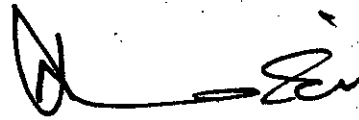


24th May, 2022

Mr. Noor Muhammad Khattak, Advocate for appellant present. Mr. Naseerud Din Shah, Asstt. AG for the respondents present. Arguments heard and record perused.

2. Vide our detailed judgment of today, containing 04 pages, the penalty imposed upon the appellant was unwarranted and on acceptance of this appeal, the impugned orders dated 29.12.2020 and 02.03.2021 are set aside. The appellant is reinstated in service, however, the period of his absence till date shall be treated as leave of the kind due. Consign.

3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 24th of May, 2022.*



(KALIM ARSHAD KHAN)

Chairman



(FARHEHA PAUL)

Member (E)

2. Brief facts of the case as gathered from the Memo. of appeal are that the appellant was inducted in the respondent department as Constable; that he had served the department quite efficiently and upto the entire satisfaction of his superiors; that while posted in City Traffic Police Peshawar an FIR No. 1039 dated 20.12.2019 was lodged against him u/s 302-PPC; that the matter was patched up and the appellant was pardoned by the opponent party and he was acquitted of all the charges; that the appellant was dismissed from service vide impugned order dated 29.12.2020; that feeling aggrieved from the impugned order, the appellant filed departmental appeal on 20.01.2021 which was rejected on 02.03.2021, hence the present appeal.

3. On receipt of the appeal, it was admitted to regular hearing and notices were issued to the respondents to file their reply. The respondents submitted their joint parawise comments and contested the appeal. The respondents mainly contended that the appellant was involved in a criminal case which ended in compromise which was not honourable acquittal; that proper departmental proceedings were initiated against the appellant; that charge sheet alongwith summary of allegations was served upon him and that he was also heard in Orderly Room but he could not prove his innocence.

4. We have heard the learned counsel for the parties and perused the record with the relevant record.

5. It was argued by the learned counsel for the appellant that the appellant was not treated in accordance with the law/rules and as such respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan; that no charge sheet alongwith statement of allegation

[Handwritten signature]
24.05.21

had been served on the appellant nor show cause notice was issued to him; that no chance of personal hearing/defence was provided to him which was mandatory before issuing the impugned order, and that every acquittal is honourable acquittal. He requested that the appeal may be accepted as prayed for.

6. Learned Law Officer while rebutting the arguments of learned counsel for the appellant contended that charge sheet alongwith summary of allegations was served upon the appellant; that proper departmental enquiry was conducted against the appellant under the Khyber Pakhtunkhwa Police Rules, 1975 and was dismissed for service on the recommendation of enquiry office. He requested that the appeal may be dismissed with cost.

7. It appears from the record that the appellant was dismissed from service only for the reason that he was involved in a criminal case. Mere involvement in criminal case was not sufficient if he was not convicted by the competent court of law. Later on, the appellant patched up the matter with opponent party and vide order dated 03.10.2020, acquitted by the competent court of law on the basis of compromise. Mere involvement in a criminal case was no ground to pass any order of punishment against the appellant especially when none of the charges were proved in the criminal proceedings and especially when otherwise no misconduct of the appellant was shown or proved. Therefore, in absence of convincing proof of allegations made against the appellant, order of dismissal from service, is not warranted.

8. In the circumstances, the penalty imposed upon the appellant was unwarranted and on acceptance of this appeal, the impugned orders dated 29.12.2020 and 02.03.2021 are set aside. The appellant is reinstated in

Handwritten signature and date: 29.05.22

service, however, the period of his absence till date shall be treated as leave of the kind due. Consign.

9. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 24th day of May, 2022.*



(KALIM ARSHAD KHAN)
Chairman



(FAREEHA PAUL)
Member (Executive)

12.07.2021

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

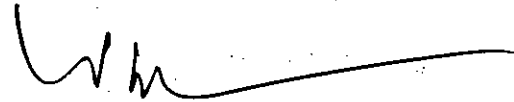

Chairman

Stipulated period passed reply not submitted.

24.01.2022

Junior to counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG alongwith Mr. Sarmad Ali, ASI (Legal) for respondents present.

Reply/comments on behalf of respondents have already been submitted through office which is placed on file. To come up for arguments before the D.B on 24.05.2022.



(Atiq-Ur-Rehman Wazir)
Member (E)

28.05.2021

Counsel for the appellant present. Preliminary arguments heard.

Points raised need consideration. The appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days of the receipt of notices positively. If the written reply/comments are not submitted within the stipulated time, the office is directed to submit the file with a report of non-compliance. File to come up for arguments on 27.09.2021.

Appellant Deposited
Security & Process Fee



Chairman

27.9.21

DB is on Tons case to come up
For the same on Dated 24-1-22

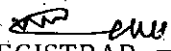

Reader

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 4518 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	31/03/2021	<p>The appeal of Mr. Mehran Ullah presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	25/05/21	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>28/05/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>

1

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

BEFORE: **KALIM ARSHAD KHAN, CHAIRMAN**
FAREEHA PAUL, MEMBER (EXECUTIVE)

Service Appeal No.4518/2021

**Mr. Mehran Ullah, Ex-Constable No. 312, R/O Mohallah Yousaf
Khel, Urmar Payan, Tehsil amnd District, Peshawar.**
.....(*Appellant*).

Versus

1. **The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.**
2. **The Capital City Police Officer, Khyber Pakhtunkhwa Peshawar.**
3. **The Superintendent of Police (HQs), City Traffic Police, Peshawar.**
4. **The Chief Traffic Officer, Khyber Pakhtunkhwa Peshawar.**
.....(**Respondents**).

Mr. Noor Muhammad Khattak,
Advocate

....

For appellant.

Mr. Naseer-ud-Din Shah,

....

For respondents.

Asstt. Advocate General.

Date of Institution.....31.03.2021

Dates of Hearing..... 24.05.2022

Date of Decision..... 24.05.2022

JUDGEMENT

KALIM ARSHAD KHAN CHAIRMAN. This appeal has been filed by Mehran Ullah, Appellant against the order dated 29.12.2020, whereby, major penalty of dismissal from service was imposed upon him, and against the order dated 02.03.2021, whereby, his departmental appeal was rejected.



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2021

MEHRAN ULLAH

VS

POLICE DEPTT

INDEX

S.NO	DOCUMENTS	ANNEXURES	PAGES
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2	FIR, Judgment and any relevant documents	A & B	4-12
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APPELLANT

THROUGH:

NOOR MOHAMMAD KHATTAK

OFFICE: Flat No.4, 2nd Floor,
Juma Khan Plaza,
Near FATA Secretariat,
Warsak Road, Peshawar.
0345-9383141.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

APPEAL NO. 4518 /2021

Diary No. 4388

Date 31/03/2021

Mr. Mehran Ullah, Ex: Constable No. (312),
R/O Mohallah Yousaf Khel, Urmar Payan Tehsil & District Peshawar
..... **APPELLANT**

VERSUS

- 1- The Inspector General of Police Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Capital City Police Officer, Peshawar, Khyber Pakhtunkhwa.
- 3- The Superintendent of Police, HQRS. City Traffic Police, District Peshawar, Khyber Pakhtunkhwa.
- 4- The Chief Traffic Officer, District Peshawar, Khyber Pakhtunkhwa.

..... **RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 29.12.2020 WHEREBY THE MAJOR PENALTY OF DISMISSAL FROM SERVICE WAS IMPOSED ON THE APPELLANT WITHOUT CONDUCTING REGULAR INQUIRY IN THE MATTER AND AGAINST THE APPELLATE ORDER DATED 2.3.2021 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS

PRAYER:

*Filed to-day
31/03/2021
Registrar*

That on acceptance of this appeal the impugned orders dated 29.12.2020 and 2.3.2021 may very kindly be set aside and the respondents may be directed to re-instate the appellant with all back benefits. Any other remedy which this august court deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

- 1- That the appellant was inducted in the respondent Department as Constable bearing No. 312.
- 2- That right from appointment the appellant has served the respondent Department quite efficiently and up to the entire satisfaction of his superiors.

- 3- That appellant while posted as constable in City Traffic Police Peshawar and was performing his duty. That on 20-12-2019 an FIR No. 1039 U/S 302 PPC was lodged against the appellant. That later on in FIR No. 1039 alleged compromise and the matter was patched up and the appellant was pardoned. That the appellant was herby acquitted of all the charges. Copies of the FIR, Judgment and any other related documents are attached as annexure.
..... **A & B.**
- 4- That vide impugned order dated 29.12.2020 the respondent No. 3 dismissed the appellant from service without conducting fact finding nor departmental inquiries in the matter. Copy of the impugned order is attached as annexure
..... **C.**
- 5- That appellant feeling aggrieved from the impugned order dated 29.12.2020 filed Departmental appeal on 20-01-2021 before the respondent No.2 but the same was rejected by the respondent No.2 vide impugned appellate order dated 2.3.2021. Copies of the Departmental appeal and rejection order are attached as annexure
..... **D & E.**
- 6- That appellant having no other remedy filed the instant appeal on the following grounds amongst the others.

GROUND:

- A- That the impugned orders dated 29.12.2020 and 2.3.2021 issued by the respondent No.2 & 3 are against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That the appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the respondent No.2 & 3 acted in arbitrary and malafide manner while issuing the impugned orders dated 29.12.2020 and 2.3.2021.
- D- That no statement of allegation has been served on the appellant by the respondent No.3 while issuing the impugned order dated 29.12.2020.

- E- That no show cause notice has been served on the appellant before issuing the impugned order dated 29.12.2020.
- F- That no chance of personal hearing/ defense has been given to the appellant before issuing the impugned orders dated 29.12.2020 and 2.3.2021.
- G- That no regular Departmental nor fact finding inquiries were conducted by the respondents before issuing the impugned order dated 29.12.2020 against the appellant which is as per Supreme Court Judgments is necessary in punitive actions against the civil servant.
- H- That the appellant inspite of providing the documentary proofs and other connected documents in the case FIR No. 1039 registered under section 302 PPC, the respondent No.3 without considering the same issued the impugned order dated 29.12.2020 against the appellant.
- I- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated: _____._____.2021

APPELLANT


MEHRAN ULLAH

THROUGH:


NOOR MOHAMMAD KHATTAK


**HAIDER ALI
ADVOCATES**

ATTESTED

ایگزیکٹو پولیس سوب ڈیویژن کا رقم نمبر ۷۳

اسلام آباد پولیس

ابتدائی اطلاعاتی رپورٹ

کاڈیکس فائل

کاڈیکس نمبر

V-1

P-35

S/N-423

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زبردستی ۱۵۳ مجموعہ ضابطہ نوعداری

اصل لکھا

5

1039

تاریخ 29/10/1950

تاریخ رویت رپورٹ

29/10/1950

نام و سکونت اطلاع دہندہ مستفیث

0313-930084

شخصی کارڈ نمبر اسپاہل نمبر

17201-2869261-9

مختصر کیفیت جرم (مردودہ) حال اگر بکھلایا گیا ہو

1

جائے وقوعہ فاصلہ قحانہ سے اور دست

کان اذان متون محمد اللہ واقع اور سن پانچ بجے

نام و سکونت لڑم

302

شخصی کارڈ نمبر اسپاہل نمبر

کاروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہو اور وہ چھپان کر

پوشاں ریلوے اسٹیشن اور حاصل ہونے پر دست نام کا پتہ ہے

قحانہ سے روانگی کی تاریخ و وقت

رپورٹ پیش ریلوے اسٹیشن

ابتدائی اطلاع نیچے درج کروں گا اور ہر روز 29/10/1950ء کو 174 نمبر میں پوشاں ریلوے اسٹیشن متوفی محمد اللہ
جو محل پوشاں ریلوے اسٹیشن میں ڈاکٹر صاحب کے پاس مقیم تھے۔ کہ متوفی محمد اللہ کو نوٹیشن دوران دست سے فائل سے
تک پہنچانے میں وقفہ تھا۔ متوفی کے جسم پر کئی قسم کے چوڑے مارکنس بھی تھے۔ جن سے جلد زخمی ہو گئی تھی اور ان سے
کے بعد اور جو چھپے۔ حالت وقوعہ اورد پوشاں ریلوے اسٹیشن سے صرف نصف لٹریٹ ہوئی تھی جس کا نام نامی ہے جس کو کئی سزیم / این
نام حکم نے متول کیا ہے۔ لیس ہند میں ہر روز ۱۵ بجے پوشاں ریلوے اسٹیشن پر پہنچتے ہیں اور رات ۱۲ بجے پل
تفتیش حوالہ القاری لکھی ہے اور متوفی تفتیش سٹاف کے پاس ہے۔ اسٹیشن ہائیکو سٹیٹیشن پوشاں ریلوے اسٹیشن پر
پوشاں ریلوے اسٹیشن پر۔ مقررہ وقت پر پوشاں ریلوے اسٹیشن پر 29/10/1950ء کو 29 نمبر پوشاں ریلوے اسٹیشن
نمبر ۲۹ کے پاس پوشاں ریلوے اسٹیشن پر 50 سالہ مسلمان پوشاں ریلوے اسٹیشن کے پاس پوشاں ریلوے اسٹیشن پر
۱۹ بجے پوشاں ریلوے اسٹیشن پر ۲۹ نمبر پوشاں ریلوے اسٹیشن پر ۲۹ نمبر پوشاں ریلوے اسٹیشن پر
کے پاس پوشاں ریلوے اسٹیشن پر ۲۹ نمبر پوشاں ریلوے اسٹیشن پر ۲۹ نمبر پوشاں ریلوے اسٹیشن پر
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کے پاس پوشاں ریلوے اسٹیشن پر ۲۹ نمبر پوشاں ریلوے اسٹیشن پر ۲۹ نمبر پوشاں ریلوے اسٹیشن پر

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20 - 12 - 5 79

(5)

IN THE COURT OF SAADIA ANDALEEB ADDITIONAL SESSIONS
JUDGE-IV, PESHAWAR

Mehran Ullah....VS.... STATE

Order....
06/02/2020

APP Syeda Alvina Shah for the state present. Accused/petitioner on ad interim bail alongwith learned counsel is also present. Complainant/father namely Nowsherwan and Mst. Zakiya Bibi mother of the deceased are in attendance. Record is available.

Accused/petitioners seek confirmation of his pre-arrest bail on the basis of compromise in case FIR No. 1039, dated 20/12/2019, u/s 302 PPC, Police Station Urmar, Peshawar.

Today, complainant/father and mother the deceased referred hereinabove appeared before the court and stated at the bar that they have effected compromise with the accused/petitioner and have pardoned him in the name of Almighty Allah, therefore, the complainant/father and mother of deceased submitted that they do not want to proceed the accused/petitioner furthermore in the present case. To this effect joint statement of the complainant/father and mother is also recorded wherein they reiterated the same version and

ATTESTED

08 FEB 2020

(Examiner)
Session Court Peshawar

ATTESTED

6

Order..... continue
06/02/2020

requested that they have got no objection if the BBA petition of the accused/petitioner is confirmed. Compromise deed is EXPA, while copies of CNICs of the complainant/father and mother of the deceased are EXPB & EXPC.

Perusal of record reveals that the offence for which the accused/petitioner is charged is compoundable in nature. Therefore, without going into the further discussion, the instant BBA petition of the accused/petitioner is accepted and the ad-interim pre-arrest bail vide order dated 21/12/2019 granted to the accused/petitioner named above is hereby confirmed on the existing bail bonds.

File be consigned to record room after necessary completion, while requisite record be returned.

Announced
06/02/2020

(Signature)
(Saadia Andaleeb)
ASJ-IV, PESHAWAR

ATTESTED

CERTIFIED TO BE TRUE COPY

No:	1583
Dated of Application	6-2-2020
Name of Application	WILLER PB
Word	2400
Fee	Urgent/Fee
Signature of Copyist & Date	<i>(Signature)</i>
Dated of Preparation	6-2-2020
Date of Delivery	6-2-2020

06 FEB 2020

(Examiner)

Copying Agency Session
Peshawar

**IN THE COURT OF NASRULLAH KHAN
ADDITIONAL SESSIONS JUDGE-XV, PESHAWAR
STATE VS. MIRAN ULLAH
CASE NO.08/SC OF 2020**

ORDER

03.10.2020

4

1. Muhammad Imran APP for the State present. Accused alongwith counsel and complainant present. Legal heirs of the deceased also present.

2. The accused namely Mehran Ullah S/O Nowsherwan, has been put to trial in case FIR No.1039 dated 20/12/2019 registered U/S 302 PPC at Police Station Urmar, District Peshawar.

03/10/20

3. At the very outset Nowsherwan S/O Suliman khan, complainant/father of the deceased and Mst. Zakia Bibi W/O Nowsherwan (Mother of the deceased) have appeared

and alleged compromise. They have submitted compromise affidavit (EX:PA) in this respect, wherein they stated that through intervention of elders of the locality, they have patched up the matter with the accused and pardoned him in the name of Great Almighty Allah by waiving off their right of Qisas and Diyat and has got no objection if the accused is acquitted of the charge.

4. Today joint statement Nowsherwan s/O Suliman father of the deceased and Mst. Zakia Bibi W/O Nowsherwan (mother of the deceased Hamad Ullah) recorded, wherein they have stated that they have patched up the matter with the accused and pardoned him in the name of Great



ATTESTED

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Almighty Allah by waiving off their right of Qisas and Diyat and has got no objection if the accused is acquitted of the charge. The deceased namely Hamad Ullah was unmarried and there is no other legal heir of the deceased. The compromise deed is ExPA, copy of CNIC is ExPB and ExPC are placed on file.

7. The offence with which the accused/petitioner are charged is compoundable and the compromise seems forthright and genuine. Hence, accepted and accused facing trial is hereby acquitted of the charge on the basis of compromise.

8. He is on bail. His bail bonds are cancelled and sureties are absolved from their liabilities.

9. Case property shall be kept reserved till the expiry of period of appeal/revision.

10. File of this court be consigned to Sessions record room after necessary completion and compilation.

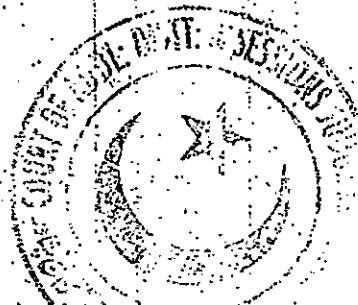
ANNOUNCED.

03.10.2020

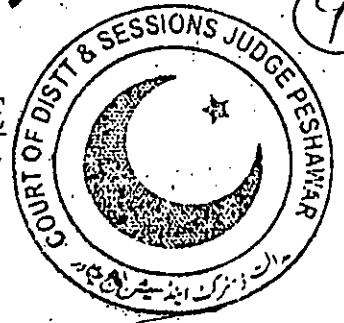
(Nasrullah Khan),
Additional Sessions Judge-XV,
Peshawar.

03.10.2020

ATTESTED



6/2/2019 - 21/12/2019
BEFORE THE LEARNED SESSIONS JUDGE
PESHAWAR.



Mehran Ullah S/o Nowsherawan
R/o Mohallah Yousaf Khel, Urmar Payan Tehsil &
District Peshawar.

..... Accused/petitioner

VERSUS

- 1- The State
- 2- Nowsherawan S/o Suliman Khan R/o Mohallah
Yousaf Khel, Urmar Payan Tehsil & District
Peshawar. Respondents

Case FIR No.1039 Dated 20/10/2019
Charge U/S 302 RPC
Police Station: Urmar Peshawar

APPLICATION UNDER SECTION 498 CR
PC FOR PRE-ARREST BAIL TO
ACCUSED / PETITIONER TILL FINAL
DISPOSAL OF THE CASE.

.....
District & Sessions
Judge-IV, Peshawar

Respectfully Sheweth:

- 1) That the above titled case has been registered at
P.S. Urmar Peshawar, in which the petitioner is
falsely implicated. (Copy of FIR is annexed).
- 2) That the local police is after the arrest of the
accused / petitioner for some ulterior motives.

Now the petitioner approaches to this Hon'ble
Court for his bail before arrest on the following

ATTESTED

ATTESTED

10

Grounds:

- A) That except bare allegation an FIR there is no other material evidence on record to connect petitioner with the alleged crime.
- B) That the accused / petitioner is not directly charge in the FIR and the involvement of the petitioner by the complainant in the instant case statement U/S 164 Cr PC is false and based on malafide intentions.
- C) That petitioner is totally innocent and falsely implicated in the instant case with malafide intention in order to cause humiliation and unjustified harassment.
- D) That site plan coupled with medical evidence totally falsify the whole prosecution case.
- E) That the statement of the complainant U/S 164 Cr PC for the involvement of the petitioner in the instant case with best on malafide intention because on one hand the complainant is not the eye witness of the allege occurrence and on the other hand the time of occurrence is night occurrence and the time of the occurrence is not mentioned by the complainant in FIR dated 29/10/2019.
- F) That keeping in view facts and circumstances case of the petitioner is one of further probe and falls under Section 497 (2) Cr PC.
- G) That petitioner is ready to furnish reliable sureties to the satisfaction of this Hon'ble Court.

ORDERS
Additional District Sessions
Judge-IV, Peshawar

It is, therefore, most humbly prayed that on acceptance of this petition, the petitioner may kindly be granted ad-interim pre-arrest bail and later on confirmed till final decision of the case.

ATTESTED

ATTESTED

06 FEB 2020

Dated 21/12/2019

M. Zafar

11

Accused /Petitioner

Through

M. Zafar
Muhammad Zafar
Advocate, High Court,
Peshawar.

Note: As per instruction of my client no such like bail petition has earlier been filed before this Hon'ble Court.

M. Zafar
Advocate

Affidavit

I, Mehran Ullah S/o Nowsherawan R/o Mohallah Yousaf Khel, Urmar Payan Tehsil & District Peshawar do hereby solemnly affirm and declare on oath that the contents of the instant petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

ORDER NO.

Additional District & Sessi
Judge-IV, Peshawar

DEPONENT

CNIC # 17301-5242169-9



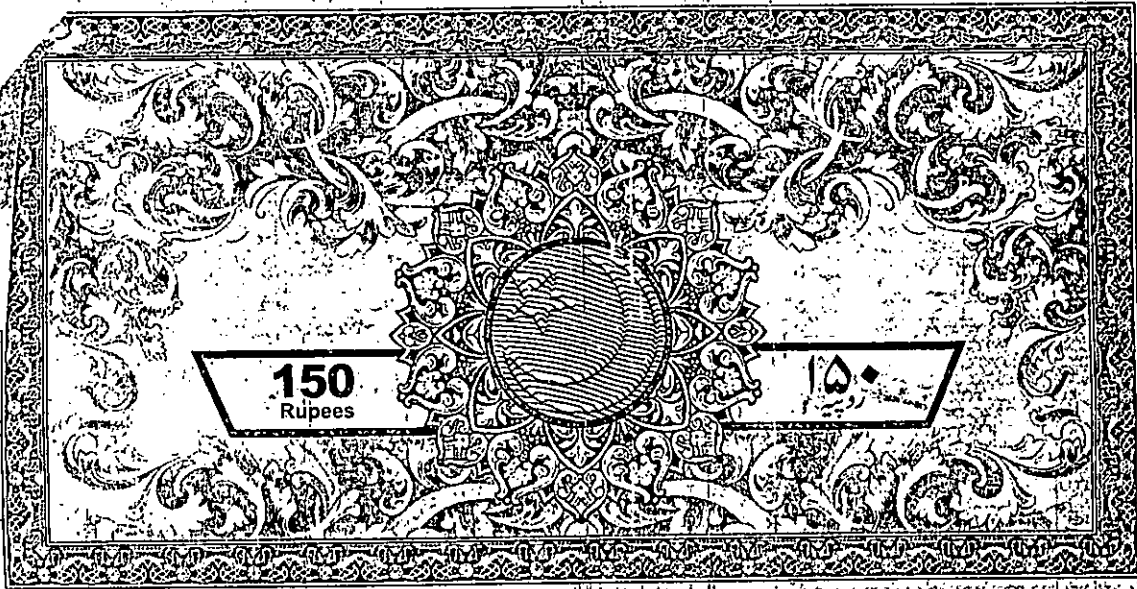
ATTESTED

06 FEB 2020

(Examiner)

Session Court Peshawar

~~ATTESTED~~



بیات حاجی / راضی نامہ

E+PAJ
ASJ Pen

مقامی لوہندوان ولایت ایمان خان سائے محمد جوسف خیل، اڈمٹ پاران، لیسنادہ
خلیہ بنائی ہوئی کہ جن حالت میں لیدام جاد اللہ کے قتل کی دعویداری
پر مقدمہ عدالت میں 1039 مورخہ 12-2019ء پر پی پی 2 مئی 2019ء
اڈمٹ ہیں برخلاف ملزم میران اللہ ملا فوسرطان (لیدام) کہنے
اڈمٹ پاران، لیسنادہ کی ہے۔

6/2/2020

اب میں حالت و دیگر جملہ وارثان معقول نے ملزم
مذکورہ بالا کیس کا راضی نامہ کر لیا ہے۔ اور برخلاف ملزم مذکورہ
مذید کافی چارہ جوئی کا جواب نہیں۔

اگر عدالت معور مقدمہ بالا میں ملزم مذکورہ بالا کی
بی بی ہے کہ ملزم نے بالیداران بری کر کے تو میں حلف
کو کوئی عذر اعتراض نہ ہوگا

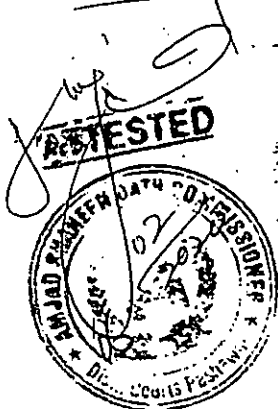
مددہ
06

حاجی اسماعیل ولد معقول
لوہندوان
ذکر بی بی

ATTESTED

06 FEB 2020

(Examiner)
Session Court Peshawar



17301-9313434-8 17301-8527-247-3

ATTESTED

ORDER

Annexure - C

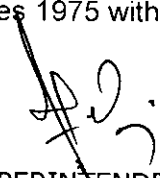
13

This is an order on the departmental enquiry initiated against constable Mehranullah No.312 for involvement in case FIR No.1039, dated 20.12.2020 U/S 302 PPC, PS.Urmar, district Peshawar. He was charge sheeted and DSP/Cantt. Traffic was nominated as Enquiry Officer to conduct formal departmental proceedings under the Khyber Pakhtunkhwa Police Rules 1975 and submit his finding.

He submitted his reply to the charge sheet stating therein that his younger brother namely Hamadullah had committed suicide due to unknown reason but his father charged him in the FIR as per postmortem report. He also said that he got BBA from the court and later on his father forgave him on the basis of compromise. The Enquiry Officer in his findings disclosed that the incident was of honor killing as the weapon of offence belongs to accused constable. The incident also took place in the room of accused. His father therefore, charged him in the FIR. The Enquiry Officer further added that the court of law has confirmed his BBA on the basis of compromise. The E.O therefore, recommended him for suitable punishment.

Today on 29.12.2020, he was heard in OR but his verbal explanation was again not satisfactory. Keeping in view recommendations of the Enquiry Officer as well as the case file, Constable Mehranullah No.312 is awarded major punishment of Dismissal from Service under the Khyber Pakhtunkhwa Police Rules 1975 with immediate effect.

Order announced.


SUPERINTENDENT OF POLICE, HQRS.
CITY TRAFFIC POLICE, PESHAWAR.

No. 680-83/PA, Dated Peshawar the 29/12/2020.

Copies for information and necessary action to the:-

1. Chief Traffic Officer, Peshawar.
2. Accountant
3. OSI
4. SRC (along-with complete enquiry file consisting of _____ pages)

ATTESTED

To,

The Worthy Chief Capital Police Officer,
Khyber Pakhtunkhwa,
Peshawar.

Subject: **DEPARTMENTAL APPEAL, AGAINST THE
ORDER DATED 29.12.2020, WHEREBY THE
UNDERSIGNED HAS BEEN AWARDED
THE MAJOR PENALTY OF DISMISSAL
FROM SERVICE.**

Prayer in departmental appeal:

**ON ACCEPTANCE OF THIS APPEAL THE
ORDER DATED 29.12.2020, MAY PLEASE
BE SET ASIDE AND THE UNDERSIGNED
MAY KINDLY BE REINSTATED INTO
SERVICE WITH ALL BACK BENEFITS.**

Respected Sir,

The undersigned very humbly submits the following
few lines for your kind and sympathetic consideration:

1. That the undersign was performing his duties in the Traffic Police as Constable since long and was performing his duties with great zeal and devotion and have never given any chance of complaint whatsoever regarding my performance.
2. That while serving in the said capacity brother of the undersign committed a suicide, whereas the father of the undersign wrongly charged in a criminal case FIR no 1039, dated 20.12.2020 U/S 302 PPC PS Urmar Peshawar.
3. That initially the undersign filed a BBA Petition before the Additional Session Judge Peshawar which was allowed and confirmed by the learned ASJ Peshawar.
4. That the above noted case comes in the ambit of compoundable offence so therefore the matter was patched up by the elders of the locality and undersign was honourably

ATTESTED

acquitted from the false allegations leveled against the undersign by the learned Additional Session Judge XV Peshawar vide order and judgment dated 03.10.2020.

5. That after the acquittal the undersign submitted an application for his reinstatement in to service but the application of the undersign was rejected vide office order dated 29.12.2020.

GROUND OF DEPARTMENTAL APPEAL

- A. That the undersign has not been treated in accordance with law, hence his rights secured and guaranteed under the law are badly violated.
- B. That the case of the undersign is covered under FR-54 which provides that:

"F.R.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 honorably 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 prescribed.

In a case falling under clause (a), the period of absence from duty will be treated as period spent on duty unless the appellate authority so directs.

undersign has been Honourable
criminal case, therefore denied his

ATTESTED

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reinstatement into service, with all back benefits, is illegal, unlawful and without lawful authority and based on Malafide intention.

- C. That it has also been held by the Superior courts in a number of reported cases that all acquittals are honorable and there can be no acquittal that can be termed as dishonourable, reliance is places on 1998 SCMR 1993 and 2001 SCMR 269
- D. That the undersign has never committed any act or omission which could be termed as misconduct, Since the Petitioner have honorably acquitted in the criminal case, therefore the undersign is also entitle to be reinstated in service with all back benefits.
- E. That no proper procedure has been followed before awarding the major penalty of Dismissal from service, the whole proceedings are thus nullity in the eyes of law.
- F. That the undersign has not done any act or omission which can be turned as mis-conduct
- G. That the undersign is jobless since his Removal from service.

It is, therefore, humbly prayed that on acceptance of this appeal the order dated 29.12.2020, May please be set aside and the undersigned may kindly be reinstated into service with all back benefits.

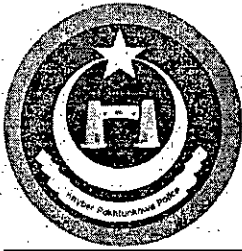
Dated: 20-01-2021

Yours Obediently,



Mehran Ullah
Constable No 312
Peshawar.

ATTESTED



**OFFICE OF THE
CAPITAL CITY POLICE OFFICER
PESHAWAR**

Phone No. 091-9210989

Fax No. 091-9212597

Anxure E

17

ORDER

This order will dispose of departmental appeal preferred by Ex-Constable Mehran Ullah No.312 who was awarded the major punishment of "Dismissal from Service" under PR-1975 by SP/HQrs City Traffic Peshawar vide No.680-83 dated 29-12-2020.

2- He was placed under suspension and proceeded against departmentally for his involvement in a criminal case FIR No.1039, dated 20-12-2019 u/s 302/PPC Police Station Umar Peshawar.

3- He was issued proper Charge Sheet and Summary of Allegations by SP/HQrs City Traffic Peshawar and DSP/Cantt Traffic Peshawar was appointed as enquiry officer to scrutinize the conduct of the accused official. The enquiry officer after conducting proper enquiry submitted his findings that it is a real honor killing; the place of occurrence is the room of accused constable which is situated on 2nd floor. His father also charged him in the FIR. The enquiry officer during the course of enquiry found the accused officials guilty of the charges leveled against him. Hence was recommended for suitable punishment. After perusal of the findings of the enquiry officer the competent authority awarded him the above major punishment.

4- He was heard in person in O.R. and the relevant record along with his explanation perused. IO of the case was also summoned to this office alongwith case file. The IO has stated that the accused official has been directly charged in the FIR by his father. Moreover, there are no evidence or eye witnesses to show his innocence in the case. Therefore his appeal for setting aside the punishment awarded to him by SP/HQrs City Traffic Peshawar vide 680-83/PA, dated 29-12-2020 is hereby rejected/filed.

(ABBAS ANSAN) PSP
CAPITAL CITY POLICE OFFICER,
PESHAWAR

No. 588-91 /PA dated Peshawar the 02-03 - 2021

Copies for information and n/a to the:-

1. CTO Peshawar
2. SP/HQrs City Traffic Peshawar along with Fouji Missal, Service Roll and Enquiry File.
3. DSP/Cantt City Traffic Peshawar
4. Official concerned

ATTESTED

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VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO: _____ OF 2021

MEHRAN ULLAH (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

POLICE (RESPONDENT)
(DEFENDANT)

I/We MEHRAN ULLAH


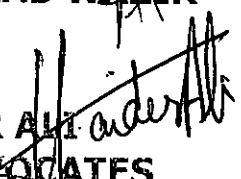
Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate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

Dated. ____/____/2021



CLIENT

ACCEPTED
NOOR MOHAMMAD KHATTAK


AFRASIAB WAZIR
&

HAIDER ALI
ADVOCATES

OFFICE:
Flat No.3, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.
Mobile No.0345-9383141

27/09
21/021

BEFORE THE SERVICE TRIBUNAL KHYBERPAKHTUNKHWA PESHAWAR.

Service Appeal No.4518/2021.

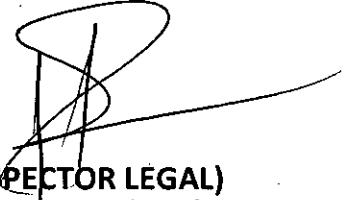
Mr. Mehran Ullah Ex-Constable No. 312, R/O Mollah Yousaf Khel
Urmur Payan Tehsil & District Peshawar.....Appellant.

VERSUS

1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Capital City Police Officer, Peshawar.
3. The Superintendent of Police, HQrs; City Traffic Police, District Peshawar.
4. The Chief Traffic Officer, Peshawar**Respondents**

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3.	Annexure	05-09


(INSPECTOR LEGAL)
City Traffic Police,
Peshawar

BEFORE THE SERVICE TRIBUNAL KHYBERPAKHTUNKHWA PESHAWAR.

Service Appeal No.4518/2021.

Mr. Mehran Ullah Ex-Constable No. 312, R/O Mollah Yousaf Khel
Urmar Payan Tehsil & District Peshawar.....Appellant.

VERSUS

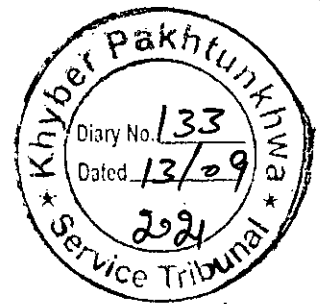
1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Capital City Police Officer, Peshawar.
3. The Superintendent of Police, HQrs; City Traffic Police, District Peshawar.
4. The Chief Traffic Officer, Peshawar**Respondents**

Parawise Reply by Respondents No. 1,2,3 & 4.

RESPECTFULLY SHEWETH!

PRELIMINARY OBJECTIONS.

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



FACTS:-

1. Pertains to record.
2. Perusing the course of service, the performance of the appellant was not upto the mark (bad entries & punishments are annexed).
3. Correct, only upto the extent that FIR No. 1039 U/S 302 PPC was lodged against the appellant and the matter ended in compromise, but appellant was not acquitted of all charges as it

is a matter of honor killing, so the state is still perusing the case against the appellant in the court of law.

4. Incorrect, DSP/Cantt; Traffic was Enquiry Officer of the departmental proceedings against appellant. He was charge sheeted but he could not convince the Enquiry Officer of his innocence. Enquiry Officer found the appellant guilty of the charge in its finding report (copy of finding report is annexed).
5. Incorrect, the appellant was called and heard in Orderly Room along-with I.O of the criminal case. I.O Stated that the accused was directly charged in FIR No. 1039 and there was no evidence or eye witnesses to show his innocence.
6. That the service appeal of the appellant is not maintainable on the following grounds.

GROUND:

- A. Incorrect, the punishment orders dated 29.12.2020 was passed in accordance with the law/rules and based on facts and justice.
- B. Incorrect, the appellant was treated in accordance with law/rules and respondents never infringed any rights of appellant or provision of constitutions.
- C. Incorrect, respondent No. 2 & 3 acted responsibly and lawfully while issuing the orders dated 29.12.2020 & 02.03.2021 against the appellant.
- D. Incorrect, respondent No. 3 issued the impugned orders dated 29.12.2020 on the basis of departmental enquiry carried out by Enquiry Officer DSP/Cantt; while the appellant was also heard in orderly room but his verbal explanation were found unsatisfactory.
- E. Incorrect, charge sheet with summary of allegations was issued

- to the appellant, while all the legal formalities have been observed.
- F. Incorrect, all the opportunities of personal hearing and self defense was provided to appellant during course of departmental enquiry.
- G. Incorrect, Proper departmental enquiry under KP Police Rules 1975 through DSP/Cantt; as Enquiry Officer was conducted, SP/HQrs Traffic issued the order dated 29.12.2020 on the basis of findings made by Enquiry Officer.
- H. Incorrect, respondent No. 3 issued the order dated 29.12.2020 against the appellant on the basis of departmental enquiry conducted by Enquiry Officer (DSP/Cantt). Furthermore, I.O of criminal case was examined by the competent authority wherein the appellant was held responsible for criminal act.
- I. Respondents may be allowed to raise additional grounds at the time of hearing of appeal.


PRAYER:-

It is therefore, most humbly prayed that in the light above facts and submission the appeal of appellant being not maintainable and devoid of legal force may kindly be dismissed with cost, please.


**Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.**


**Capital City Police Officer,
Peshawar.**


**Chief Traffic Officer,
Peshawar.**


**Superintendent of Police,
HQrs; City Traffic Police,
Peshawar**

BEFORE THE SERVICE TRIBUNAL KHYBERPAKHTUNKHWA PESHAWAR.

Service Appeal No.4518/2021.

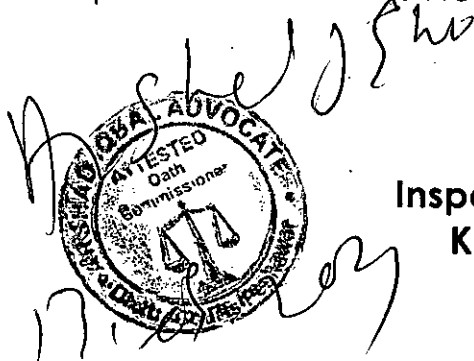
Mr. Mehran Ullah Ex-Constable No. 312, R/O Mollah Yousaf Khel
Urmar Payan Tehsil & District Peshawar.....Appellant.

VERSUS

1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Capital City Police Officer, Peshawar.
3. The Superintendent of Police, HQrs; City Traffic Police, District Peshawar.
4. The Chief Traffic Officer, Peshawar**Respondents**

AFFIDAVIT

We respondents 1, 2, 3 & 4 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.



[Signature]
**Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.**

[Signature]
**Capital City Police Officer,
Peshawar.**

[Signature]
**Chief Traffic Officer,
Peshawar.**

[Signature]
**Superintendent of Police,
HQrs; City Traffic Police,
Peshawar**

15. CENSURES AND PUNISHMENT

Charge from = 19⁴/₀₁₈ To 20⁴/₀₁₈ Two days absence from duty -

punishment absence period L-w-o pay.

OB-No = 196

Dt. 30-4-018

For S.P. Traffic Peshawar.

Charge from:- 08 Dec 2018 - 01 day absent from duty.

Punishment absent period as L-w-o pay.

OB, No: 532

Dt. 31-12-2018

CHIEF TRAFFIC OFFICER, PESHAWAR.

Charge from:- 06 January 2019 - 01 day absent from duty.

Punishment absent period as L-w-o pay.

OB-NO: -23

Dt. 15-01-019

CHIEF TRAFFIC OFFICER, PESHAWAR.

Charge from:- 19 January 2019 - 01 day absent from duty. Punishment absent period as L-w-o pay.

OB, No = 37

28-01-019

CHIEF TRAFFIC OFFICER, PESHAWAR.

CHARACTER ROLL OF

Serial No.

15. CENSURES AND PUNISHMENTS - Contd.

Charge From: - 06 $\frac{02}{019}$ 01 day absent from duty
 Punishment absent period as L.W.O pay

OB, No: - 74
 dt. 26-2-2019

CHIEF TRAFFIC OFFICER,
 PESHAWAR.

Charge From: - 16 $\frac{05}{019}$ 01 day absent from duty
 Punishment absent period as L.W.O pay.

OB, No: - 200
 dt. 3/6/2019

CHIEF TRAFFIC OFFICER,
 PESHAWAR.

Charge From: - 06 June 019, 01 day absent from duty
 Punishment absent period as L.W.O pay

OB, No: - 224
 dt. 24-6-019

CHIEF TRAFFIC OFFICER,
 PESHAWAR.

Charge From: - 16 $\frac{11}{019}$ 01 day absent from duty
 Punishment absent period as L.W.O pay

OB, No: - 534.
 dt. 26-11-019

CHIEF TRAFFIC OFFICER,
 PESHAWAR.

ACTER ROLL OF

(Continued)

Serial No.

15. CENSURES AND PUNISHMENTS - Contd.

Charge from 20th 01/19, of day absent from duty.
Punishment absent period as 1-00 pay.

OB. No:- 555-
CH:- 5-12-019


CHIEF TRAFFIC OFFICER,
PESHAWAR.

Suspension Order.

Being involved in Criminal Case registered vide FIR No. 1039, date 20-12-2019. U/S 302 PPC, PS. Usman, Peshawar, Constable Mehranullah No: 312 is hereby placed under Suspension with immediate effect.

Mr. Abdur Rasheed Khan DSP / cantt Traffic, Peshawar, is nominated as Enquiry Officer to conduct formal departmental proceeding against the accused official under The Khyber Pakhtunkhwa Police Rules 1975 vide CTC Peshawar Order No:- 61-65/PA dated 22-01-2020.


CHIEF TRAFFIC OFFICER,
PESHAWAR.

Awarded minor punishment Quarter Guard
One hour and 10 mins.
vide OB. No- 254.
CH, 01-07-2020


CHIEF TRAFFIC OFFICER,
PESHAWAR.

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CHARACTER ROLL OF

15. CENSURES AND PUNISHMENTS - Contd.

Serial No.

Charge from: 13/05/20²⁰, two days absent from duty
 Punishment absent period as 1-w/o pay.
 CB-NO: 147.
 dt: 18-3-2020


 FOR CHIEF TRAFFIC OFFICER,
 PESHAWAR.

Charge from: 24/05/20²⁰, 01 day absent from duty
 Punishment absent period as 1-w/o pay.
 CB-NO: 162.
 dt: 21-4-2020


 FOR CHIEF TRAFFIC OFFICER,
 PESHAWAR.

Charge from: 22/04/20²⁰, 01 day absent from duty
 Punishment absent period as 1-w/o pay.
 CB-NO: 239.
 dt: 28-6-2020


 FOR CHIEF TRAFFIC OFFICER,
 PESHAWAR.

Charge from: 26/05/20²⁰, 01 day absent from duty
 Punishment absent period as 1-w/o pay.
 CB-NO: 241.
 dt: 29-06-2020


 FOR CHIEF TRAFFIC OFFICER,
 PESHAWAR.

Charge from: -08/04/20²⁰, 01 day absent from duty
 Punishment absent period as 1-w/o pay.
 CB-NO: 178.
 dt: 06-05-2020


 FOR CHIEF TRAFFIC OFFICER,
 PESHAWAR.

Charge from: 30/07/20²⁰, 01-day absence from duty
 Punishment: Absence period as leave without pay
 and 01-day incentive deducted.

CB NO: 450

dt: 07/09/2020


 FOR CHIEF TRAFFIC OFFICER,
 PESHAWAR.

Charge from:- 19¹⁰/₂₀ - 01 day absent from duty.
Punishment absent period as 1-w/o pay.
and 01 day incentive deducted.

CFB No:- 619 -
Dt. 27-10-2020

FOR CHIEF TRAFFIC OFFICER,
PESHAWAR.

Charge from:- 19¹⁰/₂₀ - 01 day absent from duty.
Punishment absent period as 1-w/o pay -
and 01 day incentive deducted.

CFB No:- 619 -
Dt. 27-10-2020

FOR CHIEF TRAFFIC OFFICER,
PESHAWAR.

Dismissal Order.

This is an order on the departmental enquiry initiated Constable Mehrian Ullah No. 312 for involvement in Case FIR No. 1039, dated, 20-12-2020 U/S 302 PPC, PS Utmar, District Peshawar. He was charge sheeted and DSP/Cantt Traffic was nominated as enquiry officer to conduct formal departmental proceedings under the Khyber Pakhtunkhwa Police Rules 1975 and submit his finding.

He submitted his reply to the charge sheet stating therein that his younger brother namely Hamad Ullah had committed suicide due to unknown reason but his father charged him in the FIR as per postmortem report. He also said that he got BBA from the court and letter on his father forgave him on the basis of compromise. The enquiry officer in his findings disclosed that the incident was of honor killing as the weapon of offence belongs to accused Constable. The incident also took place in the room of accused - He father therefore, charged him in the FIR. The enquiry officer further added that the court of law has confirmed his BBA on the basis of compromise. The E.O therefore, recommended him for suitable punishment.

Today on 29-12-2020, he was heard in CR but his verbal explanation was again not satisfactory. Keeping in view recommendation of the enquiry officer as well as the case file Constable Mehrian Ullah No. 312 is awarded

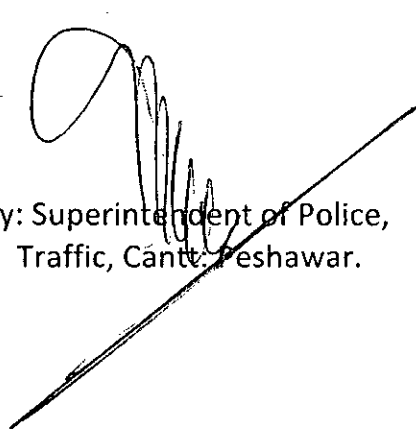
Mehran Ullah in FIR No. 1039, dated 20.12.2019 U/S 302 PPC, in PS Urmer. Where he got BBA, from the court of **SYEDA ANDALEEP** (Session Judge Peshawar) in which confirmation date was 13.01.2020. But due to strike the date was changed to 06.02.2020. Later on his father forgave him on comprise basis and his BBA was confirmed. All relevant documents of compromise are attached in (Annexure "C").

FINDINGS:

From perusal of written statement of Constable Mehran Ullah as well as his hearing in person, the undersigned came to the conclusion that, it is a real honor killing, the place of occurrence is the room of accused Constable which is situated on 2nd floor and the time of occurrence was (Esha), the weapon of offence is 9 MM pistol belongs to the accused Constable, two 9MM Empties recovered from the spot is of the same pistol cleared from FSL/Arms experts. The complainant, accused's / victim's father, also charged him, for the murder of victim, in his u/s 164 CrPC statement in the court. Motive is already clear.

RECOMMENDATIONS:

Keeping In view of the above, being an E.O it is suggested the above Constable Mehran Ullah is found guilty and he is recommended for suitable punishment please.


Dy: Superintendent of Police,
Traffic, Cantt. Peshawar.

14/11/20
for perusal pl. forward
WATO
A.A.



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No: 1324 /ST Dated: 8/6 /2022

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

To,

Superintendent of Police ,HQRS, City Police
Peshawar

Subject: JUDGMENT IN APPEAL NO. 4518/2021 OF Mr. MEHRAN
ULLAH VS SP, HQRS, PESHAWAR.

I am directed to forward herewith a certified copy of Judgement dated 24.05.2022 passed by this Tribunal on the above subject for strict compliance.

Encl: As Above.


(WASEEMAKHTAR)

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR