ORDER
25.07.2022

Learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, placed on file of Service Appeal bearing No. 15901/2020 titled "Naeem Khan Versus District Police Officer, Nowshera and three others", the appeal in hand is allowed by setting-aside the impugned orders and the appellant is reinstated in service with all back benefits. Parties are left to bear their own cost. File be consigned to the record room.

ANNOUNCED
25.07.2022

(KALIM ARSHAD KHAN)
CHAIRMAN

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

31.05.2022 Junior to counsel for the appellant present.

Asif Masood Ali Shah, learned Deputy District Attorney alongwith Fayaz HC for respondents present.

File to come up alongwith connected Service Appeal No.15901/2020 titled "Naeem Khan Vs. Police Department" on 25.07.2022 before D.B.

(Fareeha Paul)
Member(E)

(Rozina Rehman)
Member (J)

21.06.2021 Junior to counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG for the respondents present.

Respondents have not submitted reply/comments. Learned AAG seeks further time to contact the respondents. Learned AAG is required to contact the respondents for submission of reply/comments in office within 10 days, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 08.11.2021 before the D.B.

Chairman

08.11.2021 Clerk of counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Written reply/comments on behalf of respondents have been submitted through office, which is placed on file.

Clerk of counsel for the appellant stated that learned counsel for the appellant is unable to attend the Tribunal today due to strike of Lawyers. Adjourned To come up for arguments before the D.B. on 09.02.2022.

(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

9-2-2022

Due to retirement of the Hon'ble Chairman the case is adjourned to come up for the same as before on 31/5/2022

Reader

01.02.2021 Counsel for the appellant present.

Learned counsel referred to the impugned order dated 02.10.2020 and contended that the major penalty was awarded to the appellant on the basis of an enquiry/report dated 23.09.2020. He also referred in the context to the enquiry report wherein the contents were almost verbatim to the cases of other co-accused. In his view, the enquiry conducted as such was devoid of substance while no efforts for recording the statement of witnesses, who witnessed the occurrence, were made. The findings contained in the report did not mention the source of collection of information regarding the event. Learned counsel added that the other procedure mandatory for proceedings against the appellant was not adopted as per applicable rules.

In view of the available record and arguments of learned counsel, instant appeal is admitted to regular hearing subject to all just exceptions. Appellant is required to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 28.04.2021 before S.B.

Appellant Deposited Security & Process Fee

Chairman

28.04.2021 Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 21.06.2021 for the same as before.

Reader

Form- A

FORM OF ORDER SHEET

Court of_____

Case No.- 15905 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	17/12/2020	The appeal of Mr. Muhammad Kamran Khan resubmitted today by Mr. Muhammad Arif Jan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. REGISTRAR
2-		This case is entrusted to S. Bench for preliminary hearing to be put up there on 01/02/21 CHAIRMAN

The appeal of Mr. Muhammad Kamran Khan Ex-Constable no. 394 District Police Nowshera received today i.e. on 14.12.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Copy of enquiry report against the appellant mentioned in para-6 of the memo of appeal is not attached with the appeal which may be placed on it.

No. 4051 /S.T,

Dt. 15/12/2020

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Arif Jan Adv. Pesh.

R/Sir,

Re-submitted, that one and the same inquiry is conducted against the all 07 officials (Appellants), hence Annex-E attached may graciously be considered as inquiry report for the appellant.

17/12/2020

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No._____/2020

Muhammad Kamran Khan Ex-Constable.....Appellant

VERSUS

DPO and others .....Respondents

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4.	Copy of Mad report No-17	A	10
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6.	Copies of FIR's	C & D	12-13
7.	Copy of inquiry report dated 10-09-2020	E	14-15
8.	Copy of reply to show cause	F	16-17
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11.	Copies of memo of appeal and order dated 20-11-2020	J & K	22-26
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Dated: 09-12-2020

Appellant

Through

Muhammad Arif Jan
Advocate High Court

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Khyber Pakhtukhwa Service Tribunal
Diary No 16436
Dated 14/12/2020

Service Appeal No. 5905/2020

Muhammad Kamran Khan Ex-Constable No-749 District Police Nowshera presently at S/o Shah Zaiwar R/o Dalazak road Peshawar.

.....Appellant

VERSUS

1) District Police Officer, Nowshera.
2) Regional Police Officer, Mardan.
3) Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
4) Assistant Superintendent of Police (Inquiry officer) circle Cantt, Nowshera.

.....Respondents

Filed to-day
Registrar
14/12/2020

SERVICE APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 02-10-2020 PASSED BY RESPONDENT NO-1, AGAINST WHICH THE DEPARTMENTAL APPEAL PREFERRED AND THE SAME WAS TOO REJECTED BY THE RESPONDENT NO-2 MAINTAINING THE DISMISSAL ORDER OF THE APPELLANT.

Respectfully Sheweth:-

1) That the appellant was appointed as Constable in the Police Department and had served the department with his full devotion & determination with unblemished record of throughout his service.

2) That initially vide daily dairy No-17 dated 10-09-2020, the Lady Constable Safia of District Police, Nowshera along with her sister namely Neelam reported the matter to SHO (brief mentioned therein) for implementation of the order/judgment of the Hon'ble Peshawar High Court, Peshawar in addition with her personal security.(Copy of Mad Report dated 10-09-2020 is attached as ANNEX-A).

3) That the appellant while posted in Police Station Akbar Pura, Nowshera was allegedly been involved for his negligence and misconduct on account of an scuffle/firing took place between one Nazar Muhammad (Police Constable of Peshawar) with Lady Constable Safia of District Police, Nowshera where resultantly the latter expired and her sister namely Neelam sustained injured.

4) That the then SHO falsely reported the matter in shape of Daily Dairy No-28 of the same date to Muhharar of the Police Station (brief mentioned therein) regarding the occurrence took place by way of concealing the real facts just to save his skin and held responsible the innocent lower scale

Police constables including the appellant for all. (Copy of Mad Report No-28 dated 10-09-2020 is attached as ANNEX-B).

5) That resultantly FIR No-278 dated 10-09-2020 was registered against the appellant including some other officials by the then SHO and on the same date another FIR No-276 was also registered regarding the occurrence took place where after the appellant was allowed his post arrest bail on 14-09-2020 by the concerned learned Judicial Magistrate (MOD). (Copies of both FIR's are attached as ANNEX-C & D respectively).

6) That respondent No-1 started disciplinary proceedings against the appellant and appointed respondent No-4 as inquiry Officer who without going to the real facts and circumstance of the case submitted his one sided inquiry report in a hasty manner just to show his efficiency to high ups on 23-09-2020 .(Copy of inquiry report dated 10-09-2020 is attached as ANNEX-E).

7) That the appellant was issued with a show cause notice who submitted his reply on 17-09-2020 by negating the allegations leveled against him and also brought the real facts on the surface. (Copy of reply dated 17-09-2020 is attached as ANNEX-F).

8) That final show cause notice was also issued on 23-09-2020 which was too replied by negating the allegations on 28-09-2020. (Copies of final show

cause notice and reply are attached as ANNEX-G & H respectively).

9) That respondent No-1 issued the impugned order of dismissal from service vide letter/order dated 02-10-2020 against the appellant. (Copy of letter/order dated 02-10-2020 is attached as ANNEX-I).

10) That the appellant filed departmental appeal against the impugned letter/order dated 12-10-2020 before respondent No-2 which was rejected on 20-11-2020. (Copies of memo of appeal and order dated 20-11-2020 are attached as ANNEX-J & K respectively).

11) That appellant now approaches this Hon'ble Tribunal on the following grounds:-

GROUNDS

A. Because the act, commission and omission of the respondents by way of depriving the appellant from his vested right of his service and further the orders dated 02-10-2020 and 20-11-2020 passed by respondents No-1 & 2 respectively (hereinafter impugned) are patently illegal, unlawful, without lawful authority, against the law, rules and regulation governing the subject matter, thus the impugned orders are liable to be set-aside and the appellant may kindly be re-instated in his service with all back benefits.

B. Because, it is worth mentioning here that, neither the then SHO assigned the duties to appellant along with others officials nor deployed properly despite the facts of early information's and held responsible the appellant being of his subordinate and lower scale employees consequently the impugned order passed which is against the norms of justice.

C. Because the inquiry officer (Respondent No-4) badly failed to collect/gathered the real facts into the guilt of the appellant. Neither the appellant fled away from the scene of occurrence nor did made any misconduct/negligence but in fact the appellant was present along with the then SHO, it is worth mentioning here that, in fact the SHO fled away by securing himself.

D. Because no suspension order has been issued against the appellant moreover the respondents also badly failed to considered the written reply of the appellant moreover the respondent No-4 could not bother to record the statements of inhabitants/eye witnesses of the occurrence, hence the whole proceedings initiated against the appellant based on mala-fide which is against the law rules and regulations governing the subject matter.

E. Because the mala-fide of the respondents in even established from the so called inquiry wherein the then SHO was held responsible for his misconduct

but he has been sphere without any reason and justification or the reason best known to the respondents.

F. Because the appellant is innocent and had served the department with unblemished record throughout of his service and there is/was no any inquiry or complaint pending, hence the impugned order is nothing, but just to deprive the appellant from his service and service benefits etc.

G. Because the appellant is jobless and the only bread winner of his whole family.

H. Because the impugned order passed without adopting proper criteria and codal requirements by the respondents which is against the ruling of the Hon'ble Superior Courts of Pakistan and therefore, the same is illegal practice and such practice adversely effects efficiency of incumbents and also reduces their confidence and faith in public, hence the impugned order referred above is liable to be set aside.

I. Because the impugned order has been passed without applying proper law and rules over the subject.

J. Because the Respondents erroneously exercised their powers against judicial principle, and have passed the impugned order and opened a new Pandora box in clear violation of Service law, hence, the said impugned order is liable to be set aside, and the appellant may kindly be allowed to

keep and continue his duties by re-instating him with all service benefits.

K. Because it is highly condemnable that the respondents are adopting the policy of "MIGHT IS RIGHT", which is evident from the impugned order passed against the appellant, thus the act, commission and omission of the respondents is in violation of law and rules, hence invites consideration of this hon'ble Tribunal.

L. Because only show cause notice has been issued to the appellant moreover no statement of allegation, no charge sheet and even no opportunity of personal hearing etc been provided to the appellant.

M. That any other ground which has not been specifically mentioned will be agitated at the time of arguments with kind permission of this hon'ble Tribunal.

It is, therefore, humbly prayed that, on acceptance of the instant appeal, this Hon'ble Tribunal may be pleased to;

i. Declare the impugned order dated 02-10-2020 & 20-11-2020 passed by respondents No-1 & 2 respectively as illegal, unlawful, without lawful authority and void ab-initio and to be set-aside.

ii. Direct the respondents to re-instate the appellant into his service with all back benefits.

iii. Any other relief may also kindly be granted in the circumstances of the appellant's case.

Appellant

Through

Muhammad Arif Jan
Advocate High Court

AFFIDAVIT

I, Muhammad Kamran Khan Ex-Constable No-749 District Police Nowshera presently at S/o Shah Zaiwar R/o Dalazak road Peshawar (Appellant), do hereby affirm and declare on oath that the contents of accompanying Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble court.

11-12-20

KHALID MAHMOOD ADVOCATE PESHAWAR HIGH COURT ATTESTED NOTARY PUBLIC

Deponent

9

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No._____/2020

Muhammad Kamran Khan Ex-Constable.... .....Appellant

VERSUS

DPO and others .....Respondents

ADDRESSES OF PARTIES

APPELLANT

Muhammad Kamran Khan Ex-Constable No-749 District Police Nowshera presently at S/o Shah Zaiwar R/o Dalazak road Peshawar.

RESPONDENTS

1. District Police Officer, Nowshera.
2. Regional Police Officer, Mardan.
3. Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
4. Assistant Superintendent of Police (Inquiry officer) circle Cantt, Nowshera.

Appellant

Through

Muhammad Arif Jan

Advocate High Court

(10) Annex-A

تھانہ اکبر پورہ — ضلع نوشہرہ

نقلمد 17 روزنامچہ 10/09/2020

فرد 17 واپسی عبدالبصیر خان SHO اکبر پورہ وقت 12:40 بجے مورخہ 10/9/020 میں معہ ہمراہیان رفتہ بحوالہ مدبالا بعد از گشت علاقہ سے واپس آیا دفتر میں موجود مسماۃ نیلم فریدہ زوجہ لیاقت علی مسماۃ منیبہ ناز دختر فرید اللہ ساکنان علی شاہ موجود تھے جنہوں نے عدالت عالیہ پشاور ہائی کورٹ کی رٹ پٹیشن نمبر WP 3271-P/2020 بعدالت جناب جسٹس روح الامین خان پیش کرنے صاحب موصوف نے اڈیکم میں تحریر کیا ہے کہ مسماۃ فریدہ کے برادران نے مقدمہ علت 112 مورخہ 11/4/2020 جرم PPC 302, 324, 34 تھانہ اکبر پورہ میں بجرمان اشتہاری کیا ہے اور مسماۃ نیلم اپنا سامان یہاں سے دوسرے مقام پر منتقل کرنا چاہتی ہے اسکی سکیورٹی کی جاوے تاکہ مذکورہ اپنا سامان یا حفاظت یہاں سے دوسرے جگہ شفٹ کریں پس بحکم عدالت ہائی کورٹ پشاور دفتری مطابق 1784/4159 کامران 512/1749 سعید اللہ 2002، عامر 394، وحید 24، عارف 1040 کامران ڈرائیور شاہ حسین لیسواری سرکاری پک اپ بمعہ ڈرائیور روانہ ہوئے اذاں مسماۃ نیلم فرید واقعہ علی شاہ پہونچا یوں۔

جناب عالی!

نقل بمطابق اصل ہے

M.M PS A.P
10-09-020

ATTESTED

(11)

Annex-B

تھانہ اکبر پورہ

ضلع پشاور شعبہ

نقلمد 28 روزنامچہ 10/09/2020

فد 28 والیسی انسپکٹر عبدالقدیر خان SHO وقت 6:00 PM مورخہ 10/9/2020 میں مع ہمراہیان رفتہ رپورٹ بحوالہ مد بالا بعد از دیگر علیشاہ سے واپس آیا بحوالہ مد 17 روزنامچہ 10/09/2020 حسب الحکم پشاور ہائیکورٹ آرڈر نمبر WP 3271-P/2020 بعدالت جسٹس روح الامین خان عدالت ہائی کورٹ پشاور بنام مسماۃ نیلم فرید دختر فرید اللہ سکنہ علیشاہ بعرض حوالگی تھریکو ساماں جو بابت عمران دیگر لڑکی پولیس و مسماۃ نیلم و مصیبہ ناز موقع پر پہنچے تو اسی اثناء میں ملزمان ارشد نذر محمد نعیم اللہ منصف سکنان علیشاہ جو پہلے سے مسلح بہ اسلحہ آتشیں موجود تھے جو اپنی مقدمہ بالا ملزمان نے پولیس پارٹی دیگر عمران مستورات انتشار پیدا کرنے کی غرض سے تمام ملزمان نے اپنے اپنے اسلحہ آتشیں پر بلٹ مارے جس سے ڈیوٹی پر ہمراہیان طارق 459، کامران 1789، سعید 2052، عامر 394، نعیم 276، کامران 749، عامر 1180، نے اپنی اپنی جگہ چھوڑ کر بزدلی کا مظاہرہ کرتے ہوئے SHO کو موقع پر اکیلا چھوڑ کر راہ فرار اختیار کی ملزمان جاتے ہوئے موقع کا فائدہ اٹھاتے ہوئے پراسیوٹ فلائنگ کوچ نمبری 7603 پشاور میں موجود مسماۃ نیلم فرید و مسماۃ مصیبہ ناز جو کہ ایک پرائیویٹ فورس میں بطور کنٹیبل تعینات تھی پر اپنی اسلحہ آتشیں سے فائرنگ کرتے ہوئے موقع پر زخمی ہو کر مسماۃ مصیبہ ناز موقع پر جاں بحق ہوئی جس پر نیلم فرید کی درخواست میں مقدمہ 276 مورخہ 10/09/2020 بجرم 302-324 PPC 148-149 تھانہ اکبر پورہ درج رجسٹر ہوا۔ ملزمان بعد وقوعہ دوران فراری میں SHO نے ملزمان کی گرفتاری عمل میں لانے کیلئے فائرنگ کی جو کہ موقع پر کافی مستورات اور بچے موجود تھے جن کا فائدہ اٹھاتے ہوئے جملہ ملزمان فرار ہونے میں کامیاب ہوئے جملہ حالات و واقعات افسران بالا کو پولیس میں بذریعہ اپنے سیل فون نوٹس میں لائی جا کر جس پر DSP سرکل طیب جان صاحب بمعہ فری پولیس RRF پولیس لائن نوشہرہ سے موقع پر آ کر ملزمان کی گرفتاری کیلئے چھاپہ زنی کیلئے دوران چھاپہ زنی جملہ ملزمان بالا اپنے مکانات میں عدم موجود پائے گئے جبکہ دوران خانہ تلاشی ملزم نذر محمد کے کوٹہ بالشتی سے ایک عدد پستول فلاشک کوچ نمبری NF 5176-1954 فیلس میگزین بمعہ 10 عدد کارتوس 762 بور برآمد کرتے ہوئے قبضہ پولیس میں کرتے جس پر مقدمہ علت 277 مورخہ 10/09/2020 بجرم 15AA تھانہ اکبر پورہ درج رجسٹر کیا گیا اسی دوران SHO نے ملزمان پر 25 راؤنڈ فائر کئے۔ جملہ حالات و واقعات میں ہمراہیان پولیس اہلکاران کی غفلت بزدلی اور کار سرکاری لاپرواہی کی وجہ سے ڈکیتی ہوئی اور ایک قیمتی انسانی جان ضائع ہوئی۔ لہذا بخلاف جملہ بالا ملزمان پولیس کیخلاف مقدمہ اور قانونی کارروائی کیلئے نقلمد علیحدہ مرتب کر کے افسران بالا کو ارسال ہوئی رپورٹ عرض ہے

جناب عالی!

نقل بمطابق اصل ہے

Sd/-
M.M. PS A.P 10-09-2020

ATTESTED

(12)
Annex-C

پولیس خیبر پختونخواہ فارم نمبر ۷۳ — فارم نمبر ۲۴-۵(۱)

ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ ۱۵۴ مجموعہ ضابطہ فوجداری

ضلع: مردان

تھانہ: اکبر پورہ — سال: 20 — نمبر: 278

تاریخ وقوعہ: 10/9/2020 — وقت: 13:10 بجے

تاریخ و وقت رپورٹ: 10/9/2020 — 19:00 بجے

نام و سکونت اطلاع دہندہ: 0301 8920311 عبدالقیوم خان SHO اکبر پورہ

مختصر کیفیت جرم (معہ دفعہ) حال اگر کچھ لیا گیا ہو: 118 B پولیس آرڈیننس 2017ء

فاصلہ تھانہ سے اور سمت: راستہ مقدمہ درج علیشاہ تنگی شیدیانا

نام و سکونت ملزم:

کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کریں: مقدمہ درج کیا گیا

روانگی کی تاریخ و وقت: پولیس کو اطلاع کیا

ابتدائی اطلاع نیچے درج کرو: مورخہ 10/9/2020 صبح معہ پولیس ملازمان بطور گشت 4.30 بجے سعید اللہ سنٹر کے کامران 1780، عامر 396، نعیم 276، کامران 749، عامر 1180 اور سلیم نمبر 1180 مدعی علیشاہ مرکز سوات حکم عدالت عالیہ پشاور بحوالہ رٹ پٹیشن نمبر WP No. 3271-P/2020 مورخہ 10/9/20 بوقت 2:00 بجے دوران گشت 302/324/148/149 تھانہ صاحب بخیال کے قریب ملزمان بحوالہ مقدمہ نمبر 278 مورخہ 10/9/20 تھانہ اکبر پورہ بمعہ اسلحہ اسٹیشن موجود تھے جنہوں نے ہم پولیس پارٹی کو دیکھ کر اصحاب ہم جلیس ملزمان پولیس بالا اصحاب SHO کی موقع پر اسلحہ چھوڑ کر بھاگ گئے اور ملزمان نے خالد اللہ کو مسماۃ سلیم فرید، مقتولہ صفیدنا زوجہ فرحان فرید اللہ ساکنان علیشاہ پر فائرنگ کر کے دونوں کو مسماۃ صفیدنا زوجہ ہم پر ہلاک کر دیا جبکہ ملزمان بالا کی مخالفت افراد اپنی ذاتی دشمنی کے دوران ندی کا فائدہ کر کے جرم بالا کے مرتکب پائے گئے ملزمان پولیس بالا کے خلاف مقدمہ نمبر بالا جید عکسی کارروائی صحت ضابطہ درج رجسٹر کیا جاتا ہے تفتیش کر رہا ہوں۔

SHO-PP
10/9/2020

ATTESTED

Annex-D

(13)

پکٹ جنرل پولیس خیبر پختونخواہ فارم نمبر ۲۳

فارم نمبر ۲۴-۵

ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ ۱۵۴ مجموعہ ضابطہ فوجداری

تفتیشی افسر سنیاز محمد خان انچارج
16202-0899423
03139188835

ضلع مانسہرہ — تھانہ ایبٹ آباد

تاریخ 9/10/2020 — 276 — 18

تاریخ و وقت رپورٹ: 9/10/2020 وقت 14:00

نام و سکونت اطلاع دہندہ مستغیث: چاکلیٹ ہوٹل 9/10/2020 وقت 14:40 — 03139153646

مختصر کیفیت جرم (معہ دفعہ) حال اگر کچھ لیا گیا ہو: مسماۃ نیلم فرید دختر فرید اللہ سکنہ علی شاہ — PPC 302/324/148/149

جائے وقوعہ فاصلہ تھانہ سے اور سمت: المستدعیہ دیہ علی شاہ نزد شہید بابا

نام و سکونت ملزم:

کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو: مدعیان کی تحریری درخواست پر مقدمہ درج رجسٹر کیا گیا

تھانہ سے روانگی کی تاریخ و وقت:

مختصر سٹیشن رپورٹ

ابتدائی اطلاع نیچے درج کرو موصولہ طاہر سلیم مخابر ہیم خان ایبٹ آباد تھانہ ایبٹ آباد بذریعہ کنسٹبل وحید سالانہ
موصول ہوکر بہ شکل ذیل ہے کہ جناب صاحب ایس ایچ او تھانہ ایبٹ آباد حسب الحکم مسئول حضرت
میں آکر مدعیہ تھانہ ایبٹ آباد میں نقش ازاں مقتولہ صبیحہ ناز بعمر 26 سال و مدعیہ مسماۃ نیلم فرید بعمر
30 سال دختران فرید اللہ سکنہ علی شاہ نے مدعی موجود ہوکر مدعیہ نیلم فرید بقائمی درست حواس و
حواس بیان کیا کہ آج میں صبیحہ ناز مقتولہ بالا نے عدالت سے طلاق لے کر اپنے گھر میں
پڑھی ہوئی ساماں کی سپرداری کرکے آرڈر عدالت سپرد تھانہ ایبٹ آباد لاکر حسب قانون پولیس بطور
سٹور رسید نمبر 1 کرکے کسٹوڈی پراپرٹی فلائنگ کوچ نمبر 1 حوالہ کیا ہم دونوں ہمشیرگان گھر خود
و سید علی شاہ آرام کر رہے تھے کہ اچانک مقام جائے وقوعہ بالا پہنچے تو وہاں پر پہلے سے مسمیان ارشد
پدر محمد لیاقت، فضل محمد، نسیم ولد صبیحہ، اسد ولد ہمشیرہ، منصف ولد نذر محمد سکنہ بالا موجود تھے
پر اسلحہ آتشیں موجود تھے ہماری کار کو روک کر ہمیں قابو کر لیا بالا نے ہم پر بہ ارادہ قتل اسلحہ آتشیں
سے فائرنگ شروع کی جس کی فائرنگ سے ہمشیرہ مسماۃ صبیحہ ناز لگ کر موقع پر جاں بحق ہوئی جس میں
دونوں ٹانگوں اور دائیں ہاتھ پر گولی لگ کر شدید زخمی ہوئی ہوں وقوعہ جائے وقوعہ پر موجود گواہان
کا ہشام دیا ہے وہ عناد ملزمان بالا کے ساتھ سابقہ قتل مقاتلہ کی دشمنی ہے جس میں ہمشیرہ مقتولہ بالا
کی قتل ہونے اور اپنی زخمیت کا مرجرائم مشروحہ بالا کے ساتھ ذمہ دار ہوں الغرض کارروائی پولیس
حسب نقشہ مراسلہ رپورٹ درج 7 بالا ہوکر پرچہ مقدمہ سائل درست تسلیم کرکے زیر رپورٹ حسب الحکم تفتیش کی
جس میں عدالت کے احکامات مقتولہ صبیحہ ناز کے کاغذات مرگ و نقشہ جات و مسماۃ نیلم فرید کا
نقشہ جات و رقبہ کرکے بعد پوسٹمارٹم رپورٹ و علاج معالجہ دوران ڈاکٹری جو ان کی ڈیوٹی
لگی مقدمہ رپورٹ سے صورت جرم بالا کا بالا کا ملزمان کا فرار بغرض تاخیر مقدمہ بالا 1269009 سال تھانہ
ہے مقدمہ درج رجسٹر کرکے ملزمان تفتیش حوالہ شعبہ تفتیش لیا جائے دستخط انگریزی ہیم خان ایس ایچ او
ایبٹ آباد کارروائی تھانہ آمد تحریری مراسلہ پرچہ مقدمہ جرم بالا کا حوالہ کرکے نقول FIR بمعہ مراسلہ ارسال
تفتیش حوالہ سنیاز محمد خان انچارج کیا جاتا ہے جناب SHO صاحب اور افسران بالا کو اطور سٹیشن رپورٹ
اطلاع دی جاتی ہے پرچہ گزارش ہے

10/9/20

Annex - E (14)

ENQUIRY REPORT FC MUHAMMAD NAEEM NO.276 PS AKBARPURA.

ALLEGATION:

Whereas, **Constable** Muhammad Kamran Khan 749 [redacted] while posted at PS Akbarpura, now under suspension at police Line, showed negligence as he left SHO PS Akbarpura alone and ran away from the spot during scuffle / firing that took place between Nazar Muhammad (police constable at District Peshawar) and lady Constable Safia No. 2802/EF residents of Ali Shah, District Nowshera. Resultantly, LFC Safia expired and her sister namely Neelam sustained bullet injuries, which amounts to grave misconduct on his part and rendered him liable for Minor/Major punishment under Khyber Pakhtunkhwa Police Rules 1975.

PROCEEDINGS:

The delinquent police official was heard in person by the undersigned. He submitted his statement of defence which is just a pack of lies. **(Statement attached).**

FINDINGS:

The truth of the matter is: On the fateful day (10th Sep), SHO Abdul Baseer called PP Wapda Colony I/C ASI Abdul Latif to reach Ali Shah for the implementation of an order of High Court. ASI Latif reached the spot and to his surprise, accused party and its other family members including women were already present there. The accused party led by Nazar Muhammad accompanied with other relatives warned ASI Latif to stay out of this as it is their private matter and they have plans to take LFC Safia to task, else get ready for dire consequences. ASI Latif stepped back and told SHO on phone about nefarious designs of the accused party. At this point, SHO was at fault as he shouldn't have reached the spot alongwith Safia and Neelam at the first place, keeping in mind the state of aggression of the accused party. However, SHO reached the spot without any extra force. A Mazda (to transport luggage) and HIACE (seating Safia and Neelam) entered the spot along with SHO.

The following constables and PASI accompanied SHO on the spot: Tariq 459, Saeed Ullah 2002, Kamran 1789, Amir 384, Naeem 276, Kamran 749, Amir 1180, PASI Safi Ullah, ASI Latif. SHO Abdul Baseer along with this limited strength of personnel entered the narrow street, locating house of the accused party as well as that of LFC Safia and Neelam. Ladies from the accused party started heated argumentation with LFC Safia and Neelam, sitting in the HIACE. Meanwhile, the accused party led by Nazar Muhammad and his brother and their other relatives including women started chanting slogans to kill Safia and even all police officers present there. They had weapon (Pistol and AK-47) in hands and women had daggers, knives and wooden sticks. On this call, all afore-mentioned constables and PASI fled the scene and took refuge in nearby houses and in the fields.

ATTESTED

Whereas, SHO was left alone and he hid himself between HIACE and Mazda Truck. In the course of events, the accused party surrounded the HIACE in which Safia and Neelam were seated. LFC Safia tried to get hold of her weapon from her purse and seeing this, accused party opened a burst of Kalashnikov. Neelam got bullets on her feet. Both sisters got injured. Meanwhile, SHO asked Neelam (from behind the windows of HIACE) to take his pistol and fire at the accused party. In the blink of an eye, the accused party fled the scene leaving behind both sisters in injured condition. SHO didn't put in an iota of effort to apprehend the accused party, rather waited for 8-10 minutes behind the vehicle, then shifted the injured to another vehicle and then ran after the accused, did some aerial firing, on doors and houses in the path way (just to register his response).

The undersigned has gathered information from eye witnesses of the spot as well as from Neelam (Safia's sister). In the opinion of the undersigned, the delinquent police official is found guilty of misconduct and cowardice. He withdrew himself from the duty assigned to him without permission. He fled the scene as the situation was getting out of control and didn't fire on the accused party in return. He doesn't deserve to be part of police service any more. Hence, he may be dismissed from service.

Assistant Superintendent of Police,
Circle Cantt Nowshera.

No. 32 / St
Dated 23/09/2020.

Annex - F (16)

بیان ازان کامران 749 متینہ چوکی واپڈا ٹاؤن علاقہ تھانہ اکبر پورہ حال معطل شدہ پولیس لائن نوشہرہ

لی!

بحوالہ چارج شیٹ نمبری 134/PA بتاریخ 10-09-2020 مشمولہ مقدمہ علت (1) FIR 6/
10-09-202 جرم 149-148-324-302 نمبر (2) مقدمہ 278 بتاریخ 10-09-2020 جرم
پولیس ایکٹ 2017 تھانہ اکبر پورہ بمعہ دیگر دستاویزات مشمولہ معروز خدمت ہوں کہ مورخہ 10-09-2020
وکی میں موجود تھا کہ عبدالطیف خان ASI انچارج نے فون پر کال کیا کہ آپ وردی پہن کر اپنے ساتھ اسلحہ لے کر
ناہ روڈ پر موجود آپ بھی وہاں پر آ جاؤ۔ میں حسب ہدایت انچارج صاحب مطلوبہ جگہ پر پہنچ کر ASI صاحب
معہ دیگر نفری پولیس موجود پایا۔ انچارج ASI عبدالطیف خان نے وہاں سے SHO صاحب تھانہ اکبر پورہ کو جو
ن پر بات چیت کر کے اپنی موجودگی علیشاہ پہنچنے کا بتلایا۔ اس دوران گلی میں پہلے سے موجود کچھ لڑکے کھڑے تھے
ج ASI صاحب سے دریافت کی کہ کس سلسلے میں آئے ہو۔ انچارج ASI صاحب نے مذکورین کو بتلایا کہ SHO
غانہ اکبر پورہ خود آ رہے ہیں۔ آپ کو خود سمجھائے گا۔ جس کے بعد وہ جوان وہاں سے چلے گئے۔ کچھ دیر کے بعد
صاحب بمعہ دیگر نفری پولیس وایک فلائنگ کوچ جس میں دو مستورات بیٹھے تھے موقع پر پہنچ آئے اور ایک بڑا اندا
آیا اس دوران اسی گلی میں سے کافی تعداد میں مستورات اور چند اشخاص بھی نکلے تمام اشخاص اسلحہ آتشین تھے۔
جو مکان سے نکلے تھے فلائنگ کوچ جس میں دو مستورات بیٹھے تھے کے پاس آئے اور شور شرابا مچایا۔ SHO
ائنگ کوچ کے گیٹ کے سامنے کھڑا ہوا تھا۔ میں بھی دیگر پولیس پارٹی SHO صاحب کے اگلے حکم کے منتظر تھے
ران مسلح افراد نے فلائنگ کوچ پر اسلحہ آتشین سے اندھا دھند فائرنگ شروع کی۔ اس دوران SHO صاحب اس
کر عقل دھنگ رہ گئی اور ہمیں کچھ نہ کہا اور حیرانگی سے اِدھر اُدھر دیکھ رہا تھا۔ میں نے حق حفاظت خود اختیاری ملزمان
کاری اسلحہ سے کافی فائرنگ کی۔ لیکن ملزمان راستے میں کھڑے، زنانہ، بچے اور تماش گیر لوگوں میں داخل ہو کر
کامیاب ہو گئے۔ بعدہ ASI صاحب انچارج نے مجھے ہمراہ کیا میں فلائنگ کوچ کے گیٹ پر الرٹ کھڑا ہو کر
ائرنگ کرتا رہا اور فلائنگ کوچ کو موقع سے نکال کر زخمی مستورات کو بوقت علاج معالجہ پبی ہسپتال لے گئے۔ ہسپتال
خاتون جان بحق ہوئی اور دوسری خاتون زخمی حالت میں ہسپتال میں داخل کروائی۔ ڈاکٹرز صاحبان نے مجروح
ریفر کی۔ LRH ہسپتال لے جا کر بعد علاج معالجہ اپنے گھر واقع خٹ کلی پہنچائی۔ جس کے بعد میں اپنے چوکی
جا رہا تھا کہ مجھے محرر تھانہ اکبر پورہ افسر علی نے کال پر اسلحہ جمع کرنے کو کہا اور یہ بھی کہا کہ سرکاری موبائل آپ کی

ATTESTED

آ رہا ہے اس میں بیٹھ جاؤ۔ افسر علی صاحب کے کہنے پر میں نے رائفل جمع کرنے کے وقت بتلایا کہ میں نے اس
ں پر 16 راؤنڈ فائر کیے ہیں۔ اس کے بعد مجھے موبائل میں بٹھا کر نوشہرہ پولیس لائن میں کوارٹر گارڈ میں بند کیا گ
ز نیاز محمد خان انوسٹی گیشن آفیسر بمعہ نفری اور ہتھکڑیوں سمیت آ کر مجھے ہتھکڑی پہنا کر نوشہرہ کچہری میں ہمراہ وڈیو
پیش کیے۔ عدالت مجاز کے حکم کے مطابق میں اور ہمرایان کو مردان سب جیل بیج دیئے۔ مجھے علم نہیں تھا کہ میں نے
رم یا خلاف ورزی کی ہے۔ عدالت کی پیشی پر مجھے معلوم ہوا کہ SHO صاحب نے میرے اور ہمرایان پر جرم
1 پولیس ایکٹ 2017 کے تحت مقدمہ درج کیا ہے۔ حالانکہ حالات اس کے بالکل برعکس ہیں۔ SHO صاحب
اپنی بچاؤ کے خاطر مجھے قربانی کا دھنبہ بنایا ہے۔ علاوہ ازیں تفتیشی آفیسر صاحب نے جو میرا بیان زیر دفعہ 161 ض
ر کیا ہے۔ اللہ تعالی گواہ ہے کہ نہ مجھ سے کسی نے پوچھا ہے اور نہ میرا بیان مذکورہ قلمبند کیا ہے۔ میرا بیان تفتیشی آفیسر
مرضی اور اپنی طرف سے تحریر کیا ہے میں نے کسی غفلت، بے احتیاطی یا بزدلی کا مظاہرہ نہیں کیا ہے۔ تمام حالات و
پیش آمدہ ہیں۔ SHO صاحب کیساتھ موجود رہا اور میں نے SHO صاحب کو اکیلا نہیں چھوڑا ہے جس کا منہ بولتا
را کلاشنکوف ہے۔ جس سے میں نے ملزمان کی گرفت کیلئے متعدد گولیاں چلائی ہے اور ملزمان کو پکڑنے کیلئے بھر پور
ا ہے۔ یہی میرا بیان ہے جو درست اور حقیقت پر مبنی ہے۔ انصاف کا خواہش گار ہوں۔

ATTESTED

Show Cause 2020 276

Annex-G

FINAL SHOW CAUSE NOTICE

Whereas, you **Constable Muhammad Kamran No. 749**, while posted at PS, Akbarpura, charged in case FIR No. 278 dated 10.09.2020 u / s 118 (B) Police Act 2017 PS Akbarpura, as you displayed cowardice by leaving SHO PS Akbarpura alone and ran away from the spot during scuffle / firing that took place between Nazar Muhammad (police constable at District Peshawar) and lady Constable Safia No. 2802/EF residents of Ali Shah, District Nowshera. Resultantly, LFC Safia expired and her sister namely Neelam sustained bullet injuries.

On account of which you were suspended, closed to Police Lines Nowshera, and proceeded against departmentally through Mr. Bilal Ahmad, ASP Cantt Nowshera who after fulfillment of legal formalities submitted his report to undersigned, wherein the allegations leveled against you have been proved and you were recommended for awarding major punishment.

Therefore, it is proposed to impose Major/Minor penalty including dismissal as envisaged under Rules 4(b) of the Khyber Pakhtunkhwa Police Rules 1975.

Hence, I, Capt: (R) Najmul Husnain Liauqat, PSP District Police Officer, Nowshera, in exercise of the powers vested in me under Rules 5(3) (a) & (b) of the Khyber Pakhtunkhwa Police Rules 1975, call upon you to Show Cause finally as to why the proposed punishment should not be awarded to you.

Your reply shall reach this office within **07 days** of the receipt of this notice, failing which, it will be presumed that you have no defense to offer.

You are at liberty to appear for personal hearing before the undersigned.

District Police Officer,
Nowshera

No. 189 /PA,
Dated 23/09 /2020.

ATTESTED

18 ① Annex-H

بیان ازان کامران 749 متینہ چوکی واپڈا ٹاؤن علاقہ تھانہ اکبر پورہ حال معطل شدہ پولیس لائن نوشہرہ

جناب عالی!

بحوالہ Show Cause نمبری 189/PA بتاریخ 23-09-2020 مشمولہ مقدمہ علت (1)IR 276 بتاریخ 10-09-2020 جرم 149-148-324-302 نمبر (2) مقدمہ 278 بتاریخ 10-09-2020 جرم 118-B پولیس ایکٹ 2017 تھانہ اکبر پورہ بمعہ دیگر دستاویزات مشمولہ معروز خدمت ہوں کہ مورخہ 10-09-2020 کو میں چوکی میں موجود تھا کہ عبدالطیف خان ASI انچارج نے فون پر کال کیا کہ آپ وردی پہن کر اپنے ساتھ اسلحہ لے کر دیہہ علی شاہ روڈ پر موجود آپ بھی وہاں پر آ جاؤ۔ میں حسب ہدایت انچارج صاحب مطلوبہ جگہ پر پہنچ کر ASI صاحب انچارج بمعہ دیگر نفری پولیس موجود پایا۔ انچارج ASI عبدالطیف خان نے وہاں سے SHO صاحب تھانہ اکبر پورہ کو جو موبائل فون پر بات چیت کر کے اپنی موجودگی علیشاہ پہنچنے کا بتلایا۔ اس دوران گلی میں پہلے سے موجود کچھ لڑکے کھڑے تھے اور انچارج ASI صاحب سے دریافت کی کہ کس سلسلے میں آئے ہو۔ انچارج ASI صاحب نے مذکورین کو بتلایا کہ SHO صاحب تھانہ اکبر پورہ خود آ رہے ہیں۔ آپ کو خود سمجھائے گا۔ جس کے بعد وہ جوان وہاں سے چلے گئے۔ کچھ دیر کے بعد SHO صاحب بمعہ دیگر نفری پولیس وایک فلائنگ کوچ جس میں دو مستورات بیٹھے تھے موقع پر پہنچ آئے اور ایک بڑا مذدا بھی ساتھ آیا اس دوران اسی گلی میں سے کافی تعداد میں مستورات اور چند اشخاص بھی نکلے تمام اشخاص اسلحہ آتشین تھے۔ مستورات جو مکان سے نکلے تھے فلائنگ کوچ جس میں دو مستورات بیٹھے تھے کے پاس آئے اور شور شرابا مچایا۔ SHO صاحب فلائنگ کوچ کے گیٹ کے سامنے کھڑا ہوا تھا۔ میں بھی دیگر پولیس پارٹی SHO صاحب کے اگلے حکم کے منتظر تھے کہ اس دوران مسلح افراد نے فلائنگ کوچ پر اسلحہ آتشین سے اندھا دھند فائرنگ شروع کی۔ اس دوران SHO صاحب اس منظر کو دیکھ کر عقل دھنگ رہ گئی اور ہمیں کچھ نہ کہا اور حیرانگی سے ادھر ادھر دیکھ رہا تھا۔ میں نے حق حفاظت خود اختیاری ملزمان پر اپنے سرکاری اسلحہ سے کافی فائرنگ کی۔ لیکن ملزمان راستے میں کھڑے، زنانہ، بچے اور تماش گیر لوگوں میں داخل ہو کر بھاگنے میں کامیاب ہو گئے۔ بعدہ ASI صاحب انچارج نے مجھے ہمراہ کیا میں فلائنگ کوچ کے گیٹ پر الرٹ کھڑا ہو کر ملزمان پر فائرنگ کرتا رہا اور فلائنگ کوچ کو موقع سے نکال کر زخمی مستورات کو بوقت علاج معالجہ پی ہسپتال لے گئے۔ ہسپتال پہنچنے پر ایک خاتون جان بحق ہوئی اور دوسری خاتون زخمی حالت میں ہسپتال میں داخل کروائی۔ ڈاکٹرز صاحبان نے مجروح کو LRH ریفر کی۔ LRH ہسپتال لے جا کر بعد علاج معالجہ اپنے گھر واقع خٹ کلی پہنچائی۔ جس کے بعد میں اپنے چوکی واپڈا ٹاؤن جا رہا تھا کہ مجھے محرر تھانہ اکبر پورہ افسر علی نے کال پر اسلحہ جمع کرنے کو کہا اور یہ بھی کہا کہ سرکاری موبائل آپ کی

ATTESTED

officers present there. They had weapon (Pistol and ...) ... women had daggers, knives and wooden sticks. On this call, all afor mentioned constables and PASI fled the scene and took refuge in near

رف آرہا ہے اس میں بیٹھ جاؤ۔ افسر علی صاحب کے کہنے پر میں نے رائفل جمع کرنے کے وقت بتلایا کہ میں نے اس
ملزمان پر 16 راؤند فائر کیے ہیں۔ اس کے بعد مجھے موبائل میں بٹھا کر نوشہرہ پولیس لائن میں کوارٹر گارڈ میں بند کیا گیا
گلے روز نیاز محمد خان انوسٹی گیشن آفیسر بمعہ نفری اور ہتھکڑیوں سمیت آکر مجھے ہتھکڑی پہنا کر نوشہرہ کچہری میں ہمراہ ودیگر
زمان پیش کیے۔ عدالت مجاز کے حکم کے مطابق میں اور ہمرایان کو مردان سب جیل بھیج دیئے۔ مجھے علم نہیں تھا کہ میں نے
ونسی جرم یا خلاف ورزی کی ہے۔ عدالت کی پیشی پر مجھے معلوم ہوا کہ SHO صاحب نے میرے اور ہمرایان پر جرم
ا-118 پولیس ایکٹ 2017 کے تحت مقدمہ درج کیا ہے۔ حالانکہ حالات اس کے بالکل برعکس ہیں۔ SHO صاحب
نے محض اپنی بچاؤ کے خاطر مجھے قربانی کا دھنبہ بنایا ہے۔ علاوہ ازیں تفتیشی آفیسر صاحب نے جو میرا بیان زیر دفعہ 161 ض
قلمبند کیا ہے۔ اللہ تعالیٰ گواہ ہے کہ نہ مجھ سے کسی نے پوچھا ہے اور نہ میرا بیان مذکورہ قلمبند کیا ہے۔ میرا بیان تفتیشی آفیسر
نے اپنی مرضی اور اپنی طرف سے تحریر کیا ہے میں نے کسی غفلت، بے احتیاطی یا بزدلی کا مظاہرہ نہیں کیا ہے۔ تمام حالات و
تعات پیش آمدہ ہیں۔ SHO صاحب کیساتھ موجود رہا اور میں نے SHO صاحب کو اکیلا نہیں چھوڑا ہے جس کا منہ بولتا
ت میرا کلاشنکوف ہے۔ جس سے میں نے ملزمان کی گرفت کیلئے متعدد گولیاں چلائی ہے اور ملزمان کو پکڑنے کیلئے بھرپور
شش کی ہے۔ یہی میرا بیان ہے جو درست اور حقیقت پر مبنی ہے۔ انصاف کا خواہش گار ہوں۔

ATTESTED

28.9.2020

0313-6662301

previous record
D/E 4-1-2012
G/E NIL
B/E 01
Mj NIL
Mn NIL

officers present there. They had weapons
women had daggers, knives and wooden sticks. On this call, a
mentioned constables and PASI fled the scene and took refuge i

749

(21) Annex-F

POLICE DEPARTMENT **DISTRICT NOWSHERA**

ORDER

This order will dispose of the departmental enquiry initiated under Khyber Pakhtunkhwa Police Rules-1975, against Constable Muhammad Kamran No. 749 that he while posted at PS Akbarpura, charged in case FIR No. 278 dated 10.09.2020 u / s 118 (B) Police Act 2017 PS Akbarpura, as he displayed cowardice by leaving SHO PS, Akbarpura, alone and ran away from the spot during scuffle / firing took place between Nazar Muhammad (Police Constable at District Peshawar) and lady Constable Safia No. 2802/EF residents of Ali Shah, District Nowshera. Resultantly, LFC Safia expired and her sister namely Neelam sustained bullet injuries.

On account of which, he was placed under suspension, closed to Police Lines and proceeded against departmentally through Mr. Bilal Ahmad, ASP Cantt Nowshera, who after fulfillment of legal formalities submitted his report to undersigned vide his office Endst: No. 34 /St: dated 23.09.2020, wherein the allegations leveled against him were proved and was recommended for major punishment of dismissal.

He was served with Final Show Cause Notice, to which, he submitted his reply perused by the undersigned and found unsatisfactory.

He was heard in orderly room on 29.09.2020, wherein he failed to satisfy the undersigned, therefore, he is hereby awarded major punishment of dismissal from service with immediate effect, in exercise of powers vested in me under Khyber Pakhtunkhwa Police Rules-1975.

OB No. 881

Dated 02/10 /2020.

District Police Officer,
Nowshera

No. 2649-54 /PA, dated Nowshera, the 02/10 /2020.

Copy for information and necessary action to the:

1. Pay Officer.
2. Establishment Clerk.
3. OHC.
4. FMC with its enclosures (17 pages).
5. I/C Cloth Godown.
6. Official concerned.

ATTESTED

officers present there. ...
women had daggers, knives and wooden sticks. On this call, a
... constables and PASI fled the scene and took refuge in

22 ① Annex-G

بخدمت جناب ڈپٹی انسپکٹر جنرل صاحب آف پولیس مردان رینج ضلع مردان

اپیل برخلاف OB NO. 881 مورخہ 02-10-2020 جاری کردہ DPO صاحب نوشہرہ جسکی رو سے من سائل کو سروس سے Dismiss کیا گیا۔

جناب عالی! سائل حسب ذیل عرض کرتا ہے:۔

۱۔ یہ کہ سائل مورخہ 04-01-2012 کو پولیس فورس میں بحیثیت کنسٹیبل بھرتی ہوا اور اپنے فرائض منصبی نہایت خوش اسلوبی سے سرانجام دیتا رہا۔

۲۔ یہ کہ مورخہ 10-09-2020 کو میں چوکی متینہ، واپڈا ٹاؤن میں موجود تھا کہ عبداللطیف خان ASI انچارج نے حکم عدالت عالیہ پشاور ہائی کورٹ، سائل بمعہ دیگر پولیس ہمرائیان بحکم ایس۔ایچ۔او صاحب زیر نگرانی عبداللطیف ASI انچارج چوکی واپڈا ٹاؤن حکم و فیصلہ بحوالہ رٹ پٹیشن نمبری WP. NO. 3271 P/2020 کو نافذ کرنے کی غرض سے مجھے فون کال کیا کہ آپ وردی پہن کر اپنے ساتھ اسلحہ لے کر دیہہ علی شاہ روانہ ہوئیں جہاں پر ASI عبداللطیف کھڑے تھے۔

۳۔ یہ کہ میں ASI عبداللطیف صاحب کی ہدایت پر پہنچا جہاں پر ASI صاحب کو بمعہ دیگر نفری پولیس موجود پایا۔ انچارج ASI عبداللطیف خان نے وہاں سے SHO صاحب تھانہ اکبر پورہ کو موبائل فون پر اپنی موجودگی دیہہ علی شاہ پہنچ کا بتایا۔

۴۔ یہ کہ اس دوران گلی میں پہلے سے موجود کچھ لڑکوں نے ASI صاحب سے دریافت کیا کہ اس علاقے میں آئے ہوئے ہیں اس پر انچارج صاحب نے ملزمین کو بتایا کہ SHO صاحب خود آ رہے ہیں وہ بذات خود آپ لوگوں کو سمجھا دینگے۔

۵۔ یہ کہ اس دوران SHO صاحب بمعہ دیگر نفری پولیس وایک فلائنگ کوچ جس میں دو مستورات بھیٹی تھیں موقع پر آئے اور ایک بڑا اندہ (گاڑی) بھی ساتھ آیا۔ اسی دوران گلی میں سے کافی تعداد میں مستورات اور چند اشخاص بھی نکلے تمام اشخاص لیس اسلحہ آتشیں تھے۔ مستورات جو کہ مکان سے نکلی تھی فلائنگ کوچ میں موجود مستورات کے پاس گئی اور شور شرابا مچایا۔

۶۔ یہ کہ SHO صاحب فلائنگ کوچ کے گیٹ کا سامنے کھڑا تھا۔ میں اور دیگر پولیس پارٹی SHO صاحب کے اگلے حکم کے منتظر تھے کہ اس دوران مسلح افراد نے فلائنگ کوچ پر اسلحہ آتشیں سے اندھا دھند فائرنگ شروع کی۔ اس دوران SHO صاحب یہ منظر دیکھ کر دھنگ رہ گئے اور ہمیں کچھ نہ کہا بلکہ حیرانگی کے ساتھ ادھر ادھر دیکھ رہا تھا۔ میں نے حق حفاظت خود اختیاری ملزمان پر اپنے سرکاری اسلحہ سے کافی فائرنگ کی۔ لیکن ملزمان راستے میں کھڑے زنانہ، بچوں اور تماش گیروں میں داخل ہو کر بھاگنے میں کامیاب ہو گئے۔

۷۔ یہ کہ بعدہ ASI صاحب نے مجھے ہمراہ کیا میں فلائنگ کوچ کے گیٹ پر الرٹ کھڑا ہو کر ملزمان پر فائرنگ کرتا رہا اور فلائنگ کوچ کو موقع سے نکال کر زخمی مستورات کو بوقت علاج و معالجہ ہسپتال پہنچایا۔ جو کہ ہسپتال پہنچے پر ایک

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خاتون جاں بحق ہوئی جبکہ دوسری زخمی حالت میں داخل کروائی۔ ڈاکٹر صاحبان نے مجروح کو LRH ریفر کیا۔ LRH لے جا کر بعد علاج معالجہ اپنے گھر واقع ڈھٹ کلے پہنچائی۔

۸۔ یہ کہ حالات ہذا کے بعد میں چوکی واپڈا ٹاؤن جا رہا تھا کہ مجھے محرر تھانہ اکبر پورہ افسر علی نے کال پر اسلحہ جمع کرنے کو کہا۔ اور یہ بھی کہا کہ سرکاری موبائل آپ کی طرف آ رہا ہے اس میں بیٹھ جاؤ۔

۹۔ یہ کہ سرکاری رائفل جمع کرتے وقت میں نے محرر تھانہ اکبر پورہ افسر علی کو بتلایا کہ میں نے اس رائفل سے ملزمان پر 16 رائنڈز فائر کیے ہیں۔ جس کے بعد مجھے پولیس موبائل میں بٹھا کر نوشہرہ پولیس لائن میں کوارٹر گارڈ میں بند کیا گیا۔ اور اگلے روز نیاز محمد خان انوسٹی گیشن آفیسر بمعہ نفری آئے اور مجھے ہتھکڑی پہنا کر نوشہرہ کچہری میں ہمراہ دیگر ملزمان پیش کیا۔ جہاں سے ہمیں مردان جیل بھجوایا گیا۔

۱۰۔ یہ کہ سائل کو پتا نہیں تھا کہ میں نے کونسا جرم یا خلاف ورزی کی ہے۔ عدالت پیشی پر معلوم ہوا کہ SHO صاحب نے میرے اور ہمراہیان پر جرم 118-B پولیس ایکٹ 2017 کے تحت مقدمہ درج کیا ہے۔

۱۱۔ یہ کہ مجھ سے تفشیشی آفیسر نے کوئی بیان زیر دفعہ 161 CrPC ریکارڈ نہیں کیا۔ تفشیشی آفیسر نے اپنی مرضی کا بیان قلمبند کیا ہے۔

۱۲۔ یہ کہ میں نے کوئی غفلت، لاپرواہی یا بزدلی نہ کی ہے۔ میں آخری حد تک SHO صاحب کے ساتھ موجود رہا جسکا ثبوت سائل کا استعمال کردہ سرکاری کلاشنکوف ہے۔ SHO صاحب نے ہمیں قربانی کا بکرا بنایا ہے۔ جو کہ خلاف قانون وانصاف ہے۔

۱۳۔ یہ کہ وقوعہ ہالا بہت مشتہر ہوئی جس پر مورخہ 10-09-2020 کو چارج شیٹ سے نوازا گیا جس میں سائل کے خلاف Negligence کا الزام عائد کیا۔ مورخہ 15-09-2020 کو چارج شیٹ کا جواب دے کر الزامات سے انکار کیا۔

۱۴۔ یہ کہ محکمہ نے قانون کے مطابق کاروائی نہیں کی اور فوری طور پر قانونی کاروائی کو مختصر کرتے ہوئے مورخہ 23-09-2020 کو فائنل شوکاز نوٹس دیا گیا جس کا جواب دے کر الزامات سے صریحاً انکار کیا۔

۱۵۔ یہ کہ قانونی تقاضوں کو بالائے طاق رکھتے ہوئے DPO نوشہرہ نے سائل کو مورخہ 02-10-2020 کو سروس سے Dismiss کیا جو کہ ذیل وجوہات کی بنا پر قابل استرداد ہے۔

وجوہات:۔

i۔ یہ کہ پولیس پارٹی کا سرغنہ ایس۔ ایچ۔ او عبدالنصیر خان تھا اور اسے چاہئے تھا کہ حالات واقعات کو مدنظر رکھتے ہوئے کاروائی کرتے لیکن موصوف نے کوئی حفاظتی تدابیر اختیار نہ کی ہے، جو وقوعہ بالا کی صورت میں رونما ہوا۔

ii۔ یہ کہ FIR 276 میں مستغیثہ مسماۃ نیلم فرید نے پولیس پارٹی مورل الزام نہیں ٹھہرایا کہ وہ غفلت کا مظاہرہ کرتے ہوئے جائے وقوعہ سے بھاگ نکلے تھے۔

iii۔ یہ کہ مستغیث عبدالبصیر خان ایس۔ ایچ۔ او نے خود کو بچائے ہوئے کانسٹیبلان پر ذمہ داری جو قرین انصاف نہیں۔

iv۔ یہ کہ ایس۔ ایچ۔ او صاحب نے میرے اور دوسرے ملزمان کے خلاف FIR نمبر 276 درج کیا جس میں متعلقہ میں سے کسی کا بھی بیان زیر دفعہ 161 ضابطہ فوجداری کے تحت قلمبند نہ ہوا ہے۔ اور اپنی مرضی سے بیانات سائل

اور دیگر ملزمان نے فائرنگ بند کروائے ہیں۔ جو کہ غیر قانونی اور انصاف کے بالکل منافی ہے۔ اور دوسری طرف سائل کو بند آنکھوں سے سروس سے Dismiss کیا ہوا Double Jeopardy کے امر کے میں آتا ہے۔

v۔ یہ کہ مقدمہ علت نمبر 276 مورخہ 10-09-2020 زیر دفعہ 118-B پولیس ایکٹ تھانہ اکبر پورہ میں ملزمان ضمانت پر رہا ہو چکے ہیں جن کی سماعت تا حال شروع نہ ہوئی ہے۔ مقدمہ کی سماعت پورا ہونے کے بعد اگر جرم ملزمان پر ثابت ہو جاتا ہے تو محکمہ کا سائل کو سروس سے Dismiss کرنا بمطابق قانون ہوتا۔ تا فیصلہ مجاز عدالت سائل کو Suspend رکھتے اور مجاز عدالت کی سماعت میں اگر جرم ثابت ہو جاتا تو سائل کی Dismissal قانوناً درست ہوتا لیکن موجودہ حکم بالکل غلط اور خلاف قانون و انصاف ہے۔

vi۔ یہ کہ نقشہ موقع در مقدمہ علت نمبر 276 میں صاف طور پر پولیس پارٹی اور سائل کو موجود دکھایا گیا ہے کہ موقع وقوعہ پر سائل ہمراہ دیگر متعلقہ پولیس موجود ہے لیکن نقشہ موقع پر کہیں بھی کوئی سمت نہیں دکھائی گئی ہے کہ سائل / ملزمان کس طرف بھاگ گئے ہیں۔ جو کہ مستغیث کے بیان کو بالکل یکسر خارج کرتی ہے۔

vii۔ یہ کہ سب سے زیادہ ذمہ داری وقوعہ مذکورہ کی ایس۔ ایچ۔ او عبدالبصیر خان، اے۔ ایس۔ آئی عبداللطیف، پی۔ ایس۔ آئی صفی اللہ وغیرہ کی ہے لیکن انکوائری افسران نے مذکورین کو وقوعہ سے بری الذمہ قرار دیا ہے جو کہ خلاف قانون و انصاف ہے۔

viii۔ یہ کہ DPO صاحب نے ایس۔ ایچ۔ او اور ASI صاحبان کو بغیر کسی وجہ اور عذر کے بری الذمہ قرار دیا اور ہم غریب کانسٹیبلان کو قربانی کا بکرا بنا دیا۔

ix۔ یہ کہ کیس مذکورہ میں انصاف سے کام نہیں لیا گیا جو کہ مبنی بر بدنیتی و امتیاز ہے۔

لہذا استدعا ہے کہ حکم مورخہ 02-10-2020 جاری کردہ DPO نوشہرہ کو کالعدم قرار دیا جائے اور سائل کو تمام سابقہ مراعات کے ساتھ سروس پر بحال کرنے کا حکم صادر فرمایا جائے۔

المرقوم: 12-10-2020 **مہربانی نوازش ہوگی۔**

العـــارض

کامران خان ولد شاہ زیور سابق فارم کورنر، غویشکی پایان، نوشہرہ۔
سابقہ پولیس کانسٹیبل 749
شناختی کارڈ نمبر: 17201-7744142-3
رابطہ نمبر: 0313-6662301

25 Annex-K

ORDER.

This order will dispose-off the departmental appeal preferred by **Ex-Constable Muhammad Kamran No. 749** of Nowshera District Police against the order of District Police Officer, Nowshera, whereby he was awarded major punishment of dismissal from service vide OB: No. 881 dated 02.10.2020. The appellant was proceeded against departmentally on the allegations that he while posted at Police Station Akbarpura, District Nowshera was charged in case FIR No. 278 dated 10.09.2020 u/s 118(B) Police Act, 2017 Police Station Akbarpura, displaying cowardice by leaving SHO Police Station Akbarpura, alone and running away from the spot during firing, resulting in the murder of Lady Constable Safia No. 2802/EF and bullet injury to her sister namely Neelam residents of Ali Shah, District Nowshera.

Proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and Assistant Superintendent of Police Cantt, Nowshera was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities, submitted his findings stating therein that the allegations leveled against him had been proved. He recommended the delinquent Officer for major punishment of dismissal from service.

He was issued Final Show Cause Notice to which his reply was received and found unsatisfactory. He was also provided opportunity of self defense by summoning him in the Orderly Room by the District Police Officer, Nowshera on 29.09.2020, but he failed to advance any cogent reason in his defense. Hence, he was awarded major punishment of dismissal from Service vide OB: No. 881 dated 02.10.2020.

Feeling aggrieved from the order of District Police Officer, Nowshera, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 17.11.2020.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations leveled against the appellant have been proved beyond any shadow of doubt. Owing to the cowardice and negligent attitude of the appellant, accused succeeded in murdering the Lady Constable Safia No. 2802/EF and causing bullet injury to her sister namely Neelam as they had been left at the mercy of the accused who faced no resistance, whatsoever, to deter them from the commission of their intended

HIGHLIGHTED

designs. The retention of the appellant in the Police Force with such an attitude will lead to the repetition of such like incidents to the general public as well. Moreover, this type of conduct is also bound to affect the discipline and conduct of other members of the force. Besides, during the course of personal hearing, he could not present any cogent justification to warrant interference in the order passed by the competent authority.

Keeping in view the above, **I, Sher Akbar, PSP S.St Regional Police Officer, Mardan,** being the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being devoid of merit.

Order Announced.

Regional Police Officer,
Mardan.

No. 7204 **/ES, Dated Mardan the** 20-11- **/2020.**

Copy forwarded to District Police Officer, Nowshera for information and necessary w/r to his office Memo: No. 2844/PA dated 26.10.2020. His service record is returned herewith.

(*****)

ATTESTED

27

WAKALATNAMA

IN The KP Service Tribunal Peshawar

M. Kamran Khan (Petitioner)
(Plaintiff)
(Applicant)
(Complainant)
(Decree Holder)

VERSUS

DPO & others (Respondent)
(Defendant)
(Accused)
(Judgment Debtor)

Case_____

I/We, M. Kamran Khan do hereby appoint and constitute ***Muhammad Arif Jan Advocate*** High Court, Peshawar, to appear. Plead, act, compromise, withdraw or refer to arbitration to me/ us as my/ our Counsel in the above noted matter, without any liability for their default and with the authority to engage/ appoint any other Advocate/ Counsel at my/ our matter.

Attested & Accepted

CLIENT/S

Muhammad Arif Jan
Advocate, High Court, Peshawar.
Office No. 6, 1st Floor
Pabbi Medical Centre, G.T. Road
Peshawar.
Mobile: 0333-2212213

BEFORE THE HONOURABLE, KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 15905/2020

Muhammad Kamran Khan Ex-Constable No. 749 s/o Shah Zaiwar r/o Dalazak road, Peshawar.

.....**Appellant**

V ERSUS

District Police Officer, Nowshera and others.

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Inspector Legal,
Nowshera

(1)

BEFORE THE HONOURABLE, KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 15905/2020

Muhammad Kamran Khan Ex-Constable No. 749 s/o Shah Zaiwar r/o Dalazak road, Peshawar.

.....Appellant

V ERSUS

1. The District Police Oficer, Nowshera.
2. The Regional Police Officer, Mardan.
3. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
4. Assistant Superintendent of Police (Inquiry Officer) Circle Cantt: Nowshera.

.....Respondents

REPLY ON BEHALF OF RESPONDENTS

Respectfully Sheweth: -

PRELIMINARY OBJECTIONS

1. That the appellant has got no cause of action and locus standi to file the appeal.
2. That the appeal is badly barred by law and limitation.
3. That the appellant has been estopped by his own conduct to file the instant appeal.
4. That the appeal is not maintainable in its present form.
5. That the appellant has not come to the Honourable Tribunal with clean hands.
6. That the appeal is bad for mis-joinder and non-joinder of necessary parties.

On Facts

1. Para to the extent of appointment of appellant as Constable is correct while regarding rest of the para it is stated that each and every Police Officers/Officials is under obligation to perform duty with full devotion.
2. Correct to the extent that vide daily diary No. 17 dated 10-09-2020, lady Constable Safia Naz (Late) alongwith her sister Nelam approached SHO Police Station, Akbarpura, for provision of security/protection in light of order of the Honourable Peshawar High Court, Peshawar in writ petition No. 3271-P/2020, so that she may shift her house hold items from her house to another place. (Copy of court order is annexed as annexure "A").
3. Incorrect. Appellant while posted at Police Station, Akbarpura, showed negligence as he left SHO Police Station, Akbarpura alone and ran away from the spot during scuffle/firing that took place between Nazar Muhammad and lady Constable Safia Naz. Resultantly, lady Constable Safia Naz expired while her sister Nelam sustained injuries.
4. Incorrect. As on the fateful day the then SHO Police Station, Akbarpura, in order to provide security to lady Constable Safia Naz and her sister during shifting of house hold items, accompanied them alongwith other Police party including appellant.

However, as the accused party opened fire on the aforementioned lady constable and her sister, Police Officials including appellant by displaying cowardice fled away from the spot and left the SHO all alone. To this effect a report was entered vide daily diary No. 28 dated 10-09-2020 Police Station, Akbarpura by the then SHO Inspector Abdul Baseer.

5. Correct to the extent that an FIR vide No. 278 dated 10-09-2020 u/s 118-B Police Act, 2017 was registered against those officials, including appellant who displayed cowardice by running away from the spot at a very critical movement, which resulted in the death of lady constable Safia Naz. (Copy of FIR is annexure "**B**").

6. Incorrect. In order to probe into the matter enquiry was entrusted to ASP Nowshera Cantt: who after going through all evidence and collecting information as well as fulfilling all and codal formalities held the appellant responsible of cowardice and recommended him for dismissal from service. (Enquiry report is annexed as annexure "**C**").

7. Correct to the extent that appellant was issued charge sheet with statement of allegation on 10-09-2020 to which he submitted his reply but was found unsatisfactory. (Copy of charge sheet and statement of allegation is annexed as annexure "**D**").

8. Correct to the extent that on 23-09-2020, appellant was issued final show cause notice to which he submitted his reply but the same was found unsatisfactory. (Copy of Final Show Cause Notice is annexed as annexure "**E**").

9. Correct to the extent that respondent No. 01 vide order dated 02-10-2020, dismissed appellant from service on cogent grounds after observing all codal formalities under the rules. (Copy of order is annexed as annexure "**F**").

10. Correct to the extent that appellant filed departmental appeal before the appellate authority but the same was also rejected vide No. 7204/ES, dated 20-11-2020, being devoid of merit. (Copy of order is annexed as annexure "**G**").

11. That the appeal of the appellant is liable to be dismissed on the following grounds:

GROUNDS

A. Incorrect. Appellant has not be deprived any of his rights. Moreover, orders passed by the respondents No. 01 & 02 on 02-10-2020 respectively and 20-11-2020 are in accordance with law and rules, hence, liable to be maintained.

B. Incorrect. Appellant was well aware of this fact that security had been sought by lady constable Safia Naz and he alongwith other Police Officials had been deployed for the said purpose, but as the accused party opened fire on her and her sister, appellant fled away from the spot leaving the then SHO alone.

C. Incorrect. As explained in the preceding paras enquiry was entrusted the then ASP Nowshera Cantt: who after going through all evidence and collecting information as well as fulfilling all codal formalities held the appellant responsible of cowardice and recommended him for dismissal from service.

D. Para already explained hence; needs no comments.

E. Incorrect. Proper enquiry against the then SHO Police Station, Akbarpura was conducted through Noor Jamal Khan the then Superintendent of Police, Investigation, Nowshera. On the recommendation of the enquiry officer, the then SHO was awarded major punishment of reduction in pay by 02 stage for a period of 02 years. (Copy of enquiry is annexure "**G**" and copy of order annexure "**H**").

F. Incorrect. Service record of the appellant is tainted with bad entries.

G. Para not related hence; needs no comments.

H. Incorrect. The orders of respondents are based on facts, justice and in accordance with law/rules.

I. Para already explained, hence, needs no comments.

J. Incorrect. Appellant has been dealt in accordance with facts findings of charges and rules.

K. Para already explained, hence, needs no comments.

L. Incorrect. Charge sheet and statement of allegation had been issued to the appellant which is evident from annexure "F" of the appeal wherein reply to the charge sheet has been annexed by the appellant. Similarly, before issuing of major punishment, Final Show Cause Notice was also issued to the appellant.

M. The respondents also seek permission of this Honourable Tribunal to advance additional grounds at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of above submissions the appeal of the appellant may very kindly be dismissed with cost, please.

Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.
Respondent No. 03

ATTESTED
Zahoor Khan Advocate
Notary Public
Peshawar District & Session Courts Peshawar

Regional Police Officer,
Mardan Region-I, Mardan.
Respondent No. 02

District Police Officer,
Nowshera.
Respondent No.01

Assistant Superintendent of Police,
Nowshera Cantt:
Respondent No. 04

(4)

BEFORE THE HONOURABLE, KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 15905/2020

Muhammad Kamran Khan Ex-Constable No. 749 s/o Shah Zaiwar r/o Dalazak road, Peshawar.

.....Appellant

V ERSUS

1. The District Police Oficer, Nowshera.
2. The Regional Police Officer, Mardan.
3. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
4. Assistant Superintendent of Police (Inquiry Officer) Circle Cantt: Nowshera.

.....Respondents

AFFIDAVIT

We the respondents No. 1,2,3&4 do hereby solemnly affirm and declare on Oath that the contents of reply to the appeal are true and correct to the best of our knowledge and belief and nothing has been concealed from the Honourable tribunal.

Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.
Respondent No. 03

Regional Police Officer,
Mardan Region-I, Mardan.
Respondent No. 02

District Police Officer,
Nowshera.
Respondent No.01

Assistant Superintendent of Police,
Nowshera Cantt:
Respondent No. 04

(5) Annex – A

IN THE PESHAWAR HIGH COURT, PESHAWAR,
[Judicial Department].

WP No.3271-P/2020

Mst. Neelam Fareed wife of Liaqat Ali,
r/o Ali Shah District Nowshera.

Petitioner (s)

VERSUS

The State etc

Respondent (s)

For Petitioner :- Mr. Noman ul Haq Kakakhel, Advocate
For State :- Mr. Muhammad Riaz Khan, AAG.
Date of hearing: 09.09.2020

JUDGMENT

ROOH-UL-AMIN KHAN, J:- By invoking the constitutional jurisdiction of this Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, Mst. Neelam Fareed, the petitioner, seeks issuance of a writ to the effect the District Police Officer, Nowshera and SHO Police Station Akbarpura (respondents No.2 and 3 respective), may be directed to provide her security for the purpose of shifting her house hold articles from her house situated in village Ali Shah Tehsil and District Nowshera.

2. In essence grievance of the petitioner is that her brothers are charged in case FIR No.112 dated 11.04.2020, registered under sections 302/324/34 PPC, at Police Station Akbar Pura, Nowshera, therefore, she apprehends her humiliation and risk to her life at the hands of the opposite party. She has abandoned residence from her village and

has shifted to some other place. In support of her version she has annexed copy of the cited FIR along with petition.

2. The worthy AAG when confronted with the grievance of the petitioner, he sought time to consult the SHO Police Station Akbarpura. After a while, he came to the rostrum and stated that if the petitioner visited Police Station Akbarpur, her grievance shall be redressed by the SHO of the said Police Station.

3. In view of the above, the petitioner is directed to visit Police Station Akbarpura tomorrow at 1.00 a.m. where the SHO shall provide her fully security for the purpose of shifting her house hold articles from the house situated in Mohallah Afghan village Ali Shah District Nowshera. This petition is disposed of accordingly.

Announced:
09.09.2020
M.Siraj Afridi PS

JUDGE

JUDGE

DB of Hon'ble Mr. Justice Rooh ul Amin Khan; and
Hon'ble Mr. Justice Muhammad Nasir Mehfooz.

(7)

Annex - B

فارم نمبر ۲۴-۵(۱)

ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ ۱۵۴ مجموعہ ضابطہ فوجداری

تھانہ اکبر پورہ — ضلع کوئٹہ

تاریخ 20

نمبر 276

تاریخ وقوعہ 10/9/2020 وقت 13:40 بجے

تاریخ و وقت رپورٹ 10/9/2020 19:00 بجے

نام و سکونت اطلاع دہندہ 0301 6972031 محمد عثمان ولد عبدالرحمان سکنہ اکبر پورہ

مختصر کیفیت جرم (معہ دفعہ) حال اگر کچھ لیا گیا ہو 1183 پولیس ایکٹ 2017ء

جائے وقوعہ و فاصلہ تھانہ سے سمت

نام و سکونت ملزم

کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا تو وجہ بیان کرو ملزمان کو گرفتار کرنے بعد مقدمہ درج کیا گیا

اندراج کی تاریخ و وقت

تھانہ کے روانگی کی تاریخ و وقت

ابتدائی اطلاع نیچے درج کرو: 7 بجے گشت کے دوران مورخہ 10/9/20 میں معہ پولیس ملازمان طارق 1438 سعد اللہ 302 کامران 1280 عامر 396 نعیم 276 کامران 749 عامر 1180 نے مسلم لیگ ن کے جلسہ کے حکم عدالت عالیہ بلوچستان کوئٹہ درخواست نمبر WP NO 3271/P/2020 نے جلسہ علمشاہ مروانہ سوا 307/324/149 ت پ 10/9/20 ت پ 276 کو تھانہ اکبر پورہ پہنچا تو ملزمان محمد اسلام ولد عبدالرحمان سکنہ اکبر پورہ جو موقع پر موجود تھے جنہوں نے ہم پولیس ملازمان کو دیکھ کر اصحاب پر جلسہ ملازمان پولیس بالا میں حائل ہو کر موقع پر آلہ لاٹھی چھوڑ کر بھاگ نکلے جبکہ ملزمان نے عادہ ڈال کر مسماۃ سلیم فرید، مقتولہ صبیحہ ناز دختران فرید اللہ سکنہ علمشاہ پہیا لگ کر کے دونوں لگ کر مسماۃ صبیحہ ناز موقع پر جاں بحق ہوئی جو کہ ملزمان بالا کی غفلت اور ان کی ڈیوٹی کے دوران فائرنگ کا واقعہ کر کے جرم بالا کے مرتکب پائے جا کر ملزمان پولیس بالا کے خلاف مقدمہ جرم بالا سعد مکمل کارروائی حسب ضابطہ درج رجسٹر کی جاتا ہے تفتیش کرنا ہوں۔

SHO PP
10/9/2020

ENQUIRY REPORT FC MUHAMMAD KAMRAN NO.749 PS AKBARPURA.

ALLEGATION:

Whereas, **Constable Muhammad Kamran No. 749** while posted at PS Akbarpura, now under suspension at police Line, showed negligence as he left SHO PS Akbarpura alone and ran away from the spot during scuffle / firing that took place between Nazar Muhammad (police constable at District Peshawar) and lady Constable Safia No. 2802/EF residents of Ali Shah, District Nowshera. Resultantly, LFC Safia expired and her sister namely Neelam sustained bullet injuries, which amounts to grave misconduct on his part and rendered him liable for Minor/Major punishment under Khyber Pakhtunkhwa Police Rules 1975.

PROCEEDINGS:

The delinquent police official was heard in person by the undersigned. He submitted his statement of defence which is just a pack of lies. **(Statement attached).**

FINDINGS:

The truth of the matter is: On the fateful day (10th Sep), SHO Abdul Baseer called PP Wapda Colony I/C ASI Abdul Latif to reach Ali Shah for the implementation of an order of High Court. ASI Latif reached the spot and to his surprise, accused party and its other family members including women were already present there. The accused party led by Nazar Muhammad accompanied with other relatives warned ASI Latif to stay out of this as it is their private matter and they have plans to take LFC Safia to task, else get ready for dire consequences. ASI Abdul Latif stepped back and told SHO on phone about nefarious designs of the accused party. At this point, SHO was at fault as he shouldn't have reached the spot alongwith Safia and Neelam at the first place, keeping in mind the state of aggression of the accused party. However, SHO reached the spot without any extra force. A Mazda (to transport luggage) and HIACE (seating Safia and Neelam) entered the spot along with SHO.

The following constables and PASI accompanied SHO on the spot: Tariq 459, Saeed Ullah 2002, Kamran 1789, Amir 384, Naeem 276, Kamran 749, Amir 1180, PASI Safi Ullah, ASI Abdul Latif. SHO Abdul Baseer along with this limited strength of personnel entered the narrow street, locating house of the accused party as well as that of LFC Safia and Neelam. Ladies from the accused party started heated argumentation with LFC Safia and Neelam, sitting in the HIACE. Meanwhile, the accused party led by Nazar Muhammad and his brother and their other relatives including women started chanting slogans to kill Safia and even all police officers present there. They had weapon (Pistol and AK-47) in hands and women had daggers, knives and wooden sticks. On this call, all afore-mentioned constables and PASI fled the scene and took refuge in nearby

Whereas, SHO was left alone and he hid himself between HIACE and Mazda Truck. In the course of events, the accused party surrounded the HIACE in which Safia and Neelam were seated. LFC Safia tried to get hold of her weapon from her purse and seeing this, accused party opened a burst of Kalashnikov. Neelam got bullets on her feet. Both sisters got injured. Meanwhile, SHO asked Neelam (from behind the windows of HIACE) to take his pistol and fire at the accused party. In the blink of an eye, the accused party fled the scene leaving behind both sisters in injured condition. SHO didn't put in an iota of effort to apprehend the accused party, rather waited for 8-10 minutes behind the vehicle, then shifted the injured to another vehicle and then ran after the accused, did some aerial firing, on doors and houses in the path way (just to register his response).

The undersigned has gathered information from eye witnesses of the spot as well as from Neelam (Safia's sister). In the opinion of the undersigned, the delinquent police official is found guilty of misconduct and cowardice. He withdrew himself from the duty assigned to him without permission. He fled the scene as the situation was getting out of control and didn't fire on the accused party in return. He doesn't deserve to be part of police service any more. Hence, he may be dismissed from service.

Assistant Superintendent of Police,
Circle Cantt Nowshera.

No. 34 / St
Dated 23/09/2020.

(10)

Annex- D

CHARGE SHEET

I, **Capt: (R) Najmul Hasnain Liaquat, PSP** District Police Officer, Nowshera, as ompetent authority, hereby charge **Muhammad Kamran No.749** as per Statement of Allegations nclosed.

By reasons of above, you appear to be guilty of misconduct under Police Rules, 1975 nd have rendered yourself liable to all or any of the penalties specified in Police Rules, 1975.

You are, therefore, required to submit your written defense within **07 days** of the eceipt of this Charge Sheet to the Enquiry Officer, as the case may be.

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

5. Intimate whether you desire to be heard in person.

District Police Officer,
Nowshera

Annex-E

(11)

DISCIPLINARY ACTION

I, **Capt: (R) Najmul Hasnain Liaquat, PSP**, District Police Officer, Nowshera as competent authority am of the opinion that **Muhammad Kamran No.749** has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning of Police Rules, 1975.

STATEMENT OF ALLEGATIONS

Whereas, **Muhammad Kamran No.749** while posted at PS, Akbarpura, now under suspension at Police Lines, showed negligence as he left SHO PS Akbarpura alone and ran away from the spot during scuffle / firing that took place between Nazar Muhammad (police constable at District Peshawar) and lady Constable Safia No. 2802/EF residents of Ali Shah, District Nowshera. Resultantly, LFC Safia expired and her sister namely Neelam sustained bullet injuries, which amounts to grave misconduct on his part and rendered him liable for punishment under Khyber Pakhtunkhwa Police Rules, 1975.

For the purpose of scrutinizing the conduct of the said accused official with reference to above allegations, ASP Cantt is hereby nominated as Enquiry Officer.

The Enquiry Officer shall in accordance with the provision of Police Rules, 1975, provide reasonable opportunity of hearing to the defaulter official, record his findings and make immediate recommendations as to punish or other appropriate action against the defaulter official.

Muhammad Kamran No.749 is directed to appear before the Enquiry Officer on the date, time and place fixed by the Enquiry Officer.

District Police Officer,
Nowshera

No. 134 /PA,
Dated 10/09 /2020.

OFFICE ASP CANTT NOWSHERA
34
10-9-2020

(12)

FINAL SHOW CAUSE NOTICE

Whereas, you **Constable Muhammad Kamran No. 749**, while posted at PS, Akbarpura, charged in case FIR No. 278 dated 10.09.2020 u / s 118 (B) Police Act 2017 PS Akbarpura, as you displayed cowardice by leaving SHO PS Akbarpura alone and ran away from the spot during scuffle / firing that took place between Nazar Muhammad (police constable at District Peshawar) and lady Constable Safia No. 2802/EF residents of Ali Shah, District Nowshera. Resultantly, LFC Safia expired and her sister namely Neelam sustained bullet injuries.

On account of which you were suspended, closed to Police Lines Nowshera, and proceeded against departmentally through Mr. Bilal Ahmad, ASP Cantt Nowshera who after fulfillment of legal formalities submitted his report to undersigned, wherein the allegations leveled against you have been proved and you were recommended for awarding major punishment.

Therefore, it is proposed to impose Major/Minor penalty including dismissal as envisaged under Rules 4(b) of the Khyber Pakhtunkhwa Police Rules 1975.

Hence, I, Capt: (R) Najmul Husnain Liauqat, PSP District Police Officer, Nowshera, in exercise of the powers vested in me under Rules 5(3) (a) & (b) of the Khyber Pakhtunkhwa Police Rules 1975, call upon you to Show Cause finally as to why the proposed punishment should not be awarded to you.

Your reply shall reach this office within **07 days** of the receipt of this notice, failing which, it will be presumed that you have no defense to offer.

You are at liberty to appear for personal hearing before the undersigned.

District Police Officer
Nowshera

No 189 /PA,
Dated 23/09 /2020.

24/09/2020.

officers present there. They had weapon (Pistol and AK-47) in hands and women had daggers, knives and wooden sticks. On this call, all afore-mentioned constables and PASI fled the scene and took refuge in near

749

(13)

Annex-F

POLICE DEPARTMENT

DISTRICT NOWSHERA

ORDER

This order will dispose of the departmental enquiry initiated under Khyber Pakhtunkhwa Police Rules-1975, against Constable Muhammad Kamran No. 749 that he while posted at PS Akbarpura, charged in case FIR No. 278 dated 10.09.2020 u / s 118 (B) Police Act 2017 PS Akbarpura, as he displayed cowardice by leaving SHO PS, Akbarpura, alone and ran away from the spot during scuffle / firing took place between Nazar Muhammad (Police Constable at District Peshawar) and lady Constable Safia No. 2802/EF residents of Ali Shah, District Nowshera. Resultantly, LFC Safia expired and her sister namely Neelam sustained bullet injuries.

On account of which, he was placed under suspension, closed to Police Lines and proceeded against departmentally through Mr. Bilal Ahmad, ASP Cantt Nowshera, who after fulfillment of legal formalities submitted his report to undersigned vide his office Endst: No. 34 /St: dated 23.09.2020, wherein the allegations leveled against him were proved and was recommended for major punishment of dismissal.

He was served with Final Show Cause Notice, to which, he submitted his reply, perused by the undersigned and found unsatisfactory.

He was heard in orderly room on 29.09.2020, wherein he failed to satisfy the undersigned, therefore, he is hereby awarded major punishment of dismissal from service with immediate effect, in exercise of powers vested in me under Khyber Pakhtunkhwa Police Rules-1975.

OB No. 881

Dated 02/10 /2020

District Police Officer,
Nowshera

No. 2649-54 /PA, dated Nowshera, the 02/10 /2020.

Copy for information and necessary action to the:

1. Pay Officer.
2. Establishment Clerk.
3. OHC.
4. FMC with its enclosures (17 pages).
5. I/C Cloth Godown.
6. Official concerned.

(14)

Annex - H

No. 9412 /PA

Dt: 29/10/2020

DEPARTMENTAL ENQUIRY AGAINST INSPECTOR ABDUL BASEER THE THEN SHO POLICE STATION AKBARPURA.

Brief of Allegations: -

Inspector Abdul Baseer while posted as SHO P.S Akbarura, now under suspension at Police Lines, failed to handle the situation by not taking the requisite measures during scuffle/firing that took place between Nazar Muhamamd (police constable at District Peshawar) and lady Constable Safia No. 2802/EF residents of Ali Shah, District Nowshera. Resultantly, LFC Safia expired and her sister namely Neelam sustained bullet injuries. Besides, he was also directed by SDPO Pabbi to include the name of PASI Abdul Latif as accused in case FIR No. 278 dated 10.09.2020 u/s 118-B Police Act 2017 lodged against police officials, as he was also found negligent towards his duties but he turned a deaf ear to the same, which amounts to grave misconduct on his part and rendered him liable for punishment under Khyber Pakhtunkhwa Police Rules, 1975.

Proceedings: -

Charge Sheet and Summary of allegations were issued to and served upon the delinquent officer and the undersigned was tasked to act as fact finder.

Inspector Abdul Baseer was summoned, heard in person and his statement was recorded. He stated that he has executed the court order as well as timely informed his highups from the situation. He did not admit the allegations and claimed himself to be innocent.

Similarly statement of injured Neelam Farid (complainant in case FIR No. 276 dated 10.09.2020 u/s 302/324/148/149 PPC Police Station Akbarpura) was also recorded. In her written statement she held responsible police party for the incident. According to her statement, she was shouting and asking help from SHO and police party but no one turned up except two police officers who helped her while taking to the hospital.

Statement of Mustamir Khan, Mazda driver was also recorded wherein he stated that as he alongwith other labours escaped from the spot similarly police party also made their escape good.

Head Constable Afsar Ali No. 1065, Muharrir Police Station Akbarpura was also summoned who stated that on the directions of the Honourable Court, SHO/Inspector Abdul Baseer, alongwith police strength of P.S Akbarpura departed in order to shift house hold articles of Neelam Farid from her house to some other place. Later on PASI Abdul Latif telephonically informed that a scuffle/firing took place and resultantly Lady Constable Safia and her sister Neelam Farid have received bullet injures who were taken to Pabbi Hospital for treatment. In this connection a case vide FIR No. 276 dated 10.09.2020 u/s 302/324/148/149 PPC P.S Akbarpura was registered on the

report of Neelam Farid. Also a Murassila written by SHO Abdul Baseer was received from Pabbi Hospital and a case vide FIR No. 228 dated 10.09.2020 u/s 118-B was registered against the delinquent police officials.

Similarly drivers constable Adnan No. 1317 and constable Shah Hussain No. 512 of P.S Akbarpura submitted their written statements wherein they supported the version of SHO.

Other police officials also submitted their written statements wherein they showed themselves as innocents and held the SHO responsible for the incident.

Finding/Recommendations:-

After illuminating all aspects of the matter, perusal of FIRs, Daily Diaries statements of all concerned, the enquiry officer has arrived at the conclusion that the SHO Failed to make a proper planning while handling the situation. Such failure of the SHO not only resulted in the death of Lady Constable Safia No. 2802 of Elite Force and injury of her sister Neelam Farid but also reflects his poor professional skills.

Therefore, SHO/Inspector Abdul Baseer is recommended for major punishment.

(Noor Jamal)
Superintendent of Police,
Investigation, Nowshera.

W/DPO Nowshera

عبدالصبر SP

(16)

Annex - I

POLICE DEPARTMENT

DISTRICT NOWSHERA

ORDER

This order will dispose of the departmental enquiry initiated under Khyber Pakhtunkhwa Police Rules-1975, against Inspector Abdul Baseer, under the allegations that he while posted as SHO PS Akbarpura, failed to handle the situation by not taking the requisite measures during scuffle / firing that took place between Nazar Muhammad and lady Constable Safia No. 2802 / EF residents of Ali Shah, District Nowshera. Resultantly, LFC Safia expired and her sister namely Neelam sustained bullet injuries. Besides, he was also directed by SDPO Pabbi to charge PASI Abdul Latif in case FIR No.278 dated 10.09.2020 u / s 118 (B) Police Act 2017 lodged against police official, as he was also found negligent towards his duties but he turned a deaf ear to the same.

On account of which, he was suspended, closed to Police Lines and proceeded against departmentally through Mr. Noor Jamal Khan, SP Investigation Nowshera, who after fulfillment of legal formalities submitted his report to undersigned vide his office Memo. No. 4412/PA dated 29.10.2020, wherein the allegations leveled against him have been proved and was recommended for awarding major punishment.

He was served with Final Show Cause Notice, to which, he submitted his reply which was perused by the undersigned and found unsatisfactory.

He was heard in orderly room by the undersigned wherein he failed to produce any cogent reason in his defense, therefore, he is hereby awarded major punishment of reduction in pay by 02 stages for a period of 02 years and reinstated in service from the date of suspension, in exercise of powers vested in me under Khyber Pakhtunkhwa Police Rules-1975.

OB No. 1081

Dated 12/11/2020

District Police Officer,
Nowshera

No. 3054-58 /PA, dated Nowshera, the 12/11/2020.

Copy for information and necessary action to the:

1. Regional Police Officer, Mardan.
2. Pay Officer.
3. Establishment Clerk.
4. FMC with enquiry papers (46 pages).
5. Official concerned.