

Service Appeal No. 15904/2020

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)

[Faint, illegible handwritten text at the bottom of the page, possibly bleed-through from the reverse side.]

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

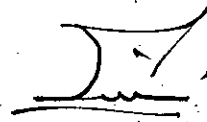
08.11.2021

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.

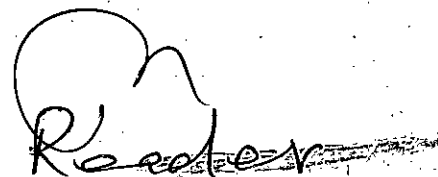
Clerk of counsel for the appellant stated that learned counsel for the appellant is unable to attend the Tribunal today due to strike of Lawyers. Adjourned To come up for arguments before the D.B. on 09.02.2022.


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


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

9-2-2022

Due to Retirement of the Honorable 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

[Handwritten signature]
slh/m

[Handwritten signature]
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.

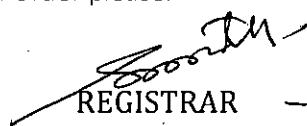

[Handwritten signature]
Reader

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 15904 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	17/12/2020	<p>The appeal of Mr. Saeedullah Shah 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.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>01/02/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

The appeal of Mr. Saeedullah Shah Ex-Constable no. 2002 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. 4054 /S.T,

Dt. 15/12 /2020


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Arif Jan Adv. Pesh.

R/Sis,

Resubmitted, that one and the same inquiry is conducted against all of officials (Appellant), hence Annexure '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

Saeed Ullah Shah Ex-Constable.....Appellant

VERSUS

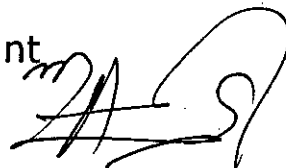
DPO and othersRespondents

I N D E X

S.No.	Description of documents.	Annexure	Dated
1.	Service Appeal <i>with affidavit</i>		<i>1-8</i>
2.	Service Appeal with affidavit		
3.	Addresses of parties		<i>9</i>
4.	Copy of Mad report No-17	A	<i>10</i>
5.	Copy of Mad Report No-28	B	<i>11</i>
6.	Copies of FIR's	C & D	<i>12-13</i>
7.	Copy of inquiry report dated 10-09-2020	E	<i>14-15</i>
8.	Copy of reply to show cause	F	<i>16-17</i>
9.	Copies of final show cause notice and its reply	G & H	<i>18-20</i>
10.	Copy of order dated 2-10-2020	I	<i>21</i>
11.	Copies of memo of appeal and order dated 20-11-2020	J & K	<i>22-26</i>
12.	Wakalatnama		<i>27</i>

Dated: 09-12-2020

Appellant
Through



Muhammad Arif Jan
Advocate High Court

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No. 15904/2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 16441

Dated 14/12/2020

Saeed Ullah Shah Ex-Constable No-2002 District Police
Nowshera presently at Aza Khel Bala District Nowshera.

.....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

**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.**

Filed to-day

ew
Registrar
14/12/2020

2

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.

5

- 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

7

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.

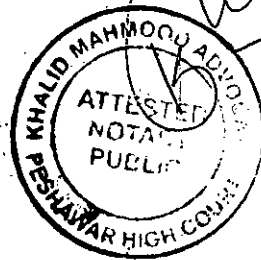
ii. Direct the respondents to re-instate the appellant into his service with all back benefits.

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

Saeed
Appellant
Through *ASJ*
Muhammad Arif Jan
Advocate High Court

AFFIDAVIT

I, Saeed Ullah Shah Ex-Constable No-2002 District Police Nowshera presently at Aza Khel Bala District Nowshera (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.



Saeed
Deponent

9

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No. _____/2020

Saeed Ullah Shah Ex-Constable.....Appellant

VERSUS

DPO and othersRespondents

ADDRESSES OF PARTIES

APPELLANT

Saeed Ullah Shah Ex-Constable No-2002 District Police
Nowshera presently at Aza Khel Bala District Nowshera.

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

ضلع لوڈیانا

کھانا الہی پورہ

تقویم 17 روزنامہ 10-09-2020

17- ویسی عبد البصیر خان 10 الہی پورہ وقت 12:40 مورخہ 10-09-2020 میں
 پھر بیان دفتہ کو الہی پورہ کے علاقہ کشت علاقہ سے ویسی آ گیا۔ دفتہ
 میں موجود مسماہ نیلم فرید و جی ایاقت علی مسماہ مصدقہ خیر
 فرید اللہ سائیکس علی شاہ موجود تھے جنہوں نے عدالت عالیہ لیٹا اور
 دعائی کوڈ کی دت بیٹن نمبر WP-3271-P عدالت جناب جسٹس
 روح الامین خان بیٹن نمبر 2020-11-34 جرم 2020-11-34 پر
 مسماہ فریدہ نے تہا در الہی پورہ عدالت 12 مورخہ 2020-11-34 پر
 کھانا الہی پورہ میں عرفان استحقاری سے اور مسماہ نیلم ایسا سمان
 بہال سے دوسرے مقام پر منتقل کرنا چاہتی تھی اسلی سٹیوڈی کی جاہ کے
 نام فرادہ ایسا سمان کی حفاظت نہاں سے دوسرے مقام منتقل کر رہی
 پس یہ حکم عدالت دعائی فرید لیٹا اور فریدی مطابق 459 کامران 1784
 سعید اللہ 2002، عامر 394، وحید 24، عارف 1040 کامران 749 ڈی ایوڈی سٹاٹس 512
 لسواری سرکاری ایک ہے پھر لیٹا اور فرید و ان دعائی اذان مسماہ نیلم فرید
 واقعہ یہ کہ علی شاہ بیوی بیوی

جناب عالی

نقل بطالع اصل سے

mm p.s. A.P.

10-09-2020

ATTESTED

(14)

Amir-E

Se

ENQUIRY REPORT FC MUHAMMAD NAEEM NO.276 PS AKBARPURA.

ALLEGATION:

Saeed Ullah Shah 2002

Whereas, Constable No. 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.

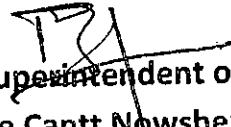
The following constables and PASI accompanied SHO on the spot: Tariq 459, Saeed Ullah 2002, Kamran 1789, Amir 384, Naeem 276, Kamran 749, Amir 1180, PASI Safi Ullah, ASI Latif. SHO Abdul Baseer along with this limited strength of personnel entered the narrow street, locating house of the accused party 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

15

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.

ATTACHED

بیان سعید اللہ 2002 علاقہ تھانہ اکبر پورہ حال معطل شدہ پولیس لائن نوشہرہ

جناب عالی!

بحوالہ چارج شیٹ نمبری 138/PA بتاریخ 10-09-2020 مشمولہ مقدمہ علت (1) FIR 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 معروض خدمت ہوں کہ مورخہ 10-09-2020
 کو میں تھانہ اکبر پورہ میں تعینات ہوں مورخہ 10-09-2020 میں تھانہ اکبر پورہ کے گیٹ پر صبح 06:00 بجے سے دوپہر
 12:00 بجے تک سٹانی ڈیوٹی پر کھڑا ہوا تھا کہ SHO صاحب گیٹ پر آ کر مجھے 6 دن موبائل میں بیٹھنے کو کہا۔
 صاحب نے مجھے اور کانسٹیبل عامر 394 کو بتلایا کہ موبائل گاڑی میں بیٹھ کر خود پرائیوٹ موٹر کار بیٹھ بتلایا کہ میرے پیچھے
 آئے۔ تھانہ سے باہر نکل کر ایک فلائنگ کوچ کھڑا پایا۔ جس میں دو مستورات بھی بیٹھی ہوئی تھی اور ایک بڑا اندھا کھڑا ہوا تھا۔
 نزدکے میں تین چار افراد بیٹھے ہوئے تھے۔ ہم سب مذکورین بالا عقب SHO صاحب روانہ ہوئے۔ یاد رہے کہ جاتے
 وقت SHO صاحب نے کسی قسم کے ہدایات نہیں دی تھی۔ جب دیرہ علی شاہ پہنچے وہاں پروایڈنٹاؤن کا موبائل اور انچارج
 عبدالطیف خان بمعہ نفری پایا۔ ہم گاڑی سے اتر گئے اور SHO صاحب بھی اتر کر فلائنگ کوچ کے گیٹ کے سامنے کھڑے
 ہو گئے۔ اس دوران پیچھے گلی سے بہت سے مستورات اور چند اشخاص بہ اسلحہ آتشین آگئے اور فلائنگ کوچ کو گھیرے میں لے لیا
 ۔ اور گلی سے آئے ہوئے خواتین نے فلائنگ کوچ میں بیٹھے ہوئے مستورات سے شور شرابا مچایا۔ اور وہ اشخاص جو بہ اسلحہ
 آتشین تھے فلائنگ کوچ کے ارد گرد کھڑے ہو گئے۔ اس دوران وہ اشخاص جو بہ اسلحہ آتشین تھے فلائنگ کوچ پر فائرنگ شروع
 کی۔ اس دوران SHO صاحب بالکل حیران و پریشان کھڑا پایا گیا۔ میں نے اپنی حق حفاظت، خود اختیاری کی نفاذ میں
 سرکاری اسلحہ سے ملزمان کو قابو کرنے کیلئے فائرنگ کی۔ ملزمان گلی میں کھڑے ہوئے بہت سے مستورات، بچے اور تماش گیر
 لوگوں کے بھیڑ میں بھاگ کر بھاگنے میں فرار ہوئے۔ فلائنگ کوچ میں دو مستورات جو ہمراہ SHO صاحب آئے تھے
 ملزمان کی فائرنگ سے لگ کر زخمی ہوئی۔ جن کو ہمراہ پارٹی پولیس بغرض علاج معالجہ سول ہسپتال پہنچا لے گئے۔ وقوعہ کے بعد
 SHO صاحب نے کچھ وقت کے بعد ملزمان کی خانہ تلاشی کی۔ جو دوران تلاشی ملزمان کے مکان سے ایک عدد کلاشنکوف
 ہوا آمد ہوئی۔ یہاں پر یہ امر ضروری طور پر واضح کرنا چاہتا ہوں کہ اللہ تعالیٰ گواہ ہے تھانہ سے روانگی کے وقت اور جائے وقوعہ پہنچنے
 تک SHO صاحب نے اس بارے میں کوئی ہدایت نہیں دی تھی۔ جملہ واقعات کے بعد ہمراہ SHO صاحب تھانہ واپس
 آئے۔ اسلحہ داخلہ کے وقت محرر افسر علی بتلایا کہ آپ نے فائرنگ کی ہے؟

ATTESTED

جواباً کہا کہ ہاں میں نے چھ عدد کارتوس چلائے ہیں۔ محرر نے مدد محررا کرام کو ہدایت کی کہ کانسٹیبل مذکورہ سے اسلحہ داخل کر کے
 کروایا جائے۔ جس کے بعد من سید اللہ 2002، عامر خان 394، عامر علی 1180، کامران 1789، نعیم خان 276،
 کانسٹیبلان کو سرکاری گاڑی میں سوار کر کے زیر حراست محرر افسر علی پولیس لائن نوشہرہ پہنچائے اور تمام کو کو اٹر گاڑی میں بند کر کے
 اگلے روز عدالت مجاز نوشہرہ میں پیش کیا۔ وہاں مجھے پتہ چلا کہ مجھے اور ہمراہیان پر SHO صاحب نے B-118 پولیس
 ایکٹ 2017 کے تحت ملزم ٹھہرایا ہے۔ بندہ نوشہرہ سب جیل لے جا کر وہاں سے اسکی ہدایت کے مطابق مردان سب جیل
 میں داخل کئے۔

علاوہ ازیں تفتیشی آفیسر نے جو میرا بیان زیر دفعہ 161 ض ف قلمبند کیا ہے بالکل لاعلم ہوں۔ تفتیشی آفیسر نے اپنی
 مرضی اور اپنی طرف سے میرا بیان قلمبند کیا ہے۔ اسکی صفائی میں عدالت میں پیش کرونگا۔ SHO صاحب کو ضرور چاہیے تھا
 کہ ایسے واقعات پیش آمدہ سے جاتے وقت پہلے تمام نفری پولیس کو فالن کر کے قاعدہ کے مطابق ہدایات سے باخبر کرتا۔ اس کو
 لازم اور ملظوم ظاہر کرتا۔ جہاں تک وقوعہ بالا سرزد ہونے کا تعلق ہے میں یہ عرض کرونگا کہ میں نے کسی قسم غفلت لا پرواہی اور
 بزدلی کا مظاہرہ نہیں کیا ہے۔ اور نہ SHO صاحب کو اکیلا چھوڑا ہے۔ جس کا منہ بولتا ثبوت یہ ہے کہ میں اپنے فرائض منصبی
 کو جانتے ہوئے سرکاری اسلحہ سے ملزمان کو پکڑنے کی خاطر فائرنگ کی ہے۔ عرض ہے کہ SHO صاحب نے اپنی بچاؤ کے
 خاطر مجھے الزام بالا کا گنہگار ٹھہرایا گیا ہے۔ حالانکہ میں نے کوئی غفلت یا بزدلی نہیں کی ہے بلکہ ملزمان کو پکڑنے کی ہر ممکنہ
 کوشش کی ہے بے گناہ ہوں۔ انصاف کا خواہستگار ہوں۔ یہی میرا بیان ہے جو حقیقت پر مبنی ہے۔

ATTESTED

18
Amir Ali

FINAL SHOW CAUSE NOTICE

Whereas, you Constable Saeed Ullah Shah No. 2002, 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 Nowshera) 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. Dilal Ahmad, ACP Gantt 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 Liaquat, 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. 156 /PA,
Dated 23/09/2020.

ATTEST



جناب عالی! *Amir*

بحوالہ Show Cause نمبری 186/PA بتاریخ 23-09-2020 مشمولہ مقدمہ علت (1) JP

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 معروض خدمت ہوں کہ مورخہ 10-09-2020 کو میں تھانہ اکبر پورہ میں تعینات ہوں مورخہ 10-09-2020 میں تھانہ اکبر پورہ کے گیٹ پر صبح 06:00 بجے سے دوپہر 12:00 بجے تک سٹانی ڈیوٹی پر کھڑا ہوا تھا کہ SHO صاحب گیٹ پر آ کر مجھے 6 دن موبائل میں بیٹھنے کو کہا۔ SHO صاحب نے مجھے اور کانسٹیبل عامر 394 کو بتلایا کہ موبائل گاڑی میں بیٹھ کر خود پرائیوٹ موٹر کار بیٹھ بتلایا کہ میرے پیچھے آئے۔ تھانہ سے باہر نکل کر ایک فلائنگ کوچ کھڑا پایا۔ جس میں دو مستورات بھی بیٹھی ہوئی تھی اور ایک بڑا نندا کھڑا ہوا تھا۔ زدے میں تین چار افراد بیٹھے ہوئے تھے۔ ہم سب مذکورین بالا عقب SHO صاحب روانہ ہوئے۔ یاد رہے کہ جاتے وقت SHO صاحب نے کسی قسم کے ہدایات نہیں دی تھی۔ جب دیہہ علی شاہ پہنچے وہاں پروایڈنٹاؤن کا موبائل اور انچارج عبداللطیف خان بمعہ نفری پایا۔ ہم گاڑی سے اتر گئے اور SHO صاحب بھی اتر کر فلائنگ کوچ کے سامنے کھڑے ہو گئے۔ اس دوران پیچھے گلی سے بہت سے مستورات اور چند اشخاص جو اسلحہ آتشیں آگے اور فلائنگ کوچ کو گھیرے میں لے لیا اور گلی سے آئے ہوئے خواتین نے فلائنگ کوچ میں بیٹھے ہوئے مستورات سے شور شرابا مچایا۔ اور وہ اشخاص جو بہ اسلحہ آتشیں تھے فلائنگ کوچ کے ارد گرد کھڑے ہو گئے۔ اس دوران وہ اشخاص جو بہ اسلحہ آتشیں تھے فلائنگ کوچ پر فائرنگ شروع کیا۔ اس دوران SHO صاحب بالکل حیران و پریشان کھڑا پایا گیا۔ میں نے اپنی حق حفاظت، خود اختیاری کی نفاذ میں رکاری اسلحہ سے ملزمان کو قابو کرنے کیلئے فائرنگ کی۔ ملزمان گلی میں کھڑے ہوئے بہت سے مستورات، بچے اور تماش گیر لوگوں کے بھیڑ میں بھاگ کر بھاگنے میں فرار ہوئے۔ فلائنگ کوچ میں دو مستورات جو ہمراہ SHO صاحب آئے تھے مان کی فائرنگ سے لگ کر زخمی ہوئی۔ جن کو ہمراہ پارٹی پولیس بغرض علاج معالجہ سول ہسپتال پہنچا لے گئے۔ وقوعہ کے بعد SHO صاحب نے کچھ وقت کے بعد ملزمان کی خانہ تلاشی کی۔ جو دوران تلاشی ملزمان کے مکان سے ایک عدد کلاشنکوف مدہ ہوئی۔ یہاں پر یہ امر ضروری طور پر واضح کرنا چاہتا ہوں کہ اللہ تعالیٰ گواہ ہے تھانہ سے روانگی کے وقت اور جائے وقوعہ پہنچنے پر SHO صاحب نے اس بارے میں کوئی ہدایت نہیں دی تھی۔ جملہ واقعات کے بعد ہمراہ SHO صاحب تھانہ واپس آئے۔ اسلحہ داخلہ کے وقت محرر افسر علی بتلایا کہ آپ نے فائرنگ کی ہے؟

ATTEST
[Signature]

constables and PASTI fled the scene and
and in the fields.

20

جواباً کہا کہ ہاں میں نے چھ عدد کارتوس چلائے ہیں۔ محرز نے مدد محرز اکرام کو ہدایت کی کہ کانٹیلبل مذکورہ سے اسلحہ داخل کروایا جائے۔ جس کے بعد من سید اللہ 2002، عامر خان 394، عامر علی 1180، کامران 1789 نعیم خان 76 کانٹیلبلان کو سرکاری گاڑی میں سوار کر کے زیر حراست محرز افسر علی پولیس لائن نوشہرہ پہنچائے اور تمام کو کوٹر گاڑی میں بند کر کے اگلے روز عدالت مجاز نوشہرہ میں پیش کیا۔ وہاں مجھے پتہ چلا کہ مجھے اور ہمایان پر SHO صاحب نے 118-B پولیس ایکٹ 2017 کے تحت ملزم ٹھہرایا ہے۔ بندہ نوشہرہ سب جیل لے جا کر وہاں سے اسکی ہدایت کے مطابق مردان سب جیل میں داخل کئے۔

علاوہ ازیں تفتیشی آفیسر نے جو میرایان زبردفعہ 161 ض ف قلمبند کیا ہے بالکل لاعلم ہوں۔ تفتیشی آفیسر نے اپنی مرضی اور اپنی طرف سے میرایان قلمبند کیا ہے۔ اسکی صفائی میں عدالت میں پیش کرونگا۔ SHO صاحب کو ضرور چاہیے تھا کہ ایسے واقعات پیش آمدہ سے جاتے وقت پہلے تمام نفری پولیس کو فالن کر کے قاعدہ کے مطابق ہدایات سے باخبر کرتا۔ اس کو لازم اور ملظوم ظاہر کرتا۔ جہاں تک وقوعہ بالا سرزد ہونے کا تعلق ہے میں یہ عرض کرونگا کہ میں نے کسی قسم غفلت لا پرواہی اور بزدلی کا مظاہرہ نہیں کیا ہے۔ اور نہ SHO صاحب کو اکیلا چھوڑا ہے۔ جس کا منہ بولتا ثبوت یہ ہے کہ میں اپنے فرائض منصبی کو جانتے ہوئے سرکاری اسلحہ سے ملزمان کو پکڑنے کی خاطر فائرنگ کی ہے۔ عرض ہے کہ SHO صاحب نے اپنی بچاؤ کے خاطر مجھے الزام بالا کا گنہگار ٹھہرایا گیا ہے۔ حالانکہ میں نے کوئی غفلت یا بزدلی نہیں کی ہے بلکہ ملزمان کو پکڑنے کی ہر ممکنہ کوشش کی ہے بے گناہ ہوں۔ انصاف کا خواہستگار ہوں۔ یہی میرایان ہے جو حقیقت پر مبنی ہے۔

Previous record
DIE 6-12-2012
DIE NIL
DIE NIL
DIE NIL
DIE NIL
DIE NIL

Su
28-09-2020

0313-9937608

AKHIL

constables and PASI fled the scene and in the fields.

2002

(21)

Amx-1

POLICE DEPARTMENT

DISTRICT NOWSHERA

ORDER

This order will dispose of the departmental enquiry initiated under K Pakhtunkhwa Police Rules-1975, against Constable Saeed Ullah Shah No. 2002 that he while p at PS Akbarpura, charged in case vide FIR No. 278 dated 10.09.2020 u / s 118 (B) Police Act, 201 Akbarpura, as he displayed cowardice by leaving SHO PS, Akbarpura alone and ran away from spot during scuffle / firing that took place between Nazar Muhammad (Police Constable at D Peshawar) and lady Constable Safia No.2802/EF residents of Ali Shah, District Nowshera. Result LFC Safia expired and her sister namely Neelam sustained bullet injuries.

On account of which, he was placed under suspension, closed to Police Line proceeded against departmentally through Mr. Bilal Ahmad, ASP Cantt Nowshera, who after fulfil of legal formalities submitted his report to undersigned vide his office Endst. No39. /St. 23.09.2020, wherein the allegations leveled against him were proved and was recommended for punishment of dismissal.

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

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

OB No. 879
Dated 02/10 /2020

[Signature]
District Police Officer,
Nowshera

No. 2679-84 PA, dated Nowshera, the 2/10 /2020.
Copy for information and necessary action to the:

1. Pay Officer.
2. Establishment Clerk.
3. OHC.
4. FMC with its enclosures (16 pages).
5. I/C Cloth Godwon.
6. Official concerned.

ATTEST
[Signature]

constables and PASI filed the scene and
and in the fields.

کے پاس
2

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

اپیل برخلاف OB No. 879 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 31-12-2012 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 تھانہ اکبر پورہ میں گیٹ پر صبح 06:00 بجے سے 12:00 بجے تک ڈیوٹی پر کھڑا تھا۔

۳- یہ کہ حکم عدالت عالیہ پشاور ہائی کورٹ، سائل بمعہ دیگر پولیس ہمراہیان بحکم ایس۔ ایچ۔ اور 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 عرض سے SHO صاحب نے گیٹ پر آ کر مجھے 6 ون موبائل میں بیٹھنے کو کہا۔ SHO صاحب نے مجھے اور کانسٹیبل عامر 394 کو بتلایا کہ موبائل گاڑی میں بیٹھ جاؤ اور خود پرائیویٹ موٹر کار میں بیٹھا اور ہمیں پیچھے آنے کا کہا۔

۴- یہ کہ جب ہم تھانے سے باہر نکلے تو ایک فلائنگ کوچ کھڑا پایا جس میں دو مستورات بھی بیٹھی ہوئی تھی اور ایک مرد (گاڑی) کھڑا ہوا تھا۔ مزدے میں تین سے چار افراد سوار تھے۔

۵- یہ کہ ہم سب مذکورین بالا عقت SHO صاحب روانہ ہوئے۔ اور SHO صاحب نے کسی قسم کی ہدایات نہیں دی تھی۔ جب دیرہ علی شاہ پہنچے تو وہاں پر واپڈا ٹاؤن کا موبائل اور انچارج چوکی عبداللطیف خان کو بمعہ نفری پایا۔ ہم سب گاڑی سے اترے اور SHO صاحب بھی گاڑی سے اتر کر فلائنگ کوچ کے گیٹ کے سامنے کھڑے ہو گئے۔

۶- یہ کہ اس دوران پیچھے گلی سے بہت سے مستورات اور چند اشخاص بہ اسلحہ آتشیں آگے اور فلائنگ کوچ کو گھیرنے میں لے لیا اور خواتین نے فلائنگ کوچ میں بھٹی خواتین سے شور شرابا شروع کیا۔ اور اسلحہ سے لیس اشخاص فلائنگ کوچ کے ارد گرد کھڑے ہو گئے۔ اور اچانک سے فلائنگ کوچ پر فائرنگ شروع کر دی۔

۷- یہ کہ فائرنگ شروع ہوتے ہی میں نے SHO صاحب کو حیران و پریشان کھڑا پایا۔ اور میں نے اپنی حق حفاظت، خود اختیاری کی نفاذ میں سرکاری اسلحہ سے ملزمان کو قابو کرنے کی غرض سے فائرنگ کی۔ لیکن ملزمان گلی کھڑے ہوئے بہت سے مستورات، بچوں اور تماش گیر لوگوں کے بھیڑ میں بھاگنے میں کامیاب ہوئے۔ اور دو مستورات جو کہ SHO کے ہمراہ فلائنگ کوچ پر آئی تھی فائرنگ سے زخمی ہو گئی تھی جنہیں ہمراہ پولیس پارٹی بغرض علاج و معالجہ سول ہسپتال ہی لے جایا گیا۔

۸- یہ کہ وقوعہ کے بعد SHO صاحب نے کچھ وقت کے بعد ملزمان کی خانہ تلاشی کی اور دوران تلاشی ملزمان کے مکان سے ایک عدد کلاشنکوف برآمد ہوئی۔

ARRESTED

91

۹- یہ کہ یہاں پر یہ امر واضح کرنا ضروری ہے کہ اللہ گواہ ہے کہ SHO صاحب نے تھانہ سے روانگی کے وقت اور جائے وقوعہ پہنچنے تک مندرجہ بالا حالات کے بارے میں کوئی ہدایات نہیں دی تھی۔ جملہ واقعات کے بعد ہمراہ SHO صاحب تھانہ واپس آئے۔ اسلحہ داخلہ کے وقت محرر افسر علی نے بتلایا کہ آپ نے فائرنگ کی ہے؟ جس کے جواب میں، میں نے کہا کہ ہاں میں نے چھ عدد کارتوس چلائے ہیں۔

۱۰- یہ کہ محرر نے مدد محرر اکرام کو ہدایت کی کہ کانسٹیبل مذکورہ سے اسلحہ داخل کوٹ کر دیا جائے اور اسکے بعد من سید اللہ 2002، عامر خان 394، عامر علی 1180، کامران 1789، نعیم خان 276 کانسٹیبلان کو سرکاری گاڑی میں سوار کر کے زیر حراست محرر افسر علی پولیس لائن نوشہرہ پہنچائے اور تمام کو کوآٹر گاڑی میں بند کر کے اگلے روز عدالت مجاز نوشہرہ میں پیش کیا۔ جہاں پر مجھے پتہ چلا کہ مجھے اور ہماریاں پر SHO صاحب اکبر پورہ نے 188-B پولیس ایکٹ 2017 کے تحت ملزم ٹھہرایا ہے۔

۱۱- یہ کہ تفشیشی آفیسر نے جو میرا بیان زیر دفعہ 161 CrPC قلمبند کیا ہے اس بات سے بالکل لاعلم ہوں۔ تفشیشی آفیسر نے اپنی مرضی اور اپنی طرف سے میرا بیان قلمبند کیا ہے۔ جسکی صفائی عدالت حضور میں پیش کرونگا۔

۱۲- یہ کہ میں نے کوئی بزدلی نہ کی ہے۔ اور نہ ہی لا پرواہی دکھائی ہے۔ اور نہ ہی SHO صاحب کو اکیلا چھوڑا ہے۔ SHO صاحب نے اپنی بچاؤ کی خاطر مجھے ملزم ٹھہرایا ہے۔ ہم نے ملزمان کو پکڑنے کی کافی کوشش کی ہے مگر بوجہ رش مستورات، بچے و دیگر تماش گیر بھاگنے میں کامیاب ہوئے۔

۱۳- یہ کہ وقوعہ بالا 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 کارروائی نہیں کی اور فوری طور پر قانونی کارروائی کو مختصر کرتے ہوئے مورخہ 23-09-2020 کو فائل شوکا ز 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 بناء پر قابل استرداد ہے۔

وجوہات:-

i- یہ کہ پولیس پارٹی کا سرغنہ ایس۔ ایچ۔ اور عبدالنصیر خان تھا اور اسے چاہئے تھا کہ حالات واقعات کو مد نظر رکھتے ہوئے کارروائی 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 مستعدیہ مسماة 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 مستعدیہ عبدالنصیر خان ایس۔ ایچ۔ نے اپنے 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 ملزمان سے کسی کا بھی بیان زیر دفعہ 161 ضابطہ فوجداری کے تحت قلمبند نہ ہوا ہے۔ اور اپنی مرضی سے بیانات سائل

ATTESTED
D

(M)

اور دیگر ملزمان کے قلمبند کروائے ہیں۔ جو کہ غیر قانونی اور انصاف کے بالکل منافی ہے۔ اور دوسری طرف سائل کو بند آنکھوں سے سروس سے Dismiss کیا جو کہ Double Jeoprdy کے ذمے 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 جسکی 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 عدالتسائل کو Suspend رکھتے 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 وقوع 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 مستعینت کے بیان کو بالکل یکسر خارج کرتی ہے۔

-vii یہ کہ سب سے زیادہ ذمہ داری وقوعہ مذکورہ کی ایس۔ ایچ۔ او عبد البصیر خان، اے۔ اے۔ ایس۔ آئی عبد الطیف، پی۔ ایس۔ آئی صفی اللہ وغیرہ کی ہے لیکن انکو آفری 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 مٹی بردہ نیتی و امتیاز ہے۔

لہذا اسد عا 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۔

عین نوازش ہوگی۔
المرقوم: 18-10-2020

Seed

سعید اللہ شاہ ولد امان شاہ ساکن محلہ گلشن اسلام، اضاحیل بالا، ضلع نوشہرہ۔

سابقہ پولیس کانسٹیبل نمبر 2002

شناختی کارڈ نمبر: 17201-8201139-7

رابطہ نمبر: 0313-9437608

ARRESTED

(25) Amal-K

ORDER.

This order will dispose-off the departmental appeal preferred by **Ex-Constable Saeed Ullah No. 2002** 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. 879 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. 879 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

ATTESTED

27

WAKALATNAMA

IN The RP Service Tribunal Pesh

Saeedullah Sheeb (Petitioner)
(Plaintiff)
(Applicant)
(Complainant)
(Decree Holder)

VERSUS

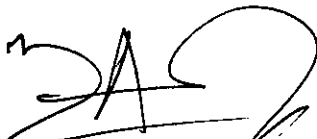
DPO Golis (Respondent)
(Defendant)
(Accused)
(Judgment Debtor)

Case _____

I/We, Saeedullah Sheeb 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

Saeed

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

Service Appeal No. 15904/2020

Saeed Ullah Shah Ex-Constable No. 2002 District Police Nowshera presently at Azakhel Bala District Nowshera.

.....Appellant

V E R S U S

The District Police Officer, Nowshera and others.

.....Respondents

I N D E X

S.No.	Description of documents	Annexure	Pages
1.	Reply of Respondents	-	1-3
2.	Affidavit	-	04
4.	Copy of court order in W.P 3271/2020	A	05-06
5.	Copy of FIR	B	07
6.	Copy of enquiry report	C	08-09
7.	Copy of charge sheet and statement of allegation.	D	10-11
8.	Copy of Final Show Cause Notice	E	12
9.	Copy of punishment order	F	13
10.	Copy of order of appellate authority	G	14-15
11.	Copy of enquiry report and order against the SHO Akbarpura	H&I	16-18


Inspector Legal,
Nowshera

①

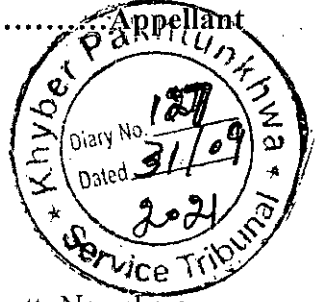
**BEFORE THE HONOURABLE, KHYBER PAKHTUNKHWA, SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. 15904/2020

Saeed Ullah Shah Ex-Constable No. 2002 District Police Nowshera presently at Azakhel Bala District Nowshera.

V E R S U S

1. The District Police Officer, 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 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. 7207/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

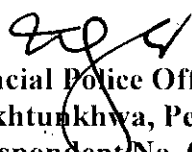
- A. Incorrect. Appellant has not be deprived any of his rights. Moreover, orders passed by the respondents No. 01 & 02 on 02-10-2020 respectively and 20-11-2020 are in accordance with law and rules, hence, liable to be maintained.
- B. Incorrect. Appellant was well aware of this fact that security had 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 to the then ASP Nowshera Cantt: who after going through all evidence and collecting

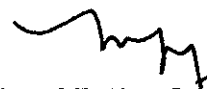
3

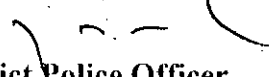
information as well as fulfilling all codal formalities held the appellant responsible of cowardice and recommended him for dismissal from service.


- 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


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. 15904/2020

Saeed Ullah Shah Ex-Constable No. 2002 District Police Nowshera presently at Azakhel
Bala District Nowshera.

.....Appellant

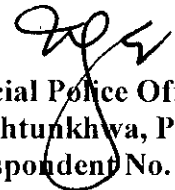
V E R S U S

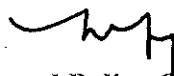
1. The District Police Officer, Nowshera.
2. The Regional Police Officer, Mardan.
3. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
4. Assistant Superintendent of Police (Inquiry Officer) Circle Cantt: Nowshera.


.....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

Rooh-ul-Amin

(6)

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 household articles from the house situated in Mohallah Afghan village Ali Shah District Nowshera. This petition is disposed of accordingly.

Announced:

09.09.2020

M. Sadiq Afridi PS

Roohul Amin
JUDGE

M. Sadiq Afridi
JUDGE

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

8

1

Annex - C

ENQUIRY REPORT FC SAEED ULLAH SHAH NO. 2002 PS AKBARPURA.

ALLEGATION:

Whereas, Constable Saeed Ullah Shah No. 2002 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.

9

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. 39 / St
Dated 23/09/2020.

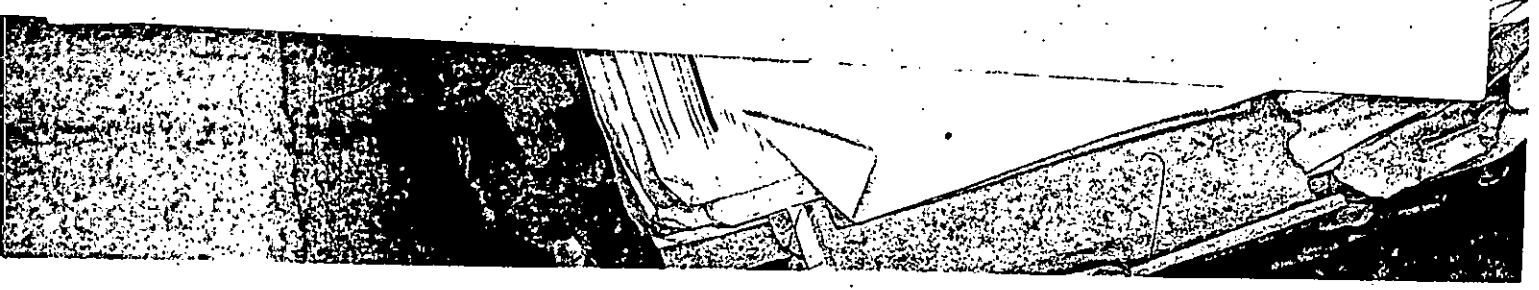
10

Annex - 2

CHARGE SHEET

1. I, Capt: (R) Najmul Hasnain Liaquat, PSP District Police Officer, Nowshera, as competent authority, hereby charge Constable Saeed Ullah Shah No. 2002 as per Statement of Allegations enclosed.
2. By reasons of above, you appear to be guilty of misconduct under Police Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in Police Rules, 1975.
3. You are, therefore, required to submit your written defense within 07 days of the receipt of this Charge Sheet to the Enquiry Officer, as the case may be.
4. Your written defense, if any should reach the Enquiry Officer within the specified period; failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall follow against you.
5. Intimate whether you desire to be heard in person.


District Police Officer,
Nowshera



(11)

DISCIPLINARY ACTION

I, Capt: (R) Najmul Hasnain Liaquat, PSP, District Police Officer, Nowshera, as competent authority am of the opinion that Constable Saeed Ullah Shah No.2002 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, Constable Saeed Ullah Shah No. 2002, 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 taht 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.

Constable Saeed Ullah Shah No.2002 is directed to appear before the Enquiry Officer on the date, time and place fixed by the Enquiry Officer.

District Police Officer,
Nowshera

No. 138 /PA,
Dated. 10/09 /2020.



(12)

Annex - E

FINAL SHOW CAUSE NOTICE

Whereas, you Constable Saeed Ullah Shah No. 2002, while posted PS, Akbarpura, charged in case FIR No. 278 dated 10.09.2020 u / s 118 (B) Police Act 20 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 constab at District Peshawar) and lady Constable Safia No. 2802/EF residents of Ali Shah, Distri Nowshera. Resultantly, LFC Safia expired and her sister namely Neelam sustained bulle injuries.

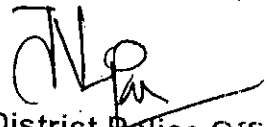
On account of which you were suspended, closed to Police Line Nowshera, and proceeded against departmentally through Mr. Bilal Ahmad, ASP Can Nowshera who after fulfillment of legal formalities submitted his report to undersigned, wherei the allegations leveled against you have been proved and you were recommended fo 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.

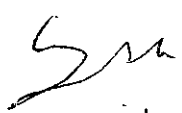
Hence, I, Capt: (R) Najmul Husnain Liauqat, PSP, District Police Officer, Nowshera, in exercise of the powers vested in me under Rules 5(3) (a) & (b) of the Khyber Pakhtunkhwa Police Rules 1975, call upon you to Show Cause finally as to why the proposed punishment should not be awarded to you.

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. 186 /PA,
Dated 23/09/2020.



2002 Ullah

24/09/2020

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.

2532
POLICE DEPARTMENT

(13) ✓ Annex - F
DISTRICT NOWSHERA

ORDER

This order will dispose of the departmental enquiry initiated under Khyber Pakhtunkhwa Police Rules-1975, against Constable Saeed Ullah Shah No. 2002 that he while posted at PS Akbarpura, charged in case vide 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 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.

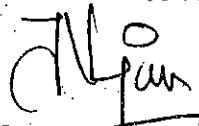
On account of which, he was placed under suspension, closed to Police Lines and proceeded against departmentally through Mr. Bilal Ahmad, ASP Cantt Nowshera, who after fulfillment of legal formalities submitted his report to undersigned vide his office Endst: No39. /St: dated 23.09.2020, wherein the 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. 879

Dated 02/10 /2020


District Police Officer,
Nowshera

No. 2679-84PA, dated Nowshera, the 2/10 /2020.
Copy for information and necessary action to the:

1. Pay Officer.
2. Establishment Clerk.
3. OHC.
4. FMC with its enclosures (16 pages).
5. I/C Cloth Godwon.
6. Official concerned.

2002 JSR
PLD Annex-G

ORDER.

This order will dispose-off the departmental appeal preferred by **Ex-Constable Saeed Ullah No. 2002** 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. 879 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. 879 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

Mud (15)

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. 7207 /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. 2846/PA dated 26.10.2020. His service record is returned herewith.

(*****)

EC/FMC
For report

DPO NSR
23/11/20

No. 1608/PA
dt 23/11/2020

(16)

Annex - H

No. 4412 /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 PAST 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 Afsan 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 PAST 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

17

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 T18-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.

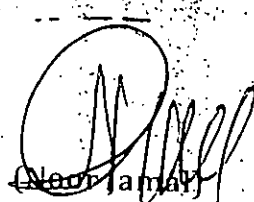
Other police officials also submitted their written statements wherein they showed themselves as innocents and held the SHO responsible for the incident.

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 injuries of her sister Neelam Farid but also reflects his poor professional skills.

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

W/DPO Nowshera


Ameer Jamali
Superintendent of Police,
Investigation, 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.