

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No. 555/2019

Date of Institution ... 30.04.2019

Date of Decision ... 21.06.2022

Hamid Khan S/O Muhammad Norani. R/O Near Police Line H# 16
Sector Ghari Atta Khan, Kohat.

... (Appellant)

VERSUS

District Police Officer Kohat and two others.

... (Respondents)

MR. MUHAMMAD YOUSAF ORAKZAI,
Advocate

--- For appellant.

MR. KABIRULLAH KHATTAK,
Additional Advocate General

--- For respondents.

MR. SALAH-UD-DIN
MISS. FAREEHA PAUL

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

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Precise facts forming background of the instant service appeal are that the appellant while posted at Lachi Toll Plaza *Nakabandi*, was allegedly found taking illegal gratification from the general public, therefore, case FIR No. 338 dated 18.08.2018 under sections 161/162/165/384 PPC read with Section 118 (d) Police Act, 2017 was registered against him in Police Station Lachi District Kohat. On the same set of allegations, departmental action was also initiated against the appellant and on the conclusion of the inquiry, he was awarded major punishment of dismissal from service vide order dated 09.11.2018 passed by District Police Officer Kohat. The departmental appeal of the appellant was also dismissed vide order dated 24.01.2019, which was challenged by the appellant through filing of revision petition before Inspector General of Police Khyber Pakhtunkhwa Peshawar. The revision petition of the



appellant was rejected vide order dated 08.04.2019, hence the instant service appeal.

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

3. Learned counsel for the appellant has argued that no evidence what-so-ever was produced during the inquiry in support of the allegations leveled against the appellant but even then the inquiry officer has wrongly and illegally observed in his report that the allegations against the appellant stood proved; that constables namely Asif and Nawaz were also on duty at relevant time but the inquiry officer has not recorded their statements; that no one had filed any complaint against the appellant regarding the alleged charge but even then departmental action was initiated against the appellant with mala-fide intention; that neither final show-cause notice was issued to the appellant nor was he provided copy of the inquiry report and the appellant was thus deprived of making proper defense in the inquiry proceedings; that the alleged video has not been sent to the office of Forensic Science Laboratory for its authenticity, therefore, the same could not be considered a legal basis for awarding punishment to the appellant; that Muhammad Qias H.C was also proceeded against departmentally on the same allegations but he was awarded minor punishment of censure, while the appellant has been awarded major penalty of dismissal from service; that the appellant has been acquitted in the criminal case, which fact also proves innocence of the appellant. In the last he requested that the impugned orders may be set-aside and the appellant may be reinstated in service with all back benefits. Reliance was placed on 2021 SCMR 1077, 1999 PLC (C.S) 1332, 2001 PLC (C.S) 316, 2009 SCMR 187, 2009 PLC (C.S) 338, 2005 PLC (C.S) 1508, 2005 PLC (C.S) 333, 1997 SCMR 1543 and 2003 SCMR 215.

4. On the other hand, learned Additional Advocate General for the respondents has argued that the appellant was found indulged in taking illegal gratification from general public and video in this respect got viral on social media, in which the

appellant could be seen taking money from the conductor of vehicle; that illegal act of the appellant became viral on social media and the same has brought bad name to police force; that a regular inquiry was conducted in the matter by complying all legal and codal formalities; that the allegations against the appellant stood proved in a regular inquiry, therefore, he has rightly been awarded the punishment of dismissal from service.

5. We have heard the arguments of learned counsel for the appellant as well as learned Additional Advocate General for the respondents and have perused the record.

6. A perusal of the record would show that case FIR No. 338 dated 18.08.2018 under sections 161/162/165/384 PPC read with Section 118 (d) Police Act, 2017 was registered against the appellant in Police Station Lachi District Kohat, on the allegations that the appellant, while on duty at Lachi Toll Plaza, was found taking illegal gratification from general public. Departmental action was also initiated against the appellant on the aforementioned allegations and Mr. Ishaq Gul DSP/Legal was appointed as inquiry officer. According to the inquiry report, the inquiry officer has recorded statements of Azmat Khan the then SHO Police Station Lachi, Muhammad Azam Khan SI (Investigating Officer of the concerned criminal case registered against the appellant) and Faheem Ullah ASI the then Incharge DSB. Copies of statements of the aforementioned witnesses are available on the record. Mr. Azmat Khan the then SHO Police Station Lachi is also complainant in the criminal case registered against the appellant and Muhammad Qias H.C. In his statement recorded during the inquiry, Azmat Khan the then SHO Police Station Lachi has just mentioned that in the video received by him through Whatsapp, the appellant was seen shaking hand with a bus conductor. He has not at all mentioned that the appellant was seen receiving any illegal gratification. The aforementioned witness was cross examined by the appellant and he has mentioned in his reply that the presence of the appellant on the spot could not be seen in the concerned video. The other two witnesses namely Muhammad Azam Khan SI and Faheem Ullah ASI have not uttered a single word in support of the allegations



against the appellant. It is not understandable as to how the inquiry officer came to the conclusion that the charge leveled against the appellant stood established during the inquiry. Moreover, the concerned video was not sent to Forensic Science Laboratory for its authenticity, therefore, the same could not be considered a legal basis for taking disciplinary action against the appellant. August Supreme Court of Pakistan in its judgment reported as 2021 SCMR 1077 has graciously observed as below:-

"In the case of Ishtiaq Ahmad Mirza Versus Federation of Pakistan (PLD 2019 S.C 675) this court has held that with the advancement of science and technology it is now possible to get it ascertained as to whether an audio tape or a video is genuine or not and as such examination, audit or test can also reasonable establish if such audio tape or video has been edited, doctored or tampered with or not because advancement of science and technology has also make it very convenient and easy to edit, doctor, superimposed or Photoshop a voice or picture in an audio tape or video, therefore, without a Forensic examination audit or test, it is becoming more and more unsafe to rely upon the same as a piece of evidence in a court of law."


7. On the same set of allegations, case FIR No. 338 dated 18.08.2018 under sections 161/162/165/384 PPC read with Section 118 (d) Police Act, 2017 was registered against the appellant and one Qias Khan H.C in Police Station Lachi District Kohat. Vide judgment dated 17.12.2020 passed by judicial Magistrate Tehsil Lachi District Kohat, the appellant has already been acquitted in the aforementioned criminal case.

8. Consequently, 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 costs. File be consigned to the record room.

ANNOUNCED

21.06.2022


(FAREEHA PAUL)
MEMBER (EXECUTIVE)

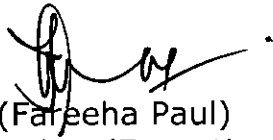

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

ORDER
21.06.2022

Appellant alongwith his counsel present. Mr. Arif Saleem, ASI alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand is allowed by setting-aside the impugned orders 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
21.06.2022



(Fareeha Paul)
Member (Executive)



(Salah-Ud-Din)
Member (Judicial)

02.09.2021

Due to summer vacations, the case is adjourned to 12.01.2022 for the same as before.


READER

12.01.2022

Learned counsel for the appellant present. Mr. Riaz Khan Paindakheil. Asst. AG for respondent present.

Learned counsel for the appellant submitted application for placing of some necessary documents which is placed on file. Application is allowed. Case to come up for arguments before the D.B on 29.04.2022.

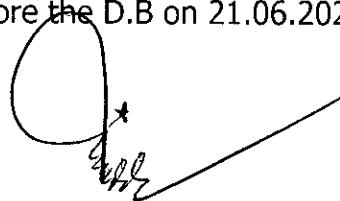
(Atiq-ur-Rehman Wazir)
Member(E)



Chairman

29.04.2022

Appellant in person present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Arif Saleem, Steno for respondents present.

Appellant seeks adjournment on the ground that his learned counsel is not available today. Adjourned. To come up for arguments before the D.B on 21.06.2022.


(Mian Muhammad)
Member(E)

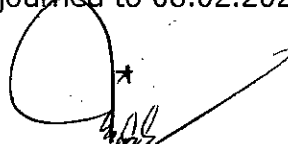

(Salah Ud Din)
Member(J)

30.11.2020

Mr. Hamza Saquib, Advocate for counsel for the appellant and Addl. AG alongwith Arif Saleem, Steno for the respondents present.

Requests for adjournment due to indisposition of learned counsel for the appellant.

Adjourned to 08.02.2021 for hearing before the D.B.


(Mian Muhammad)
Member(E)



Chairman

08.02.2021

Counsel for the appellant and Addl. AG alongwith Arif Saleem, Stenographer for the respondents present.

Learned Addl. AG states that this appeal was marked and handed over to Mr. Muhammad Riaz Khan Paindakhel, learned Asstt. AG. He, however, had to leave the Tribunal premises in order to attend some urgent domestic matter. The request for adjournment is, therefore, made.

The representative of respondents has submitted some additional documents. Placed on file. We consider it appropriate to make those part of the record. Adjourned to 24.05.2021 for hearing before the D.B.


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


Chairman

24.05.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 02.09.2021 for the same as before.


Reader

25.02.2020

Appellant absent. Learned counsel for the appellant absent. However junior to counsel for the appellant present and seeks adjournment. Mr. Riaz Khan Paindakheil learned Assistant Advocate General alongwith Arif Saleem Stenographer for the respondents present. Adjourn. To come up for arguments on 02.04.2020 before D.B. Appellant be put to notice for the date fixed.



Member



Member

29.06.2020

Due to COVID19, the case is adjourned to 24.09.2020 for the same as before.



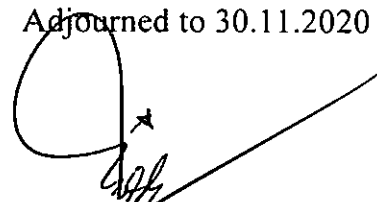
Reader

24.09.2020

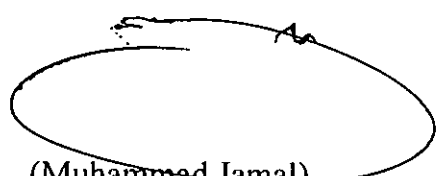
Appellant is present in person. Mr.Kabirullah Khattak, Additional Advocate General alongwith Mr. Arif Saleem, Steno for respondents is present.

Appellant submitted that his respective counsel has indisposed of today and requested for adjournment.

Adjourned to 30.11.2020 for arguments before D.B.



(Mian Muhammad)
Member (E)



(Muhammad Jamal)
Member(J)

555/19

13.09.2019 Counsel for the appellant and Addl. AG alongwith Inayatullah, H.C for the respondents present.

Representative of the respondents requests for time to submit written reply. Adjourned to 11.10.2019 on which date the requisite reply shall positively be submitted.



Chairman

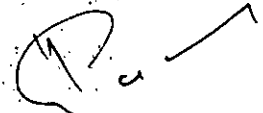
11.10.2019 Appellant in person and Addl. AG alongwith Inayatullah H.C for the respondents.

Representative of respondents has submitted parawise comments of the respondents which are placed on record. To come up for arguments on 20.12.2019 before a D.B. The appellant may submit rejoinder, within a fortnight, if so advised.


Chairman

20.12.2019 Appellant in person present. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Arif Saleem Stenographer present. Appellant seeks adjournment as his counsel is not in attendance. Adjourn. To come up for arguments on 25.02.2020 before D.B.


Member


Member

13.06.2019

Counsel for the appellant present.

Contends that in the criminal case reported against the appellant through FIR No. 338 dated 17.08.2018 one Ayaz Khan Head Constable was also nominated as a co-accused. The said co-accused was awarded minor punishment of censure by the departmental authorities while the appellant was dismissed from service on account of absence. The impugned order dated 09.11.2018 was, therefore, not only discriminating but also based on malafide. It is for the said reason that impugned order is not sustainable in the eyes of law.

Instant appeal is admitted for regular hearing in view of the available record and arguments of learned counsel. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 29.07.2019 before S.B.


Chairman


29.07.2019

Counsel for the appellant present.

Learned counsel for the appellant has submitted an application for extension of time to deposit the security and process fee. It is stated that due to ignorance of appellant the requisite charges could not be deposited within the prescribed period.

The application is allowed and the time for making required deposit is extended by three working days. After the deposit, notices be issued to respondents for submission of written reply/comments on 13.09.2019 before S.B.


Chairman


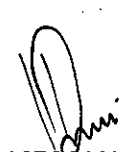

Appellant Deposited
Security & Process Fee

30/7/19

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 555/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	30/04/2019	<p>The appeal of Mr. Hamid Khan presented today by Mr. Muhammad Yousaf Orakzai 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 ^{pen} 30/4/19</p>
2-	02/05/19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>13/06/19</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p style="text-align: right;">31/1/20</p>

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.**

Hamid Khan

Appeal no-555/2019

Versus

IGP K.P.K

INDEX

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4.	Copy of FIR	"A"	5
5.	Copy of Charge Sheet dated 27/08/2017	"B"	6
6.	Copy of reply Charge Sheet dated 31/08/2017	"C"	7
7.	Copy of dismissal order dated 09/11/2018	"D"	8
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9.	Copy of dismissal of departmental appeal dated 22/01/2019	"F"	11
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Total Pages			(15)

Hamid khan (Appellant)

Through

[Signature]
Mohammad Yousaf Orakzai
Office: FF 8, 5th Floor Bilour Plaza,
Saddar Road Peshawar Cantt
0301-8808685

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA

(11)

SERVICE TRIBUNAL, PESHAWAR.

Hamid Khan S/O Muhammad Norani

Appeal No. 555/2019

R/O Near Police Line H#16 Sector Ghari Atta Khan, Kohat.

-----Appellant

Versus

1. DPO, Kohat.
2. DIG, Kohat
3. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 683

Dated 30/4/2019

-----Respondents

**SERVICE APPEAL U/S 4 OF KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT 1974; AGAINST THE ORDER
DATED 08-04-2019 OF RESPONDENT NO.3, WHEREIN THE
APPELLANT WAS DISMISSED FROM SERVICE.**

PRAYER-IN-APPEAL:

By accepting this appeal, the impugned order of the Respondent No.3 may graciously be set-aside and the appellant may kindly be re-instated in his service with all back benefits alongwith grant of any other remedy deemed fit by this

Filed to-day Hon'ble Tribunal.

Registrar

30/4/19 Respectively Sheweth:

Facts leading the institution of the instant appeal are;

BRIEF FACTS:

- a) That the appellant has joined Police Department as Constable in 2009 in Police department
- b) That, the appellant was charged and shown arrested in case vide FIR No 338 dated 17-08-2018. Due to the said false case the appellant was suspended and served him Charge Sheet together with Statement of Allegation, to which he replied,
Copy of which is annexed-"A".
- c) That the appellant was charge sheeted on 27-08-2018 vide No.7866-67/PA to which he replied,
Copy of which is annexed-"B"&"C".
- d) That the DPO Kohat had issued an impugned dismissal order of the appellant vide OB. No.1187 dated 09-11-2018,
Copy of which is annexed- "D".
- e) That the appellant filed a departmental appeal to worthy DIG Kohat range, Kohat,
The copy of which is annexed-"E".
- f) That the departmental appeal of the petitioner was dismissed on dated 22-01-2019,
Copy of which is annexed- "F".
- g) That the appellant filed a revision application to worthy IGP, KPK which was dismissed on 08-04-2019.
Copy of which is annexed- "G".

GROUND:

(2)

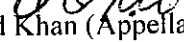
1. That the allegation against the appellant was not substantiated through any solid and cogent evidence as none from the general public in support of the allegation was examined by the enquiry officer during the course of departmental inquiry conducted against the appellant.
2. That the impugned order was illegal, without justification and without lawful authority.
3. That the appellant was awarded major penalty of dismissal from service while the co-accused Qiyas khan of the said case was awarded minor penalty of just censure which is a drastic discrimination & violation of justice.

Copy of which is annexed- "H".

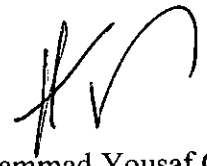
4. That the constable asif and nawaz were on duty with the appellant at the tool plaza Lachi, but none of them was examined by the inquiry officer during the course of departmental inquiry against the appellant.
5. That the appellant has nine years of police service to this credit and during his service, never indulged in the activities as alleged against the appellant.
6. That the appellant was not involved in any unlawful activity but falsely charged in the instant above mentioned case.
7. That no Final Show Cause Notice had been served upon the appellant.
8. That copy of the finding of the enquiry officer was not furnished to the appellant by the DPO, Kohat depriving the appellant of his legal right to defend himself properly.
9. That the impugned order was passed against the principle of natural justice as he was dismissed from service without providing him any opportunity of hearing.
10. That no opportunity of cross-examination whatsoever in any manner had been afforded to the appellant and everything was chalked at his back.
11. That the appellant had not been treated in accordance with law and rules framed by the competent authority.
12. That the respondent No.3 dismissed the revision petition on 08-04-2019 being time barred, without touching merit of the case.
13. That the appellant didn't received the Order of respondent No.2, hence not filed revision application to the respondent No.3 on time


PRAYER:

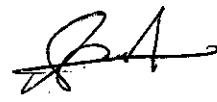
It is, therefore, most humbly prayed that on acceptance of this service appeal, the Hon'ble Bench may graciously be pleased to declare the impugned order of Respondent No.3 as void-ab-initio and the appellant may kindly be re-instate in service with all back benefits alongwith grant of any other remedy deemed fit by this Hon'ble Bench.


Hamid Khan (Appellant)

Through


1. Mohammad Yousaf Orakzai


2. Inayat-Ur-Rehman Tajik


3. Salahuddin Kattani
Advocates

Dated: 24/04 /2019

NOTE:

- Appeal in hand is 1st one on the subject issue before the competent authority

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.**

Hamid Khan

Versus

IGP K.P.K

AFFIDAVIT

I, Hamid Khan Ex-Constable Belt 606 R/O Near Police Line H#16 Sector Ghari Atta Khan, Kohat do hereby solemnly affirm and declare on oath that contents of the accompanying service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

DEPONENT

CNIC 11/01-422780-9

Identified

Mohammad Yousaf Orakzai
Advocate

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.**

Hamid Khan

Versus

IGP K.P.K

ADDRESSES OF THE PARTIES

Address of the appellant:

Hamid Khan S/O Muhammad Norani
R/O Near Police Line H#16 Sector Ghari Atta Khan, Kohat.

Addresses of the Respondents:

- 4. DPO, Kohat.
- 5. DIG, Kohat
- 6. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.



Hamid Khan (Appellant)

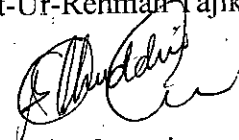
Through



1. Mohammad Yousaf Orakzai

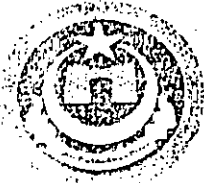


2. Inayat-Ur-Rehman Tajik



3. Salahuddin Kattani
Advocates

Dated: 24/04 /2019



“B” (6)
Office of the
District Police Office,
Kohat

No 78.66-67PA

Dated 27/08/2018

CHARGE SHEET.

1. SOHAIL KHALID, DISTRICT, POLICE OFFICER, KOHAT,
as competent authority under Khyber Pakhtunkhwa Police Rules 1975
(amendments 2014) am of the opinion that you **Constable Hameed Khan No. 606** rendered yourself liable to be proceeded against, as you have committed
the following act/omissions within the meaning of Rule 3 of the Police Rules
1975.

You, Constable Hameed Khan No. 606 Lachi Tool Plaza
Nakabandi was found guilty for getting illegal gratification
from the General Public, hence a case vide FIR No: 338 dated
18.08.2018 U/Ss 161,162,165,384 PPC, 118 (d) Police Act
2017 has been registered against you. Your this act shows
gross misconduct on your part.


2. By reasons of the above, you appear to be guilty of
misconduct under Rule 3 of the Police Rules 1975 and have rendered yourself
liable to all or any of the penalties specified in the Rule 4 of Police Rules 1975.

3. You are, therefore, required to submit your written
statement within 07 days of the receipt of this Charge Sheet to the enquiry
officer.

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 ex-parte action shall be taken against you.

4. A statement of allegation is enclosed.


DISTRICT POLICE OFFICER,
KOHAT 27/08/2018.


Alleged to be true

BEFORE THE DISTRICT POLICE OFFICER KOHAT

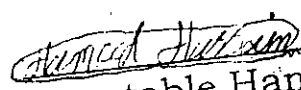
Subject: REPLY OF THE CHARGE SHEET

Respected Sir,

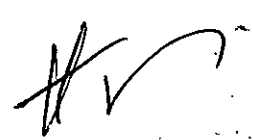
Kindly with reference to the charge sheet bearing NO. 7866-67 / PA dated 7-08-2018, it is submitted that, I was on duty at Naka Bandai Point Tool Plaza Lachi. A private vehicle reached there at about 10:30 AM, while proceeding towards the vehicle, the conductor informed me that the vehicle was occupied by army recruits. Even then, I entered the vehicle and made the search. Nothing was received by me from any person from the public as illegal gratification. No complaint by any public person has been made against me.

In view of the above, it is submitted that I may kindly be exonerated of the charge and the instant char sheet dropped please.

Yours Obediently


Constable Hameed Khan
No. 606
Police Line Kohat

Dated: 31-08-2018


Attested to be true



D

(8)

**OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT**
Tel: 0922-9260116 Fax 9260125

ORDER

This order is passed on the departmental proceedings against Constable Hameed Khan No. 606, hereinafter called **accused official** under the Khyber Pakhtunkhwa, Police Rules, 1975 (Amended 2014).

Facts are that Constable Hameed Khan No. 606, posted at Lachi Tool Plaza Nakabandi was found guilty for getting illegal gratification from the General Public, hence a case vide FIR No. 338 dated 18.08.2018 U/Ss 161,162,165,384 PPC, 118 (d) Police Act 2017 has been registered against him. His this act shows gross misconduct on his part.

He was served with Charge Sheet & Statement of Allegations DSP Legal, Kohat was appointed as enquiry officer to proceed against him departmentally. Enquiry officer submitted his finding report and found him guilty of the charges leveled against him. The accused official was called in OR and heard in person on 07.11.2018, but failed to explain his position.

In view of above and available record, I reached to the conclusion that the allegations of taking bribe money on road and become demoralization for good image of Police have been proved without any shadow of doubt.

Therefore, I, Capt @ Wahid Mehmood, District Police Officer, Kohat in exercise of the powers conferred upon me, imposed a major punishment of **dismissal** from service with immediate effect.

DISTRICT POLICE OFFICER,
KOHAT 09/11/18

OB No. 1187
Date 09-11-2018

No. 10795-98 PA dated Kohat the 09-11-2018.

1. R.I is hereby directed to collect kit etc from the accused constable & report.
2. Reader/Pay Officer/SRC & OHC for necessary action.

11/18
مستند
مستند
مستند
مستند

Attached to be done

"E" (9)

BEFORE THE DEPUTY INSPECTOR GENERAL OF POLICE,
KOHAT RANGE, KOHAT

SUBJECT: APPEAL AGAINST THE ORDER OF DPO KOHAT BEARING OB
NO. 1181 DATED 9-11-2018 WHEREBY THE APPELLANT EX-
CONSTABLE HAMEED KHAN NO.606 WAS AWARDED THE
MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE WITH
IMMEDIATE EFFECT.

RESPECTFULLY SHEWETH,

With due respect, the appellant prefers the instant appeal for consideration on the basis of the following facts and grounds.

FAC TS:

Allegation against the appellant was that while posted at Lachi Tool Plaza, the appellant was found guilty for getting illegal gratification from the general public. Hence a case vide FIR No. 338 dated 18-8-18 u/s 161/162/165/384 PPC /118 (a) Police Act 2017 has been registered against him. His this act shows gross misconduct on his part.

On the above allegation, the appellant was served with charge sheet and statement of allegation. DSP Legal Kohat was appointed as enquiry officer to proceed against the appellant departmentally. On recommendation of the enquiry officer vide his finding report, the appellant was dismissed from service by DPO Kohat vide the impugned order. Hence this appeal.

GROUNDS:

1. That the allegation leveled against the appellant was not substantiated through any solid and cogent evidence as none from the general public in support of the allegation was examined by the enquiry officer during the course of departmental enquiry being conducted against the appellant.
2. That no final show cause notice by DPO Kohat was served upon the appellant prior to the announcement of the impugned order by DPO Kohat in derogation of the rules.
3. That copy of the finding of the enquiry officer was not furnished to the appellant by DPO Kohat depriving the appellant of his legal right to defend himself properly. In other words the appellant was prejudiced in his defence.
4. That none from the general public had made any complaint to the high ups in the department against the appellant regarding receiving illegal gratification from the public.
5. That constable Asif and Nazar were on duty with the appellant at the Tool Plaza Lachi, but none of them was examined by the enquiry officer during the course of departmental enquiry against the appellant.

Attested to be true
HV

- F. That the appellant has nine years of police service to this credit and during his service, never indulged in the activities as alleged against the appellant.
- G. That the criminal case has been registered against the appellant without any legal justification.
- H.
- I. That the appellant is innocent and has not committed any offence as alleged.

PRAYER:-

In view of the above submission, it is prayed that by accepting the instant appeal, the impugned order may kindly be set aside and the appellant re-instated in service w.c.f the date of his dismissal.

I may also be heard in person please.

Yours Obediently

Hameed Hussain

Ex -Constable Hameed Hussain No.606
 S/O Muhammad Nurani
 R/O H.No. 16 Gari Atta Khan
 Near Police Lines, Kohat.
 Cell No. 0335-5887282

H

Attested to be true

OFFICE OF THE

KOHAH REGION

ORDER

This order will dispose of a departmental appeal moved by Ex. Constable Hamid Hussain No. 606 of Operation Staff Kohat against the punishment order passed by DPO Kohat vide OB No. 1181 dated 09.11.2018, whereby he was awarded major punishment of dismissal from service for the allegations of receiving illegal gratification during his posting at Toll Plaza Lachi, Kohat.

He preferred an appeal to the undersigned, upon which comments were obtained from DPO Kohat and his service record was perused. He was also heard in person in Order by Room, held in Region Office Kohat on 16.01.2019. During hearing, he could not advance any plausible explanation in his defense to prove his innocence.

Record gone through which inspires that the charges leveled against the appellant are proved beyond any shadow of doubt and the authority has passed legal and speaking order. Therefore, his appeal being devoid of merits is hereby filed.

Order As announced
22.01.2019

(MUHAMMAD LAZ KHAN) PSP
Region Police Officer,
Kohat Region.

No. 709 T.C. dated Kohat the 21st / 1 / 2019

Copy to District Police Officer, Kohat for information w/t to his office: Memo: No. 27506/LB, dated 18.12.2018 alongwith Service Roll & Fauji Misal & Enquiry File.

(MUHAMMAD LAZ KHAN) PSP
Region Police Officer,
Kohat Region.

Attested to be true

To: The Inspector General
Of Police Department, (Peshawar) KPK.

Subject: - REVISION FOR RE-INSTATEMENT IN SERVICE.

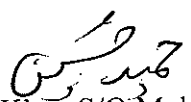
Respectfully Sheweth,

1. That the petitioner was enlisted in Police Department as constable in 2009, **copy of which is annexed-"A"**.
2. That the petitioner was charged and shown arrested in case vide FIR No 338 dated 17-08-2018. Due to the said false case the appellant was suspended and served him Charge Sheet together with Statement of Allegation, to which he replied, **copy of fir is annexed-"b"**
3. That the petitioner was charge sheeted on 27-08-2018 vide No.7866-67/PA to which he replied, **copies of which are annexed "C" respectively.**
4. That the enquiry officer had submitted his finding report, copy of which is annexed-"D".
5. That the DPO Kohat had issued an impugned dismissal order of the appellant vide OB. No.1187 dated 09-11-2018, **copy of which is annexed- "E"**.
6. That the petitioner filed a departmental appeal to worthy DIG Kohat range, Kohat, **the copy of which is annexed-"F"**.
7. That the departmental appeal of the petitioner was dismissed on dated 22-01-2019, **copy of which is annexed- "G"**.

Grounds:

1. That the impugned order was illegal, without justification and without lawful authority.
2. That the petitioner was awarded major penalty of dismissal from service while the co-accused Qiyas khan of the said case was awarded minor penalty of just censure which is a drastic discrimination.
3. That the petitioner was not involved in any unlawful activity but falsely charged in the instant above mentioned case.
4. That the petitioner received the impugned order a few days earlier, that's why the appellant did not approached in time to this office.
5. That no Final Show Cause Notice had been served upon the petitioner.
6. That the impugned order was passed against the principle of natural justice as he was dismissed from service without providing him any opportunity of hearing.
7. That no opportunity of cross-examination whatsoever in any manner had been afforded to the petitioner and everything was chalked at his back.
8. That the petitioner had not been treated in accordance with law and rules framed by the competent authority.

It is humbly supplicated that on the acceptance of this revision the appellant may graciously be re-instated in service from the date of his dismissal.


Hamid Khan S/O Muhammad Norani

Ex-Constable Belt No.606



(13)

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar.

No. S/ 1044 /19, dated Peshawar the 08 / 04 / 20

To: The Regional Police Officer,
Kohat.

Subject: REVISION PETITION.

Memo:

The Competent Authority has examined and filed the revision petition submitted by Ex-Constable Hameed Hussain No. 606 of Kohat District Police against the punishment of disbarment from service awarded by District Police Officer, Kohat vide OB No. 1187, dated 09.11.2018. 1 time barred.

The applicant may please be informed accordingly.

(SYED ANIS-UL-HASSAN)
Registrar.

For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

(A.C.)

to. 04/04/2019

Attested to be true

ORDER

This order is passed on the departmental proceedings against HC Muhammad Qias, ⁸¹⁸ hereinafter called **accused official** under the Khyber Pakhtunkhwa, Police Rules, 1975 (Amended 2014).

Facts are that HC Qias Khan No. 818, In charge Nakabandi Lachi Tool Plaza was found guilty for getting illegal gratification from the General Public, hence a case vide FIR No. 338 dated 18.08.2018 U/Ss 161,162,165,384 PPC, 118 (d) Police Act 2017 has been registered against him. This act shows gross misconduct on his part.

He was served with Charge Sheet & Statement of Allegations DSP Legal, Kohat was appointed as enquiry officer to proceed against him departmentally. Enquiry officer submitted his finding report and found him guilty of the charges leveled against him. He was called in OR and heard in person on 07.11.2018, but failed to explain his position.

In view of above I, Capt @ Wahid Mehmood, District Police Officer, Kohat in exercise of the powers conferred upon me, awarded him a minor punishment of Censure with immediate effect.

DISTRICT POLICE OFFICER,
KOHAT

OB No. 1200
Date 08-11-2018

No 10833-35 /PA dated Kohat the 12-10-2018.

Copy of above to the Reader / Pay officer/SRC/OHC for necessary action.

Attested to be true

15

تعمیرات 50 روپے	11653	  
ایڈوکیٹ: <i>HTV</i>		پشاور بار ایسوسی ایشن، خیبر پختونخواہ
بار کونسل / ایسوسی ایشن نمبر: Bc/12-3547		
رابطہ نمبر: 0301-8808686		

بعدالت جناب: *سید اسرار حسین شاہ*

منجانب:	دعوی: <i>Service Appeal</i>
<i>حاملہ حسنیہ</i> حسینیہ بنت نام <i>D-P-O Rahat</i>	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دی کارروائی متعلقہ آن مقام کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یا کٹ طرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیار حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سندر ہے

المرقوم: *24/04/2018*

العبد _____ **گواہ شد** _____ العبد

مقام *پشاور* کے لیے منظور ہے۔

HTV
Sherif

نوٹ: اس وکالت نامہ کی فوٹوکاپی ناقابل قبول ہوگی۔

Handwritten signature

مکمل کاپی
عبر کاپی
ولہ علی کارروائی مکمل ہوگئی

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

Service Appeal No. 555/2019
Hamid Khan

.....Appellant

VERSUS

District Police Officer, Kohat, & other

..... Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS.

Respectively Sheweth:-

Parawise comments are submitted as under:-

Preliminary Objections:-

- a) That the appellant has got no cause of action.
- b) That the appellant has got no locus standi.
- c) That the appeal is not maintainable in the present form.
- d) That the appellant has not come with clean hands to this Honorable Tribunal.
- e) That the appeal is **time barred**.
- f) The appellant has not filed application for condonation for limitation.
Therefore, the appeal is not maintainable.


FACTS:-


- A. Pertains to record, hence no comments.
 - B. The appellant was deployed at Lachi Toll Plaza in jurisdiction of Police station Lachi for checking, where he indulged himself in illegal activities. The appellant while checking a bus, was found taking illegal gratification from the conductor of bus and his video was viral on social media. The illegal act of the appellant caused embarrassment and damaged the image of Police. Therefore, the appellant was booked under the criminal law vide FIR No. 338 dated 17.08.2018 U/Ss 161, 162, 168, 184 PPC, r/w 118(0) Police Act 2017. Copy of photograph is annexure A.
 - C. For the above, the appellant was proceeded with departmentally under the relevant law/ rules.
 - D. In order to probe against the appellant, an enquiry was conducted and the charge leveled against the appellant was established. Therefore, the proceedings culminated in his dismissal from service. Copy of the inquiry report is B.
 - E. Pertains to record, hence no comments.
 - F. Pertains to record, hence no comments.
 - G. Pertains to record, hence no comments.
- 9

Grounds:-

1. Incorrect, the charge leveled against the appellant was established beyond any shadow of doubt.
2. Incorrect, the punishment was passed in accordance with law / rules and all codal formalities were fulfilled during the proceedings.
3. The appellant was awarded punishment for his own misconduct, proved during the course of enquiry.
4. The official named by the appellant were not present on the eventful time. However, the other witness were examined by the enquiry officer.
5. Irrelevant, hence no comments.
6. Incorrect, the appellant had indulged himself in getting illegal gratification and was a stigma on Police department.
7. All codal formalities were fulfilled during the departmental process. Further, there is not necessary to issue final show cause notice under the provision of Pakhtunkhwa, Police Rules (amended 2014) 1975. Hence, he was personally heard on 07.11.2018.
8. Incorrect.
9. Incorrect, legal orders were passed by the respondent in accordance with law / rules.
10. Incorrect, the appellant was associated the enquiry proceedings, the appellant had not raised the said in his departmental appeals nor during his personal hearing.
11. Incorrect, the appellant was proceeded with departmentally in accordance with la and rules.
12. The appellant slept over his rights, if any and filed a time barred appeal without any explanation / justification. Therefore, his revision petition was disposed of by respondent No. 3.
13. Incorrect, the appellant was heard in person during his departmental appeal by the respondent No. 2 and the order was announced in his presence. Therefore, the appellant was fully in knowledge of dismissal of his appeal. Hence, the plea of the appellant is not justified.

Keeping in view of the above and available record, the appeal is devoid of merits, time barred and may graciously be dismissed with cost.


Dy: Inspector General of Police,
Kohat Region, Kohat
(Respondent No. 2)


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


District Police Officer,
Kohat
(Respondent No. 1)



BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 555/2019
Hamid Khan

.....Appellant

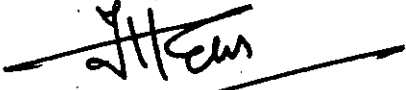
VERSUS


District Police Officer, Kohat, & other

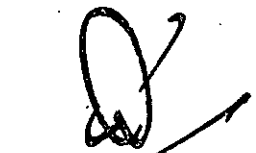
..... Respondents

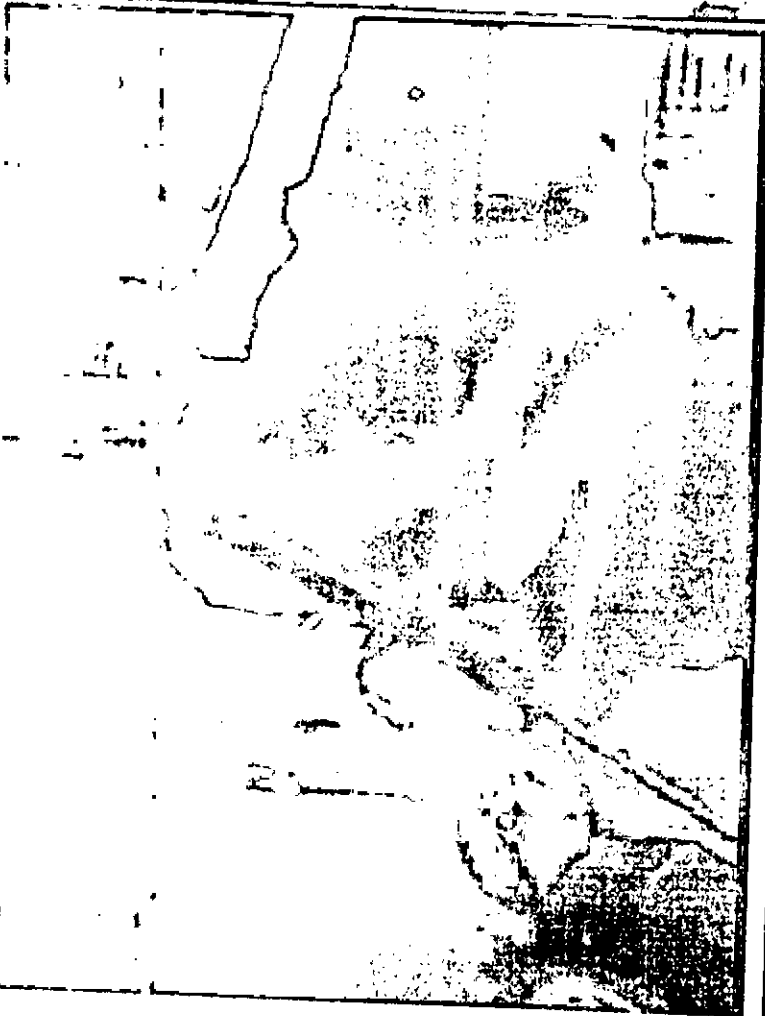
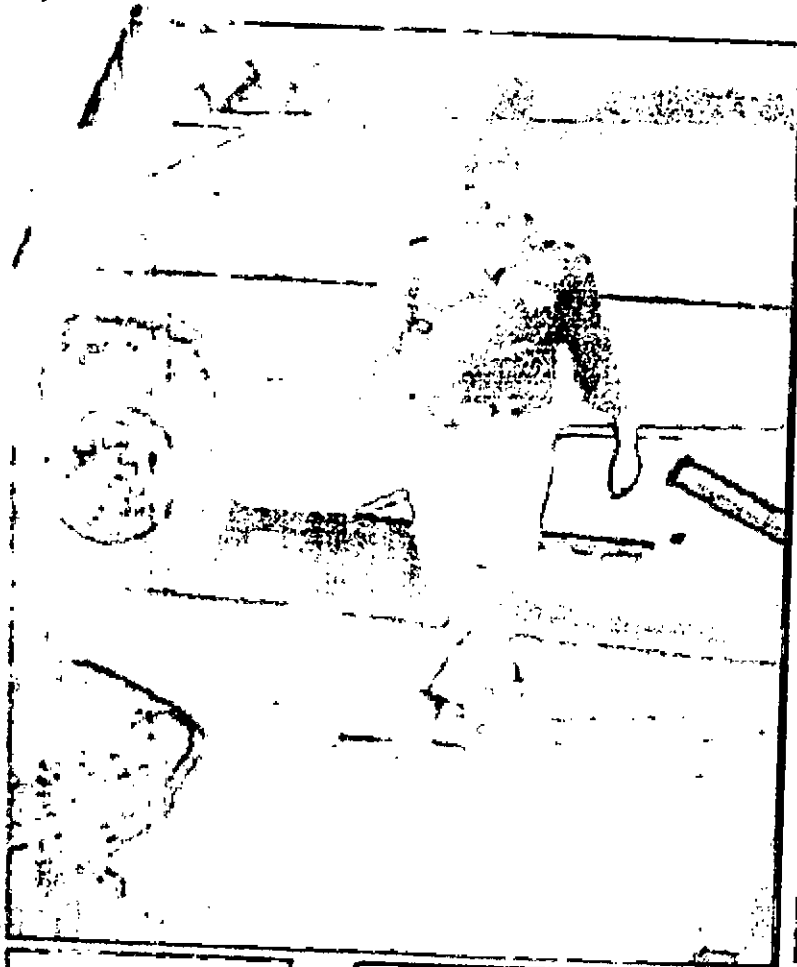
COUNTER AFFIDAVIT

We, the below mentioned respondents, do hereby solemnly affirm and declare on oath that contents of parawise comments are correct and true to the best of our knowledge and belief. Nothing has been concealed from this Hon: Tribunal.


Dy: Inspector General of Police,
Kohat Region, Kohat
(Respondent No. 2)


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


District Police Officer,
Kohat
(Respondent No. 1)



DEPARTMENTAL ENQUIRY AGAINST CONSTABLE HAMEED KHAN NO. 606

Sir,

It is submitted that the departmental proceedings are initiated against const: Hameed Khan No. 606, (hereinafter called defaulter) on the following charge:-

“You constable Hameed Khan No. 606 Lachi Tool Plaza Nakabandi was found guilty for getting illegal gratification from the General Public, hence a case vide FIR No. 338 dated 18.08.2018 U/Ss 161, 162, 165, 384 PPC, 118 (d) Police Act 2017 has been registered against you. Your this act show gross misconduct”.

The charge sheet and statement of allegations were served upon the defaulter to which he submitted reply and denied the allegations levelled against him. He submitted that at 10:00 am, he entered his vehicle made search and nothing was recovered. Further submitted that no person lodged compliant against him.

In order to dig out the facts, inspector / SHO Azmat Khan & SI Muhammad Azam Police station Lachi, Kohat were called and examined in presence of the defaulter constable.

Inspector / SHO stated that he got knowledge of a video viral on social media regarding activity of a constable. In the meanwhile incharge DSB Kohat sent him a video on his WhatsApp number. He played the video which revealed that constable Hameed Khan was shaking hand with one Bus conductor. He brought the matter into the notice high-up and a case vide FIR No. 338 dated 18.08.2008 U/Ss 161, 162, 165, 384 PPC, 118 (d) Police Act 2017 was registered against the constable & other. Accused were arrested and handed over to SI Muhammad Azam.

SI / IO Muhammad Azam stated that he interrogated accused constable Hameed Khan and incharge Nakabandi, Qayas Khan. After necessary interrogation complete challan was submitted against the accused.

Incharge DSB Kohat submitted that on 17.08.2018, he received a video, and he sent it to SHO Police station Lachi on WhatsApp.

In the light of above I have examined the video, which transpired that a constable while entering a bus shake hand with a conductor and no search of passengers / vehicle was carried out.

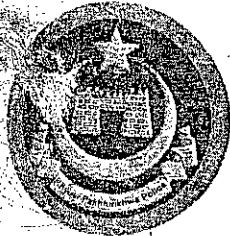
From the above, available record and statement of the defaulter constable wherein, he admitted his presence and entry in a bus. The video was viral on social media, at large scale, which earned bad name to Police. Therefore, I reached to the conclusion that the defaulter constable committed professional misconduct and the charge levelled against him has been established.

Submitted please.

W/DPO

Enquiry Officer
DSP Legal Kohat

27/11/18



OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT
Tel: 0922-9260116 Fax 9260125

ORDER

This order is passed on the departmental proceedings against Constable Hameed Khan No. 606, hereinafter called accused official under the Khyber Pakhtunkhwa, Police Rules, 1975 (Amended 2014).

Facts are that Constable Hameed Khan No. 606, posted at Lachi Tool Plaza Nakabandi was found guilty for getting illegal gratification from the General Public, hence a case vide FIR No. 338 dated 18.08.2018 U/Ss 161,162,165,384 PPC, 118 (d) Police Act 2017 has been registered against him. His this act shows gross misconduct on his part.

He was served with Charge Sheet & Statement of Allegations DSP Legal, Kohat was appointed as enquiry officer to proceed against him departmentally. Enquiry officer submitted his finding report and found him guilty of the charges leveled against him. The accused official was called in OR and heard in person on 07.11.2018, but failed to explain his position.

In view of above and available record, I reached to the conclusion that the allegations of taking bribe money on road and become demoralization for good image of Police have been proved without any shadow of doubt.

Therefore, I, Capt @ Wahid Mehmood, District Police Officer, Kohat in exercise of the powers conferred upon me, imposed a major punishment of dismissal from service with immediate effect.

DISTRICT POLICE OFFICER,
KOHAT

OB No. 1187
Date 09-11-2018

No 10795-98 PA dated Kohat the 09-11-2018.


1. R.I is hereby directed to collect kit etc from the accused constable & report.
2. Reader/Pay Officer/SRC & OHC for necessary action.

دفعہ 1187
تاریخ 09-11-2018
ضابطہ 10795-98
مقررہ وقت
مقررہ جگہ


ORDER SHEET

In Departmental Inquiry Against Constable Hameed Khan No. 606

27.08.2018 Inquiry papers received from the office of PA to DPO Kohat, be entered, call the accused official and charge sheet be served upon him.


Enquiry Officer

28.08.2018 Accused official present charge sheet alongwith statement of allegation is served upon him and directed for reply within stipulated period.


Enquiry Officer

06.09.2018 Accused official present, submitted reply to the charge sheet and statement of allegations. SHO, IO and I/C DSB are called.


Enquiry Officer

15.09.2018 Accused official present, witnesses were engaged in other duties and not appeared.


Enquiry Officer

26.09.2018 The accused official was engaged in other official duty.

08.10.2018 Statement of SHO Azmat Khan was recorded in presence of accused official, other witnesses are called for next date.


Enquiry Officer

12.10.2018 Statement of SI, IO Muhammad Azam was recorded in presence of accused official.


Enquiry Officer

23.10.2018 Incharge DSB, present and examined. Finding alongwith complete inquiry file is submitted to W/DPO Kohat for further necessary action.



W/DPO Kohat

Ref
This is

6

DEPARTMENTAL ENQUIRY AGAINST CONSTABLE HAMEED KHAN NO. 606

Sir,

It is submitted that the departmental proceedings are initiated against const. Hameed Khan No. 606, (hereinafter called defaulter) on the following charge:-

"You constable Hameed Khan No. 606 Lachi Tooti Plaza Nakabandi are found guilty for getting illegal gratification from the General Public, hence a case vide FIR No. 338 dated 18.08.2018 U/Ss 161, 162, 165, 384 PPC, 118 (d) Police Act 2017 has been registered against you. Your this act show gross misconduct".

The charge sheet and statement of allegations were served upon the defaulter to which he submitted reply and denied the allegations levelled against him. He submitted that at 10:00 am, he entered his vehicle made search and nothing was recovered. Further submitted that no person lodged compliant against him.

In order to dig out the facts, inspector / SHO Azmat Khan & SI Muhammad Azam Police station Lachi, Kohat were called and examined in presence of [unclear]

Inspector / SHO stated that he got knowledge of a video viral on social media regarding activity of a constable. In the meanwhile incharge DSB Kohat sent him a video on his WhatsApp number. He played the video which revealed that constable Hameed Khan was shaking hand with one Bus conductor. He brought the matter into the notice high-up and a case vide FIR No. 338 dated 18.08.2008 U/Ss 161, 162, 165, 384 PPC, 118 (d) Police Act 2017 was registered against the constable & other. Accused were arrested and handed over to SI Muhammad Azam.

SI / IO Muhammad Azam stated that he interrogated accused constable Hameed Khan and incharge Nakabandi, Qayas Khan. After necessary interrogation complete challan was submitted against the accused.

Incharge DSB Kohat submitted that on 17.08.2018, he received a video [unclear] Police station Lachi on WhatsApp

In the light of above I have examined the video, which transpired that a constable while entering a bus shake hand with a conductor and no search of passengers / vehicle was carried out.

From the above, available record and statement of the defaulter constable wherein, he admitted his presence and entry in a bus. The video was viral on social media, at large scale, which earned bad name to Police. Therefore I reached to the conclusion that the defaulter constable committed professional misconduct and the charge levelled against him has been established.

Submitted please.

WDPO

Enquiry Officer
DSP Legal Kohat

Borbe M...
and belem...

7/11/18



Office of the

Office of the D.S.P., District Police Officer,
Legal, Kohat.

Kohat

Dy: No. 560

Dated 28-8-2018 Dated 27/08/2018

No. 7866-67PA

CHARGE SHEET.

I. SOHAIL KHALID, DISTRICT, POLICE OFFICER, KOHAT,
as competent authority under Khyber Pakhtunkhwa Police Rules 1975 (amendments 2014) am of the opinion that you **Constable Hameed Khan No. 606** rendered yourself liable to be proceeded against, as you have committed the following act/omissions within the meaning of Rule 3 of the Police Rules 1975.

You Constable Hameed Khan No. 606 Lachi Tool Plaza Nakabandi was found guilty for getting illegal gratification from the General Public, hence a case vide FIR No. 338 dated 18.08.2018 U/Ss 161,162,165,384 PPC, 118 (d) Police Act 2017 has been registered against you. Your this act shows gross misconduct on your part.

2. By reasons of the above, you appear to be guilty of misconduct under Rule 3 of the Police Rules 1975 and have rendered yourself liable to all or any of the penalties specified in the Rule 4 of Police Rules 1975.

3. You are, therefore, required to submit your written statement within 07days of the receipt of this Charge Sheet to the enquiry officer.

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 ex-parte action shall be taken against you.

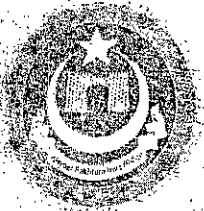
4. A statement of allegation is enclosed.

Handwritten signature and initials

28-8-2018
Handwritten signature and date

Handwritten signature of District Police Officer

DISTRICT POLICE OFFICER,
KOHAT 24/8.



Office of the
District Police Officer,
Kohat

No. 7866-67/PA

Dated 27/08/2018

DISCIPLINARY ACTION

I, **SOHAIL KHALID, DISTRICT POLICE OFFICER, KOHAT**, as competent authority, am of the opinion that you **Constable Hameed Khan No. 606** have rendered yourself liable to be proceeded against departmentally under Khyber Pakhtunkhwa Police Rule 1975 (Amendment 2014) as you have committed the following acts/omissions.

STATEMENT OF ALLEGATIONS

You Constable Hameed Khan No. 606 Lachi Tool Plaza Nakabandi was found guilty for getting illegal gratification from the General Public, hence a case vide FIR No. 338 dated 18.08.2018 U/Ss 161,162,165,384 PPC, 118 (d) Police Act 2017 has been registered against you. Your this act shows gross misconduct on your part.

2. For the purpose of scrutinizing the conduct of said accused with reference to the above allegations Mr. Ishtiaq Aul DSP/ Legal is appointed as enquiry officer. The enquiry officer shall in accordance with provision of the Police Rule-1975, provide reasonable opportunity of hearing to the accused official, record his findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused official.

The accused official shall join the proceeding on the date, time and place fixed by the enquiry officer.


DISTRICT POLICE OFFICER,
KOHAT 24/8

No. 7866-67/PA, dated 27/08/2018.

Copy of above to:-

1. Mr. Ishtiaq Aul DSP/ Legal:- The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Rule-1975.
2. The **Accused Officer**:- with the directions to appear before the Enquiry Officer, on the date, time and place fixed by him, for the purpose of enquiry proceedings.

لوہیسن لائن

صفحہ 16 روزنامہ 18-8-18

صفحہ

16 اگست 2018ء مورخ 18-8-18 مورخ 2018ء نے اس وقت خان افسر OHC کے ذریعہ

فون اطلاع دی کہ حسب احکم جناب DPO صاحب لاپتی پول پارہ
 ناگبندی کے اچارج - عباس 818 HC
 جنید 181 HC
 بشیر 291
 محمد نذر 1376
 محمد اسد 509
 آصف 1345

محفل لائن کلوز ہو چکے ہیں۔ اطلاع درج روزنامہ ہو کر
 آمد پر حاضری کی جانے لگی۔

جناب عالی

نقل و مطالبہ اصل ہے۔

Umesht
 20-8-18

Sir,

Forwarded.

[Signature]

Ro-Line kt
 20-8-18

(9)

BEFORE THE DISTRICT POLICE OFFICER KOHAT

Subject: REPLY OF THE CHARGE SHEET

Respected Sir,

Kindly with reference to the charge sheet bearing NO. 7866-67 / PA dated 7-08-2018, it is submitted that, I was on duty at Naka Bandai Point Tool Plaza Lachi. A private vehicle reached there at about 10:30 AM, while proceeding towards the vehicle, the conductor informed me that the vehicle was occupied by army recruits. Even then, I entered the vehicle and made the search. Nothing was received by me from any person from the public as illegal gratification. No complaint by any public person has been made against me.

In view of the above, it is submitted that I may kindly be exonerated of the charge and the instant char sheet dropped please.

Yours Obediently



Constable Hameed Khan

No. 606

Police Line Kohat

Dated: 31-08-2018

بیان مذاکرہ کے حوالہ سے SHO کی طرف سے 18/10/2018 کو ارسال کی گئی ہے

HB

تعمیراتی امور کے حوالہ سے 18/10/2018 کو ارسال کی گئی ہے

SHO کی طرف سے 18/10/2018 کو ارسال کی گئی ہے

تعمیراتی امور کے حوالہ سے 18/10/2018 کو ارسال کی گئی ہے

تعمیراتی امور کے حوالہ سے 18/10/2018 کو ارسال کی گئی ہے

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تعمیراتی امور کے حوالہ سے 18/10/2018 کو ارسال کی گئی ہے

تعمیراتی امور کے حوالہ سے 18/10/2018 کو ارسال کی گئی ہے

161-162-165-384

338-187-018

تعمیراتی امور کے حوالہ سے 18/10/2018 کو ارسال کی گئی ہے

تعمیراتی امور کے حوالہ سے 18/10/2018 کو ارسال کی گئی ہے

✓

تعمیراتی امور کے حوالہ سے 18/10/2018 کو ارسال کی گئی ہے

SHO کی طرف سے 18/10/2018 کو ارسال کی گئی ہے

Handwritten signatures and notes in the bottom left corner.

تعمیراتی امور کے حوالہ سے 18/10/2018 کو ارسال کی گئی ہے

8/10/2018

8-10-18

بیان ازان محمد اعظم خان اور صاحب لہری کو باب کے

نے پورا بیان کیا کہ مورخہ 18/8 کو SHO نے طلب کیا تھا صاحب لہری نے 1/11

نامہ لہری لول ملیرن احتجاج عباس خان 818 کتبیں محمد خان 606 کے

صرف مقدم غلط 338 مورخہ 18/8 مورخہ 161-162-163 صاحب لہری
درج رجسٹر کر کے لغزش نقصان سے 384-118d

لہری صاحب میں پیش ہو کر ہنگی کا ڈیڑ گٹا رکھا گیا ہے اس کے جواب میں دو فلڈز خان SHO

لہری صاحب نے مقدمہ کو سرسری نظر سے دیکھا ہے اس کے جواب میں دو فلڈز خان نے مقدمہ کو سرسری نظر سے دیکھا ہے اس کے جواب میں دو فلڈز خان نے مقدمہ کو سرسری نظر سے دیکھا ہے

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Si. P. S. Lachi
09-10-18

شرح

مذکورہ حوالہ دیا گیا

Rod Ac
11/10
10

[Signature]

9-10-18

محمد حسین

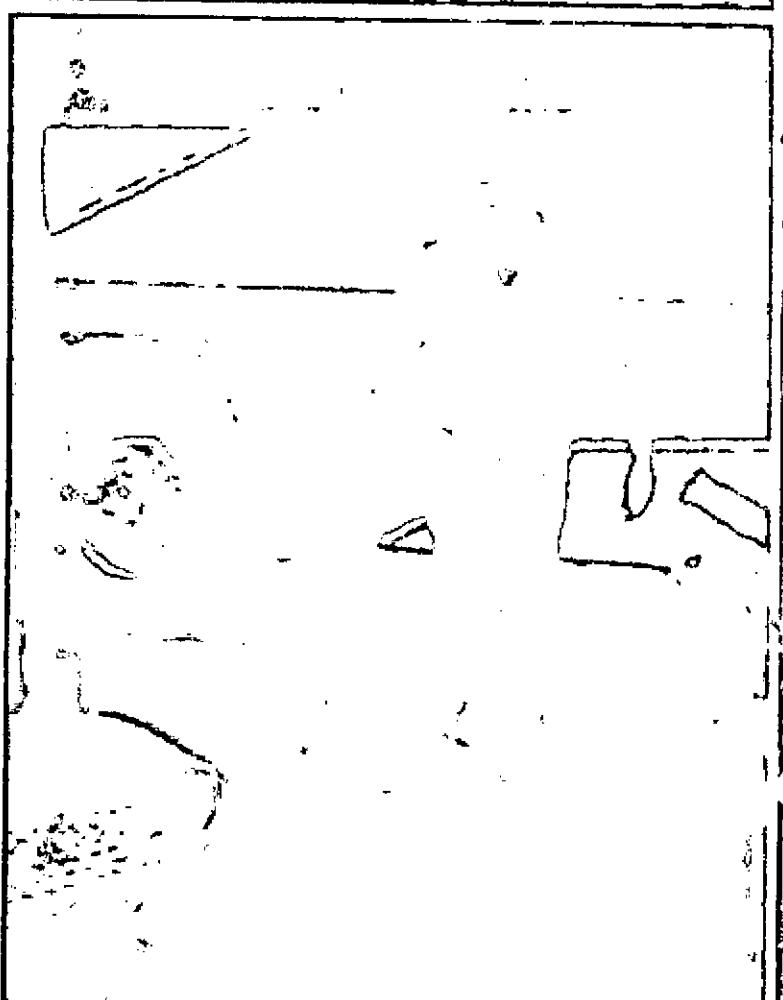
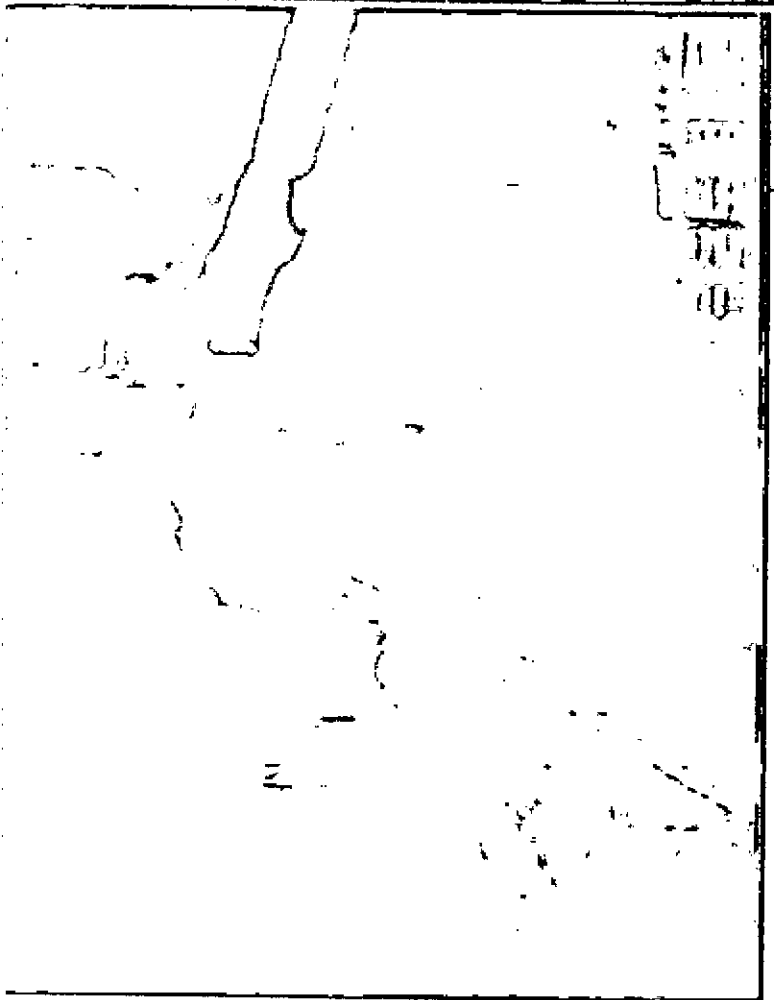
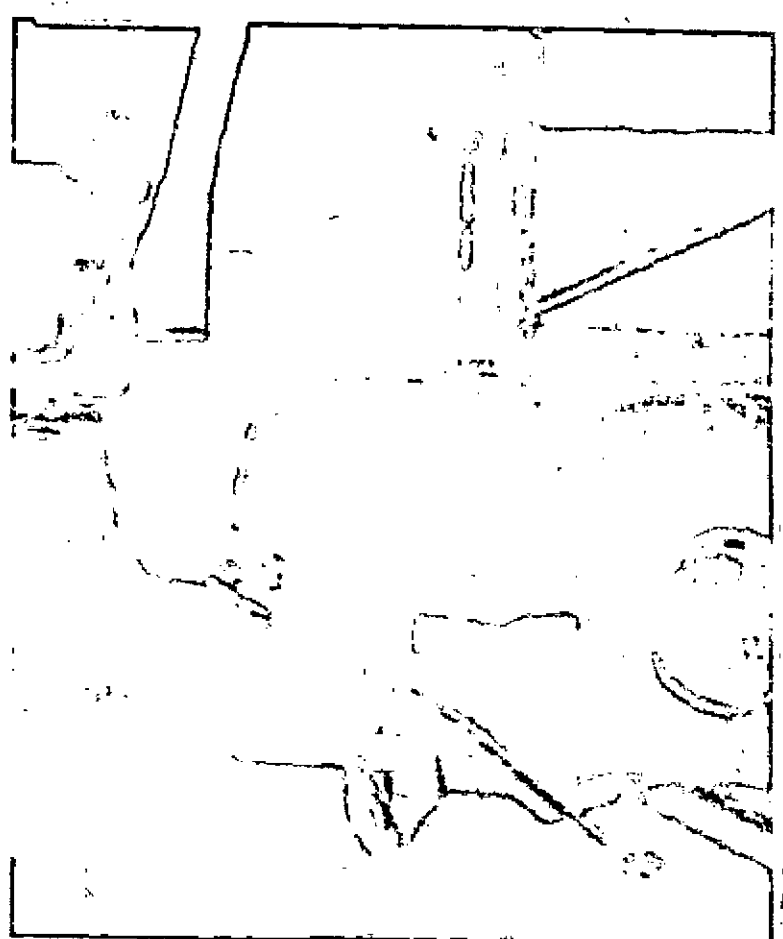
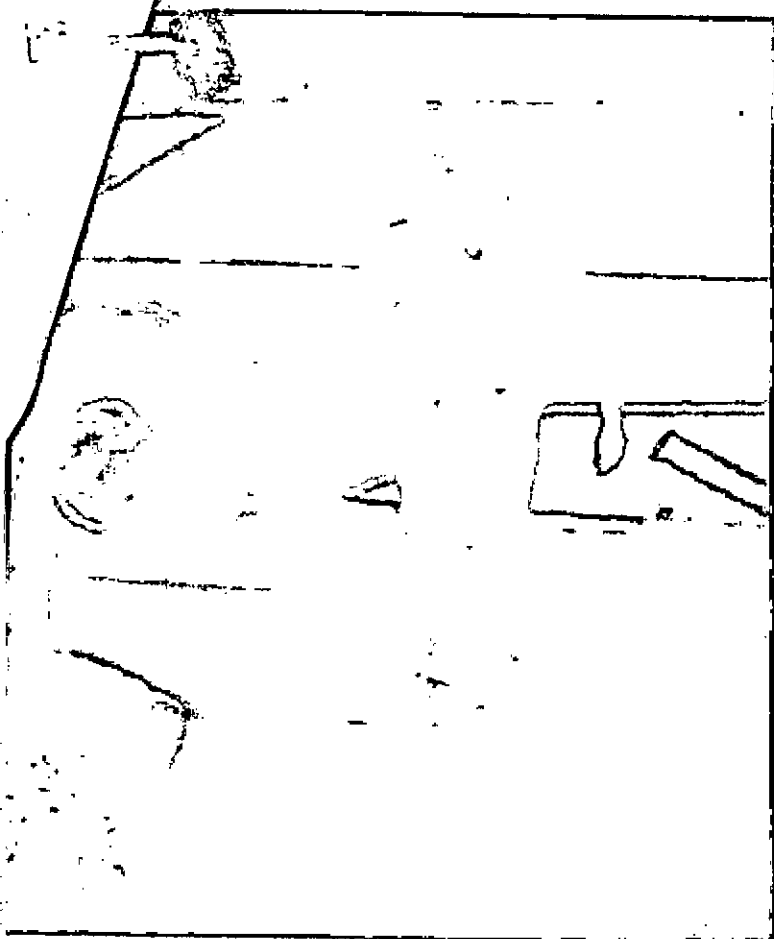
9-10-18

بیان اعلان فی اللہ ASI اطاق DSB

میں 8 17 اور مہینہ اعلان بالذکر کوئی کوئی 9602262 0333
18
میں سے مہینہ کوئی کوئی سے اعلان بالذکر
SIHO مقامہ 31 تہ طے ملے کوئی کوئی

File DSB. K. I
23-10-18

~~لکھنؤ
23/10~~



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Handwritten text in the middle, possibly a date or reference number.

Handwritten text on the right side.

Main body of handwritten text, including numbers like 35, 117, and 5347, and some illegible words.

Handwritten text below the main body.

Handwritten signature or initials.

Handwritten text, possibly a date: 6/10/18.

Handwritten numbers: 06 23 30.

Small handwritten text on the left.

Handwritten word: Forwarded.

Small handwritten text.

Handwritten word: Forwarded.

Handwritten signature and stamp: Sub-Divisional Police Office, Hars, Kohat.

Handwritten date: 09/10/18.

Handwritten notes and signatures on the bottom left, including 'Co-June' and '1028'.

Handwritten note: Absence Period is treated as leave without pay and warned to be careful in future.

Printed text: D.P.O. KOHAT.

نمبر 37 روزنامہ 13/09/04

مذبح کوٹھ

مد 37 گنتی طائرستان / ریور پورٹ پانچویں دورہ، $4\frac{9}{18}$ وقت 07:00 بجے اس وقت گنتی طائرستان کیلئے - تمام فارغ از ڈیوٹی طائرستان گنتی میں موجود تھے۔ گنتی میں موجود اہلکاروں کو تعداد بتائی کہ دوران چالان طائرستان پر کھڑی نگہانی رکھیں۔ اور طائرستان کو محفوظ رکھیں۔ طائرستان پر کھڑی نگہانی رکھیں۔ اور دیگر ماحول پر کھڑی نگہانی رکھیں۔ طائرستان پر کھڑی نگہانی نہ کریں۔ طائرستان پر کھڑی نگہانی رکھیں۔ گنتی پر حفاظت کی۔ جگہ احمد علی 1330، قائم علی 1279، ادرار 1195، غرور 516۔

محمد حسین 606 گنتی میں عدم موجودگی کے خلاف ریور پورٹ پانچویں دورہ روزنامہ کی گئی ہے۔

صدر عالی

نقل عطا علی اہل ہے۔

314 Forwarded




Co-Line Ki
06-10-18

mm-Line Ki
06-10-18

ORDER

The following officials while deployed at Lachi Toll Plaza, Nakabandi, involved themselves in taking bribe during bus/vehicles checking at GT road and charged in case FIR No.338 dated 18.8.2018 u/ss 161, 162, 384 PPC, 118(d), Police Act-2017 PS Lachi, are hereby placed under suspension and closed to police lines with immediate effect.

1. HC Qais Khan No.818
2. Constable Hameed Khan No.606

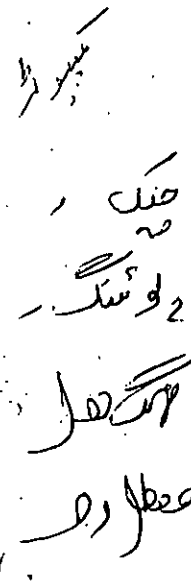

DISTRICT POLICE OFFICER,
KOHAT

NO 15825 /OHC dated 19.8 /2018

Copy of above is submitted to the Regional Police officer, Kohat for favour of information please.

2. R/ LO Police Lines, Kohat / SRC for necessary action

CK No 880
Dated 20-8-2018





KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No: _____/ST Dated: ____/____/2022

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

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

To,

District Police Officer,
Kohat.

Subject: JUDGMENT IN APPEAL NO. 555/2019 OF HAMID KHAN VS DPO, KOHAT.

I am directed to forward herewith a certified copy of Judgement dated 21.06.2022 passed by this Tribunal on the above subject for information.

Encl: As Above.


(WASEEMAKHTAR)

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

Before the Court of Hon'ble Service Tribunal
Peshawar

Hamid Khan

versus

IG Police & others

Application for placing some necessary
documents in the best interest of justice

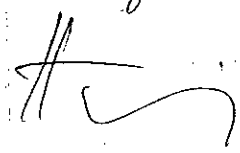
Requesting therein:-

- ① That the appellant was dismissed from service ^{us} vide 09/11/2018 in case of FIR NO:- 338 of Police Station Lachi Asohato
- ② That the case was tried by the Confidential Court but the appellant was acquitted by the learned trial court vide order dated 17/12/2020.

The copy of order dated 17/12/2020
is attached as ^AA³

(3) That the placing of these documents is
essential for just decision of the case

It is, therefore, humbly prayed on acceptance
of this application the documents so annexed
may kindly be considered as part and parcel
of record app'd in the best interest of justice.

petitionary
through 
Mohammad Yusuf Darya

12/1/2022

IN THE COURT OF MAZHAR HUSSAIN,
JUDICIAL MAGISTRATE TEHSIL LACHI DISTRICT KOHAT

State

Verses

Constable Qais Khan Belt No.818 PS Lachi present Police Line.

Constable Hameed Khan Belt No.606 PS Lachi present Police Line.

Case No: 58/2 of 2014

Date of submission of challan: 21.01.2014

Date of Decision of the case: 17.12.2020

JUDGMENT

Accused namely Qias Khan and Hameed khan have been charged in case FIR No.338 of PS Lachi District, Kohat. Date of occurrence is 17.8.2018 and time of occurrence is unknown FIR was lodged on 18.8.2018 at 1710 hours u/s 161,162,165,384PPC and 118 (D) of the police act 2017. Complainant is Azmat khan SHO PS Lachi.

Brief facts of the case as per averment of FIR are such the complainant received whatsapp message at his cell number 0335-0504779 from cell no 0333-9602262, regarding the on duty constable who was known as accused facing trial namely Hameed Khan, deputed on Lachi Toll Plaza for the purpose of Nakabandi. It was noted that the constable named above was receiving money from the conductor of a blue colored bus. The

ATTEST

incident has been recorded and has gone viral on social media. The constable was deputed for the purpose of checking who has violated his assigned duties and has invited notoriety to the department. The incharge Qais Khan is also involved in the matter. They are receiving extortion money on the check point from the drivers by intimidation. The video detailed above has been recorded in the USB and has been taken vide recovery memo.

The accused facing trial were arrested and both were released on bail.

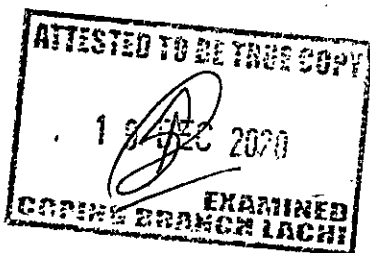
Complete challan against the accused facing trial was forwarded within the meaning of section 173 Cr.PC. Both the accused opted for trial after compliance of u/s 241-A Cr.PC. Formal charge against the accused was framed.

Prosecution was afforded opportunity to lead its evidence

PW-01 is the statement of constable, Asif Khan who was deputed on the eventful day of occurrence on the Toll Plaza.

PW-02 is the statement of Azam Khan OII, he was a ASHO PS Lachi. The witness had prepared site plane which is ExPW2/1 and had recorded statement of witnesses of recovery memo. Later on, both the accused will produced before the court vide application which is ExPW2/2.

PW-03 is the statement of complainant. The complainant reiterated his assertions as per the averments of FIR copy of



FIR is ExPW3/1 and had forwarded complete challan against accused facing trial which is ExPW3/2.

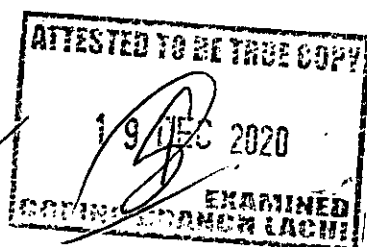
PW-04 is the statement of constable Zaheer Khan. He is the witness of recovery memo of USB, recovery memo of taking in possession of USB recovery memo is ExPW4/1.

After completion of statement of prosecution witnesses formal charge against the accused was framed within the meaning of section 342 Cr.PC.

Muhammad Saeed SPP for the state argued that the accused facing trial had been involved in receiving extortion money and illegal gratification. Both the accused had been a source of notoriety for the department. The prosecution has successfully bring at home charges leveled against the accused. Therefore, accused are liable to be convicted.

On the contrary learned counsel for the accused averred that the accused facing trial have been implicated with malafide. The prosecution has miserably failed to bring at home charges leveled against accused facing trial. There are major contradiction interse statements of PWs. There are serious doubts and dents in the story of prosecution. Therefore, the accused should be acquitted for the charged.

I have heard arguments and perused the available record. keeping in view the available record following of the points are determination u/s 367 Cr.PC.



Mazher Hussain
 Mazher Hussain
 CJJM/JFC Tehsil Lachti

1. Whether the accused facing trial had been involved in receiving illegal gratifications and extortion money from various people including drivers conductors and had been cause of notoriety for the police department.
2. Whether prosecution has successfully being at home charges leveled against accused facing trial.

Available record transpires the fact that prosecution has examined total number of four witness being PWs. So far as, statement of Muhammad Azam OII is concerned he has prepared site plane of the occurrence which is placed on file ExPW-2/1. According to version of Pw-02 accused Hameed Khan was receiving money from bus conductor while he was at point number 01, similarly the bus was parked at point No.(A)

of the place of occurrence and receiving of bribe was witnessed

by constable Asif Khan who was present at point No.2. It has

been detailed that statement u/s 161 Cr.PC. of constable Asif

Khan was recorded. On the contrary constable Asif Khan when

summoned as PW-01, altogether denied the fact of receiving

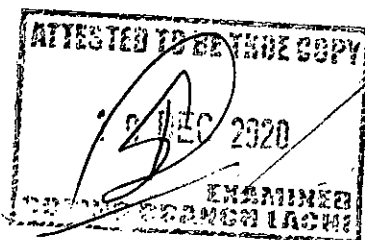
any bribes by the accused facing trial in his presence. The

witness also denied the factum of his knowledge regarding any

video. It is worth mentioning the fact that neither any USB,

recording in the shape of CD or through in other modes nor any

record of SIM verification and he is brought on record by the

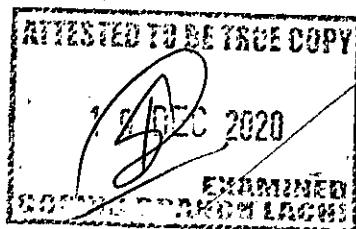


prosecution. Similarly, the prosecution failed to identify either the bus or the conductor. More no recovery of the bridged money has be effected. Such facts have been admitted by PW-2 in his cross examination the PW2 also admitted the fact that both the witnesses Nazar khan and Asif Khan (constable) had not seen constable Hameed khan while receiving bribe money.

So far as, contention of PW-4 regarding recovery memo of the USB is concerned the witness during examination in chief stated the he is marginal witnesses of taking into possession of the USB and recovery memo bears his signature.

Interestingly neither the USB nor any other record pertaining to the recording has been brought on record to have been used as evidence against accused facing trial. It has been admitted fact on part of the complainants that neither has he recorded any number of the bus nor has there been any statement of any of the passengers or the conductor. Similarly, the time of the occurrence is unknown as per versions on the complainant. It has admitted fact that 07 persons were deputed at Nakabandi point. None of the witnesses have deposed against the accused facing trial.

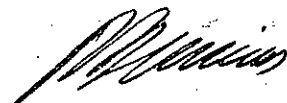
The complainant further could not produce either any partial or impartial witness of the occurrence to further his stance.



For the reason recorded above it is clear that statement of complainant is full of doubts, dents and the story of complainant suffers from glaring contradictions and improvements beyond his assertions as per the application and his stance as per the FIR. There is either no recovery of weapons of offence or the alleged tools used by the accused during the occurrence. Such facts would magnify that story of prosecution is shabby, feeble and it suffers from major contradictions, consequently the prosecution could not being at home charges leveled against the accused, being doubtful. Therefore, the accused is hereby acquitted by extending benefit of doubt. Sureties are discharged from liable of bail bonds. If any case property the same should be kept till expiry of period of appear.

File be consigned to the record room after its necessary completion and compilation.

Announced
17.12.2020


Mazhar Hussain
Civil Judge Tehsil Lachi

CERTIFICATE

It is certified that this judgment consists of 06 pages, each page has been duly read over, corrected and signed by me.

Mazhar Hussain 

Judicial Magistrate Lachi, Kohat
Mazhar Hussain
JUDICIAL MAGISTRATE LACHI

