

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No. 1628/2021

Date of Institution ... 26.01.2021

Date of Decision ... 15.06.2022

Khasadar Constable, Gul Noor No. 1779, District Police Kohat.

... (Appellant)

VERSUS

The Regional Police Officer, Kohat Region, Kohat and another.

... (Respondents)

MR. ASHRAF ALI KHATTAK,
Advocate

--- For appellant.

MR. ASIF MASOOD ALI SHAH,
Deputy District Attorney

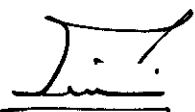
--- For respondents.

MR. SALAH-UD-DIN
MR. MIAN MUHAMMAD

--- MEMBER (JUDICIAL)
--- MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Precise facts are that departmental action was taken against the appellant on the allegations that he was having links with criminals for personal gain. On conclusion of the inquiry, District Police Officer Kohat imposed major penalty of dismissal from service upon the appellant, vide impugned order dated 19.09.2020. The departmental appeal of the appellant was rejected by Regional Police Officer Kohat Region Kohat vide order dated 05.01.2021. The appellant has now approached this Tribunal through filing of the instant service appeal for redressal of his grievance.



2. It is pertinent to mention that the revision petition of the appellant was rejected by the appellate Board vide order dated 12.07.2021 issued during the pendency of the instant service appeal, therefore, upon the request of learned counsel for the

appellant, the setting-aside of the same has been ordered to be included in prayer made by the appellant in the instant service appeal.

3. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions made by the appellant in his appeal.

4. Learned counsel for the appellant has contended that the allegations against the appellant were factual in nature, however no evidence was collected during the inquiry, which could prove the baseless allegations leveled against the appellant; that the mandatory provisions of Khyber Pakhtunkhwa Police Rules, 1975 were not complied with and neither any final show-cause notice was issued to the appellant nor the copy of inquiry was handed over to him; that the witnesses were examined in absence of the appellant and no opportunity of cross-examination was provided to the appellant. In the last he requested that the impugned orders may be set-aside and the appellant may be reinstated in service with all back benefits.




5. On the other hand, learned Deputy District Attorney for the respondents has contended that the appellant had indulged himself in illegal activities and was having liaison with criminals; that the allegations against the appellant were proved in a regular inquiry conducted against him; that the appellant was provided opportunity of self defense as well as persona hearing, however he was unable to produce any cogent evidence in his defense, therefore, he has rightly been awarded the penalty of dismissal from service.

6. We have heard the arguments of learned counsel for the appellant as well as learned Deputy District Attorney for the respondents and have perused the record.

7. A perusal of the record would show that departmental action was taken against the appellant on the allegations that he was having links with criminals for personal gain. The very allegations leveled against the appellant are omnibus in nature

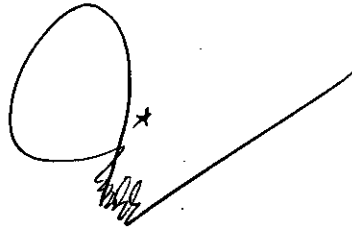
for the reason that the name of not a single criminal is mentioned in the charge sheet, with whom the appellant was having links. Even during the inquiry proceedings, the name of any criminal has not surfaced, with whom the appellant was having links. Witnesses namely Fazal Karim No. 1964, Naib Subedar Shoukat Khan No. 1800, Subedar Shafi Akbar No. 1799, Jamshaid Khan 1769, Said Umer 1802, Muhammad Farooq No. 1936, Asghar Khan No. 1946, Rab Nawaz No. 1947 and Banaras Khan No. 1940 were examined during the inquiry. Copies of statements of witnesses examined during the inquiry are available on the record, which would show that no opportunity of cross examination was given to the appellant, therefore, their testimony could not be legally taken into consideration for awarding penalty to the appellant. Moreover, majority of the witnesses have stated that they do not know that the appellant were having any links with criminals. It is, however astonishing that the inquiry officer has mentioned in his inquiry report that all the witnesses have verified that the appellant was having links with few criminals. It appears that the inquiry officer was bent upon to declare the appellant guilty of the charges leveled against him.


8. August Supreme Court of Pakistan in its judgment reported as PLD 1981 SC-176 has graciously held that rules devoid of provision of final show cause notice alongwith inquiry report were not valid rules. Non issuance of final show cause notice and non-supply of copy of the findings of the inquiry officer to the appellant has caused miscarriage of justice as such in a situation, the appellant was not in a position to properly defend himself in respect of the allegations leveled against him.

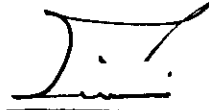
9. In view of the above discussion, the appeal in hand is allowed by setting-aside the impugned orders and the appellant is reinstated in service with all back benefits, leaving the departmental Authority at liberty to conduct de-novo inquiry against the appellant within a period of 60 days of receipt of copy of this judgment, if it so desires. In case of de-novo inquiry, the issue of back benefits shall be subject to

outcome of de-novo inquiry. In case the de-novo inquiry is not concluded within the period of 60 days of receipt of copy of this judgment, the appellant shall be considered to have been reinstated with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
15.06.2022

A handwritten signature in black ink, consisting of a large, stylized 'M' followed by a checkmark-like flourish.

(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

A handwritten signature in black ink, appearing to be 'S. D.' with a horizontal line underneath.

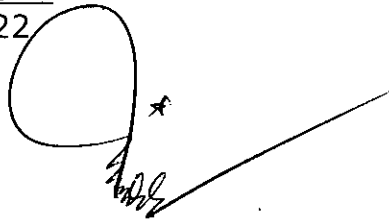
(SALAH-UD-DIN)
MEMBER (JUDICIAL)

O R D E R
15.06.2022

Appellant alongwith his counsel present. Mr. Arif Saleem, Steno alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Learned counsel for the appellant requested that the revision petition filed by the appellant before Inspector General of Police Khyber Pakhtunkhwa Peshawar has been disposed of vide order dated 12.07.2021, which was passed during the pendency of the instant service appeal, therefore, the request for setting-aside of the same may also be included in prayer made by the appellant in the instant appeal. Request seems genuine, therefore, allowed and office is directed to do the needful accordingly. Arguments heard and record perused.

Vide our detailed judgment of today, the appeal in hand is allowed by setting-aside the impugned orders and the appellant is reinstated in service with all back benefits, leaving the departmental Authority at liberty to conduct de-novo inquiry against the appellant within a period of 60 days of receipt of copy of this judgment, if it so desires. In case of de-novo inquiry, the issue of back benefits shall be subject to outcome of de-novo inquiry. In case the de-novo inquiry is not concluded within the period of 60 days of receipt of copy of this judgment, the appellant shall be considered to have been reinstated with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
15.06.2022



(Mian Muhammad)
Member (Executive)

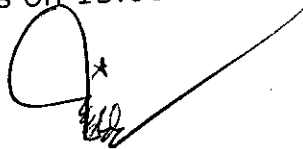


(Salah-Ud-Din)
Member (Judicial)

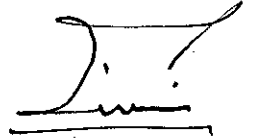
09.05.2022

Mr. Muhammad Nawaz (father of the appellant) present.
Mr. Naseer-ud-Din Shah, Assistant Advocate General for the
respondents present.

Father of the appellant requested for adjournment on the
ground that learned counsel for the appellant is busy in the
august Peshawar High Court, Peshawar. Adjourned. To come up
for arguments on 15.06.2022 before the D.B.



(Mian Muhammad)
Member (E)



(Salah-ud-Din)
Member (J)

12.07.2021

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

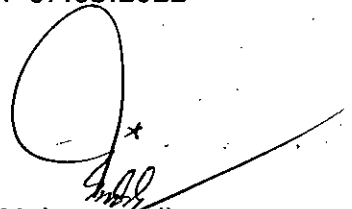

Chairman

Stipulated period passed reply not submitted.

17.11.2021

Appellant in person present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Arif Saleem, steno for respondents present.

Representative of the respondents has submitted written reply/comments which is placed on file. A copy of the same is also handed over to the appellant. Adjourned. To come up for arguments on 07.03.2022 before D.B.


(Mian Muhammad)
Member(E)

7-3-22

Due to Retirement of the Honble
Chairman the case is adjourned on
9-5-22


Reader


01.06.2021

Counsel for the appellant present. Preliminary arguments heard.

1958

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 29.09.2021 before the D.B.

Appellant Deposited
Security & Process Fee
21/6/21



Chairman

29-9-21

DB is on tour case to come up
For the same on Dated. 17-11-21

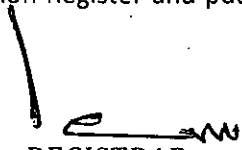


\$
Reader

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1628 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	26/01/2021	<p>The appeal of Mr. Gul Noor presented today by Mr. Arshraf Ali Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>09/04/21</u></p> <p> CHAIRMAN</p>
	09.04.2021	<p>Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 01.06.2021 for the same as before.</p> <p> Reader</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2021

Khasadar Constable,
Gul Noor No.1779,
District Police
Kohat.....Appellant.

Versus

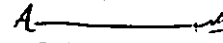
The Regional Police Officer,
Kohat Region Kohat and others.....Respondent.

INDEX

S.N	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal.			1-6
2.	Copy of Charge sheet and statement of allegation		A	7-8
3.	Copy of Reply	07-08-1991	B	9
4.	Copy of re-instatement order	01-09-1993	C	10
5.	Copy of impugned order of respondent No.2		D	11
6.	Copy of departmental appeal		E	12-13
7.	Copy of rejection order of respondent No.1		F	14
8.	Wakalat nama			15


Appellant

Through


Ashraf Ali Khattak,
Advocate,
High Court, Peshawar.
Cell # 0332-9931676

Dated: 12 / 1 / 2021

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1628/2021Khyber Pakhtunkhwa
Service TribunalDiary No. 1641Dated 26/11/2021Khasadar Constable,
Gul Noor No.1779,
District Police Kohat.....

Appellant.

Versus

1. The Regional Police Officer,
Kohat Region, Kohat.
 2. The District Police Officer,
Kohat.....
- Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 READ WITH SECTION 19 OF THE GOVERNMENT SERVANTS (EFFICIENCY & DISCIPLINE) RULES, 2011 AGAINST THE IMPUGNED FINAL ORDER NO.154/EC, DATED KOHAT THE 05-01-2021 OF RESPONDENT NO. 1 PASSED ON THE DEPARTMENTAL APPEAL OF THE APPELLANT AGAINST THE IMPUGNED ORIGINAL ORDER OB NO.662 DATED 19-09-2020 WHEREIN APPELLANT WAS DISMISSED FROM SERVICE.

Prayer:-

On acceptance the instant service appeal, this Honourable may graciously be pleased to:-

- a. Declare both the impugned order dated 05-01-2019 of the respondent No.1 and the impugned order dated 19-09-2010 as illegal, unlawful and without lawful authority,
- b. Set aside both the impugned order dated 05-01-2021 and impugned order dated 19-09-2010,
- c. Re-instate the appellant with all back benefits.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:

1. That appellant was primarily enrolled in Khassa Dar Force Khyber Pakhtunkhwa in the year 2004.
2. That in pursuance of the 25th Constitutional amendment the Khassa Dar Force was merged into Police Force Khyber Pakhtunkhwa vide Notification dated 01-04-2019. Appellant was serving as Subidar in Khassa Dar Force and whereas he was absorbed as a constable in Police Force Kohat.

Filed to-day

Registrar

26/11/2021

②

3. That after about one year of his service in police force Kohat appellant was astonishingly served with charge sheet and statement of allegation dated 03-03-2020 (Annexure-A), wherein he was charge with alien allegations as to the following effects.
“It has been learnt through reliable sources/secret information that you have links with criminals for your personal gains, which shows inefficiency on your part”
4. That appellant was suspended from service and later was re-instated vide order dated 13-08-2020 (Annexure-B).
5. That appellant submitted reply to the charge sheet and statement of allegation (Annexure-C).
6. That slip shod inquiry was conducted at the back and in the absence of appellant. Appellant was not associated with inquiry proceedings.
7. That no final show cause has been served upon the appellant. Appellant was denied the grant of inquiry report. Appellant has not been provided opportunity of personal hearing.
8. That respondent No.2 vide impugned order OB No.662 dated 19-09-2020 (Annexure-D) dismissed the appellant from his legal and lawful service.
9. That appellant being aggrieved of the impugned order dated 19-09-2020 filed departmental appeal (Annexure-E) before the respondent No.1 which he dismissed vide impugned order dated 05-01-2021 (Annexure-F), hence the present service appeal inter alia on the following grounds.

GROUND:-

- A. That respondents have not treated the appellant in accordance with law, rules and policy on the subject and acted in violation of Article 3,4 and 10A of the Constitution of Pakistan,1973. Departmental proceedings

were of judicial nature and should have been initiated in accordance with the spirit of law. Non Observance of procedure prescribed for inquiry...Effect.... Procedure prescribed under Rr.5 to 7 of the Govt: Servant (Efficiency and Discipline) Rules, 2011, manifested some rights in favor of civil servant and were mandatory in nature, including provision of record, cross examination of witnesses and production of defense witnesses. In absence of these mandatory provisions, the penal order of authorities cannot be clothed with validity and is liable to set aside. Reliance is placed on reported Judgment 2014 PLC (CS) (d) 1199.

- B. That Section 16 of the civil Servant Act, 1973 provides that every civil servant is liable for prescribed disciplinary action and penalties in accordance with prescribed procedure and in the absence of such prescribe procedure an adverse action of authority against an employee cannot be clothed with validity and is liable to be struck down. In the instant case no procedure has been adopted by the authorities as per law and rules and therefore, the impugned order are liable to set aside.
- C. That under Rule No.5 of the Khyber Pakhtunkhwa appeal Rules, 1986 the appellant authority was under legal obligation to scrutinize the original impugned order on the touch stone of the rules ibid. On this score the impugned order is liable to be set aside.
- D. That so called inquiry proceedings has not been completed within the prescribed limit of 25 days, which is mandatory as per section 5 of the Khyber Pakhtunkhwa Removal from service (Special Power) Ordinance, 2000 and on this score as well the impugned order is liable to be set aside.
- E. That major penalty has been imposed without giving reason for disregarding appellant's defense constitute violation of Section 24A of the General Clauses Act, 1897, therefore, the impugned orders are not sustainable in the eyes of law and liable to be struck down.
- F. That the Honourable Supreme Court of Pakistan has in thousands of cases has held that no major punishment could be imposed without

regular inquiry, the subject impugned order based on slipshod inquiry has therefore, no base in the light of the decision of the Apex Court, thus liable to be set aside.

- G. That factual controversy is involved in the subject case, therefore, regular inquiry was absolutely necessary as per law laid down by the Honourable Supreme Court of Pakistan, the same has been ignored in toto, therefore, on this score, the impugned order is also liable to be set aside.
- H. That so called slipshod inquiry has been conducted in the absence and at the back of the appellant. Appellant active participation during inquiry proceeding has been willfully and deliberately ignored. Inquiry proceedings are of judicial in nature in which participation of accused civil servant as per law condition sine qua non. On this ground the impugned orders are coram non judice and liable to be set back.
- I. That the law in the country is still unchanged and is governed by law of Qanoon-e-Shahadat in Vogue and by virtue of the same, the Tribunal has to see, that it is for the prosecution to establish the guilt of the person and if it fails to do so, the result is that benefit goes to the accused of the said failure and if the allegation against the accused civil servant/employee is of serious nature and if he denies the same, a regular inquiry cannot be dispensed with. In such a case, the initial burden on the department to prove the charge, which cannot be done without producing evidence [1983 PLC (CS) 211 + 1997 PLC (CS) 817 (S.C) + 1997 SCMR 1543].
- J. That it is significant that while referring to civil servant, who is being proceeded against under the Govt: Servant (Efficiency and Discipline) Rules the word "accused" has been used which indicates that the proceedings conducted by the inquiry officer are akin to a criminal trial [1996 SCMR 127]. A person is presumed to be guilty of misconduct if evidence against him establishes his guilt. The use of the word "guilty" is indicative of the fact that the standard of proof should be akin to one required in criminal cases [PLD 1983 SC (AJ & K) 95].

K. That the alleged inquiry report has not been supplied to the appellant. Inquiry Report should be supplied to accused Civil Servant. Reliance is placed on reported judgments 1993 PLC(CS) 10(e)+ 1992 PLC (CS) 751, 490+ 1990 SCMR 183+ 1996 SCMR 201+ 1983 PLC (CS) 473+ 1984 PLC (CS) 304+ 1989 PLC (CS) 359+ 2003 PLC (CS) 378+ 1986 PLC (CS) 459.

L. That the well-known principle of law “ Audi altram Partem” has been violated. This principle of law was always deemed to have embedded in every statute even though there was no express specific or express provision in this regard.

....An adverse order passed against a person without affording him an opportunity of personal hearing was to be treated as void order. Reliance is placed on 2006 PLC(CS) 1140. As no proper personal hearing has been afforded to the appellant before the issuing of the impugned order, therefore, on this ground as well the impugned order is liable to be set aside.

M. That appellant is jobless since his dismissal from service, therefore entitled to be re instated with all service benefits. Civil servant who was dismissed from service through an arbitrary and whimsical action of the government functionaries and re instated through judicial order of Service Tribunal would have every right to recover arrears of salaries by way of back benefits due to them during the period of their dismissal and re instatement. It would be very unjust and harsh to deprive them of back benefits for the period for which they remained out of job without any fault on their part and were not gainfully employed during that period.....Supreme Court allowing their appeal and directing payment of back benefits to the appellant. 2006 T D (SERVICE) 551 (a).

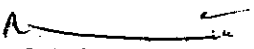
N. That appellant would like to seek the permission of this Honourable Tribunal to advance some more grounds at the time of arguments.

In view of the above explained position and on acceptance of the instant service appeal this Honourable Tribunal may graciously be pleased to

set aside the impugned orders of respondents and re-instate the appellant with all back benefits as prayed for above (pray portion).


Appellant

Through


Ashraf Ali Khattak,
Advocate,
High Court, Peshawar

Dated: 12 / 1 / 2021



OFFICE OF THE COMMANDANT,
DARA SUB DIVISION/DPO KOHAT

No 123-24/PA

Dated 23/3/2020

CHARGE SHEET.

I, CAPT @ MANSOOR AMAN, COMMANDANT, DARA SUB DIVISION/DPO KOHAT, as competent authority under Khyber Pakhtunkhwa, am of the opinion that you Khasadar constable Gul Noor No. 1779 rendered yourself liable to be proceeded under Disciplinary Rules, as you have committed the following act/omissions.

It has been learnt through reliable sources / secret information that you have links with criminals for your personal gain, which shows inefficiency on your part.

2. By reasons of the above, you appear to be guilty of misconduct under Rule 3 of the Rules ibid and have rendered yourself liable to all or any of the penalties specified in the Rule 4 of the Rules ibid.

3. You are, therefore, required to submit your written statement within 07 days of the receipt of this Charge Sheet to the enquiry officer.

Your written defense if any should reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and ex-parte action shall be taken against you.

4. A statement of allegation is enclosed.

Commandant,
Dara Sub Division/ DPO Kohat

23/3/20

ATC



Office of the
District Police Officer,
Kohat

No. 1123-24/PA

Dated 23-3/2020

DISCIPLINARY ACTION

CAPT © MANSOOR AMAN, DISTRICT POLICE OFFICER, KOHAT as competent authority, am of the opinion that you **Khasadar constable Gul Noor No. 1779** have rendered yourself liable to be proceeded against departmentally under Khyber Pakhtunkhwa Police Rule 1975 (Amendment 2014) as you have committed the following acts/omissions.

STATEMENT OF ALLEGATIONS

It has been learnt through reliable sources / secret information that you have links with criminals for your personal gain, which shows inefficiency on your part.

2. For the purpose of scrutinizing the conduct of said accused with reference to the above allegations **SDPO Saddar, Kohat** is appointed as enquiry officer. The enquiry officer shall in accordance with provision of the Police Rule-1975, provide reasonable opportunity of hearing to the accused official, record his findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused official.

The accused official shall join the proceeding on the date, time and place fixed by the enquiry officer.

DISTRICT POLICE OFFICER,

KOHAT 23/3/20

No. 1123-24/PA, dated 23-3/2020.

Copy of above to:-

1. **SDPO Saddar, Kohat**:- The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Rule 1975.

2. The **Accused Official**:- with the directions to appear before the Enquiry Officer, on the date, time and place fixed by him, for the purpose of enquiry proceedings.

AC

R

کھنڈر و بناؤں کے لئے کھنڈر و بناؤں کے لئے

مستوفی - جواب چارج شیڈ

جناب عالی - بحوالہ چارج شیڈ نمبر 1123-24/58

مورخہ 20/3/30ء کے مفرد میں ہے کہ سرورجندف

کے لئے کسی التزام کا عمل ہے بنیاد ہے - میرا کسی حیرانم

پیشہ شخص سے کہہ تو رہتا ہوں کہ یہ میرا کسی

حیرانم پیشہ سے پہلی فون کا یا موٹائل فون یا کسی اور

طرح سے رابطہ ہے - میں اپنا موٹائل فون ہراؤ

حصول ڈاٹا پیشہ کر سکتا ہوں -

میں ہر قسم کی سزا سنبھالنے کو تیار ہوں - اگر

میرے خلاف کبھی شہوت / شہادت ہو رہی ہے

انکو اس کی حد تک پہنچا دیا گیا - میں میرا فیروز

بے گناہ ہوں - معلوم ہوتا ہے کہ انصاف قبائلی علاقہ

جات کے خلاف کسی شخص نے مجھے بدنام کرنے کی

کوشش کی ہے - کہہ دیجئے کہ اسے کوئی خاصہ دہر

میں لقمہ خاہدہ دار کر لیں میں جلد رفت کرنے کے

دالوں کے خلاف ہیں - اور ہم سے توقع رکھتے ہیں

کہ ہم بھی ان کے لئے قدم پیر عین انصاف کے خلاف

آواز اٹھائیں - جو ہمیں کسی طور قبول نہیں

میں سرکاری طور پر جلد رفت ہوں سرکاری

فرائض ادا کرنے کا پابند ہوں - کسی شخص کے

سیاسی مقاصد سے تعلق نہیں رکھ سکتا

لہذا استدعا ہے کہ مجھے کوئی نکتہ نہ

حاجت مندہ چارج شیڈ داخل دفتر

Ate

کتابخانه جامعہ اسلامیہ دارالعلوم دیوبند

التعارف

خواجہ صاحب کتب خانہ دارالعلوم دیوبند ۱۷۷۹

عقبتہ امیر اسلام خیر بیک (زادگی)

درہ آدم خیل

۱۷۷۹



OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT
Tel: 0922-9260116 Fax 9260125

ORDER

This following Police officers/official are hereby provisionally re-instated in service with immediate effect.

1. SI Mukamil Khan
2. ASI Walibat Khan
3. IHC Mussarat Hussain 1031
4. IHC Kohat 494
5. IHC Gulab Ali 174
6. IHC Haziq Ur Rehman 841
7. LHC Irfan Shehzad 56
8. Constable Imran 1394
9. Constable Qaiser Shah 996
10. Constable Gul Noor 1779

DISTRICT POLICE OFFICER,
KOHAT

OB No.

Date 13/08/2020

No. /PA dated Kohat the 2020.

Copy of above to the Reader/SRC/OHC for necessary action.

لائیڈ رول
درجہ
درجہ
درجہ
13/8/20

Ate
R



OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT

ORDER

This order will dispose of departmental enquiry against Constable Gul Noor No. 1779 of this district Police under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014).

Brief facts of the case are that it has been learnt through reliable sources / secret information that he has links with criminals for his personal gain, which shows inefficiency on his part.

He was served with charge sheet & statement of allegations. SDPO Saddar Kohat was appointed as enquiry officer to proceed against him departmentally. During enquiry proceedings the accused constable was summoned for personal hearing to the enquiry officer but he could not give any plausible reply, for scrutinizing the allegations all officials deployed on the different check posts was also summoned/interviewed and recorded their statements which clearly proved that accused official has links with criminals and seems clearly malafide from his part and further recommended for punishment.

He was called in OR and heard in person on 10.09.2020, but he failed to advance any plausible explanation in his defense.

In view of above I, Javed Iqbal, District Police Officer, Kohat in exercise of the powers conferred upon me, awarded a major punishment of dismissal from service. Kit etc be collected.

DISTRICT POLICE OFFICER,
KOHAT 22/16/9

OB No.

662

Date 16/09/2020

No. 4672-74 PA dated Kohat the 19-9-2020.

CC:-

R.I. Reader, Pay officer, SRC and OHC for necessary action.

Ate
20

E (12)

1

BEFORE THE DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT

SUBJECT: APPEAL AGAINST THE IMPUGNED ORDER OF DPO KOHAT VIDE DATED 16-09-2020, OB NO:-662 IN WHICH WITHOUT ENQUIRING THE ALLEGATIONS DIRECTLY IMPOSED THE MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE AND HIS ABSENCE PERIOD IS COUNTED AS LEAVE WITHOUT PAY.

Respectfully Sheweth,

With great veneration the instant appeal is preferred by the appellant on the following grounds:-

Facts:

Briefly facts are that as per impugned order that it has been learnt through reliable sources/ secret information that appellant has links with criminals for his personal gain, which shows inefficiency on the part of appellant.

That due to above allegation the appellant was dismissed from service vide impugned order mentioned above. (Copy of impugned order is annexed as annexure A)

That the allegation against the appellant are base less and there is nothing on record which connect the appellant with the allegation as well as nor any CDR were obtain nor any proof is available on record which shows that the appellant had any links with the criminals.

That as per the impugned order there is contradiction with the version of the impugned order nor there is any statement against the appellant available on the record which proves that the appellant had links with criminals

That all the proceedings were conducted against the appellant ex parte and no opportunity of personal hearing and defense has been provided to the appellant which is against to the service rules as well as against to the Police rules.

That the appellant is young energetic efficient person and having unblemished service record which could be verify from the service record of the appellant.

That no proper departmental enquiry was conducted against the appellant nor any intimation received only on the basis of charge sheet which were duly replied but without enquiring the real fact and without any fair opportunity appellant held guilty which is against to the rules. (Copy of Charge sheet and reply is annexed as annexure B).

That no single evidence is available on record which connect the appellant with the allegation nor proved through any reliable probing.

That all the proceedings were conducted against the appellant in the absence of the appellant nor heard in person to explain the position.

ATC
R

That the appellant is very dedicated keen and apprehensive towards his assign duty but this factor has not been appreciated and the appellant was blessed with impugned order.

That the appellant feeling aggrieved from the impugned order and submit the representation on the following grounds:-

Grounds:-

1. That the allegations never practice by the appellant and there is nothing on record which connect the appellant with the allegation.
2. That it is the settle principle of justice that no one should be condemn un heard but in the case of appellant no enquiry has been conducted to enquire the allegation .
3. That again an unjust has been done with the appellant by not giving ample opportunity of cross examination as well as not heard in person nor properly enquired the allegation. Just on the basis of secrete /source report relying held guilty the appellant without following the prescribed rules relating to enquiry proceedings as per Police Rules 1975 (amended 2014).
4. That while awarding the impugned order none from the general public was examined in support of the charges leveled against the appellant.
5. That as per universal declaration of human rights 1948 prohibits the arbitral / discretion.
- 8.. That the DPO Kohat has acted whimsically and arbitrary, which is apparent from the impugned order.

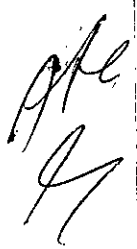
11:-That the impugned order is not based on sound reasons and same is not sustainable in the eyes of law. The same is based on wrong assumption of facts.

12:-That the impugned order is outcome of surmises and conjecture.

Pray:

In the view of above circumstances it is humbly prayed that the impugned order of DPO Kohat may please be set aside for the end of justice and the appellant may please be graciously be re-instated in service with all needs as per prevailing rules.

Date: / /2020



(Appellant)

Ex-Constable Gul Nor No-1779

24

ORDER.


This order will dispose of a departmental appeal, moved by Ex-Constable Gul Noor No. 1779 of Operation Staff Kohat against the punishment order, passed by DPO Kohat vide OB No. 662, dated 19.09.2020 whereby he was awarded major punishment of **dismissal from service** on the allegations of links with criminal and involvement in illegal activities.

He preferred an appeal to the undersigned upon which comments were obtained from DPO Kohat and his service record was perused. He was also heard in person in Orderly Room, held on 30.12.2020. During hearing, he did not advance any plausible explanation in his defense.

I have gone through the available record and came to the conclusion that the punishment order passed by DPO Kohat is justified and needs no interference. Being a member of discipline force, he was not supposed to indulge himself in illegal / extra departmental activities. The allegations leveled against him are proved and also established by the E.O in his findings. Therefore, His appeal being devoid of merits is **hereby rejected**.

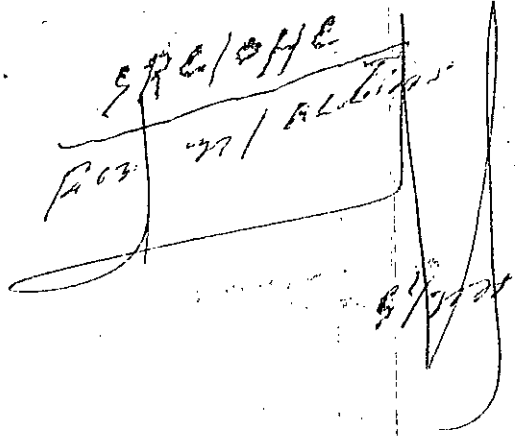
Order Announced
30.12.2020


78
31/12/2021

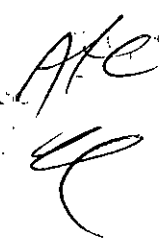

(TAYYAB HAFEEZ) PSP
Region Police Officer,
Kohat Region.

No. 154 /EC, dated Kohat the 05-01-2021.

Copy to District Police Officer, Kohat for information and necessary action w/r to his office Memo: No. 17967/LB, dated 22.12.2020. His Service Book & Fauji Missal is returned herewith.


SPC/OHE
31/12/2021


(TAYYAB HAFEEZ) PSP
Region Police Officer,
Kohat Region.
31/12


AFC
UP

6

بعدالت حساب کے اصول پر سبوحی (2020)



2020ء منجانب ایڈیٹریٹ

مکمل طور پر بنام حکومت

موضوع

مقدمہ

دعویٰ

پریم

باعث تحریر آئینہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
 آج کے مقام پر کیے گئے اسٹریٹجی کے تحت

مقررہ کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
 وکیل صاحب کو راضی نامہ کر کے تقریر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
 باہر ورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
 زرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
 نیز دائر کرنے اپیل گمرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
 کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ نیا اپنے بجائے تقریر کا اختیار
 ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا سہارا
 براخیز منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔
 کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
 مذکورہ کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم 12 _____ ماہ جنوری 2020

Attested
 20

مقام

A