S. 4---Penal Code (XLV of 1860), S.53---Constitution of Pakistan (1973), Art. 212 (3)---Leave to appeal was granted by Supreme Court to consider; whether appeal before Service Tribunal was not time barred; whether convicted person, who was released after payment of Diyat amount could be said or could be declared as a person acquitted honourably and in that eventuality could such person, who was released on payment of Diyat, was liable to be reinstated into service; whether payment of Diyat could absolve a person from accusation of murder; and whether respondent was an acquitted person or was a convicted person even after payment of Diyat.

(b) Penal Code (XLV of 1860)---

---Ss. 309 & 310-Criminal Procedure Code (V of 1898), Ss.249-A & 265-K--- Islamic law---Crime and punishment---Acquittal---Scope---Benefit of doubt---Prior to introduction of Islamic provisions in Penal Code, 1860, acquittal of an accused person could be recorded when prosecution failed to prove its case against him beyond reasonable doubt or when faced with two possibilities, one favouring prosecution and the other favouring defence, Court decided to extend benefit of doubt to accused person--Acquittal could also be recorded under S.249-A, Cr. P. C. or S.265-K, Cr. P. C., when charge against accused person was found to be groundless or there appeared to be no probability of his being convicted of any offence---After introduction of Islamic provisions in Penal Code, 1860; it has now also become possible for accused person to seek and obtain his acquittal in a case of murder either through waiver/Afw under S.309 P.P.C. or on the basis of compounding/Sulh under S. 310 P.P.C.---In case of waiver/Afw acquittal can be earned without any monetary payment to the heirs of deceased but in case of compounding/Sulh an acquittal may be obtained upon acceptance Badal-i-Sulh by the heirs of deceased from the accused person.

(c) Penal Code (XLV of 1860)---

---Ss. 53, 299(e), 310(5) & 323---Diyat' and 'Badal-i-Sulh'---Distinction---Concept of Badal-i-Sulh is totally different from the concept of Diyat inasmuch as provisions of S.310(5), P.P.C. and the Explanation attached therewith show that Badal-i-Sulh is to be "mutually agreed" between the parties as a term of Sulh between them---Diyat, under S. 53, P.P.C. is punishment and provisions of S.299(e), P.P.C. and S. 323, P.P.C. manifest that amount of Diyat is to be fixed by Court.

(d) Penal Code (XLV of 1860)---

---S. 310 (5)---Criminal Procedure Code (V of 1898), S.345---Compounding of offence of murder---Payment of Badal-i-Sulh---Effect---Compounding of offence of murder upon payment of

Badal-i-Sulh is not a result of payment of Diyat which is form of punishment and that such compounding of offence leads to nothing but an acquittal of accused person.

Dr. Muhammad Islam v. Government of N.-W.F.P. through Secretary Food, Agricultural, Live Stock and Cooperative Department; Peshawar 1998 SCMR 1993 rel.

(e) Penal Code (XLV of 1860)---

----S. 310(5)---Criminal Procedure Code (V of 1898), S.345---Compounding of offence of murder--- Admission of guilt---Scope---It is not always that a compromise is entered into by accused person on the basis of admission of guilt by him---In many cases of false implication or spreading net wide by complainant party accused persons compound the offence only to get rid of the case and to save themselves from the hassle or trouble of getting themselves acquitted from Courts of law after arduous, expensive and long legal battle---Compounding of an offence does not amount to admission of guilt on the part of accused person or that an acquittal earned through such compounding of an offence may not have ramification regarding all spheres of activity of acquitted person's life, including his service or employment, beyond criminal case against him.

(f) Criminal Procedure Code (V of 1898)---

----S. 403---Constitution of Pakistan (1973), Art. 13(a)---Acquittal---Maxim autrefois acquit--- Principle of Afw---Scope---Ultimate acquittal in a criminal case exonerates accused person completely for all future purposes vis-a-vis the criminal charge against him---Concept of autrefois acquit embodied in S. 403, Cr.P.C., protection guaranteed by Art.13(a) of the Constitution, Afw (waiver) or Sulh (compounding) in respect of an offence has the effect of purging the offender of the crime.

(g) Service Tribunals Act (LXX of 1973)---

----S. 4---Penal Code (XLV of 1860), Ss.302 & 310 (5)---Criminal Procedure Code (V of 1898), S.345---Reinstatement in service---Acquittal by compounding offence of murder---Payment of Badal-i-Sulk---Respondent was employee of a Bank and was convicted on the charge of murder but later on offence was compounded between the parties and respondent was acquitted after payment of Badal-i-Sulh---After the respondent was convicted under the charge of murder, Bank proceeded against him and removed him from service---Bank declined to reinstate him in service, after he was acquitted of the charge but Service Tribunal allowed the appeal and reinstated him in service--- Validity---No allegation was levelled against respondent regarding any illegality, irregularity or impropriety committed by him in relation to his service and acquittal in the case of murder had removed the only blemish cast upon him---Conviction of respondent in murder was the only ground on which he had been removed from service and that ground had subsequently disappeared through his acquittal, making him re-emerge as a fit and proper person entitled to continue with his service---Even order of removal of respondent from service had provided that his case would be considered by competent authority for his reinstatement in service in case he was acquitted of the criminal charge---Respondent was justified in claiming his reinstatement in service upon earning acquittal from the competent criminal court--Supreme Court declined to interfere in the judgment passed by Service Tribunal, whereby respondent was reinstated in service---Appeal was dismissed.

Shehzad Ahmad alias Mithu and another v. The State 2005 PCr.LJ 1316 and Muhammad Siddique v. The State PLD 2002 Lah. 444 ref.

(h) Service Tribunals Act (LXX of 1973)---

----S.4---Appeal---Limitation---Civil servant sought reinstatement in service, after he was acquitted from murder case---Service Tribunal allowed the appeal filed by civil servant and reinstated him in service---Plea raised by employer/bank was that appeal was barred by limitation---Validity---Civil

servant was acquitted in criminal case on 22-9-1998 and he filed his departmental appeal on 12-10-1998, i.e. within three weeks of his acquittal in criminal case---It would have been a futile attempt on the part of civil servant to challenge his removal from service before earning acquittal in the relevant criminal case---It was unjust and oppressive to penalize civil servant for not filing his departmental appeal before earning his acquittal in criminal case which had formed the foundation for his removal from service---Appeal before Service Tribunal was not barred by limitation.

The Chairman P.I.A.C. and others v. Nasim Malik PLD 1990 SC 951 and Muhammad Aslam v. WAPDA and others 2007 SCMR 513 distinguished.

Raja Aleem Abbasi, Advocate Supreme Court for Appellants.

Shakeel Ahmad, Advocate Supreme Court for Respondent.

Mudassar Khalid Abbasi, D.A.G. (On Court notice).

Date of hearing: 8th April, 2010.

JUDGMENT

ASIF SAEED KHAN KHOSA, J.---The appeal in hand throws up an issue which has never been brought up before this Court earlier and, thus, the case in hand is a case of first impression. The facts leading to filing of this appeal are quite simple and admit of no ambiguity but the question raised before the Court is novel and, therefore, the same has been attended to by us with acute consideration.

2. Mumtaz Khan respondent was a Mobile Credit Officer serving with the Agricultural Development Bank of Pakistan when he was implicated in a case of murder through F.I.R. No.327 registered at Police Station Naurang, District Lakki Marwat on 8-9-1991 in respect of an offence under section 302, P.P.C. read with section 34, P.P.C. As a result of trial of that criminal case the respondent was convicted by the learned Sessions Judge, Lakki Marwat for an offence under section 302(b), P.P.C. read with section 34, P.P.C. vide judgment dated 15-11-1995 and was sentenced to imprisonment for life and a fine of Rs.40,000 or in default of payment whereof to undergo simple imprisonment for five years. The respondent preferred an appeal in that regard but his appeal was dismissed by the Peshawar High Court, Dera Ismail Khan Bench vide judgment handed down on 1-4-1998. We have been informed that the respondent had not challenged his conviction and sentence any further and after a few months of the decision of his appeal an application had been submitted by him before the learned Sessions Judge, Lakki Marwat seeking his acquittal on the basis of a compromise arrived at between him and the heirs of the deceased. That application submitted by the respondent was allowed by the learned Sessions Judge, Lakki Marwat on 22-9-1998 and the respondent was acquitted of the charge on the basis of compromise. On the departmental side, the respondent was served with a show cause notice on 22-1-1996 as by then he had already been convicted and sentenced by the criminal Court on the charge of murder and the respondent submitted a reply thereto on 28-1-1996. In view of the respondent's already recorded conviction on the charge of murder by the criminal Court the respondent was removed from service on 3-3-1996. After earning his acquittal from the criminal Court on the basis of compromise the respondent filed a departmental appeal on 12-10-1998 seeking his reinstatement in service with all the back benefits but that appeal was dismissed by the competent authority on 26-2-1999. Thereafter the respondent preferred an appeal before the Federal Service Tribunal, Islamabad in that regard which appeal was allowed by a majority of two against one by the Federal Service Tribunal, Islamabad vide judgment dated 3-7-2000 and the respondent was ordered to be reinstated in service with all the back benefits. That judgment rendered by the Federal Service Tribunal, Islamabad had been assailed by the appellants before this Court through C.P.L.A. No.1391 of 2000 wherein leave to appeal was granted on 14-2-2002 to consider the following points:--

"(a) Whether the appeal before the Federal Service Tribunal was not time barred?

(b) Whether a convicted person, who is released after payment of Diyat amount, could be said or could be declared as a person acquitted honourably and in that eventuality, could such a person, who is released on payment of Diyat, was liable to be reinstated into service?

(c) Whether the payment of Diyat absolves a person from the accusation of murder? and

(d) Whether the respondent was an acquitted person or was a convicted person even after the payment of Diyat?"

Hence, the present appeal before this Court.

3. We have heard the learned counsel for the parties at some length and have gone through the record of this case with their assistance.

4. It has been argued by the learned counsel for the appellants that the judgment passed by this Court in the case of *Dr. Muhammad Islam v. Government of N.-W.F.P. through Secretary Food, Agricultural, Live Stock and Cooperative Department, Peshawar 1998 SCMR 1993* and relied upon by the Federal Service Tribunal, Islamabad in the impugned judgment was not relevant to the facts of this case as the said precedent case did not pertain to an acquittal in a criminal case on the basis of compromise. It has also been argued by him that by virtue of the provisions of section 53, P.P.C. Diyat is a form of punishment and it was also held so in the case of *Shehzad Ahmad alias Mithu and another v. The State 2005 PCr.LJ 1316* and, thus, acquittal earned by the respondent in the case of murder by payment of Diyat to the heirs of the deceased had not washed away the blemish of the respondent regarding his being a punished person and such blemish had rendered him incapable of pressing into service his acquittal for the purpose of seeking reinstatement in service. It has further been argued by him that the compromise entered into by the respondent on the charge of murder amounted to admission of guilt on his part, as held in the case of *Muhammad Siddique v. The State PLD 2002 Lahore 444*, and, thus, it even otherwise offends against public policy to reinstate a person in service who is a self-condemned murderer. The learned counsel for the appellants has lastly argued that the departmental appeal filed by the respondent was barred by time and, therefore, the Federal Service Tribunal, Islamabad ought to have dismissed his appeal on this score. In support of this submission the learned counsel for the appellants has placed reliance upon the cases of *The Chairman P.I.A. C. and others v. Nasim Malik PLD 1990 SC 951* and *Muhammad Aslam v. WAPDA and others 2007 SCMR 513*.

5. As against that the learned counsel for the respondent has maintained that the entire controversy presented before the Federal Service Tribunal, Islamabad and also before this Court regarding acquittal of the respondent on the basis of paying Diyat to the heirs of the deceased is misconceived because the respondent had earned his acquittal after paying *Badal-i-Sulh* to the heirs of the deceased under section 310, P.P.C. and not upon payment of Diyat. He has elaborated that Diyat may be a punishment contemplated by the provisions of section 53, P.P.C. but *Badal-i-Sulh* is surely not a punishment mentioned in that section. He has also argued that the respondent's appeal before the Federal Service Tribunal, Islamabad had been filed well within the period of limitation and in the comments submitted by the appellants before the Federal Service Tribunal, Islamabad no objection had been raised by them regarding the appeals filed by the respondent before the Service Tribunal or before the departmental authority being barred by time. He has further maintained in this respect that there is nothing available on the record of this case to establish that the respondent's appeal filed before the departmental authority was barred by time or any objection had ever been raised before the departmental authority in that regard or that the said appeal had been dismissed on the ground of limitation. The learned counsel for the respondent has gone on to submit that no allegation had ever been levelled against the respondent regarding commission of any illegality, irregularity or impropriety by him in his service and the blemish upon the respondent on the basis of his conviction in a case of murder stood washed away on the basis of his acquittal in that criminal case and, thus, there was no impediment in his reinstatement in service with all the back benefits. The learned counsel for the respondent has highlighted that even in the order passed on 3-3-1996 regarding the respondent's removal from service it had specifically been mentioned that the

said removal from service was conditional and was reversible in case of his acquittal in the relevant criminal case. With these submissions the learned counsel for the respondent has supported the majority verdict rendered through the impugned judgment handed down by the Federal Service Tribunal, Islamabad.

6. The learned Deputy Attorney-General appearing on the Court's notice has also maintained before us that the respondent had earned his acquittal in the relevant case of murder not on the basis of payment of Diyat to the heirs of the deceased but upon payment of Badal-i-Sulh to them and, therefore, his acquittal was without any blemish and the same warranted his reinstatement in service with all the back benefits. The learned Deputy Attorney-General has also supported the majority opinion recorded by the Federal Service Tribunal, Islamabad through the impugned judgment rendered by it on 3-7-2000.

7. After hearing the learned counsel for the parties and going through the record of this case with their assistance and after perusing the precedent cases cited before us we, have entertained no manner of doubt that the majority verdict delivered by the Federal Service Tribunal, Islamabad reinstating the respondent in service with all the back benefits was quite justified both on facts and in law. We may observe that prior to introduction of the Islamic provisions in the Pakistan Penal Code, 1860 an acquittal of an accused person could be recorded when the prosecution failed to prove its case against him beyond reasonable doubt or when faced with two possibilities, one favouring the prosecution and the other favouring the defence, the Court decided to extend the benefit of doubt to the accused person and an acquittal could also be recorded under section 249-A, Cr. P. C. or section 265-K, Cr. P. C. when the charge against the accused person was found to be groundless or there appeared to be no probability of his being convicted of any offence. After introduction of the Islamic provisions in the Pakistan Penal Code, 1860 it has now also become possible for an accused person to seek and obtain his acquittal in a case of murder either through waiver/Afw under section 309, P.P.C. or on the basis of compounding/Sulh under section 310, P.P.C. In the case of waiver/Afw an acquittal can be earned without any monetary payment to the heirs of the deceased but in the case of compounding/Sulh an acquittal may be obtained upon acceptance of Badal-i-Sulh by the heirs of the deceased from the accused person. In the present case the respondent had been acquitted of the charge of murder by the learned Sessions Judge, Lakki Marwat as a result of compounding of the offence and such compounding had come about on the basis of acceptance of Badal-i-Sulh by the heirs of the deceased from the respondent. It is true that Diyat is one of the forms of punishment specified in section 53, P.P.C. but any discussion about Diyat has been found by us to be totally irrelevant to the case in hand because the respondent had not paid any Diyat to the heirs of the deceased but he had in fact paid Badal-i-Sulh to them for the purpose of compounding of the offence. It goes without saying that the concept of Badal-i-Sulh is totally different from the concept of Diyat inasmuch as the provisions of subsection (5) of section 310, P.P.C. and the Explanation attached therewith show that Badal-i-Sulh is to be "mutually agreed" between the parties as a term of Sulh between them whereas under section 53, P.P.C. Diyat is a punishment and the provisions of section 299(e), P.P.C. and section 323, P.P.C. manifest that the amount of Diyat is to be fixed by the Court. The whole edifice of his arguments built by the learned counsel for the appellants upon Diyat being a form of punishment has, thus, appeared to us to be utterly misconceived.

8. The provisions of the first proviso to subsection (1) of section 338-E, P.P.C. clearly contemplate acquittal of an accused person on the basis of compounding of an offence by invoking the provisions of section 310, P.P.C. and the effect of such compounding has also been clarified in most explicit terms by the provisions of subsection (6) of section 345, Cr.P.C. in the following words:--

"The composition of an offence under this section shall have the effect of an acquittal of the accused with whom the offence has been compounded."

9. The legal provision mentioned above leave no ambiguity or room for doubt that compounding of an offence of murder upon payment of Badal-i-Sulh is not a result of payment of Diyat which is a form of punishment and that such compounding of the offence leads to nothing but an acquittal of the accused person. It has already been clarified by this Court in the case of Dr. Muhammad Islam v. Government of N.-W.F.P. through Secretary Food, Agricultural, Live Stock and Cooperative

Department Peshawar 1998 SCMR 1993 as follows:--

"We are inclined to uphold the above view inasmuch as all acquittals even if these are based on benefit of doubt are Honourable for the reason that the prosecution has not succeeded to prove their cases against the accused on the strength of evidence of unimpeachable character. It may be noted that there are cases in which the judgments are recorded on the basis of compromise between the parties and the accused are acquitted in consequence thereof. What shall be the nature of such acquittals? All acquittals are certainly honourable. There can be no acquittals, which may be said to be dishonourable. The law has not drawn any distinction between these types of acquittals."

The said precedent case also involved a question of reinstatement in service of an accused person implicated in a criminal case who had been acquitted by the criminal Court and this Court had declared that an acquittal had no shades and there was no concept of Honourable or dishonourable acquittals. It had specifically been noted by this Court in that case that there could also be cases involving acquittals on the basis of compromise between the parties and after raising a query regarding the status of such acquittals this Court had hastened to add that "All acquittals are certainly honourable". If that be the case then the respondent in the present case could not be stigmatized or penalized on account of his acquittal on the basis of compromise. In view of the discussion made above and also in view of the novel situation presented by this case the precedent cases cited by the learned counsel for the appellants have been found by us to be missing the mark, if not irrelevant to the controversy in hand.

10. As regards the submission made by the learned counsel for the appellants based upon the issue of propriety of reinstating in service a person who, by virtue of compounding of an offence of murder, is a self-condemned murderer we may observe that we have pondered over the said issue from diverse angles and have not felt persuaded to agree with the learned counsel for the appellants. Experience shows that it is not always that a compromise is entered into by an accused person on the basis of admission of guilt by him and in many cases of false implication or spreading the net wide by the complainant party accused persons compound the offence only to get rid of the case and to save themselves from the hassle or trouble of getting themselves acquitted from Courts of law after arduous, expensive and long legal battles. Even in the present case the respondent and his brother were accused of launching a joint assault upon the deceased upon the bidding and command of their father and before the learned trial Court the respondent's brother had maintained in unequivocal terms that he alone had murdered the deceased and the respondent and their father had falsely been implicated in this case. Be that as it may, an ultimate acquittal in a criminal case exonerates the accused person completely for all future purpose vis-a-vis the criminal charge against him as is evident from the concept of *autrefois acquit* embodied in section 403, Cr.P.C. and the protection guaranteed by Article 13(a) of the Constitution of Islamic Republic of Pakistan, 1973 and, according to our humble understanding of the Islamic jurisprudence, *Afw* (waiver) of *Sulh* (compounding) in respect of an offence has the effect of purging the offender of the crime. In this backdrop we have found it difficult as well as imprudent to lay it down as a general rule that compounding of an offence invariably amounts to admission of guilt on the part of the accused person or that an acquittal earned through such compounding may have ramifications qua all spheres of activity of the acquitted person's life, including his service or employment, beyond the criminal case against him. We may reiterate that in the case of Dr. Muhammad Islam (*supra*) this Court had categorically observed that "All acquittals are certainly honourable. There can be no acquittals, which may be said to be dishonourable. The law has not drawn any distinction between these types of acquittals". The sway of those observations made by this Court would surely also encompass an acquittal obtained on the basis of compounding of the offence. It is admitted at all hands that no allegation had been levelled against the respondent in the present case regarding any illegality, irregularity or impropriety committed by him in relation to his service and his acquittal in the case of murder had removed the only blemish cast upon him. His conviction in the case of murder was the only ground on which he had been removed from service and the said ground had subsequently disappeared through his acquittal, making him re-emerge as a fit and proper person entitled to continue with his service.

11. It may not be out of place to mention here that even the order of removal of the respondent from service passed on 3-3-1996 had expressly provided that the respondent's case would be considered by the competent authority for his reinstatement in service in case he was acquitted of the criminal charge. Thus, on this score as well we have found the respondent to be quite justified in claiming his reinstatement in service upon earning an acquittal from the competent criminal Court.

12. As far as the submission made by the learned counsel for the appellants regarding the respondent's appeal being barred by time is concerned suffice it to observe in this context that admittedly the respondent's appeal before the Federal Service Tribunal, Islamabad was preferred within the requisite period of limitation. There is no material available before us to conclude or hold that the respondent's departmental appeal was barred by time and, if so, whether the delay in the respect, if any, had been condoned or not and on what basis the said appeal had been dismissed. The order of dismissal of the respondent's appeal by the departmental authority did not mention that his appeal had been filed beyond the period of limitation or that the same was dismissed on the ground. We have further noticed that no such objection had been raised by the appellants before the Federal Service Tribunal, Islamabad. As the assertion of the learned counsel for the appellants regarding the respondent's departmental appeal being barred by time does not find support from any document produced before us, therefore, it is not possible for us to follow the principle laid down in the cases of *The Chairman P.I.A.0 and others v. Nasim Malik* PLD 1990 SC 951 and *Muhammad Aslam v. WAPDA and others* 2007 SCMR 513 cited by the learned counsel for the appellants in that regard. We may also observe in this context that the respondent had been acquitted in the criminal case on 22-9-1998 and he had filed his departmental appeal on 12-10-1998, i.e. within three weeks of his acquittal in the criminal case. It would have been a futile attempt on the part of the respondent to challenge his removal from service before earning an acquittal in the relevant criminal case and, thus, in the peculiar circumstances of this case, we have found it to be unjust and oppressive to penalize the respondent for not filing his departmental appeal before earning his acquittal in the criminal case which had formed the foundation for his removal from service.

13. For what has been discussed above this appeal is dismissed and the impugned majority verdict rendered by the Federal Service Tribunal, Islamabad on 3-7-2000 is upheld and maintained.

M.H./C-3/S

Appeal dismissed.