

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR
AT CAMP COURT ABBOTTABAD

Service Appeal No. 755/2020

Date of Institution ... 17.01.2020

Date of Decision... 16.11.2022

Imtiaz Hussain S/O Said-ur-Rehman. R/O Tareri Tarnwai, Tehsil and District
Abbottabad. Ex-Constable No. 182 District Police, Abbottabad.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Home, Peshawar and
05 others.

... (Respondents)

MR. JUNAID ANWAR KHAN,
Advocate

--- For appellant.

MR. ASIF MASOOD ALI SHAH,
Deputy District Attorney

--- For respondents.

MR. KALIM ARSHAD KHAN
MR. SALAH-UD-DIN

--- CHAIRMAN
--- MEMBER (JUDICIAL)


JUDGMENT:

SALAH-UD-DIN, MEMBER:- Precise facts forming the
background of the instant service appeal are that disciplinary action
was taken against the appellant on the allegations of his involvement
and arrest in case FIR No. 559 dated 13.12.2013 under Section 3/4
E.H.O/26(2) Police Station Shinkiare District Mansehra. On
conclusion of the inquiry, the appellant was dismissed from service
vide order bearing OB No. 34 dated 05.02.2014. The departmental



appeal of the appellant was also dismissed vide order dated 23.01.2017. The appellant then filed review petition before the DIG Hazara Range, however the same was not responded. The appellant then filed writ petition before august Peshawar High Court, Bench Abbottabad, which was dismissed vide judgment dated 18.12.2019 for want of jurisdiction. The appellant has now approached this Tribunal through filing of instant service appeal for redressal of his grievance.

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



3. At the very outset of his arguments, learned counsel for the appellant requested that as the appellant was appointed as Constable in the year 1991 and was having considerable length of service at his credit, therefore, the penalty of his dismissal from service may be converted into compulsory retirement from service.

4. On the other hand, learned Deputy District Attorney for the respondents has contended that disciplinary action against the appellant on account of his absence from duty was already initiated by the competent Authority when in the meanwhile, the appellant was arrested in criminal case of trafficking of liquor and he was thus proceeded against on this charge also; that a regular inquiry was conducted in the matter by complying all legal and codal formalities; that the charges against the appellant stood proved in

departmental proceedings, therefore, mere acquittal of the appellant in criminal proceedings on technical grounds would not entitle him to be exonerated in the departmental proceedings also; that the appellant was having a bad service record and was previously awarded so many minor penalties as well as two major penalties of dismissal from service; that the service record of the appellant was full of bad entries and he had brought bad name to the police department; that the departmental appeal of the appellant was dismissed vide order dated 23.01.2017, while he filed the instant service appeal on 31.01.2020, which is badly time barred and is liable to be dismissed on this score alone.



5. Arguments have already been heard and record perused.
6. A perusal of the record would show that departmental appeal of the appellant was dismissed vide order dated 23.01.2017 passed by the then Regional Police Officer Hazara Region Abbottabad. The appellant was required to have challenged the said order dated 23.01.2017 either through filing of revision petition before relevant Authority or he should have filed service appeal within a period of 30 days of communication of such order. The appellant, however remained mum for considerable long period and then filed Writ Petition No. 1469/2019 in the august Peshawar High Court, Abbottabad Bench in the year 2019, which was dismissed vide judgment dated 18.12.2019 for want of jurisdiction. The appellant then filed the instant service appeal on 17.01.2020, which is badly time barred. It is well settled that the time spent/consumed in pursuing remedy before the wrong forum

cannot be condoned. Reliance in this respect is placed on PLD 2016 Supreme Court page 872. The appellant has not even bothered to submit an application for condonation of delay alongwith his appeal. Moreover, august Supreme Court of Pakistan in its judgment reported as 1987 SCMR 92 has held that when an appeal is required to be dismissed on the ground of limitation, its merits need not be discussed.

7. Consequently, the appeal in hand stands dismissed being time barred. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
16.11.2022



(KALIM ARSHAD KHAN)
CHAIRMAN
CAMP COURT ABBOTTABAD



(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT ABBOTTABAD

ORDER
16.11.2022

Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Shamraiz Khan, ASI for the respondents present. Arguments have already been heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand stands dismissed being time barred. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
16.11.2022



(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad



(Salah-Ud-Din)
Member (Judicial)
Camp Court Abbottabad

15th Nov, 2022

Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Shamraiz Khan, ASI for the respondents present.

Arguments heard. To come up for order on 16.11.2022 before the D.B at Camp Court Abbottabad.



(Salah Ud Din)
Member (Judicial)
Camp Court Abbottabad



(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

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16.02.2022

Due to retirement of the Hon'able Chairman, the Tribunal is defunct, therefore, the case is adjourned for the same as before on 18.05.2022.

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18.05.2022

Appellant in person present. Mr. Muhammad Riaz Khan, Assistant Advocate General for respondents present.

Appellant seeks adjournment on the ground that his counsel is not available today. Adjourned but as a last chance. To come up for arguments before D.B on 15.06.2022 at camp court Abbottabad.



(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad



(Fareeha Paul)
Member(E)


15.06.2022

Abdul Malik, brother of appellant alongwith junior counsel for appellant present.

Muhammad Riaz Khan Paindakheil, learned Assistant Advocate General for respondents present.

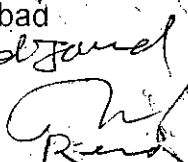
Request for adjournment was made by junior counsel for appellant as senior counsel for appellant is busy before Hon'ble Peshawar High Court. Adjourned. To come up for arguments on 16.08.2022 before D.B at Camp Court, Abbottabad.


(Fareeha Paul)
Member (E)
Camp Court, A/Abad


(Rozina Rehman)
Member (J)
Camp Court, A/Abad

16-8-2022

Due to summer vacation case is adjourned to come up for the same on 15/11/22


Reader

12.07.2021

Due to cancellation of tour, Bench is not available. Therefore, case to come up for the same as before on 13.10.2021.



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13.10.2021

Nemo for the appellant. Notice be issued to appellant/counsel for the next date. Mr. Muhammad Adeel Butt, Addl. AG Shamraiz Khan, ASI for respondents No. 1 to 5 present and submitted reply/comments. Respondent No. 6 is a proforma party and there is no need of his written reply/comments so far as the appeal at hands is concerned. To come up for arguments 16.02.2022 before the D.B. at camp court, Abbottabad.



Chairman
Camp Court, A/Abad.

23.10.2020

Brother of appellant on behalf of appellant present.

Lawyers are on general strike, therefore, case is adjourned to 16.12.2020 for preliminary hearing before S.B at Camp Court, Abbottabad.

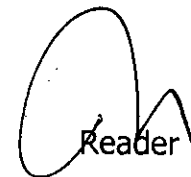


(Rozina Rehman)
Member (J)

Camp Court, A/Abad

16.12.2021

Due to Covid-19, case is adjourned to 19.03.2021 for the same as before.



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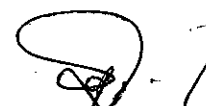
15.03.2021

Appellant present through counsel. This case was fixed for 19.03.2021 but on the request of learned counsel for appellant, file was requisitioned for today. Preliminary arguments heard. File perused.

Points raised need consideration. Appeal is admitted to regular hearing subject to all legal objections. Appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to respondents for reply/comments. To come up for written reply/comments on 12/07/2021 before S.B at Camp Court, Abbottabad.

Appellant Deposited
Security & Process Fee

24/3/21



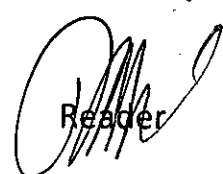


(Rozina Rehman)
Member (J)
Camp Court, A/Abad

FORM OF ORDER SHEET

Court of _____

Case No.- 755 /2020

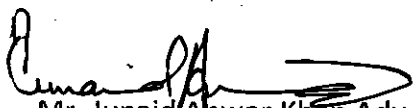
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	31/01/2020	<p>The appeal of Mr. Imtiaz Hussain resubmitted today by Mr. Junaid Anwar Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. decrease</p> <p style="text-align: right;">  REGISTRAR 31/01/2020 </p>
2-		<p>This case is entrusted to touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>17-01-2020</u></p> <p style="text-align: right;">  CHAIRMAN </p> <p>Due to covid ,19 case to come up for the same on / / at camp court abbottabad.</p> <p style="text-align: right;">Reader</p> <p>Due to summer vacation case to come up for the same on <u>23 / 10 / 20</u> at camp court abbottabad.</p> <p style="text-align: right;">  Reader </p>

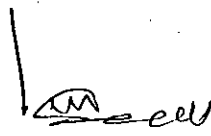
The appeal of Mr. Imtiaz Hussain Ex-Constable no. 182 District Police Abbottabad received today i.e. on 17.01.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Annexure-B of the appeal is missing.
- 3- Copies of charge sheet, statement of allegations, show cause notice and replies thereto are not attached with the appeal which may be placed on it.
- 4- Copies of certificates mentioned in para-B of the grounds of the appeal (Annexure-I) is not attached with the appeal which may be placed on it.
- 5- Annexures of the appeal are not in sequence which may be annexed serial as mentioned in the memo of appeal.
- 6- Annexures of the appeal may be attested.
- 7- Annexures D, E, F and H of the appeal are illegible which may be replaced by legible/better one.
- 8- One more copy/set of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 195 /S.T,

Dt. 17-01/2020.


Mr. Junaid Anwar Khan Adv.
High Court Mansehra.


REGISTRAR -
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Respected Sir,

Resubmitted today, all the objections as returned as per record.

- 1) Signed by Appellant.
- 2) Annex-B is annexed now.
- 3) Copies of replies of charge sheet & show cause notice available while charge sheet & show cause notice are not available which provided by appellant is annexed, before honorable court.
- 4) Copies of certificate are annexed as Annexure "H" of the petition now.
- 5) In sequence now.
- 6) Attested by counsel now.
- 7) Better copies are annexed now.
- 8-) one more copy/set is submitted now.

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

Service Appeal No. 755 of 2020
Imtiaz HussainAPPELLANT

VERSUS

Government of Khyber Pakhtunkhwa through
Secretary Home, Peshawar etc....RESPONDENTS

SERVICE APPEAL


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3	Copy of the CNIC of the appellant.	"A"	13
4	Copy of the judgment dated 26.11.2016.	"B"	14-23
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6	Copy of the inquiry report.	"D"	27-27.A
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Dated 11.01.2020

Imtiaz
Imtiaz Hussain
...Appellant

Through


JUNAID ANWAR KHAN,
Advocate High Court,
Mansehra.

/

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

Service Appeal No. 755 of 2020

Imtiaz Hussain son of Said-ur-Rehman resident
of Tareri Tarnwai, Tehsil and District
Abbottabad Ex-Constable No.182 District Police,
Abbottabad **APPELLANT**

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 509

VERSUS

Dated 17-01-2020

1. Government of Khyber Pakhtunkhwa through
Secretary Home, Peshawar.
2. Inspector General of police/Chief Police Officer,
Khyber Pakhtunkhwa Peshawar.
3. Deputy Inspector General of police/Regional
Police Officer, Hazara Region Abbottabad.
4. District Police Officer, Abbottabad.
5. Abdul Aziz Khan, Deputy Superintendent of
police (Investigation, Abbottabad.
6. District Accounts Officer, Abbottabad

..... **RESPONDENTS:**

Filed to-day

Registrar

17/01/2020

**Re-submitted to -day
and filed.**

Registrar

31/01/2020

**SERVICE APPEAL UNDER SECTION 4 OF
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 AGAINST THE
IMPUGNED INQUIRY CONDUCTED BY
THE RESPONDENT NO.5 AND IN
CONSEQUENCE WHEREOF THE
IMPUGNED ORDER DATED 10.02.2014
AND ORDER DATED 23.01.2017 ISSUED**

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**BY THE RESPONDENTS WHEREBY THE
APPELLANT WAS DISMISSED FROM
SERVICE.**

PRAYER: -

On acceptance of the instant service appeal, impugned inquiry conducted by the respondent No.5 and in consequence whereof the impugned order dated 10.02.2014 and order dated 23.01.2017 issued by the respondents whereby the appellant was dismissed from service may please be set aside and the appellant may graciously be reinstated in service all back benefits or keeping in view the long service tenure of the appellant, he be ordered to be compulsory retired from service from the date of dismissal of service and the pensionary and other requisite benefits may also be awarded to the appellant or any other relief or order as this Honourable Tribunal deems fit and appropriate in the circumstances of the case may also be issued/passed.

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Respectfully Sheweth!

1. That, the appellant is a bonafide resident of Tareri Tarnwai, Tehsil and District Abbottabad.

(Copy of the CNIC of the appellant is annexed as annexure "A").

2. That, the appellant was induced in the F.R.P police Department in the year 1991 after fulfilling all the legal and codal formalities and thereafter, in the year 2002, he was transferred in District Police Abbottabad.

3. That, during the service, the appellant was arrested in a case FIR No.559 dated 13.12.2013 under section 3/4 E.H.O police Station Shinkiari, Mansehra who was later on bailed out and the trial was commenced in the court of competent jurisdiction and after full dress trial, the appellant was acquitted of the charge vide judgment dated 26.11.2016.

(Copy of the judgment dated 26.11.2016 is annexed as annexure "B").

4. That, during the above said criminal proceedings, the appellant was charge

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sheeted and disciplinary proceedings carried out against the appellant in which the appellant duly submitted his reply.

(Copies of the reply of charge sheet is annexed as annexure "C").

5. That, in the meanwhile, departmental inquiry was conducted against the appellant by the respondent No.5 who on conclusion of inquiry, submitted his report to District Police Officer, Abbottabad who consequently dismissed the appellant from service vide its order dated 10.02.2014.

(Copies of the inquiry report alongwith order dated 10.02.2014 are annexed as annexure "D" & "E").

6. That, the appellant being aggrieved from the impugned order dated 10.02.2014 submitted a representation before the respondent No.3 which was duly replied by the respondent No.4 and the respondent No.3 vide its order dated 23.01.2017 while dismissing the representation of the appellant, upheld the impugned order dated 10.02.2014.

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(Copies of the representation alongwith order dated 23.01.2017 are annexed as annexure "F").

7. That, after the communication of the above mentioned order, the appellant submitted review petition before the respondent No.3 which is still pending before the respondent No.3.

(Copy of the review petition is annexed as annexure "G").

8. That, the appellant being aggrieved from the acts and orders of the respondents filed a Writ Petition bearing No.1459-A of 2019 before the Honourable Peshawar high Court, Bench Abbottabad which was decided on 18.12.2019 and the appellant was directed to avail appropriate remedy i.e. instant appeal.

(Attested copies of Writ Petition alongwith order dated 18.12.2019 are annexed as annexure "H & "I").

9. That, the appellant being aggrieved from the impugned orders passed by the respondents having no other adequate, alternate or efficacious remedy except to approach this Honourable Tribunal by service appeal, inter alia, on the following grounds: -

GROUND

- a. That, impugned inquiry conducted by the respondent No.5 and in consequence whereof the impugned order dated 10.02.2014 and order dated 23.01.2017 issued by the respondents whereby the appellant was dismissed from service may please be declared as wrong, illegal, against the law and facts, arbitrary, fanciful, perverse, without lawful authority, based on malafide, against the relevant law, rules and regulations, against the fundamental rights of the appellant hence being unconstitutional, liable to be struck down.

- b. That, the appellant has served the respondents' department for about 24/25 years and during the service career, the performance of the appellant was upto the mark due to which the appellant was awarded different certificates by the respondents' department which is clear cut proof of the best services rendered by the appellant.

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(Copies of the certificates are annexed as annexure "J").

- c. That, the appellant was illegally, wrongly and malafidely roped in criminal case and the acquittal of the appellant from the criminal case speaks volume about the innocence of the appellant. Furthermore, as the impugned orders were passed on the strength of that criminal case, therefore, after the acquittal, the impugned orders have no legal sanctity in the eyes of law.
- d. That, after the submission of challan and recording of evidence in the criminal case, the learned trial court/ Judicial Magistrate-II, Mansehra comes to the conclusion that the prosecution has badly failed to establish a case of conviction against the appellant and the appellant was acquitted under section 245 Cr.PC of the charges levelled against him, therefore, every acquittal is a Honourable acquittal and the appellant has every right to be restored at his position in the respondents' department.
- e. That, there are plethora of judgments of the Honourable apex court of the

country that every and any acquittal is an Honourable acquittal and the Government servant cannot be charge sheeted or proceeded against on the basis of mere charge of involvement in criminal case until and unless the same is to proved. Hence all the proceedings so carried out by the respondents are pre-mature in nature hence no legal value in the eyes of law.

- f. That, it is worth mentioning here that the appellant was dismissed from service on two grounds i.e. one for the absence and the other for the criminal charge. It is further elaborated here that as discussed above, the appellant has been acquitted from the criminal charge and regarding the second ground for dismissal, it is submitted that there are casual leaves of the appellant as he served for 22/23 years services but these casual leaves were not counted in favour of the appellant, therefore, both the grounds on which the appellant was dismissed from service have no legal stand hence the impugned orders are liable to be set at naught.
- g. That, the appellant is having small kids and the wife of the appellant is also

- 9

seriously ill and the kids and the wife are totally dependent upon the appellant and there is no other source of income of the appellant hence on humanitarian grounds also; the appellant is entitled for the relief sought.

- h. That, the respondents have bypassed the relevant law, rules and regulations on the service hence the impugned orders so passed are in flagrant violation of the relevant law, rules and regulations, therefore, liable to be struck down.
- i. That, the impugned orders passed by the respondents are void orders hence the interference of this Honourable Tribunal.
- j. That, as this Honourable Tribunal has the parental jurisdiction and the appellant was dismissed from service after serving 24/25 years in the department hence the appellant is entitled for the relief as prayed for on two counts i.e. parental jurisdiction and hardship case.
- k. That, it is an inalienable right of the appellant to enjoy the protection of law

and to be treated in accordance with law, rules and regulations but this right of the appellant has been infringed by the respondents in a sheer malafide manner.

1. That, the powers or jurisdiction are vested in an authority to exercise it justly, fairly, judiciously and in accordance with mandate of law, rules and regulations but the respondents have transferred upon their powers while passing the impugned orders.

.....PRAYER.....

It is, therefore, most humbly prayed that on acceptance of the instant service appeal, impugned inquiry conducted by the respondent No.5 and in consequence whereof the impugned order dated 10.02.2014 and order dated 23.01.2017 issued by the respondents whereby the appellant was dismissed from service may please be set aside and the appellant may graciously be reinstated in service all back benefits or keeping in view the long service tenure of the appellant, he be ordered to be compulsory retired from service from the date of dismissal of service and the

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pensionary and other requisite benefits may also be awarded to the appellant or any other relief or order as this Honourable Tribunal deems fit and appropriate in the circumstances of the case may also be issued/passed.

Dated 11.01.2020

Imtiaz

Imtiaz Hussain
...Appellant

Through

Junaid Khan

JUNAID ANWAR KHAN,
Advocate High Court,
Mansehra.

AFFIDAVIT.

I, Imtiaz Hussain son of Said-ur-Rehman resident of Tareri Tarnwai, Tehsil and District Abbottabad Ex-Constable No.182 District Police, Abbottabad, do hereby solemnly affirm and declare on oath that the contents of the foregoing service appeal are true and correct and nothing has been concealed from this Honourable Tribunal.



Dated 11.01.2020

Imtiaz

Imtiaz Hussain
(DEPONENT)

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1

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

Service Appeal No. _____ of 2020

Imtiaz HussainAPPELLANT

VERSUS

Government of Khyber Pakhtunkhwa through
Secretary Home, Peshawar etc....RESPONDENTS

SERVICE APPEAL

CORRECT ADDRESSES OF THE PARTIES

APPELLANT

Imtiaz Hussain son of Said-ur-Rehman resident of
Tareri Tarnwai, Tehsil and District Abbottabad Ex-
Constable No.182 District Police, Abbottabad.

RESPONDENTS

1. Government of Khyber Pakhtunkhwa through
Secretary Home, Peshawar.
2. Inspector General of police/Chief Police Officer,
Khyber Pakhtunkhwa Peshawar.
3. Deputy Inspector General of police/Regional Police
Officer, Hazara Region Abbottabad.
4. District Police Officer, Abbottabad.
5. Abdul Aziz Khan, ~~Deputy~~ Superintendent of police
(Investigation, Abbottabad.
6. District Accounts Officer, Abbottabad.

Dated 11.01.2020

Imtiaz

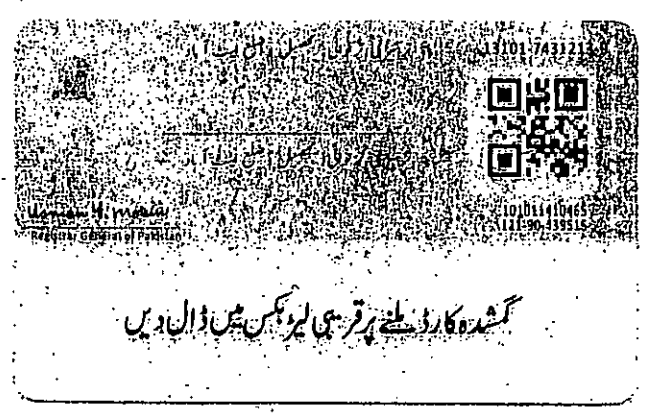
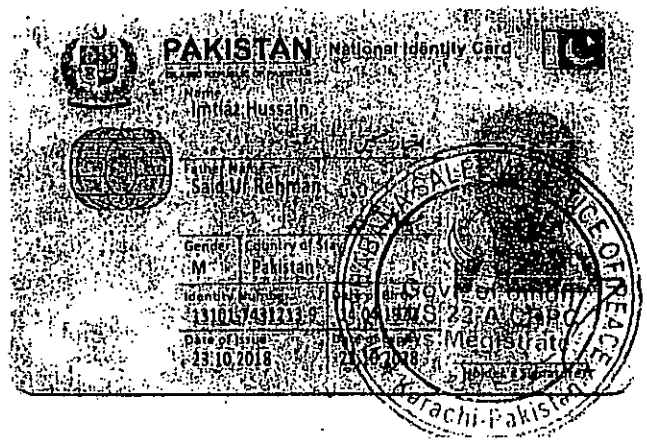
Imtiaz Hussain
...Appellant

Through

Junaid Anwar Khan

JUNAID ANWAR KHAN,
Advocate High Court,
Mansehra.

13
Annexure
"A"



c.f.c
[Signature]

19

Annexure
"B"

کتابت شد (2) 86 20/12/13

13/12

559

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کتابت شد (2) 86 20/12/13

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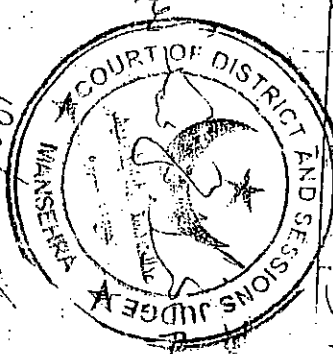
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ATTESTED
Examiner: Session Court Manselra
03 DEC 2010
Signature

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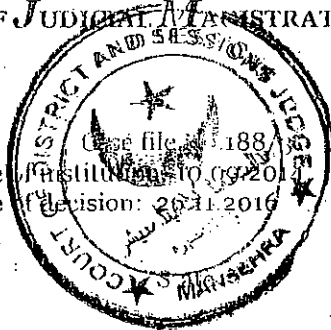
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c.t.c

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IN THE COURT OF JUDICIAL MAGISTRATE-II, MANSEHRA



Date of institution: 10.09.2013
Date of decision: 20.11.2016

1. Tariq s/o Khadim Hussain caste Khowaja r/o Banda Khowajgan Jabori, Mansehra.
2. Imtiaz Ahmed s/o Said ur Rehman caste Abbasi r/o Tarhari, Qalanderabad.
3. Shahid Zeb s/o Aurangzeb caste Awan r/o Banda Phugwarian.

(Accused).

Charged u/s 3/4PO & 26(2) Case / IR No.559 dated 13.12.2013 at p/s Shinkhari.

JUDGMENT:

The accused facing trial is charged vide FIR No.559 dated 13.12.2013 u/s 3/4PO and 26 (2) p/s Shinkhari, Mansehra.

Brief facts of the case are that Ajab Khan ASHO police station Shinkhari alongwith other police party on 12.12.2013 were on mobile gusht and were in search of drug peddlers where he received information that one person is carrying huge quantity of liquor in Suzuki carry van No.RIW-4438. That upon this information he reached to Mongan road and made Naka Bandi. In the meanwhile the said carry vehicle came which was stopped and checked. That the said carry vehicle was driven by Shahid Zeb s/o of Aurangzeb caste Awan resident of Banda Phagwarian and on the back seat of said carry one Imtiaz son of Said-ur-Rehman caste Abbasi residents of Trarri Qalindarabad was sitting with the carton in his lap. That the said carton was opened and checked and 24 bottles of liquor/Vodka were found, out of which 1/1ml was separated for chemical analysis and sealed into parcel No.1 to 24. On disclosure the accused disclosed that the said liquor was purchased by him from Tariq son of Khadim Hussain caste Khwaja

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resident of Jabbori. The complainant arrested the accused and murasila to this effect was prepared and sent to police station for registration of case on the basis of which instant case FIR was registered against the present accused.

Complete challan was put in Court against the present accused on 10.09.2014 accused Imtiaz and Shahzeb attended the court on 22.09.2014 formal charged against the accused Imtiaz and Shahidzeb was framed on 21.10.2014. To which the accused pleaded to be not guilty and claimed trial while accused Tariq was absconding and statement of SW recorded in this regard. Proceeding u/s 512 CrPC was initiated against the accused Tariq on 30.09.2014 and prosecution is allowed to produce evidence in absence of accused. Later on 07.02.2015 on submission of attested copies of petitioner for bail alongwith order for bail for absconding accused Tariq and on his attendance SHO concerned is directed to submit supplementary challan against the accused Tariq. Supplementary challan against the accused Tariq was submitted on 05.03.2015 and formal charged framed against the accused Tariq on 05.03.2015. To which the accused pleaded to be not guilty and claimed trial. The prosecution was asked to produce evidence, which was produced accordingly.

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PW-1 Constable Sadique No.156 p/s Shunkiari appeared and stated that he is marginal witness to recovery memo EX.PW1/1 vide which IO took into possession registration book of vehicle bearing No.RW-4438 produced by accused in his presence as well as in presence on other marginal witness Khushal Ahmed No.139. He has seen the memo in the court which is correct and correctly bears his signature as well as signature of other witness.

During his cross examination on behalf of accused Shahid zeb he stated that it is correct that vehicle was not captured by him. He cannot tell who is the owner of the said vehicle. It is correct that the registration book was produced by the accused Shahid Zeb in police station to the IO

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PW-2 Asif Shah ASI police station Shinkiari appeared and stated that during the days of occurrence he was posted at police station Shinkiari, Mansehra. He incorporated the report of the complainant into FIR which contained his signature and is EXPW2/1.

PW-3 Cadet Farooq SHO incharge Traffic appeared and stated that during the days of occurrence he was posted at police station Shinkiari, Mansehra. After completion of investigation he has submitted complete challan in the instant case and is EXPW3/1. The same correctly bears his signature.

PW-4 Shiraz Khan SHO appeared and stated that during the days of occurrence he was posted at police station Shinkiari, Mansehra. After arrest of accused Muhammad Tariq s/o Khadim Hussain he has submitted supplementary challan in the instant case and is EX.PW4/1. The same correctly bears his signature.

PW-5 constable Tanveer No.132 appeared and stated that during the days of occurrence he was posted at p/s Shinkiari, Mansehra. On the day of occurrence he along with other police officials were on gusht near Hazara University. The Ajab Khan ASHO received an information that a carry van No.4438 FIW is coming at Mungan Road. Then they proceeded to the Mungan road and erected nakka bandi. In the mean time the carry van approached which was stopped by them. At inquiry the driver revealed his name as Shah Zeb s/o Aurangzeb. The person sitting at the back seat revealed his name as Imtiaz who was having carton in his ap. On checking the same they recovered 24 bottles of alcohol. At the spot IO prepared the recovery memo. The carry van was taken into possession and brought the same into police station. Today he has seen the recovery memo which is correct and correctly bears his signature along with the signature of other marginal witness and is Ex.PW5/1.

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During his cross examination he stated that rather they consumed 30 minutes to complete the proceedings at the spot. The police party consists

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of three police official including himself. The scene of occurrence is deserted place and there was no abjadi near and around. Again stated that the habitation is situated at a far distance. It is correct that muasila and recovery memo both are prepared by the ASHO and both the documents are in the hand writing of ASHO/IO. It is correct that he is also police officials and sub ordinate to the ASHO/IO. It is incorrect to suggest that neither he was present nor any incriminating material was recovered in his presence. It is correct to suggest that that simply he deposing today as per direction of ASHO. It is correct that at the time of occurrence he was present at police station. It is correct that at the spot firstly ASHO prepared recovery memo already exhibited as EX.PW4/1. He is matriculate. It is correct that after reading recovery memo he signed it. It is correct that when he signed the recovery memo all the contents which are present on the recovery memo were present at that time. It is correct that we stopped the vehicle on road.

PW-6 Muhammad Waheed IHC appeared and stated that during the days of occurrence he was posted at p/s Shinkiani as M. IC. He handed over parcel No.1 to 24 to Constable. Munsif No.99 through receipt No.01/21 dated 02.01.2014 in case FIR No.559 for FSL, Peshawar, who deposited the said parcel at FSL, Peshawar and received the receipt and handed over to him which he placed on file.

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During his cross examination he stated that it is correct that I send the said parcels for FSL on 02.01.2014. it is correct that he received the parcels on 13.12.2013. it is correct that the said parcels were remained with him during the said period.

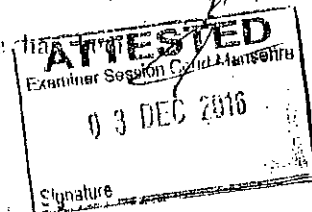
PW-7 Munsif Shah appeared and stated that parcel No.1 to 24 were handed over to him. Muharrir of p/s Shinkiani through receipt No.1/21 dated 02.01.2014 in case FIR No.559 for FSL Peshawar, which he deposited at FSL, Peshawar and received the receipt and handed over to the Muharrir.

During his cross examination he stated that he handed over the parcels mentioned in recipe on the same day to FSL, Peshawar.

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PW-8 Muhammad Ajab Khan retired ASHO/IO appeared and stated that during the days of occurrence he was posted at p/s Shinkari as Additional SHO. On eventful day he alongwith other police party was present in Hazara University for the purpose of arrest of contraband seller meanwhile he received information that in a Suzuki carry van bearing No.RIUU/4448 a bulk of alcohol has been transporting by anyone. On receiving this information and after confirmation road was cordoned off, the said carry van came, stopped, thoroughly searched, which was driven by Shahidzeb s/o Aurangzeb, on the back seat of said vehicle Intiaz s/o Said Rehman was sitting and a carton was placed in his lap. When carton was opened 24 bottles of Vodka/liquor was recovered, who disclosed his ownership 1ml/1ml was separated for chemical analysis which was sealed in to parcel no.1 to 24. While remaining liquor was sealed into parcel No.1 to 25. On query Intiaz disclosed that he purchased this alcohol/liquor from Tariq s/o Iqbal Hussain resident of [redacted] labori. Recovery memo was prepared on the spot in presence of marginal witness which is already EX.PW4/1. Application for FSL analysis is EXPW8/1. lateron accused was arrested and murasila was prepared and accused was sent to police station and murasila is Ex.PW8/2. Likewise site map was prepared which is EX.PW8/3. Search of the houses of accused was also conducted but nothing incriminating material was recovered from the house of the accused. Search memo is Ex.PW8/6. Accused was produced before the Illaqa Judicial magistrate for custody. Application for seeking police remand is EX.PW8/7. Order on application is EX.PW8/8. Accused was sent to judicial lock up and on his request warrant u/s 204 CrPC was given against accused Tariq vide his application Ex.PW8/9 and lateron he submitted application for proclamation against accused Tariq. Proclamation was obtained, application for proclamation is EX.PW8/10. Statement of PWs recorded u/s 161 CrPC. Investigation of the case was in progress but he has been transferred from police station.



During his cross examination he stated that he is complainant of the case and he conducted initial investigation of the case. It is correct that he did not enter the name of any police officials in murasila. When he received information about the occurrence he was present on Hazara University road in connection with patrolling duty. He consumed 10 to 15 minutes to reach on the spot. It is correct that murasila indicates the time of date of occurrence i.e. 12.12.2013 at about 18:00 hours while FIR indicates the time of occurrence is 13.12.2013. He saw carry van passing from the distance of 100 yards. Carry van was coming with slow speed. Which was stopped on my signal. It is correct that accused neither escaped from the spot of occurrence nor they gave speed to carry van. It is correct that no driving license was recovered from the accused Imtiaz. It is correct that accused Shahzeb was driving the vehicle we himself produced carry van as well registration book. It is correct that samples of FSL were received on 02.01.2014. It is also correct that application for chemical analysis for sending FSL was sent on 13.12.2013. It is correct that I have nothing annexed that accused the previous criminal record of the accused. I sent murasila through Ikram constable to police station. It is correct that I have not associated independent witness to the occurrence. It is correct that no one any independent witness was present at the spot. It is correct that population was available away from the spot. It is correct that copy of register No.19 has not been annexed by him on the file that can proof the case property was sent to Malkhana. It is correct that marginal witnesses was not signed the recovery memo.

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PW-9 Muhammad Tariq SHO p/s Kaghan appeared and stated that during the days of occurrence he was posted as Choki incharge at Nawazbad, Mansehra. I arrested the absconder accused namely Tariq s/o Khadim Hussain on 23.12.201, card of arrest is available on court file which is EXPW9/1. he also recorded the statement of absconder accused

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above u/s 161 CrPC where after, I handed over the case file to SHO for further legal proceedings.

During his cross examination he stated that he arrested the accused from Jabori Main Bazar. Main Bazar is populated area. He has not associated any private witness. He has not effect recovery from the accused. It is correct that he is not investigation officer in case vide FIR No.559/13. It is incorrect to suggest that he giving false evidence.

Statement of the accused u/s 342 Cr.P.C was recorded on 07.11.2016

Arguments were heard and record was perused.

It is observed from perusal of record that As per FIR the accused is charged with the having in possession 24 liquor bottles allegedly recovered from him. As per the complainant/ASHO when he left for routine patrolling he made entry in respect of same in the DD, however the relevant extract from the DD was admittedly not placed on file which too has caused shadow of doubts over the prosecution version. Recovery memo on the other hand bears the FIR, Date of registration and the section of law under which case registered is also mention on EX.PW-5/1 which cast considerable doubts over the prosecution story as per procedure firstly recovery memo has to be prepared on the spot and then murasila and later on FIR was registered but in this case the entries of FIR number, section of law and date of registration of case of FIR demonstrate that recovery memo was prepared in the police station after registration of case.

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Similarly the road certificate vide which the PW-6 transported the samples to the FSL Peshawar has not been annexed either.

No private witness has been cited by the IO on the recovery memo and thus violated the mandatory provisions of section-103 CrPC. No test purchase has been conducted by the local police. Recovery was effected on 13.12.2013 while as per statements of PW-6 Muhammad Waheed IHC p/s Kaghan he handed over parcel No.1 to 24 to constable Munsif No.29 through receipt No.01/21 dated 02.01.2014 in case FIR No.559/13

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Peshawar, such a prolonged delay for sending FSL parcel No.1 to 24 makes the case is being a concocted story made against the accused by the prosecution and is glaring lacuna found in the instant case while as per law single infirmity is sufficient to get benefit of doubt by the accused. Furthermore statements recorded during trial also demonstrate astonishing contradictions between each other with the version of FIR. Moreover murasila indicates the time of date of occurrence i.e. 12.12.2013 at about 18:00 hours while FIR indicates time of occurrence is 13.12.2013, in this situation it is difficult to determine what was the actual date and time of occurrence, this lacuna also casts doubt on the prosecution story. Prosecution has also failed to produce case property before the court and was also not identified by the witnesses and thus such lacunae vitiate the whole trial. Reliance in this respect be placed on;

1987 PCrLJ 1251 " case property not produced in court nor identified by the witnesses-- prosecution had failed to bring home offence to accused beyond reasonable doubt and trial was vitiated for non-production of case property"

1973 PCrLJ 395 Karachi " Criminal trial- prosecution, duty of -prosecution bound to produce crime property before court and mark it as an exhibit- failure to do so- vitiates trial - penal code (XLV of 1860), S. 411.

Prosecution is duty bound to produce before the court the crime property and mark it as an exhibit or article so as to afford assurance to the court that in fact the crime property, said to have been recovered from the possession of the appellant, was in fact so recovered. In the absence

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of doing so the conviction of the appellant is obviously vitiated.

In view of the above glaring lacunas in the evidence of the prosecution I find the case in hand highly doubtful. The prosecution was bound to prove its case beyond shadow of any doubt, but it has failed to do so.

In the wake of above circumstances I hold that the prosecution has badly failed to establish a case of conviction against the accused. Hence, the accused facing trial are hereby acquitted u/s 245 Cr.P.C of the charges leveled against them.

Sureties are discharged from the liabilities of the bonds submitted in the instant case.

Case property be disposed off accordingly to law.

This file be consigned to the Record Room of Hon'ble Sessions Judge, Mansehra after its compilation and completion.

Announced.
26.11.2016

SHERAZ FIRDOS
Judicial Magistrate-II
Mansehra

CERTIFICATE.

It is certified that my this judgment consists upon (09) pages, each page has been read, corrected and signed by me where it seems necessary.

Dated: 26.11.2016
Cd No: 12512
Date: 3-12-16
Court fee: -
Urgent: -
Judicial Fee: -
Name Of Copyist: [Handwritten]
Date Of Completion: 3-12-16
Date Of Intimation: -
Cause Of Delay: -
Date Of Delivery: 3-12-16

SHERAZ FIRDOS
Judicial Magistrate-II
Mansehra

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Examiner Sessions Court Mansehra
03/12/2016
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بحوالہ مشمولہ فائنل شوکار نوٹس جو عدالت خدیجہ کی طرف سے جاری کیے گئے ہیں نے اس سلسلہ میں میرے خلاف جاری ہونے والی چارج شیٹ
 ڈی پی سی کی ایکشن شیٹ جاریہ نمبر 28/PA-4625 مورخ 19/11/2013
 مفصل جواب دیدیا تھا۔ جس میں سائل نے تفصیل "تکھا پورا تھا۔
 کہ میں سوزو کی کیری R/W 4438 میں جس کو شاہ زیب ولدہ
 اورنگزیب چلار بنا تھا۔ میں سوار میٹر ٹراپیڈ آباد سے مالٹیرہ
 جا رہا تھا۔ کہ ٹول پلازہ چیک پوسٹ پر جانستار ایچ بی
 ایک پولیس کپٹن کے میرے ساعقہ غازی کوٹ ٹاؤن شپ
 مالٹیرہ تک لفٹ لینے کے بہانے سوزو کی کیری میں بیٹھ گئے
 میں نے ایچ بی جو کہ باوردی تھا۔ کہ "استرا ما" اپنی جگہ فرنیٹ سے
 پر بٹھایا۔ اور خود پچھلی سیٹ پر بیٹھ گیا۔ انہوں نے چیک پوسٹ
 میں بیٹھ دوں قید باز چاتے والے آدمی بھی سوزو کی کیری میں
 بٹھا دیئے۔ اور دوران راہ حذ کورہ جانستار نے اور پولیس
 کپٹن نے ٹاؤن شپ سے گزر کر میرے ساعقہ غازی
 کر کے عشت و گریہائی کی اور تھانہ شنکیاری پہنچ کر علی
 مجھے یہ کہہ کر کہ تم نے فیصل پولیس کپٹن پر 9500 گرام حیر
 کا عقدہ۔ اعجاز خاں گوٹا انسپکٹر سے ہوا کر اسے
 مقدمہ میں گرفتار کروایا۔ اور میرے خلاف 24
 شراب کا جھوٹا مقدمہ بنا دیا۔ جس میں سائل سر
 بے گناہ ہے۔

FC Anticorruption
 No. 182 in
 response to the
 attached FSCN
 Submitted for
 order pl.

This is the reply
 of FC Anticorruption
 No. 182 in
 response to the
 attached FSCN
 Submitted for
 order pl.

O.R. Miran
 District Police Officer
 Abbottabad

چونکہ مقدمہ عدالت کی مورخ 13/11/2013
 26 (2) تھانہ شنکیاری کا تاحال چالان داخل عدالت
 نہیں ہوا۔

استدعا ہے کہ میری الگ وگرتی تا فیصلہ مقدمہ
 بند نہ رکھی جا کر مقدمہ کے فیصلہ پر ختم ہوا
 جاوے۔
 رقم 29/11/2013
 امتیاز احمد کپٹن 182 پولیس لائن ایڈیٹ آباد

جناب عالی -

دک

بجو ایشمول چارج شیٹ روڈ اسپتاری ایکٹ
 نمبر 21/98 - 4620 مورخ 19/12/2013 مورخ خدمت میں
 کو میں اپنے عزیز زوی رشتہ داروں جو کہ مائتہہ میں رہائشی ہیں
 ملنے کیلئے سوزوکی گیری نمبر 4438 R1W جس کو شاہ زیب
 سکھ بانڈہ پھلواریاں چلا رہا تھا۔ میں سوار ایبٹ آباد سے
 جارہا تھا کہ ٹول پلازہ چیک پوسٹ پر پہنچنے پر جانتا رہا
 ضلع مائتہہ جس کے ساعتہ ایک باوردی پولیس کپٹل بھی تھا
 نے میں روک کر تھا نہ صدر مائتہہ جو کہ غازی کوٹ ٹاؤن
 شپ مائتہہ میں ہے تک لفٹ دینے کا کیا حیرتہ دکھایا
 باوردی تھے۔ اسلئے میں نے انہیں لبصہ احترام گھاری میں
 بیٹھنے کا کیلئے ایبٹ صاحب کو فرنیٹ سیٹ پر بیٹھا یا اور خود
 پچھلے سیٹ پر چلا گیا۔ ایبٹ صاحب مذکورہ نے دو سفید پارچے
 والے افراد جو چیک پوسٹ کے کمرے میں بیٹھے تھے۔ کو بھی
 گھاری میں بیٹھا لیا۔ جب ہم غازی کوٹ ٹاؤن شپ کے آگے
 سے گزر رہے تھے تو ڈرائیور کے پوچھنے پر کہ تھا نہ ٹاؤن شپ
 کے اندر ہے تو جانتا رہا ایبٹ صاحب نے اسے کہا کہ چلیں ہم
 بائی پاس روڈ پر اتریں گے۔ جب گھاری بائی پاس روڈ پر
 پہنچ کر عقورٹی دور گئی تو جانتا رہا ایبٹ نے گھاری روک کر ڈرائیور
 کو پیچھے چلے جانے کا کیلئے خود سیٹنگ سنبھال کر گھاری
 چلائی شروع کر دی۔ اور اس دوران مذکورہ جانتا رہا نے
 مجھے پوچھا کہ تمہارا نام کیا ہے۔ تو میں نے اپنا نام امتیاز سبلا یا
 تو فرنیٹ تھے کہدیا کہ پولیس میں ملازم ہو تو میرے ماں کرتے ہا
 مجھے کہدیا کہ ایبٹ آباد I.A میں ہو۔ کہ کسی دوسری جگہ
 ہو۔ تو میں نے پولیس لائن ایبٹ آباد میں ہوں۔ اور فرنیٹ
 کہدیا کہ تم نے ہی فیصل پولیس کپٹل پر 9500 گرام چرس ڈلوایا
 اعجاز خان گوما سے اسے گرفتار کروا کر مقدمہ بھرم 96
 میں چالان کروایا تھا۔ میرے جواب پر کہ سر میں نے
 نہ اس پر چرس ڈلوایا۔ نہ میرا کوئی تعلق تھا۔ اس کو

بج

م نے رنگے ہاتھوں بھر چیرس کے گرفتار کیا۔ اس پر
 مذکورہ جانثار نے مجھے گالی دیکر بے ہودہ الفاظ استعمال
 میرے غصہ میں اس جواب پر کہ آپ افسروں آپ
 کے منہ سے بکواس اچھا نہیں لگتا۔ اس پر میرے ساعقہ
 بیٹے اسکے ساعقی نے بھی گالی دیکر مجھے تعظیم مار دیا۔ جو
 اس کے تعظیم سے اسکے دوسرے دو ساعقوں جن میں باور
 پولیس کپٹن بھی تھا نے کرتے ہوئے مجھے تعظیم ملے مارنے
 شروع کر دیئے۔ اور اسی کشت و خون میں میرے منہ سے
 خون بھی نکلا۔ اور جانثار اچھلنے لگا اور تو تیز رفتاری
 سے چلاتے ہوئے قحانہ شنکھاری پنچا کر چیری اور ڈرائیور
 شاہ زیب کی جامعہ ملاشیاں لیکر چیری جیب سے رقم جملہ

35000 روپے نکالکر ہمیں حوالات میں بند کر دیا اور
 دات کو حوالات میں رکھنے کے بعد مورخہ 24 کو جب
 ہمیں پتھر دیوں میں مانسہرہ کچہری لے جانے کے لئے حوالہ دیا گیا
 سے پتہ چلا کہ ہمارے خلاف 24 بوتلیں شراب کا ایریم
 بچاؤ 4/3406 دیا گیا ہے۔ جو میرے جانثار 86 کو قحانہ
 میں اس کا شکوہ کرنے پر مذکورہ نے صاف کہہ دیا کہ
 جب 9500 گراچیس فیصل کے عقب ڈالی جا سکتی ہے تو
 شراب بھی تمہارے عقب ڈالی جا سکتی ہے۔ اور میرے
 مجھ سے جامعہ ملاشی سے نکالی گئی رقم جملہ 35000 روپے

کی واپسی کے مطالبہ پر مذکورہ نے صاف کہہ دیا کہ میرے
 باپ کی شراب کی نمیکڑی نہیں ہے۔ ہم شراب کی خریداری
 کے کھاتے میں ڈالوں گا۔ اس سے بے فکر رہیں۔ اور جہاں

آ.ع

تاکہ گھوڑا دروازہ اسکے سر دوڑا لو۔
 حضور والا میرے خلاف جھوٹا خود ساختہ مقدمہ
 بنا کر مانسہرہ پولیس کے کپٹن فیصل کا بدلہ لیا جائے
 حالانکہ اسے آنجناب خان انسپکٹر صاحب نے خود چیری
 بہرا بہت میں رنگے ہاتھوں لیکر ا قحانہ حذ کو جانثار

شیراب نوشنی کا عادی ہے۔

اسے عموماً صیغہ منصفانہ انکوائری کے جملہ
 مقدمہ کی بیوریوں کے صحیح نام پر چکر جملہ متعلقین
 کے پڑوسیوں کو مسجد میں باوجود بیٹھا کر متعلقین
 سے طلاقیں ڈلو اور حقائق معلوم کرے جائیگا۔ انکو
 اخبر کو حکم صادر فرمایا جاوے کہ کیونکہ قرآن پاک
 سے گئے گزرے ہوئے ہیں۔

الذوق
2017

استیاز احمد کینٹن 182 پولیس لائن ایسٹ آباد۔

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حکومت انکوائری

Sir,
Received by hand
on 9-1-2014
at
11:30

01 مورخہ 09/01/14 R. DSP/111

Annexure
"D"

کانشیل اتیازا نمبر 182 تنظیم پولیس ایس ایف آباد پر الزام عائد ہوا کہ بحوالہ مقدمہ عدالت 559 مورخہ 13-12-13 جرم 3/4 EHO/26(2) تھانہ شکاری بحوالہ جی نمبری 21852/OHC مورخہ 13-12-13 17-12-13 ڈی فو 24 بول شراب برآمد ہوئی۔

روائی انکوائری:

انکوائری کے دوران سب خان SI/ASO تھانہ شکاری کو مدہ مثل مقدمہ اور گواہان موقع، فرد مقبوضگی کانشیل نمبر 132 کانشیل شہزاد 131 تھانہ شکاری کو طلب کیا گیا اور بیانات قلمبند ہوئے۔ الزام علیہ کانشیل اتیازا کو جرم کا موقع دیا گیا۔ FIR فرد مقبوضگی اور بیانات کی نوٹسٹ شامل انکوائری کی گئیں۔ سب خان کے بیان کے مطابق بکریال موگن روڈ پر ناک بندی کے دوران گیری ڈبہ 4438/RIW کی چنگ کے دوران پھلی سیٹ پر ایک شخص سی گودیس رکھا ہوا کاشن چیک کرنے پر 24 بول شراب ڈاکو آدہ ہوئیں جس شخص نے اپنا نام اتیازا ولد سید الرحمن قوم عباسی سکندر بڑی بتلایا جس کو موڈ رائیور گیری ڈبہ شاہد زبید مقدمہ میں گرفتار کر کے شراب برودے فرد قبضہ پولیس کی اور تفتیش سے پردہ لگانا کار پائے جا کر مقدمہ میں SHO نے چالان کمل دیا۔ اسی طرح گواہان موقع فرد مقبوضگی نے رپورٹ برآمدگی موجودگی ظاہر کر کے کانشیل اتیازا سے 24 بول شراب برآمد ہوئی ظاہر کی اور اپنے بیانات قلمبند شدہ زبردفعہ 161 ضف اور فرد مقبوضگی برائے دستخط اور دست ہوئے ظاہر کئے۔ جس سے کانشیل اتیازا کی لزومیت ثابت ہوئی ہے۔ تاہم مقدمہ زیر سماعت عدالت ہے۔

تلاذہ ازیں کانشیل ایجاز 182 کا سرورس ریکارڈ چیک کیا گیا۔ جس کے مطابق زبردفعہ 40 مرتبہ مزایاب ہے جو دو دفعہ بحوالہ آڈر نمبر 311 مورخہ 04-10-2009 آڈر نمبر 256 مورخہ 14-07-1998 پر ناک بند ہو چکا ہے۔ اسی طرح بحوالہ مقدمہ عدالت 561 مورخہ 10-09-2000 جرم 382/170/171/411 PPC پر ناک بند ہو چکا ہے۔

مندرجہ بالا بیانات حالات واقعات سے کانشیل اتیازا 182 پر لگنے گئے الزامات پر درست ثابت ہوتے ہیں۔ تاہم معاملہ زیر سماعت عدالت ہے۔ سابقہ ریکارڈ کے مطابق مذکورہ کی 40 سزایا بیاں، دوا پار برخواستگی اور دو سزایا مقدمہ جداری میں ملوث ہونے سے ثابت ہوتا ہے کہ مذکورہ محکمہ پولیس کیلئے بدنامی کا باعث ہے۔

انکوائری رپورٹ مرتب ہو کر سربراہ ملاحظہ فرمائیں۔

M.
عبدالحق خان انصاری
DSP انٹیلی جنس ایف ایف آباد

PA
ISSUE FSCV.

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محکمہ انکوائری

01/DSP(INV)

کانٹریبل امتیاز احمد نمبر 182 متعینہ پولیس لائن ایبٹ آباد پر الزام عائد ہوا کہ بحوالہ مقدمہ علت نمبر 559 مورخہ 13.12.2013 جرم 3/4 EHO/26(2) تھانہ شنکیاری بحوالہ جٹی نمبری 21852/OHC مورخہ 17.12.13 DPO مانسہرہ کانٹریبل مذکور سے 24 بوتل شراب برآمد ہوئی۔

روائی انکوائری۔

انکوائری کے دوران عجب خان SI/ASO تھانہ شنکیاری کو معہ مثل مقدمہ اور گواہان موقع، فرد مقبوضگی کانٹریبل تنویر 132، کانٹریبل شہزاد 131 تھانہ شنکیاری کو طلب کیا گیا اور بیانات قلمبند ہوئے۔ الزام علیہ کانٹریبل امتیاز کو جرح کا موقع دیا گیا۔ FIR فرد مقبوضگی اور بیانات کی فوٹو سٹیٹ شامل انکوائری کی گئیں۔ SI عجب خان کے بیان کے مطابق بکریال موگن روڈ پر ناکہ بندی کے دوران گیری ڈبہ 4438/RIW کی چیکنگ کے دوران پچھلی سیٹ پر ایک شخص کی گود میں رکھا ہوا کاشن چیک کرنے پر 24 بوتل شراب وائیکا برآمد ہوئیں۔ جس شخص نے اپنا نام امتیاز ولد سید الرحمن قوم عباسی سکھ تریڑی بتلایا جس کو معہ ڈرائیور گیری ڈبہ شاہد زیب مقدمہ میں گرفتار کر کے شراب روئے فرد قبضہ پولیس کی اور تفتیش سے ہر دو ملزمان گناہ گار پائے جا کر مقدمہ میں SHO نے چالان مکمل دیا۔ اسی طرح گواہان موقع فرد مقبوضگی نے بوقت برآمدگی موجودگی ظاہر کر کے کانٹریبل امتیاز سے 24 بوتل شراب برآمد ہونی ظاہر کی اور اپنے بیانات قلمبند شدہ زبردفعہ 161 ض ف اور فرد مقبوضگی پر اپنے دستخط درست ہونے ظاہر کئے۔ جس سے کانٹریبل امتیاز کی ملزمت ثابت ہوتی ہے۔ تاہم مقدمہ زیر سماعت عدالت ہے۔

علاوہ ازیں کانٹریبل امتیاز 182 کا سروس ریکارڈ چیک کیا گیا جس کے مطابق مذکورہ 40 مرتبہ سزایاب ہے جو دو دفعہ بحوالہ آرڈر چک نمبر 311 مورخہ 04.10.2009، آرڈر بک نمبر 256 مورخہ 14.07.1998 برخواست ہو کر بحال ہو چکا ہے۔ اسی طرح بحوالہ مقدمہ علت نمبر 561 مورخہ 10.09.2000 جرم 382/170/171/411 PPC تھانہ میر پور میں ملوث ہو کر معطل ہو چکا ہے۔

مندرجہ بالا بیانات حالات واقعات سے کانٹریبل امتیاز 182 پر لگائے گئے الزامات درست ثابت ہوتے ہیں تاہم معاملہ زیر سماعت عدالت ہے۔ سابقہ ریکارڈ کے مطابق مذکورہ کی 40 سزایابیاں، دوبارہ برخواستگی اور دوسرے مقدمہ فوجداری میں ملوث ہونے سے ثابت ہوتا ہے کہ مذکورہ محکمہ پولیس کے لئے بدنامی کا باعث ہے۔ انکوائری رپورٹ مرتب ہو کر بمراد ملاحظہ گزارش ہے۔

عبدالعزیز خان آفریدی،

DSP انوسٹی گیشن ایبٹ آباد

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ORDER

Constable Intiaz Ahmed No. 182 while posted at Police Lines Abbottabad was proceeded against departmentally in the following two cases:-

- (1) While posted at PP Sikanderabad and Police Lines Abbottabad have absented himself from his official duty for the period of 76 days i.e (24-07-2013, 16-08-2013 to 27-08-2013, 29-08-2013 to 09-09-2013, 24-09-2013 to 09-10-2013 and 10-10-2013 to 12-11-2013). 3-12-2013 to 30-12-2013. Total: 76 days
- (2) While posted at Police Lines Abbottabad, the local Police of PS Shinkiari has recovered 24 bottles of liquid from him and a case vide FIR No. 559 dated 13-12-2013 U/S 3/4 EHO (26) was registered at PS Shinkiari against him.

For the first enquiry, he was charge sheeted vide No. 4299-4302/ PA Dated 18-11-2013 and departmental enquiry was conducted by Mr. Kamran Mumtaz ASP Cantt Abbottabad and the allegations were proved. FSCN was issued / served vide No. 4777/PA Dated 31-12-2013.

In the second enquiry he was charge sheeted vide No. 4620-21/PA Dated 19-12-2013 and enquiry was conducted by Mr. Abdul Aziz Afridi DSP Investigation Abbottabad and the allegation were proved. FSCN was issued / served vide No. 167/PA Dated 20-01-2014.

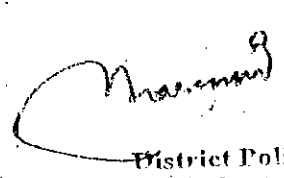
In both the enquiries he appeared in OR and heard in person on 04-02-2014. One of long absence and second of being accused in case in PS Shinkiari U/S 3/4 EHO, where 24 bottles of liquor were recovered from him. According to available record, his tainted career and scores of bad entries, his previous dismissal, the reports of enquiry officers, and his involvement in a criminal case where 24 bottles were recovered from him, it is evident that he is bringing bad name to department. Hence, he is dismissed from service. His period of absence treated as leave without pay.

Order announced.
OB No. 34
Dated 05-02-2014.


District Police Officer,
Abbottabad.

No. 388 /PA Dated Abbottabad, the 10-2-2014.

Copy of above is submitted to the Regional Police Officer, Hazara Region, Abbottabad for favour of information please.


District Police Officer,
Abbottabad.

C.T.C
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Annexure
"E"

BETTER COPY

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ORDER

Constable Imtiaz Ahmed No.182 while posted at Police Lines Abbottabad was proceeded against departmentally in the following two cases: -

(1) While posted at PP Sikandarabad and police Lines Abbottabad have absented himself from his official duty for the period of 96 days i.e. (24.07.2013, 16.08.2013 to 27.08.2013, 29.08.2013 to 09.09.2013, 24.09.2013 to 09.10.2013 and 10.10.2013 to 12.11.2013), 03.12.2013 to 30.12.2013 total 96 days.

(2) While posted at Police Lines Abbottabad, the local police of PS Shinkiari has recovered 24 bottles of liquid from him and a case vide FIR No.559 dated 13.12.2013 U/S 3/4 EHO (26) was registered at PS Shinkiari against him.

For the first enquiry, he was charge sheeted vide No.4299-4302/PA dated 18.11.2013 and departmental enquiry was conducted by Mr. Kamran Mumtaz ASP Cantt. Abbottabad and the allegations were proved. FSCN was issued/served vide No.4777/PA dated 31.12.2013.

In the second enquiry he was charge sheeted vide No.4620-21/PA dated 19.12.2013 and enquiry was conducted by Mr. Abdul Aziz Afridi DSP Investigation Abbottabad and the allegation were proved. FSCN was issued/served vide No.167/PA dated 20.01.2014.

In both the enquiries he appeared in OR and heard in person on 04.03.2014. One of long absence and second of being accused in case in PS Shinkiari U/S 3/4 EHO, where 24 bottles of liquor were recovered from him. According to available record, his tainted career and scores of bad entries, his previous dismissal, the reports of enquiry officer, and his involvement in a criminal case where 24 bottles were recovered from him, it is evident that he is bringing bad name to department. Hence, he is dismissed from service. His period of absence treated as leave without pay.

Order announced.
OB No.34
Dated 05.02.2014

**District Police Officer,
Abbottabad.**

No.388/PA Dated Abbottabad, the 10.02.2014.

Copy of above is submitted to the Regional Police Officer, Hazara Region, Abbottabad for favour of information please.

**District Police Officer,
Abbottabad.**

C.T.C
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محضور جناب ڈپٹی انسپکٹر جنرل صاحب آف پولیس ہزارہ ڈویژن ایبٹ آباد

اپیل برخلاف آرڈر نمبر 34 محرمہ 2014-02-05 عمارت جناب ڈسٹرکٹ

پولیس آفیسر صاحب ضلع ایبٹ آباد

جناب عالی! مضمون اپیل ذیل عرض ہے۔

1- یہ کہ سن ایپلانٹ کو بااثر بھوری وقتاً فوقتاً 96 یوم غیر حاضری پر اور بے بنیاد مقدمہ علت نمبر 559 مورخہ 13-12-2013 جرم E.H.O 3,4 /26(2) تھانہ شکاری ضلع مانسہرہ کے نتیجے میں میری معروضات کی کوئی پرواہ نہ کرتے ہوئے محکمہ پولیس میں ملازمت سے برخاست کر دیا گیا ہے۔

2- یہ کہ سن ایپلانٹ قبل ازیں معمولہ ڈیپلومی ایگیشن، چارج شیٹ اور آخری شوکار نوٹس کی روشنی میں مجاز افسران بالا کو تحریری تفصیلاً جواب دے چکا ہے۔ اور پیش ہو کر زبانی بھی عرض معروض کر چکا ہے کہ سن ایپلانٹ کو اعجاز خان CIA انسپکٹر کی زیر قیادت مانسہرہ ڈسٹرکٹ کے پولیس کانسٹیبل فیصل نامی سے 9 کلو 5 سو گرام چرس برآمدگی کے باعث انتقامی طور پر مقدمہ علت نمبر 559 مورخہ 13-12-2013 جرم E.H.O 3,4 /26(2) تھانہ شکاری ضلع مانسہرہ میں ماوث کیا گیا اور زوجہ ام کی شدید بیماری کے باعث اس کے علاج معالجے میں مصروف تھا مگر محکمہ کی جانب سے کوئی معاونت فراہم نہ کی گئی۔ اور نہ ہی بے بنیاد مقدمہ علت نمبر 559 مورخہ 13-12-2013 جرم E.H.O 3,4 /26(2) تھانہ شکاری ضلع مانسہرہ کے عدالتی فیصلہ کا انتظار کیا گیا۔

3- عالیجاہ اسن ایپلانٹ مورخہ 24-08-1991 کو محکمہ پولیس ضلع ایبٹ آباد میں بطور کانسٹیبل بھرتی ہو کر عرصہ زائد 22 سال کارسہ کار باحسن طور پر سرانجام دیتا رہا اور اس عرصہ تعیناتی میں متعدد کارہائے نمایاں سرانجام دیئے گئے۔ جنگلی پاداش میں مجاز افسران بالا نے تو ایسی شوقانیت اور شہادت سے نوازا اور اس عرصہ میں دیگر کوئی عوامی و محکمانہ

C.T.C

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For
the
provision of
services
and to provide
the following

19. 2. 2014

شکایت بھی نہ ہوئی ہے۔

4- یہ کہ من اپیلانٹ کے چھوٹے چھوٹے بچے زیر تعلیم ہیں اور بیماری بیوی ہے جسکی کفالت اور علاج معالجہ کا انحصار مجھ پر اور اس ملازمت ذریعہ آمدن پر ہے اور دیگر کوئی معقول ذریعہ معاش نہ ہے بدین وجہ بچوں کا مستقل تہ و برباد ہونے کا احتمال ہے۔ اور بیمار زوجہ عام علاج معالجہ سے محروم ہونے پر با امر مجبوری موت سے ہمکنار ہو جائے گی۔

لہذا اندر میں حالات اور من اپیلانٹ کی زائد از 22 سالہ خدمات پیش نظر رکھتے ہوئے من اپیلانٹ کو اپنی ملازمت پر محکمہ پولیس میں بحال کر کے بے بنیاد مقدمہ منشیات کو عدالت مجاز کی صوابدید پر چھوڑا جائے۔ سائل عرصہ 22 سال ملازمت کر چکا ہے اور رخصت کلاں کا حقدار ہے۔ لہذا آپ جناب کی دانست میں غیر حاضری برخواستگی کی بنیاد پر غیر حاضری کو رخصت کلاں میں بدلنے کے احکامات صادر فرمائے جائیں۔ من اپیلانٹ کی حالت زار پر رحم فرما کر اپیل منظور فرمائی جاوے۔ حضور والا شان کی اس مہربانی کا من اپیلانٹ تائیدت شکور اور دعا گو ہے گا۔ اپیل برادر منظور صدور حکم گزارش ہے۔

المرقوم: 19-02-2014

عین نوازش ہوگی۔

0322 9800748

العارض

کانشیل اتیار 182

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ع.آ.ع

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ORDER

This is an order on the representation submitted by Ex-Constable Imtiaz Ahmed No: 182 of Abbottabad District against the order of major punishment i.e. Dismissal from service awarded by the DPO Abbottabad vide his OB No.34 dated 05.02.2014.


Facts leading to his punishment are that he while posted in Police Lines Abbottabad absented himself from his official duty for the period of 96 days i.e (24.07.2013, 16.08.2013 to 27.08.2013, 29.08.2013 to 09.09.2013, 24.09.2013 to 09.10.2013 and 10.10.2013 to 12.11.2013, 03.12.2013 to 30.12.2013). During his absence the local police of PS Shinkiari had recovered 24 bottles of liquor from him and a case vide FIR No: 559 dated 13.12.2013 u/s ¼ EHO was registered against him.


He was awarded major punishment of Dismissal from service by DPO Abbottabad after conducting proper departmental enquiry.

After receiving his appeal, comments of DPO Abbottabad were obtained. The comments of the DPO, enquiry file coupled with parawise comments were examined /perused. The undersigned called him in OR and heard in person where he failed to explain any plausible reason to convince the undersigned. He has been acquitted from the Court in a criminal case u/s 245 CrPC. It has been transpired from the perusal of his service record that he had been Dismissed from service twice and almost 39/40 bad entries are existing in his service record. His whole service record reveals his lack of interest in service. Therefore the punishment awarded to him by the DPO Abbottabad i.e Dismissal from service seems to be genuine, hence his appeal is filed.


REGIONAL POLICE OFFICER
Hazara Region Abbottabad

No. 210 /PA Dated Abbottabad the 23 / 1 /2017.
Copy of above is forwarded to the DPO Abbottabad w/r to his Memo: No: 1470, dated 23.05.2014 for information and necessary action.


REGIONAL POLICE OFFICER
Hazara Region Abbottabad

C.T.C


کم وقت ہوا۔ یہ سبھی حالتیں ہیں۔ ان کا ذکر ہے۔ ان کے بارے میں
پہلے گفتگو کی جا رہی ہے۔

ہوگا۔ یہ سبھی حالتیں ہیں۔ ان کا ذکر ہے۔ ان کے بارے میں
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یہ سبھی حالتیں ہیں۔ ان کا ذکر ہے۔ ان کے بارے میں
پہلے گفتگو کی جا رہی ہے۔

یہ سبھی حالتیں ہیں۔ ان کا ذکر ہے۔ ان کے بارے میں
پہلے گفتگو کی جا رہی ہے۔

(مختصر)

یہ سبھی حالتیں ہیں۔ ان کا ذکر ہے۔ ان کے بارے میں
پہلے گفتگو کی جا رہی ہے۔

26.1.2017
9800148
0322

C.T.C
✓

بخدمت جناب سعید خان وزیر صاحب ڈی آئی جی ہزارہ ڈویژن ایبٹ آباد

اپیل / نظر ثانی

جناب عالی!

مودبانہ گزارش ہے کہ سائل کو جناب DPO صاحب نے ایک ناکردہ گناہ میں محکمہ سے
برخواست کر دیا تھا۔ سائل نے اس قسم کے حکم کے خلاف آپ پر حسب ضابطہ اپیل دائر کی
تھی مگر میری اپیل پر ہمدردانہ غور نہ کیا گیا اور میری اپیل بغیر میرا موقف سے خارج کر دی
گئی۔ سائل غریب آدمی ہے۔ سروس کے علاوہ دوسرا کوئی ذریعہ معاش نہیں ہے۔ سائل
اپیل کرنے سے قاصر ہے۔ عدالت میں جانے کے قابل نہیں کیونکہ سائل کے مالی حالات
بہت خراب ہیں۔ سائل کے چھوٹے چھوٹے بچے مختلف سکولوں میں زیر تعلیم ہیں۔ جن کو
فیس نہ ادا کرنے پر سکولوں سے نکالا جا رہا ہے۔ سائل انتہائی پریشان ہے۔

بذریعہ درخواست التماس ہے کہ سائل کی اپیل پر دوبارہ نظر ثانی فرما کر سروس پر بحال کرنے
کا حکم صادر فرمایا جائے۔ سائل تا عمر آپ کے لئے دعا گو رہے گا۔ نقل آرڈر لف ہے۔

ارض

سائل امتیاز احمد ولد سید الرحمن سابقہ پولیس کانسٹیبل نمبر 182 تحصیل و ضلع ایبٹ آباد

0322-9800148

c. T. c

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Annexure
H

Collection of...
...



N. W. F. P. POLICE COMMENDATION CERTIFICATE CLASS III

Granted to FC Smitiaz No 905
Son of - Resident of -

Village - Police Station C.I.R.

in recognition For his good performance in
Case FIR No 659 Mc Arabian

OB. No. 299 Cash Rs 100/-

Dated 12/7/07
SENIOR SUPERINTENDENT OF POLICE
DISTRICT OFFICER
ABBOTTABAD
Abbottabad

c.T.c
A

34

10-10-11 ASAC



N. W. F. P. POLICE COMMENDATION CERTIFICATE CLASS III

Granted to FC Smbiaz No 906

Son of _____ Resident of _____

Village _____ Police Station CA

in recognition For his good performance

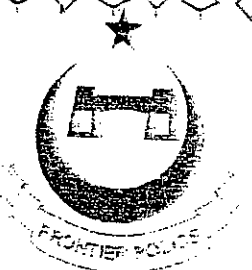
OB. No. 259 Cash Rs 100/-

Dated 5/7/07

SENIOR SUPERINTENDENT OF POLICE
ABBOTTABAD

C.T.C

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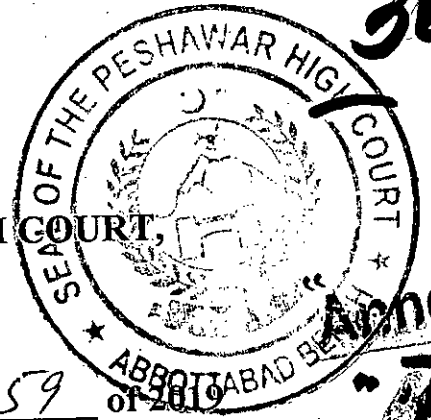

N. W. F. P. POLICE
COMMENDATION CERTIFICATE
CLASS III

Granted to PC Bhatta No. 412
 Son of _____ Resident of _____
 Village _____ Police Station _____
 in recognition for the good service rendered
 OB No. 153 2nd FS 50
 Dated 5/1/57

SENIOR SUPERINTENDENT OF POLICE
 ABBOTTABAD

C.T.C
D

BEFORE THE PESHAWAR HIGH COURT,
BENCH ABBOTTABAD



W.P No. 1459 of 2019

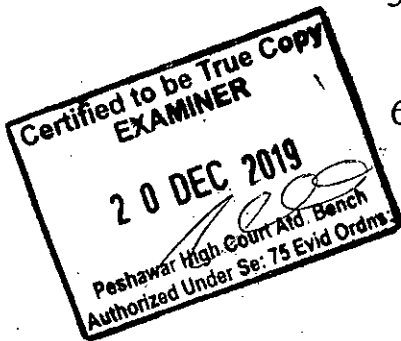
Annexure
I

Imtiaz Hussain son of Said-ur-Rehman resident
of Tareri Tarnwai, Tehsil and District
Abbottabad Ex-Constable No.182 District Police,
AbbottabadPetitioner

VERSUS

1. Government of Khyber Pakhtunkhwa through
Secretary Home, Peshawar.
2. Inspector General of police/Chief Police Officer,
Khyber Pakhtunkhwa Peshawar.
3. Deputy Inspector General of police/Regional
Police Officer, Hazara Region Abbottabad.
4. District Police Officer, Abbottabad.
5. Abdul Aziz Khan, District Superintendent of
police (Investigation, Abbottabad.
6. District Accounts Officer, Abbottabad
.....Respondents.

WRIT PETITION UNDER ARTICLE 199
OF THE CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN, 1973 FOR A
DECLARATION TO THE EFFECT THAT
THE IMPUGNED INQUIRY CONDUCTED
BY THE RESPONDENT NO.5 AND IN
CONSEQUENCE WHEREOF THE
IMPUGNED ORDER DATED 10.02.2014
AND ORDER DATED 23.01.2017 ISSUED



No. 7234
10-12-19

2-14/12

37

BY THE RESPONDENTS WHEREBY THE APPELLANT WAS DISMISSED FROM SERVICE ARE WRONG, ILLEGAL, AGAINST THE LAW AND FACTS, ARBITRARY, FANCIFUL, PERVERSE, WITHOUT LAWFUL AUTHORITY, BASED ON MALAFIDE, AGAINST THE RELEVANT LAW, RULES AND REGULATIONS, AGAINST THE FUNDAMENTAL RIGHTS OF THE PETITIONER HENCE BEING UNCONSTITUTIONAL, LIABLE TO BE STRUCK DOWN.

PRAYER: -

On acceptance of the instant Writ Petition, impugned inquiry conducted by the respondent No.5 and in consequence whereof the impugned order dated 10.02.2014 and order dated 23.01.2017 issued by the respondents whereby the appellant was dismissed from service may please be declared as wrong, illegal, against the law and facts, arbitrary, fanciful, perverse, without lawful authority, based on malafide, against the relevant law, rules and regulations, against the fundamental rights of the petitioner hence being unconstitutional, be struck down and the petitioner may please be restrained in service with all back benefits or

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EXAMINER
20 DEC 2019
Peshawar High Court Atd. Bench
Authorized Under Sr. 75 Evid. Ordns.

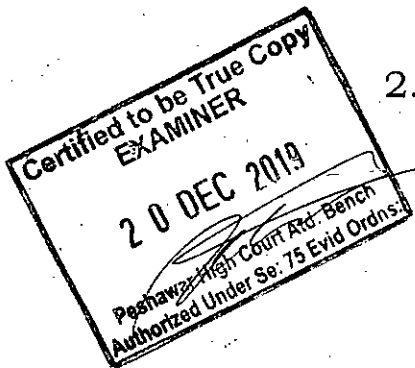
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keeping in view the 24/25 years long service tenure of the petitioner, he be ordered to be compulsory retired from service and the pensionary and other requisite benefits may also be awarded to the petitioner or any other writ, order or relief as this Honourable Court deems fit and appropriate in the circumstances of the case, may also be issued/passed.

Respectfully Sheweth!

1. That, the petitioner is a bonafide resident of Tareri Tarnwai, Tehsil and District Abbottabad.

(Copy of the CNIC of the petitioner is annexed as annexure "A").



2. That, the petitioner was induced in the F.R.P police Department in the year 1991 after fulfilling all the legal and codal formalities and thereafter, in the year 2002, he was transferred in the District Police Abbottabad.

(Copies of the orders are annexed as annexure "B").

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3. That, during the service, the petitioner was arrested in a case FIR No.559 dated

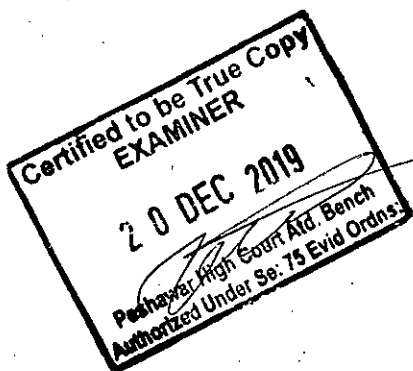
13.12.2013 under section 3/4 E.H.O police Station Shinkiari, Mansehra who was later on bailed out and the trial was commenced in the court of competent jurisdiction and after full dress trial, the petitioner was acquitted of the charge vide judgment dated 26.11.2016.

(Copy of the judgment dated 26.11.2016 is annexed as annexure "C").

4. That, during the above said criminal proceedings, the petitioner was charge sheeted and disciplinary proceedings carried out against the petitioner in which the petitioner duly submitted his reply.

(Copies of the reply of charge sheet is annexed as annexure "D").

5. That, in the meanwhile, departmental inquiry was conducted against the petitioner by the respondent No.5 who on conclusion of inquiry, submitted his report to District Police Officer, Abbottabad who consequently dismissed the petitioner from service vide its order dated 10.02.2014.



(Copies of the inquiry report alongwith order dated 10.02.2014 are annexed as annexure "E" & "F").

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20/12

6. That, the petitioner being aggrieved from the impugned order dated 10.02.2014 submitted a representation before the respondent No.3 which was duly replied by the respondent No.4 and the respondent No.3 vide its order dated 23.01.2017 while dismissing the representation of the petitioner, upheld the impugned order dated 10.02.2014.

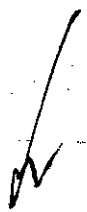
(Copies of the representation alongwith order dated 23.01.2017 are annexed as annexure "G").

7. That, after the communication of the above mentioned order, the petitioner submitted review petition before the respondent No.3 which is still pending before the respondent No.3.

(Copy of the review petition is annexed as annexure "H").

8. That, the petitioner being aggrieved from the impugned orders passed by the respondents having no other adequate, alternate or efficacious remedy except to invoke the constitutional jurisdiction of this Honourable Court by way of instant Writ Petition, inter alia, on the following grounds: -

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EXAMINER
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Peshawar High Court Atd. Bench
Authorized Under Sec. 75 Evid Ordns.

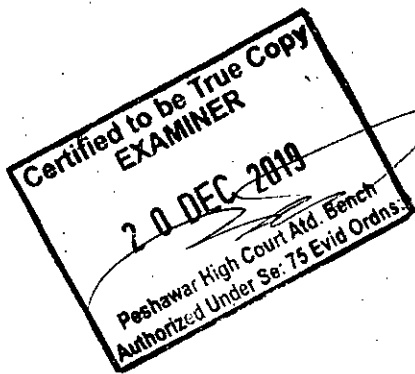


24/12

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GROUNDS

- a. That, impugned inquiry conducted by the respondent No.5 and in consequence whereof the impugned order dated 10.02.2014 and order dated 23.01.2017 issued by the respondents whereby the appellant was dismissed from service may please be declared as wrong, illegal, against the law and facts, arbitrary, fanciful, perverse, without lawful authority, based on malafide, against the relevant law, rules and regulations, against the fundamental rights of the petitioner hence being unconstitutional, liable to be struck down.
- b. That, the petitioner has served the respondents' department for about 24/25 years and during the service career, the performance of the petitioner was upto the mark due to which the petitioner was awarded different certificates by the respondents' department which is clear cut proof of the best services rendered by the petitioner.



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(Copies of the certificates are annexed as annexure "I").

- c. That, the petitioner was illegally, wrongly and malafidely roped in criminal case and the acquittal of the petitioner from the criminal case speaks volume about the innocence of the petitioner. Furthermore, as the impugned orders were passed on the strength of that criminal case, therefore, after the acquittal, the impugned orders have no legal sanctity in the eyes of law.

- d. That, after the submission of challan and recording of evidence in the criminal case, the learned trial court/ Judicial Magistrate-II, Mansehra comes to the conclusion that the prosecution has badly failed to establish a case of conviction against the petitioner and the petitioner was acquitted under section 245 Cr.PC of the charges levelled against him, therefore, every acquittal is a Honourable acquittal and the petitioner has every right to be restored at his position in the respondents' department.

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 EXAMINER
 20 DEC 2019
 Peshawar High Court Atd-Bench
 Authorized Under Se: 75 Evid Ordns.

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That, there are plethora of judgments of the Honourable apex court of the

country that every and any acquittal is a Honourable acquittal and the Government servant cannot be charge sheeted or proceeded against on the basis of mere charge of involvement in criminal case until and unless the same is to proved. Hence all the proceedings so carried out by the respondents are pre-mature in nature hence no legal value in the eyes of law.

f. That, it is worth mentioning here that the petitioner was dismissed from service on two grounds i.e. one for the absence and the other for the criminal charge. It is further elaborated here that as discussed above, the petitioner has been acquitted from the criminal charge and regarding the second ground for dismissal, it is submitted that there are casual leaves of the petitioner as he served for 22/23 years services but these casual leaves were not counted in favour of the petitioner, therefore, both the grounds on which the petitioner was dismissed from service have no legal stand hence the impugned orders are liable to be set at naught.

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EXAMINER
20 DEC 2019
Peshawar High Court Attd. Bench
Authorized Under Se. 75 Evid Ordns.

20/12/19 g.

That, the petitioner is having small kids and the wife of the petitioner is also

seriously ill and the kids and the wife are totally dependent upon the petitioner and there is no other source of income of the petitioner hence on humanitarian grounds also; the petitioner is entitled for the relief sought.

- h. That, the respondents have bypassed the relevant law, rules and regulations on the service hence the impugned orders so passed are in flagrant violation of the relevant law, rules and regulations, therefore, liable to be struck down.
- i. That, the impugned orders passed by the respondents are void orders hence the interference of this Honourable Court in its Writ jurisdiction is solicited.
- j. That, as this Honourable Court has the parental jurisdiction and the petitioner was dismissed from service after serving 24/25 years in the department hence the petitioner is entitled for the relief as prayed for on two counts i.e. parental jurisdiction and hardship case.
- k. That, it is an inalienable right of the petitioner to enjoy the protection of law and to be treated in accordance with

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EXAMINER
20 DEC 2019
Peshawar High Court (Ald. Bench)
Authorized Under Sec: 75 Evid Ordns.

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law, rules and regulations but this right of the petitioner has been infringed by the respondents in a sheer malafide manner.

1. That, the powers or jurisdiction are vested in an authority to exercise it justly, fairly, judiciously and in accordance with mandate of law, rules and regulations but the respondents have transferred upon their powers while passing the impugned orders.

.....PRAYER.....

It is, therefore, most humbly prayed that on acceptance of the instant Writ Petition:-

- a. Impugned inquiry conducted by the respondent No.5 and in consequence whereof the impugned order dated 10.02.2014 and order dated 23.01.2017 issued by the respondents whereby the appellant was dismissed from service may please be declared as wrong, illegal, against the law and facts, arbitrary, fanciful, perverse, without lawful authority, based on malafide, against the relevant law, rules and regulations, against the fundamental

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 20 DEC 2019
 Peshawar High Court Atd. Bench
 Authorized Under Sec. 75 Evid Ordns.

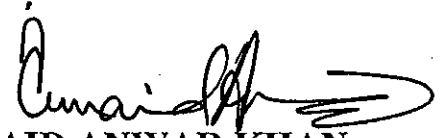
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rights of the petitioner hence being unconstitutional, be struck down.

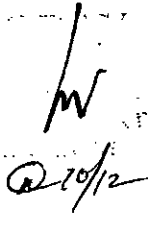
- b. The petitioner may please be restrained in service with all back benefits or keeping in view the 24/25 years long service tenure of the petitioner, he be ordered to be compulsory retired from service and the pensionary and other requisite benefits may also be awarded to the petitioner.
- c. Keeping in view the long service tenure of the petitioner, the petitioner may please be ordered to be granted pensionary and other requisite benefits while enforcing the parental jurisdiction as well as being considered the case of petitioner as hardship case.
- d. Or any other writ, order or relief as this Honourable Court deems fit and appropriate in the circumstances of the case, may also be issued/passed.

Dated 21.11.2019

Imtiaz Hussain
...Petitioner

Through 
JUNAID ANWAR KHAN,
Advocate High Court,
Mansehra.

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EXAMINER
20 DEC 2019
Peshawar High Court Attd. Bench
Authorized Under Se. 75 Evid Ordns.



AFFIDAVIT.

I, Abdul Malik son of Said-ur-Rehman resident of Tareri Tarnwai, Tehsil and District Abbottabad, real brother as well as attorney of the petitioner, do hereby solemnly affirm and declare on oath that the contents of the foregoing Writ Petition are true and correct and nothing has been concealed from this Honourable Court.

Dated 21.11.2019

13/01-0868100-1

W. Malik
Abdul Malik
(DEPONENT)

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21
Abdul Malik son of Said-ur-Rehman
Tareri Tarnwai District Abbottabad

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21/11/19

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EXAMINER
20 DEC 2019
Peshawar High Court Bench
Authorized Under Sec. 75 Evid Ordns.

21/11/19

Judgment Sheet

**IN THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH.
JUDICIAL DEPARTMENT**



W.P. No. 1459-A/2019.

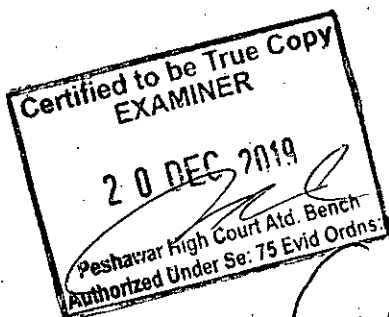
JUDGMENT

Date of hearing: 18.12.2019

Petitioner (Imtiaz Hussain) by Mr. Junaid Anwar
Khan, Advocate.

IJAZ ANWAR, J:- The petitioner seeks the constitutional jurisdiction of this Court praying that:-

"On acceptance of the instant Writ Petition, impugned inquiry conducted by the respondent No. 5 and in consequence whereof the impugned order dated 10.02.2014 and order dated 23.01.2017 issued by the respondents whereby the appellant was dismissed from service may please be declared as wrong, illegal, against the law and facts, arbitrary, fanciful, perverse, without lawful authority, based on malafide, against the relevant law, rules and regulations, against the fundamental rights of the petitioner hence being unconstitutional, be struck down and the petitioner may please be restrained in service with all back benefits or keeping in view the 24/25 years along service tenure of the petitioner, he be ordered to be compulsory retired from service and the



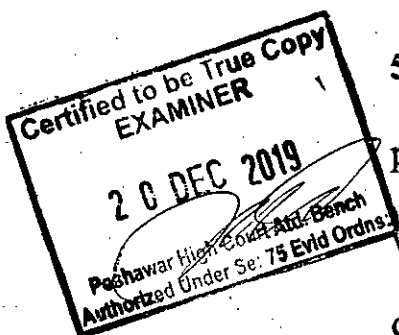
pensionary and other requisite benefits may also be awarded to the petitioner or any other writ, order or relief as this Honourable court deems fit and appropriate in the circumstances of the case, may also be issued/passed."

2. In essence the case of the petitioner was appointed as Constable in the Police Department in the year 1991. During his service, a criminal case under Section 3/ 4 EHO was registered against him and thus he was charge sheeted by the department to which he submitted his detailed reply, however, after conclusion of inquiry against him, he was dismissed from service vide the impugned order, hence, the instant petition.

4. Arguments in motion heard and record gone through.

5. In essence the grievance of the petitioner is against the order dated 10.02.2014, whereby the services of the petitioner were dispensed with, as such the matter relates to terms and conditions of the service.

6. Thus Without discussing the merit of the case, lest it may prejudice the case of either

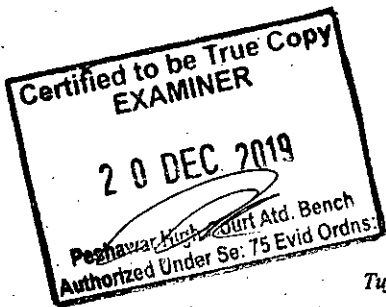


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party, suffice it to say that the matter brought before this court can competently be adjudicated upon by the Provincial Service Tribunal. As such in the presence of adequate remedy available, the constitutional jurisdiction of this court cannot be invoked. In addition, under Article 212 of the Constitution of Islam Republic of Pakistan, 1973, the jurisdiction of this court is ousted in the matters relating to the terms and condition of service of a civil servant.

7. For the reasons stated above, this petition being not maintainable on the ground of jurisdiction, is dismissed. The petitioner would be at liberty to avail appropriate remedy in accordance with law, if he is so advised.

Announced.
Dt. 18.12.2019.



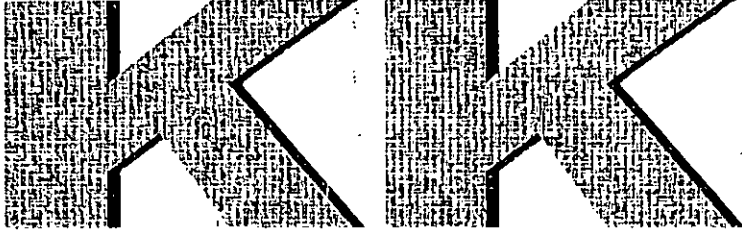
Tufail/*

Hon'ble Justice Ijaz Anwar &
Hon'ble Justice Shakeel Ahmad.

Sd/- Judge
Sd/- Judge

5/16

Special Power of Attorney



QUALITY DOCUMENTS BY **K.K. MULTI DOCUMENTATIONS**

English/Urdu Computer Typing
Office Timings: 9:00 a.m. to 5:00 p.m.
Office on Ground Floor, Tahir Plaza, ,
Adjacent Ghousia Murgh Cholay Restaurant,
Near City Courts, Karachi.
Contact No.03343038607

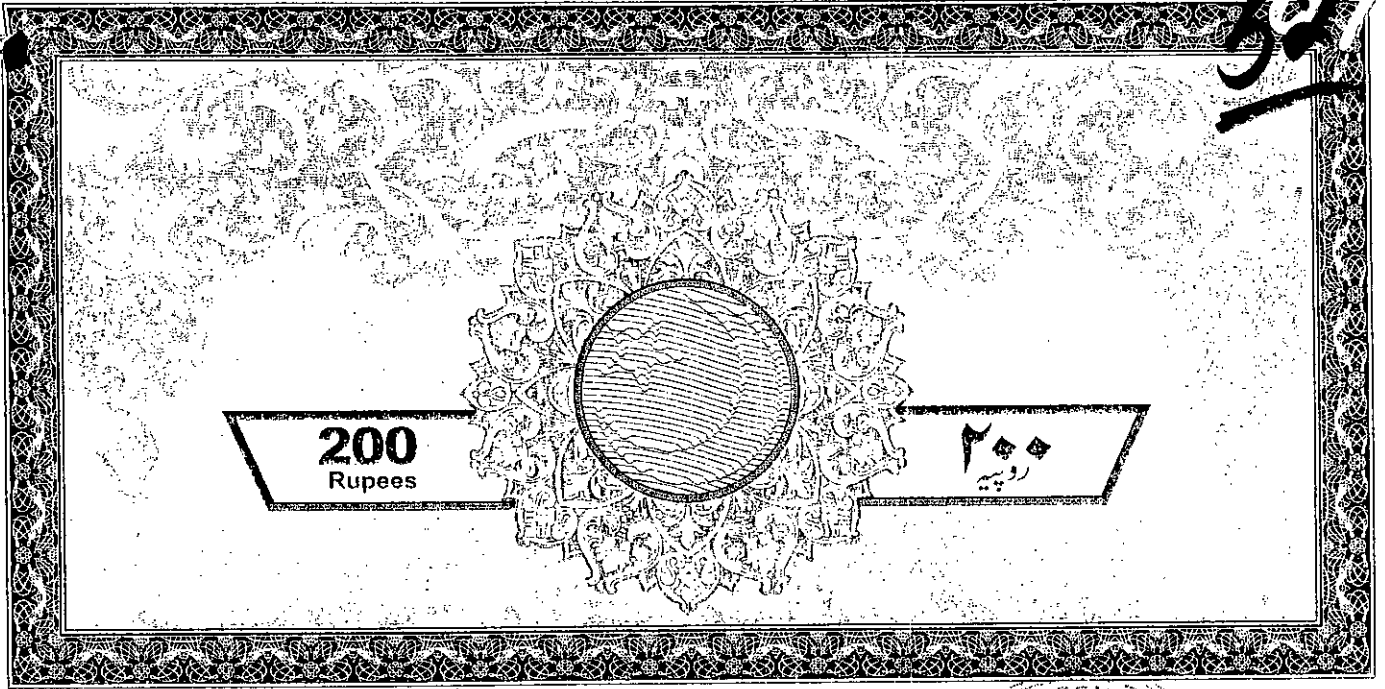
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John R. Adams

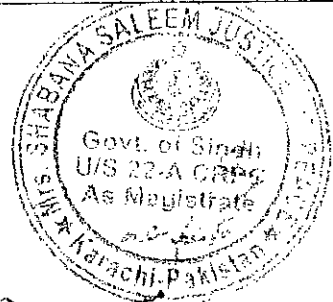
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HAMMAD HANIF STAMP VENDOR
 Shop No. 10, 1st Floor, Tajmahal Building Above
 7, 7-C, Jinnah Road, Lahore Sahibuddin Road,
 City Court, Karachi

08 NOV 2019

مختار نامہ



Rukhsana
 Advocate High Court
 Legat # 404

میں کمی امتیاز حسین ولد سید الرحمن، مسلم، بالغ، عاقل، حامل شناختی کارڈ
 نمبر 9-13101-7431213-13101، سکھ ترہیڑی، ترنوائی، تحصیل ضلع ایبٹ آباد،
 K.P.K، کارہائشی ہوں اور بوجہ مجبوری کراچی میں مقیم ہوں۔

یہ کہ مجھے پشاور ہائی کورٹ میں سروس پیشین داخل کرنا ہے۔ کیونکہ میں کراچی میں مقیم ہوں۔
 لہذا میں اپنے بھائی عبدالملک ولد سید الرحمن، مسلم، بالغ، عاقل، حامل، شناختی کارڈ
 نمبر 1-13101-0868100-13101، سکھ ترہیڑی، ترنوائی، تحصیل ضلع ایبٹ آباد،
 K.P.K کو اپیشل پاور آف اٹارنی دے رہا ہوں کہ وہ میرے کیس کی دیکھ بھال کریں۔

میں اپنے بھائی کو اپنا مختار مقرر کرتا ہوں کہ وہ مجاز اتھارٹی (حکام) کے سامنے حاضر ہو کر کیس
 کی دیکھ بھال کریں اور ہر قسم قانونی، عدالتی اور دفتری کارروائی کرے اور عبدالملک ولد سید الرحمن،
 میری جانب سے ہر جگہ پیش ہو سکتا ہے۔ اور میری جانب سے ہر قسم دستاویزات پائیہ تکمیل تک پہنچا
 سکتا ہے۔

باقی صفحہ نمبر 2



ع.آ.ع
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کہ مذکورہ بالا مختار نامہ میں نے بقائمی ہوش و حواس پڑھا، سنا، سمجھا اور اس کو درست مانتے ہوئے درج ذیل گواہان کے روبرو اپنے اپنے دستخط/ نشان انگوٹھا ثبت کیئے تاکہ سند رہے اور بوقت ضرورت کام آسکے۔

اختیار دہندہ: عبدالرحمن
عبدالملک ولد سید الرحمن،
شناختی کارڈ نمبر 1-0868100-13101

اختیار دہندہ: موسیٰ امتیاز حسین
موسیٰ امتیاز حسین ولد سید الرحمن،
شناختی کارڈ نمبر 9-7431213-13101

گواہ نمبر: 1

گواہ نمبر: 2

ATTESTED
Shabiana
Mrs. SHABIANA SALEEM
JUSTICE OF PEACE
U/S 22-A CRPC EMPOWERED
As Magistrate
to attest the documents
MIRPUR MATHORI - PAKISTAN

15 NOV 2019

C.T.C
Shabiana

وکالت نامہ

بعدالت جناب سرورین نرسینوئل عبید محمد خواجہ لکھنؤ
 ۱ منیار حسین بنام کلکتہ وغیرہ
 دعویٰ یا جرم سرورین انیسٹریٹ منجانب ایدو خان

باعث تحریر آنگہ

مندرجہ بالا عنوان میں اپنی طرف سے پیروی و جوابدہی بمقام اینڈ ایڈووکیٹ جنرل لکھنؤ کے لئے

جنید انور خان ایڈووکیٹ ہائی کورٹ مانسہرہ

ہدیں شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختیار خاص رو برو عدالت حاضر ہونا ہوں گا۔ اور بوقت پکارے جانے وکیل صاحب موصوف کو اطلاع دے کر حاضر کروں گا۔ اگر کسی پیشی پر منظر حاضر نہ ہوا اور غیر حاضری کی وجہ سے کسی طور پر مقدمہ میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ کسی اور جگہ یا پکھری کے مقررہ اوقات سے پہلے یا روز تعطیل پیروی کرنے کے مجاز نہ ہوں گے۔ اگر مقدمہ مقام پکھری کے کسی اور جگہ سماعت ہونے پر یا روز پکھری کے اوقات کے آگے یا پیچھے ہونے پر منظر کو کوئی نقصان پہنچے تو ذمہ دار یا اس کے واسطے کسی معاوضہ ادا کرنے، مختیار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھے کل ساختہ پرواختہ صاحب مثل کردہ ذات خود منظور قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل نگرانی دائر کرنے، تیز ہر قسم کی درخواست پر ذمہ تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرانے اور ہر قسم کا روپیہ وصول کرنے اور رسید دینے اور داخل کرانے کا ہر قسم بیان دینے اور سپرد نشانی و رضی نامہ و فیصلہ برخلاف کرنے و اقبال دعویٰ کا اختیار ہوگا اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یا نظردرخواست حکم امتناعی یا ڈگری قبل از فیصلہ اجراءے ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ پیروی مختیار نامہ کرنے کا مجاز ہوگا اور بصورت ضرورت اپیل اور اپیل کے واسطے کسی دوسرے وکیل یا پیرسٹر کو بجائے اپنے ہمراہ مقرر کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے صاحب موصوف کو، پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی حالت میں میرا مطالبہ صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا اختیار نامہ لکھ دیا ہے کہ سندر ہے۔

مضمون مختیار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

الرقوم 30 جنوری 2020ء

العبید العبد العبد العبد

ACCEPTED

JUNAID ANWAR KHAN,

Advocate High Court.

Mansehra.

Judicial

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 755/2020.

Imtiaz Hussain son of Said-ur-Rehman resident of Tareh Tarnawai, Tehsil and District Abbottabad Ex-constable No. 182 District Police, Abbottabad.

..... APPELLANT.

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Home, Peshawar.
2. Inspector General of Police/ Chief Police Officer, Khyber Pakhtunkhwa, Peshawar.
3. Deputy Inspector General of Police/ Regional Police Officer, Hazara Region, Abbottabad.
4. District Police Officer, Abbottabad.
5. Abdul Aziz Khan, District Superintendent of Police (Investigation), Abbottabad.
6. District Accounts Officer, Abbottabad.

.....RESPONDENTS.

PARAWISE REPLY BY RESPONDENTS.

Respectfully Sheweth;

Preliminary Objections:-

1. That the appellant has got no cause of action and locus standi.
2. That the appellant has not come to this Honourable Tribunal with clean hands.
3. That the appeal is bad for miss-joinder and non-joinder of necessary and proper parties.
4. That the appellant is estopped by his own conduct.
5. That the appeal is badly barred by law & limitation, hence liable to be dismissed without any further proceeding.
6. That the appellant has suppressed the material facts from this Honourable Tribunal, hence; not entitled for any relief.

ON FACTS :-

1. Pertains to personal information of appellant, hence needs no comment.
2. Pertains to Service record of appellant.
3. Pertains to criminal record. It is pertinent to mention here that from the perusal of his service record it is revealed that he was awarded 02 major punishments and 12 minor punishments while there are 26 bad entries in his service record. He was found responsible for the offence during investigation report u/s 173 Cr.P.C and acquitted from the charges on technical grounds. In departmental probe, charges were established and punished in accordance with law/ rules after observing all codal formalities. (Copy of 173 report annexed as annexure "A")

4. Correct to the extent that proper charge sheet with statement of allegations was issued to appellant and enquiry officer was appointed for probe.
5. Pertains to record. After observing all opportunities of defence to appellant, dismissal order was issued.
6. Correct to the extent that departmental appeal of appellant was rejected on cogent reasons.
7. Pertains to record.
8. Pertains to record of Honourable High Court.
9. Incorrect. The appeal is badly time barred and not maintainable, hence liable to be dismissed and the appellant came to this Honourable Tribunal with unsound grounds.

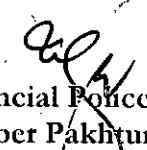
ON GROUNDS:-


- a. Incorrect, the departmental enquiry and orders of the respondents are legal, lawful and in accordance with law/rules and liable to be intact.
- b. Incorrect. As explain in para No. 3, the previous record of appellant is tainted with punishment and bad entries. (List enclosed as Annexure "B").
- c. Incorrect. Appellant was directly charged in FIR and he was found responsible during investigation, Criminal and departmental proceedings are independent from each other. In departmental proceedings, charges have been established against the appellant.
- d. Correct to the extent that order of the Judicial Magistrate-II, Mansehra dated 26.11.2016 but acquittal order has been based on technical grounds. In departmental proceedings the charges have been established and acquittal in criminal case has no effect on departmental proceeding.
- e. Every case has its own facts and merits. Criminal and departmental proceedings are independent from each other as per ruling of apex court.
- f. Incorrect, the appellant being member of discipline force did not bother to prefer application for leave which is gross misconduct on the part of appellant besides committing criminal offence. Therefore, the dismissal order of the appellant is based on cogent reasons, facts, justice and rules.
- g. Due to wilful misconduct, appellant has caused financial loss to his family for which respondents have no fault.

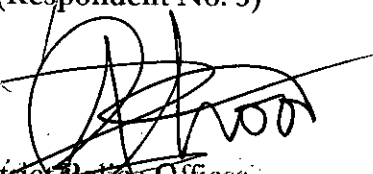
- h. Incorrect, all the actions of the respondents are protected by the law as all the codel formalities have been fulfilled accordingly.
- i. Incorrect, the orders of the respondents are valid, legal and based on fact and rules hence liable to be maintainable by august tribunal.
- j. Incorrect, as mentioned in the Preliminary Objection No. 5, the appeal of the appellatant is badly barred by law and limitation.
- k. Incorrect, no violation of the any fundamental right of the appellatant has been committed by the respondents. Appellatant has been treated in accordance with existing law/rues.
- l. Incorrect, the respondents exercised their powers in accordance with law/ rules and nothing adverse has been done with the appellatant.

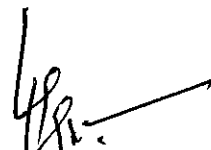
PRAYER.

Keeping in view the above stated facts it is humbly prayed that appeal of the appellatant being devoid of merit and barred by limitation, may kindly be dismissed with costs please.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 2)


Regional Police Officer,
Hazara Region, Abbottabad.
(Respondent No. 3)


District Police Officer,
Abbottabad
(Respondent No.4)


Dy. Superintendent of Police,
Investigation, Abbottabad.
(Respondent No.5)

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

Service Appeal No. 755/2020.

Imtiaz Hussain son of Said-ur-Rehman resident of Tareti Tarnawai, Tehsil and District
Abbottabad Ex-constable No. 182 District Police, Abbottabad.

..... APPELLANT.

VERSUS

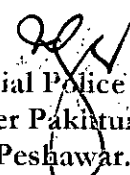
7. Government of Khyber Pakhtunkhwa through Secretary Home, Peshawar.
8. Inspector General of Police/ Chief Police Officer, Khyber Pakhtunkhwa, Peshawar.
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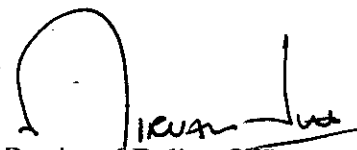
.....RESPONDENTS.

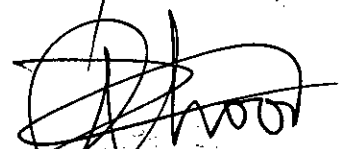
AFFIDAVIT.

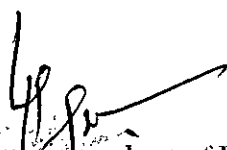
We, do hereby affirm on oath that the contents of written comments are
true to the best of our knowledge & belief and nothing has been concealed from the
Honorable Service Tribunal.

Submitted please.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 2)


Regional Police Officer,
Hazara Region, Abbottabad.
(Respondent No. 3)


District Police Officer,
Abbottabad
(Respondent No.4)


Dy. Superintendent of Police,
Investigation, Abbottabad.
(Respondent No.5)

۵۵۳ نمبر عدالت - ۱۳/۱۳ - ۳۰۴ / ۲۶۰۲ رقم شکاری

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سرکار کراچی

نیز جو کھارے لکھنے کے لئے

خدمت عدالت

خدمت عدالت

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ATTESTED
Munsif Section Court Mansura
27 JUL 1921

Forwarded please

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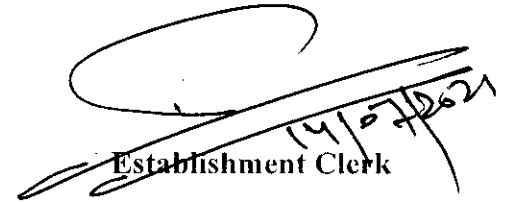
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PUNISHMENT RECORD OF EX- CONSTABLE RAJA IMTIAZ NO.182

DATE OF ENROLMENT: 24-08-1991

S. No	Punishment Awarded	Order Book No.	Dated
1.	Warning	125	04-09-1993
2.	17 days Leave Without Pay	168	31-10-1993
3.	One day Extra Drill/01 day without pay	281	12-12-1994
4.	One day Extra Drill/01 day without pay	295	20-12-1994
5.	03 days leave without pay	38	08-02-1995
6.	Warning	477	31-12-1995
7.	02 days without pay /Warning	174	14-06-1995
8.	02 hours extra drill	278	22-07-1996
9.	02 days leave without pay/ Extra Drill	489	19-11-1996
10.	03 days without pay/Warning	048	08-02-1996
11.	01 days leave without pay/Extra drill fine RS 100	111	24-04-1997
12.	32 days leave without pay Fine RS:500	271	17-09-1997
13.	04 days leave without pay /Extra drill	315	21-10-1997
14.	01 days leave without pay/Extra Drill	103	17-03-1998
15.	04 days leave without pay/Extra Drill	120	01-04-1998
16.	Dismissed from Service	256	14-07-1998
17.	Fine RS: 300/Q/Guard/Warning	376	16-08-2001
18.	02 days leave without pay/Warning	344	24-07-2001
19.	02 days Q/Guard/Fine RS:300/warning	389	25-08-2001
20.	Fine of RS:300/	581	10-12-2001
21.	01 day Quarter Guard	20	13-01-2004
22.	Fine RS:100/absence leave without pay	218	21-06-2004
23.	Fine RS:100/02 days leave without pay	357	20-09-2004
24.	16 days leave without pay	155	11-09-2005
25.	01 days leave without pay	214	22-05-2006
26.	03 days extra drill	381	30-08-2006
27.	03 days leave without pay	412	16-09-2006
28.	02 days leave without pay	534	12-12-2006
29.	Dismissed From Service	311	04-10-2009

30.	Fine RS:1000/ 18 days leave without pay	296	27-08-2011
31.	54 days leave without pay	399	22-11-2011
32.	Fine RS100/ 02 days leave without pay	406	01-12-2011
33.	02 days leave without pay	180	28-05-2012
34.	Censure/ 36 days leave without pay	362	06-12-2010
35.	03 days leave without pay/Fine Rs 03-04-2012	119	03-04-2012
36.	01 days leave without pay	147	03-05-2012
37.	Fine RS:100	384	06-12-2012
38.	Warning / 32 days leave without pay	50	12-02-2013
39.	Fine RS: 100/Warning	81	08-03-2013
40.	06 days leave without pay	131	13-05-2013
41.	Dismissed from Service	34	05-12-2014


14/07/2021
Establishment Clerk

بعدالت جناب سروس ٹریبونل پشاور۔

سروس اپیل نمبر: 755 / 2020

عنوان اپیل: امتیاز حسین vs 161P وغیرہ

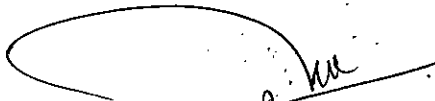
سابقہ تاریخ سماعت 16-08-2022

آئینہ تاریخ سماعت 18-10-2022 کیپ فورٹ ایٹ آباد

جناب عالی!

گزارش ہیکہ اپیل عنوان بالا میں حسب الحکم چیمبرمین صاحب سروس ٹریبونل انکوآری کی کاپیاں جمع کروانی درکار ہیں۔ لہذا بذریعہ درخواست استدعا ہیکہ انکوآری کی کاپیاں جمع کروانے کا حکم صادر فرمایا جاوے۔

العارض


ڈی ایس پی لیگل ایٹ آباد۔
26-09-2022


27/9/21

محکمہ انکوائری

Sir,
Remind my today
on-9-1-2014
at
MPPA.

نمبر R. DSP/INV/01 مورخہ 09/14

کانشیل امتیاز احمد نمبر 182 متعینہ پولیس لائن ایبٹ آباد پر الزام عائد ہوا کہ بحوالہ مقدمہ علت 559 مورخہ 13-12-13 جرم (2) EHO/26/3/4 تھانہ شنکیاری بحوالہ چٹھی نمبری 21852/OHC مورخہ 17-12-13 DFO مانسہرہ کانشیل مذکور سے 24 بوتل شراب برآمد ہوئی۔

وائی انکوائری:

انکوائری کے دوران عجب خان SI/ASO تھانہ شنکیاری کو مدعا مثل مقدمہ گھلایان موقع، فرد مقبوضگی کانشیل تنویر 132، کانشیل شہزاد 131 تھانہ شنکیاری کو طلب کیا گیا اور بیانات قلمبند ہوئے۔ الزام علیہ کانشیل امتیاز کو جرم کا موقع دیا گیا۔ FIR فرد مقبوضگی اور بیانات کی فوٹو سیٹ شامل انکوائری کی گئیں۔ SI عجب خان کے بیان کے مطابق بکریال موگن روڈ پر نا کہ بندی کے دوران گیری ڈبہ 4438/RIW کی چیکنگ کے دوران پچھلی سیٹ پر ایک شخص کی گود میں رکھا ہوا کاشن چیک کرنے پر 24 بوتل شراب وٹکا برآمد ہوئیں جس شخص نے اپنا نام امتیاز ولد سید الرحمن قوم عباسی سکندر ٹریڈی بتلایا جس کو مدعا ڈرائیور گیری ڈبہ شاہد زین مقدمہ میں گرفتار کر کے شراب بر دے فرد قبضہ پولیس کی اور تفتیش سے پردہ ملزمان گناہ گار پائے جا کر مقدمہ میں SHO نے چالان مکمل دیا۔ اسی طرح گواہان موقع فرد مقبوضگی نے بہت برآمدگی موجودگی ظاہر کر کے کانشیل امتیاز سے 24 بوتل شراب برآمد ہونی ظاہر کی اور اپنے بیانات قلمبند شدہ زبردفعہ 161 ضف اور فرد مقبوضگی پر اپنے دستخط درست ہونے ظاہر کئے۔ جس سے کانشیل امتیاز کی ملزمت ثابت ہوتی ہے۔ تاہم مقدمہ زیر سماعت عدالت ہے۔

علاوہ ازیں کانشیل امتیاز 182 کا سرورس ریکارڈ چیک کیا گیا۔ جس کے مطابق مذکورہ 40 مرتبہ سزایاب ہے جو دو دفعہ بحوالہ آڈر بک نمبر 311 مورخہ 04-10-2009، آڈر بک نمبر 256 مورخہ 14-07-1998 پر خاست ہو کر بحال ہو چکا ہے۔ اسی طرح بحوالہ مقدمہ علت 561 مورخہ 10-09-2000 جرم PPC 382/170/171/411 تھانہ میرپور میں ملوث ہو کر معطل ہو چکا ہے۔

مندرجہ بالا بیانات حالات واقعات سے کانشیل امتیاز 182 پر لگے گئے الزامات درست ثابت ہوتے ہیں۔ تاہم معاملہ زیر سماعت عدالت ہے۔ سابقہ ریکارڈ کے مطابق مذکورہ کی 40 سزایابیاں، دو بار برخواستگی اور دو سزایاب مقدمہ قلعہ عداری میں ملوث ہونے سے ثابت ہوتا ہے کہ مذکورہ محکمہ پولیس کیلئے بدنامی کا باعث ہے۔

انکوائری رپورٹ مرتب ہو کر بمراد ملاحظہ گزارش ہے۔

عبدالعزیز خان انصاری،
IDSP انوسٹی گیشن ایبٹ آباد۔

PA
Issued FSCN.

DPOT (M)

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FINAL SHOW CAUSE NOTICE.

I, Muhammad Ali Khan, District Police Officer Abbottabad, as competent authority charge you **Constable Imtiaz Ahmad No.182** as follows:-

While posted at Police Lines, Abbottabad, the local Police of Police Station Shinkiari has recovered 24 bottles of liquid from you and a case was registered vide FIR No. 559 dated 13.12.2013 U/S ¼ EHO 26 (2) Police Station Shinkiari, vide DPO Mansehra letter No. 21852/OHC dated 17.12.2013, which was a gross misconduct on your part.

You were issued and served with Charge Sheet and Statement of allegation vide this office No: 4620-21/PA, dated 19-12-2013 and enquiry was conducted by Mr. Abdul Aziz Afridi, DSP/Investigation, Abbottabad.

During proper departmental enquiry the allegation leveled against you had been proved.

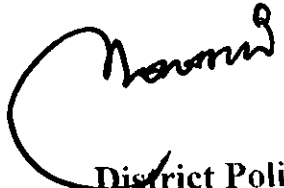
Keeping in view the above said allegations on your part, you are hereby called upon to show cause finally with in seven days of the receipt of this final show cause notice as to why you should not be awarded major punishment under Police disciplinary Rules 1975.

If your written reply is not received with in stipulated period it shall be presumed that you have no defense to offer. You are also permitted to appear before the undersigned if you so desire.


District Police Officer,
Abbottabad.

No: 167 /PA, dated 20/01/2014.

Copy to RI/Lines Abbottabad with the directions that the duplicate copy the same be returned to this office duly served upon the Constable concerned.


District Police Officer,
Abbottabad.

21/1/2014.

CHARGE SHEET.

I, Muhammad Ali Khan District Police Officer Abbottabad, as competent authority, is hereby charge you FC Imtiaz Ahmad No. 182 as explained in the attached statement of allegations.

You appear to be guilty of misconduct under Police disciplinary rules 1975. and have rendered yourself liable to all or any of the penalties specified in the said Police Disciplinary Rules.

You are therefore, directed to submit your written defense within seven days on 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 in that case ex-parte action shall follow against you.

Intimate whether you desire to be heard in person.

A statement of allegation is enclosed

ب
ریڈر
الزام علیہ کو انتظامی کیلئے طلب کریں
اور مذکورہ کا سروس ریکارڈ بھی پیش کریں

Dy: Superintendent
of Police Investigation
Abbottabad

20-12-2013

District Police Officer,
Abbottabad.

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DISCIPLINARY ACTION.

I, **Muhammad Ali Khan** District Police Officer Abbottabad, as Competent Authority of the opinion that you FC Intiaz Ahmad No. 182 have rendered yourself liable to be proceeded against as you committed the following act/omission within the meaning of Police Disciplinary Rules 1975.

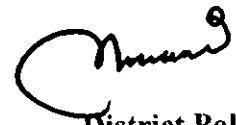
STATEMENT OF THE ALLEGATION.

You FC Intiaz Ahmad No. 182 while posted at Police Lines Abbottabad, the local Police of Police Station Shinkiari has recovered 24 bottles of liquid from you and a case was registered vide FIR No. 559 dated 13.12.2013 U/S 3/4 EHO 26 (2) Police Station Shinkiari, vide DPO Mansehra letter No. 21852/OHC, dated 17.12.2013.

For the purpose of scrutinizing the conduct of the said accused official with reference to the above allegations, Mr. Aziz Afzali, DSP 900 is deputed to conduct formal Departmental Enquiry against you FC Intiaz Ahmad No. 182.

The Enquiry Officer shall in accordance with the provision of ordinance, provide reasonable opportunity of hearing the defaulter, furnish findings within 30 days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused.

The accused and a well conversant representation of the departmental shall in the proceedings on the date, time and place fixed by the Enquiry Officer.

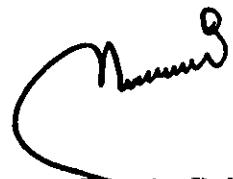


District Police Officer,
Abbottabad.

No 4620-21 /PA, Dated Abbottabad, the 19/12 /2013.

Copy of above is forwarded to:-

1. Mr. Aziz Afzali, DSP 900, (Enquiry Officer) for initiating proceedings against the defaulter officer under provisions of the Police Disciplinary Rules 1975.
2. Constable Intiaz Ahmad No. 182 through DPO Mansehra with the direction to submit his defense within 7 days of the receipt of this statement of allegations and also to appear before the Enquiry Officer on the date, time and place fixed for the purpose of departmental proceedings.
3. District Police Officer Mansehra with the request that the duplicate copy of the same be returned to this office after taking signature of FC Intiaz Ahmad No. 182 presently confined in District Jail Mansehra as a token of receipt.



District Police Officer,
Abbottabad.

بیان ازل کنسٹبل اعتبار احمد نمبر 182 حقیقت کو اس واقعہ کے بارے میں دریافت
 پولیس بیان کیا جسے حوض 13¹² کو اپنے رشتہ داروں کو جو کم مالیت میں ملے گئے ہیں
 نمبر 4438 کے ڈرائیونگ شاہ زبیر ولد اورنگزیب کے نامزدہ چھوڑا کر رہا تھا جو اس وقت
 کے مالیت پر جا رہا تھا۔ ٹول بلڈرز نے یہ پوسٹ پر پہنچے تو جانتار Asi کے ایک کنسٹبل باجوڑ
 نے دعویٰ عاری کوٹ مالیت پر لکھنے والے جو کہ باجوڑی مدرمز کے ہوتے ہیں ان کو گاڑی سے لے
 لیا بلکہ اس کے Asi کو فرنیٹ سے ہٹا لیا اور فرنیٹ سے ہٹا لیا۔ Asi کا نام تو 2
 سفید پارک میں دوڑنے بھی ہو گئے۔ جب ہم عاری کوٹ پانڈن شپ کے آگے
 گزر رہے تو ڈرائیونر نے جو تمام دعویٰ پانڈن شپ کے اندر تو Asi نے ہاتھ مانی یا اس روز
 اس کے۔ جب مانی یا اس روز پہنچے تو Asi نے ڈرائیونر کو اتار کر بھیج دیا اور اس وقت
 سٹ ڈرائیونر کو گاڑی چلنے لگا اور چھوٹے پوچھا تھا کہ کیا نام ہے وہ ان کے پاس
 اعتبار نام ہے جس کے پاس پولیس میں مدرمز ہو گیا وہ ہے CIA جسے بیوٹ سے وہ
 لے گیا نہیں اب اس پولیس نے یہ یوں جس نے کہا تم دیکھو اس کے پاس کنسٹبل بھی
 4500 گرام حیرت ڈال کر اعجاز کو گاسے گرفتار کر لیا تھا۔ جسے جو اب لیا ہے تو وہ
 نے حیرت ڈالی اور تم ہی اس سے لیا ہوا تھا بلکہ اس سے حیرت برآمد ہوئی تھی۔ اس وقت
 حیرت سے Asi نے چھ گالی دی اور ساتھ چھیر بھی مار دیا اس دوران سفید پارک اور
 باجوڑی گاڑی نے چھ لڑتے دیکوں سے مارا لیا اور پھینک کر گاڑی چھانڈ کر لگے
 اور حیرت سے ڈال دیا اور حیرت سے 35 ہزار روپے بھی لے لیا گئے وہ نے بیوٹ
 کی والی سے ملنے پوچھا تو اس نے کہا کہ جو وہاں ہے وہاں وہاں سے لیا گیا ہے وہ نہیں دیکھ
 انہی بیوٹوں سے ہزاروں کا دعویٰ کیا تم زاری کر رہے جس نے کہا اگر 4500
 گرام حیرت تم فعل پر ڈال سکتے ہو تو 24 پونل شراب تم پر نہیں ڈال جائیں
 چاہے گا۔ حیرت صدف چھوٹا اور فود ساتھ ساتھ بنا کر کنسٹبل فعل کا بدلہ لیا
 حیرت مذکورہ فعل کو اعجاز کے پٹر لیا اور اس پر حیرت رو بہا جس کے فعل کا پی
 براہ کرم قابل خلاف ہے۔ اس کے بعد اس کے حوالے کرنا ضروری ہے ان کے
 کہ جائے ساتھ ساتھ ہے۔ اس کے 24 سال سروس سے اس کا کام نہیں دیکھا
 یہ صدف عذر FIR کا پی لیا ہوا ہے اس کے بعد اس کے انکار کے فعل
 دفتر خالی ہے۔

Dy. Superintendent
 of Police Investigation
 Abbottabad

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آئیے اپنے بیان میں ظاہر کیا ہے کہ آج کل کے دنوں میں 9500 سے زیادہ
پیسے ان کے پاس رکھے ہیں اس کے علاوہ اس کے پاس 435 روپے اور 9/4
پیسے ان کے پاس رکھے ہیں جن میں سے آئیے کا پیسہ ان کے پاس رکھا گیا ہے
جو کہ اس کے پاس رکھا گیا ہے اور اس کے پاس رکھا گیا ہے۔

جواب 1- وہ رشتہ کا صلہ نہیں ہے آئیے کا پیسہ ان کے پاس رکھا گیا ہے
جو کہ اس کے پاس رکھا گیا ہے اور اس کے پاس رکھا گیا ہے۔
جواب 2- وہ رشتہ کا صلہ نہیں ہے آئیے کا پیسہ ان کے پاس رکھا گیا ہے
جو کہ اس کے پاس رکھا گیا ہے اور اس کے پاس رکھا گیا ہے۔

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پیر 435 روپے اور 9/4 روپے کے ساتھ ساتھ اس کے پاس رکھا گیا ہے
جو کہ اس کے پاس رکھا گیا ہے اور اس کے پاس رکھا گیا ہے۔

جواب 1- جیسا کہ اس کے پاس رکھا گیا ہے اور اس کے پاس رکھا گیا ہے۔
اور اس کے پاس رکھا گیا ہے اور اس کے پاس رکھا گیا ہے۔
جو کہ اس کے پاس رکھا گیا ہے اور اس کے پاس رکھا گیا ہے۔

Amir
6/11/14

Amir
Dy. Superintendent
of Police Investigation
Abbottabad

بیان از ان نئی تویر ۱۳۲ حقیقہ قضائے شکارمان دربارہٴ شکارمان

کہ میں نے ۱۳^{۱۲}/_{۱۳} کو برہانہ بھجی جانے کے ساتھ کہ نئی شہزاد ۱۳۱ کے لئے
میں برہانہ خشتیات فرسٹن کے خشتن روز جوہور کے کہ خشتی کی اظہار پر نام شہزاد
کی اسی دوران متذکرہ کا لڑی کر کے رقم 4438 لیا جو روکا جا رہا ہے کہ درپوش

6/11/14

میں شہزاد کے لڑی کر کے خشتی کے لئے شہزاد کے لئے نام استاز شہزاد کی
جو دعویٰ ایک کہ نئی لڑی کا ہوا تھا ASHO کے لئے کہ نئی وقت کے لئے
24 بوتل شراب برآمد ہوئی ہیں انہی ملک سے ہونا شہزاد ASHO کے لئے
24 بوتل شراب حقیقہ میں کر کے خود حرکت کر کے تیرا اور شہزاد
کا دستہ شہزاد لایا۔ حیدرآباد بیان M. Tanveer

Dr. Superintendent
of Police Investigation
Abbottabad

06.01.2014

سوال: کیا ضرا کو صاحب شہزاد کے لئے حقیقہ میں لکھنے کے لئے میں تم سے
یا حقیقہ سے 24 بوتل شراب برآمد ہوئی؟

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اندر لکھیں

جواب: ۱۔ تیرا حذیم مالہ بیان درست ہے۔ استاز نئی سے شراب برآمد ہوئی ہے۔
2۔ شراب برآمدگی کے وقت آپ کے پاس تیرا کون کون سا؟

جواب: ۱۔ شہزاد ۱۳۱ اور ASHO جب میں حقیقہ پر جوہور کے
2۔ کیا شراب برآمدگی کے وقت ASI کا شمار ہی جوہور کا؟

جواب: ۱۔ نہیں۔
2۔ شراب برآمدگی کے وقت نئی استاز اور ڈراما سٹریٹ عدلوہ دیگر کو شہزاد
جوہور کے؟

M. Tanveer

Ante

بیان از انہ تک شہزاد صفیہ خانہ شکیارہ صبح 131
 نے دریافت کیا کہ وہ 13¹⁴/₁₇ کو براہ مجھے ضلع
 کے تھانہ 132 کے سلسلہ تحت دستیارانہ فحشیات خورشید خان کے پاس
 حوثکن روڈ کو 4438 آیا جگہ پر گیا دربارت میں دربارت
 انہ نام شہزادہ زبیر شہزادہ جہاں بھلی سے پہلے سے انہ نام
 نام اعتبار شہزادہ جگہ کو دیکھ کر ایک کاٹن کا جگہ پر گیا
 صبح سے 24 بریل شراب برآمد ہوئی
 کر کے خورشید خان کے پاس گیا صبح میں اور تھانہ 132 کے پاس
 دستخط شدہ کر آیا حیرانہ بیان ہے

06/11/14

06/11/14

Dr. Superintendent
 of Police Investigation
 Abbottabad

- 1- ضلع کوٹلی فرحانہ کہ اس وقت شہزادہ بیان کی تصدیق کرتے ہوئے
- 2- یا کہ صبح سے 24 بریل شراب برآمد ہوئی 9
- 3- حیرانہ نام بیان درست ہے، نکل اعتبار سے شراب برآمد ہوئی
- 4- شراب برآمد کے وقت اور کون کون کا 9
- 5- نکل تھانہ 132 اور مجھے ضلع ضلع -
- 6- شراب برآمد کے وقت ASI حاشا رہے جو وہ تھا 9
- 7- شراب برآمد کے وقت نکل اعتبار اور ڈرامورٹا
- 8- شراب برآمد کے وقت نکل اعتبار اور ڈرامورٹا
- 9- شراب برآمد کے وقت نکل اعتبار اور ڈرامورٹا

Antz 6.1.14

Sind 6.1.14