

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

Service Appeal No.564/2018

Date of Institution ... 23.04.2018  
Date of Decision ... 14.07.2022

Salman FC No.117 Police Station Zaida, presently R/O Mohallah  
Mama Khel, Tehsil Razzar, District Swabi.

... (Appellant)

**VERSUS**

1. Inspector General of Police Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Mardan.
3. District Police Officer, Swabi.
4. Sub Divisional Police Officer, Tehsil Razzar, District Charsadda.

... (Respondents)

Mehtab Sikandar,  
Advocate ... For appellant.

Muhammad Riaz Khan Paindakhel,  
Assistant Advocate General ... For respondents.


Salah Ud Din ... Member (J)  
Rozina Rehman ... Member (J)

**JUDGMENT**

Rozina Rehman, Member(J):The appellant has invoked the jurisdiction of  
this Tribunal through above titled appeal with the prayer as copied below:

**“On acceptance of this appeal the impugned order dated  
17.10.2017 and final order dated 26.03.2018 rejecting  
departmental appeal may graciously be set aside and  
appellant be reinstated in the service with full back  
benefits in the interest of justice.”**

2. Brief facts of the case are that appellant was appointed as Constable  
in the Police Force of Khyber Pakhtunkhwa on 17.03.2008. At the relevant

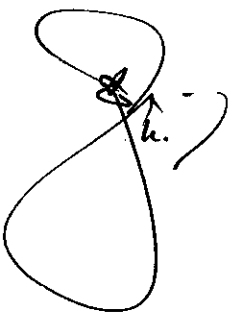


time, he was performing his duties on the grave of Mashal Khan, a victim of Abdul Wali Khan University Mardan. He was served with a charge sheet alongwith statement of allegations alleging therein that he had committed abetment and conspiracy in a murder case registered vide FIR No.364 dated 15.06.2017 of Police Station Kalu Khan. SDPO Razzar Circle was appointed as Inquiry Officer and the appellant was recommended for major punishment. Final show cause notice was also served upon him, wherein, he appeared in person and submitted reply but he was dismissed from service vide order dated 17.10.2017. He filed departmental appeal which was rejected, hence, the present service appeal.

3. We have heard Mehtab Sikandar Advocate, learned counsel for appellant and Muhammad Riaz Khan Paindakhel, learned Assistant Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Mehtab Sikandar Advocate, learned counsel for appellant inter-alia argued that the impugned order is against law, facts and material as the appellant was not treated in accordance with law and rules. It was contended that no proper inquiry was conducted as the appellant was not afforded proper opportunity of defense and he was not heard as required under the law nor his contention was incorporated in the inquiry report, therefore, the very proceedings conducted by the Inquiry Officer, his recommendation and subsequent dismissal order are of no legal effect.

5. Conversely, learned AAG submitted that on account of involvement of the appellant in a murder case, he was served with charge sheet and summary of allegations and after proper departmental inquiry, allegations against appellant were proved and he was recommended for major penalty. He submitted that the order of the respondents are quite legal and in



accordance with law and that proper opportunity of defense was provided to him but he could not prove himself innocent. Lastly, it was argued that after fulfillment of all codal formalities, major punishment of dismissal from service was imposed upon appellant.

6. After hearing the learned counsel for the parties and going through the record of the case with their assistance and after perusing the precedent cases cited before us, we are of the opinion that one Amjad Ali registered FIR No.364 on 15.06.2017 at Police Station Kalu Khan District Swabi regarding murder of his son Tanveer by unknown accused, therefore, FIR was registered against unknown culprits. It was on 09.08.2017 when the present appellant was served with charge sheet alongwith statement of allegation for allegedly involved in the abetment and conspiracy of a murder in the holy month of Ramazan vide case FIR No.364 dated 15.06.2017. One Shah Mumtaz Khan DSP Razzar was appointed as Inquiry Officer. The inquiry report is available on file, where-after, final show cause notice was issued and vide order of District Police Officer, Swabi dated 17.10.2017, appellant Constable Salman was awarded major punishment of dismissal from service. The order of competent authority as well as appellate authority would reveal that appellant was charged for being member of Police Force, had close contacts with notorious in the area of the Police Station Kalu Khan and that he involved himself in the abetment of a murder which was against discipline and amounted to gross misconduct. The judgment of the learned Additional Sessions Judge-IV Swabi is available on file, wherein, it has been clearly mentioned that statement of Hilal Ahmad and Kashif were recorded U/S 164 Cr.PC but instead of making them witnesses of the occurrence, they were made accused in the present case and that their respective statement did not fulfill the basic requirements for recording confessional statement of the accused. As the case



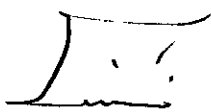
was full of doubts, therefore, all the seven accused including the present appellant Salman were acquitted and their sureties were discharged.

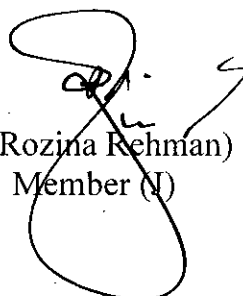
7. It has been held by the superior fora that all acquittals are certainly honorable. There can be no acquittal which may be said to be dishonorable. Involvement of the appellant in criminal case was the only ground on which he had been dismissed from service and the said ground had subsequently disappeared through his acquittal, making him re-emerge as a fit and proper person entitled to continue his service.

8. It is established from the record that charges of his involvement in criminal case ultimately culminated in honorable acquittal of the appellant by the competent court of Law. In this respect we have sought guidance from 1988 PLC (CS) 179, 2003 SCMR 215 and PLD 2010 Supreme Court, 695.

9. For what has been discussed above, this appeal is accepted and the impugned orders are set aside and the appellant is reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.  
14.07.2022

  
(Salah Ud Din)  
Member (J)

  
(Rozina Rehman)  
Member (J)


**ORDER**  
14.07.2022

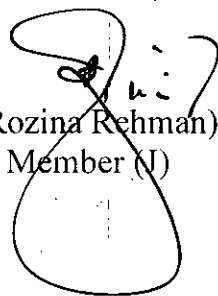
Appellant present through counsel.

Muhammad Riaz Khan Paindakhel learned Assistant Advocate General for respondents present. Arguments heard. Record perused.

Vide our detailed judgment of today of this Tribunal place on file, instant service appeal is accepted and the impugned orders are set aside and the appellant is reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

**ANNOUNCED.**  
14.07.2022

  
(Salah Ud Din)  
Member (J)

  
(Rozina Rehman)  
Member (J)

29.06.2022

Appellant alongwith his counsel Mr. Mehtab Sikandar, Advocate, present. Mr. Fazle Subhan, Head Constable alongwith Mr. Riaz Ahmed Paindakhel, Assistant Advocate General for the respondents present.

Partial arguments heard. To come up for remaining arguments on 30.06.2022 before the D.B.



(Rozina Rehman)  
Member (J)



(Salah-ud-Din)  
Member (J)

30.06.2022

Learned counsel for the appellant present. Mr. Fazal Subhan HC alongwith Mr. Riaz Khan Paindakheil, Assistant Advocate General for the respondents present.

Arguments heard. To come up for order on 14.07.2022 before the D.B.



(Rozina Rehman)  
Member (J)



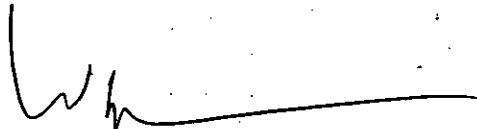
(Salah Ud Din)  
Member (J)

23.11.2021

Counsel for the appellant present.

Mr. Noor Zaman Khattak, District Attorney alongwith Mr. Fazle Suban H.C for the respondents present.

Partial arguments heard. During the arguments learned counsel for the appellant requested for adjournment in order to produced relevant record; allowed. To come up for full arguments on 26.01.2022 before D.B.



(Atiq Ur Rehman Wazir)  
Member (E)




(Rozina Rehman)  
Member (J)

26.01.2022

Junior of learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Junior of learned counsel for the appellant sought adjournment on the ground that learned counsel for the appellant is out of station today. Adjourned. To come up for arguments on 11.03.2022 before the D.B.



(Rozina Rehman)  
Member (J)



(Salah-ud-Din)  
Member (J)

11-3-22

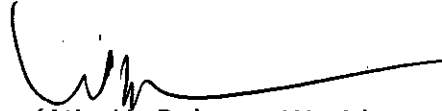
*Due to Retirement of the Hon,ble Chairman  
The case is adjourned to come up for the  
same as before on 29-6-22*

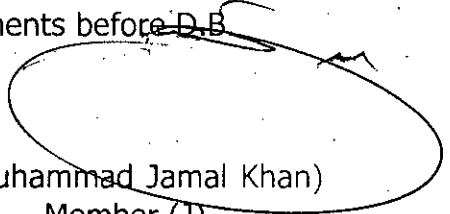
*Salah-ud-Din  
Reader*

01.02.2021

Learned counsel for the appellant present. Mr. Kabirullah Khattak learned Additional Advocate General alongwith Fazle Subhan H.C for respondents present.

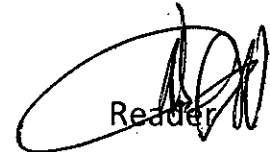
Learned counsel for the appellant requested for adjournment. The request is acceded to and appeal is adjourned to 06.04.2021 on which to come up for arguments before D.B.

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

  
(Muhammad Jamal Khan)  
Member (J)

06.04.2021

Due to demise of Hon'able Chairman, the Tribunal is defunct, therefore, the case is adjourned to 07.07.2021 for the same.


  
Reader

07.07.2021

Counsel for appellant present.

Muhammad Adeel Butt learned Additional Advocate General for respondents present.

Request for adjournment was made on behalf of appellant; Request is accorded. To come up for arguments on 23.11.2021 before D.B.

  
(Rozina Rehman)  
Member(J)

  
Chairman

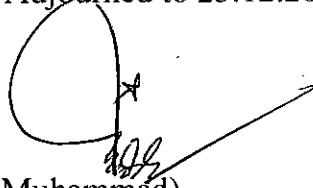


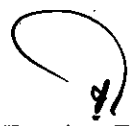
13.10.2020

Counsel for the appellant is present. Mr. Muhammad Jan, DDA for respondents are present.

Learned counsel for the appellant seeks adjournment as he has not prepared the brief.

Adjourned to 23.12.2020 for arguments before D.B.

  
(Mian Muhammad)  
Member (E)

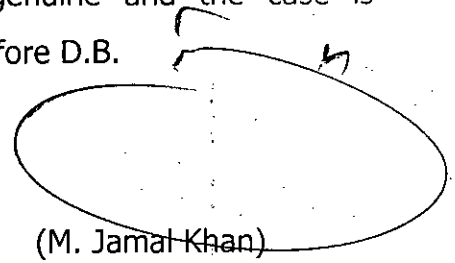
  
(Rozina Rehman)  
Member(J)

23.12.2020

Counsel for appellant and Mr. Kabirullah Khattak learned Additional Advocate General alongwith Fazle Subhan H.C for respondents present.

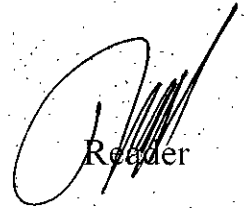
Learned Additional Advocate General requested that the instant appeal was entrusted to the Deputy District Attorney who has been transferred, therefore, requested for adjournment for making arrangement a fresh. The request is genuine and the case is adjourned to 01.02.2020 for arguments before D.B.

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

  
(M. Jamal Khan)  
Member (J)

17.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 16.07.2020 before D.B.



Reader

16.07.2020

Due to COVID-19, the case is adjourned for the same on ~~28~~ 09.2020 before D.B.



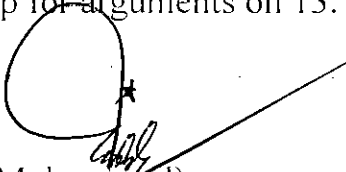
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28.09.2020

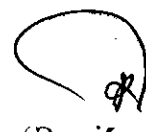
Counsel for appellant present.

Mr. Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Former made a request for adjournment. Adjourned. To come up for arguments on 13.10.2020 before D.B.



(Mian Muhammad)  
Member (E)



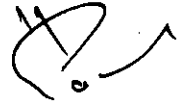
(Rozifa Rehman)  
Member (J)

13.11.2019

Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Faheem Inspector present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 16.01.2020 before D.B.



Member



Member

16.01.2020

Appellant absent. Learned counsel for the appellant absent. Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Due to general strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for further proceedings/arguments on 26.02.2020 before D.B. Appellant be put to notice for the date fixed.



Member



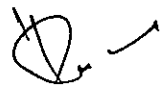
Member

26.02.2020

Learned counsel for the appellant present. Mr. Riaz Khan Paindakheil learned Assistant Advocate General present. Adjournment requested. Adjourn. To come up alongwith connected service appeal No.566/2018, on 17.04.2020 before D.B.



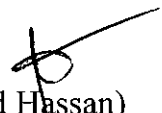
Member




Member

06.09.2019

Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney for the respondents present. Learned Deputy District Attorney seeks adjournment to furnish all the relevant documents/record for the just disposal of the present service appeal. Request acceded to. Adjourn. To come up for arguments on 04.10.2019 before D.B. Respondent No. 3 (DPO Swabi) be put to notice with the direction to furnish complete record/all the relevant documents till the next date fixed.


  
(Ahmed Hassan)  
Member


  
(M Hamid Mughal)  
Member

04.10.2019

Learned counsel for the appellant present. Mr. Riaz Khan Paindakheil learned Assistant Advocate General alongwith Rashid Ali H.C present.

Inquiry report is available on file but without the enclosures. Representative is directed to make available complete record of inquiry. Additional documents in relation to criminal case submitted and placed on file of service appeal No.566/2018 file by Kashif. Adjourn. To come up for record/arguments on 13.11.2019 before D.B

  
Member

  
Member

30.04.2019

Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney alongwith Faheem Khan Inspector present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 16.07.2019 before D.B.


  
Member

  
Member

16.07.2019

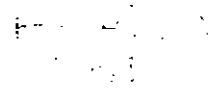
Learned counsel for the appellant and Mr. Usman Ghani learned District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 06.09.2019 before D.B

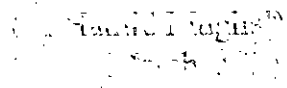
  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

06.09.2019

Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 04.12.2019 before D.B.





26.11.2018

Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 10.12.2018 before D.B.

  
Member

  
Member

10.12.2018

Junior to counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney for the respondent present. Junior to counsel for the appellant seeks adjournment as senior counsel is not in attendance. Adjourn. To come up for arguments on 11.02.2019 before D.B

  
Member

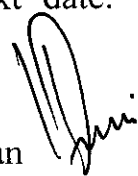
  
Member

11.02.2019

Appellant alongwith counsel and Mr. Muhammad Riaz, Painsa Khel, Asstt. AG for the respondents present.

Learned AAG states that he is not in possession of the brief of instant appeal. Further states that the respondents may be allowed time to produce entire record of enquiry against the appellant as well as the proceedings ensuing to FIR No. 364 dated 15.06.2017 of P.S Kalu Khan. Needful shall be positively done on next date. Adjourned to 30.04.2019 before the D.B.

  
Member

Chairman 

10.07.2018

Mr. Mehtab Sikandar, Advocate, counsel for the appellant present. No representative of the respondents present. However, Mr. Usman Ghani, District Attorney put appearance on their behalf. To come up for written reply/comments on 27.08.2018 before S.B.

  
Chairman

27.08.2018

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Atta-ur-Rehman, S.I (legal) for the respondents present and submitted written reply. To come up for rejoinder and arguments on 10.10.2018 before D.B.

  
(Ahmad Hassan)  
Member

10.10.2018

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Atta-ur-Rehman, S.I (Legal) for the respondents present. Learned counsel for the appellant submitted rejoinder and requested for adjournment for arguments. Adjourned. To come up for arguments on 26.11.2018 before D.B.

  
(Ahmad Hassan)  
Member

  
(Muhammad Amin Kundi)  
Member

21.05.2018

Counsel for the appellant present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving in Police Department. It was further contended that during service he was involved in case FIR No. 364 dated 15.06.2017 under sections 302/120-B/148/149/114/177 PPC Police Station Kalo Khan. It was further contended that the appellant was dismissed from service vide impugned order dated 17.10.2017 on the allegation of his involvement in abetment and conspiracy in the aforesaid FIR. It was further contended that the appellant filed departmental appeal on 27.10.2017 which was rejected on 03.12.2017. It was further contended that the appellant filed revision petition before IG in 10.01.2018 which was also rejected vide order dated 26.03.2018 hence the appellant filed the present service appeal on 23.04.2018. It was further contended that neither the name of the appellant is mentioned in the first information report nor respondent-department has issued any charge sheet and statement of allegation. It was further contended that neither proper inquiry was conducted nor opportunity of cross examination and defence was provided to the appellant therefore, the impugned order is illegal and liable to be set-aside.

The contention raised by the learned counsel for the appellant need consideration. The appeal is admitted for regular hearing subject to deposit of security and process fee within 10 days thereafter notice be issued to the respondents for written reply/comments for 10.07.2018 before S.B.

Appellant Deposited  
Security & Process Fee

  
(Muhammad Amin Khan Kundi)  
Member



Form-A  
FORM OF ORDERSHEET

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

Case No. 564/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	23/04/2018	<p>The appeal of Mr. Salman presented today by Mr. Mehtab Sikandar Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR 23/4/18</p>
2-	15/05/18.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>21/05/18.</u></p> <p style="text-align: right;"><i>MA</i> MEMBER</p>

BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR

Service Appeal No...../2018

Salman F.C No.117 Police Station Zaida, presently r/o Mohallah Mama Khel, Tehsil Razzar, District Swabi.....Appellant.

~~V~~ERSUS

Inspector General of Police, Peshawar and others.....Respondents.

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3.	Copy of charge sheet and relevant documents, <i>copy of FIR</i>		<i>5-8</i>
4.	Copy of inquiry		<i>9-10</i>
5.	Copy of final show cause notice and impugned order dated 17.10.2017		<i>11-22</i>
6.	Copy of impugned order dated 26.03.2018		<i>22-23</i>
7	Wakalatnama	<i>Salman</i>	<i>24</i>

Appellant

Appellant Deposited  
Security & Process Fee

*[Signature]*  
*21/5/18*

Through

*[Signature]*

Mehtab Sikandar,  
Advocate.

**BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

Service Appeal No...../2018

Salman FC No.117 Police Station Zaida, presently r/o Mohallah Mama Khel, Tehsil Razzar, District Swabi.....Appellant.

V E R S U S

1. Inspector General of Police, Peshawar.
2. Regional Police Officer, Mardan.
3. District Police Officer, Swabi.
4. Sub Divisional Officer tehsil Razzar.....Respondents.

**APPEAL AGAINST THE ORDER DATED 17.10.2017 WHEREBY SERVICES OF THE APPELLANT WAS DISMISSED WHILE AWARDING MAJOR PUNISHMENT UNDER KHYBER PAKHTUNKHWA POLICE RULES 1975 AND AGAINST THE FINAL ORDER DATED 26.03.2018 WHEREBY DEPARTMENTAL APPEAL FILED BY THE APPELLANT WAS REJECTED.**

**Respectfully Sheweth:-**

1. That the appellant was appointed as Constable in Police Force of the Khyber Pakhtunkhwa on 17.03.2008 where after posted at various police station.
2. That appellant put in meritorious services in the department for long 9 years and at the relevant time was performing his duties on the grave of Mashal Khan a victim of the Abdul Wali Khan University Mardan Occurrence.
3. That without any information/reason a charge sheet with summary of allegation was served upon the appellant alleging therein that he has committed abetment and conspiracy in a murder case registered vide FIR No.364 dated 15.6.2017 Police Station Kalo Khan (copy of charge sheet and relevant document a/w summary of allegation are annexed as annexure "A" & "B" while FIR etc will be produced at the relevant time.)
4. That Sub Divisional Officer Razzar Circle Karnal Sher Kaly was appointed as inquiry officer to conduct inquiry and inspite of the fact that it is neither proved from FIR nor the complainant has charge the appellant nor there is any evidence to connect the appellant with the alleged offence, but even then the

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subsequent dismissing of departmental appeal amount condemning him unheard.

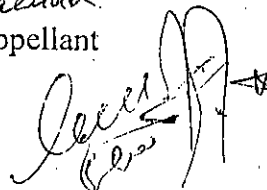
g) That appellant be allowed to add/rely upon other grounds at the time of arguments.

It is therefore humbly prayed that on acceptance of this appeal the impugned order dated 17.10.2017 and final order dated 26.03.2018 rejecting departmental appeal may graciously be set aside and appellant be reinstated in the service with full back benefits in the interest of justice.

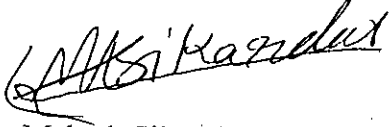
Any other order deem appropriate in the circumstances of the case may also be passed.

*Salman*  
Appellant

Through

  
Fida Muhammad Yousafzai,

And

  
Mehtab Sikandar,  
Advocates.

(4)  
*KPK Service Tribunal*  
BEFORE THE PESHAWAR HIGH COURT PESHAWAR.

Service Appeal No. .... /2018

Salman F.C No.117 Police Station Zaida, presently r/o Mohallah Mama Khel, Tehsil Razzar, District Swabi.....Appellant.

VERSUS

Inspector General of Police, Peshawar and others.....Respondents.

AFFIDAVIT

I, Salman F.C No.117 Police Station Zaida, presently r/o Mohallah Mama Khel, Tehsil Razzar, District Swabi, do hereby solemnly affirm and declare on oath that the contents of the appeal are true and correct to the best of my knowledge and belief that nothing has been concealed from this Hon'ble Court.

Identified by:

*(Signature)*

**Mehtab Sikandar,**  
Advocate Peshawar.

*Salman*

Deponent

1620286647419

23/4/18



(6)


CHARGE SHEET

Whereas I am satisfied that formal enquiry as contemplated by Khyber Pakhtunkhwa Police Rules 1975 is necessary and expedient.


And whereas I am of the view that the allegations if established would call for Major/Minor penalty as defined in Rules 4(b) a & b of the aforesaid Rules.

Now therefore as required by Rules 6(1) of the aforesaid Rules I Muhammad Sohaib Ashraf, DSP, District Police Officer, Swabi charge you Constable Salman Belt No. 117 on the basis of statement of allegations attached to this charge sheet.

In case your reply is not received within seven days without sufficient cause it will be presumed that you have no defence to offer and ex parte action will be taken against you.

  
District Police Officer,  
Swabi.

Certified to be True Copy.

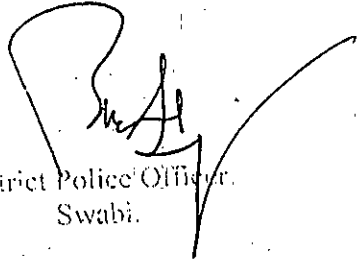
ATTESTED  
  
District Police Officer, Swabi.

(7)

SUMMARY OF ALLEGATIONS

It is alleged that Constable Salman Belt No. 117, while posted in PS Zaida involved himself in the abetment and conspiracy of a murder in the Holy Month of Ramzan vide FIR No. 364 Dated 15.06.2017 U/s '302/120-B/18/149/177 PPC PS Kalu Khan. Being member of Police force instead of protecting life and liberty of citizens you himself murdered an innocent soul for the reason best known to you, which speaks of your inefficiency and amounts to gross misconduct. Hence, summary of allegations.

Mr. Shah Mumtaz Khan, DSP Razzar is appointed to conduct proper departmental enquiry against him.

  
District Police Officer,  
Swabi.

No. 15 /CC/PSO,  
Dated. 9 / 08 /2017

Certified to be True Copy.

ATTESTED,

  
District Police Officer, Swabi.



From:

The Sub Divisional Police Officer,  
Circle Razzar, Kernal Sher Kelli.

To: -

The Police Station: Kalu Khan.

No.

369

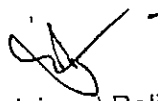
/S. dated Razzar the 11/08/2017.

Subject:

DEPARTMENTAL ENQUIRY AGAINST FC SALMAN NO.117.

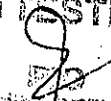
Memo:

Direct Constable Salman No. 117 R/o Mohalla Mama Khel village Kalu Khan while posted at Police station Zaida, Swabi to attend the office of undersigned on 15.08.2017 at 09:00 am positively for recording his statement in connection with his departmental enquiry

  
Sub Divisional Police officer,  
Circle Razzar, Kernal Sher Kelli.

Certified to be True Copy.

ATTESTED

  
Circle Razzar, Kernal Sher Kelli.

(9)

OFFICE OF THE SUB DIVISIONAL POLICE OFFICER, RAZZAR CIRCLE  
KERNAL SHER KEELI, SWABI (TEL PHONE NO. 0938.312-777)

To:

The District Police Officer,  
Swabi.

No.

467

/S, dated Razzar the 28/09/2017.

Subject:

DEPARTMENTAL ENQUIRY AGAINST CONSTABLE SALMAN  
NO. 117.

Memo:

In compliance with your office letter No. 15/CC/PSO, dated 09.08.2017 on the subject noted above.

SUMMARY OF ALLEGATION:

My this order will dispose of the departmental proceedings against constable Salman No. 117 who while posted in PS Zaida involved himself in abetment and conspiracy of a murder case in the Holy month of Ramazan vide case FIR No. 364 dated: 15.6.2017 U/s 302/148/149/177/120B PPC, PS Kalu Khan. Being a member of Police Force, he murdered an innocent soul for the reason best known to him. This speaks of his inefficiency and amounts to gross misconduct. The DPO Swabi issued him a show cause notice and subsequently issued charge sheet/summary of allegations and the undersigned has been appointed an enquiry officer to conduct proper departmental enquiry against the defaulter official.

PROCEEDINGS:-

**Certified to be True Copy.**

The defaulter constable Salman No. 117 was directed to attend this office and record his statement regarding his departmental enquiry. He attended this office and his statement was recorded. According to his statement he has no enmity or bad terms with any one and he has been falsely implicated in the above case. In this connection he is ready for satisfaction. He stated that the complainant is his nearest relative and he did not charged me. He is serving in Police Deptt: as a constable and performing his duty honestly and will protect the life and property of the public. I am serving in Police Deptt: for earning the livelihood of my children. He requested to file the instant enquiry. The defaulter constable was also put into cross question which is enclosed for perusal.

Moreover, the statement of SI/OII of PS Kalu Khan has been also recorded. He stated that in case FIR No. 364 dated: 15.6.2017 PS Kalu Khan, complainant Amjad Ali R/o village Kalu Khan has charged an unknown accused for the murder of his son. After registration of the case, the investigation was started. During investigation, Police arrested Hilal Ahmad alias Swatay S/o Jan Bahadar R/o Kalu Khan, Kashif S/o Zar

**ATTESTED**

**P/B**  
District Police Officer, Swabi.

(10)

Muhammad R/o Kernal Sher Killi and Mirzali Khan S/o Shahi Nazar R/o Sikandary. Their statements were recorded U/s 161 and 164 Cr.Pc. On their statements they also nominated Constable Salman S/o Shad Ali R/o Kalu Khan as a co-accused in the above case. Therefore, constable Salman No. 117 was arrested in case and after investigation, he was challenged to court for trial. The statements of the above accused recorded U/s 164 Cr.Pc are enclosed for necessary action.

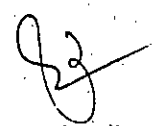
FINDINGS:-

I have gone through his enquiry file, the statements of OI of PS Kalu Khan as well the statements recorded U/s 164 Cr.Pc in the court by the above mentioned three accused has charged constable Salman No. 117 as a accused.

RECCOMENDATION:-

From the perusal of available record and examination of witnesses and discussion with IO of the case, I am fully convince, that defaulter constable is fully connected with the commission of murder of deceased Tanvir vide case FIR No. 364 dated: 15.6.2017 U/s 302/148/149/177/120B PPC, PS Kalu Khan and found him guilty, hence recommended for Major Punishment, please.

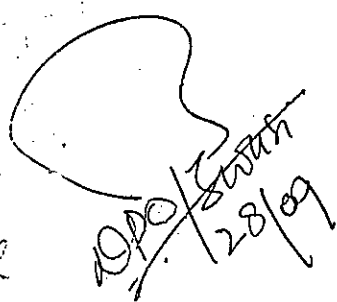
Enclosed: (33 pages)


  
Sub Divisional Police Officer,  
Razzar Circle, Kernal Sher Kelli.

Certified to be True Copy.

DSO  
—————  
Issue FSCN,

Sd/-  
② times without  
pay no suspended  
in the said case

  
19/07/2019  
128/09

ATTESTED  
  
District Police Officer, Swabi.

Callan P 607 S  
129/19

SHOW CAUSE NOTICE.

Whereas you Constable Salman No. 117, while posted in PS Zaida involved himself in the abetment and conspiracy of a murder in the Holy Month of Ramazan vide FIR No. 364 dated 15.06.2017 u/s 302/120-B/148/149/114/177 PPC PS Kalu Khan. Being member of Police force instead of protecting life and liberty of citizens you himself murdered an innocent soul for the reason best known to you, which speaks of your inefficiency and amounts to gross mis-conduct.

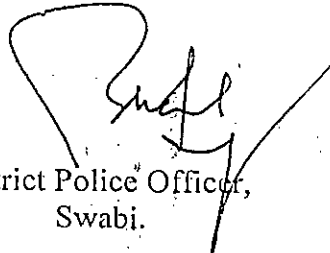
You are therefore found guilty of gross mis-conduct as define in rule 2.(iii) of KPK Police Rules 1975 (as amended) and as such liable to action under rule-3 of the ibid Rules.

Based on the facts reported by the Officer Incharge Investigation PS Kalu Khan, the authority is satisfied that no departmental enquiry through an Enquiry Officer is necessary in this case as contained in clause (a) of rule 5.3 of the said Rules.

Now therefore, I **Muhammad Sohaib Ashraf PSP**, District Police Officer, Swabi as competent authority called upon you Constable Salman No. 117 under, clause (c) of rule 5.3 of the KPK Police Rules 1975 to Show Cause within 07 days, as to way one or more of major or minor punishment as deemed necessary under rule 5.5 of said Rules should not be imposed upon you.

**Certified to be True Copy.**

If you failed to submit reply in compliance of this Show Cause Notice within stipulated period, it will be presumed that you have nothing to offer in your defence and in that case ex-parte action shall be taken against you without further notice.


  
District Police Officer,  
Swabi.

No 339-40 /PSO,

Dated 12 107 /2017.

ok  
03462599649 Salman  
117 جیل خان

**ATTESTED**

  
District Police Officer, Swabi.

(12)

Government of Khyber Pukhtunkhawa.

Office of the District Police Officer, Swabi

Phone No: 0938-221399, Fax No. 0938-222434

341

/PSO, Dated Swabi, the 12/07/2017.

To: The SHO, Police Station Kalu Khan.

Subject: SERVICE OF SHOW CAUSE NOTICES.

Memo:

Enclosed find herewith Show Cause Notices of the following Police Officials of your respective area which should be served upon them and duplicate copies of which should reach the office within two days for office record.

- 1. Kashif 447/FC, Kalu Khan.
- 2. Salman 117, Kalu Khan.

*[Handwritten Signature]*  
 District Police Officer,  
 Swabi.  
 < Jw/PSO

Certified to be True Copy.

*[Handwritten Urdu text:]*  
 قلم علی  
 شرفاً و توقیراً کہ ایک ایک کی تفتیش کا حصہ 7/17  
 ملحقہ 117 کو درجہ 117 کے طور پر جو اس کے جس سے وصولی  
 کے لئے یہ جا رہا ہے اس کے لئے اس کے لئے

8

*[Handwritten Signature]*  
 15-7-17

ATTESTED  
*[Handwritten Signature]*  
 District Police Officer, Swabi.

جناب عالی

محترم شوکار ٹرانس قاریہ DP ۲۵ ہوا بی ضرر و صحت

محترم دفتر 364 نور ۱۵ صبح ۱۲۰۸-۱۷۷-۱۴۴

۱۴۸-۱۴۹

تھانہ کا زمانہ جس میں سرحدیں جو یہ اوی پورہ سے آئی تھیں وہ خراب و تباہ تھیں  
یا دلیری و شہوت میں تھے۔ اس سلسلے میں ہر قسم کی سبکی دیکھ کر  
تیار ہوں۔ جو کہ میں نے قریب دس سالوں میں دیکھا ہے۔ اور جس کا نتیجہ  
تقسیم کی دعوہ داری وغیرہ میں کہتے ہیں۔ میں نے حکم دیا ہے کہ میں نے کشت  
کنیشنل کیلئے سرانجام دیا ہے۔ اور نہایت ایمان داری سے کرتا ہوں  
میں عوام الناس کی حال و جان کی حفاظت کرونگا۔ اور ان کے مفادات  
بالا غریب آدنی ہوں۔ اے مجھوں کی خاطر شکہ نہ کرنا میں  
جس وقت یہ ہو کر کہ آئی ہوگا۔

Certified to be True Copy.

بندوبست استیضاح  
شوکار ٹرانس قاریہ کی طرف سے داخلہ ہوئی  
حاصل ہونے کے بعد

Sabman 117

ATTESTED  
P/O  
District Police Officer, Swabi.

FINAL SHOW CAUSE NOTICE

Whereas, you Constable Salman Belt No. 117, while posted to Police Station Zaida involved himself in the abetment and conspiracy of a murder in the Holy month of Ramzan vide FIR No. 364 Dated 15.06.2017 U/s' 302/120-B/18/19/177 PPC Police Station Kalu Khan, which is against the discipline and amounts to gross mis-conduct.

In this connection you were charge sheeted and served with summary of allegation and DSP, Razzar was appointed to conduct proper departmental enquiry. The enquiry officer held enquiry and submitted his findings, wherein, he held you Constable Salman Belt No. 117 guilty for the mis-conduct.

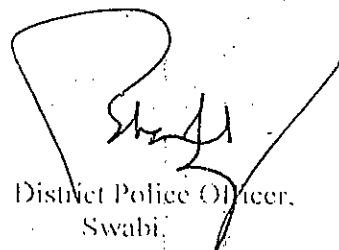
Therefore, it is proposed to impose Major/Minor penalty including dismissal as envisaged under Rules 4(b) of the Khyber Pakhtunkhwa Police Rules 1975.

Hence I Muhammad Sohaib Ashraf PSP, District Police Officer, Swabi in exercise of power vested in me under Rules 5(3) 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.

**Certified to be true copy.**

Your reply should reach to the office of the undersigned within seven days of the receipt of this notice failing which it will be presumed that you have no explanation to offer.

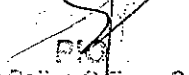
You are also at liberty to appear for personal hearing before the undersigned.


  
District Police Officer,  
Swabi.

No. 209 /PSO  
Dated 28/09/2017.

*Dismissed  
from service*

**ATTESTED**

  
District Police Officer, Swabi.

  
17/14

(13)

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI

FINAL SHOW CAUSE NOTICE

Whereas, you Constable Salman Belt No. 117, while posted to Police Station Zaida involved himself in the abetment and conspiracy of a murder in the Holy month of Ramzan vide FIR No. 364 Dated 15.06.2017 U/s 302/120-B/187-19/177 PPC Police Station Kalu Khan, which is against the discipline and amounts to gross mis-conduct.

In this connection you were charge sheeted and served with summary of allegation and **DSP, Razzar** was appointed to conduct proper departmental enquiry. The enquiry officer held enquiry and submitted his findings, wherein, he held you Constable Salman Belt No.117 guilty for the mis-conduct.

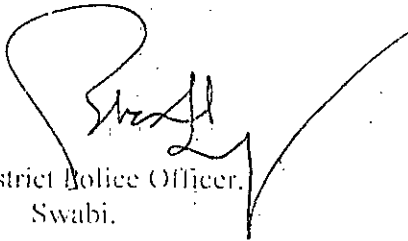
Therefore, it is proposed to impose Major/Minor penalty including dismissal as envisaged under Rules 4(b) of the Khyber Pakhtunkhwa Police Rules 1975.

Hence I **Muhammad Sohaib Ashraf PSP**, District Police Officer, Swabi in exercise of power vested in me under Rules 5(3) 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.

**Certified to be True Copy.**

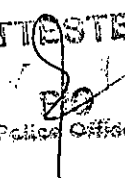
Your reply should reach to the office of the undersigned within seven days of the receipt of this notice failing which it will be presumed that you have no explanation to offer.

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

  
District Police Officer,  
Swabi.

No. 209 /PSO.  
Dated: 28.10.2017.

**ATTESTED.**

  
District Police Officer, Swabi.



ضمانتی

خواجہ شوکار زونج خان ۵۰ لاکھ روپیہ حصر و صلہ نامہ  
 کے بحال صدقہ سے 364 قوس 6/15 148-149  
 177,144-1208-302  
 آغا خان صاحب نے جو رقم حصر و صلہ نامہ کے لئے  
 دیکھی یا دلائی وہ مشہور نہیں ہے اس سلسلے میں حضرت  
 کسلی دین کو تیار ہونے سے پہلے حصر و صلہ نامہ شدہ دکان  
 ہے۔ اور جو رقم کسلی دین کے ذریعہ دلائی وہ مشہور نہیں ہے  
 میں و کلمہ بولنے میں جو کلمہ سننے کے لئے اس نامہ کے  
 نام لکھوں اور نہایت ایمانداروں سے کسے تاحوں میں بحال  
 کہ جان و جان کے حفاظت کر دینگے اور کچھ ایسے ہیں  
 کو کسی قسم کی شکایت کا موقع نہیں دیا ہے  
 میری آدھی آدھی تاحوں کے خاطر قلم لکھنے میں  
 جو کلمہ سننے کے لئے تاحوں میں لکھتے ہیں۔

Certified to be True Copy.

دارالعلوم دیوبند سے اس پر اطلاع  
 شوکار زونج صاحب کی کارروائی کے داخل دفتر  
 فرمایا گیا ہے اس لئے یہ صورت دیکھا گیا ہے۔

Sabran

ATTESTED  
 District Police Officer, Swabi.

سوالنامہ سلمان بٹ نمبر 117 -

سوال نمبر 1

آپ مقدمہ خدا میں کیوں چارج کئے گئے

جواب 1

تھم کاشٹ کی وجہ سے مقدمہ درج ہوا تھا کیونکہ اس نے  
کیونکہ اس نے پولیس کو بتایا تھا کہ میں قتل کے میں شامل ہوں۔  
Salman

سوال نمبر 2

منوفی تویم کو کب سے جانتے ہو

جواب 1

بچپن سے جانتا ہوں۔  
Salman

سوال نمبر 3

عامر کوٹ ہے ؟

جواب 1

عامر ولد سرد غفور ساکن کالو خان ہے لیکن میرا اس سے  
بے کوئی تعلق نہیں ہے۔  
Salman

سوال نمبر 4

کیا آپ روز وقوعہ عامر کے ساتھ تھے یا نہیں ؟

جواب 1

نہیں اور نا، کا مجھے پتہ ہے۔  
Salman

سوال نمبر 5

کیا تویم کو عامر نے ہی مارا تھا ؟

جواب 1

مجھے کچھ پتہ نہیں ہے۔  
Salman

سوال نمبر 6

کیا آپ اور کاشٹ دونوں عامر کے اشاروں پر  
چلتے ہیں کیا یہ بات سچ ہے ؟

جواب 1

نہیں ایسی کوئی بات نہیں ہے یہ چوٹ ہے۔  
Salman

سوال نمبر 7

آپ کا کیا موبائل نمبر ہے ؟

جواب 1

میرا موبائل نمبر 9904904625 ہے۔  
Salman

سوال نمبر 8

کیا کاشٹ اور عامر کے ٹیمپٹ ہیں آپ کے پاس ؟

جواب 1

جی نہیں میرے پاس ان دونوں کے ٹیمپٹ  
نہیں ہے۔  
Salman

ATTESTED

PS

District Police Officer, Swabi.

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Certified to be True Copy.



ORDER

Constable Salman Belt No. 117, while posted to Police Station Zaida involved himself in the abetment and conspiracy of a murder in the Holy Month of Ramzan vide FIR No. 364 Dated 15.06.2017 U/s 302/120-B/18/148/149 PPC Police Station Kalu Khan, which is against the discipline and amounts to gross misconduct.

In this connection, he was served with a Show Cause Notice under the rules vide this office Diary No. 339-40/PSO, Dated 12.07.2017 and in compliance, he has submitted his reply to the Show Cause Notice which was found unsatisfactory. Therefore, he was served with Charge Sheet and Summery of allegations vide this office No. 15/PSO Dated 09.08.2017 and DSP Razzar was appointed as Enquiry Officer. The officer conducted proper departmental enquiry, collected evidence and recorded statements of all concerned. The Enquiry officer submitted his findings, wherein he found Constable Salman 117 guilty for the charges of murder and hence, recommended him for Major punishment. The undersigned perused the enquiry papers, findings and by agreeing with the Enquiry Officer, served him with Final Show Cause Notice vide this office No. 209/PSO, Dated 28.09.2017 but he did not bother to receive nor attend the office which means that he has nothing to offer in his defense. By means of not attending the office, it convinced me that the delinquent Constable has committed the offence of a murder in assistance with other co-accused. According to the statement of IO, the accused Salman, being member of Police force, has close contacts with the notorious of the area of Police Station Kalu Khan and during the course of investigation; his other co-accused has recorded their statements before the Court U/s 164/364 Cr. Pc and confessed their guilt but the complainant of the case was failed to thoroughly pursue the murder case of his deceased son Tanveer due to fear of enmity who was murdered in the Holy Month of Ramzan. The Enquiry Officer rightly recommends that the delinquent Salman has no right to serve any more in the Police force being ulcerous for the rest of Police and he has been trained with the purposes to serve the public & state rather to serve according to his own sweet will by taking the lives and properties of others; which is unlawful act on his part.

**Certified to be True Copy**

Therefore, I, **Muhammad Sohaib Ashraf, PSP**, District Police Officer, Swabi, in exercise of the powers vested in me under Rules 5(3) of the Khyber Pakhtunkhwa Police Rules 1975, hereby award Constable Salman Belt No. 117, Major punishment of Dismissal from service with immediate effect.

Order announced:  
On 17.10.2017.

O.B No. 1014  
Dated 23.10.2017.

District Police Officer  
Swabi.

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI.

No. 842-46 /PSO, dated Swabi, the 23/10 /2017.

Copies to the:-

1. DSP, H.Q.Rs. Swabi.
2. Pay Officer.
3. Establishment Clerk.
4. Fauji Messal Clerk.
5. Official Concerned.

**ATTESTED**

District Police Officer, Swabi.



(21)

ORDER.

This order will dispose-off the appeal preferred by Ex- Constable Salman No. 117 of Swabi District Police against the order of District Police Officer, Swabi, wherein he was awarded Major punishment of dismissal from service vide OB No. 1074 dated 23.10.2017.

Brief facts of the case are that the appellant while posted to Police Station Zaida involved himself in the abetment and conspiracy of a murder in the Holy Month of Ramzan vide case FIR No. 364 Dated 15.06.2017 U/s 302/120-B/18/148/149 PPC Police Station Kalu Khan which is against the discipline and amounts to gross misconduct. Consequently, he was served with a Show Cause Notice and in compliance, he was submitted his reply to the Show Cause Notice which was found unsatisfactory. Therefore, he was served with Charge Sheet and Summary of allegations and DSP Razzar was appointed as Enquiry Officer. The Enquiry Officer conducted proper departmental enquiry, collected evidence and recorded statements of all concerned. The Enquiry Officer submitted his findings, wherein he found the alleged Constable guilty for the charges of murder and hence, recommended him for Major punishment. The District Police Officer, Swabi perused the enquiry papers, findings and by agreeing with the Enquiry Officer, served him with Final Show Cause Notice but he did not bother to receive nor attend the office which means that he has nothing to offer in his defense. By means of not attending the office, it convinced the District Police Officer, Swabi that the delinquent Constable has committed the offence of a murder in assistance with other co-accused. According to the statement of IO, the accused Salman, being member of Police force, has close contacts with the notorious of the area of Police Station Kalu Khan and during the course of investigation his other co-accused has recorded their statements before the Court U/s 164/364 Cr. Pe and confessed their guilt but the complainant of the case was failed to thoroughly pursue the murder case of his deceased son Tanveer due to fear of enmity who was murdered in the Holy Month of Ramzan. The Enquiry Officer rightly recommends that the delinquent Constable has no right to serve any more in the Police force being ulcerous for the rest of Police and he has been trained with the purposes to serve the public & state rather to serve according to his own sweat will by taking the lives and properties of others, which is unlawful act on his part. Therefore he was dismissed from service.

He was called in orderly room held in this office on 06.12.2017 and heard him in person, but he did not produce any substantial evidence about his innocence. Therefore, I find no grounds to intervene the order passed by the District Police Officer, Swabi. Appeal is rejected.

ORDER ANNOUNCED.

OB/Ec/Insp Legal



OB 1341  
18 12 17  
(Muhammad Alam Shinwari) PSP  
Regional Police Officer,  
Mardan

By Insp. No. 8960 /ES, Dated Mardan the 13-12-2017.

Copy to District Police Officer, Swabi for information and necessary action w/r to his office  
Memo: No. 273/Insp: Legal dated 20.11.2017. The Service Record is returned herewith.

I. Polwani  
15/12 (\*\*\*\*\*)

از دفتر  
DPO صاحبہ سرحدی  
نوائے اردو بلدیہ

رس خلیفہ سائل کو جواب دے کر  
جس کا بابت سائل نے جواب دیا ہے۔  
اس بارے میں حکم دیا گیا ہے کہ  
اس کے بارے میں سائل کو جواب دیا جائے۔

آج صاحبان سے بہتر رویہ  
تلاش کرنا ہے۔  
فرماندہ مشکور فرمائیں۔  
سائل کی توجہ دیا گیا ہے۔

عبدالواہد خان

11/7/18  
FC  
ساکن مالو خانہ

Mob: - 0346-2599049

Office of the PPO KPK, Peshawar	
(Secret Branch)	
By: No. Sl.....	73/18
Dated: /a.....	20/8

Policy Memo: No. 273/Insp: Legal dated 20.11.2017. The Service Record is return



OFFICE OF THE  
INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
PESHAWAR.

No. S/ 1157 /18, dated Peshawar the 26/03/2018.

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-FC Salman No. 117. The petitioner was dismissed from service by DPO/Swabi vide OB No. 1014, dated 23.10.2017 on the charge that he while posted to Police Station Zaida involved himself in the abetment and conspiracy of a murder in the Holy Month of Ramzan vide case FIR No. 364, dated 15.06.2017 u/s 302/120-B/18/148/149 PPC Police Station Kalu Khan.

His appeal was rejected by Regional Police Officer, Mardan vide order Endst: No. 8960/ES, dated 13.12.2017.

Meeting of Appellate Board was held on 01.03.2018 wherein petitioner was heard in person. During hearing petitioner denied the allegation leveled against him.

Petitioner was dismissed from service on the charges that he while posted to Police Station Zaida involved himself in the abetment and conspiracy of a murder in the Holy Month of Ramzan vide case FIR No. 364, dated 15.06.2017 u/s 302/120-B/18/148/149 PPC Police Station Kalu Khan. Petitioner failed to offer plausible explanation in rebuttal of the charges.

The Board see no ground and reasons for acceptance of his petition. Therefore, the Board decided that his petition is hereby rejected.

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

(AHSAN SAIFULLAH)  
AIG/Establishment,

For Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar.

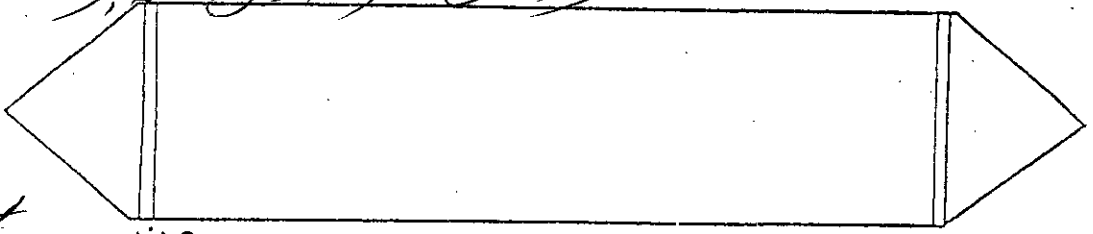
No. S/ 1152-58 /18,

Copy of the above is forwarded to the:

1. Regional Police Officer, Mardan.
2. District Police Officer, Swabi.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.



بعدالت سروس ٹریبونل میں درخواستوں کو



Applicant

2 منجانب

موزخہ 20/4/18

مقدمہ سروس

دعویٰ

جرم

سروس ایجنٹ نمبر 564/2018

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیردی وجواب دی وکل کاروائی متعلقہ

آن مقام کے اہلکار کے لئے  
فیصلہ  
ایڈووکیٹس

آن مقام کے اہلکار کے لئے فیصلہ سیکرٹری فدا علی پور سمنائی کے لئے

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثتہ فیصلہ برحلف دینے جواب دی اور اقبال دعویٰ اور

باصورت ڈگری کرنے اجراء اور وصولی چیک دروپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زیراں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیردی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخ

نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیردی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور

کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار

ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ

پرداختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔

کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیردی

مذکور کریں۔ لہذا ادکالت نامہ لکھدیا کہ سند ہے۔

الرقوم 20 4 2018

Accepted

کے لئے منظور ہے۔

Attested

Attested by  
Sahman

Sahman  
21.04.2018

بمقام

Accepted

M. AD

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

*Service Appeal No. 564/2018.*

**Salman Ex-FC No. 117 Swabi..... Appellant**

**VERSUS**

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.  
& 03 Others..... **Respondents.**

**WRITTEN REPLY ON BEHALF OF RESPONDENTS.**

**1. Preliminary Objections.**

1. That the appellant has got no Cause of action and locus standi to file the present appeal.
2. That the appeal is bad due to misjoinder and nonjoinder of necessary parties.
3. That the appeal is time barred.
4. That the appellant has not come to the Tribunal with clean hands.
5. That this Hon'ble Tribunal has got no jurisdiction to entertain the present appeal.
6. That the instant appeal is not maintainable in its present form.
7. That the appellant concealed the material facts from this Hon'ble Tribunal.
8. That the appellant has been estopped by his own conduct to file the appeal.

**2. REPLY ON FACTS.**

1. Para No. 01 of appeal pertains to service record, hence need no comments.
2. Para No. 02 of appeal pertains to service record and posting, however according to service record of appellant, he was found habitually absentee.
3. Para No. 03 of appeal is incorrect, on account of involvement of appellant in murder case vide FIR No. 364 dated 15.06.2017 u/s 302/120-B/148/149/114/177 PPC PS Kalu Khan he was served with Charge Sheet and Summary of Allegations.
4. Para No. 04 of appeal is correct to the extent of appointment of Enquiry Officer, however after proper departmental enquiry, the allegations against appellant were proved and he was recommended for major penalty (**Copy of the complete enquiry is annexed as Annexure "A"**).
5. Para No. 05 of appeal is correct to the extent of service of Final Show Cause Notice, however the same was issued on the recommendation of Enquiry Officer, however despite of service he did not bother to receive his Final Show Cause Notice nor attend the office of respondent No. 3 and failed to produced any cogent evidence in support of his innocence, hence dismissed from service.
6. Para No. 06 of appeal is correct to the extent of rejection of departmental appeal of appellant, however the same was rejected on merit.

7. The orders of respondents are in accordance with law/rules and the instant appeal of appellant is groundless and liable to be dismissed.

**GROUND.**

- a. Incorrect. The orders of respondents are quite legal and in accordance with law/rules, however the matter of verification regarding presence of appellant in the hospital at the relevant time is of no purpose in the enquiry proceedings against appellant.
- b. Incorrect. Reply already given vide para above.
- c. Incorrect. Proper department enquiry in accordance with law/rules was conducted while proper opportunity of defence was provided to him, but he could not prove himself innocent.
- d. Incorrect. The allegations against appellant have been proved upon which he was dismissed from service. Departmental and Criminal proceedings are two different proceedings and under the well established jurisprudential principles of administrative law the findings of the criminal case has got no bearing on the departmental proceedings.
- e. Incorrect. All codal formalities have been followed by respondents and the orders of respondents are quite legal in accordance with law/rules.
- f. Incorrect. Reply already given vide para above.
- g. That respondents may also be allowed to rely on additional ground at the time of arguments.

It is therefore requested that the appeal of appellant may kindly be dismissed being devoid of merits.

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

**Deputy Inspector General of Police,  
Mardan Region-I Mardan.  
(Respondent No. 2)**

**District Police Officer Swabi,  
(Respondent No. 3)**

**Sub Divisional Police Officer, Razzar  
(Respondent No. 4)**

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

*Service Appeal No. 564/2018.*


Salman Ex-FC No. 117 Swabi..... Appellant


**VERSUS**

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.  
& 03 Others..... Respondents.


**AFFIDAVIT:-**

We the respondent No. 1 to 4 do hereby solemnly affirm and declare on oath that the contents of the written reply are correct/true to the best of our knowledge / belief and nothing has been concealed from the honorable Tribunal.

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

  
Deputy Inspector General of Police,  
Mardan Region-I Mardan.  
Respondent No. 2)

  
District Police Officer Swabi,  
(Respondent No. 3)

  
Sub Divisional Police Officer, Razzar  
(Respondent No. 4)

A

OFFICE OF THE SUB DIVISIONAL POLICE OFFICER, RAZZAR CIRCLE  
KERNAL, SHER KELLI, SWABI (TEL. PHONE NO. 0938 312-777)

To:

The District Police Officer,  
Swabi.

No. 467 /S, dated Razzar the 28/09/2017.

Subject: DEPARTMENTAL ENQUIRY AGAINST CONSTABLE SALMAN  
NO. 117.

Memo:

In compliance with your office letter No. 15/CC/PSO, dated 09.08.2017 on the subject noted above.

SUMMARY OF ALLEGATION:

My this order will dispose of the departmental proceedings against constable Salman No. 117 who while posted in PS Zaida involved himself in abetment and conspiracy of a murder case in the Holy month of Ramazan vide case FIR No. 364 dated: 15.6.2017 U/s 302/148/149/177/120B PPC, PS Kalu Khan. Being a member of Police Force, he murdered an innocent soul for the reason best known to him. This speaks of his inefficiency and amounts to gross misconduct. The DPO Swabi issued him a show cause notice and subsequently issued charge sheet/summary of allegations and the undersigned has been appointed an enquiry officer to conduct proper departmental enquiry against the defaulter official.

PROCEEDINGS:-

The defaulter constable Salman No. 117 was directed to attend this office and record his statement regarding his departmental enquiry. He attended this office and his statement was recorded. According to his statement he has no enmity or bad terms with any one and he has been falsely implicated in the above case. In this connection he is ready for satisfaction. He stated that the complainant is his nearest relative and he did not charged me. He is serving in Police Deptt: as a constable and performing his duty honestly and will protect the life and property of the public. I am serving in Police Deptt: for earning the livelihood of my children. He requested to file the instant enquiry. The defaulter constable was also put into cross question which is enclosed for perusal.

Moreover, the statement of SI/OII of PS Kalu Khan has been also recorded. He stated that in case FIR No. 364 dated: 15.6.2017 PS Kalu Khan, complainant Amjad Ali R/o village Kalu Khan has charged an unknown accused for the murder of his son. After registration of the case, the investigation was started. During investigation, Police arrested Hilal Ahmad alias Swatay S/o Jan Bahadar R/o Kalu Khan, Kashif S/o Zar

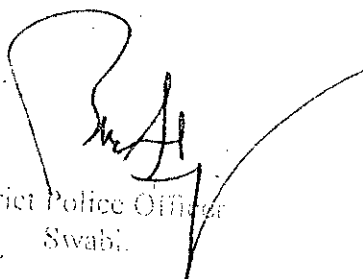


SUMMARY OF ALLEGATIONS

A-2

It is alleged that Constable Salman Beh No. 117, while posted in PS Zaida, involved himself in the abetment and conspiracy of a murder in the Holy Month of Ramzan vide FIR No. 364 Dated 15.06.2017 U/s 302/120-B/18/149/177 PPC PS Kalu Khan. Being member of Police force instead of protecting life and liberty of citizens you himself murdered an innocent soul for the reason best known to you, which speaks of your inefficiency and amounts to gross misconduct. Hence, summary of allegations.

Mr. Shah Mumtaz Khan, DSP Razzar is appointed to conduct proper departmental enquiry against him.

  
District Police Officer  
Swabi.

No. 15  
Dated. 9 / 08 / 2017 I.C.C/PSG.

A-3

CHARGE SHEET

Whereas I am satisfied that formal enquiry as contemplated by Khyber Pakhtunkhwa Police Rules 1975 is necessary and expedient.

And whereas I am of the view that the allegations if established would call for Major/Minor penalty as defined in Rules 4(b) a & b of the aforesaid Rules.

Now therefore as required by Rules 6(1) of the aforesaid Rules I **Muhammad Sahib Ashraf, PSP**, District Police Officer, Swabi charge you Constable Salman Belt No. 117 on the basis of statement of allegations attached to this charge sheet.

In case your reply is not received within seven days without sufficient cause it will be presumed that you have no defence to offer and exparte action will be taken against you.

  
District Police Officer,  
Swabi.



A-4

SHOW CAUSE NOTICE.

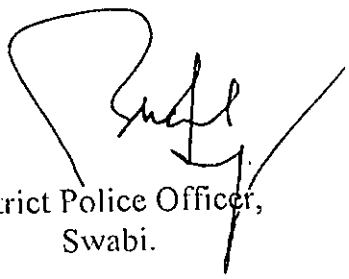
Whereas you Constable Salman No. 117, while posted in PS Zaida involved himself in the abetment and conspiracy of a murder in the Holy Month of Ramazan vide FIR No. 364 dated 15.06.2017 u/s 302/120-B/148/149/114/177 PPC PS Kalu Khan. Being member of Police force instead of protecting life and liberty of citizens you himself murdered an innocent soul for the reason best known to you, which speaks of your inefficiency and amounts to gross mis-conduct.

You are therefore found guilty of gross mis-conduct as define in rule 2.(iii) of KPK Police Rules 1975 (as amended) and as such liable to action under rule-3 of the ibid Rules.

Based on the facts reported by the Officer Incharge Investigation PS Kalu Khan, the authority is satisfied that no departmental enquiry through an Enquiry Officer is necessary in this case as contained in clause (a) of rule 5.3 of the said Rules.

Now therefore, I Muhammad Sohaib Ashraf PSP, District Police Officer, Swabi as competent authority called upon you Constable Salman No. 117 under, clause (c) of rule 5.3 of the KPK Police Rules 1975 to Show Cause within 07 days, as to way one or more of major or minor punishment as deemed necessary under rule 5.5 of said Rules should not be imposed upon you.

If you failed to submit reply in compliance of this Show Cause Notice within stipulated period, it will be presumed that you have nothing to offer in your defence and in that case ex-parte action shall be taken against you without further notice.

  
District Police Officer,  
Swabi.

No 339-40 /PSO,

Dated 12 107 /2017.

03462599049 Salman 11  
117 ج. ک. ف. سی

A-5

Government of Khyber Pukhtunkhawa.

Office of the District Police Officer, Swabi

Phone No. 0938-221399, Fax No. 0938-222434

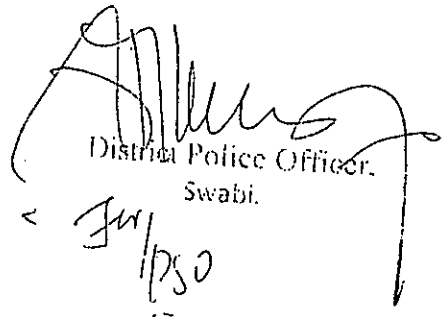
No. 341 /PSO, Dated Swabi, the 12/07/ /2017.

To: The SHO,  
Police Station Kalu Khan.

Subject: SERVICE OF SHOW CAUSE NOTICES.  
Memo:

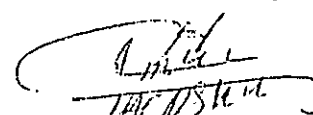
Enclosed find herewith Show Cause Notices of the following Police Officials of your respective area which should be served upon them and duplicate copies of which should reach the office within two days for office record.

1. Kashif 447/FC, Kalu Khan.
2. Salman 117, Kalu Khan.

  
District Police Officer,  
Swabi.  
JW/PSO

جناب عالی  
مخبرہ کار نوٹس اور ایک ایک کا کاپی انٹیلیجنس ماسٹر 447/FC  
سلمان 117 کو درجستہ طور پر حوالہ کر کے جس سے وہ بھی  
تہ التعمیر سے جا رہا ہے اور اس کے بارے میں

(نوٹس)

  
15-7-17

عناعلی

حوالہ شوکار ٹوٹس قاریہ PPO ماہ ہوائی ضروری خدمت

حوالہ مقدمہ 364 مورخ 15/6/17 صبرم 144-177-1208-302

148-149

تھانہ کالونیاں میں پھرتے ہوئے دعویٰ کی ایک کاپی سب سے پہلے کوئی دستخط  
 یاد دہانی بخوبی ہے۔ اس سلسلے میں ہر قسم کی تسلی دینے کو  
 تیار ہوں۔ جو کہ عدالتی فیصلہ پر مشدّدان ہے۔ اور جو کسی  
 قسم کی دعویٰ وغیرہ میں کرتے ہیں۔ میں 3 کاپیوں میں پیش کرتا ہوں  
 کیسبل ڈیپارٹمنٹ کے نام سے دیا ہوں۔ اور نہایت ایمانداری سے کرتا ہوں  
 میں عوام الناس کی حال و معاش کی حفاظت کرونگا۔ اور ان کے مفاد  
 بلاغیر یہ آدھی ہوں۔ اسے جوں کی مضامین کے طور پر پیش کرتا ہوں  
 عسرتی ہو کر کسی بھی پریشانی ہوں۔

اپنا بندہ اور خواہش استعدا  
 شوکار ٹوٹس قاریہ کے داخل دفتر قاریہ  
 عاونی سب سے پہلے دعویٰ کے لیے گا۔

Salman 117

364 مورخہ 15/06/07 حرم 302 تھانہ کالو خان  
148,149,114

- 1) نام = لوسون عرف غامبر ولد فضل مخمور ساکن کالو خان
- 2) سلمان ولد شاد علی " " "
- 3) کاشف عرف K-2 ولد سکندر " " "
- 4) قاسم ولد شیر دادہ ساکن شہرہ غنہ " " "
- 5) زبیر ولد غلام محمود ساکن اُسوٹا " " "
- 6) بلال احمد عرف سواتی ولد جان بیاد ساکن کالو خان " " "
- 7) سہر دل خان ولد نامعلوم ساکن سکندر " " "
- 8) اسماعیل ولد نامعلوم ساکن کالو خان " " "

درخواست لبر عن قلمبندی بیان زیر دفتر 164 عرف اذال  
کاشف ولد زبیر ساکن کالو خان

جنا عالی!

مقدمہ عنوان بالا میں تینوں ولد احمد سکندر کالو خان شہرہ وغیرہ قتل  
میں جھگڑا ہو گیا اور اس کے بعد اس کے والد نے اس کو تاحذ دیکھ کر  
تفتیش کے ضابطہ شروع کیا اور دوران تفتیش مختلف حالات واقعات  
اور اصل حقائق معلوم ہوئے۔ جس سے معلوم ہوا کہ کاشف ولد زبیر کالو خان  
کا بیان زیر دفتر 164 ضابطہ ضابطہ لکھا گیا ہے۔

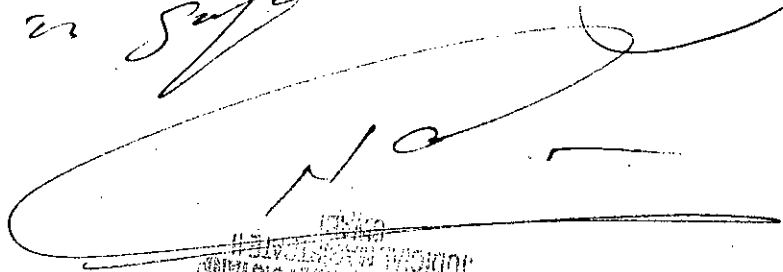
اس سے عاقلانہ طور پر کاشف ولد زبیر ساکن کالو خان کے بیان زیر دفتر  
164 ضابطہ تفتیش کے خلاف ہے۔

Si. B. K. Khan  
29-06-07

Forwarded  
to Court  
29/06/07



Order 29-6-17 Inquisition offi along with  
one Kadif record is  
present. Record present  
Registry the GO is  
given. Name statement of  
the son named witness  
clearly reads steps 164 etc.  
Original is placed on file &  
numbered on to GO, while  
Mubaini to retain its  
copy in safe custody.



MAHMOUD MUBAINI  
JUDICIAL OFFICER  
INVESTIGATIVE



مہر دہ خان نے جو خود لکھا تھا اس میں ہماری موجودگی میں لکھی گئی ہے۔  
 لاٹر عامر کے والدین - میں پر عامر نے سہری وجود میں لکھی ہے جو باقی  
 ہے اور مہر دہ خان کی سہری زینب نامی شخص اور عامر نامی شخص سے  
 باہر نکلتے ہوئے آرہٹ ازاں علاؤ الدین واقع شہرہ عند آنے کو  
 گیا۔ وہاں پر عامر کا شیف عرفا بیگم - سلطان ولد شاد علی - اس کا  
 سائمن گل خان اور مہر دہ خان سکنہ سائمن نے سہری لکھی ہے  
 باقاعدہ سہری لکھی اور لال کو شایا - کہ تم جو سہری لکھی ہے  
 لکھی لیکن یہ تو سہری کو آرہٹ میں دو - اور وہاں سے عامر کے مہر دہ خان  
 لکھا کہ ان میں میں میں اور خود شامل نہیں ہے - تو سہری لکھی  
 کے لئے وہی سہری کار میں آرہٹ واقع شہرہ عند ازاں علاؤ الدین  
 دروازہ ہوئے - صلح شدہ صلح تو سہری کو آرہٹ مذکورہ میں لکھی  
 لکھی ہے - دیگر راجم سہری : لکھی مہر ا بیان ہے -

IMEI  
977

مہر دہ خان کے ہاتھ لکھی گئی ہے



مہر دہ خان کے ہاتھ لکھی گئی ہے

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بہت سادہ سب سے سادہ لکھی گئی ہے  
 لکھی گئی ہے

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IMEI  
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**BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

In Re  
Service Appeal No.564/2018

Salman Ex-FC No. 117 P.S Zaida, District Swabi.

Appellant

Versus

Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others.

Respondents

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2	Affidavit		" 3

Appellant

Through

Mehtab Sikandar,  
Advocate, Peshawar.



3

**BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

In Re  
Service Appeal No.566/2018

Salman Ex-FC No. 117 P.S Zaida, District Swabi.

Appellant

Versus

Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others.

Respondents

**AFFIDAVIT**

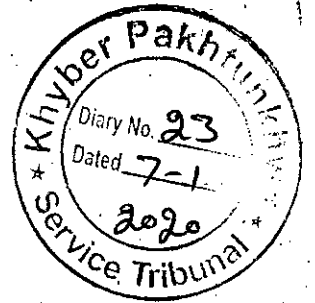
I, Salman Ex-FC No. 117 P.S Zaida, District Swabi presently r/o Mohallah Mama Khel Teshil Razzar District Swabi, do hereby solemnly affirm and declare on oath that the contents of rejoinder to the reply are true and correct to the best of my knowledge and belief that nothing has been concealed from this Hon'ble Court.

Identified by:

Deponent

**Mehtab Sikandar,**  
Advocate Peshawar.

BEFORE THE KHYBER PAKHTUNKHAWA SERVICE  
TRIBUNAL, PESHAWAR



APPEAL NO 564-P/2018

Put up to the court with  
relevant appeal.

SALMAN VS IGP AND OTHERS

*[Handwritten signature]*  
7/1/20

Ready.

APPLICATION FOR ASSAILING ORDER ON  
APPEAL DATED 13/12/2017 INADVERTANTLY  
NOT MENTIONED IN THE PRAYER  
ALTHOUGH PLACED ON FILE AT PAGE NO 21  
AND SUBSEQUENTLY ORDER DATED  
26/3/2018 HAS BEEN CHALLENGED.

RESPECTFULLY SHEWETH:-

1. That captioned Appeal matured for final hearing after submission of reply and rejoinder but inadvertently order dated 13/12/2017 rejecting departmental appeal has not been mentioned in prayer portion of the appeal although placed on record at page no 21.
2. That no doubt original order dated 17/10/2017 and final order passed on revision dated 26/3/2018 have been challenged but due to inadvertent omission order<sup>of</sup> Regional Police Officer Mardan dated 13/12/2017 passed on

departmental appeal has not been mentioned in the prayer clause of the appeal.

It is therefore humbly prayed that acceptance of this application the order dated 13/12/2017 at page no 21 of the appeal may graciously be considered as part and parcel of the impugned order in appeal in the interest of justice.

Applicant

Through

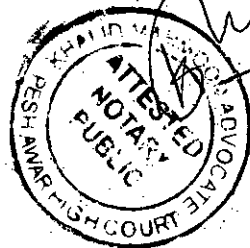
*Mehtab Sikandar*

**Mehtab Sikandar**

Advocate Peshawar.

**VERIFICATION:**

It is verified as per instruction of my client that contents of the Application are true and correct and nothing has been concealed therein



*Mehtab Sikandar*  
Advocate