

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR
AT CAMP COURT SWAT

Service Appeal No. 292/2019

Date of Institution ... 11.02.2019

Date of Decision ... 11.05.2022

Akhtar Munir Sub-Inspector, presently serving in the Investigation
Office Daggar, District Buner.

... (Appellant)

VERSUS

District Police Officer Swat and three others.

... (Respondents)

MR. MUSHTAQ AHMAD KHAN,
Advocate

--- For appellant.

MR. NOOR ZAMAN KHATTAK,
District Attorney

--- For respondents.

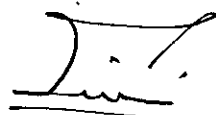
MR. SALAH-UD-DIN
MR. MIAN MUHAMMAD

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

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Through the instant service
appeal, the appellant has invoked jurisdiction of this Tribunal with
the prayer copied as below:-

***"It is, therefore, kindly requested that the
appeal of the appellant may kindly be
accepted by setting-aside the impugned
appellate order dated 11.10.2019 and
modifying the order dated 13.04.2018 to the
extent of declaring and setting-aside of its
impugned portion whereby his dismissal
period of service has been reckoned as leave***



without pay and all consequential benefits be granted to the appellant".

2. Brief facts of the appeal are that the appellant while posted as OII in Police Station Ghaligay District Swat, was proceeded against departmentally on the allegations that he had conducted faulty investigation in case FIR No. 1462 dated 28.11.2017 under sections 471/420/468/473 PPC Police Station Ghaligay and had also taken Rs. 13000/- as bribe from accused of the said case, who then submitted complaint against the appellant. Charge sheet as well as statement of allegations was issued to the appellant by Superintendent of Police Investigation, Swat and on conclusion of the inquiry, minor penalty of stoppage of one increment was imposed upon the appellant. District Police Officer being not satisfied with the punishment imposed upon the appellant, issued show-cause notice to the appellant and dismissed him from service vide order dated 31.01.2018. The same was challenged by the appellant through filing of departmental appeal before Regional Police Officer Malakand at Saidu Sharif Swat, which was allowed vide order dated 13.04.2018 by reinstating the appellant in service, however the period during which the appellant was out of service, was treated as leave without pay. The appellant then filed petition before Inspector General of Police Khyber Pakhtunkhwa Peshawar challenging the order dated 13.04.2018 to the extent of treating out of service period as leave without pay, however the same was rejected vide order dated 11.01.2019, hence the instant service appeal.



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

4. Learned counsel for the appellant has contended that the allegations leveled against the appellant were wrong and baseless and no evidence was recorded in support of the same during the inquiry; that disciplinary action was taken against the appellant on the complaint of one Zahid Hussain,

who was an accused in the concerned criminal case, however in his statement recorded during the inquiry, Zahid Hussain had categorically stated that the appellant was innocent and he does not want to further press the complaint filed against the appellant; that the Regional Police Officer Malakand has himself mentioned in the order dated 13.04.2018 that there was no conclusive evidence against the appellant; that the appellant has been in a way exonerated from the charges leveled against him as his punishment has been set-aside, therefore, there was no legal justification in treating his out of service period as leave without pay.

5. On the other hand, learned District Attorney for the respondents has contended that the petition filed by the appellant before the Inspector General of Police Khyber Pakhtunkhwa Peshawar was time barred, therefore, the appeal in hand is not maintainable; that the appellant has already been treated with leniency and his out of service period has rightly been counted as leave without pay on the principle of no work no pay.



6. Arguments heard and record perused.

7. A perusal of the record would show that one Zahid Hussain, who was arrested in case FIR No. 1462 dated 28.11.2017 under sections 420/468/471/473 PPC had submitted complaint against the appellant, resulting in suspension of the appellant and initiation of disciplinary action against him. During the inquiry proceedings, the aforementioned Zahid Hussain recorded his statement, wherein he stated that he had submitted complaint against the appellant due to misconception and did not want to further press his complaint. It is thus evident that no evidence was procured during the inquiry, which could prove the charges leveled against the appellant. In his order dated 13.04.2018, Regional Police Officer Malakand has himself mentioned that no conclusive evidence was available against the appellant and the appellant was thus reinstated in service. The appellant was though warned through the aforementioned order to remain

careful in future but it is not any kind of punishment and the appellant shall thus be considered to have been exonerated of the charges leveled against him. Vide order dated 13.04.2018 passed by Regional Police Officer Malakand, the penalty of dismissal from service awarded to the appellant was set-aside and he has been reinstated in service. The period during which the appellant remained out of service was on account of his wrongful dismissal, therefore, there exists no justification for counting his out of service period as leave without pay. Nothing is available on the record which could show that the appellant had remained gainfully employed during the period during which he was out of service.

8. Consequently, the appeal in hand is allowed as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
11.05.2022



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)
CAMP COURT SWAT



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

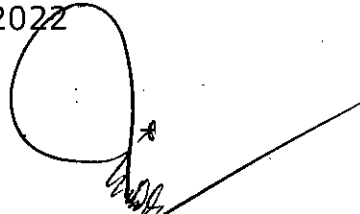
Service Appeal No. 292/2019

ORDER
11.05.2022

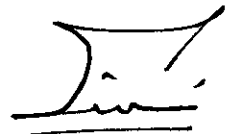
Learned counsel for the appellant present. Mr. Ali Rehman, S.I (Legal) alongwith Mr. Noor Zaman Khattak, District Attorney for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand is allowed as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
11.05.2022



(Mian Muhammad)
Member (Executive)
Camp Court Swat



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

05.04.2022

Mr. Saeed Ullah, Advocate (junior of learned counsel for the appellant) present. Mr. Noor Zaman Khattak, District Attorney for the respondents present.

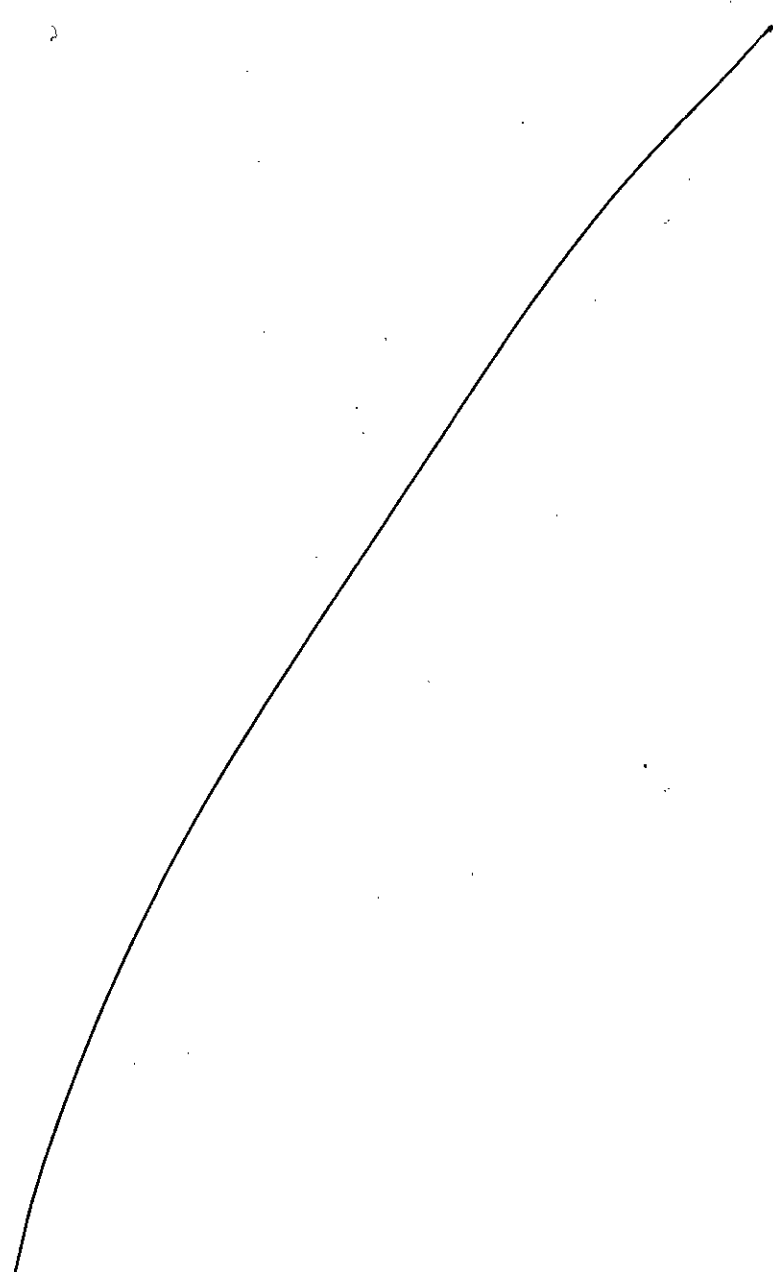
Junior of learned counsel for the appellant requested for adjournment on the ground that as intimation of fixing of the instant appeal for today was not made to learned counsel for the appellant, therefore, an adjournment may be granted. Adjourned. To come up for arguments on 11.05.2022 before the D.B at Camp Court Swat.



(Rozina Rehman)
Member (J)
Camp Court Swat



(Salah-ud-Din)
Member (J)
Camp Court Swat



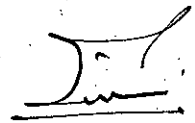
07.01.2022

Clerk of learned counsel for the appellant present. Mr. Riaz Ahmed Paindakhel, Assistant Advocate General for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is out of station today. Adjourned. To come up for arguments before the D.B on 08.02.2022 at Camp Court Swat.



(Mian Muhammad)
Member (E)
Camp Court Swat



(Salah-ud-Din)
Member (J)
Camp Court Swat

08.02.2022

Tour is hereby canceled. Therefore, the case is adjourned to 05.04.2022 for the same as before at Camp Court Swat.



Reader



06/04/2021

Due to COVID-19, the case is adjourned to

08/06/2021 for the same.


READER

08.10.2021

Counsel for the appellant present.

Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Hikmat Khan H.C for respondents present.

Learned counsel for the appellant made a request for adjournment on the ground that his client is not available today; allowed with direction to make sure the presence of the appellant on the next date and to come up for arguments on 09.12.2021 before D.B at Camp Court, Swat.



(Atiq-Ur-Rehman Wazir)
Member (E)
Camp Court, Swat
Counsel for appellant present.



(Rozina Rehman)
Member (J)
Camp Court, Swat

09.12.2021

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

In order to prepare the brief, learned counsel for appellant requested for adjournment; granted. To come up for arguments on 07.01.2022 before D.B at Camp Court, Swat.



(Atiq ur Rehman Wazir)
Member (E)
Camp Court, Swat.



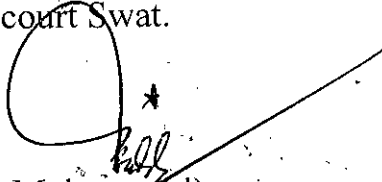
(Rozina Rehman)
Member (J)
Camp Court, Swat

07.10.2020


Counsel for the appellant is present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Mr. Khawas Khan, SI for respondents present.

Learned counsel for the appellant requested for adjournment. The request is accepted.

Adjourned to 08.12.2020 for arguments before D.B at camp court Swat.



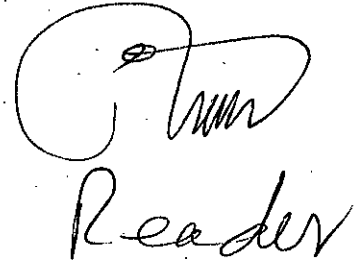
(Mian Muhammad)
Member(E)



(Muhammad Jamal Khan)
Member
Camp Court Swat

8/12/20

Due to covid-19 case is
adjourned to 02-02-2021



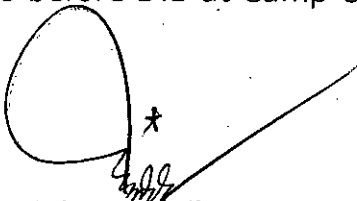
Reader

02.02.2021

Nemo for parties.

Muhammad Raiz Khan Paindakheil learned Assistant Advocate General for respondents present.

Preceding date was adjourned on account of Covid-19, therefore, both the parties be put on notice for 06.04.2021. for arguments before D.B at Camp Court, Swat.



(Mian Muhammad)
Member (E)
Camp Court, Swat



(Rozina Rehman)
Member (J)
Camp Court, Swat

07.07.2020. Due to Covid-19, the case is adjourned.
To come up for the same on 08/09/2020,
at camp court, Swat.



Reader


08.09.2020

Nemo for appellant.

Mr. Riaz Khan Paindakheil learned Assistant AG alongwith
Khawas Khan Inspector for respondents present.

Notice be issued to appellant/counsel for 07.10.2020 for
arguments, before D.B at Camp Court, Swat.

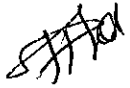

(Attiq ur Rehman)
Member (E)
Camp Court, Swat



(Rozina Rehman)
Member (J)
Camp Court, Swat

05.11.2019

Counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mian Sikandar Shah, Reader to DSP (Legal) for the respondents present. Learned counsel for the appellant submitted rejoinder which is placed on record. Learned counsel for the appellant also seeks adjournment for arguments. Adjourned to 07.01.2020 for arguments before D.B at


Camp Court Swat.

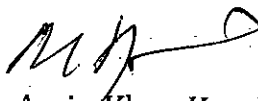

(Hussain Shah)
Member
Camp Court Swat


(M. Amin Khan Kundi)
Member
Camp Court Swat

07.01.2020

Counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 03.03.2020 for arguments before D.B at Camp Court Swat.



(Hussain Shah)
Member
Camp Court Swat


(M. Amin Khan Kundi)
Member
Camp Court Swat

03.03.2020

Appellant in person present. Mr. Riaz Paindakheil learned Assistant Advocate General present. Appellant seeks adjournment as his counsel is not available. Adjourn. To come up for arguments on 07.04.2020 before D.B before D.B at Camp Court, Swat.


Member


Member
Camp Court, Swat.

Due to corona virus. To
come up for the case on - 1/6/20


Riaz Ahmad

11.06.2019

Appellant in person present. Nothing is available on file to suggest that notices were issued to the respondents. Muharrar concerned is directed to render explanation to this effect. Notices be issued to the respondents for written reply/comments. Adjourn. To come up for written reply/comments on 02.09.2019 before S.B at Camp Court, Swat.

Member
Camp Court, Swat.

02.09.2019

Appellant in person present. Written reply not submitted. Khawas Khan Inspector representative of the respondent department present and requested for time to furnish written reply/comments. Granted. To come up for reply/comments on 08.10.2019 before S.B at Camp Court, Swat.

Member
Camp Court, Swat.

08.10.2019

Appellant in person and Mian Ameer Qadir, Deputy District Attorney alongwith Mr. Khawas Khan, S.I (Legal) for the respondents present. Representative of respondents submitted para-wise reply on behalf of respondents No. 1 to 3 which is placed on record. Case to come up for rejoinder and arguments on 05.11.2019 before D.B at Camp Court Swat.

(Muhammad Amin Khan Kundi)
Member
Camp Court Swat

نوٹ - 1۔ 14-6-19 کو جمع ہوا ہے۔
17/5/19
14-6-19 کو جمع ہوا ہے۔
نوٹ - 1۔ 14-6-19 کو جمع ہوا ہے۔

05.04.2019


Learned counsel for the appellant present. Preliminary arguments heard.

The appellant (Sub Inspector) has filed the present service appeal and partially made impugned therein order dated 13.04.2018 of the appellate authority whereby the punishment order of dismissal from service of the appellant dated 31.01.2018 was set aside by extending him benefit of doubt and he was reinstated but warned to be careful in future and the period the appellant spent out of service was counted as leave without pay. The appellant has also assailed the order dated 11.01.2019 through which his departmental appeal under Rule-11 of Khyber Pakhtunkhwa Police Rules, 1975, was rejected. Prayer of the appellant in the present service appeal is for setting aside the portion of the order of appellate authority dated 13.04.2018 whereby the period during which the appellant remained out of service was reckoned as leave without pay and for the grant of consequential benefits.

Points urged need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 11.06.2019 before S.B at Camp Court, Swat.

Appellant Deposited
Security & Process Fee

14/6/18

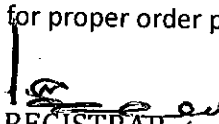
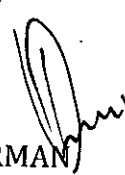

Member
Camp Court, Swat.

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 292/2019


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	26/2/2019	<p>The appeal of Mr. Akhtar Munir resubmitted today by Mr. Mushtaq Ahmad Khan 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-	13-3-19	<p>This case is entrusted to touring S. Bench at Swat for preliminary hearing to be put up there on <u>05-04-2019</u></p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Akhtar Munir sub Inspector investigation Office Daggar Buner received today by i.e. on 11.02.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of departmental appeal mentioned in para-4 of the memo of appeal (Annexure-D) is not attached with the appeal which may be placed on it.
- 2- Memo of appeal is misprinted.
- 3- One more copy/set of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 243 /S.T,

Dt. 12-2- /2019


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Mushtaq Ahmad Khan Adv.
District Court Daggar Buner.

⇒ objection No 1 is misconceived, Departmental appeal relevant to the instant appeal is mentioned in Para No 5 of the memo of appeal and the same has been annexed as Annex "E". Anyway if the worthy Tribunal considers the previous appeal mentioned in Para No 4 of Appeal then the same will be called through court by the request of the appellant because the same is in possession of the respondent.

⇒ objection No 2 has been removed
⇒ objection No 3 has also been removed.


Hence the case is complete and the same may please be put before worthy Tribunal

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 280

Dated 26/2/19

Dated 23-2-2019


Mushtaq Ahmad
Khan Adv.

Before the service tribunal khyber pukhtoonkhwa Peshawar .

Service appeal No. 298/2019

Akhtar Munir Sub inspector presently serving in investigation office Daggär district Buner.....appellant


Vs

District police officer Buner and others..... respondents

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6	Facts finding report	"B"	7
7	Order dated 31/1/2018	"C"	8
8	Impugned order dated 13/4/2018	D	9
9	Departmental appeal	"E"	10
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14	Wakalat nama		12

Dated: 8 /2/2019

Petitioner
Through 
Mushtaq ahmad khan
Office at district court
daggär, buner
Cell no 03449014199

Beqfore the service tribunal khyber pukhtoonkhwa Peshawar .

Service appeal No... 292 / 2019

1. Akhtar Munir sub inspector presently serving in the investigation office
Daggar district BunerAppellant

VS

Khyber Pakhtukhwa
Service Tribunal

Diary No. 175

Dated 11-2-2019

1. District police officer Swat.
2. Regional police officer Malakand region at saidu sharif swat
3. inspector General of police ,Khyber pukhtunkhwa police Peshawar.
4. Govt: of khyber pukhtunkhwa through secretary home at
Peshawar.....respondents

Service Appeal against the impugned order dated 11/1/2019 whereby the respondent No 3 rejected the appeal of the appellant against the partial impugned order dated 13/4/2018 whereby the out of service period due to dismissal of the appellant was reckoned as leave without pay.

The appellant submits as follows:

1. That while posted as OII police station ghaligay swat; the appellant was charged for conducting flawed investigation in case FIR No 1462, dated 28/11/2017 u/s 471/420/468 and 473 PPC, PS ghaligay .(charge sheet attached as anx A)
2. That pursuance to the aforesaid charge sheet the inquiry officer mentioned therein, submitted his facts finding report. (facts finding report is attached as anx B)
3. That on the basis of facts finding report the appellant was awarded punishment of stoppage of one annual increment by S.P investigation Swat but the respondent No 1 dismissed him from service vide order dated 31/1/2018.(order dated 31/1/2018 attached as anx C)
4. That aggrieved from the aforesaid order the appellant preferred an appeal before the respondent no 2 which was accepted by reinstating the appellant in service and it was held that there was no evidence against him but he was warned to be careful in future and his period spent out of service due to his dismissal was ordered to be counted as leave without pay.(impugned order dated 13/4/2018 attached as anx D).
5. That it is pertinent to mention here that the appellant was told about his reinstatement in service but he did not knew that his dismissal period have been treated as leave without pay and when he later on received and readout the impugned order dated 13/4/2018 he came to know regarding

Filed to-day

Registrar

11/2/19

Re-submitted to-day
and filed.

Registrar

11/2/19

(2)

the impugned portion of the order whereby his period of dismissal was reckoned as leave without pay hence he preferred a departmental appeal before the respondent no 3 within few days but the same was declined vide order dated 11/1/2019, hence this appeal before the worthy service tribunal on the following grounds inter alia. (departmental appeal dated 31.5.2018 attached as marks E and impugned appellate order attached as an x F)

Grounds:

- a. That the last portion of the order dated 13/4/218 of the respondent No 2 whereby the dismissal period of the appellant have been counted as leave without pay is violative of the law, rules and natural justice and similarly the appellate order dated 11/1/2019 whereby the appeal of the appellant has been dismissed is also against law, rules and natural justice.
- b. That the impugned order of The respondent no 2 to the extent of treating his out of service period as leave without pay is Unreasonable, unjustifiable under the law and violative of the rule of natural justice hence untenable under the law.
- c. That no show cause notice has been sent to the appellant regarding the impugned portion of the order dated 13/4/2018 nor he has been given opportunity of personal hearing on the impugned proposed action on which score alone the impugned order to the extent of reckoning his dismissal period as leave without pay, is illegal.
- d. That remaining in the service and performing his duties was beyond the power and control of the appellant because he had unlawfully been dismissed from service without his fault so he could not be penalized for the period he remained out of service due to his dismissal.
- e. That there was no iota of evidence against the appellant regarding the allegations with which he was charged. The appellant had been charged with malafide intention by the complainant of the FIR No 1462 dated 28/11/2017 which could not be substantiated by him and that is why the respondent no 2 in his order dated 13/4/2018 has categorically stated that there was no evidence against the appellant but despite that his period of dismissal was reckoned as leave without pay which action of the respondent no 2 is unreasonable, unfair and against law.
- f. That the impugned appellate order is non-speaking, unreasonable, violative of law and rules.
- g. That the appellant seeks the permission of this honorable court to rely on additional grounds at the time of arguments.

Prayer:

It is therefore kindly requested that the appeal of the appellant may kindly be accepted by setting aside the impugned appellate order dated 11/1/2019 and modifying the order dated 13/4/2018 to the extent of declaring and setting

3

asiding of its impugned portion whereby his dismissal period of service has been reckoned as leave without pay and all consequential benefits be granted to the appellant..

Any other relief not specifically prayed for and which this worthy tribunal deem fit and appropriate in the facts and circumstances of the instant case may also kindly be granted for the end of justice.

Dated: 8 / 2 / 2019

Ahmed Mirza
Appellant

Through *(M)*

Mushtaq Ahmad khan alizai
Advocate, office district court
Buner. cell No 03469014199.

4

Before the service tribunal khyber pukhtoonkhwa Peshawar .

Service appeal No.....2019

Akhtar Munir Sub inspector presently serving in investigation office Daggar district Buner.....appellant

Vs

District police officer Buner and others.....respondents

AFFIDIVET

I Akhtar Munir SI, do hereby solemnly affirm and declare on oath that the contents of the instant service appeal is correct to the best of my knowledge and belief & nothing has been concealed from this worthy tribunal.

Date: 8/02/019

Akhtar Munir
Deponent

ATTESTED
Gohar Ali
Gohar Ali Advocate
Oath Commissioner
Dist: Courts Daggar Buner
No: 36 Date: 8.2.19

5

Before the service tribunal khyber pukhtoonkhwa Peshawar

Akhtar Munir Sub inspector presently serving in investigation office Daggar district Buner.....appellant

Vs

District police officer Buner and others.....respondents

Addresses of parties

Petitioner

Akhtar Munir Sub inspector presently serving in investigation office Daggar district Buner, CNIC No 1510160361955, Mob No 03450454884.

respondents

1. District police officer Swat.
2. Regional police officer Malakand region at saidu sharif swat
3. Inspector General of police ,Khyber pukhtunkhwa police Peshawar.
4. Govt: of khyber pukhtunkhwa through secretary home at Peshawar.

Appellant

Through



Mushtaq Ahmad Khan Alizai

Advocate, office district court

Buner cell No 03469014199.

(6)

Arx A³

CHARGE SHEET

I Mohammad Asif Gohar Superintendent of Police, Investigation, as competent authority, hereby charge you, SI Akhtar Munair of Investigation Wing, Swat while posted to OII P.S Ghaligay as follows:-

It has been reported against you that while posted to OII P.S Ghaligay committed the following act/ acts, which is / are gross misconduct on your part as defined in Rules 2 (iii) of Police Disciplinary Rules 1975.

You faulty Investigated case vide FIR No. 1462 Dated 28-11-2017 u/s 471/420/468/473 PPC P.S Ghaligay as well as take bribe amounting 13000 rupees illegally from the Applicant/accused which clearly indicated wrong on your part.

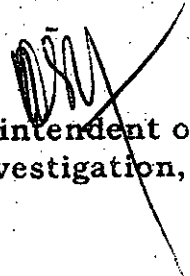
2. By reasons of the above, you appear to be guilty of misconduct and rendered yourself liable to all or any of penalties specified in Rule-4 of the Disciplinary Rules 1975.

3. You are, therefore, required to submit your written reply within seven (7) days of the receipt of this Charge Sheet to the Enquiry Officer.

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

5. Intimate as to whether you desire to be heard in person or not.

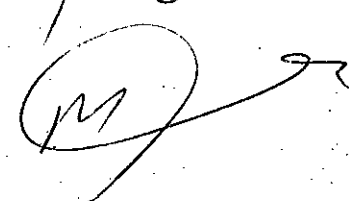
6. A statement of allegations is enclosed.


Superintendent of Police,
Investigation, Swat.

No. 90 /E,

Dated: 27/12 /2017.

C T C



Mushtaq Ahmad Khan
Advocate High Court
Peshawar at Courts Dargah

جناب عالی!

بجوالہ ڈسپلنری ایکشن نمبر EB/90 مورخہ 27-12-2017 مجاریہ جناب SP صاحب انوسٹی گیشن برخلاف اختر منیر

خان SI/Oll تھانہ عالیہ بحیثیت انکوائری افسر موصول ہو کر پایا گیا کہ۔

مسسی زاہد حسین ماخوڑہ مقدمہ علت 1462 مورخہ 28-11-2017 PPC 420/468/471/473 نے

دوران تفتیش اور گرفتاری تفتیشی افسر اختر منیر خان SI کی رویہ اور تفتیش میں رقم لینے کی نسبت جناب SP صاحب انوسٹی گیشن کی خدمت میں تحریری درخواست گزاری۔ جس پر جناب SP صاحب انوسٹی گیشن نے مذکورہ SI کو فوری طور پر معطل کر کے مذکورہ کے خلاف محکمانہ کارروائی شروع کرنے کا حکم صادر فرما کر زبردستی کو انکوائری افسر مقرر کر کے انکوائری رپورٹ پیش کرنے کی ہدایت کی۔

انکوائری کے سلسلہ میں درخواست کنندہ زاہد حسین کو بذریعہ سرکاری فون نمبر مطلع کر کے خود پیش ہونے اور گواہان پیش

کرنے کی ہدایت ہوئی۔

درخواست کنندہ زاہد حسین حسب طلبی حاضر کر مذکورہ کو زبانی طور پر سنا گیا۔ اور تحریری بیان قلمبند ہو کر جو شامل انکوائری ہے

مذکورہ نے اپنے بیان میں واضح کیا کہ اس نے تفتیشی افسر اختر منیر خان SI کے خلاف درخواست غلط فہمی پر گزاری ہے۔ اور اپنے درخواست پر

کسی قسم کی کارروائی نہ کرنا بیان کی۔

اسی طرح انکوائری کے سلسلہ میں مثل مقدمہ طلب کر کے ملاحظہ پر پایا گیا کہ تفتیشی افسر نے حقائق پر مبنی تفتیش کی ہے۔ لیکن

سلسلہ تفتیش کو مزید جاری نہ رکھ کر مقدمہ میں اصل ملزمان تک رسائی حاصل نہیں کی ہے۔ جس کی بناء پر درخواست کنندہ نے دہلوی کی بناء پر

SI کے خلاف گزاری ہے۔

لہذا جملہ حالات مدعی کا بیان اور مثل مقدمہ ملاحظہ کرنے کے بعد اس نتیجہ پر پہنچا ہوں۔ کہ تفتیشی افسر نے تفتیش کے دوران

اصل ملزمان تک رسائی حاصل نہیں کی ہے۔ جس کے بناء پر درخواست کنندہ نے تفتیشی افسر کے خلاف درخواست گزاری ہے۔

لہذا اگر اتفاق ہو تو تفتیشی افسر اختر منیر SI کو بحال کرنے کی ساتھ ساتھ بطور سزا سالانہ ایک انگریمنٹ عارضی طور پر

سٹاپ کرنے کی سفارش کرتا ہوں۔

ڈی ایس پی انوسٹی گیشن ضلع سوات۔

stoppage + increment
for one year

Mushtaq Ahmad Khan
Advocate High Courts
Peshawar at Courts Day

(8)

Aux 'C'

ORDER


This order pertains to Show Cause Notice served on SI Akhtar Munir Investigation Wing, Swat. He while posted as OII Police Station Ghalegay was reported to have conducted a flawed investigation in case FIR No. 1462 dated 28-11-2017 u/s 471/420/468/473 PPC Police Station Ghalegay while taking bribe amounting to 13000/- from the applicant.

After conducting a proper departmental enquiry he was awarded punishment of stoppage of one annual increment by SP Investigation, Swat. The undersigned did not agree with the punishment. Hence, he was issued Show Cause Notice vide this office No. 32/PA, dated 10-01-2018 to explain his position. The delinquent SI was called to appear before the undersigned in connection with the allegations leveled against him. He was heard in person but he failed to produce any plausible defence against the leveled allegations.

By conducting flawed investigation and demanding the bribe, he has stigmatized Police department. His further retention in Police is bound to affect the discipline of the entire force.

By exercising the powers vested in the undersigned under Rules 2 (iii) of Police Disciplinary Rules-1975, I; Capt: (R) Wahid Mehmood, PSP, District Police Officer, Swat as a competent authority, am constrained to set aside SP Investigation, Wing Swat order bearing Endst: No. 178/E, dated 08-01-2018 and award him punishment of dismissal from service.

Order announced.


District Police Officer, Swat

O.B. No. 19.

Dated 31-01/2018.

Copy of above to:-

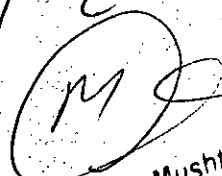
1. Worthy Regional Police Officer, Malakand Region, Saidu Shani Swat
FOR INFORMATION PLEASE.
2. SP Investigation, Swat alongwith enquiry file containing 04 pages.
3. Establishment Clerk
4. OASI

For necessary action.


District Police Officer, Swat

OD/EC/PO

AA

C.T.C


Mushtaq Ahmad Khan
Advocate High Court
Peshawar at Courts Dargah

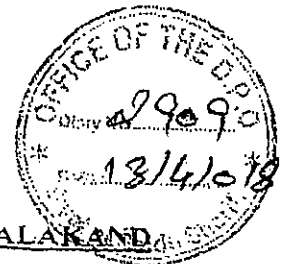
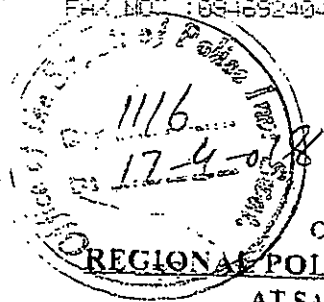
OB No: 20
DT. 01-02-018

9

Aux "D"

FAX NO: 09469240402

16 Apr. 2018 3:14PM P1



OFFICE OF THE REGIONAL POLICE OFFICER, MALAKAND AT SAIDU SHARIF SWAT.

Ph: 0946-9240381-83 & Fax No. 0946-9240390 Email: dgmalakand@yahoo.com

ORDER:

This order will dispose of appeal of Ex-SI Akhtar Munir of Swat District for reinstatement in service.

Brief facts of the case are that Ex-Sub-Inspector Akhtar Munir while posted as OI Police Station Ghalegay was reported to have conducted a flawed investigation in case FIR No. 1462 dated 28/11/2017 U/S 471/420/468/473 PPC Police Station Ghalegay while taking bribe amounting to 13000/- from the applicant. After conducting proper departmental enquiry he was awarded punishment of stoppage of one annual increment by SP investigation Swat. The District Police Officer, Swat did not agree with the punishment. Hence, he was issued Show Cause Notice to explain his position. The delinquent SI was called to appear before the District Police Officer, Swat in connection with the allegations levelled against the levelled allegations. Being found guilty of the charges the District Police Officer, Swat dismissed him from service vide his office OB No. 19 dated 31/01/2018 under Rules 2(iii) of Police Disciplinary Rules 1975.

He was called in Orderly Room on 06/03/2018 and heard him in person. The appellant explained that he is innocent and has not been received any bribe in the said case. ASP (JT) Swat and In-charge Regional Complaint Cell were appointed to further clarify the case. Who submitted that the man who alleged bribery has recanted his statement and stated that he is satisfied. Re-enquiry was perused and found that there is no conclusive evidence against for appellant. Giving him benefit of doubt he is reinstated but warned to be careful in future. The period he spent out of service is to be counted as leave without pay.

Order announced.

B.No: 53
17-04-18

No. 3760 /E,
Dated 13-04-2018.

(AKHTAR HAYAT KHAN)
Regional Police Officer,
Malakand, at Saidu Sharif Swat

Copy to District Police Officer, Swat for information and necessary action with reference to his office Memo: No. 3644/E, dated 07/02/2018.

Mushraf Advocate High Court Peshawar at Courts Jagora

OB/ECP/O

S. Investment Lead
OB No. 6463
13-4-18

OB/ECP
No. 6463
District Police Officer
SWAT

SP Investment
No. 6463
Office Supdt.
DPO/Swat

حضرت جناب IGP صاحب قیصر ٹھونڈ خواہ لشار

درخواست رقم اسٹیل

جناب عالی :- گزارش ہے کہ سائیل بحیثیت سب انکمپرائزڈ اینڈ ٹیلورڈ اینڈ انڈسٹریز
 خوش اتلوی سے ضلع دیر ایئر میں سرانجام دے رہا ہے۔ سائیل کو
 I.D.P.O صاحب سوات نے بحوالہ آرڈر ریگ نمبر 19 فرم 31/04/08 سے سبس کیا تھا۔ جو
 R.R.O صاحب ملکہ کنڈر بلوچ نے بحوالہ قسطی نمبر 3760/E دوبارہ سرسوں پر بحال
 کرنے کا حکم صادر فرمایا۔ سائیل مغرب اور مال و مح دار ہے۔ اور بجے
 زیر تعلیم ہے۔ تعلیم کا فخر ہے اور گھر کا گزر اوقات صرف اور صرف
 اپنے ننھا لہ ہے۔ سائیل 20 سب سے اور 14 دن بلکہ ننھا لہ ہو گیا ہے۔
 لہذا انہوں نے درخواست استدعا ہے کہ آپ صاحبان سائیل پر رقم معزبانہ
 فرمائیں کہ ننھا لہ سیر کرے گا ننھا لہ دینے کا احکامات صادر نہ فرمائی جائے۔
 سائیل حاجات دعاگو رہو گا۔

سربراہ / اہل قریب انکمپرائزڈ

سید عزیز حسین لہریا دیر فرم 21-5-018

Mobile No: 08450454884

R/G

Submitted for your kind Perused and order please

SP, Investigation Upper Dir 31/5

Mushtaq Ahmad Khan Advocate High Pesnawar



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. SI 98 /19, dated Peshawar the 11.01.2019.

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11 of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by SI Akhtar Munir No. 571/M..

The brief, yet relevant, facts, of the case are that the appellant was awarded punishment of stoppage of one annual increment without cumulative effect for one year by SP/Investigation, Swat vide OB No. 05, dated 08.01.2018 on the allegation that he while posted as OII Police Station Ghaley, Swat was reported to have conducted a flawed investigation in case FIR No. 1462, dated 28.11.2017 u/s 471/420/468/473 PPC Police Station Ghaley, Swat while taking bribe amounting to 13000/- rupees from the applicant.

The District Police Officer, Swat did not agree with the punishment, he was issued Show Cause Notice vide DPO Office Swat No. 32/PA, dated 10.01.2018. He was heard in person but he failed to produce any plausible defence against the allegations. Therefore, he was dismissed from service by DPO/Swat vide OB No. 19, dated 31.01.2018.

He preferred appeal to Regional Police Officer, Malakand. Regional Police Officer, Malakand reinstated him in service but warned to be careful in future. The period he spent out of service was counted as leave without pay vide order Endst: No. 3760/E, dated 13.04.2018.

On 02.01.2019, the meeting of Appellate Board was held at CPO Peshawar, wherein the petitioner was present and heard.

Since the RPO Malakand has already taken a lenient view and the instant appeal is also time barred, therefore, the Board decided that his appeal is hereby rejected.

This order is issued with the approval by the Competent Authority.

(DR. MUHAMMAD ABID KHAN) PSP
Deputy Inspector General of Police, HQrs:
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No. SI 99-5 /19.

Copy of the above is forwarded to the:

1. Regional Police Officer, Malakand at Swat. Service record and complete enquiry file of the above named SI received vide your office Memo: No. 11745/E, dated 06.12.2018 is returned herewith for your office record.
2. District Police Officer, Swat.
3. Superintendent of Police, Investigation, Swat.
4. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
8. Office Supdt: E-III, CPO, Peshawar.

ECI DPO/ Bumer
Per mactia plous
Encl. S. record
Enq. file
Office Supdt:

674
28.01.2019

SP investigation
DPO Bumer

C.T.C
Advocate
Peshawar at Courts House

وکالت نامہ

بعدالت ضا - سروس ٹریسول صدر محسوس اور مشاور

آہستہ فیستہ نام D.P.O. ایسٹریبلز وکٹری
مخانب سید منس دعوی سروس اصل

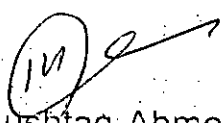
باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوابدہی بہ مقام کے لیے سروس ٹریسول مشاور کے آ

مشاق احمد خان ایڈووکیٹ پشاور کو بدیں شرط وکیل مقرر کیا ہے میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا اور بروقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر پیشی پر من مظہر حاضر نہ ہوا اور مقدمہ میری غیر حاضری کی وجہ سے کسی طرز پر میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام کچہری کے کسی اور جگہ یا کچہری کے مقررہ اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے۔ اگر مقدمہ علاوہ صدر مقام کچہری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا کچہری کے اوقات کے آگے پیچھے پیش ہونے پر من مظہر کو کوئی نقصان پہنچے تو اس کی ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا بختانہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھے کوکل سماختہ پرواختہ صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا اور صاحب موصوف کو عرضی دعویٰ و جواب دعویٰ اور درخواست اجرائے ڈگری و نظر ثانی اپیل و نگرانی ہر قسم کی درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجرا کرانے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور سپرد ثالثی و راضی نامہ کو فیصلہ برخلاف کرنے، اقبال دعویٰ دینے کا بھی اختیار ہوگا اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری، یکطرفہ درخواست حکم اتناعی یا قرتی یا گرفتاری قبل از اجراء ڈگری بھی موصوف کو بشرط ادا سنگی علیحدہ مٹانہ پیروی کا اختیار ہوگا، اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا، یا مقدمہ مذکورہ یا اس کے کسی جزو کی کاروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے کسی دوسرے وکیل یا پیر منتر کو بجائے اپنے یا اپنے ہمراہ مقرر کریں، اور ایسے مشیر قانون کو ہر امر میں وہی اور ویسے ہی اختیارات حاصل ہوں گے، جیسے کہ صاحب موصوف کو حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا وہ صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ بھی صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا یہ مختار نامہ لکھ دیا تاکہ سند رہے۔

موردہ۔ 8/2/09۔ مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

Attested & Accepted


Mushtaq Ahmed Khan Advocate

الع

الع

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 1092 /ST

Dated 14/6 /2019


To,

Mr. Muhammad Nabi,
Office Assistant,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Subject:- EXPLANATION IN SERVICE APPEALS
NO. 494/2018, 1510/2018, 1511/218 AND 292/2019

You, Mr. Muhammad Nabi, Office Assistant have properly not served the notices upon the respondents in Service Appeal No.494/2018,1510/2018,1511/218 and 292/2019 registered post or by process server as is evident from the order sheet dated 11/6/2019. You were bound to comply with the said order by sending notices to the respondents. But you failed to do so; resultantly the learned Member took a serious view regarding non-compliance of the above order and directed for issuance of explanation.

You are, therefore, called upon to explain the reason for not properly served the notices upon the respondents within 3 days, otherwise disciplinary action will be initiated against you under E & D Rules, 2011.


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 292/2019

Akhtar Munir Sub-Inspector presently serving in the Investigation office Daggar District Buner.

..... Appellant

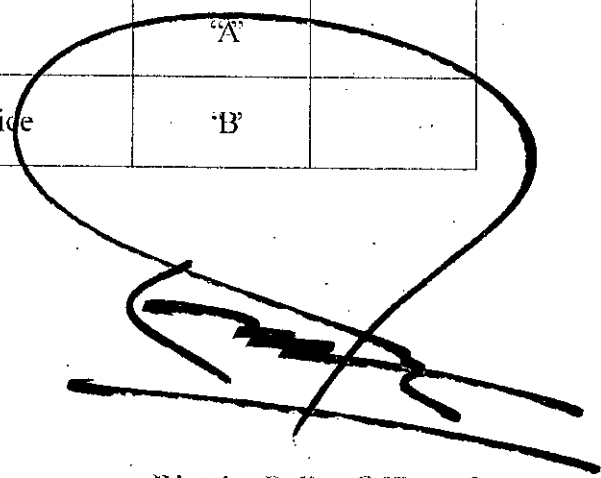
VERSUS

1. District Police Officer Swat.
2. Regional Police Officer Malakand at Saidu Sharif Swat.
3. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
4. Govt. of Khyber Pakhtunkhwa through Secretary Home at Peshawar.

.. Respondents

INDEX

S.No:	Description of Documents	Annexure	Page
1	Para-wise Comments	-	1-3
2	Affidavit	-	4
3	Authority Letter	-	5
4	Copy of enquiry report	'A'	
5	Copy of Show Cause Notice	'B'	


District Police Officer, Swat
(Respondent No. 1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 292/2019

Akhtar Munir Sub-Inspector presently serving in the Investigation office Daggar District Buner.

..... Appellant

VERSUS

1. District Police Officer Swat.
2. Regional Police Officer Malakand at Saidu Sharif Swat.
3. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
4. Govt: of Khyber Pakhtunkhwa through Secretary Home at Peshawar.

..... Respondents

PARAWISE REPLY BY RESPONDENT NO.01, 02 & 03

Respectfully Sheweth,

Preliminary Objections

1. That the appeal is badly barred by Law & limitation.
2. That the appellant has got no Cause of action and locus standi to file the present appeal.
3. That the appeal is bad due to misjoinder and nonjoinder of necessary parties.
4. That the appellant has not come to the Tribunal with clean hands.
5. That the instant appeal is not maintainable in its present form.
6. That the appellant has concealed the material facts from this Hon'ble Tribunal.

FACTS:

1. Correct to the extent that the appellant was charged for conducting a flawed investigation in case FIR No.1462 dated 28/11/2017 U/S 420-468-471-473 PPC Police Station Ghalegay while taking bribe amounting Rs.13000 from the applicant which was a gross misconduct on his part.
2. Pertain to record, during enquiry allegations were established. Copy of enquiry report is annexure "A"
3. Correct to the extent that on the basis of fact finding report of DSP Investigation District, Swat minor punishment was awarded by SP: Investigation Swat but keeping in view the proved charges, respondent No.01 issued another Show Cause Notice with grounds of action under Rule 5 (3) KPK Police Rule-1975 to appellant and the minor punishment was converted

into dismissal from service. Copy of Show Cause Notice enclosed as annexure "B".

4. Correct to the extent that the appellate authority after taking lenient view modified the dismissal order into punishment of warning and the period remained out of service was treated as leave without pay.
5. Incorrect. The appellate authority has announced the order in the presence of appellant, so the plea of appellant is misconceived and badly barred by Law & Limitations. Second departmental authority i.e respondent No.03 has also rejected the second departmental appeal of appellant on the same grounds. The appellant has wrongly challenged the valid and legal order of the respondents through unsound reasons/grounds.

GROUNDS

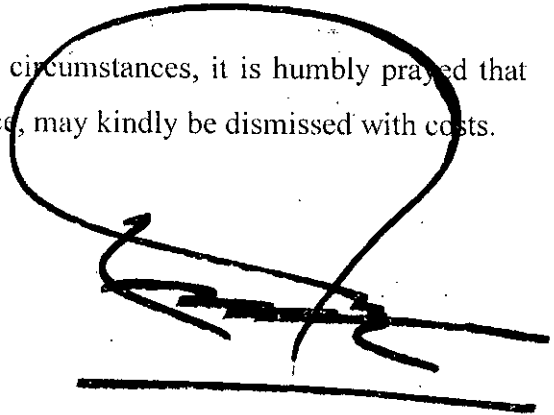
- a. Incorrect. The allegations leveled against the appellant were proved during departmental probe but the appellate authority while taking lenient view modified the major punishment into minor punishment, thus the appellant has been provided justice and his case was not appealable before upper forum as well as to the honorable Tribunal.
- b. Incorrect. As explained in preceding para, major punishment was converted into minor punishment i.e (warning) by the appellate authority but the appellant has not challenged the said minor punishment in his appeal before the honorable Tribunal meaning thereby that he has admitted the charges. Furthermore the order of the appellate authority is based on facts, extreme leniency and in accordance with Law/Rules.
- c. Incorrect. There is no need of issuing Show Cause Notice to appellant while reducing the major punishment into minor punishment.
- d. Incorrect. Already explained in preceding para.
- e. Incorrect. During enquiry conducted by the DSP Investigation, the appellant was found responsible for the charges. Copies of finding report as annexure "B". Similarly the appellate authority has not set aside the order of respondent No.01 but the same was modified, meaning thereby that the charges were

proved against him to some extent during probe, but lenient view was taken against the appellant keeping in view his long service career.


- f. Incorrect. The order of the appellate authority is speaking, reasonable, based on extreme leniency and in accordance with rules.
- g. That the respondents may be allowed to add any other grounds at the time of hearing of appeal.

PRAYER:

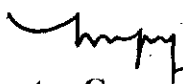
Keeping in view the above facts and circumstances, it is humbly prayed that the appeal of appellant being devoid of legal force, may kindly be dismissed with costs.



**District Police Officer Swat
(Respondent No. 1)**



Regional Police Officer,
Malakand at Saidu Shahr Swat,
Regional Police Officer,
Malakand Region
(Respondent No. 2)



Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 292/2019

Akhtar Munir Sub-Inspector presently serving in the Investigation office Daggar District Buner.

..... Appellant

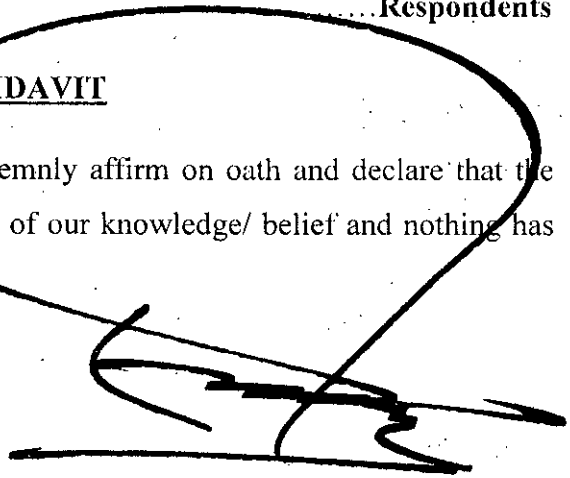
VERSUS

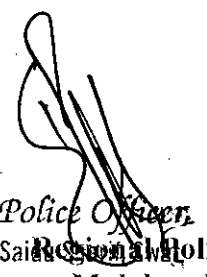
1. District Police Officer Swat.
2. Regional Police Officer Malakand at Saidu Sharif Swat.
3. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
4. Govt. of Khyber Pakhtunkhwa through Secretary Home at Peshawar.


..... Respondents

AFFIDAVIT

We, the above respondents do hereby solemnly affirm on oath and declare that the contents of the appeal are correct/true to the best of our knowledge/ belief and nothing has been kept secret from the honorable Tribunal.


**District Police Officer, Swat
(Respondents No.1)**


**Regional Police Officer
Malakand at Saidu Sharif Swat
Malakand Region
(Respondents No.2)**


**Inspector General of Police
Khyber Pakhtunkhwa Peshawar
(Respondents No.3)**

Service Appeal No. 292/2019

Akhtar Munir Sub-Inspector presently serving in the Investigation office Daggar District Buner.

..... Appellant

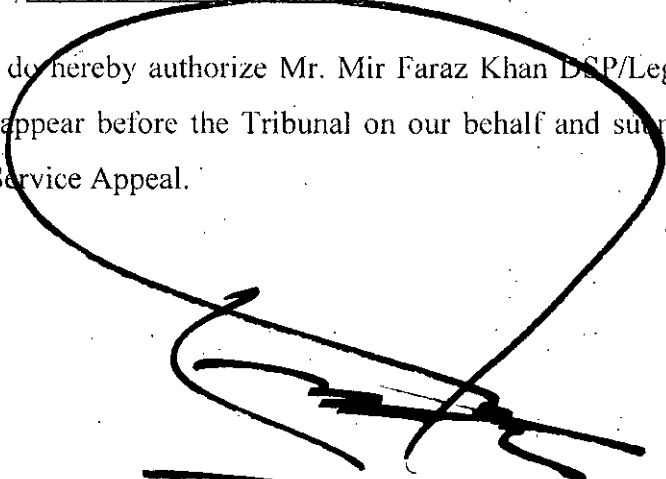
VERSUS

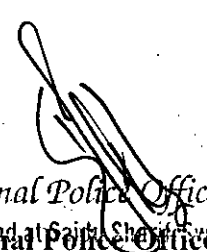
1. District Police Officer Swat.
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3. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
4. Govt: of Khyber Pakhtunkhwa through Secretary Home at Peshawar.


..... Respondents

AUTHORITY LETTER

We, the above respondents do hereby authorize Mr. Mir Faraz Khan DSP/Legal & Mr. Khawas Khan SI Legal to appear before the Tribunal on our behalf and submit reply etc in connection with titled Service Appeal.


District Police Officer Swat
(Respondent No. 1)


Regional Police Officer,
Malakand at Saidu Sharif Swat
Regional Police Officer Malakand
Malakand Region
(Respondent No. 2)


Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 3)

Annexure - B

Annexure A

فاکٹیزنگ رپورٹ

جناب عالی!

بحوالہ ڈسپلنری ایکشن نمبر EB/90 مورخہ 27-12-2017 بجاریہ جناب SP صاحب انوسٹی گیشن برخلاف اختر منیر خان SI/OII تھانہ عالیگہ بجھیت انکوائری افسر موصول ہو کر پایا گیا کہ۔

سہمی زاہد حسین ماخوذہ مقدمہ علت 1462 مورخہ 28-11-2017 PPC 420/468/471/473 نے دوران تفتیش اور گرفتاری تفتیشی افسر اختر منیر خان SI کی رو بہ اور تفتیش میں رقم لینے کی نسبت جناب SP صاحب انوسٹی گیشن کی خدمت میں تحریری درخواست گزاری۔ جس پر جناب SP صاحب انوسٹی گیشن نے مذکورہ SI کو فوری طور پر معطل کر کے مذکورہ کے خلاف محکمہ کارروائی شروع کرنے کا حکم صادر فرمایا مگر زبردستی کو انکوائری افسر نظر کر کے انکوائری رپورٹ پیش کرنے کی ہدایت کی۔ انکوائری کے سلسلہ میں درخواست کنندہ زاہد حسین کو بذریعہ سرکاری فون نمبر مطلع کر کے خود پیش ہونے اور گواہان پیش کرنے کی ہدایت ہوئی۔

درخواست کنندہ زاہد حسین حسب طلبی حاضر کر مذکورہ کو زبانی طور پر پڑھنا گیا۔ اور تحریری بیان قلمبند ہو کر جو شامل انکوائری ہے۔ مذکورہ نے اپنے بیان میں واضح کیا کہ اس نے تفتیشی افسر اختر منیر خان SI کے خلاف درخواست گزار نہیں ہے۔ اور اپنے درخواست پر کسی قسم کی کارروائی نہ کرنا بیان کی۔

اسی طرح انکوائری کے سلسلہ میں مثل مقدمہ طلب کر کے ملاحظہ پر پایا گیا کہ تفتیشی افسر نے تفتیشی افسر کی ہے۔ لیکن سلسلہ تفتیش کو مزید جاری نہ رکھ کر مقدمہ میں اصل بیان تک رسائی حاصل نہیں کی ہے۔ جس کی بناء پر درخواست کنندہ کی بناء پر SI کے خلاف گزاری ہے۔

لہذا جملہ حالات مدعی کا بیان اور مشن مقدمہ ملاحظہ کرنے کے بعد اس نتیجہ پر پہنچا ہوں۔ کہ تفتیشی افسر نے تفتیش کے دوران اصل بلزمان تک رسائی حاصل نہیں کی ہے۔ جس کی بناء پر درخواست کنندہ نے تفتیشی افسر کے خلاف درخواست گزاری ہے۔ لہذا اگر اتفاق ہو تو تفتیشی افسر اختر منیر SI کو بحال کرنے کی ساتھ ساتھ بطور سزا سالانہ ایک انکریمینٹ عارضی طور پر سٹاپ کرنے کی۔ فارش کرتا ہوں۔

ذی ایس پی انوسٹی گیشن ضلع سوات۔

stoppage + increment
for one year

Annexure B,

6

OFFICE OF THE DISTRICT POLICE OFFICER, SWAT.

No. 32 /PA, Dated Gulkada the 10-01-018

GROUND OF ACTION


That you SI Akhtar Munir while posted as OII Police Station Ghalegay have committed the following misconduct/s:-

Whereas, you have been reported to have conducted a flawed investigation in case FIR No. 1462 dated 28-11-2017 u/s' 471/420/468/473 PPC Police Station Ghalegay while taking bribe amounting to 13000/- from the applicant which is a gross misconduct of your part. Thus issued show cause notice.

By reason of above you have rendered yourself liable to be proceeded under Khyber Pakhtunkhwa Police Rules, 1975; hence these grounds of action.

SI Akhtar Munir

OII Police Station Ghalegay


District Police Officer, Swat

Annexure "B,"

OFFICE OF THE DISTRICT POLICE OFFICER, SWAT.

No. 32 /PA, Dated Gulkada the 10-01-2018

SHOW CAUSE NOTICE.

(Under Rule 5 (3) K.P.K Police Rules, 1975)

1. You SI Akhtar Munir while posted as OII Police Station Ghalegay have rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunkhwa Police Rules 1975 for following misconduct/s:

Whereas, you have been reported to have conducted a flawed investigation in case FIR No. 1462 dated 28-11-2017 u/s 471/420/468/473 PPC Police Station Ghalegay while taking bribe amounting to 13000/- from the applicant which is a gross misconduct of your part. Thus issued show cause notice.

2. That by reason of above, as sufficient material is placed before the undersigned, therefore, it is decided to proceed against you in general Police proceeding without aid of enquiry officer;
3. That the misconduct on your part is prejudicial to good order of discipline in the Police force;
4. that your retention in the Police force will amount to encourage in efficient and unbecoming of good Police officer;
5. That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action against you by awarding one or more of the kind punishments as provided in the rules.
6. You are, therefore, called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 for the misconduct referred to above.
7. You should submit reply to this show cause notice with 07 days of the receipt of the notice failing which an ex parte action shall be taken against you.
8. You are further directed to inform the undersigned that you wish to be heard in person or not.
9. Grounds of action are also enclosed with this notice.

District Police Officer, Swat

Received by _____

Dated _____/2018.

Before the khyber pukhtoonkhwa service tribunal Peshawar.

Rejoinder in Appeal No 292 of 2019

Akhtar Munir.....Appellant

Vs

District police officer swat and others.....respondents

Index

S NO	Description of documents	Annextures	Pages
1	rejoinder		1, 2
2	Affadavit		3

Dated: 5 /11/2019


Appellant

Through

Mushtaq Ahmad khan advocate

Office district court daggar

Cell no 03469014199

Before the khyber pukhtoonkhwa service tribunal Peshawar.

Rejoinder in Appeal No 292 of 2019

Akhtar Munir.....Appellant

Vs

District police officer swat and others.....respondents

Rejoinder to the comments of respondents No 1 to 3.

Following replication/rejoinder is submitted on behalf of Appellant:.

Preliminary objections

1. Preliminary objection no 1 is incorrect. The appeal has been preferred within prescribed statutory period and the respondent have raised the objection without any justifiable grounds under the law.
2. Incorrect hence denied.
3. Objection no 3 is without any factual and legal base.
4. Appellant has approached this worthy tribunal with clean hands and the objection in this regard is false.
5. The preliminary objection no 5 is not correct.
6. No material has been concealed from the honorable court. the objection is without any factual and legal base.

On Facts:

1. Para no 1 of the appeal is correct and reply thereto is without any legal and factual base hence denied. the respondent have no iota of evidence to substantiate there false allegations and the charge against the appellant was based on malafide intention on the part of the then S.P investigation namely Asif ghafoor who was the co villager of the accused in the cited FIR.
2. Para no 2 of the appeal is correct and reply thereto is totally false.

3. para no 3 of the appeal is correct and the same has been admitted by the respondents.
4. para no 4 of the appeal is correct and has been admitted by the respondents.
5. Para no 5 of the appeal is correct and the official respondents have not properly replied the same.

Grounds

- A. Ground no 1 of the appeal is correct and reply thereto is incorrect. the appellant has never been held guilty by any inquiry and the reply in this regard is false and based on malice.
- B. Ground no 2 of the appeal is correct and reply thereto is without any factual and legal back.
- C. Ground no 3 of the appeal is correct and reply thereto is only evasive denial which amounts to admission.
- D. Ground no 4 of the appeal is correct and reply thereto misleading one.
- E. Ground no 5 of the appeal is correct and reply thereto is only evasive denial which amounts to admission.
- F. Ground no 6 of the appeal is correct and reply thereto is only evasive denial which amounts to admission.
- G. Needs no reply .

It is therefore kindly prayed that the appeal of the appellant may kindly be accepted for the end of justice.


Appellant

Through

Mushtaq Ahmad khan advocate

Office district court daggar

Cell no 03469014199

Before the khyber pukhtoonkhwa service tribunal Peshawar.

Rejoinder in Appeal No 292 of 2019

Akhtar Munir.....Appellant

Vs

District police officer swat and others.....respondents

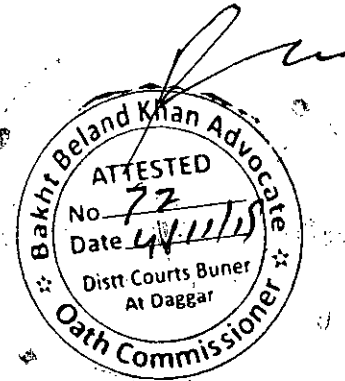
Affidavit

I Akhtar Munir appellant ,do hereby solemnly affirm and declare on oath that the contents of the rejoinder are correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

Akhtar Munir

Deponent.

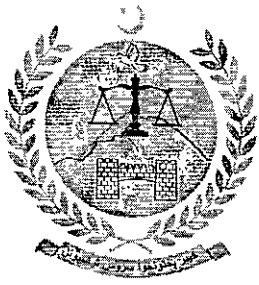
enric 15101-6036195-5



حرم خود سے انفار سے تھا۔ ملزم مذکورہ کو معصوم
 عراضہ کو لیے لیں۔ شیخ عدالت کے عدالت کے عدالت کے عدالت کے
 پولیس حوالہ سے جو ڈیپٹی سٹیبل سنیل کیا۔ جسکا بیان
 16 جنوری 1969ء کو ملزم مذکورہ عدالت سے مل گیا۔
 حوالہ سے مقدمہ عدالت میں ملزم مذکورہ کے متعلق
 عدالتی یعنی اقرار نامہ بیع نامہ پیش کیا گیا مگر جج
 ایسا دیکر اسکا تعلق نہیں پایا۔ اور دیکر عدالتی قابل توجہ ہے۔ مقدمہ
 کردہ تفتیش سے ملزم مذکورہ گنہگار پایا جاتا ہے۔ مقدمہ
 ملزم بالا حال کی سزا دیا گیا ہے۔ اسکا تعلق عدالت میں
 گزارا گیا ہے۔

عدالتی
 SHO-PS-13-12-017
 مشہد

- 1) اختر علی خان، سی ایچ جی، آئی اے سوات
- 2) محمد عارف، 182، چوکی الوداد
- 3) 151، گلشن شاہ، کھانہ شاہ
- 4) سٹیٹ فاصل، خان پٹر، 3516، چوکی الوداد
- 5) رشید شاہ، 182، کھانہ شاہ
- 6) طاہرہ خان، 199، کھانہ شاہ
- 7) محمد علی، 2506، کھانہ شاہ
- 8) کینٹی مران، 149، کھانہ شاہ
- 9) اختر علی خان، 1169، چوکی الوداد
- 10) رحمان خان، 5170، کھانہ شاہ



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No. _____/ST Dated ____/____/2022

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

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

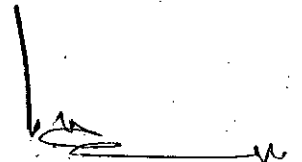
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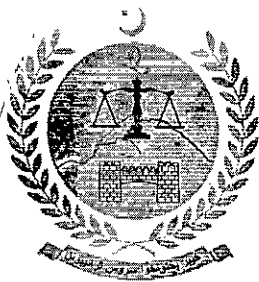
The District Police Officer, Swat.

SUBJECT:- JUDGMENT IN SERVICE APPEAL NO. 292/2019, AKHTAR MUNIR VERSUS DISTRICT POLICE OFFICER, SWAT ETC.

I am directed to forward herewith a certified copy of order dated 11.05.2022, passed by this Tribunal in the above mentioned *Service Appeal* for compliance.

Encl. As above.


(WASEEM AKHTAR)
REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL,
PESHAWAR.



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

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To:

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SERVICE TRIBUNAL,
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