

05.09.2022

Due to leave of the Worthy Chairman, the Bench is incomplete. Case to come up for the same on ~~15-11~~ 2022 before the D.B.

  
Reader

15<sup>h</sup> Nov. 2022 Junior to learned counsel for the appellant present.

Mr. Naseerud Din Shah, Assistant Advocate General for the respondents present.

SCANNED  
KPST  
Peshawar

Former requested for adjournment due to engagement of learned counsel for the appellant before Honourable Peshawar High Court. Adjourned. To come up for arguments on 10.01.2023 before the D.B.

(FAREEHA PAUL)  
Member(E)

  
(ROZINA REHMAN)  
Member (J)

31.01.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG for respondents present.

Reply/comments on behalf of respondents are still awaited. Learned Additional Advocate General sought for submission of reply/comments. Granted. To come up for reply/comments before the S.B on 31.03.2022.




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

31.03.2022

None for the appellant present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. M. Raziq, HC for respondents present.

Written reply/comments on behalf of respondents not submitted. Representative of respondents seek time to submit the same on the next date. Adjourned. To come up for written reply/comments on 17.06.2022 before S.B.



(MIAN MUHAMMAD)  
MEMBER(E)

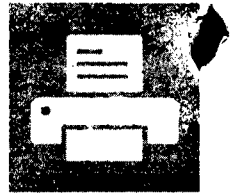
17<sup>th</sup> June 2022

Junior to counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG alongwith Ahmad Jan, Inspector (Legal) for the respondents present.

Despite three opportunities given to the respondents, they have not submitted reply. The respondents are given last opportunity to submit reply within 07 days from today, failing which their right to file reply shall be deemed as struck off by virtue of this order. To come up for arguments before the D.B on 05.09.2022. The case will not be adjourned on the ground of non-filing of reply/comments.



(Kalim Arshad Khan)  
Chairman



You have correctly installed your HP LaserJet Pro M404 M405 PCL 6 (V4) on DESKTOP-J0B4M7E.

### PRINTER PROPERTIES

Submitted Time: 2:02:20 PM  
Date: 9/5/2022  
User Name: PLRN\Muhammad.8408786  
Computer Name: DESKTOP-J0B4M7E  
Printer Name: HP LaserJet Pro M404 M405 PCL 6 (V4) (Copy 1)  
Printer Model: HP LaserJet Pro M404 M405 PCL 6 (V4)  
Color Support: No  
Port Name(s): USB002  
Data Format: RAW  
Printer Location:  
Print Processor: winprint  
Comment:  
OS Environment: Windows x64

### PRINT DRIVER PROPERTIES

Driver Name: HP LaserJet Pro M404 M405 PCL 6 (V4)  
Driver Type: Type 4 User Mode  
Driver Version: 8.0.1329.6884

### ADDITIONAL PRINT DRIVER FILES

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...

**Saadat Ali Khan 4979/2021**

22.09.2021

Counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant argued that the appellant was "dismissed from service" vide impugned order dated 10.01.2018. He submitted departmental appeal on 15.02.2021 when he was finally acquitted in criminal case by the court of competent jurisdiction on 13.02.2021. Consequent upon his final acquittal, he preferred departmental appeal against the impugned order, on 15.02.2021. His departmental appeal was however, rejected/filed on 31.03.2021, hence, the instant service appeal was filed on 16.04.2021. It was further argued that the appellant was nominated in FIR No. 1383 dated 19.09.2016 under section 382/155-c/411-PPC and FIR No. 1133 dated 06.10.2017 under section 381/411 PPC in PS Chamkani and as such no opportunity of self defense was provided to the appellant when departmentally proceeded against on the basis of criminal cases registered against him. The appellant has been acquitted in FIR No. 1133 by the Court of JMIC-II Peshawar on 29.09.2018 and also acquitted in FIR No. 1383 by the Court of Judicial Magistrate-VIII Peshawar on 13.02.2021. It was further contended that the entire proceedings have been under-taken against the appellant in violation of the rules and fundamental rights have been encroached upon on personal whims and wishes, the impugned as well as appellate orders having been passed malafide and contrary to Article-4-25 and 27 of the Constitution, are therefore liable to be set aside and the appellant be reinstated in service with all back benefits.

Points raised need consideration. The appeal is provisionally admitted to regular hearing, subject to all just and legal objections including limitation. 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, the office shall submit the file with a report of non-compliance. File to come up for arguments on 31.01.2022 before the D.B.

(Mian Muhammad)  
Member(E)

SCANNED  
KPST  
Peshawar

Appellant Deposited  
Security & Process Fee




22/9/21

Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.:- 4979 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	29/04/2021	<p>The appeal of Saadat Ali Khan resubmitted today by Mr. M. Usman Khan Turlandi, 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> <p>2-</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>21/06/21</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>21.06.2021</p> <p>Nemo for the appellant. Notice be issued to appellant/counsel. To come up for preliminary hearing on 22.09.2021 before S.B.</p> <p style="text-align: right;"> Chairman</p>

The appeal of Mr. Saadat Ali Khan Ex-Constable No. 352 Police Line Peshawar received today i.e. on 16/04/2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be attested.
- 2- Annexure-G of the appeal is legible which may be replaced by legible/better one.

No. 738 /S.T,

Dt. 16/04 /2021

  
REGISTRAR,  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

M.Usman Khan Turlandi Adv. Pesh.

29-04-2021

objections ~~is~~ removed and re-submitted

  
Advocate  
29/4/2021

①

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

In Ref; to S.A No 4979 of 2021.

**Ex-Constable Saadat Ali Khan No. 352....VS....PPO & others.**

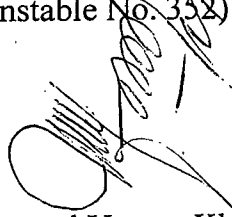
**INDEX**

S.No.	DESCRIPTION OF DOCUMENTS	ANNEX	PAGE.
1.	Main Service Appeal.	----	01-07
2.	Affidavit.	----	08
3.	Copy of FIR No. 1383 dated 19-09-2016.	"A"	09-
4.	Copy of FIR No. 1133 dated 06-10-2017.	"B"	10
5.	Original impugned order dated 10-01-2018.	"C"	11
6.	Copy of the judgments dated 29-09-2018.	"D"	12
7.	Copy of the judgments dated 13-02-2021.	"E"	13-14
8.	Departmental appeal dated 15-02-2021	"F"	15-16
9.	Final impugned order dated 31-03-2021.	"G"	17
10.	Power of attorney/Vokatnama.		

  
APPELLANT.

(Saadat Ali Khan Ex-Constable No. 352)

Through:

  
Muhammad Usman Khan  
Turlandi  
Advocate Peshawar.

Dated; \_\_\_/04/2021.

**Office; Flat; C-1, Murad Plaza, Dalazak Road Peshawar City.**

**Contact # 0333-9153699\*\*\*\*0300-5895841**

2

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

In Ref; to S. Appeal No. \_\_\_\_\_ of 2021.

Saadat Ali Khan, Ex-Constable No. 352, posted at Police-Line  
Peshawar.....**APPELLANT.**

**VERSUS**

- 1) Inspector General of Police / Provincial Police Officer (PPO) Khyber Pakhtunkhwa, Central Police Office (CPO) Peshawar.
- 2) Capital City Police Officer, Police-line Peshawar.
- 3) Superintendent of Police Headquarters, Police-Line Peshawar.

.....**RESPONDENTS.**

**Appeal U/S 4 of the Service Tribunal Act against the final impugned office order No. 996-1002/PA dated Peshawar the 31-03-2021 passed by the respondent No. 2 whereby the departmental appeal of the appellant was turned down/rejected and filed and whereas the major penalty of dismissal from service vide OB No. 160 passed by the respondent No. 3 dated 10-01-2018 was up-held.**

**PRAYERS IN APPEAL:-**

On acceptance of this appeal the final impugned order dated 31-03-2021 rejecting the departmental appeal, passed by the respondent No. 2 and the original impugned order of dismissal from service, passed by the respondent No. 3 dated 10-01-2018 may be set-aside and the appellant may be reinstated in service with all back benefits and seniority etc. in order to secure the ends of justice.



(3)

**RESPECTFULLY SHEWETH:-**

- 1) That the appellant being eligible candidate having the requisite qualifications was recruited in the esteemed Police force as Constable in the year 2008 and since then, performing his respective duties with great zeal, zest and enthusiasm.
- 2) That no adverse remarks whatsoever has ever been conveyed to the appellant from any quarter and similarly no bad entries was ever recorded in his service role whereas all his immediate and high officers were extremely satisfied of his hard working, efficiency, integrity, discipline and good cooperation.
- 2) That the appellant was surprised to know about his false implication in alleged Criminal cases, registered U/S 382/155-C/411-PPC vide FIR No. 1383 dated 19-09-2016 and FIR No. 1133 dated 06-10-2017, registered U/S 381-A/411-PPC of Police Station Chamkani (Peshawar) and resultantly was proceeded against, on two counts, both departmental and Criminal proceedings. (Copies of FIR No. 1383 dated 19-09-2016 and FIR No. 1133 dated 06-10-2017 are annexure "A" & "B" respectively).
- 3) That admittedly without conducting any regular inquiry into the false cases, the appellant, on the strength of the baseless allegation given in the FIRs supra, was awarded major penalty of dismissal from service vide order passed by the respondent No. 3 dated 10-01-2018. (Copy of the original impugned order of dismissal from service dated 10-01-2018 is annexure "C").
- 4) That since the appellant, as per the contents of the original impugned order (Annexure-"C"), proceeded departmentally and was dismissed from service only on the score of criminal cases (Annexure "A" & "B" supra), hence, the appellant, at the first instance, opted to face the criminal cases and eventually succeeded to get his acquittal of the charges leveled against him from the competent court of law vide orders/judgments dated 29-09-2018 and 13-02-2021. (Copy of the orders/judgments dated 29-09-2018 and 13-02-2021 are annexure "D" & "E" respectively).

(4)

- 5) That immediately just after his acquittal, the appellant, preferred departmental representation dated 15-02-2021 against the original impugned order passed by the respondent No. 3 dated 10-01-2018 and tabled the same before the respondent No. 2 for his reinstatement in service. (Copy of the departmental representation is Annexure as "F").
- 6) That the respondent No. 2 did not bother to requisite the service record of the appellant and to see all the ACRs/ report of the last total period of service and astonishingly stepped into hot water and with a single stroke of pen reject/filed the departmental appeal vide final impugned order dated 31-03-2021. (Copy of the final impugned order passed by the respondent No. 2 dated 31-03-2021 is annexure as "G").
- 6) That the appellant in the given circumstances being a civil servant, having no other efficacious remedy, approaches this august Tribunal for setting-aside the impugned orders supra and seeking his reinstatement in service inter-alia on the following grounds.

#### **G R O U N D S.**

- a) That the impugned order has been passed in the exercise of colorful authority which is unlawful, without lawful authority, without jurisdiction, un-Islamic, un-constitutional, against the norms of equity and natural justice.
- b) That admittedly the appellant has committed no offence whatsoever and the whole allegations being baseless and rootless one, hence he was acquitted from the charges leveled against him by the competent court of law but even then, for the reason best known to the respondent No. 3, the appellant was made a scapegoat and his departmental appeal was rejected in stereotype manner.
- c) That no proper and regular enquiry has ever been conducted and the statements of the concerned PWs have not been recorded in order to

unearth the actual fact just to fulfill the codal formalities and as such the appellant has been condemned on his back.

- d) That since no statement of PW has been recorded on oath and the appellant has never been given a chance of cross examination and thus no credibility could be relied upon such like baseless allegations and the impugned orders having even no legs to stand upon.
- e) That the first/original impugned order of dismissal from service if seen at a glance, it transpires that the appellant was dismissed from service on account of criminal allegations vide FIRs No. 1383 dated 19-09-2016 and FIR No. 1133 dated 06-10-2017 of Police station Chamkani (Peshawar) but when the appellant is acquitted from those charges leveled in the FIRS supra, then the appellant should have been considered innocent having committed no offence whatsoever and should have been reinstated in service. In such circumstances, the final impugned order dated 31-03-2021, rejecting the departmental appeal is illegal, unlawful, without lawful authority, without jurisdiction, un-constitutional, un-Islamic and against the law on the subject hence not tenable in the eyes of law.
- f) That the respondent No. 3 while passing the impugned order has never bothered to requisition the service file of the appellant and at least should see the length of spot-less service for about more than 10 years, rendered by the appellant and in such a circumstances the impugned order having no value in the eyes of law, is liable to be set-aside.
- g) That no chance of personal hearing has ever been given to the appellant either by the respondent No. 3 prior to the dismissal of the appellant from his services nor by the respondent No.2 before passing the final impugned order which is mandatory one.
- h) That valuable right was accrued to the appellant whereas his fundamental valuable rights have been encroached by the respondents No. 2 & 3 on their personal whims & wishes and such encroachment is hit by the command of the constitution of the Islamic Republic of Pakistan 1973.

6

- i) That the original impugned order of dismissal from service passed by the respondent No. 3 is based on malafide intention and ulterior motive and use of colorful authority, self-innovation and monopoly, which was legally to be struck down by the appellate authority/respondent No. 2 and by not doing so, requires interference by this august Tribunal.
- j) That there is no such evidence in the personal file of the petitioner which could legally be considered sufficient to support the impugned orders passed on the back of the appellant.
- k) That the respondents for the reason best known to them have ignored totally the law on the subject and precious precedents passed by the superior judiciary hence the impugned orders having no legal sanctity are liable to be declared as such and be set at naught.
- l) That the performance of the appellant during his stay/entire service period was out-standing and up to all standard, during this period neither the appellant was proceeded against, on any disciplinary ground nor he was ever served with any charge sheet, show cause notice, explanation or counseling etc. whatsoever, whereas the appellant has no immoral or criminal record in his past nor has ever been convicted. Hence the impugned orders were passed in quite random and having no base and as such are liable to be set-aside.
- m) That the respondents by neglecting and refusing the legitimate right and status of the appellant is also against the Divine Ordain of Allah Almighty under the principle of natural justice and fundamental human rights and as such the respondents have usurped the right of human being and have thus, bypassed the Divine rule to give due right to everyone.
- n) That the impugned act of the respondents is highly unjust, against the principle of natural justice, highly condemnable, highly deplorable and if allowed to remain in field, then it would perpetuate more

(7)

injustice and certainly in complete collapse of the Government exchequer and also deprivation of the command of the constitution.

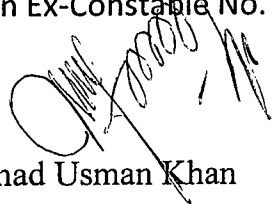
- o) That the action and inaction on part of the respondents proclaims its own malafide which is contrary to Article 4, 25 and 27 of the Constitution.
- p) That further submission will be advanced at the time of hearing the appellant at the bar.

It is, therefore, humbly prayed that on acceptance of this appeal the final impugned order dated 31-03-2021 rejecting the departmental appeal, passed by the respondent No. 2 and the original impugned order of dismissal from service, passed by the respondent No. 3 dated 10-01-2018 may be set-aside and the appellant may be reinstated in service with all back benefits and seniority in order to secure the ends of justice.

  
**Appellant**

(Saadat Ali Khan Ex-Constable No. 352)

Through

  
Muhammad Usman Khan  
Turlandi  
Advocate Peshawar.

Dated \_\_\_\_/04-2021.

(8)

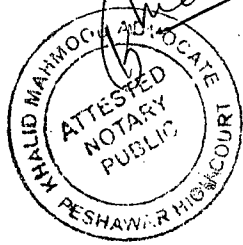
**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR.**

In Ref; to S.A No \_\_\_\_\_ of 2021.

**Ex-Constable Saadat Ali Khan No. 352....VS....PPO & others.**

**AFFIDAVIT.**

I, Saadat Ali Khan Ex-Constable No. 352 posted at police-line Peshawar, the appellant, do hereby solemnly affirm and declare on oath that the contents of the accompanying Service appeal are true and correct to the best of my knowledge and belief and nothing has been kept secret or concealed from this august Tribunal.



**DEPONENT.**

(Saadat Ali Khan Ex-Constable No. 352)



(16)

لیفٹننٹ اسپیشل سائبر ایس آئی

کوئٹہ پولیس چارٹرڈ نمبر 13/2286/2011 رقم نمٹ تعداد ایک ہزار چھتر سو نو (20.06.2011) ایف آئی (عام طور پر) جی فارم (پولیس)

پولیس نمبر عام نمبر 2

فارم نمبر 22-5 (ا)

ابتدائی اطلاع رپورٹ 5930110-5300-17301-405655

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ 152 مجموعہ ضابطہ نو جداری

ٹائپل

ضلع	پشاور
تاریخ	26/08/2011
گھنٹہ	11:33

تاریخ و وقت رپورٹ	26/08/2011 11:33
نام و سکونت اطلاع دہندہ مستفیث	محمد طارق علی ولد محمد رفیق کھٹک
مختصر کیفیت جرم (محدود دفعہ) حال اگر کچھ دیا گیا ہو۔	گھنٹہ 381 A PP 6
جائے وقوعہ فاصلہ تھانہ سے اور سمت	پشاور
نام و سکونت ملزم	پشاور
کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا تو وجہ بیان کر دے	
تھانہ سے روانگی کی تاریخ و وقت	

ابتدائی اطلاع نیچے درج کر عرضت مند خان پیر و خواجہ صاحبہ روز 26/08/2011 کو کوئٹہ پولیس چارٹرڈ نمبر 13/2286/2011 میں رپورٹ کی کہ جس میں انٹرنیٹ پر ایک ویڈیو سہ ماہی کے بارے میں اطلاع دی گئی ہے جس میں ایک شخص نے ایک عورت کو اغوا کیا ہے اور اسے اغوا کرنے کے لیے اس کے گھر پر حملہ کیا ہے۔

اس واقعہ کے متعلق پولیس چارٹرڈ نمبر 13/2286/2011 میں رپورٹ کی گئی ہے جس میں اطلاع دہندہ نے بتایا ہے کہ وہ ایک شخص سے مل گیا ہے جس نے اسے بتایا ہے کہ وہ ایک عورت کو اغوا کرنے کے لیے اس کے گھر پر حملہ کیا ہے۔

جانے - اس کے پاس  
SI PS 144  
6-10-17



ORDER

This office order relates to the disposal of formal departmental enquiry against Constable Saadat No.352 on the allegations/charges that he while posted at Police Lines, Peshawar involved in criminal case vide FIR No.1133 dated 06.10.2017 u/s 381/411-PPC PS Chamkani and absented himself from lawful duty w.e.f 27.03.2017 till date without taking permission or leave.

In this regard, he was placed under suspension & issued charge sheet & summary of allegations. Two separate enquiries were initiated & conducted by SDPO Cantt & Inspector Yousaf Jan of Police Lines.

SDPO Cantt conducted the enquiry proceedings in the charges of absence & submitted his report/finding that the alleged official did not attend the enquiry proceedings. The E.O further recommended for taking ex-parte decision vide Enquiry Report No.3264/ST dated 18.10.2017.

Inspector Yousaf Jan of Police Lines conducted the enquiry proceedings in the charges of criminal case & submitted his report that defaulter official has been charged in two separate thefts criminal cases vide FIR No.1383 dated 19.09.2016 u/s 382/155-C/411- PPC & FIR No.1133 dated 06.10.2017 u/s 381-A/411-PPC PS Chamkani and prolong/deliberate absence. The E.O further recommended major punishment of dismissal from service for the accused official.

Upon the finding of E.Os, he was issued final show cause notice & delivered him on home address through DPO Mardan vide letter No.18/PA dated 03.01.2018 but he failed to appear before this office or submit written explanation as yet

In the light of recommendation of E.Os & other material available on record, the undersigned came to conclusion that the alleged official found guilty of prolong absence & involvement in criminal cases. Therefore, he is hereby dismissed from service under Police & Disciplinary Rules-1975 with immediate effect. Hence, the period he remained absent from 27.03.2017 till date is treated without pay.

  
SUPERINTENDENT OF POLICE  
HEADQUARTERS, PESHAWAR

OB. NO. 160 / Dated 10/1 /2018

No. 1525 11/PA/SP/dated Peshawar the 10/1 /2018

Copy of above is forwarded for information & n/action to:

- ✓ The Capital City Police Officer, Peshawar.
- ✓ DSP/HQrs, Peshawar.
- ✓ Pay Officer
- ✓ ASI, CRC & FMC along-with complete departmental file.
- ✓ Official concerned.

ENC

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169e  
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Ankex C4

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Annex D11

**EJAZ UR REHMAN QAZI**  
**JUDICIAL MAGISTRATE-II, PESHAWAR**

3

FIR No. 1133  
Under Section 381-A/411PPC  
State ....vs ..... Saadat Ali

Dated:- 06/10/2017  
Police Station Chamkani

Order...  
29/09/2018

SPP for the State present.

The record transpires that on 17/10/2017 at the bail stage, before the court of learned ASJ-II, Peshawar, compromise has been effected between the parties and on the basis of compromise, the complainant has pardoned the accused and opted for not conducting further proceeding against the accused, hence, bail petition of the accused was accepted.

Though, the sections of law, for which the accused is charged, is not compoundable but as the matter between the parties has been settled amicably through compromise, therefore, the court cannot lay any restriction on the compromise for the reason that offence is not compoundable. Statement of complainant recorded before the court coupled with the compromise deed irrefutably confirms that complainant has pardoned the accused and he is not willing to prosecute the accused, hence, further proceedings in the case would not produce any positive result except the acquittal of the accused.

Resultantly, the accused Saadat Ali is acquitted in the present case on the basis of compromise. The accused is on bail, his sureties are discharged from the liabilities of bail bonds. File be consigned to record room after necessary completion and compilation.

Announced:-  
29/09/2018

*Ejaz-ur-Rehman Qazi*

EJAZ-UR-REHMAN QAZI  
JMIC-II, PESHAWAR

**Ejaz-ur-Rehman Qazi**  
**JMIC-II, Peshawar**

No.....	15783
Dated of App.....	27-4-21
Name of App.....	Ph, S
Word / T.....	R-05
Fcc.....	
Cir.....	
Date of P.....	27-4-21
Date of P.....	27-4-21

CERTIFIED TO BE TRUE COPY

*(Signature)*  
Copying Agency District Court  
Peshawar.  
07-4-21

13

Annex "E"

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

---

**Order----**  
**13/02/2021**

SPP for the State present. Accused Saadat present on bail while co-accused Abid still absconding. Complainant namely Noor Nabi s/o Mehrban also present in person who endorsed the factum of compromise by stating that he has patched up the matter with both the accused in the instant case outside the court with the intervention of elders of locality and pardoned them in the name of ALLAH Almighty. Therefore, he has got no objection if the court acquits them in the instant case. To this effect statement of the complainant was recorded. He placed on file the copy of his CNIC as Ex-PA.

The offences u/s 382-411 PPC-155C though are not compoundable but the complainant, who is star witness of prosecution because of compromise, resiled from his allegations, therefore, the statement of other PWs, even if recorded, would not lead the case to conviction. Moreover, non-compoundability of a section of law cannot be read in isolation but it has to be read in background of each case after giving it beneficial interpretation. When the parties had earnestly decided to live with peace by forgetting all their differences then it would be the need of hour to acquit the accused on the basis of compromise despite of non-compoundability of the offence. Wisdom drawn from dictum of

**ATTENDED**  
27 APR 2021  
(Examiner)  
District Court Peshawar

SANA ULLAH KHAN  
JUDICIAL MAGISTRATE-VIII  
PESHAWAR

14

Cont—Ord—

Hon'ble Peshawar High Court, Peshawar reported as **2016 PLD 26 Peshawar and 2015 PLD 223 Peshawar.**

More so, by now it is very much settled by superior Courts that once compromise is affected in any criminal case then the parties to such compromise cannot be allowed to resile. As such, following the principle of once a compromise is always a compromise and placing my reliance over the dictum reported **1998 SCMR 466, 2015 MLD 196 Karachi, 2002 YLR 713 Lahore and 1995 MLD 563 Karachi,** further proceedings in the case would be just a futile exercise.

Hence in view of the above, the accused facing trial namely **Saadat s/o Amanat Ali and absconding accused Abid s/o Bacha Gul** charged in case **FIR No. 1383 dated 19/09/2016 u/s 382-411 PPC-155C of PS Chamkani** are hereby acquitted under **Section 249-A Cr.P.C.** The sureties of the accused are also discharged from the liabilities of bail bonds.

Case property has already been handed over to its lawful owner and such order shall be treated as order under **Section-517 Cr.PC.**

File after completion and compilation be consigned to record room.

**ANNOUNCED**  
**13/02/2021**



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

**SANA ULLAH KHAN**  
JMIC-VIII  
Peshawar

15768  
197-4-21

No.	
Dated of Application	15768
Name of Applicant	197-4-21
Word / Pages	12-12
Fee	
Urgent/Fee	
Signature of Applicant	[Signature]
Dated of Preparation	197-4-21
Dated of Delivery	197-4-21

Copying Agency District Court  
Peshawar.  
197-4-21

## بخدمت جناب سی سی پی او صاحب پشاور

عنوان: محکمہ ایبل برخلاف برخاستگی فیصلہ

چٹھی نمبر OB160 مورخہ 10.01.2018

No. 193	CCPO
15-01-2018	

جناب عالی! سائل حسب ذیل عرض رساں ہے۔

- (1) یہ کہ سائل ضلع پشاور کار بائٹھی و پیدائشی ہے اور حکومت پاکستان کا وفادار شہری ہے۔
- (2) یہ کہ سائل محکمہ پولیس میں سال 2008ء میں بطور کانسٹیبل بھرتی ہو کر باقاعدگی سے بہت ایمانداری اور جانفشانی سے اپنی ڈیوٹی سرانجام دیتا رہا اور اس عرصہ کے دوران سائل کے خلاف کسی قسم کی شکایت وغیرہ کا موقع نہ پنے افسران بالا کو نہیں دیا ہے۔
- (3) یہ کہ سائل نے اس عرصہ کے دوران نہ تو پہلے کوئی غیر حاضری کی ہے اور نہ ہی سائل کے خلاف کوئی کاروائی عمل میں لائی گئی ہے۔ اسی طرح سائل نے اپنی 8 سالہ ملازمت میں صاف و شفاف رہا ہے۔
- (4) یہ کہ سائل کے خلاف بدینتی کی بنیاد پر ایف آئی آر نمبر 1383 مورخہ 19.09.2016 مجرم 411، 155C، 382 تھانہ چکنی پشاور اور ایف آئی آر نمبر 1133 مورخہ 06.10.2017 مجرم 411، 381A اور ایف آئی آر نمبر 46 مورخہ 16.01.2018 مجرم 25، 506 تھانہ شہباز گڑھی، ایف آئی آر نمبر 48 مورخہ 11.04.2019 مجرم 9C تھانہ ہاتھراٹک روج رجسٹرڈ ہوئیں جس کی وجہ سے سائل اپنی ڈیوٹی پر جانے سے قاصر رہا۔
- (5) یہ کہ سائل کو محکمہ کی جانب سے نہ تو کوئی نوٹس ملا اور نہ ہی کوئی Show Cause نوٹس ملا ہے جس میں سائل کو سنے بغیر ہی ایک طرفہ فیصلہ صادر فرمایا ہے۔
- (6) یہ کہ سائل کی غیر حاضری کی وجہ سے سائل کو محکمہ کی جانب سے Major Penalty دی گئی اور اس طرح سائل کو نوکری سے برخاست کیا گیا ہے جو کہ سراسر ظلم و زیادتی ہے اور سائل کو سنے بغیر اور اپنے دفاع کا موقع دیئے بغیر ہی نوکری سے برخاست کیا گیا۔

Comments R.

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F. M. C.  
Put up Record

(7) یہ کہ سائل متذکرہ بالا چھوٹے مقدمات کی وجہ سے جیل میں رہا جس کی وجہ سے سائل کو ٹیوٹیل پر حاضر ہونے سے قاصر تھا۔

(8) یہ کہ اب سائل متذکرہ بالا تمام مقدمات میں باعزت طور پر بری ہو چکا ہے۔ مزید یہ کہ ایف آئی آر نمبر 46 جرم 9C میں سائل ہائی کورٹ راولپنڈی بیچ سے باعزت بری ہو چکا ہے۔ (فقہات آرڈر زلف ہیں)

(9) یہ کہ سائل ایک شادی شدہ شخص ہے اور سائل کے چھوٹے چھوٹے بچے ہیں جبکہ سائل اپنے گھرانے کا واحد کفیل ہے اور سائل کا مذکورہ نوکری کے علاوہ اور کوئی دیگر ذریعہ معاش نہیں ہے۔

لہذا آپ جناب سے نہایت مودبانہ گزارش ہے کہ سائل کے سروس ریکارڈ اور حاضرین کو ٹیوٹیل خاطر رکھتے ہوئے فیصلہ / چٹھی نمبر OB160 محررہ 10.01.2018 کو منسوخ و کا حد فرمائے ہوئے سائل کو دوبارہ نوکری پر جمعہ تمام تر سابقہ مراعات کے بحال کرنے کے احکامات صادر فرمائے جائیں۔ سائل اور اس کے گھر والے آپ کے اس امر پر آپ کے نہایت شکر گزار ہوں گے اور تمام عمر دعا گو رہیں گے۔

المرقوم: 21.02.2015

*Saeed*

سائل

سعادت علی ولد امانت خان / سابقہ کانسٹیبل (بیلٹ نمبر 352)

سکنہ حسینہ سٹریٹ، ہشتنگری، تحصیل و ضلع پشاور

شناختی کارڈ نمبر B-8-16101-8210668 رابطہ نمبر: 0313-9752197



17

OFFICE OF THE  
CAPITAL CITY POLICE OFFICER  
PESHAWAR

Phone No. 091-9210989

Fax No. 091-9212597

*Annex v C*

ORDER

This order will dispose of the departmental appeal preferred by Ex- Constable Sadat Khan No.352 who was awarded the major punishment of "Dismissal from Service" under PR-197 by SP/HQrs Peshawar vide OB No.160, dated 10-10-2018.

2- Two separate enquiries were conducted against him by SDPO Cantt Peshawar on account of absence while the other enquiry conducted by Inspector Yousaf Jan of Police Line Peshawar on account of involvement in two separate theft criminal cases vide FIR No.1133, dated 06-10-2017 u/s 381/411/PPC and FIR No.1383, dated 19-09-2016 u/s 382/155-C/411-PPC PS Chamkani.

3- He was issued proper Charge Sheet and Summary of Allegations by SI/HQrs, Peshawar in both absence and criminal cases. SDPO Cantt Peshawar conducted inquiry of his absence from duty while Inspector Yousaf Jan conducted enquiry for his involvement in the criminal case. SDPO Cantt after enquiry in his findings recommended him for ex-parte action while Inspector Yousaf Jan enquiry officer in criminal cases also recommended the accused official for major punishment. The competent authority in light of the findings of the enquiry officers, issued him Final Show Cause Notice at his home address but he failed to submit his reply or appear before the competent authority. The competent authority in light of the findings of the enquiry officers awarded him the above major punishment.

4- He was heard in person in O.R. and the relevant record along with his explanation perused. IO of the case was also summoned to this office alongwith case file. The IO has stated that the accused official has been charged by his opponent in the instant case. Moreover, there are no evidence or eye witnesses to show his innocence in the case. His appeal is also time barred and without merit. Therefore his appeal for reinstatement in service is hereby rejected/filed.

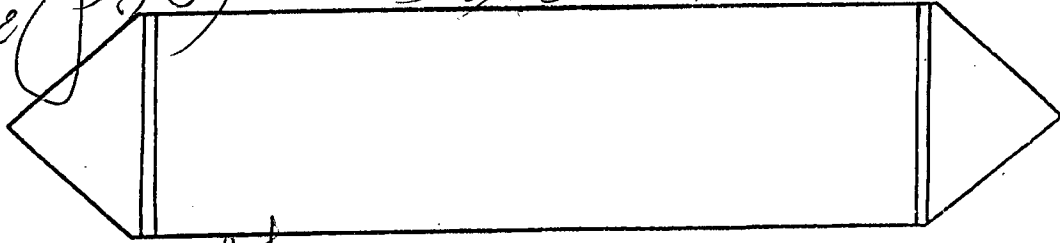
  
(ABBAS ANSARI) PSP  
CAPITAL CITY POLICE OFFICER,  
PESHAWAR

No. 996-1025 /PA dated Peshawar the 31-03- 2021

Copies for information and n/a to the:-

1. SP/HQs Peshawar
2. SDPO-Cantt: Peshawar
3. OSI/Pay Officer/ CRC *May with Casewill R.O.D.*
4. FMC along with Fouji Missal.
5. Official concerned.

# بعدالت جواب خصوصاً محنتوں انجوازہ



2022ء منجانب

کنیٹ سہادت بنام پی ای او وینٹن

موزخہ	-----
مقدمہ	-----
دعویٰ	-----
جرم	-----

## باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ آن مقام کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز اسکے A وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زراں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سند ہے۔

*[Handwritten signature]*  
2022

المرقوم \_\_\_\_\_ ماہ \_\_\_\_\_ 2022

وکیل العبد  
محمد منظور  
Muhammad Usman Khan  
Tufandi  
Ase Peshawar

المقام  
لسٹ اور  
2

*[Handwritten signature]*



**“B”**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
**JUDICIAL COMPLEX (OLD), KHYBER ROAD, PESHAWAR.** *DB*

No.

Appeal No. *4979* of 20 *21*  
*Saadat Ali Khan* Appellant/Petitioner

*I - C - P. Kpk* Versus Respondent

Respondent No. *2*

Notice to: *Capital city Police Officer Police-Line Peshawar.*

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on *31/11/22* at 8.00 A.M. If you wish to urge anything against the appellants/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No.....dated.....~~

Given under my hand and the seal of this Court, at Peshawar this *8th*.....

Day of *Dec* 20 *21*

*(for Reply)*

*[Signature]*  
 Registrar,

**Khyber Pakhtunkhwa Service Tribunal,  
 Peshawar.**

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
 2. Always quote Case No. While making any correspondence.

**“B”**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
**JUDICIAL COMPLEX (OLD), KHYBER ROAD**  
**PESHAWAR.**

*213*

**No.**

Appeal No. *6979* of 20*21*

*Sardar Ali Khan* Appellant/Petitioner

*Versus*

*I-C-P. 12/21* Respondent

Respondent No. *3*

Notice to: —

*Superintendent of Police Head Quarters  
Police - Line Peshawar.*

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on *31.11.21* at 8.00 A.M. If you wish to urge anything against the appellants/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. Copy of appeal has already been sent to you vide this

office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this *8/11*.....

Day of.....*Dec*.....20*21*

*For Reply*  
*Received*  
*13/11/21*

*[Signature]*  
Registrar,

2. Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
**JUDICIAL COMPLEX (OLD), KHYBER ROAD, PESHAWAR.** D.B

No.

Appeal No. 6979 of 20 21  
Saadat Ali Khan Appellant/Petitioner

I.C.P. KPK Versus Respondent

Respondent No. 1

Notice to: —

Inspector General of Police KPK  
Peshawar

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 31/1/22 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No. .... dated .....~~

Given under my hand and the seal of this Court, at Peshawar this 8th

Day of Dec 20 21

(for Reply)

*[Handwritten Signature]*

*[Handwritten Signature]*

Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.