

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR CAMP COURT D.I.KHAN.

BEFORE: **KALIM ARSHAD KHAN .. CHAIRMAN**
ROZINA REHMAN .. MEMBER (Judicial)

Service Appeal No.5673/2021

Muhammad Noman, Ex-Constable No. 1218, CTD Unit, D.I.Khan. Office of SSP/CTD, South Zone. Presently, Care of Fazal Rabani Marwat, Basti Naad Ali Shah, D.I.Khan.

.....(Appellant)

VERSUS

- 1. The Provincial Police Officer (IGP), Khyber Pakhtunkhwa, Central Police Office, Peshawar.**
- 2. Deputy Inspector General of Police/Counter Terrorism Department, Khyber Pakhtunkhwa, Peshawar.**
- 3. Senior Superintendent of Police, CTD, South Zone, Khyber Pakhtunkhwa, at Dera Ismail Khan.**
- 4. Superintendent of Police, CTD, Dera Ismail Khan.**

.....(Respondents)

Present:

Mr.Muhammad Ismail Alizai.
Advocate.....For appellant.

Mr. Muhammad Jan,
District Attorney.....For respondents.

Date of Institution.....26.05.2021
Dates of Hearing.....28.10.2022
Date of Decision.....28.10.2022

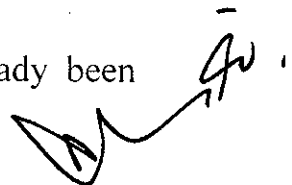
SERVICE APPEAL AGAINST FIRST, ORDER DATED 24.01.2019 WHEREBY THE APPELLANT IS AWARDED PUNISHMENT OF DISMISSAL FROM SERVICE BY RESPONDENT NO.3 & SECONDLY, FROM FINAL ORDER DATED 03.05.2021 OF RESPONDENT NO.1 WHEREBY DEPARTMENTAL APPEAL/REVISION PETITION WAS REJECTED.

JUDGMENT

KALIM ARSHAD KHAN, CHAIRMAN:- Briefly stated the facts giving rise to filing of the instant service appeal are that disciplinary action was taken against the appellant on the allegation that he was charged in case FIR No. 919 dated 18.10.2018 registered under Sections 9(b) CNSA read with section 15AA of Police Station Cantonment D.I.Khan. That on conclusion of the inquiry, the appellant was awarded major penalty of dismissal from service vide impugned order dated 24.01.2019. The appellant filed departmental appeal, however the same was filed on 17.12.2020, therefore, the appellant filed revision petition, which was also rejected vide order dated 03.05.2021, hence the instant service appeal.

2. Respondents contested the appeal by way of submitting para-wise comments, wherein they refuted the assertions as raised by the appellant in his appeal.

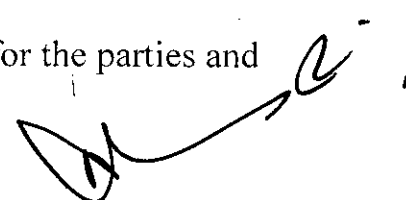
3. Learned counsel for the appellant has contended that the appellant was not at all associated with the inquiry proceedings and the inquiry officer even did not bother to afford opportunity to the appellant to record his statement. He further argued that neither copy of the inquiry report was provided to the appellant nor any final show-cause notice was issued to him. He also argued that the impugned order of dismissal of the appellant was passed prior to outcome of the trial of the criminal case registered against him, which fact has rendered the impugned order as void ab-initio. He next contended that the appellant has already been



acquitted in the criminal case registered against him, therefore, the impugned orders are liable to be set-aside and the appellant is entitled to be reinstated in service with all back benefits.

4. On the other hand, learned District Attorney for the respondents has contended that the appellant the local police of Police Station Cantonment D.I.Khan recovered Charas "Hashish" weighing about 250 grams as well as two pistols with ammunitions from the possession of the appellant, therefore, case FIR No. 919 dated 18.10.2018 under Sections 9(b) CNSA read with section 15AA of Police Station Cantonment D.I.Khan was registered against the appellant. He further argued that the inquiry proceedings were conducted in accordance with relevant rules and the appellant was provided ample opportunity of self-defense as well as personal hearing but he failed to produce any cogent material in rebuttal of the charges leveled against him; that departmental as well as criminal proceedings are distinct in nature and can run parallel. He next argued that the appellant has been acquitted in the criminal cases, however the allegations leveled against him were proved in the departmental inquiry, therefore, he has rightly been dismissed from service. In the last he argued that the appellant has been dismissed from service vide order dated 24.01.2019 but he has submitted departmental appeal on 14.09.2020 which is badly time barred, therefore, the appeal in hand is not maintainable and is liable to be dismissed with costs.

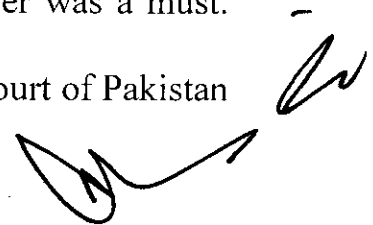
5. We have heard the arguments of learned counsel for the parties and have perused the record.



6. A perusal of the record would show that the appellant was dismissed from service vide order dated 24.01.2019 on the allegations of his involvement in case FIR No. 919 dated 18.10.2018 registered under Section 9(b) CNSA read with section 15AA of Police Station Cantonment D.I.Khan. Charge sheet (undated) was issued by giving three days' time to the appellant to put in written defence, in contravention of the provisions of rule 6 i(b) of the Khyber Pakhtunkhwa Police Rules, 1975 (as amended upto 2014), which require the authority to give seven days' time to the accused official to put in written defence after the show cause notice has been served upon the appellant. Mr. Gul Rauf Khan DSP/CTD Dera Ismail Khan was appointed as inquiry officer in the matter, who submitted his report to the Senior Superintendent of Police, Counter Terrorism Department Sought Zone Khyber Pakhtunkhwa, who straightaway passed the impugned order. As usual, the entire record of the enquiry proceedings has not been placed on record by the respondents and only a report is on the file. As per the report, the inquiry officer has recorded the statements of police officials namely Mr. Umer Khitab ASI Muharrar P.S CTD, Imran Ullah Khattak SHO P.S Cantt, Abdul Ghafoor No. 195 P.S Cantt, Constable Naseer Ahmad No. 6219 P.S Cantt, Constable Muhammad Suleman No.8777 P.S Cantt and Lady Constable Humaira Akhtar No. 735 P.S Cantt but, it appears that, the appellant was not provided opportunity of cross examination to all the witnesses, which has rendered the whole proceedings illegal and liable to be set-aside. None of the statements of the witnesses has been placed on file to ascertain whether the enquiry officer reached a proper conclusion or not

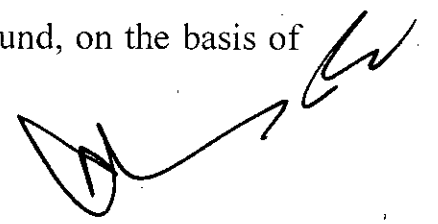
especially when it is stated in the enquiry report that ASI Umar Khitab, Moharrar Police Station CTD alleged that the appellant was absent from duty at the time of occurrence, then it was incumbent upon the respondents to have placed any concrete document showing and proving such alleged absence of the appellant at the relevant point of time together with the supporting documentary evidence that at the time the appellant was to perform duty at such and such place etc. Similarly, what action was taken on his alleged absence is also not disclosed. So much so the statement of this important witness was not placed on record to make assessment of the above facts. All these factors lead us to hold that the enquiry conducted in the above mode and manner has rendered it fruitless.

7. On receipt of report of the DSP/CTD D.I.Khan Range, the appellant was straightaway dismissed by the Senior Superintendent of Police CTD South Zone KP at DIKhan vide order dated 24.01.2019, without issuing him final show cause notice as the impugned order is silent regarding issuance of show cause notice or providing any opportunity of personal hearing after conduct of the alleged enquiry and holding the appellant guilty of misconduct. Similarly, copy of the proceedings conducted by DSP/CTD D.I.Khan Range were also not provided to the appellant. This Tribunal has already held in numerous judgments that issuing of final show-cause notice as well as providing of copy of the inquiry report to the delinquent official/officer was a must. Reliance is also placed on judgment of august Supreme Court of Pakistan



reported as PLD 1981 Supreme Court 176, wherein it has been held that rules devoid of provision of final show cause notice along with inquiry report were not valid rules. Non issuance of final show cause notice and non-supply of copy of the inquiry report to the appellant has caused miscarriage of justice, in such a situation, the appellant was not in a position to properly defend himself in respect of the allegations leveled against him. Besides the disciplinary proceedings were initiated by the Superintendent of Police CTD, D.I.Khan, as is evident from statement of allegation vide Endst No.2627-31/CTD dated 23.10.2018, wherein the Superintendent of Police, CTD D.I.Khan, showing himself to be the Competent Authority, initiated the departmental proceedings whereas vide the impugned order No.19-22/R/SSP/South Zone, dated 24.01.2019, instead, the Senior Superintendent of Police CTD South Zone, Khyber Pakhtunkhwa, has passed the same without showing whether and how the SSP CTD South Zone KP became the Authority at the time when the impugned order of dismissal of the appellant was passed.

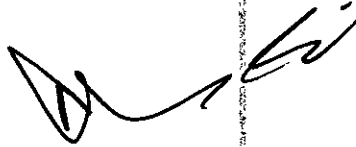
8. Moreover, the appellant has already been acquitted vide judgment dated 05.09.2020 passed by the then ASJ/Judge Special Court/Judge Model Criminal Trial Court, Dera Ismail Khan. It is evident from perusal of the record that disciplinary action was taken against the appellant on the ground of his involvement in case FIR No. 919 dated 18.10.2018 under Sections 9(b) CNSA/15AA of Police Station Cantt D.I.Khan, however after acquittal of the appellant, the very ground, on the basis of



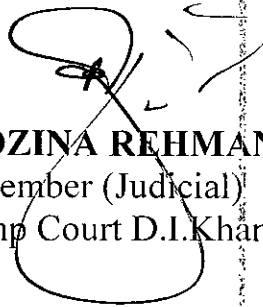
which disciplinary action was taken against the appellant has vanished away.

9. In view of the above discussion, the appeal in hand is allowed by setting-aside the impugned orders and the appellant is reinstated in service with all back benefits. Costs to follow the event. Consign.

10. *Pronounced in open Court at D.I.Khan and given under our hands and seal of the Tribunal on this 28th day of October, 2022.*



KALIM ARSHAD KHAN
Chairman
Camp Court D.I.Khan



ROZINA REHMAN
Member (Judicial)
Camp Court D.I.Khan

ORDER

28th Oct, 2022

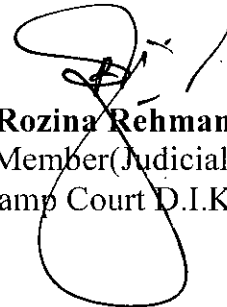
1. Appellant alongwith his counsel present. Mr. Muhammad Jan, ~~_____~~ District Attorney for respondents present.

2. Vide our detailed judgement of today placed on file (containing 07 pages), the appeal in hand is allowed by setting-aside the impugned orders and the appellant is reinstated in service with all back benefits. Costs shall follow the event. Consign.

3. *Pronounced in open court at D.I.Khan and given under our hands and seal of the Tribunal on this 28th day of October, 2022.*



(Kalim Arshad Khan)
Chairman
Camp Court D.I.Khan



(Rozina Rehman)
Member(Judicial)
Camp Court D.I.Khan

28.07.2022

Due to summer vacations, the case is adjourned to 29.09.2022 for the same as before.

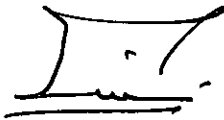


Reader

29th September, 2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present.

Learned counsel for the appellant seeks adjournment in order to properly assist the court on the next date. Adjourned. To come up for arguments on 28.10.2022 before the D.B at Camp Court D.I.Khan:



(Salah Ud Din)
Member (Judicial)
Camp Court D.I.Khan



(Kalim Arshad Khan)
Chairman
Camp Court D.I.Khan

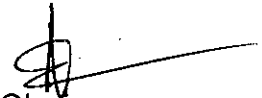
15.12.2021

Counsel for appellant and Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Due to late deposit notices have not been issued to the respondents for submission of reply/comments. Office is required to issue notices to the respondents to furnish reply/comments within 10 days in office, failing which their right to reply/comments shall be deemed as struck off and the appeal will be heard on the basis of available record. Case to come up on 21.02.2021 before the D.B at camp court, D.I.Khan.



(Rozina Rehman)
Member (J)
Camp Court, D.I.Khan



Chairman
Camp Court, D.I.Khan

21.02.2022

Tour to Camp Court D.I.Khan has been cancelled. To come up for the same on 27.06.2022 before S.B.



Reader

27th June 2022

Appellant in person present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Gul Rauf, DSP for respondents present.

Representative of the respondents submitted an application for permission to file written reply alongwith written reply/comments which is placed on file. Application is allowed. A copy of the written reply/comments is handed over to the appellant. To come up for arguments on 28.07.2022 before D.B at camp court D.I.Khan.



(Mian Muhammad)
Member(E)



(Kalim Arshad Khan)
Chairman
Camp Court D.I.Khan

29.07.2021

Nemo on behalf of the appellant.


Instant appeal belongs to D.I.Khan Division. In the past cases belonging to D.I.Khan Division were heard in the Camp Court D.I.Khan. May be under impression that the matter shall be taken in the camp court, the appellant is not in attendance. However, I have gone through the memorandum of appeal which discloses arguable points. The appeal is admitted to full hearing subject to all just and legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 26.10.2021 before the D.B at camp court, D.I.Khan.



Chairman


26.10.2021

Appellant present through counsel.

Security and process fee was not deposited. Learned counsel for appellant requested for time to deposit security and process fee; granted with direction to deposit the same within 10 days, where-after, notices be issued to respondents for submission of reply/comments within 10 days in office. If the reply/comments are not submitted within stipulated time, the office shall submit a report of non-compliance. To come up for arguments on 15.12.2021 before D.B at Camp Court, D.I.Khan.

Appellant Deposited
Security Process Fee



(Atiq ur Rehman Wazir)
Member(E)
Camp Court, D.I.Khan

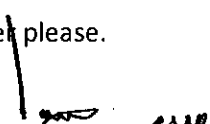
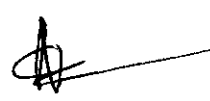

(Rozina Rehman)
Member(J)
Camp Court, D.I.Khan

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 5673/2021 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	26/03/2021	<p>The appeal of Mr. Muhammad Noman presented today by Mr. Muhammad Ismail Alizai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	04/06/2021	<p>This case is entrusted to S. Bench Peshawar. Notices be issued to appellant/counsel for preliminary hearing on 29/07/2021.</p> <p style="text-align: right;"> CHAIRMAN</p>

①

BEFORE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No. _____ /2021.

Muhammad Noman, Ex-PC / CTD No.1218.

Appellant.

Versus

Provl: Police Officer, Khyber Pakhtunkhwa, and others.

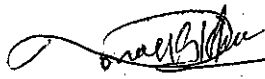
Respondents.

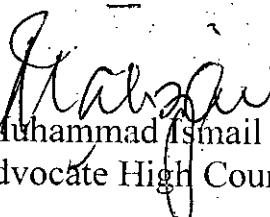
Service Appeal

I N D E X

<u>S.No.</u>	<u>Description of Documents</u>	<u>Annexure</u>	<u>Page(s)</u>
1.	Petition with Grounds of Appeal & affidavit.	--	02 - 05
2.	Copies of Charge sheet & reply.	A, B & C	06 - 13
3.	Copy of 1 st Order impugned	D	— 14
4.	Copies of Deptl: appeal / Order	E, E/1	15 — 18
5.	Copies of Revision / Order / Judgment	F, F/1, F/2	19 — 21
B. 7.	Copy of Judgment dtd 5-9-2020 Vakalat Nama	--	22 — 35 36

Dated: 25.05.2021.


(Muhammad Noman) Appellant
Through Counsel


(Muhammad Ismail Alizai)
Advocate High Court, DIKhan.

BEFORE SERVICE TRIBUNAL, KHY:PAKHTUNKHWA,PESHAWAR.Service Appeal No:.....5673/21...../2021.Khyber Pakhtunkhwa
Service TribunalDiary No. 5756Dated 26/5/2021

Muhammad Noman,
Ex-Constable No.1218, CTD Unit, D.I.Khan.
Office of SSP / CTD, South Zone,
Presently, Care of Fazal Rabani Marwat,
Basti Naad Ali Shah, D.I.Khan.

(Appellant)

Versus

1. The Provincial Police Officer (IGP), KPK,
Central Police Office, Peshawar.
2. Deputy Inspector General of Police / Counter Terrorism Department,
Khyber Pakhtunkhwa, Peshawar,
3. Senior Superintendent of Police , CTD, South Zone, Khyber Pakhtunkhwa
at Dera Ismail Khan,
4. Superintendent of Police, CTD, D.I.Khan.

(Respondents)

Note: The addresses given above are sufficient for the purpose of service.

Filed to day

Registrar

SERVICE APPEAL AGAINST Firstly, ORDER DTD 24.01.2019
WHEREBY THE APPELLANT IS AWARDED PUNISHMENT OF
DISMISSAL FROM SERVICE BY RESDT; NO.3 & Secondly, from FINAL
ORDER DTD. 03.05.2021 OF RESPONDENT NO.1 WHEREBY
DEPARTMENTAL APPEAL / REVISION PETITION WAS REJECTED.

Respectfully Sheweth: -

The appellant very humbly submits as under: -

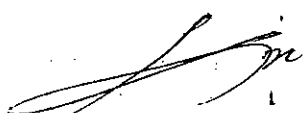


BRIEF FACTS:

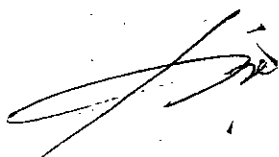
1. That during the year 2018 the petitioner while posted at CTD Police Station D.I.Khan was indicted in a criminal case registered vide FIR No.919 dated 18.10.2018 u/s 9(b) CNSA/15AA of P.S. Cantt; D.I.Khan and remained incarcerated until his acquittal from the charges.
2. That the appellant always striven hard to discharge and fulfill the duties and tasks assigned with due diligence and dedication. Service record of the appellant is otherwise unblemished, clean and devoid of any adverse marking since nothing of the sort has ever been conveyed to the appellant in this respect.
3. That the appellant while in custody was subjected to departmental proceedings and a charge sheet was issued to the appellant by respondent No.4 to which the appellant tendered an interim reply. Copies of Charge Sheet, Summary of Allegation and reply thereto are placed at Annexure A, B & C, respectively.
4. That the departmental proceedings culminated in award of punishment to the appellant of the kind Dismissal from Service vide order dated 24.01.2019 passed by respondent No.3. Copy of impugned order is placed herewith as Annex-D.
5. That aggrieved from the order of the departmental authority the appellant moved an appeal with respondent No.2 seeking reinstatement in service which however, could not find favour with appellate authority and was dismissed / rejected vide order dated 17.12.2020. Copies of appeal and order passed therein are placed herewith as Annexes-E, E/1, respectively.
6. That having earned acquittal in the criminal case from the court of law in respect of the charges making basis for the departmental proceedings, the appellant moved a Revision Petition with respondent No.1 thereby challenging the orders of the lower authorities. The revision petition however stands rejected vide order dated 03.05.2021 passed by respondent No.1. Copies of revision petition and impugned final order together with copy of judgment passed by the court of learned ASJ/Judge Special Court/MCTC, D.I.Khan are placed at Annexes F, F/1 & F/2, respectively.
7. Hence, the instant appeal on the grounds, inter-alia, as under,

Grounds:

1. That the orders passed by departmental authorities i.e Respdt: No.1,2 & 3, impugned hereby, are discriminatory, arbitrary in nature, legally and factually incorrect, ultra-vires, void ab-initio and militate against the principles of natural justice thus are liable to be set-aside and nullified.



2. That the appellant is innocent and has been subjected to the penalty for no fault on his part, particularly so that the appellant has earned acquittal from court of law in respect of the charges making basis for departmental proceedings.
3. That Respondent No.4, having issued Charge-Sheet and Summary of Allegations to the appellant failed to regulate the departmental inquiry in accordance with the law & procedures prescribed for the purpose and as such erred at the very out set of the proceedings thus causing grave miscarriage of justice as well as prejudice to the appellant in making his defense.
4. That it is a matter of record that the appellant has been vexed in clear defiance of the law and principle laid by the superior courts as well as the Tribunals as could be gathered from the facts and circumstances of the case. Although the departmental proceedings were ordered and initiated by respondent No.4, yet the punishment order was passed by respondent No.3 without any lawful justification and jurisdiction.
5. That the respondents while adjudicating in the matter of departmental proceedings and the departmental appeal / revision petition disposed off the entire matter in a slipshod manner through the orders impugned hereby passed in blatant defiance of law & the principals of natural justice, thus the award of impugned punishment is patently unwarranted, illegal, ultra-vires, nullity in law and apparently motivated for extraneous reasons and thus is neither sustainable nor maintainable in law.
6. That the appellant has sufficient length of service rendered for the department. While adjudicating in the matter the departmental authorities utterly ignored not only the provisions of law on the point but the rights, too, of the appellant including provision of opportunity of proper defence besides fringe benefits and by imposing the penalty in defiance of law as aforesaid, deprived the family of the appellant of its only source of making the two ends meet.
7. That the orders passed by respondent No.4 on holding of departmental proceedings, by respondent No.3 on award of punishment as well as the rejection of the departmental appeal by respondent No.2, and the final order passed by respondent No.1 on rejection of revision petition as impugned hereby, have infringed the rights and have caused grave miscarriage of justice to the appellant without any lawful excuse, thus lacking in legal sanction and therefore, are liable to be set aside in the interest of justice.
8. That the petition of appeal / appellant is duly supported by law and rules formulated thereunder, besides the affirmation / affidavit annexed hereto.
9. That this Hon'ble Tribunal is competent and has ample powers to adjudge the matter under reference/appeal.



10. That the counsel for the appellant may very graciously be allowed to add to the grounds during the course of arguments, if need be.

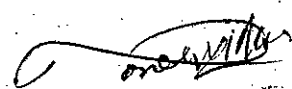
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Prayer:

In view of the fore mentioned submissions, it is very humbly requested that the impugned order dated 24.01.2019 passed by SSP/CTD, South Region, besides the orders dated 17.12.2020 of Respondent No.2 and Final Order dated 03.05.2021 passed by respondent No.1 may, on being declared as illegal, arbitrary, discriminatory, void ab-initio, ineffective and inoperable against the appellant, be very graciously set aside and the appellant may in consequence thereof be very kindly reinstated in service besides allowance of all back benefits. Grant of any other relief including costs, as may be deemed appropriate by the Hon'ble Tribunal is solicited, too.

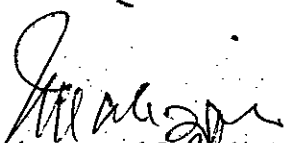
Dated: 05.05.2021

Humble Appellant,



(Muhammad Noman) Appellant,

Through Counsel.



(Muhammad Ismail Alizai)
Advocate High Court.

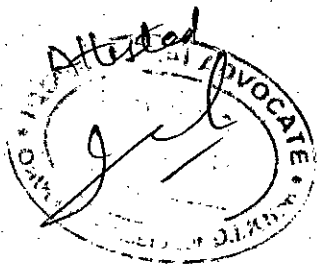
AFFIDAVIT:

Dated: 05.05.2021.

I, Muhammad Noman, the appellant hereby solemnly affirm and declare on oath that contents of the petition are true and correct to the best of my knowledge, belief and per the official records. Also, that nothing is willfully kept or concealed from this Hon'ble Tribunal.



Deponent.



A (B)

ORDER

Constable Muhammad Nouman No. 1218 of operational staff CTD DIKhan Region is hereby suspended and closed to PS/CTD DIKhan with immediate effect being involved in Case FIR No. 919 dated 18.10.2018 u/s 9(b) CNSA/15AA Police station Cantt: district DIKhan.

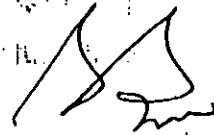


Superintendent of Police,
CTD, Dera Ismail Khan

No. 2565-67 /CTD dated DIKhan the 19/10/2018

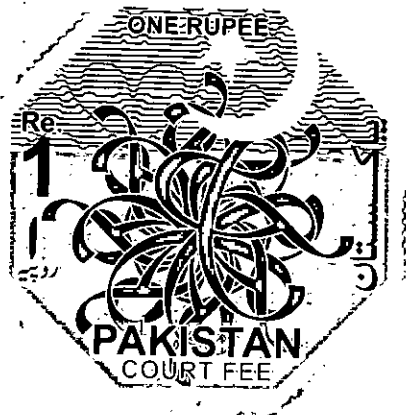
For information:-

1. W/ Dy; Inspector General of Police CTD Khyber Pakhtunkhwa Peshawar
2. Senior Superintendent of Police, CTD, South Zone KP.
3. District Police officer Dera Ismail Khan.



Superintendent of Police,
CTD, Dera Ismail Khan

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B 7

DISCIPLINARY ACTION

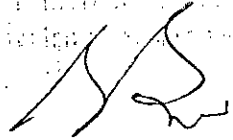
I, **SUPERINTENDENT OF POLICE CTD**, Dera Ismail Khan as a competent authority am of the opinion that you **CONSTABLE NOUMAN NO.1218** have rendered yourself liable to be proceeded against and committed the following acts/omissions within the meaning of the Khyber Pakhtunkhwa Police Rules 1975 amendment act-2016.

STATEMENT OF ALLEGATION

You while posted at operational staff CTD DIKhan Region and directly charged/arrested in Vide Case FIR No. 919 dated 18.10.2018 u/s 9(b) CNSA/15AA Police station Cantt: district DIKhan. This is an undisciplined/illegal act and gross misconduct on your part which is punishable under the rules.

Hence the statement of allegation.

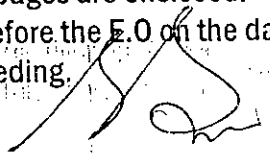
2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegation **Mr. Gul Rauf Khan DSP/CTD**, Dera Ismail Khan is appointed as enquiry officer to conduct proper departmental enquiry under Police Rules 1975 amendment Act: 2016.
3. The enquiry officer shall in accordance with the provision of the ordinance, provide reasonable opportunity of the hearing to the accused, record its findings and make, within ten days of the receipt of this order recommendations as to punishment or other appropriate action against the accused.
4. The accused and a well conversant representative of the department shall join the proceedings on the date time and place fixed by the enquiry officers.

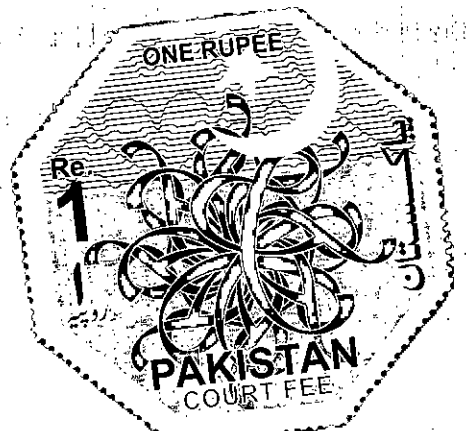

Superintendent of Police,
CTD, Dera Ismail Khan

No. 2627-31/CTD Dated DIKhan the 23/10 /2018

Copy to the: -

1. W/Dy: Inspector General of Police, CTD Khyber Pakhtunkhwa Peshawar w/r of his letter No. 9890-91/EC dated 19.10.2018.
2. Senior Superintendent of Police, CTD Southern Zone, Khyber Pakhtunkhwa.
3. Superintendent of Police Investigation DIKhan w/r of his letter No. 13686/INV/DIKhan dated 22.10.2018
4. **Mr. Gul Rauf Khan DSP/CTD**, Dera Ismail Khan. The enquiry officer for initiating proceeding against the defaulter under the provision of Khyber Pakhtunkhwa Police Rules 1975 amendment Act: 2016. Enquiry papers containing 2 pages are enclosed.
5. **CONSTABLE NOUMAN NO.1218** with the direction to appear before the E.O on the date, time and place fixed by the E.O, for the purpose of enquiry proceeding.


Superintendent of Police,
CTD, Dera Ismail Khan



کاپی کے لئے -
1. ایف آئی جی پولیس، کراچی

شکریہ
Atiqul
Atiqul
Atiqul

1218
نومان
کونستبل

(8)
'B'

CHARGE SHEET

Whereas, I am satisfied that a formal enquiry contemplated by Khyber Pakhtunkhwa Police Rules 1975 amendment act-2016 is necessary and expedient.

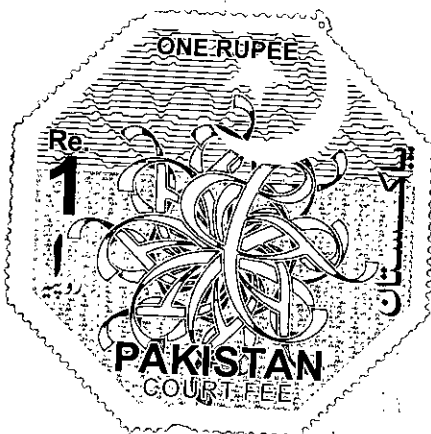
AND WHEREAS, I am of the view that the allegation if established would call for a major penalty as defined in rules-4(i)(B) of the aforesaid rules.

AND THEREFORE, as required by Police Rules 6(1) of the aforesaid rules, I Superintendent of Police, CTD Dera Ismail Khan hereby charge you CONSTABLE NOUMAN NO. 1218 with the misconduct on the basis of the statement attached to this Charge Sheet.

AND, I, hereby direct you further under rules 6(i)(B) of the said rules to put in written defence within 3-days of receipt of this Charge Sheet as to why the proposed action should not be taken against you and also state at the same time whether you desire to be heard in person or otherwise.

AND, in case, your reply is not received within the prescribed period, without sufficient case, it would be presumed that you have no defence to offer and that expert proceeding will be initiated against you.

Superintendent of Police,
CTD, Dera Ismail Khan



Attest
M. Ali

(تحریری عبوری بیان چارج شیٹ)

کوالٹر سٹیٹو چارج شیٹ / CNP 31-2627-20
23-10-2018

مشورہ نزار شین عظیم اللہ بیک کے خلاف دفعہ 99 شہانہ نسیم 919

صفحہ 18-10/18 جمع تاریخ 9-B/CNSA
15-AA

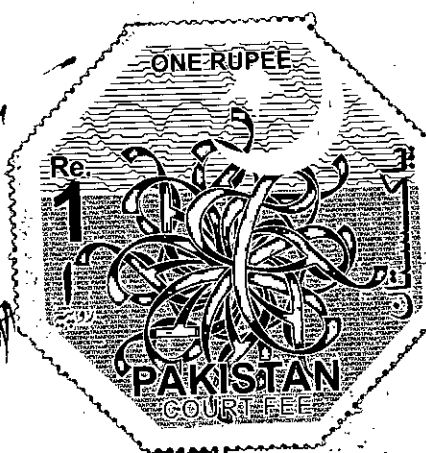
منی گھٹت اور سادگی اور سادگی کے تحت حاصل ہونے والے رقم

1- ایک ہیکٹر گھرنی یادداشتیہ سٹیشنڈ ایریا اور زمین کی آبادی میں سے
شاہد صاحب نے چارہ چارہ داری کا مکتوبہ مانگتے ہوئے
ہرے گھرنی میں ہے اور اس کی پورے سٹورٹ کا جیل رجسٹرڈ اور
رہنہ کو دھلے بھی دئے

2- اگر شاہد صاحب نے وارنٹ حاصل کیا تھا تو رہنہ وارنٹ
کے تحت سے بھی تاریخ 103 مقام ونداری وارنٹ کے تحت
جودا گیا ہے

3- انہی میں زمین آبادی میں کوئی پلٹریٹ گولہ نہ تھا۔ یہ شخص و گولہ
میں آدھنی میں اور وہی میں یہاں سے بھی گھرنی

Atankh
Manager



دہلی اور نوجوان کے بارے میں پتہ نہ پانے والا۔

اور حکم سنا کر وہ بھی نہیں آئے۔ اور ان کی سزا سننے سے ہونے لگی۔

اور جج صاحب نے کہا۔ اور ابھی میری سزا سننے سے نہیں گھڑتی۔

ابھی کارڈنگی دیکھ کر اگلے درج ہوئی۔

۴۔ جج صاحب نے فریضی کے دفتر میں ملوث کر کے رکھ دیے۔ کسٹڈیاں۔

۵۔ جج صاحب نے اس کو بھی بھیجا یا زمالی نہ رکھ کر رکھ دیے۔

۶۔ جج صاحب نے اس کو بھی بھیجا یا زمالی نہ رکھ کر رکھ دیے۔

۷۔ اور جج صاحب نے اس کو بھی بھیجا یا زمالی نہ رکھ کر رکھ دیے۔

۸۔ دہلی۔ یہ جج صاحب نے اس کو بھی بھیجا یا زمالی نہ رکھ کر رکھ دیے۔

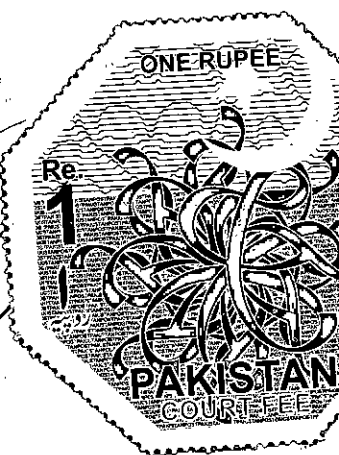
۹۔ جج صاحب نے اس کو بھی بھیجا یا زمالی نہ رکھ کر رکھ دیے۔

۱۰۔ جج صاحب نے اس کو بھی بھیجا یا زمالی نہ رکھ کر رکھ دیے۔

۱۱۔ جج صاحب نے اس کو بھی بھیجا یا زمالی نہ رکھ کر رکھ دیے۔

۱۲۔ جج صاحب نے اس کو بھی بھیجا یا زمالی نہ رکھ کر رکھ دیے۔

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تعمیر سے پہلے کیا؟ جبکہ خانیوار میں ایسے جہاں
مختلف اشخاص میں میں یہ سب

بلوچم - وہی انیسویں جامع اور اشرف انداز میں جو کہ اصل

حقیقت میں یہاں آگیا ہے، خاص میں تعمیر اور ایک

گنیزہ حضرات پر فیصلہ انیسویں یا تعمیر بلوچم میں

ٹھہر سکتا ہے۔ اور نہ ہی پھر جامع انیسویں میں آگیا ہے۔

جان! اب جب تعمیر اور ایک خیر الخیر اور انکی یاد دہانی اور

تعمیر میں خاص خاص ہے۔ جو کہ مدعی بھی خود میں سچے ہیں

بلوچم میں بھی انہوں نے خود انہی میں سے تحریر کیا ہے

شکایت کا تذکرہ جو FIR میں ہے۔ وہ بھی خاص ہے

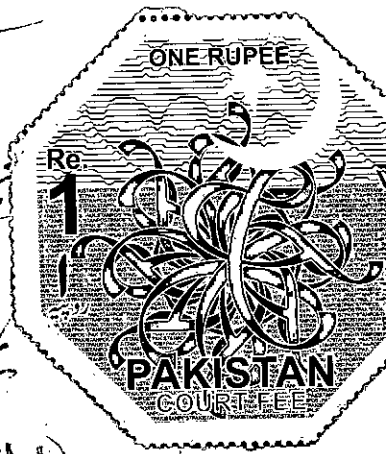
کو پورے ہے۔ جس میں خاص خاص کے الفاظ میں

کا ہے۔ اور ماہر خاص خاص کا عہدہ ہے

کا ہے۔ اور ان میں خاص خاص ہے۔ اور ان میں

یا مالک میں انکی قسم کی شکایت یا ان الفاظ میں مذکور ہیں

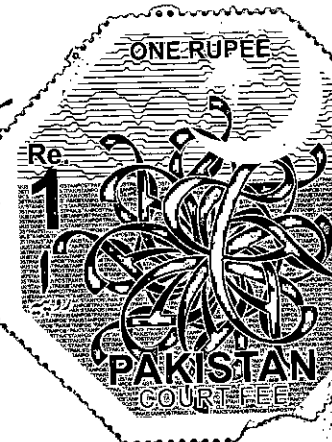
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بات کی واضح دلالت ہے۔ - رحمہ سٹوری ماہیت
 بہترین نہیں لگتی ہے۔ - الغار میں محتاب خبر یا
 شکایات یا بہت کمزور فریاد کا ہے
 کوئی وجود نہیں ہے۔

ایسی خبریں کہیں سے آرہی ہیں اور
 اگلے وقت کار کے دوران معاملہ منقریب عدالت الصفاق
 میں جانہ لگے۔ جہاں شکایت سوانح کا عمل اور
 عدالت الصفاق اور دونوں جانب سے وکلاء کی موجودگی سے
 ہوگا۔ اور عدالت الصفاق منقریب ایک جامع قلم کار
 ہوگی۔ اور یہ بیان کا حقیقت نہیں مگر عدالت الصفاق
 کے آخری فیصلہ پر آج بھی۔ - خدشہ ہے کہ صرف جاری

ڈیپارٹمنٹ انٹرنیٹ کرنا ہے یہ سب اور حکم عدالت الصفاق
 اور منہ سے آہرا کے فیصلہ کو
 Atiqul
 Atiqul
 Atiqul



کھی ایسیاں کا حصہ لے کر فرما کا - اور عورتوں میں
 میں ہر مہینے کی طبیعتی بیان لے کر ہر ایک کدے مائیں بیان
 عسالتی العالی کے حصہ آنے اور ہر ماہ میں ہر
 خاص طور پر بیان ہو گا۔ انہی کے ساتھ ہی ہر ماہ کے
 اور جامعہ محمدیہ کے کل نام ہوں۔

شکر
 27/10
 18

کابل الی گمان 1218

میں

والہ کلمہ - 03449408610

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ORDER

This order is aimed to dispose-off the department proceeding against **Constable Muhammad Noman No. 1218** of this unit on the charges that he while posted at CTD operational staff DIKhan, charged in case FIR No. 919 dated 18.10.2018 u/s 9(B) CNSA/15AA PS Cantt.

He was served with charge sheet/statement of allegations. An enquiry was conducted into the matter through **Mr. Gul Rauf Khan DSP/CTD DIKhan Range** under Police Rules-1975 ammended-2014, the enquiry officer submitted his finding report in which he stated that the defaulter constable is found guilty of the charges levelled against him.

Keeping in view the finding and recommendation of the enquiry officer, the undersigned came to the conclusion that the charges of misconduct stand proved against him beyond any shadow of doubt.

Therefore, in the light of above, I, **Ehsan Ullah Khan SSP, South Zone, CTD KP officer, Dera Ismail Khan**, an exercise of power conferred upon me under Police Rules-1975 with ammended 2014, award **Constable Muhammad Noman No. 1218** "Major Punishment of Dismissal from the Police Service" with immediate effect.

Senior Superintendent of Police
Counter Terrorism Department
South Zone, KP

No 19-22 /R/SSP/South Zone dated 24/01/2019

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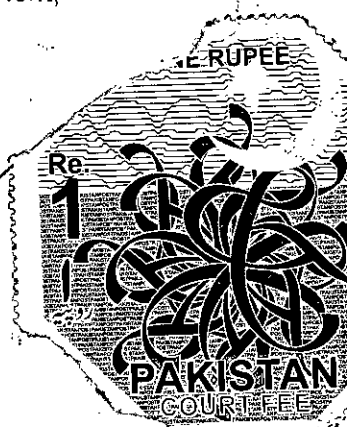
1. Dy. Inspector General of Police, CTD Khyber Pakthunkhwa Peshawar
2. Regional Police officer, Dera Ismail Khan
3. District Police officer Dera Ismail Khan
4. Superintendent of Police, CTD Dera Ismail Khan Region w/r of his office letter No: 232/CTD/DIKhan dated 23.01.2019

Attested

 R7 SSP South Zone
 Counter Terrorism Department
 Khyber Pakhtunkhwa
 06/02/2019

Senior Superintendent of Police
Counter terrorism Department,
South Zone KP

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جناب عالی!

گزارش ہے کہ سائل کو بحوالہ ڈسمس آرڈر نمبر RI/19-22 مورخہ 24.01.2019 جناب ایس ایس پی صاحب سی ٹی ڈی ساؤتھ زون خیبر پختون خواہ کیا گیا تھا جو جناب ڈپٹی انسپکٹر جنرل صاحب سی ٹی ڈی خیبر پختون خواہ کو اپیل کرنا چاہتا ہے۔

لہذا استدعا ہے کہ سائل کے ڈسمس آرڈر معہ انکوائری کی تصدیق شدہ نقول کا پی سائل کو دیئے جانے کا حکم صادر فرمائیں۔ تاکہ سائل اپیل کر سکے۔

عین ماتحت پروری ہوگی۔

مورخہ: 04 فروری 2019ء

العارض!

Handwritten signature and stamp of the Counter Terrorism Department, Islamabad. The stamp includes the text: "Counter Terrorism Department, Islamabad" and "19".

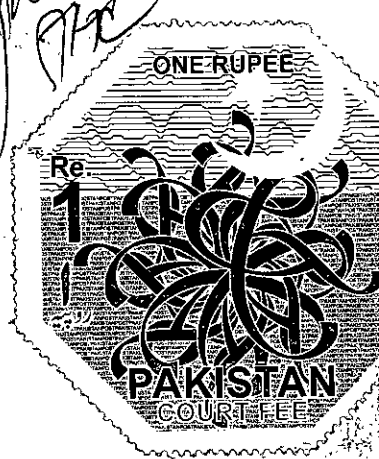
مخ کنشیل: محمد نعمان نمبر 1218 سی ٹی ڈی ڈیرہ اسماعیل خان

Handwritten signature of Muhammad Aman.

موبائل نمبر: 0344-9408610

Handwritten signature and text: "Attested" and "06-02-2019".

Handwritten signature and text: "Hassan" and "Malik".



16

E

بھضور جناب DIG/CTD صاحب خیبر پختونخواہ پشاور

اپیل :- نظر ثانی بحال کرنے سروس

جناب عالی!

موزبانہ گزارش ہے کہ سائل کی تقریباً 12/13 سال سروس ہو رہی ہے سائل CTD میں تعینات ہے مورخہ 18-10-2018 کو SHO صاحب تھانہ کینٹ نے میرے ساتھ ذاتی رنجش کی بناء پر میرے خلاف میرے گھر میں داخل ہو کر چارہ، چار دیواری کا تقدس پامال کرتے ہوئے زچہ ام سے بدتمیزی کی، دھکے دیئے اور گالم گلوچ بھی کی اور از خود من گھڑت بغیر کسی ثبوت کے اڑھائی سو گرام چرس اور دو پستول کی برآمدگی کا مقدمہ نمبر 919 مورخہ 18-10-2018 جرم 9B, CNSA/15AA تھانہ کینٹ FIR درج کر کے سائل کو بے گناہ مقدمے میں گرفتار کیا اور سائل کو تھانے لے جا کر کافی تشدد کیا اور بعد تشدد کا کیا گیا جو میرے خلاف ثبوت نہ ہونے کی وجہ سے عدالت نے ضمانت منظور کی مقدمہ ہذا ابھی تک عدالت میں زیر سماعت ہے۔ محکمہ نے میرے خلاف انکوائری کر کے مجھے سروس سے ڈس کر دیا گیا۔

یہ کہ سائل کرائے کا گھر کنٹونمنٹ ایریا گنجان آبادی میں واقع ہے بوقت وقوع من کنسٹیبل گھر میں موجود تھا میرے پاس نہ تو کوئی اسلحہ تھانہ ہی چرس تھی بغیر ثبوت کے جو برآمدگی میرے خلاف دکھائی گئی ہے غلط اور بے بنیاد اور کوئی ثبوت نہیں ہے۔

یہ کہ SHO صاحب نے دفعہ 103 ض ف کو مدنظر رکھ کر کوئی معتبر، لاتعلق گواہ یا کونسلر، ناظم کو ہمراہ خانہ تلاشی نہیں لے آیا کوئی پرائیویٹ شہادت نہیں ہے ماسوائے پولیس اہلکاران کے۔

یہ کہ SHO صاحب کی میرے ساتھ کسی خفگی کی وجہ سے میرے خلاف بے بنیاد اور من گھڑت مقدمہ قائم کیا۔ یہ کہ سائل کے خلاف قبل ازیں کسی قسم کی منشیات کی شکایت اور نہ ہی میرے خلاف کوئی مقدمہ درج رجسٹر ہوا ہے میرا ریکارڈ واضح ثبوت ہے میرے خلاف جملہ بابت برآمدگی من گھڑت کہانی بنائی گئی ہے۔

عالیجاہ!

اگر مقدمہ میں میرے خلاف کوئی حقیقت ہوتی تو عدالت میری ضمانت منظور نہ کرتی جو میری بے گناہی کا واضح ثبوت ہے انشاء اللہ فیصلہ میرے حق میں ہوگا عدالت کے فیصلے سے قبل سائل کو سروس ڈسمنس کی گیا ہے۔

استدعا ہے کہ سائل کے چھوٹے چھوٹے بچے ہیں ماسوائے سروس کے دیگر کوئی ذریعہ معاش نہیں ہے تا تصفیہ مقدمہ بحکم عدالت انصاف تک فیصلہ مؤخر رکھا جا کر سائل کو اپنی سروس پر بحال فرمایا جاوے۔

سائل تادم زیست دعا گو رہے گا

07/21/2019

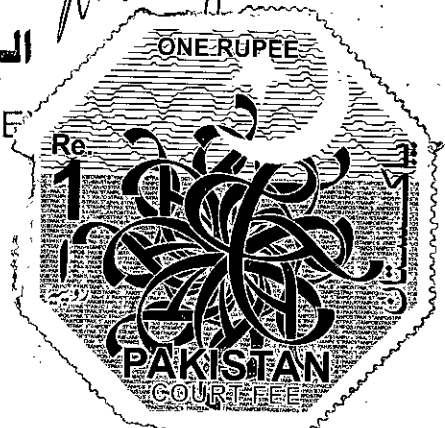
07/02/19
عارض

(Signature)

(Signature)

کنسٹیبل محمد نعمان / 1218 متعین تھانہ CTD ڈیرہ اسماعیل خان

0344-9408610



17
E/1



OFFICE OF THE,
DEPUTY INSPECTOR GENERAL OF POLICE,
COUNTER TERRORISM DEPARTMENT,
KHYBER PAKHTUNKHWA, PESHAWAR.

ORDER

Ex-Constable Muhammad Noman No. 1218 while posted CTD D.I.Khan Region was involved in case vide FIR No. 919 dated 18-10-2018 U/S 9 CNSA/15AA PS Cannt. He was issued charged sheet and summary of allegation by SP CTD D.I.Khan Region and DSP Gul Rauf nominated as enquiry officer to probe into the matter. The enquiry officer submitted his findings and the above named official was declared guilty. In this regard SSP CTD Southern Zone Khyber Pakhtunkhwa awarded him major punishment "Dismissal from Service" vide order No. 19-27/R/SSP/South Zone dated 24-01-2020. Hence the departmental appeal for re-instatement is hereby filled by competent authority.

OB No. 292 / CTD
Dated: 17/12/2020

SP/HQrs:
For Deputy Inspector General of Police,
CTD, Khyber Pakhtunkhwa,
Peshawar.

No 15867-73 / EC/CTD

Dated Peshawar the 17/12/2020

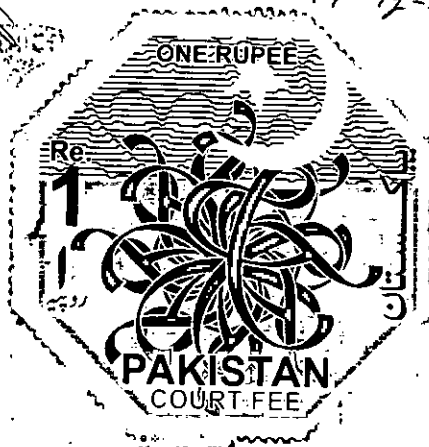
Copy of above is forwarded for information and necessary action to the:-

1. Senior Superintendent of Police, CTD Southern Zone Khyber Pakhtunkhwa.
2. Superintendent of Police, CTD D.I.Khan Region.
3. Ex- Constable Muhammad Noman No. 1218.
4. Superintendent, Accountant, OASL SRC CTD HQrs, Peshawar.

See

1864 / CTD
17-12-20

Superintendent of Police
D.I.Khan Region



Better Copy

(18)

**OFFICE OF THE
DEPUTY INSPECTOR GENERAL OF POLICE
COUNTER TERRORISM DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR.**

ORDER

Ex- Constable Muhammad, Noman No. 1218 while posted CTD D.I.Khan Region was involved in case vide FIR No. 919 dated 18-10-2018 U/S 9CNSA/15AA PS Cantt. He was issued charged sheet and summary of allegation by SP CTD D.I.Khan region and DSP Gul Rauf nominated as enquiry Officer to probe into the matter. The enquiry Officer submitted his findings and the above named official was declared guilty. In this regard SSP CTD Southern/Zone Khyber Pakhtunkhwa awarded him major punishment "Dismissal from Series" vide order No. 19-22/R/SSP/South Zone dated 24-01-2018. Hence the department appeal for re-instatement is hereby filled by competent authority.

OB No.292/CTD

Dated 17/12/2020

SP/HQrs:
For Deputy Inspector General of Police
CTD, Khyber Pakhtunkhwa,
Peshawar

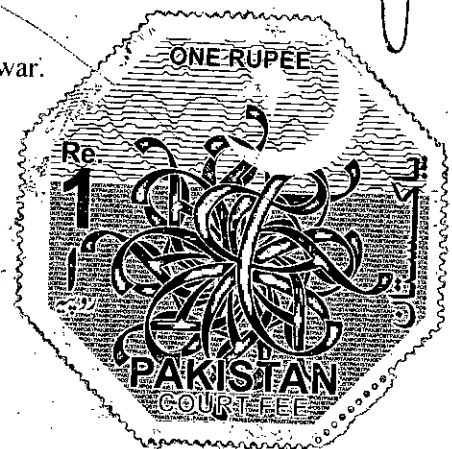
No. 15867-73/EC/CTD

Dated Peshawar the

17/12/2010

Copy of above is forwarded information and necessary action to the:-

1. Senior Superintendent of Police, CTD Southern Zone Khyber Pakhtunkhwa.
2. Superintendent of Police, CTD D.I.Khan Region.
3. Ex- Constable Muhammad Noman No. 1218.
4. Superintendent, Accountant, OASI, SRC CTD HQrs: Peshawar.



بخدمت جناب (IGP) صاحب خیبر پختونخوا پشاور

عنوان: درخواست بمراد بحالی سروس

جناب عالی!

مورد بات گذارش ہے کہ من سابقہ کنشیل مقدمہ نمبر 919 مورہ 18.10.2018 جرم 15AA-CNSA-9(B) تھانہ کینٹ ڈیرہ اسماعیل خان میں نامزد ملزم ہو کر داخل سنٹرل جیل کیا گیا جس پر میرے خلاف حکمانہ انکوائری کا تحرک کیا جا کر انکوائری آفیسر نے قصور وار تصور کرتے ہوئے سروس سے برخاستگی کی سفارش کی جو بحوالہ آرڈر لیز نمبر 19-22/R/SSP مورہ 24.01.2019 حسب اہم جناب SSP صاحب ساؤتھ زون نے من کنشیل کو سروس سے برخاست کیا۔

من سابقہ کنشیل بعدالت ASJ/Model & Criminal Court ڈیرہ اسماعیل خان سے مقدمہ بالا میں مورہ 05.09.2020 کو باعزت طور پر بری ہو چکا ہوں جس کی مصدقہ کاپی ہمراہ درخواست لف ہے جو میری بے گناہی کا واضح ثبوت ہے۔ لہذا بذریعہ درخواست استدعا ہے کہ من سائل کو بے قصور تصور کرتے ہوئے تاریخ برخاستگی سے دوبارہ سروس پر بحال کئے جانے کا مناسب حکم صادر فرمادیں تاکہ من سائل باعزت طور اپنا رزق کما کر اپنے بچوں کی عیال داری کر سکے۔

سائل تازیت دعا گو رہوں گا
مورہ: 03-11-2020

Handwritten signature and date: 01/11/2020

عروض
سابقہ کنشیل محمد عمران نمبر 1218 متعینہ بی ڈی ڈیرہ اسماعیل خان
0344-9408610

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OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR

No. 1881

23/03/2021

(20)
F/1

ORDER

In pursuance of the provisions of the Police Act, 1975 and the Police Rules, 1975, the following Ex-FC (Name of Ex-FC) was appointed as a Police Officer on 24/03/2014. On 13/04/2021, Ex-FC Muhammad Nadeem No. 1215 (P) was found guilty of the charges by SSP CTD South Zone, Khyber Pakhtunkhwa. On 05/09/2020, Nadeem was found guilty by the court of Sessions, Peshawar. On 05/09/2020, the court of Sessions, Peshawar has acquitted the petitioner by the court of Sessions, Peshawar. On 05/09/2020, the court of Sessions, Peshawar has acquitted the petitioner by the court of Sessions, Peshawar. On 05/09/2020, the court of Sessions, Peshawar has acquitted the petitioner by the court of Sessions, Peshawar.

Meeting of Appellate Board was held on 13/04/2021 wherein petitioner's appeal against the order of the court of Sessions, Peshawar was considered. The Board has decided that the petitioner is hereby acquitted by the court of Sessions, Peshawar. On 05/09/2020, the court of Sessions, Peshawar has acquitted the petitioner by the court of Sessions, Peshawar.

The Board examined the enquiry papers which reveals that the petitioner is hereby acquitted by the court of Sessions, Peshawar. On 05/09/2020, the court of Sessions, Peshawar has acquitted the petitioner by the court of Sessions, Peshawar. On 05/09/2020, the court of Sessions, Peshawar has acquitted the petitioner by the court of Sessions, Peshawar.

Sd/-
KASHIF ALAM, PSP
Additional Inspector General of Police,
HQs. Khyber Pakhtunkhwa, Peshawar

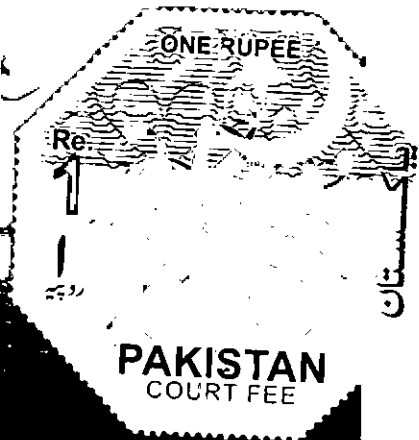
No. S. 1882-9021

Copy of the above is forwarded to the

- 1 Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa, Peshawar. One Service Roll and one enquiry file (49 pages) of the above named Ex-FC received vide your office Memo No 16115/EC CTD, dated 23/12/2020 is returned herewith for your office record.
- 2 SSP CTD South Zone, Khyber Pakhtunkhwa.
- 3 PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
- 4 AIG Legal, Khyber Pakhtunkhwa, Peshawar.
- 5 PA to Addl. IGP/HQs. Khyber Pakhtunkhwa, Peshawar.
- 6 PA to DIG/HQs. Khyber Pakhtunkhwa, Peshawar.
- 7 Office Supdt. E-IV CPO Peshawar.

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(IRHA) BELAL KHAN) PSP
AIG Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar



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**OFFICE OF THE
DEPUTY INSPECTOR GENERAL OF POLICE
COUNTER TERRORISM DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR.**

No S/ 1881/ 21 dated Peshawar the 03/05/2021

ORDER

This is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by **Ex-FC Muhammad Noman No. 1218**. The petitioner was dismissed from service by SSP/CTD South Zone, Khyber Pakhtunkhwa vide order Endst: No. 19-22/R/SSP/South Zone, Dated 24-01-2019 on the allegation that the while posted at CTD Operation Staff DIKhan was charged in case FIR No. 919, dated 18-10-2018 u/s 9(B) CNSA/15AA PS Cantt. His appeal was filed being badly time barred by Deputy Inspector General of Police, CTD Khyber Pakhtunkhwa, Peshawar vide order Endst: No. 13624-30/EC/CTD, Dated 03-11-2020.

Meeting of Appellate Board was held on 13-04-2021 wherein petitioner was heard in person. Petitioner contended that he has been acquitted by the court of ASJ/Judge Special Court/Judge Model Criminal Trial Court. D.I.Khan vide Judgment dated 05-09-2020.

The Board examined the enquiry paper which reveals that the allegation against the Petitioner has been proved. During hearing, Petitioner failed to advance any plausible explanation rebuttal of the charges. The board see no ground and reasons for acceptance of his petitioner, therefore, the Board decided that his Petition is hereby rejected.

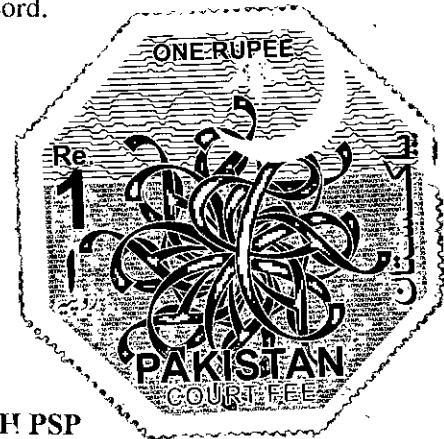
Sd/
KASHIF ALAM, PSP
Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa Peshawar.

No. S/1882-90/21

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AHC

Copy of above is forwarded to the:-

1. Deputy Inspector of Police, CTD Khyber Pakhtunkhwa, Peshawar. One Service Roll and one enquiry file (49 Pages) of the above named Ex-FC received vide your office Memo No. 16115EC/CTD, dated 23-12-2020 is returned herewith for your office record.
2. SSP/CTD South Zone Khyber Pakhtunkhwa.
3. PSO to IGP/ Khyber Pakhtunkhwa, CPO Peshawar.
4. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa.
7. Office Supdt: Ex-IV CPO Peshawar.



IRFAN ULLAH PSP
AIG/Establishment
For Inspector General of Police,
Khyber Pakhtunkhwa Peshawar.

22
F/2

IN THE COURT OF **MUHAMMAD ASIM**
ASJ/JUDGE SPECIAL COURT/JUDGE MODEL CRIMINAL TRIAL COURT,
DERA ISMAIL KHAN

CNSA Case No..... 396/MCTC of 2019

Date of Original Institution..... 23.02.2019

Date of receiving to MCTC 22.11.2019

Date of Decision..... 05.09.2020

THE STATE

VERSUS

Nauman Khan son of Fazal Rabani
Caste Marwat r/o Basti Naad Ali Shah
D.I.Khan.(Accused facing trial)

CHARGE U/S 9- (B) CNSA VIDE FIR NO.919
DATED 18.10.2018 POLICE STATION CANTT
DERA ISMAIL KHAN

Present: Mr. Tanseer Ali Mehdi APP for the State.
Mr. Arbab Jehangir Advocate, for Accused

JUDGMENT:

1. Accused Nouman Khan faced trial before this Court in case FIR No.919 dated 18.10.2018 U/S 9-(b) CNSA registered at Police Station Cantt, D.I.Khan.
2. According to contents of FIR based on Murasila are that secret information regarding selling of narcotics by the accused at the spot i.e. at his house situated at Basti Naad Ali Shah received. Initially after obtaining search warrant from the Illaqa

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ILLUSTRATION
JUDGE DERA ISMAIL KHAN

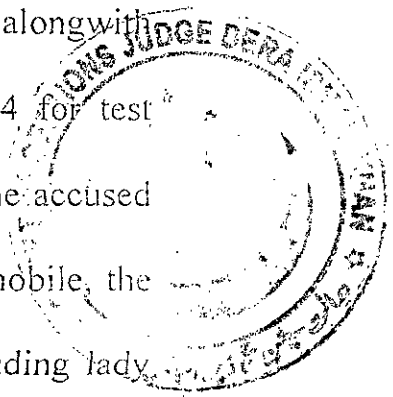
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Magistrate, D.I.Khan, SHO/complainant deputed constable Naseer Ahmad No.6219 in disguise of private person alongwith currency note of Rs.1000/- bearing NO.HJ 8352414 for test purchase, who purchased one sachet of chars from the accused and after miscall of the said constable through his mobile, the complainant/SHO alongwith other police party including lady constable, conducted search of the house, wherein one person was sitting on the cot lying in the courtyard near the main entrance gate of the house. The said person was apprehended. On query, he disclosed his name as Noman Khan. The personal search of the accused led a recovery of one 9 MM pistol without number alongwith fit magazine containing five rounds of same bore, one cloth bag having shopper bag, which contained wrapped sachets of chars and a sale money of Rs.11900/- including the currency note of test purchase. After amalgamation the contraband chars which became 250 grams. The further house search of accused was made which led recovery of 30 bore pistol bearing NO. 2646 alongwith fit magazine having five rounds of the same bore, a spare magazine containing 02 rounds, total seven rounds of 30 bore duly wrapped in a Kaash cloth lying under the pillow of the residential room of house of the accused, for which he could not produce any legal justification. The accused was arrested on the spot. The SHO/complainant drafted the Murasila and sent



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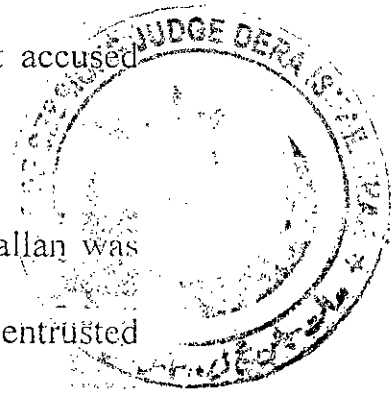
the same to Police Station for registration of case, on the strength whereof, instant case was registered against accused facing trial.

3. After completion of investigation, complete challan was submitted in due course of law and the case file was entrusted to the Court for trial. Accused was summoned to face the trial. On his appearance provisions of Section 265-C Cr.PC were complied with and thereafter formal charge was framed against the accused to which he pleaded not guilty and claimed for trial.

4. After framing of charge, the prosecution was directed to produce its witnesses in support of its case.

5. The Prosecution in order to prove its case produced as many as 06 witnesses. The brief resume of the prosecution evidence is as under:-

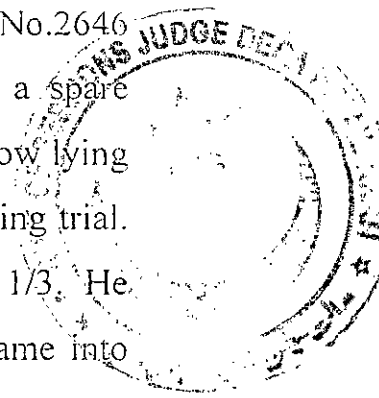
➤ PW-1 is Imran Ullah Khattak SHO, who received information that one Noman son of Fazal Rabani is involved in the business of narcotics. He obtained search warrant vide his application Ex.PW 1/1 while search warrant is Ex.PW 1/2, deputed constable Naseeb Ahmad NO.6219 as test purchaser by giving him a note of Rs.1000/-. The said constable after purchasing the said sachet from the accused informed him. PW-1 further stated that he alongwith police party including lady constable proceeded to the spot and they entered in the house of accused, accused was sitting inside of his house on cot. Accused was overpowered by the local police. SHO made personal search of accused and recovered one pistol 9MM alongwith fit magazine containing 05 rounds



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from his trouser fold. On further search he also recovered a bandolier Cream colour fasten with trouser of accused, containing 250 grams chars alongwith Rs.11900/- as sale amount. On further search one 30 bore pistol No.2646 alongwith fit magazine containing 05 rounds and a spare magazine 02 rounds recovered from beneath the Pillow lying on the cot in the residential room of the accused facing trial. PW-1/SHO prepared the recovery memo Ex.PW 1/3. He separated 05 grams chars for FSL and sealed the same into parcel No.1 while the remaining chars 245 grams was sealed into parcel No.2 (Ex.P-1). The pistol 9 MM with fit magazine were sealed into parcel No.3 (Ex.P-2). He also sealed the sale amount into parcel No.4 (Ex.P-3). The pistol 30 bore with fit magazine were sealed into parcel No.5 (Ex.P-4). SHO affixed seals 3/3 seals on each parcel with the monogram ZA. SHO/complainant arrested the accused and issued his card of arrest Ex.PW 1/4. SHO/Complainant drafted the Murasila Ex.PA/1 and sent the same to Police Station through Constable Muhammad Suleman NO.8777 for registration of FIR. On the arrival of I.O, SHO/complainant handed over the custody of accused, his card of arrest, Case property and recovery memo to Investigating Officer. On the pointation of SHO/complainant, IO prepared site plan. After completion of investigation he submitted complete challan against the accused.



- > PW-2 is Abdul Ghafoor MHC, who on receipt of murasila chalked out the FIR Ex.PA.
- > PW-3 is Muhammad Suleman No.8777, who is marginal witness of recovery memo Ex.PW 1/3 vide which SHO/complainant in his presence recovered and took into possession one pistol 9 MM alongwith fit magazine containing 05 rounds from the possession of accused. SHO

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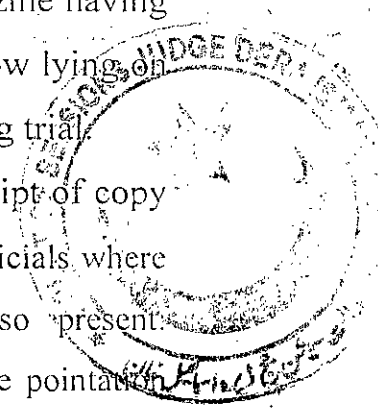
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during further search also recovered and took into possession a bandolier cream colour fasten with the shalwar of accused, containing 250 grams chars alongwith Rs.11900/- as sale amount and one 30 bore pistol No.2646 alongwith fit magazine containing 05 rounds and a spare magazine having 02 rounds of the same recovered beneath the pillow lying on the cot in the residential room of the accused facing trial.

➤ **PW-4 is Bashir Hussain SI retired**, who on receipt of copy of FIR, proceeded to the spot with other police officials where SHO along with other police officials were also present. Investigating Officer prepared site plan Ex.PB on the pointation of SHO. Investigating Officer recorded the statement of PWs and accused. He also placed on file FSL result which is Ex.PK. PW-4/Investigating Officer produced the accused before the JMIC vide his applications Ex.Pw4/1 & Ex PW 4/2. As the accused facing trial was serving in police department at CTD D.I.Khan and in this respect a letter from SP Investigation DIKhan to SP CTD DIKhan is available on file and is Ex.PW 4/3. Investigating Officer also annexed attested copies of DDs regarding his departure and arrival back to the Police Station which is Ex.PW 4/4 and Ex.Pw 4/5. Investigating Officer recorded the statements of PWs. After completion of investigation he handed over the case file to the then SHO for submission of challan.

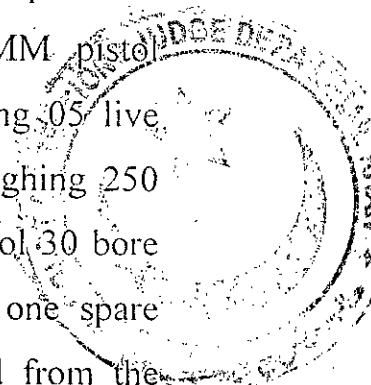
➤ **PW-5 is Ghulam Qasim son of Rab Nawaz**, who has stated that his brother Saeed owns a house in Basti Naad Ali Shah near his house and as his brother is residing in Rawalpindi/Islamabad that is why he takes care the house of his brother. PW-5 gave the said house to accused Nauman on rent and on the day of occurrence local police raided the said house; arrested the accused, recovered arms ammunition and chars. He exhibited Rent deed ad Ex.PW 5/1 while copy of Tenant acknowledgment receipt is Ex.PW 5/2.



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➤ PW-6 is **Naseer Ahmad Constable**, who stated that the SHO/complainant had given note of Rs.1000/- having No.HJ8352414. PW-6 purchased the chars one scathe from the accused and informed the SHO who rushed to the spot with lady constable and other police nafri. In his presence SHO recovered and took into possession 9 MM pistol without number alongwith fit magazine containing 05 live rounds and cloth of bag cream colour, chars weighing 250 grams including sale amount Rs.11900/-, one pistol 30 bore with fitted magazine containing 05 rounds and one spare magazine having 02 rounds were also recovered from the residential room of accused.



6 After close of the prosecution evidence, statement of accused facing trial U/S 342 Cr.P.C was recorded wherein he denied the charges and professed his innocence. However, the accused facing trial neither opted to be examined on oath nor wished to produce any evidence in his defence.

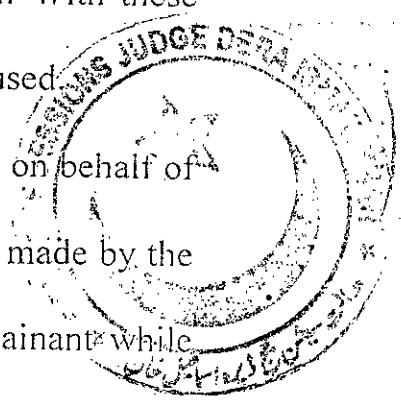
7. I have heard the arguments of learned APP for the State, learned defence counsel and have thoroughly perused the record.

8. Learned APP for the state argued that in pursuant to the spy information regarding the involvement of accused facing trial in narcotic business, SHO/complainant obtained search warrant from the competent court, before conducting search, test purchase was conducted and after due process search was conducted in the house of accused which culminated in to the recovery of narcotics and illegal weapon. He contended that the

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prosecution has produced evidence in line with the contents of FIR and no contradiction found in the statements of prosecution witnesses. He submitted that the samples of recovered narcotic were sent to FSL, the report of which is positive which fully proves the charge against the accused facing trial. With these submissions he requested for the conviction of accused



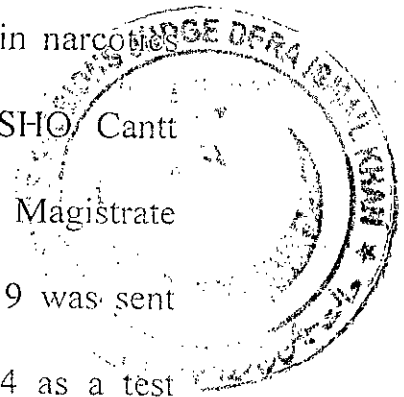
9. On the other hand learned counsel appearing on behalf of accused facing trial while refuting the submissions made by the learned APP for the State, argued that the complainant while making ingress into the house of accused and making search did not call upon the respectable inhabitants of the locality to witness the search and recoveries and thus violated the mandatory provisions of law and in this respect the case of prosecution is doubtful in its inception. He submitted that material contradictions have been surfaced amongst the cross examination of the prosecution witnesses which create doubt regarding the involvement of accused facing trial in the present case. He argued with vehemence that prosecution failed to prove safe custody and transmission of drug from the Police Station to Chemical Examiner as the witness who alleged to bring the samples to the FSL has not been examined by the prosecution. He contended that the prosecution case is full of infirmities and contradictions benefit of which should be given

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to the accused facing trial. He requested for acquittal of accused facing trial.

10. Record examined in the light of arguments. The case of prosecution according to the FIR is that upon spy information regarding the involvement of accused facing trial in narcotics dealing, the complainant Imran Ullah Khattak SHO Cantt D.I.Khan obtained search warrant from the Illaqa Magistrate and prior to raid constable Naseer Ahmad No.6219 was sent with a note of Rs.1000/- bearing No. JH-8352414 as a test purchaser. Naseer Ahmad No.6219 as PW-6 deposed that he was deputed by the SHO as test purchaser upon which he visited the place of occurrence and met a person namely Noman Khan who was selling charas from whom he purchased charas in lieu of Rs.1000/-. In the FIR Ex.PA the name of person who conducted test purchase is mentioned as Naseer Ahmad constable No.6219. When complainant of the present case namely, Imran Ullah Khattak appeared as PW-1, who stated in his examination in chief that he deputed Constable Naseeb Ahmad No.6219 as test purchaser. PW-6 is Naseer Muhammad constable No. 853 who stated that he was deputed by the SHO as test purchaser. The name of person who was deputed for test purchase is Naseer Ahmad No.6219 in the FIR which is different from the person as mentioned in the statement of complainant as PW-1 and similarly the number of Naseer

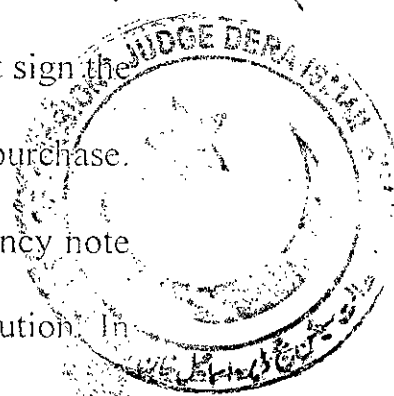


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Muhammad as mentioned in his statement as PW-6 does not tally the number as mentioned in the FIR. When any person is deputed for test purchase the person who deputed him gives currency note to be signed by him in order to exclude any doubt. In the present case the complainant/SHO did not sign the currency note which was given for the purpose of test purchase.



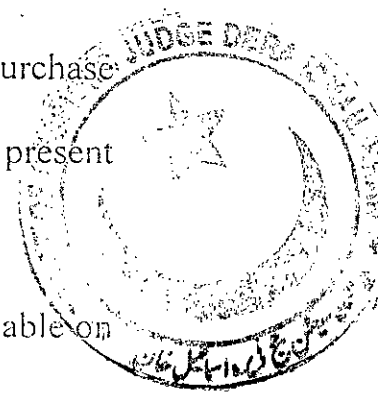
It is also important to mention here that the said currency note has not been produced during the evidence of prosecution. In the light of foregoing discussion the name of person who was deputed for test purchase is different in the FIR and statement of complainant and his number is also different as evident from statement of PW-6 and FIR on one hand and on the other hand the currency note was neither signed by the complainant nor produced during the evidence of prosecution. This shows that the test purchase has not been conducted in accordance with the law and settled principles.

11. An another intriguing aspect of the present case is that all the proceedings right from spy information till the recovery of contraband and ammunition have been written down in the myrasila Ex.PA/1. It was incumbent upon the complainant to reduce into writing in the daily diary regarding the information received from the person as spy and the proceedings of test purchase. No daily diary regarding the fact of spy information and test purchase have been reduced neither this fact has been

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mentioned in the statements of complainant and Investigating Officer. At least test purchase proceedings, being independent proceedings must be brought on record prior to the raid. Not doing so by the complainant makes the test purchase proceedings highly doubtful which is the foundation of present case.

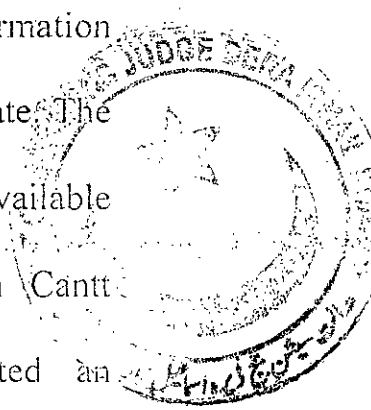


12. The extract of Mad No.33 and Mad No.41 is available on record as Ex.Pw 4/4. According to Mad No. 33 SHO complainant of present case Imran Ullah Khattak alongwith other police officials under the supervision of DSP City Circle left the Police Station for search and strike operation on 18.10.2018 at 15:00 hours. Meaning thereby that complainant of the instant case Imran Ullah Khattak left the Police Station on 18.10.2018 at 03:00 P.M. According to Mad No. 41 the said Imran Ullah Khattak SHO on 18.10.2018 at 21:40 hours alongwith police officials mentioned in Mad No. 33 returned after search and strike operation within the jurisdiction of Police Station Cant D.I.Khan. Mad No. 41 contains the fact of present case which are narrated as during search operation spy information was received regarding the involvement of Noman accused facing trial in the narcotics dealing at which he obtained search warrant Ex.PW 1/2 and after the proceedings of test purchase, he raided the house of accused and recovered narcotic and illegal weapon. It is pertinent to mention here that

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complainant Imran Ullah Khattak and police official left the Police Station at 15:00 hour i.e. 03 p.m for search and strike operation and during that operation received spy information and he obtained search warrant from the Illaqa Magistrate. The order of learned JM-I, D.I.Khan dated 18.10.2018 is available on record according to which SHO Police Station Cantt. D.I.Khan appeared before the court and submitted an application for issuance of search warrant against the accused facing trial. When complainant left the Police Station on 18.10.2018 at 03:00 P.m and he received information during search and strike operation which naturally consumed some time. The close of court timing is 03:00 p.m therefore, the story narrated by the complainant in Mad No. 33 and Mad No.41 dated 18.10.2018 is not believable. Further as per statement of PW-6 he was sent by SHO for test purchase at 15:15 hours. When as per record the complainant left the Police Station at 15:00 hours and after that received spy information and obtained search warrant from the Illaqa Magistrate then it does not appeal to the prudent mind that all these events occurred within 15 minutes, therefore, the statemnet of Naseer Muhammad PW-6 regarding his sending for test purchase at 15:15 hours is not believable.

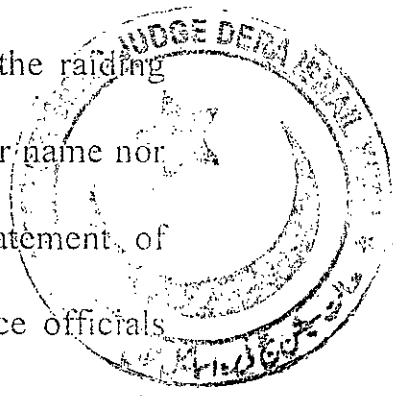


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13. Various contradictions occurred in the statements of prosecution witnesses which make the case of accused facing

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Examiner

trial doubtful. In Murasila Ex.PA/1 after conducting test purchase PW-6 gave miscall to the complainant while as per statement of PW-6, he informed the SHO complainant. In Murasila Ex.PA/1 and FIR Ex.PA it is mentioned that lady constable Humaira Akhtar No. 735 accompanying the raiding party, but, in the site plan Ex.PB neither contains her name nor any point has been assigned to her. As per statement of complainant PW-1, when he alongwith other police officials reached to the house of accused facing trial he was present in the Veranda of his house while on the other hand PW-6 stated that accused facing trial was sitting outside of his house. According to Bashir Hussain Investigating Officer he remained on the spot for about one hour and 55 minutes while PW-6 states in cross examination that Investigating Officer took 40/45 minutes in preparing the recovery memo. The above stated contradiction are material contradictions which are fatal to the prosecution case.



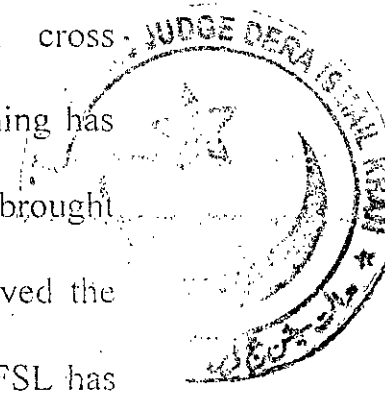
14. Most important aspect of the present case making it highly doubtful is that prosecution has badly failed to prove the safe custody and transmission of drug from the Police Station to the Chemical Examiner. As per the statement of PW-1 he handed over the custody of accused, his card of arrest, case property and recovery memo to the Investigating Officer.

Bashir Hussain Investigating Officer when appeared as PW-4,

ATTESTED
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12/9

ASW
5-9-2020

he did not utter a single word regarding the receipt of case property. Similarly, Abdul Ghafoor Muharrir as PW-2 stated that he received murasila sent by the SHO, through Constable Muhammad Suleman. He categorically stated in cross-examination that he only chalked out the FIR and nothing has been done by him. It is shrouded in mystery that who brought the case property to the Police Station and who received the same. Further the person who took the samples to the FSL has neither mentioned by the Investigating Officer nor his statement was recorded during course of investigation. When the prosecution failed to prove the safe custody and transmission of drug to the FSL then the Chemical Report cannot be relied upon.



15. In view of above mentioned circumstances, it can be easily concluded that prosecution has failed to bring home guilt to accused beyond any shadow of reasonable doubt and present case is not only full of contradictions, but there is no material evidence against the accused facing trial. The witnesses of recovery memo, complainant as well as Investigating Officer have not deposed in proper manner and have contradicted each other version. No accused can be convicted on mere score of oral submissions unless properly corroborated through cogent and confidence inspiring evidence. It is also repeatedly held that even a single circumstance creating reasonable doubt is

ATW
5-9-2020

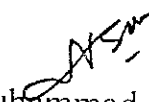
TESTED
Examiner

sufficient to acquit the accused, what to say about material contradictions of the present case.

Resultantly, while extending the benefit of doubt to the accused facing trial, the accused namely Noman Khan son of Fazal Rabani is hereby acquitted in the instant case. Accused is on bail, his sureties are also discharged from the liabilities of bail bonds.

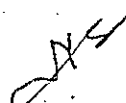
Case property i.e. narcotics be destroyed, while personal lawful belonging i.e. Cash amount Rs.11900/- recovered from the possession of accused be handed over to the accused after expiry of period of appeal/revision. File be consigned to record room of learned District & Sessions Judge, D.I.Khan after his necessary completion and compilation.

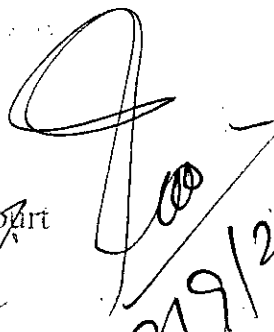
Pronounced in open court at D.I.Khan, under my hand and seal of the court this 05th day of September, 2020.


(Muhammad Asim)
ASJ/Judge Special Court/
Judge Model Criminal Trial Court
Dera Ismail Khan.


CERTIFICATE

Certified that this judgment consists of 14 (Fourteen) pages, each page has been read over, corrected wherever it was necessary and signed by me.


(Muhammad Asim)
ASJ/Judge Special Court/
Judge Model Criminal Trial Court
Dera Ismail Khan



ATTESTED
Examiner

VAKALATNAMA



MUHAMMAD ISMAIL ALIZAI

 V.A.C. 12/17



Advocate High Court

Father's Name: MUHAMMAD ISRAFAE KHAN ALIZAI
 Address: ALIZAI HOUSE KIKI ALIZAI,
 D: KHAN
 Office Tel: 03445400123 # 33906271
 Courtment Dr. L.C: 1247E 21-03-2017
 Courtment Dr. H.C: 12-03-2003
 House of Practice: D: RAICHAR, A. KHAN
 Date of Birth: 12-04-1968
 Blood Group: B+ve

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR.

In Service Appeal ... Muhammad Noorani vs IGP-KP etc

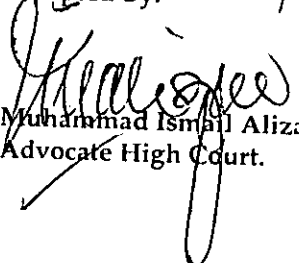
I/WE, ... Muhammad Noorani ... Appellant,

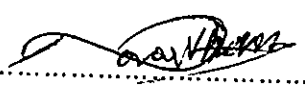
hereby appoint, Mr. Muhammad Ismail Alizai, Advocate High Court,
Farmanullah Kundi, Ahmad Shahbaz Alizai, Advocates High Court, DIKhan,
in the above mentioned matter / case and authorize him/them to do all or any of the following acts,
in my/our name and on my/our behalf, that is to say,

1. To appear, act and plead for me/us in the above mentioned case in this Court/ tribunal in which the same may be tried or heard or any other proceedings what so ever, ancillary thereto, including appeal, revision etc; on payment of fees separately for each court by me / us,
2. To sign, verify, file, present or withdraw all/any proceedings, petitions, appeals, cross objections and application for compromise or withdrawal, or for submission to arbitration of the said case or any other documents, as may be deemed necessary or advisable by him/them and to conduct prosecution or defense of the said case at all its stages,
3. To undertake execution proceedings, deposit, draw and receive money, cheques, cash and grant receipts thereof and to do all other acts and things which may be conferred to be done for the progress and in the course of prosecution of the said case,
4. To appoint and instruct any other Advocate/ legal practitioner authorizing him to exercise the power and authority conferred upon the advocate whenever he/they may think fit to do so and to sign Power of Attorney on our behalf,

I /we, the undersigned do hereby agree to ratify and confirm all acts done by the advocate or his authorized substitute in the matter as my /our own acts, as if done by me/us to intents and purposes, and I / we undertake that I /we or my/our duly authorized agent shall appear in the court on all hearings and will inform the advocate(s) for appearance when case is called and I/we the undersigned agree hereby not to hold the advocate(s) or his/their substitute responsible if the said case be proceeded ex-parte or dismissed in default in consequence of my/our absence from court when it is called for hearing and for the result of the said case, the adjournment costs whenever ordered by the court shall be of the advocate(s) which he/they may receive and retain himself/themselves. I/we the undersigned do hereby agree that in the event of the whole or part of the fees agreed by me/us to be paid to the advocate(s), if remain unpaid, he/they shall be entitled to withdraw from prosecution of the above said case until the same is paid and fee settled is only for the above said case and above court and I /we agree hereby that once fee is paid, I/we shall not be entitled for refund of the same in any case whatsoever.

IN WITNESS WHEREOF, I /we do hereby set my/our hand to these presents, the contents of which have been read / read over, explained fully and understood by me/us on this 25th Day of May 2021....

Accepted By:

Muhammad Ismail Alizai,
Advocate High Court.

Thumb Impression / Signature(s) of Executant(s)


BEFORE THE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR.

Service Appeal No. 5673/2021.

Title: "Muhammad Noman V/S IGP KP. & Others"

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BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR.

Service Appeal No. 5673/2021.

Muhammad Noman Ex- PC/ CTD No. 1218 CTD Unit, DI Khan Office of SSP/CTD,
South Zone, Presently Care of Fazal Rabani Marwat, Basti Naad Ali Shah, DI Khan

.....(Petitioner/ Appellant)

VERSUS

1. The Provincial Police Officer (IGP), KPK Central Police Office, Peshawar.
2. Deputy Inspector General of Police/ Counter Terrorism Department Khyber Pakhtunkhwa, Peshawar.
3. Senior Superintendent of Police, CTD, South Zone, Khyber Pakhtunkhwa at Dera Ismail Khan.
4. Superintendent of Police, CTD DI Khan.

.....(Respondents)

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR.

Service Appeal No. 5673/2021.

COMMENTS ON BEHALF OF RESPONDENTS.

Respectfully Sheweth

The para-wise reply of the respondents is as under.

Preliminary Objections:-

- a) The appellant has no cause of action or locus standi to file the appeal.
- b) The appeal is not maintainable in the present form.
- c) The appeal is bad for mis-joinder and non-joinder of necessary parties.
- d) The appellant is estopped to file the appeal by his own conduct.
- e) The appeal is barred by law and limitation.
- f) The appellant has not come to the Honorable Tribunal with clean hands.

FACTS:-

1. Correct to the extent that on 18.10.2018, the local police of PS Cant recovered Chars "Hashish" weighing about 250 grams, two pistols with ammunitions from the possession of Ex-constable Muhammad Noman (now the appellant) and accordingly an FIR No. 919 dated 18.10.2018 u/s 9B CNSA/15AA was registered at PS Cant. To the effect, he was suspended vide order No. 2565-67/ CTD DI Khan dated 19.10.2018 prior to the receipt of SP investigation office DI Khan letter No. 13686 dated 22.10.2018. A proper Departmental enquiry was initiated against him. Charge sheet with summary of allegations was served upon him. All the formalities of Departmental enquiry were followed. He was provided full chance to defend himself but failed in convincing the enquiry officer and high ups during course of personal hearing. All the charges leveled against appellant were proved during enquiry hence he was awarded major punishment. **(Copies of charge sheet and findings report are annexed as "A" and "B")**.
2. Incorrect, detail reply has already been discussed in facts of Para 1.
3. Correct to the extent that charge sheet with summary of allegation was served upon the Ex-constable Muhammad Noman (now the appellant) and

he had submitted unsatisfactory reply. Moreover, detail reply of rest of the para has already been explained.

4. Correct to the extent that the charges leveled against him had been proved and, therefore, he was dismissed from service, under the rules.
5. Incorrect, the appellant is only trying to mislead the Hon'ble Tribunal. He was dismissed on 24.01.2019 but he submitted Department Appeal before DIG CTD on 14.09.2020, almost after a lapse of one year and eight months, which was badly time barred hence was filed.
6. Incorrect, the allegations leveled against the appellant had been proved by inquiry officer hence he was awarded major punishment. The competent authority heard him in person but he had no plausible grounds to satisfy the high ups regarding his innocence. Accordingly his revision petition was also filed.
7. Incorrect, appellant has no right to file this instant service appeal hence needs to be rejected.


GROUND


1. Incorrect, all the orders passed by competent authorities are legal, convincing, in accordance with law and rules and principles of natural justice, hence needs to be maintained.
2. Incorrect, Appellant was involved in selling of hashish and 250 grams of Chars "Hasish", two pistols were recovered from his possession. Inquiry Officer proved him guilty and major punishment was awarded to him by competent authority.
3. Incorrect, appellant was suspended and charge sheet with summary of allegation was served upon him to which he had submitted his reply. All the formalities of Departmental inquiry were followed. He was provided full chance to defend himself but he failed to prove his innocence.
4. Incorrect and misleading, all the orders were passed in accordance with facts, law/rules by the competent authorities.
5. Incorrect, detail reply has already been submitted in previous paras.
6. Incorrect, Proper departmental proceedings was carried out, he was provided full chance to defend himself but he badly failed to prove his innocence.

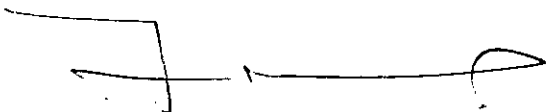
7. Incorrect, all the orders mentioned in appeal were passed by competent authorities in accordance with rules, hence needs to be stand as it is. No rights of appellants have been infringed by the respondent department.
8. Incorrect, appellants have been proved guilty during inquiry hence this appeal needs to be rejected.
9. This para is legal.
10. That respondents may also be allowed to raise additional grounds at the time of arguments.

Prayer:

In view of the above comments on facts and grounds, it is humbly prayed that the instant appeal may kindly be dismissed with costs.


Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 1)


Deputy Inspector General of Police,
Khyber Pakhtunkhwa,
CTD, Peshawar.
(Respondent No. 2)


Superintendent of Police,
CTD DI Khan Region.
(Respondent No. 3 & 4)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA.

Service Appeal No. 5673/2021.

Muhammad Noman, Ex-PC/ CTD No. 1218

.....(Appellant)

VERSUS

IGP KP & Others.....(Respondents)

AFFIDAVIT

We, the below mentioned respondents, do here by solemnly affirm and declare on oath that the contents of reply submitted are correct and true to the best of our knowledge and belief and that nothing has been concealed from this Honorable Court.



[Signature]
Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 1)

[Signature]
Deputy Inspector General of Police,
Khyber Pakhtunkhwa,
CTD, Peshawar.
(Respondent No. 2)

[Signature]
Superintendent of Police,
CTD DI Khan Region.
(Respondent No. 3 & 4)

(9)

(A)

07

CHARGE SHEET

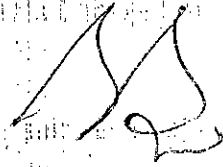
Whereas, I am satisfied that a formal enquiry contemplated by Khyber Pakhtunkhwa Police Rules 1975 amendment act-2016 is necessary and expedient.

AND WHEREAS, I am of the view that the allegation if established would call for a major penalty as defined in rules-4(i)(B) of the aforesaid rules.

AND THEREFORE, as required by Police Rules 6(1) of the aforesaid rules, I **Superintendent of Police, CTD Dera Ismail Khan** hereby charge you **CONSTABLE NOUMAN NO. 1218** with the misconduct on the basis of the statement attached to this Charge Sheet.

AND, I, hereby direct you further under rules 6(i)(B) of the said rules to put in written defence within 3-days of receipt of this Charge Sheet as to why the proposed action should not be taken against you and also state at the same time whether you desire to be heard in person or otherwise.

AND, in case, your reply is not received within the prescribed period, without sufficient case, it would be presumed that you have no defence to offer and that expert proceeding will be initiated against you.


**Superintendent of Police,
CTD, Dera Ismail Khan**

(3) (08)
DISCIPLINARY ACTION

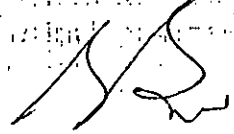
I, **SUPERINTENDENT OF POLICE CTD**, Dera Ismail Khan as a competent authority am of the opinion that you **CONSTABLE NOUMAN NO.1218** have rendered yourself liable to be proceeded against and committed the following acts/omissions within the meaning of the Khyber Pakhtunkhwa Police Rules 1975 amendment act-2016.

STATEMENT OF ALLEGATION

You while posted at operational staff CTD DIKhan Region and directly charged/arrested in Vide Case FIR No. 919 dated 18.10.2018 u/s 9(b) CNSA/15AA Police station Cantt: district DIKhan. This is an undisciplined/illegal act and gross misconduct on your part which is punishable under the rules.

Hence the statement of allegation.

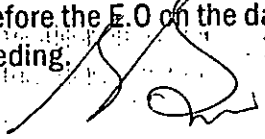
2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegation **Mr. Gul Rauf Khan DSP/CTD**, Dera Ismail Khan is appointed as enquiry officer to conduct proper departmental enquiry under Police Rules 1975 amendment Act: 2016.
3. The enquiry officer shall in accordance with the provision of the ordinance, provide reasonable opportunity of the hearing to the accused, record its findings and make, within ten days of the receipt of this order recommendations as to punishment or other appropriate action against the accused.
4. The accused and a well conversant representative of the department shall join the proceedings on the date time and place fixed by the enquiry officers.


Superintendent of Police,
CTD, Dera Ismail Khan

No. 2627-31/CTD Dated DIKhan the 23/10/2018

Copy to the:-

1. W/Dy: Inspector General of Police, CTD Khyber Pakhtunkhwa Peshawar w/r of his letter No. 9890-91/EC dated 19.10.2018.
2. Senior Superintendent of Police, CTD Southern Zone, Khyber Pakhtunkhwa.
3. Superintendent of Police Investigation DIKhan w/r of his letter No. 13686/INV/DIKhan dated 22.10.2018
4. **Mr. Gul Rauf Khan DSP/CTD**, Dera Ismail Khan. The enquiry officer for initiating proceeding against the defaulter under the provision of Khyber Pakhtunkhwa Police Rules 1975 amendment Act: 2016. Enquiry papers containing 4 pages are enclosed.
5. **CONSTABLE NOUMAN NO.1218** with the direction to appear before the E.O on the date, time and place fixed by the E.O, for the purpose of enquiry proceeding.


Superintendent of Police,
CTD, Dera Ismail Khan

فائنل رپورٹ

ڈیپارٹمنٹل انکوائری برخلاف کنسٹیبل محمد نعمان نمبر 1218

جناب عالی!

معروض ہوں کہ کنسٹیبل محمد نعمان نمبر 1218 جو کہ ایلیٹ فورس تھانہ سی ٹی ڈی ڈیرہ اسماعیل خان میں آپریشنل یونٹ میں ڈیوٹی سرانجام دے رہا تھا۔ مورخہ 18.10.2018 کو مذکورہ کنسٹیبل جو کہ بستی نادعلیشاہ میں کرایہ کے گھر میں ہمراہ فیملی رہائش پذیر تھا۔ SHO تھانہ کینٹ مع پارٹی پولیس نے بسلسلہ شکایت بعد حصول سرچ وارنٹ چھاپہ زنی کر کے بدوران خانہ تلاشی، جامہ تلاشی چرس وزنی 250 گرام، دو عدد پٹل مع ایمونیشن برآمد ہو کر مذکورہ کے خلاف مقدمہ 919 مورخہ 18.10.2018 جرم BCNSA/15AA/9 تھانہ کینٹ درج رجسٹر ہو کر باقاعدہ تفتیش شروع کی۔

مذکورہ کے خلاف باقاعدہ افسران بالانے چارج شیٹ جاری کر کے من DSP/INT کو انکوائری افسر مقرر کیا گیا۔ انکوائری شروع کر کے مذکورہ کنسٹیبل محمد نعمان 1218 نے اپنا عبوری بیان تحریری پیش کیا جو لف انکوائری ہے۔ مزید ذیل گواہان کو برائے بیانات طلب کئے گئے۔

(1) عمر خطاب ASI محرر تھانہ CTD

(2) SHO تھانہ کینٹ عمران اللہ خٹک

(3) عبدالغفور نمبر 195 محرر تھانہ کینٹ

(4) کنسٹیبل نصیر احمد 6219 تھانہ کینٹ

(5) کنسٹیبل محمد سلیمان 8777 تھانہ کینٹ

(6) لیڈی کنسٹیبل حمیر اختر 735 تھانہ کینٹ

- 1- ASI عمر خطاب محرر تھانہ CTD نے اپنے بیان میں مذکورہ محمد نعمان 1218 کی بوقت وقوع غیر حاضری تسلیم کر چکا ہے۔
- 2- عمران اللہ SHO تھانہ کینٹ نے اپنے بیان میں FIR کی مکمل تائید کی ہے اور پرچیز نوٹ رقم مبلغ 1000 روپے کا بھی ذکر چکا ہے۔ اور اسی طرح الزام علیہ محمد نعمان نے SHO مذکورہ پر بلا خوف کھلم کھلا جرح مکمل کر کے کوئی امر پوشیدہ مخفی نہیں رکھا گیا۔
- 3- عبدالغفور 195/HC محرر تھانہ کینٹ نے اپنے بیان میں FIR کی درست اندراج تسلیم کر چکا ہے۔
- 4- کنسٹیبل نصیر احمد (FRP) 6219 متعینہ تھانہ کینٹ نے اپنے بیان میں چرس پرچیز کو درست تسلیم کیا ہے۔ اور مکمل FIR کی تائید کی ہے۔ الزام علیہ نے مذکورہ گواہ پر چرس برآمدگی کے متعلق حلف دینے کا سوال کیا جس پر مذکورہ نے مکمل حلف اٹھا کر جواب دیا۔ اور پرچیز کو درست تسلیم کیا ہے۔

5- کنسٹیبل محمد سلیمان (FRP) 8777 متعینہ تھانہ کینٹ نے اپنے بیان میں چرس، پٹل ہائے کی برآمدگی کو درست تسلیم کر کے

FIR کی مکمل تائید کی ہے۔

6۔ لیڈی کنسٹیبل جمیر اختر 735 تھانہ کینٹ نے اپنے بیان میں چرس، پٹل ہائے کی برآمدگی درست تسلیم کر کے FIR کی تائید کی ہے اور پردہ مستورات کا بھی خیال رکھا ہے۔ کسی قسم کی SHO کینٹ نے الزام علیہ کی بیوی کو نہ تو دھکا دیا ہے۔ اور نہ ہی کوئی تلخ کلامی ہوئی ہے۔

7۔ الزام علیہ کنسٹیبل محمد نعمان نمبر 1218 نے بدوران انکوائری عبوری بیان کے علاوہ اپنا فائنل بیان بھی جمع کرا چکا ہے۔ جس کے آخر میں اس نے عدالت کے حکم فیصلہ تک انکوائری فیصلہ منوخر رکھنے کی استدعا کی ہے۔

عالیٰ تجاہ! جملہ گواہان کے بیانات جو بالترتیب قلمبند کئے گئے ہیں اور الزام علیہ محمد نعمان 1218 کو ہر گواہ پر روبرو بیان قلمبندی مکمل جرح کرنے کا موقع بھی فراہم کیا گیا۔ جو اس نے باقاعدہ جرح بھی کر چکا ہے۔ اور ساتھ ہر بیان پر باقاعدہ دستخط بھی کر چکا ہے۔ تمام گواہان کے بیانات مکمل FIR کی تائید کرتا ہے۔ اور برآمدگی منشیات، پٹل ہائے درست تسلیم کرتے ہیں۔ اور تمام بیانات توازن یکسوئی کی مانند ہے۔ کسی قسم کی کوئی رد و بدل نہیں پائی گئی۔

لہذا جملہ گواہان کے بیانات کی روشنی میں، الزام علیہ محمد نعمان 1218 کے جرح تو اصل اور خفیہ معلومات و پتہ براری کرنے

سے مذکورہ محمد نعمان 1218 قصور وار پایا جاتا ہے۔

فائنل رپورٹ مرتب ہو کر گزارش ہے۔

ڈپٹی سپرنٹنڈنٹ آف پولیس INT

سی، ٹی، ڈی ڈیرہ اسماعیل خان
17-12-2018

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR.

Service Appeal No. 5673/2021.

Muhammad Noman Ex- PC/ CTD No. 1218 CTD Unit, DI Khan Office of SSP/CTD,
South Zone, Presently Care of Fazal Rabani Marwat, Basti Naad Ali Shah, DI Khan


.....(Petitioner/ Appellant)

VERSUS

1. The Provincial Police Officer (IGP), KPK Central Police Office, Peshawar.
2. Deputy Inspector General of Police/ Counter Terrorism Department Khyber Pakhtunkhwa, Peshawar.
3. Senior Superintendent of Police, CTD, South Zone, Khyber Pakhtunkhwa at Dera Ismail Khan.
4. Superintendent of Police, CTD DI Khan.

.....(Respondents)

Submitted for vetting
Please,


11-01-2022

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR.

Service Appeal No. 5673/2021.

COMMENTS ON BEHALF OF RESPONDENTS.

Respectfully Sheweth

The para-wise reply of the respondents is as under.

Preliminary Objections:-

- a) The appellant has no cause of action or locus standi to file the appeal.
- b) The appeal is not maintainable in the present form.
- c) The appeal is bad for mis-joinder and non-joinder of necessary parties.
- d) The appellant is estopped to file the appeal by his own conduct.
- e) The appeal is barred by law and limitation.
- f) The appellant has not come to the Honorable Tribunal with clean hands.

FACTS:-

1. Correct to the extent that on 18.10.2018, the local police of PS Cant recovered Chars "Hashish" weighing about 250 grams, two pistols with ammunitions from the possession of Ex-constable Muhammad Noman (now the appellant) and accordingly an FIR No. 919 dated 18.10.2018 u/s 9B CNSA/15AA was registered at PS Cant. To the effect, he was suspended vide order No. 2565-67/ CTD DI Khan dated 19.10.2018 prior to the receipt of SP investigation office DI Khan letter No. 13686 dated 22.10.2018. A proper Departmental enquiry was initiated against him. Charge sheet with summary of allegations was served upon him. All the formalities of Departmental enquiry were followed. He was provided full chance to defend himself but failed in convincing the enquiry officer and high ups during course of personal hearing. All the charges leveled against appellant were proved during enquiry hence he was awarded major punishment. **(Copies of charge sheet and findings report are annexed as "A" and "B").**
2. Incorrect, detail reply has already been discussed in facts of Para 1.
3. Correct to the extent that charge sheet with summary of allegation was served upon the Ex-constable Muhammad Noman (now the appellant) and he had submitted unsatisfactory reply. Moreover, detail reply of rest of the para has already been explained.

4. Correct to the extent that the charges leveled against him had been proved and, therefore, he was dismissed from service, under the rules.
5. Incorrect, the appellant is only trying to mislead the Hon'ble Tribunal. He was dismissed on 24.01.2019 but he submitted Department Appeal before DIG CTD on 14.09.2020, almost after a lapse of one year and eight months, which was badly time barred hence was filed. ✓
6. Incorrect, the allegations leveled against the appellant had been proved by inquiry officer hence he was awarded major punishment. The competent authority heard him in person but he had no plausible grounds to satisfy the high ups regarding his innocence. Accordingly his revision petition was also filed.
7. Incorrect, appellant has no right to file this instant service appeal hence needs to be rejected.

GROUNDS

1. Incorrect, all the orders passed by competent authorities are legal, ✓
convincing, in accordance with law and rules and principles of natural justice, hence needs to be maintained. ✓
2. Incorrect, Appellant was involved in selling of hashish and 250 grams of Chars "Hasish", two pistols were recovered from his possession. Inquiry Officer proved him guilty and major punishment was awarded to him by competent authority.
3. Incorrect, appellant was suspended and charge sheet with summary of allegation was served upon him to which he had submitted his reply. All the ✓
formalities of Departmental inquiry were followed. He was provided full ✓
chance to defend himself but he failed to prove his innocence.
4. Incorrect and misleading, all the orders were passed in accordance with facts, law/rules by the competent authorities.
5. Incorrect, detail reply has already been submitted in previous paras. ✓
6. Incorrect, Proper departmental proceedings was carried out, he was provided full chance to defend himself but he badly failed to prove his innocence. ✓
7. Incorrect, all the orders mentioned in appeal were passed by competent authorities in accordance with rules, hence needs to be stand as it is. No rights of appellant have been infringed by the respondent department.
8. Incorrect, appellant has been proved guilty during inquiry hence this appeal needs to be rejected.

9. This para is legal.
10. That respondents may also be allowed to raised addition grounds at the time of arguments.

Prayer:

In view of the above comments on facts and grounds, it is humbly prayed that the instant appeal may kindly be dismissed with costs.

*Verdict Subject to
Correction attachment
of all answers
and affidavit.*

[Signature]
Addl. Associate General
(Service Tribunal) K.P.K
Peshawar.
11/1/22

Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 1)

Deputy Inspector General of Police,
Khyber Pakhtunkhwa,
CTD, Peshawar.
(Respondent No. 2)

Superintendent of Police,
CTD DI Khan Region.
(Respondent No. 3 & 4)

کیرالٹ جناب سر جسٹس فیاض احمد کورٹ ڈیرہ اسماعیل خان

سر جسٹس ایچ آر 5673 بنام محمد عثمان لا کونسل
2022

جناب جج

گزارش صدر عدالت 21 کوکس بنام محمد عثمان
2022

انٹرن کونسل میں تاریخ 21 مئی 2022 کو عدالت عالیہ
کیرالٹ کورٹ ڈیرہ اسماعیل خان کی طرف سے پیش کی گئی
ہے۔ جس پر تاریخ 21 مئی 2022 کو کونسل جمع ہوئی

بزرگ عدالت کی درخواست اس پر صدر عدالت کونسل جمع
کرنے کا حکم صادر فرمایا گیا ہے

Gulaf

DSP/ETD-DIK

27/06/2022



تفویض نام 27/06/2022

تفویض نام 27/06/2022
اپنی ذمہ داری

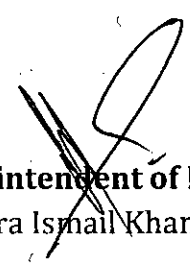
DSP/ETD
Gulaf

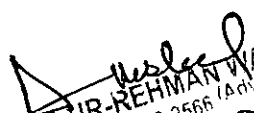
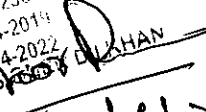


OFFICE OF THE
SUPERINTENDENT OF POLICE
COUNTER TERRORISM DEPARTMENT
DERA ISMAIL KHAN RANGE

AUTHORITY

I, undersigned, do hereby authorize Mr. Gul Rauf Khan DSP Operation CTD DIKhan region having CNIC No. 11101-5368137-7 to submit reply in Service apple No. 5673/2021 titled "Muhammad Noman V/s IGP KP & Others" and to the pursue the matter on behalf of the undersigned.


Superintendent of Police
CTD, Dera Ismail Khan Region


NOOR-UR-REHMAN WAZIR
(Advocate)
C.I.C. No-09-2566
R.D. 25-04-2014
To 25-04-2022
OATH COMMISSIONER

DERA ISMAIL KHAN

27/6/22