

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 6270/2020

Date of Institution ... 11.06.2020  
Date of Decision ... 24.11.2021

Banaras Khan S/O Sher Din R/O Tapa Daulat Khel, Kandy  
Janda Khel, Malik Din Khel, Nala Tehsil Bara, District Khyber.

... (Appellant)

VERSUS

Superintendent of Police (D.P.O) Shangla, Head Office, Alpuri  
and two others:

... (Respondents)

Qamar Nadeem Afridi,  
Advocate

... For appellant.

Muhammad Riaz Khan Paindakhel,  
Assistant Advocate General

... For respondents.

Rozina Rehman  
Atiq ur Rehman Wazir

... Member (J)  
... Member (E)

JUDGMENT

Rozina Rehman, Member(J): Brief facts of the case are that appellant was appointed as Head Constable. He was implicated in a criminal case vide F.I.R No.379 and was arrested. Consequently, he was issued charge sheet and was finally awarded major penalty of dismissal from service. He filed departmental appeal which was also dismissed, hence, the instant service appeal.

2. We have heard Qamar Nadeem Afridi Advocate learned counsel for appellant and Kabir Ullah Khattak, learned Additional

Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

3. Qamar Nadeem Afridi Advocate, learned counsel for appellant submitted that mandatory provisions of law and rules were blatantly violated by the respondents as appellant was not treated according to law. He argued that no proper inquiry was conducted to find out the real facts and that the appellant was not associated with the inquiry proceedings. He contended that he was acquitted of the charges leveled against him vide F.I.R No.379 and that the prosecution itself had submitted an application U/S 494 Cr.PC as there was no probability of the appellant/accused being convicted of any offence. It was lastly submitted that the appellant has more than 11 years of service at his credit, therefore, he may kindly be reinstated with all back benefits.

4. Conversely, learned A.A.G submitted that appellant absented himself from duty as he was involved in smuggling of narcotics and was caught red-handed for having 910 gram of Charas. He submitted that acquittal from criminal charges does not exonerate the appellant from departmental proceedings and that he was called in Orderly Room and was heard in person. He was given ample opportunity to defend himself but he failed, therefore, his appeal was also rejected by R.P.O.

5. From the record it is evident that Constable Banaras Khan of Shangla District Police was proceeded against departmentally on the allegations of his involvement in case F.I.R No.379 dated 26.10.2019 registered at Police Station Besham U/S-9(b) of C.N.S.A. He was charge sheeted and Naseeb Shah D.S.P Headquarter, Shangla was

nominated as Inquiry Officer. In the meanwhile, Challan in the criminal case was submitted against him in the Court and he was tried. An application U/S-494 Cr.PC. was submitted before the learned Magistrate seeking withdrawal from prosecution and vide order dated 11.02.2020 of the learned Sessions Judge/JSC, MCTC Shangla, the present appellant was acquitted from the charges leveled against him. He was dismissed from service vide order dated 10.12.2019 of District Police Officer, Shangla. He filed departmental appeal on 20.12.2019. He was acquitted of the charges leveled against him on 11.02.2020 and despite his acquittal, his departmental appeal was rejected by R.P.O Malakand Region on 20.02.2020.

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

7. It is established from the record that charges of involvement in the criminal case ultimately culminated in honorable acquittal of appellant by the competent Court of Law in the above-mentioned criminal case. In this respect, we have sought guidance from 1988 P.L.C (C.S) 179; 2003 S.C.M.R 215 and P.L.D 2010 Supreme Court 695.

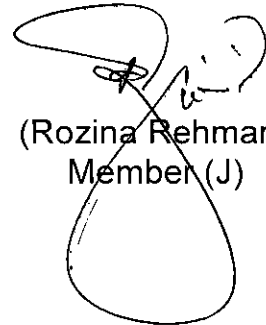
8. In view of the foregoing, the instant appeal is accepted and the appellant is re-instated in service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED.

24.11.2021



(Atiq ur Rehman Wazir)  
Member (E)



(Rozina Rehman)  
Member (J)


Order  
24.11.2021

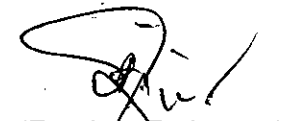
Appellant present through counsel.

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

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

Announced.  
24.11.2021

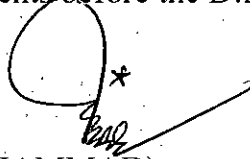
  
(Atiq ur Rehman Wazir)  
Member (E)

  
(Rozina Rehman)  
Member (J)

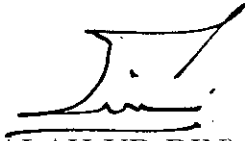
23.08.2021

Appellant in person present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Muhammad Abbas, Inspector for respondents present.

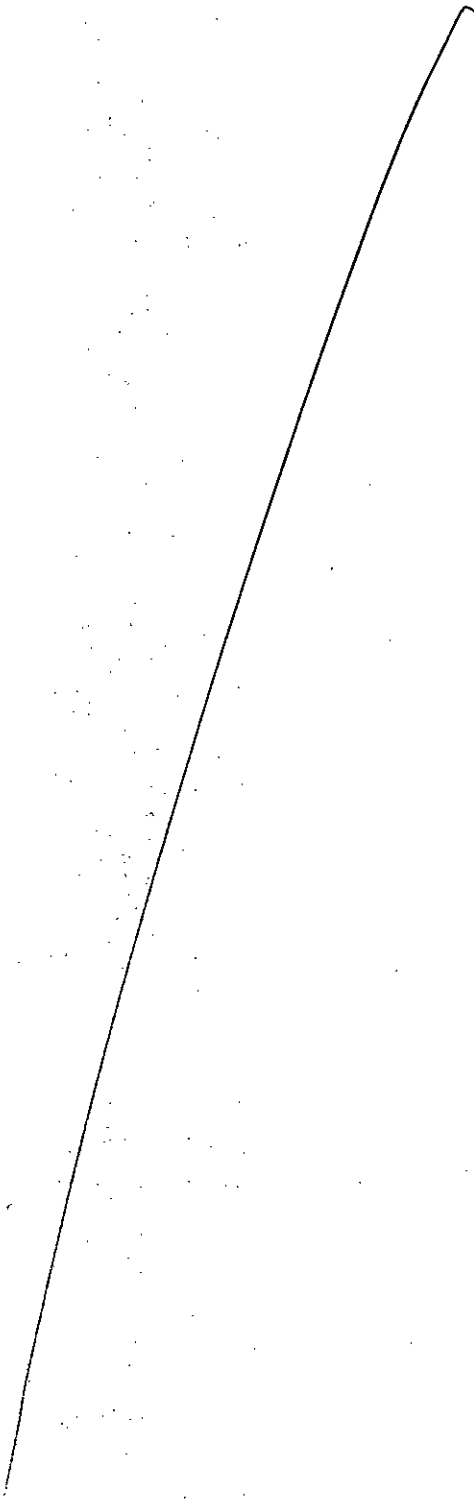
Appellant sought adjournment on the ground that his learned counsel is not available today. Adjourned. To come up for arguments before the D.B on 24.11.2021.



(MIAN MUHAMMAD)  
Member(E)



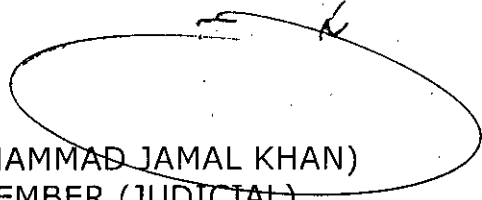
(SALAH-UD-DIN)  
Member(J)



01.12.2020

Appellant is present in person. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Ikram Ali, Constable, for the respondents are also present.

Written reply on behalf of respondents not submitted. Representative of the department seeks further time for submission of written reply/comments. Time given. File to come up for written reply/comments on 19.01.2021 before S.B.

  
(MUHAMMAD JAMAL KHAN)  
MEMBER (JUDICIAL)

19.01.2021

Junior counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate General alongwith Ikram Ali H.C for respondents present.

Representative of respondents submitted written reply/comments. To come up for rejoinder, if any, and arguments on 27.04.2021 before D.B.

  
(Rozina Rehman)  
Member (J)

27.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 23.08.2021 for the same as before.

  
Reader

07.08.2020

Mr. Qamar Nadeem Afridi, Advocate for appellant is present.

Learned counsel for the appellant while arguing submitted that the FIR bearing No. 379 dated 26.10.2019 under Section 9CNSA PS Basham District Shangla on the basis of which he was proceeded against did not remain in the field in consequence of his acquittal from a competent court of law but even then he was awarded major penalty resulting into his dismissal. Whether the authorities could do so under the law and rules in vogue he posed the question? He expressly attributed ill will and malafide to the concerned SHO who lodged the very FIR against him.

The question so agitated require adjudication in the light of law and rules thus worth to be considered. The instant appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 06.10.2020 before S.B.

Appellant Deposited  
Security & Process Fee

88  
11/8/20

(MUHAMMAD JAMAL KHAN)  
MEMBER

06.10.2020

Junior to counsel for the appellant and Addl. AG for the respondents present.

Learned AAG seeks time. He is required to contact the respondents and facilitate the submission of requisite reply/comments on next date positively.

Adjourned to 01.12.2020 before S.B.

Chairman

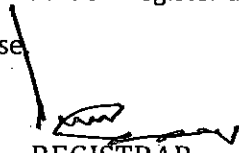



Form- A

FORM OF ORDER SHEET

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

Case No.- 6270 /2020


1S.No.	Date of order proceedings	Order or other proceedings with signature of judge		
1	2	3		
1-	25/06/2020	<p>The appeal of Mr. Banaras Khan resubmitted today by Mr. Qamar Nadeem Afridi 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>2-</p>		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>07/08/2020</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Banaras Khan son Sher Din r/o Tapa Daulat Khel Bara District Khyber received today i.e. on 11.06.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 2- Annexures are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.
- 3- Annexures of the appeal may be attested.
- 4- Annexures of the appeal may be flagged.
- 5- Appeal may be page marked according to the index.
- 6- Two more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal in file covers.


No. 1222 /S.T,

Dt. 12-06 /2020.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Qamar Nadeem Afridi Adv. Pesh.

All objections were removed  
and resubmitted again.

  
Qamar Nadeem Afridi  
25/6/2020

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PUKHTUNKHWA,  
PESHAWAR

Service Appeal No 6270 /2020

Banaras Khan

VERSUS

Superintendent of Police and others

I N D E X

S NO	DESCRIPTION OF DOCUMENTS	ANNEX	PAGE
1.	Grounds of Appeal with affidavit	-	01 - 05
2.	Application for condonation of delay	-	06 - 07
3.	Affidavit	-	08
4.	Addresses of the parties	-	09
5.	Copy of the service card	'A'	10 - 11
6.	Copy of the judgment of Special Court dated 11-02-2020	'B'	12 - 17
7.	Copy of the departmental appeal and order dated 20-02-2020	'C'	18 -20
8.	Copy of the order of dismissal dated 10 <sup>th</sup> December, 2019	'D'	21
9.	Copy of the charge sheet	'E'	22
10.	Copy of the statement of allegation	'F'	23
11.	Copy of the show notice	'G'	24
12.	Copy of the inquiry report	'H'	25
13.	Copy of the reply	'I'	26
14.	Wakalat Nama	-	27

Appellant

Through:

(QAMAR NADEEM AFRIDI)

(SHERAZ HUSSAIN)

&

(ARIF JAN AFRIDI)

Advocates,

High Court, Peshawar

Cell # 0300-5968070

Dated: -09-06-2020

P-①

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PUKHTUNKHWA,  
PESHAWAR

Khyber Pakhtunkhwa  
Service Tribunal

Service Appeal No 6270/2020

Diary No. 5028

Dated 11/6/2020

Banaras Khan S/O Sher Din R/O Tapa Daulat Khel, Kandy Janda  
Khel, Malik Din Khel, Nala Tehsil Bara District  
Khyber.....(Appellant)

VERSUS

1. Superintendent of Police (D.P.O), Shangla, Head Office,  
Alpuri
2. Deputy Inspector General of Police, Malakand Division, Head  
Office, Saidu Sharif, Swat
3. Inspector General of Police, Khyber Pakhtunkhwa,  
Peshawar.....(Respondents)

Filed to-day  
11/6/2020  
Registrar

Appeal under Section 4 of Khyber Pakhtunkhwa  
Service Tribunal Act, 1974 against the order dated  
20-02-2020, whereby departmental appeal  
against the order dated 10-12-2019 dismissing  
the Appellant from service was rejected / filed

Respectfully Sheweth:

Re-submitted to -day  
and filed.

The Appellant humbly submits as under:-

That the Appellant was appointed on dated 02-02-2009 as  
Head Constable in police department, Shangla. (Copy of  
the service card is attached Annex 'A').

- 2) That since his appointment till the date of his dismissal of  
Appellant from service, the Appellant performed his duty

Registrar  
25/6/20

with utmost obedience and given no chance of displeasure to his superiors.

- 3) That the Appellant, on coming back from home to duty place at Bisham Police Station (after days granted leave). The SHO Bisham police station Habib Said, registered FIR No 379 dated 26-10-2019 under Section 9-B CNSA P.S Bisham against Appellant of service Head Constable of P.S Bisham on ill-will, in that case later on Appellant was acquitted from the charge on filing an application under Section 494 Cr. P.C by APP of the Special Court Shangla dated 11-02-2020. (Copy of the judgment of Special Court is attached as Annex 'B').
- 4) That after acquittal from charges leveled against Appellant on dated 11-02-2020, the R.P.O Malakand, Saidu Sharif dismissed the departmental appeal of the Appellant on 20-2-2020, the Appellant was informed after so many days. (Copy of the departmental appeal is attached as Annex 'C').
- 5) That the department without proper procedure and fulfilling the codal formalities conducted ex-parte inquiry giving no chance of defence to the Appellant and later on dismissed the Appellant from service vide order dated 10<sup>th</sup> December, 2019. (Copy of the order of dismissal is attached as Annex 'D').
- 6) That the Appellant moved department appeal to the Appellate authority, who also ignored the relevant

provisions of law and dismissed the departmental appeal vide order dated 20-02-2020, which order was never communicated to the Appellant and the Appellant got the same on 11-05-2020 (due to Corona Pandemic), hence this Appeal. (Copy of the departmental appeal dated 20-02-2020 and rejection order dated 10-12-2019 has already as Annex 'C & D' respectively).

- 7) That having no other way, the Appellant compelled to knock the door of this Honourable Court on the following grounds:-

GROUNDS:-

- A) That the impugned order dated 20-02-2020 is wrong, illegal, mala-fide, based on nepotism, hence is untenable in the eye of law.
- B) That the order of dismissal in such like circumstance is harsh and does not commensurate with the guilt in question.
- C) That the Appellant is not associated with the inquiry nor allowed to cross-examine the witnesses appearing against him.
- D) That the case/FIR registered against Appellant was came to an end on acquittal of Appellant because of filling of application by APP (State) under Section 494 Cr. P.C. The Appellant was acquitted from the charges leveled against him dated 11-02-2020, so there was no need of dismissing the Appellant from service.

- E) That the Appellant has more than eleven (11) years of service at his credit and by dismissing the Appellant; he has been deprived of his service benefits.
- F) That the Appellant reserves the right to agitate any other grounds at the time of hearing.
- G) That any other ground, document or any case law will be produced at the time of arguments, if needed.

PRAYER:-

It is, therefore, most respectfully prayed that on acceptance of this Appeal, the order of Respondent No 2 dated 20-02-2020 and original order of Respondent No 1 dated 10-12-2019 may graciously be set aside and the Appellant may kindly be reinstated into his service with all back benefits.

*B.A.S.*  
Appellant

Through:

*Hateem Khan*  
(QAMAR NADEEM AFRIDI)

*Hateem Khan*  
(SHERAZ HUSSAIN)

&

*Arif Jan*  
(ARIF JAN AFRIDI)

Advocates,  
High Court Peshawar

Dated: -09-06-2020

NOTE:-

No such appeal for the same Appellant has earlier been filed by me before this Honourable Tribunal prior to instant one.

*Hateem Khan*  
Advocate

5

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PUKHTUNKHWA,  
PESHAWAR

Banaras Khan.....(Appellant)

VERSUS

Superintendent of Police and others.....(Respondents)

\_\_\_\_\_  
AFFIDAVIT

I, Banaras Khan S/O Sher Din R/O Tapa Daulat Khel, Kandy Janda Khel, Malik Din Khel, Nala Tehsil Bara District Khyber, do hereby solemnly affirm and declare on oath that all the contents of accompanying application are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Honourable Court.

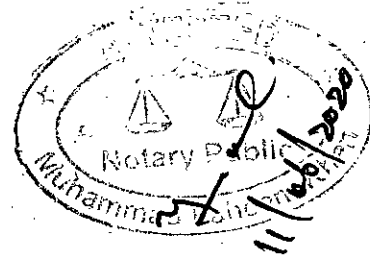
*BAS*

DEPONENT \_\_\_\_\_  
CNIC # 21202-0585340-7  
Cell # 0305-8523823

Identified by:-

*Qamar Naadeem Afridi*

(QAMAR NADEEM AFRIDI)  
Advocate  
High Court, Peshawar





6

BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Misc Application \_\_\_\_\_/2020

In Re:

Service Appeal No \_\_\_\_\_/

Banaras Khan.....(Applicant/Appellant)

V E R S U S

Superintendent of Police and others.....(Respondents)

Application for the condonation of  
delay, if any caused in the  
institution of above captioned appeal

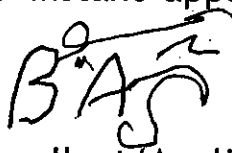
Respectfully Sheweth:-

*The Applicant/Appellant humbly submits as under:-*

- 1) That the above noted appeal being filled before this Honourable Tribunal, in which no date of hearing is fixed so far.
- 2) That due to the pandemic spreading disease, all the Government/Public institution including this Honourable Tribunal remained closed, this Honourable Tribunal cannot resumed its function in last weeks.
- 3) That if any delay being caused in getting order of Appellate authority and filing of this appeal may kindly be condoned as technicalities could not hamper in the ways of justice.

7

It is therefore, most humbly prayed that on acceptance of this Application, the instant application may be accepted as prayed for.

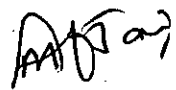
  
Appellant/Applicant

Through:

  
(QAMAR NADEEM AFRIDI)

  
(SHERAZ HUSSAIN)

&

  
(ARIF JAN AFRIDI)  
Advocates,  
High Court Peshawar

Dated: -09-06-2020

8

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PUKHTUNKHWA,  
PESHAWAR

Banaras Khan.....(Appellant)

VERSUS

Superintendent of Police and others.....(Respondents)

AFFIDAVIT

I, Banaras Khan S/O Sher Din R/O Tapa Daulat Khel, Kandy Janda Khel, Malik Din Khel, Nala Tehsil Bara District Khyber, do hereby solemnly affirm and declare on oath that all the contents of accompanying Application are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Honourable Court.

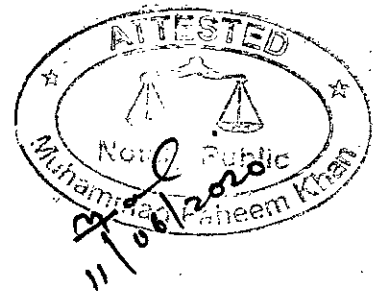
*BAS*

DEPONENT  
CNIC # 21202-0585340-7  
Cell # 0305-8523823

Identified by:-

*Qamar Naadeem Afridi*

(QAMAR NADEEM AFRIDI)  
Advocate  
High Court, Peshawar



BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PUKHTUNKHWA,  
PESHAWAR

Banaras Khān

VERSUS

Superintendent of Police and others

MEMO OF ADDRESSES

APPELLANT

Banaras Khan S/O Sher Din R/O Tapa Daulat Khel, Kandy Janda  
Khel, Malik Din Khel, Nala Tehsil Bara District Khyber

RESPONDENTS

1. Superintendent of Police (D.P.O), Shangla, Head Office,  
Alpuri
2. Deputy Inspector General of Police, Malakand Division, Head  
Office, Saidu Sharif, Swat
3. Inspector General of Police, Khyber Pakhtunkhwa,  
Peshawar

*BAS*

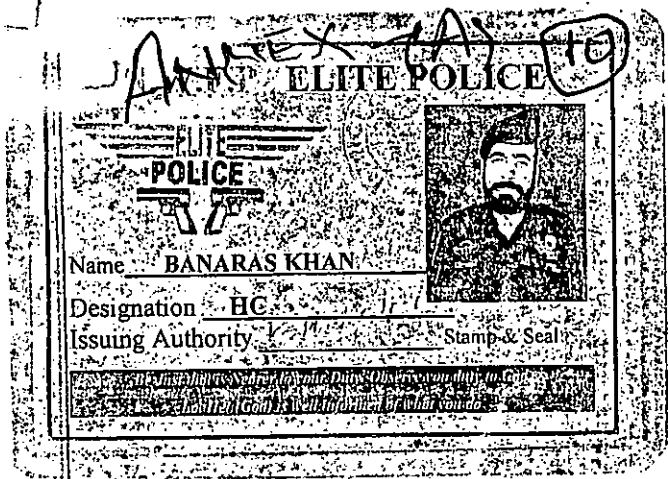
Appellant

Through:

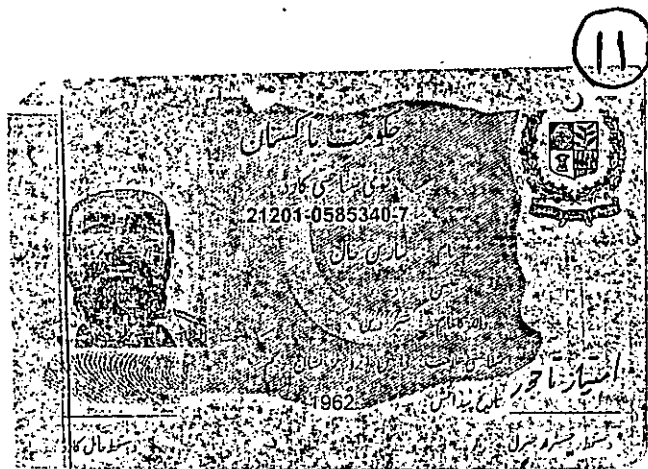
*Hadeer Afridi*

(QAMAR NADEEM AFRIDI)  
Advocate,  
High Court, Peshawar

Dated: -09-06-2020



Arrested  
Arif  
Muhammad Arif Jan Afridi  
Advocate High Court  
Mob: 0333-8807676



No.	3778
F/Name	SHER DIN
N.I.C No	21201-0585340-7
Date of Appointment	02-09-2009
Date of Birth	1962
Height	5-6 "
Eye	Black
Bld Grp	A+VE
Date of Issue	6.1.010
S.No	

Y63T44

21201-0585340-7

14090143200

23/03/2024

23/03/2014

1

Muhammad Arif Jan Afridi  
Advocate High Court  
Mob: 0333-8807676

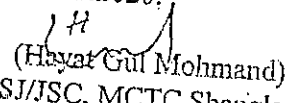
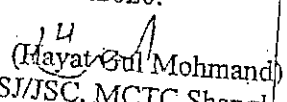
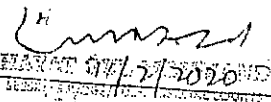
12

5

FORM-A  
FORM OF ORDER SHEET  
IN THE COURT OF HAYAT GUL MOHMAND SESSIONS JUDGE/JUDGE SPECIAL  
COURT MCTC SHANGLA.

Case No. 53/3 of 2019  
FIR No. 379 dated 26.10.2019 u/s 9-B CNISA P.S Besham.

Title: The State ... Versus ... Basaraz Khau

08	06.02.2020	Accused on bail with counsel present. Mr. Imran Khan APP for State present. PWs Habib Said SHO and constable Purdil Khan No. 124 present. Their statements recorded as Pw1 and Pw2 respectively. PWs I.O Sarbali Khan SI, Scribe of FIR Hussain Ahmad ASI and constable Akhtar Hussain be summoned for 07.02.2020.  (Hayat Gul Mohmand) SJ/JSC, MCTC Shaugla
09	07.02.2020	Accused on bail with counsel present. Mr. Imran Khan APP for State present. PWs I.O Sarbali Khan SI, Scribe of FIR Hussain Ahmad ASI, their statements recorded as Pw3 and Pw4 respectively. Learned APP for State abandoned remaining PWs and close prosecution's evidence being completed. To come up for recording statement of accused u/s 342 Cr.PC on 11.02.2020.  (Hayat Gul Mohmand) SJ/JSC, MCTC Shaugla
10	11.02.2020	Accused on bail with counsel present. Mr. Imran Khan APP for State present. Learned APP for State submitted application u/s 494 Cr.PC for withdrawn from prosecution. Record available on file perused.  (Hayat Gul Mohmand) SJ/JSC, MCTC Shaugla



6

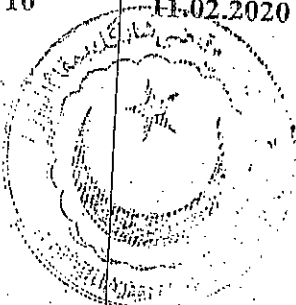
ANEX - 1

13 Arrested  
Advocate High Court  
Mob: 0333-8807676

FORM-A  
FORM OF ORDER SHEET  
IN THE COURT OF HAYAT GUL MOHMAND SESSIONS JUDGE/JUDGE  
COURT MCTC SHANGLA

Case No. 53/3 of 2019  
FIR No. 379 dated 26.10.2019 u/s 9-B.CNSA P.S Besham.

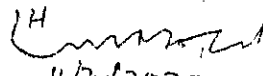
Title: The State ... Versus ... Banaras Khan

10 11.02.2020  


This is a case registered vide FIR No. 379 dated 26.10.2019 under section 9(B) CNSA at Police Station Besham against accused for recovery of 910 grams chars from bag of accused.

Complete Challan was submitted against accused on 04.12.2019. Provision of section 265 (C) Cr. PC complied with on 11.12.2019. Charge against accused was framed on 18.12.2019, to which he pleaded not guilty and claimed trial. Prosecution examined four Pws.

Today APP for the State submitted application for withdrawal from prosecution under section 494 Cr. PC stating therein; that statements of complainant Habib Said SHO and recovery witnesses Pardul Khan and I.O Sarbali Khan S.I have been recorded as Pw1 to Pw 3, respectively. That after recording statements of material witnesses, there arose major contradictions in their statements. That from recorded evidence there is no probability of conviction of accused. That further proceeding in instant case would be a futile exercise and wastage of precious time of the

  
11/2/2020

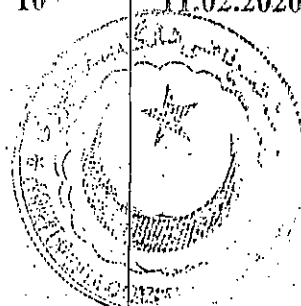


APPEAL  
Advocate: High Court  
Mob: 0333-8807676  
14

FORM-A  
FORM OF ORDER SHEET  
IN THE COURT OF HAYAT GUL MOHMAND SESSIONS JUDGE/ JUDGE SPECIAL,  
COURT MCTC SHANGLA.

Case No. 53/3 of 2019  
FIR No. 379 dated 26.10.2019 u/s 9-B CNSA P.S Besham.

Title: The State ... Versus ... Banaras Khan

10	11.02.2020 	<p>Court: Hence, withdrawal from prosecution u/s 494 Cr. PC was prayed.</p> <p>Arguments of learned counsel for accused and APP for State heard and record available on file perused.</p> <p>After hearing the arguments, I have come to the conclusion that although section 25 of Control of Narcotics Substance Act excluded the applicability of section 103 Cr. PC but in order to ensure fair investigation/trial, when private witnesses are available and they have not been associated with the recovery proceedings, reasons must put forward for non-association of independent witnesses. In the present case recovery was made allegedly from accused while he was travelling in motorcar No. 6604. There were other passengers in said motorcar i.e. driver Abdullah and Fazal Ghani setting in rear seat who have been cited witnesses of recovery memo but they have not been examined and abandoned by prosecution. Pw1 complainant has stated that eyewitnesses who were setting in the car has not been mentioned in site plan. Pw1 has also</p> <p>14</p>
----	---	---

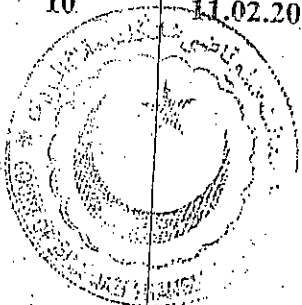
9

15

FORM-A  
 FORM OF ORDER SHEET  
 IN THE COURT OF HAYAT GUL MOHMAND SESSIONS JUDGE/ JUDGE SPECIAL  
 COURT MCTC SHANGLA.

Case No. 53/3 of 2019  
 FIR No. 379 dated 26.10.2019 u/s 2-B CNSA P.S Besham.

Title: The State ... Versus ... Banaras Khan


<p>10</p> 	<p>11.02.2020</p>	<p>admitted that he has not recorded the statements of eyewitnesses on spot. Pw3/I.O further stated that he has not mentioned any private witness in site plan. Pw3/I.O has also admitted that private witness were not called to spot and he has recorded his statements in PS. Thus impartial witnesses despite their availability have not been examined for the reasons best known to prosecution.</p> <p>Pw1 has also admitted that he has not mentioned the color and shape of charas in the recovery memo and Murasila. Pw3/I.O has admitted that he has not weighed the recovered charas. Pw3/I.O has also stated that he has not examined the recovered charas himself. Pw3/I.O has admitted that there is no confession on part of accused. Pw3/I.O has also admitted that accused is not a previous convict.</p> <p>Safe custody of the alleged recovered contraband as well as the safe transmission of the sample to the Laboratory Chemical Examiner had also not been established by the prosecution. The period from the date of occurrence i.e. 26.10.2019,</p> <p><i>[Signature]</i>      11/2/2020</p>
---	-------------------	---

FORM-A  
FORM OF ORDER SHEET

IN THE COURT OF HAYAT GUL MOHMAND SESSIONS JUDGE/ JUDGE SPECIAL  
COURT MCTC SHANGLA.

Case No. 53/3 of 2019  
FIR No. 379 dated 26.10.2019 u/s 9-B CNSA P.S Besham.


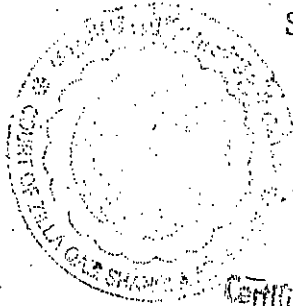
Title: The State ... Versus ... Banaras Khan

<p>10</p> 	<p>11.02.2020</p>	<p>date of sending and receipt of the samples to FSL has remained unexplained. The constable Akhtar Hussain who took sample to FSL has not been examined but was abandoned by prosecution.</p> <p>Prosecution has not been able to establish the most crucial link of the chain of the prosecution's case with regard to safe custody of samples or its safe transmission to the office of Chemical Examiner without the same being tampered with or replaced while in transit. Reliance is placed on case titled "Ikram Ullah and others ...VS... The State (2015 SCMR 1002).</p> <p>In view of the above, there is no probability of conviction of the accused, even if further evidence is recorded in the present case. Further proceeding would be mere wastage of precious time of the court and would yield no useful result.</p> <p>Therefore, by accepting application u/s 494 Cr. PC accused facing trial namely Banaras Khan s/o Sher Din r/o Malak Din Dawlat Kheil District Khyber Agency is acquitted from the charges. Accused is on bail, his bail bonds stand</p> <p><i>[Signature]</i> 11/2/2020</p>
---	-------------------	--

**FORM-A**  
**FORM OF ORDER SHEET**  
**IN THE COURT OF HAYAT GUL MOHMAND SESSIONS JUDGE/JUDGE SPECIAL**  
**COURT MCTC SHANGLA.**

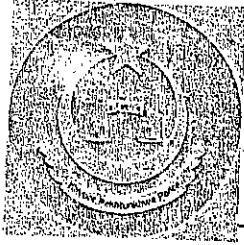
Case No. 53/3 of 2019  
FIR No. 379 dated 26.10.2019 u/s 9-B CNSA P.S Besham.

Title: The State ... Versus ... Banaras Khan

<p align="center">10</p>  <p><i>77</i></p> <p>Date of Presentation of Application: <i>14.2.2020</i></p> <p>Date on which copy prepared: <i>15.2.2020</i></p> <p>No. of Pages: <i>62</i></p> <p>Urgent or not: <i>Urgent</i></p> <p>Name of Applicant: <i>Banaras Khan</i></p> <p>Signature: <i>[Signature]</i></p> <p>Date of Issue: <i>15.2.2020</i></p>	<p align="center">11.02.2020</p>	<p>cancelled and sureties stand discharged from liabilities of bail bonds. Case property i.e. chars be destroyed after expiry of period of appeal/revision. File be consigned to Sessions Record Room after necessary completion and compilation.</p> <p>Announced: 11.02.2020</p> <p align="right"><i>[Signature]</i> (Hayat Gul Mohmand) SJ/JSC, MCTC Shangla</p>  <p align="center">Certified to be True Copy</p> <p align="center">EXAMINER District &amp; Sessions Judge SHANGLA</p> <p align="right"><i>15/02/20</i></p>
--	----------------------------------	---

ANNEX C

(18) Averted  
AKT



OFFICE OF THE  
REGIONAL POLICE OFFICER, MALAKAND

SAIDU SHARIF SWAT.

Pl: 0946-9240381-88 & Fax No. 0946-9240390

Email: digmalakand@yahoo.com

Muhammad Arif Jan Afridi  
Advocate High Court  
Mob: 0333-8807676

ORDER:

This order will dispose off appeal of Ex-Constable Banaras Khan No. 3378 (Ex-Serviceman) of Shangla District for reinstatement in service.

Brief facts of the case are that Ex-serviceman Constable Banaras No. 3378 of Shangla District Police was found involved in case FIR No. 379 dated 26/10/2019 u/s 9B-CNSA Police Station Besham and sent to judicial lockup. He was issued Show Cause Notice No. 5548/E, dated 30/12/2019. But reply to the Show Cause Notice was found unsatisfactory, therefore, proper departmental enquiry was initiated and Charge Sheet No. 203 dated 15/11/2019, coupled with statement of allegation issued to the appellant and DSP Hqrs. Shangla appointed as Enquiry Officer. After proper departmental inquiry, the Enquiry Officer recommended the appellant for major punishment. Inquiry file of the appellant and finding report of the Enquiry Officer was perused by DPO Shangla and found purely on merit. Therefore, the DPO Shangla as a competent authority awarded him major punishment of dismissal from service vide OB No. 133 dated 10/12/2019. ✓

He was called in Orderly Room on 18/02/2020 and heard him in person. Enquiry conducted by the DSP Hqrs Shangla was thoroughly perused and found that the charges against the appellant have been proved. Being a Police Officer he was required to prevent crimes rather than to spread evil in the society. His this kind of act has affecting the discipline of Police Department. Therefore, his appeal for reinstatement in service is hereby filed.

Order announced.

No. 2133 /E,

Dated 20/02 /2020.

Regional Police Officer,  
Malakand Region, Saidu Sharif Swat  
\*Naq\*

Copy of above for information and necessary action to District Police Officer, Shangla with reference to his office Memo: No. 275/E, dated 07/01/2020. Enquiry file of the above named Ex-Serviceman is returned herewith for record in your office.

\*\*\*\*\*

خدمت خیاب DIG صاحب دارالافتاء دہلی کے نام سے درخواست

اپیل سے خیاب خیاب سے خانہ وکریہ

دولتس کا سبیل منع سناؤنگہ لہذا درخواست کی ہے کہ وہ

133/E-110-88 کو 19-12-18 جاری کردہ OPO صاحب

سناؤنگہ جس میں وہ سے سناؤنگہ کی سناؤنگہ کی سناؤنگہ کی

میں سے سناؤنگہ کی سناؤنگہ کی سناؤنگہ کی

خیاب - عالی

درخواست (اپیل) پر عمل کرنا

1) یہ کہ میں اپیل سے منع سناؤنگہ میں جس میں دولتس کا سبیل سناؤنگہ

2) یہ کہ OPO صاحب سے سناؤنگہ کی سناؤنگہ کی سناؤنگہ کی

3) یہ کہ وہ سے سناؤنگہ کی سناؤنگہ کی سناؤنگہ کی

4) یہ کہ وہ سے سناؤنگہ کی سناؤنگہ کی سناؤنگہ کی

5) یہ کہ وہ سے سناؤنگہ کی سناؤنگہ کی سناؤنگہ کی

6) یہ کہ وہ سے سناؤنگہ کی سناؤنگہ کی سناؤنگہ کی

7) یہ کہ وہ سے سناؤنگہ کی سناؤنگہ کی سناؤنگہ کی

8) یہ کہ وہ سے سناؤنگہ کی سناؤنگہ کی سناؤنگہ کی

9) یہ کہ وہ سے سناؤنگہ کی سناؤنگہ کی سناؤنگہ کی

10) یہ کہ وہ سے سناؤنگہ کی سناؤنگہ کی سناؤنگہ کی

11) یہ کہ وہ سے سناؤنگہ کی سناؤنگہ کی سناؤنگہ کی

12) یہ کہ وہ سے سناؤنگہ کی سناؤنگہ کی سناؤنگہ کی

13) یہ کہ وہ سے سناؤنگہ کی سناؤنگہ کی سناؤنگہ کی

14) یہ کہ وہ سے سناؤنگہ کی سناؤنگہ کی سناؤنگہ کی

15) یہ کہ وہ سے سناؤنگہ کی سناؤنگہ کی سناؤنگہ کی

(جاری)

۵) یہاں میں سائیل کو پھر مافوق حود پر عذر دیتے ہوئے یہاں سے  
تھانیا گیا بیوی اور میں میں سائیل / اپیلانٹ نے وہ دے تا وقت وہ باہر  
اپنی ہی کا حقہ بیوی سے۔

بیان حلی

مذکورہ بیان کیا جا چکا ہے کہ  
جسٹس نے یہاں سے اپیل کیا  
تا کہ علیہ، بیوی سے  
میں سے اور سے

الم  
بیان میں حلی

مخبرات بالا اسد علیہ کے نتیجہ دہری ایویک  
نہاں میں سائیل کو خط لکھ کر لکھیں میں سے  
میں بیوی کا سائیل دو بارہ لکھتا کرتے  
کا حکم صادر فرمایا جائے۔

BA

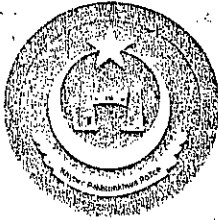
سائیل / اپیلانٹ بیان میں حلی و لکھیں  
میں سے باہر سے بیوی سے

۲۵ ۱۲ ۱۹

ANNEX D Arrested

(21)

AAJot



Ph#: 0996-850015

Fax#: 0996-850002

Email: [dposhnagla@yahoo.com](mailto:dposhnagla@yahoo.com)

OFFICE OF THE DISTRICT POLICE OFFICER SHANGLA

Muhammad Arif Jan Afridi

Advocate High Court

Mob: 0333-8807676

ORDER

This consolidate order relates to dispose-off; departmental enquiries initiated against Ex Serviceman Banaras Khan No. 3378 of this district. The allegation against the delinquent official is that; he was found involve in case vide FIR No. 379 dated 26.10.2019 u/s 9-B CNSA Police Station Bisham. After proper departmental inquiry into the matter, the Inquiry Officer Mr. Nasib Shah DSP Headquarter Shangla recommended the delinquent official for Major Punishment. The inquiry file of the delinquent official perused and Finding Report of the I.O vide his office letter No. 552/Reader dated 06.12.2019 which was found purely on merit.

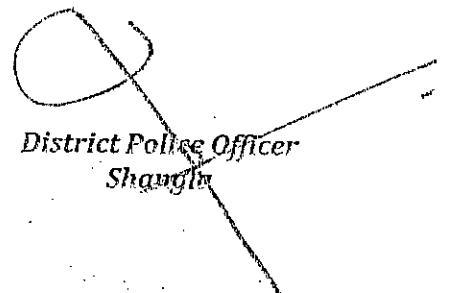
Therefore, I Malik Ahjaz District Police Officer Shangla as a competent authority, award to the delinquent official i.e, Ex Serviceman Banaras Khan No. 3378 as major punishment i.e, dismissal from Service with immediate effect.

Order Announced

10.12.2019

OB No. 133 /E

Dated: 10 / 12 / 2019

  
District Police Officer  
Shangla



8

ANNEX

E

(22)

Attested  
 Muhammad Ali Jan Afridi  
 Advocate High Court  
 Mob: 0333-8807676

NO. 203 /E,


Dated 15-11 /2019

**CHARGE SHEET**

I **Malik Ahjaz**, District Police Officer, Shangla as competent authority, hereby charged you **EX Serviceman Constable Banaras Khan No.3778** while posted to **Police Station Besham** as follow;-

You EX Serviceman Constable Banaras Khan No.3778 while posted to Police Station Besham Shangla, found involved in Case FIR No.379 u/s 9 B (CNSA) dated 26 .10.2019 Police Station Besham and recovered 910 gram Chars: Your this act led to gross misconduct and also anti social act which badly impact the moral and reputation of Police department in front of general public. It is therefore, your this act leads to gross negligence/misconduct, lack interest in official duty on your part, which renders you liable to be proceeded against departmentally

1. By reasons of the above, you appear to be guilty of misconduct and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Disciplinary Rules, 1975.
2. Therefore, require to submit your written reply within **07 days** of the receipt of this Charge Sheet to the Enquiry Officer.
3. Your written reply, if any, should reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall follow against you.
4. Intimate as to whether you desire to be heard in person or not?
5. A statement of allegations is enclosed.

  
 (Malik Ahjaz)  
 District Police Officer,  
 Shangla

ANNEX

F

(23)

Attested

Muhammad Afzal Afridi  
Advocate High Court  
Mob: 0333-8807676

### DISCIPLINARY ACTION

I Malik Ahjaz, District Police Officer, Shangla as competent authority, is of the opinion that EX Serviceman Constable Banaras Khan No.3778 while posted at Police Station Besham Shangla have rendered himself liable to be proceeded against departmentally as he is committed the following acts/omission as defined in Rule-2 (iii) of Police Rules 1975.

### STATEMENT OF ALLEGATIONS

1. You EX Serviceman Constable Banaras Khan No.3778 while posted to Police Station Besham Shangla, found involved in Case FIR No.379 u/s 9 B (CNSA) dated 26 .10.2019 Police Station Besham and recovered 910 gram Chars: Your this act led to gross misconduct and also anti social act which badly impact the moral and reputation of Police department in front of general public. It is therefore, your this act leads to gross negligence/misconduct, lack interest in official duty on your part, which renders you liable to be proceeded against departmentally
2. For the purpose of scrutinizing the conduct of said official with reference to the above allegations, Mr. Nasib Shah DSP OHrs Shangla has been appointed to conduct proper departmental enquiry.
3. The Enquiry Officer shall conduct proceedings in accordance with the provision of Police Rules 1975 and shall provide reasonable opportunity of defense and hearing to the defaulter Official, record its findings and make within twenty five (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the defaulter Official.
4. The defaulter Official shall join the proceeding on the date, time and place fixed by the Enquiry Officer.

(Malik Ahjaz)  
District Police Officer,  
Shangla

### OFFICE OF THE DISTRICT POLICE OFFICER, SHANGLA

No. 5945-46 /E, Dated Alpuri the 15 / 11 /2019  
Copy of above is sent to:

1. The Enquiry Officers, for initiating proceeding against the defaulter Official under Police Rules, 1975.
2. Concerned defaulter Official.

(Malik Ahjaz)  
District Police Officer,  
Shangla

AMEEX - (7)

(24)

Admitted

OFFICE OF THE DISTRICT POLICE OFFICER, SHANGLA AT ALPURI

No. 5548

Dated: 30 / 10 / 2019

Muhammad Arif Jan Afridi  
Advocate High Court  
Mob: 0333-8807676

SHOW CAUSE NOTICE

I Malik Ahjaz District Police Officer, Shangla, being a competent authority under Khyber Pakhtunkhwa Government Servant (E&D) Rules 2011 do hereby serve you Ex Serviceman Banaras Khan No. 37789 as follow:-

You EX Serviceman Constable Banaras Khan 3778 while posted at Police Station Besham found involved in Case FIR No. 379 u/s 9 B (CNSA) dated 26.10.2019 Police Station Besham and recovered 910 grm Chars. Your this act led to gross misconduct and also anti social act which badly impact the moral and reputation of police department in front of general public. It is, therefore, rendered you liable to be proceeded against departmentally under Khyber Pakhtunkhwa, Government Service (Efficiency and Discipline) Rules 2011.

- i) As a result thereof, I Malik Ahjaz District police Officer, Shangla as a competent authority, have tentatively decided to impose upon you one or more penalties as specified in Rule-4 of the Ibid Rule.
- ii) You are thereof, required to show cause as to why the aforesaid penalties should not be imposed upon you also intimate where you desire to be heard in person.
- iii) If no reply to this notice is received within seven (7) Days or not more than Fifteen days of its deliver, it shall be presumed that you have no defense and that case ex-parte action shall be taken against you.

(Malik Ahjaz)  
District Police Officer  
Shangla

Copy to concerned defaulter official.

Allestead  
ANNEX

Muhammad Arif Jan Afridi  
Advocate High Court  
Mob: 0333-8807676

فائنڈنگ رپورٹ

Muhammad Arif Jan Afridi  
Advocate High Court  
Mob: 0333-8807676

جناب عالی!

25

بحوالہ مشمولہ چارج شیٹ نمبری 46/E-5945-15-11-2019 محررہ 15-11-2019 مجاریہ جناب ڈی پی او صاحب ضلع شانگلہ برخلاف کنسٹیبل بنارس خان 3778/EX متعینہ تھانہ بشام حال پولیس لائن!

خاصہ چارج شیٹ:

چارج شیٹ نمبری بالا میں کنسٹیبل بنارس پر الزام ہے کہ تم تھانہ بشام میں بحیثیت ایکس سروس میں متعین تھے۔ بحوالہ مقدمہ علت نمبر 379 محررہ 26-10-2019 مجرم 9BCNSA تھانہ بشام میں بلوٹ ہو کر دوران تلاشی 910 گرام چرس تم سے برآمد ہوئی۔ تمہارا یہ فعل خلاف ڈسپلن، معاشرتی اقدار کے منافی اور محکمہ پولیس کیلئے بدنامی، مورال اور وقار کو نقصان پہنچایا ہے۔ جو کہ عوام الناس کے نگاہوں میں محکمہ کی بدنامی کا باعث بنا۔ تمہارا یہ فعل غفلت اور لاپرواہی کے زمرے میں آتا ہے جس کی پاداش میں مذکورہ کنسٹیبل کیخلاف چارج شیٹ متذکرہ جاری ہو کر من زبردستی کو انکوائری ایفیسر مقرر فرمایا۔ اندر میں بارہ انکوائری شروع کر کے ذیل متعلقین انکوائری کے بیانات قلم بند کئے گئے۔

1۔ SHO تھانہ بشام نے اپنے بیان میں واضح کیا کہ کنسٹیبل بنارس خان روٹین کے بچت پر گیا تھا۔ بروقت واپس نہ آنے پر بحوالہ مد 29 روز نامہ 23-10-2019 کو تھانہ بشام میں غیر حاضر ہوا۔ محررہ 26-10-2019 کو گشت پر موجود تھا اطلاع ملی کہ کنسٹیبل بنارس خان EX جانب الپوری سے موٹر کار نمبر 6604 میں سوار ہے اور بشام آ رہا ہے اور اسکے ساتھ وافر مقدار میں چرس موجود ہے۔ اطلاع کے پیش نظر وہ ہمراہ دیگر نفری پولیس بمقام سادین ناکہ بندی کی تو جانب الپوری سے وہی گاڑی آ کر بذریعہ اشارہ روکوا گیا۔ جس کی ڈرائیونگ مسخی عبداللہ ولد بخت مند کر رہا تھا۔ پھیلی سیٹ میں سوار شخص جس کا نام فضل غنی ولد بسم اللہ جان بتلایا۔ جب کہ فرنٹ سیٹ میں بیٹھے ہوئے شخص بنارس خان EX کی گود میں پڑا ہوا بیگ جس پر بنارس خان 3778 تحریر تھا۔ بیگ معہ بنارس خان کو گاڑی سے اتار کر بیگ کی تلاشی سے 02 جوڑے ایڈیشنل وردی اور بندول ویئر بلیک کلر برآمد ہو کر بندول ویئر کی تلاشی سے چرس پلاسٹک تھیلی میں برآمد ہو کر بر موقع وزن کر کے 910 گرام نکلی۔ چرس میں سے 10 گرام بندبہ پارسل نمبر (1) جبکہ بقیہ 900 گرام، دو جوڑے ایڈیشنل وردی، بندول ویئر اور بیگ بندبہ پارسل نمبر (2) قبضہ پولیس میں بروئے فرد لے کر بر موقع تکمیل کی۔ ملزم بنارس خان کے خلاف مراسلہ مجرم 9BCNSA ض ف تحریر میں لاکر جس پر مقدمہ علت نمبر 379 تھانہ بشام درج رجسٹر ہوا۔

2۔ Oii سربالی خان SI نے بیان کیا کہ ایس ایچ او حبیب سید نے برخلاف بنارس خان EX مراسلہ ارسال تھانہ کیا۔ مراسلہ پر مقدمہ علت نمبر 379 محررہ 26-10-2019 مجرم 9BCNSA تھانہ بشام درج رجسٹر ہو کر اسے بغرض تفتیش حوالہ کی۔ گواہان فرد کے بیانات زبردفعہ 161 ض ف قلم بند کیئے۔ ایس ایچ او صاحب کے نشاندہی پر نقشہ موقع بلاسکیل مرتب کیا۔ ملزم کے حق میں ایک یوم حراست پولیس حاصل کر کے انٹارویوٹ کیا۔ دوران انٹارویوٹ ملزم نے جرم خود سے اقراری ہوا۔ بعدہ بذریعہ تحریری درخواست برائے قلم بندی بیان 364/164 ض ف عدالت میں پیش کیا۔ ملزم مذکورہ عدالت میں جرم خود سے منحرف ہو کر جوڈیشل حوالات بھیجوانے کا حکم عدالت نے سنایا۔

3۔ MASI محمد حسین محرر تھانہ بشام نے بیان کیا کہ ایکس سروس میں بنارس خان شب باشی پر تھا۔ بروقت واپس حاضر نہیں آیا جس کے خلاف بحوالہ مد 29 روز نامہ 23-10-2019 سے غیر حاضر ہو کر محررہ 26-10-2019 کو ایس ایچ او صاحب نے مذکورہ سے دوران ناکہ بندی بمقام سادین چرس برآمد کر کے جس کے خلاف بحوالہ مقدمہ علت نمبر 379 درج رجسٹر کیا گیا۔



4۔ FC پردول خان نمبر 124 خان نے بیان کیا کہ وہ ایس ایچ او صاحب کے ساتھ گشت انا کہ بندی پر موجود تھا کہ اسی دوران موٹر کار نمبری 6604 آیا جس کی تلاشی حسب ضابطہ شروع کر کے دوران تلاشی فرنٹ سیٹ پر بیٹھا ہوا شخص بنارس خان موجود تھا جس کے گود میں پڑا ہوا بیگ معہ بنارس خان گاڑی سے اتار کر جس کی تلاشی ایس ایچ او صاحب نے عمل میں لائی۔ بیک میں دو جوڑے وردی ایڈیشنل، ایک عدد بندول ویئر کی تلاشی سے چرس برآمد ہوئی۔ وزن کرنے پر 910 گرام نکلی۔ اسی طرح کنسٹیبل نجیب اللہ نمبر 1574، کنسٹیبل الطاف حسین نمبر 988 نے کنسٹیبل پردول خان نمبر 124 کی بیان کی تائیدی کی۔

بیان ازان کسٹیل نارنس کے متعلقہ نوٹس لائن ضلع سائیکل

بدریافت انکوائری بیان کرتا ہے کہ میں مورخہ 14<sup>10</sup>/<sub>019</sub> حسب روٹین پخت پر  
گھر ضلع پشاور گیا تھا۔ مورخہ 26<sup>10</sup>/<sub>019</sub> کو گھر سے اپنے جائے تعیناتی مقامہ لہٹام  
آ رہا تھا جب مقامہ سادین موٹر لہٹام پہنچا تو وہاں پر SHC حبیب سید اور اس کے  
سابقہ گھر موقوف تھے۔ اس نے گاڑی موٹر کار گھرا کر کے گاڑی میں تین بڈے اور تھے  
اس نے ہمیں گاڑی سے اتار کر ان کا تلاشی لیا۔ پھر میری تلاشی لی۔ میرے علاوہ  
کسان کو رخصت کیا جبکہ مجھے اپنے سابقہ موبائیل میں بٹھا کر اپنے رہائشی کوارٹر  
لے گیا۔ رہائشی کوارٹر میں پھر میرا اور میری بیگ کی تلاشی کی بعد اپنی ذاتی  
چوس نکال کر مجھے کہا کہ اب تم سابقہ چوس سے میں نے لاعلمی ظاہر کی لیکن  
انکھوں نے میری بات نہیں مانی اور میرے خلاف مقدمہ درج رجسٹر کیا۔ چونکہ  
اس سے قبل SHC مذکورہ کے سابقہ مقامہ الپوری کے حدود چوکی سلوٹی او  
بورڈ میں تعینات رہ چکا ہوں۔ پہلے سے اس کا میرے سابقہ نالگی ہے۔ میرے خلاف  
لگائے گئے الزامات بے بنیاد ہیں۔ مذکورہ SHC نے میرے خلاف جعلی مقدمہ درج  
رجسٹر کیا۔ اسدعا ہے کہ میرے خلاف انکوائری بلا مزید کارروائی غائب فرما  
جائے تو سائن دعا کو دیے گا۔ ایسی میرا بیان ہے جو کہ درست ہے۔

*Arif Jan Afridi*  
3778  
EX کسٹیل نارنس

*Attested*  
*Muhammad*  
Dsp/HCO

قیمت 50 روپے	45539	  
ایڈوکیٹ: قمر نزل کیم آف پیروی بار کونسل ایسوسی ایشن نمبر: BC-10-7566 رابطہ نمبر: 03005968070-		
<b>پشاور بار ایسوسی ایشن، خیبر پختونخواہ</b>		

بعدالت جناب: سرسرس ٹریبیونل خیبر پختونخواہ، پشاور

مخاطب: ایپلنٹ	دعویٰ: سرسرس ایپل
بنام	علت نمبر:
سرسرس ٹریبیونل آف پولیس	موضوع:
وغیرہ	جرم:
	تھانہ:

**باعت تحریر آتھ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ  
 آن مقام پشاور سرسرس ٹریبیونل خیبر پختونخواہ قمر نزل کیم آف پیروی ریسٹراز جنرل ریاض کورڈیل مقرر  
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو  
 راضی نامہ کرنے و تقرر 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 یکطرفہ 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  
 کاروائی 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 اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا  
 دوران مقدمہ میں جو خرچہ ہر جانبہ 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 سند رہے

المرقوم: 9/6/2020

المقام: گواہ شد العبد

مقام کے لیے منظور ہے۔

Accepted  
 Accepted

رسول - ایپلنٹ  
 بنام سرسرس خان

BAZ

نوٹ: اس وکالت نامہ کی فونو کاپی قابل قبول ہوگی۔

Attested  
 &  
 Accepted

Hadeen



**KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL, PESHAWAR**

No. 2478 /ST

Dated: 14/12 /2021

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

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


To

The Superintendent of Police, (D.P.O) Shangla, Head Office,  
Government of Khyber Pakhtunkhwa,  
Alpuri.

Subject: JUDGMENT IN APPEAL NO. 6270/2020, MR. BANARAS KHAN.

I am directed to forward herewith a certified copy of Judgement dated 24.11.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service appeal No. 6270/2020

Mr. Banaras Khan (Ex Serviceman)..... (Applicant)

**VERSUS**

Inspector General of police KPK Peshawar and others.... (Respondents)

**INDEX**

<b>S NO.</b>	<b>DESCRIPTION</b>	<b>ANNEXURE</b>	<b>PAGE NO.</b>
1	Para wise comments	-	1-2
2	Copy of DD No. 29 dated 23.10.2019 Ps Besham	A	03
3	Copy of FIR No 37 dated 26.10.2019 Ps Besham	B	04
4	Copy of order No. 2133/E dated 20.2.2020 Passed by RPO Malakand	C	05
5	Copy of Suspension order OB No. 112 dated 29.10.2019	D	06
6	Copy of Show cause Notice No. 5548/E dated 30.10.2019	E	07
7	Copy of Reply Show Cause Notice No	F	08
8	Copy of Charge Sheet No.203/E dated 15.11.2019	G	09
9	Copy of Disciplinary action No 5945-46/E dated 15.11.2019	H	10
10	Copy of Enquiry Finding Report	I	11-12
11	Copy of Dismissal Order No. 133/E dated 10.12.2019	J	13
12	Affidavit	-	14
13	Authority letter	-	15
<b>Total Pages</b>			<b>15</b>

**DEPONENT**



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

Service Appeal No. 6270/2020

Mr. Banaras Khan (Ex  
Serviceman)..... (Applicant)

**VERSUS**

Inspector General of police KPK Peshawar and others .....(Respondents)

**SUBJECT: PARA-WISE COMMENTS BY RESPONDENTS**

Respectfully Sheweth:

**PRELIMINARY OBJECTIONS:**

1. That the Honorable Tribunal has no jurisdiction to entertain the appeal as the appellant was not Civil Servant.
2. The applicant has got no course of action to file the present appeal.
3. The conducts of appellant preclude the appellant to file the present appeal.
4. That the appellant has not come to this Honorable Tribunal with clean hands.
5. That the appellant has been estopped by his own conduct to file instant appeal.
6. That the appeal is bad for misjoinder and non-joinders of necessary parties.
7. That the appeal is barred by law & limitations.

**OBJECTIONS ON FACTS:**

1. Incorrect, appellant was appointed as Constable in Police Department on contract basis and was not Civil Servant under the rules.
2. Relates to record during employment his performance was not up to the mark, hence no comments.
3. Incorrect, The appellant absented himself from duty vide D.D No. 29 dated 23.10.2019, he was involved in smuggling of Narcotics (Chars), On 26.10.2019 at Nakabandi point Sadeen Besham, he was caught red-handed and recovered 910 Gram Chars from his possession, consequently a case vide FIR No. 379 dated 26.10.2020 u/s 9BCNSA was registered against appellant at Police Station Besham. Furthermore, acquittal from criminal charges does not exonerate appellant from departmental proceedings/inquiry.(Copy of DD Report and FIR is annex: "A and B").
4. That the appellant was called in orderly room on 18.12.2019 heard him in person by the Regional Police Officer, Malakand. He was given ample opportunity to defend himself however, he failed to produce any cogent reason. Therefore, his appeal for re-instatement in service was rejected by the Regional Police Officer Malakand (Copy of the order enclosed as annexure "C").
5. Incorrect. Appellant was found involved in case FIR No. 379 u/s 9BCNSA dated 26.10.2019 PS Besham. He was suspended vide OB No. 112 dated 29.10.2019, Served show cause notice No. 5548/E dated 30.10.2019 as per report of OII PS Besham. Respondent No. 1 Charged Sheeted Vide No. 203/E dated 15.11.2019 disciplinary action Vide No. 5945-46/E dated 15.11.2019 for purpose of scrutinizing the conduct of applicant with reference to allegation. Mr. Naseeb Shah the then DSP/Head Quarters Shangla was appointed as inquiry officer to conduct proper departmental enquiry. The inquiry officer recommended the appellant for major punishment, & he was terminated/dismissed from contract service Vide OB No. 133/E dated 10.12.2019, (Copy of Suspend Order/Show cause notice/Reply/Charge Sheet/Enquiry/Dismissal Order are enclosed as annexure "D, E, F, G,H,I,& J").
6. That the appellant was called in orderly room on 18.12.2019 in the office of Regional Police Officer Malakand, heard in person and the inquiry conducted by DSP/HQ Shangla was thoroughly perused. The charges leveled against the appellant have been proved

bound to stop/prevent Narcotics from the area, however he himself was involved in Narcotics smuggling. This act of appellant costs bad impact on other Police Officials. Therefore, his re-instatement in police force was detrimental to the interest of Police Department. Therefore, his appeal was rejected on above cogent reasons.

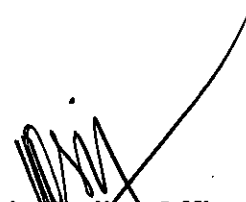
7. The appeal is not maintainable under the law/rules and wrongly challenged the legal and valid orders of respondents through unsound grounds.

**ON GROUND**


- (A) **Incorrect**, the Order is based on facts legal and in accordance with law/rules. Therefore, tenable in eye of law.
- (B) **Incorrect**, the applicant has committed moral turpitude offence during official duty. He was terminated/dismissed from after observing all codal formalities under the rules.
- (C) **Incorrect**, Proper Departmental inquiry was initiated against the appellant by giving him right of self defence and personal hearing.
- (D) **Incorrect**, charges leveled against appellant is proved in departmental proceeding and he was found guilty therefore, he was dismissed/terminated from contract service.
- (E) **Incorrect**, the appellant is retired from Paramilitary Force, being contract employee with KP Police and there is no benefits allowed for contract employees after retirement in Police Department. He can not claim contract service as regular service under the rules/policy.
- (F) That the respondents may also be allowed to agitate any other additional grounds at the time of hearing.

**PRAYER:**

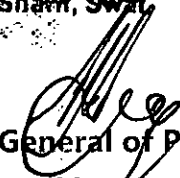
Keeping in view the above stated facts it is humbly prayed that the service appeal of the appellant being not maintainable under rules may kindly be rejected will costs, please.

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

**District Police Officer,**  
**SHANGLA.**

  
**Deputy Inspector General of Police**  
**Malakand at Saidu Sharif, Swat**  
**(Respondent No. 2)**

**Regional Police Officer,**  
**Malakand Region,**  
**Saidu Sharif, Swat.**

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

مطلعہ

تاریخ

تفہیمہ 29 روزنامہ 23<sup>10</sup>/019

29 رپورٹ غیر طوری SHO/INSP وقت 17:30 بجے روز 23<sup>10</sup>/019 درج ہے اس وقت تک لان  
 ابراہیم نے ایچ 60 کے کرائم نمبر 3491 پر درج نمبر 3625 سے ایچ 60 نمبر 3778 سے کرایہ ڈیوٹی کیے طلب کیا گیا۔ لیکن  
 گنہگار ٹیکو کی لان مارکیٹ لان میں موجود ہے کیا سرپرست ٹیکو کی لان رخ لان رپورٹ  
 غیر طوری درج روزنامہ ہو کر اور فضل بیانات کیے گئے۔ نقل میں دیگر اہمیت ہو کر فرض مناسب  
 کارروائی آفس میں بالائی وقت میں ہوگی

انصاف

نقل مطابق اصل دست 2

Musarrat  
 mm ps Bestam  
 26/11/019

ابتدائی اطلاعی رپورٹ

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

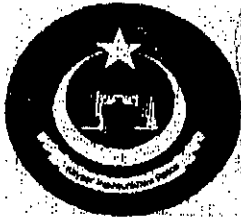
بشام

حالت 379

ضلع شانتالہ  
تاریخ وقت وقوع 26/10/19 وقت 19:20 بجے

تاریخ وقت رپورٹ 26/10/19 وقت 20:20 بجے	چالیدگی برسر 26/10/19 وقت 20:30 بجے
نام و سکونت اطلاع دہندہ مستفیث	1) نام جمیل سید خان ولدیت باچا سید خان کونٹ کوٹہ ای سوات
	موبائل نمبر 0333 9476913
	NIC.NO- 15602-2844511-5
مختصر کیفیت جرم (معدومہ) حال اگر کچھ لیا گیا ہو۔	9.BCNSA
جائے وقوعہ فاصلہ تھانہ سے اور سمت بمقام سادین بسٹا 3.1km	جانب شمال از تھانہ
5) نام و سکونت ملزم	1) نام بنارس خان ولدیت شیردین کونٹ خیل جسر انجینی
	CNIC نمبر 21201-0595340-7 موبائل نمبر 03058523823
	2) نام _____ ولدیت _____ کونٹ _____
	CNIC نمبر _____ موبائل نمبر _____
	3) نام _____ ولدیت _____ کونٹ _____
	CNIC نمبر _____ موبائل نمبر _____
6) کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو	برسیدگی تحریری واسلہ پر مقدمہ قائم کیا گیا۔
7) تھانہ سے روانگی کی تاریخ و وقت	بہ سبیل ڈاک

ابتدائی اطلاع نیچے درج کرو۔ اس وقت ایک تحریری واسلہ بجانب مستفیث مندرجہ خانہ جہ بدست نیشنل الطاف حسین 988 وصول ہو کر متن زیل ہے۔ لجزبت اضرا اخبار جہ خانہ دوران کو مائل گنتہ اطلاع مایہ شخص مذکورہ بالا حوشر کار نمبری 6604 برنگ سفید میں جانب الہوری سے برطرف بشام آ رہا ہے۔ جس کیساتھ بیگ میں وافر مقدار میں چرس موجود ہے۔ اطلاع کے پیش نظر ملزم تقری پولیس بمقام سادین میں ناگہ بندی کر کے دوران نامہ بندی بوقت بمقام بالا متذکرہ حوشر کار جانب الہوری سے آکر نیشنل پردل خان 124 نے اکوایا۔ حوشر کار نمبری ڈر شوٹنگ عبداللہ ولدیت مند سکنتہ کونٹہ کر رہا تھا۔ جبکہ فرنٹ سیٹ میں بیٹھا ہوا شخص املزم جس نے اپنا نام پستہ بالا بتلایا جبکہ پچھلے سیٹ میں بیٹھا ہوا شخص جس نے اپنا نام، پستہ معنی ولد بسم اللہ جان سکنتہ کونٹہ بتلایا حوشر کار کی فرنٹ سیٹ میں بیٹھا ہوا شخص املزم کے گود میں پڑا ہوا بیگ جس پر بنارس خان 3778 شناختہ تحریر ہے۔ ملزم بالا بیگ کیساتھ بیچ اتار کر بیگ کی تالاشی سے دو جوڑے کپڑے ایڈیشنل وردی بند کونز بلیک ملر موجود ہیں۔ بند کونز کی تالاشی سے چرس برآمد ہو جس کو بر وقت بذریعہ ڈیٹیل ترازو وزن کر کے مع بلاسٹک تعیمی کل 910 گرام شکل من جملہ چرس میں سے 10 گرام چرس برائے تجزیہ سائے بند بر پارسل نہ ایک 400 گرام چرس دو جوڑے ایڈیشنل وردی بیگ بند بر پارسل نہ چہ سز مہر کیسی جملہ چرس، کپڑے ایڈیشنل وردی ملزم بالا نے اپنی ملکیت بیان کی۔ جملہ اشیاء بروا فرد قف پولیس میں کیسی ملزم بالا کو رتک جرم بالا کا حکم ضابطہ گرفتار کیا گیا واسلہ ضبط تحریر میں لاکر بغرض قائمی مقدمہ بدست نیشنل الطاف حسین 988 ارسال تھانہ ہے شعبہ تفتیش کو ماحور تفتیش کیا جائے دستوراً انگہ برزی جمیل سید خان SHO تھانہ بشام حوشر 26/10/19 کارروائی تھانہ پس آمدہ واسلہ حروف برحرف درج صدر ہو کر نقل پر چر مع امل در اسلہ بدست آمدہ کیشیل عقبہ شعبہ تفتیش سٹاف کو بغرض تفتیش بھیجوا یا جاتا ہے افسران بالا کو اطلاع دی جارہی ہے پر چر گزارش ہے



ANNEX: (C) (05)  
 9875  
 21/02  
 2020

OFFICE OF THE  
**REGIONAL POLICE OFFICER, MALAKAND**  
 SAIDU SHARIF SWAT.  
 Ph: 0946-9240381-88 & Fix No. 0946-9240390  
 Email: digmalakand@yahoo.com

**ORDER:**

This order will dispose off appeal of Ex-Constable Banaras Khan No. 3378 (Ex-Serviceman) of Shangla District for reinstatement in service.

Brief facts of the case are that Ex-serviceman Constable Banaras No. 3378 of Shangla District Police was found involved in case FIR No. 379 dated 26/10/2019 u/s 9B-CNSA Police Station Besham and sent to judicial lockup. He was issued Show Cause Notice No. 5548/E, dated 30/12/2019. But reply to the Show Cause Notice was found unsatisfactory, therefore, proper departmental enquiry was initiated and Charge Sheet No. 203 dated 15/11/2019 coupled with statement of allegation issued to the appellant and DSP Hqrs Shangla appointed as Enquiry Officer. After proper departmental inquiry, the Enquiry Officer recommended the appellant for major punishment. Inquiry file of the appellant and finding report of the Enquiry Officer was perused by DPO Shangla and found purely on merit. Therefore, the DPO Shangla as a competent authority awarded him major punishment of dismissal from service vide OB No. 133 dated 10/12/2019.

He was called in Orderly Room on 18/02/2020 and heard him in person. Enquiry conducted by the DSP Hqrs Shangla was thoroughly perused and found that the charges against the appellant have been proved. Being a Police Officer he was required to prevent crimes rather than to spread evil in the society. His this kind of act has affected the discipline of Police Department. Therefore, his appeal for reinstatement in service is hereby filed.

Order announced.

Regional Police Officer,  
 Malakand Region, Saidu Sharif Swat  
 "Naqi"

No. 2133 /E,

Dated 20/02 /2020.

Copy of above for information and necessary action to District Police Officer, Shangla with reference to his office Memo: No. 275/E, dated 07/01/2020. Enquiry file of the above named Ex-Serviceman is returned herewith for record in your office.

\*\*\*\*\*

9/0B/EC/OAG

For 21/02/2020

OB No. 24  
 21/02/2020

22/02/2020

Attested

ESTABLISHMENT CLERK  
 District Police Office  
 Shangla

Annex (B) (06)

**ORDER**

Ex Serviceman Banaras Khan No. 3778 posted to police station Besham hereby suspended and closed to police lines shangla due to involved in Case FIR N 379 u/s 9 B (CNSA) dated 26.10.2019 Police Station Besham with immediate effect.

~~District Police Officer,  
Shangla~~

OB. No 42  
Dated 29/10 /2019

Attested

*[Signature]*  
ESTABLISHMENT CLERK  
District Police Office  
Shangla.

ANNEX: (E) (07)

**OFFICE OF THE DISTRICT POLICE OFFICER, SHANGLA AT ALPURI**

No. 5548 /E

Dated: 30 / 10 /2019

**SHOW CAUSE NOTICE**

I Malik Ahjaz District Police Officer, Shangla, being a competent authority under Khyber Pakhtunkhwa Government Servant (E&D) Rules 2011 do hereby serve you. Ex Serviceman Banaras Khan No. 37789 as follow:-

You EX Serviceman Constable Banaras Khan 3778 while posted at Police Station Besham found involved in Case FIR No. 379 u/s 9 B (CNSA) dated 26.10.2019 Police Station Besham and recovered 910 grm Chars. Your this act led to gross misconduct and also anti social act which badly impact the moral and reputation of police department in front of general public. It is, therefore, rendered you liable to be proceeded against departmentally under Khyber Pakhtunkhwa Government Service (Efficiency and Discipline) Rules 2011.

- i) As a result thereof, I Malik Ahjaz District police Officer, Shangla as a competent authority, have tentatively decided to impose upon you one or more penalties as specified in Rule-4 of the Ibid Rule.
- ii) You are thereof, required to show cause as to why the aforesaid penalties should not be imposed upon you also intimate where you desire to be heard in person.
- iii) If no reply to this notice is received within seven (7) Days or not more than Fifteen days of its deliver, it shall be presumed that you have no defense and that case ex-parte action shall be taken against you.

(Malik Ahjaz)  
District Police Officer  
Shangla

Copy to concerned defaulter official.

مخبر انصار جنرل شوکت زکوی  
ضلع شگلہ سے 21 ستمبر 2019ء کو  
وصول ہوا

Attested

ESTABLISHMENT CLERK  
District Police Office  
Shangla.

Lt. A. Atteed

Assistant Superintendent  
Distt: Jall Jaffer Buner



BAS

BEFORE THE HONORABLE MALIK AHJAZ DISTRICT POLICE OFFICER SHANGLA.

**Response / Reply to show cause notice**

Respected Sir,

**In response to show cause notice issued by your honor, it is submitted,**

- 1) That being ex serviceman and serving in one frontier corps I have UN blemished record and r never found any kind of illegal activities.
- 2) That recently being posted at Besham Police Station, the behavior of local SHO was always hostile towards me because I did not obey the illegal orders of the said SHO.
- 3) That recently the SHO Besham has involved me in a criminal case FIR No. 379 dated 26.01.2019 Police Station Besham.
- 4) That nothing incriminating (narcotics) was recovered from my personal possession but the said narcotics was falsely and malafidely planted against me.
- 5) That I once again submit that I have never committed any offence and request your honor to discharge me from the charge leveled against me as well as departmental proceedings against me.
- 6) That I further submit that if you provide me opportunity of being heard ~~only~~ I can clarify my position before your honor.

*Banaras Khan*  
*[Signature]*

It is, therefore, requested that the departmental proceedings initiated against me may kindly be filed and necessary action as per law be taken against the delinquent SHO PS concerned.

Thanks and obliged

Yours obediently

*B.K.*  
*B.A.S*

Banaras Khan  
Bt. No. 3778

*W/ DPO SHANGLA*

*Sir,*  
*Reply of EX Banaras Khan*  
*for your kind perusal and*  
*further order, please*

*Attested*

**ESTABLISHMENT CLERK**  
District Police Office  
Shangla



ANNEX: (G) (09)

NO. 203 /E,

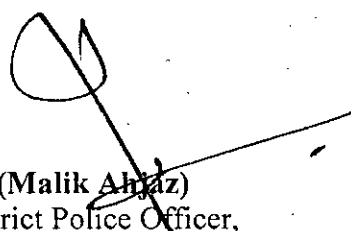
Dated 15-11 /2019

**CHARGE SHEET**

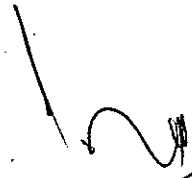
I **Malik Ahjaz**, District Police Officer, Shangla as competent authority, hereby charged you **EX Serviceman Constable Banaras Khan No.3778** while posted to **Police Station Besham** as follow;-

You EX Serviceman Constable Banaras Khan No.3778 while posted to Police Station Besham Shangla, found involved in Case FIR No.379 u/s 9 B (CNSA) dated 26 .10.2019 Police Station Besham and recovered 910 gram Chars: Your this act led to gross misconduct and also anti social act which badly impact the moral and reputation of Police department in front of general public. It is therefore, your this act leads to gross negligence/misconduct, lack interest in official duty on your part, which renders you liable to be proceeded against departmentally

1. By reasons of the above, you appear to be guilty of misconduct and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Disciplinary Rules, 1975.
2. Therefore, require to submit your written reply within **07 days** of the receipt of this Charge Sheet to the Enquiry Officer.
3. Your written reply, if any, should reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall follow against you.
4. Intimate as to whether you desire to be heard in person or not?
5. A statement of allegations is enclosed.

  
(Malik Ahjaz)  
District Police Officer,  
Shangla

Attested

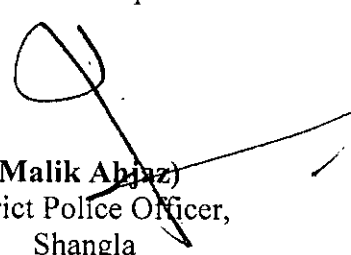
  
ESTABLISHMENT CLERK  
District Police Office  
Shangla,

**DISCIPLINARY ACTION**

I Malik Ahjaz, District Police Officer, Shangla as competent authority, is of the opinion that EX Serviceman Constable Banaras Khan No.3778 while posted at Police Station Besham Shangla have rendered himself liable to be proceeded against departmentally as he is committed the following acts/omission as defined in Rule-2 (iii) of Police Rules 1975.

**STATEMENT OF ALLEGATIONS**

1. You EX Serviceman Constable Banaras Khan No.3778 while posted to Police Station Besham Shangla, found involved in Case FIR No.379 u/s 9 B (CNSA) dated 26 .10.2019 Police Station Besham and recovered 910 gram Chars: Your this act led to gross misconduct and also anti social act which badly impact the moral and reputation of Police department in front of general public. It is therefore, your this act leads to gross negligence/misconduct, lack interest in official duty on your part, which renders you liable to be proceeded against departmentally
2. For the purpose of scrutinizing the conduct of said official with reference to the above allegations, Mr. Nasib Shah DSP QHrs Shangla has been appointed to conduct proper departmental enquiry.
3. The Enquiry Officer shall conduct proceedings in accordance with the provision of Police Rules 1975 and shall provide reasonable opportunity of defense and hearing to the defaulter Official, record its findings and make within twenty five (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the defaulter Official.
4. The defaulter Official shall join the proceeding on the date, time and place fixed by the Enquiry Officer.

  
(Malik Ahjaz)  
District Police Officer,  
Shangla

**OFFICE OF THE DISTRICT POLICE OFFICER, SHANGLA**

No. 5945-46 /E, Dated Alpur the 15.11 /2019  
Copy of above is sent to:

1. The Enquiry Officers, for initiating proceeding against the defaulter Official under Police Rules, 1975.
2. Concerned defaulter Official.

*Attested*

  
ESTABLISHMENT CLERK  
District Police Office  
Shangla

(Malik Ahjaz)  
District Police Officer,  
Shangla

# ANNEXURE (I) (11)

فائنڈنگ رپورٹ

بحوالہ مشمولہ چارج شیٹ نمبری 5945-46/E محررہ 15-11-2019 بجاریہ جناب ڈی پی او صاحب ضلع شانگلہ برخلاف کنشٹیبل بنارس خان 3778/EX متعینہ تھانہ بشام حال پولیس لائن!

خلاصہ چارج شیٹ:

چارج شیٹ نمبری بالا میں کنشٹیبل بنارس پر الزام ہے کہ تم تھانہ بشام میں بحیثیت ایکس سروس میں متعین تھے۔ بحوالہ مقدمہ علت نمبر 379 محررہ 26-10-2019 بجرم 9BCNSA تھانہ بشام میں ملوث ہو کر دوران تلاشی 910 گرام چرس تم سے برآمد ہوئی۔ تمہارا یہ فعل خلاف ڈسپلن، معاشرتی اقدار کے منافی اور محکمہ پولیس کیلئے بدنامی، مورال اور وقار کو نقصان پہنچایا ہے۔ جو کہ عوام الناس کے نگاہوں میں محکمہ کی بدنامی کا باعث بنا۔ تمہارا یہ فعل غفلت اور لاپرواہی کے زمرے میں آتا ہے جس کی پاداش میں مذکورہ کنشٹیبل کیخلاف چارج شیٹ مندرجہ جاری ہو کر من زیر دستخطی کو انکوآری ایسسر مقرر فرمایا۔ اندریں بارہ انکوآری شروع کر کے ذیل متعلقین انکوآری کے بیانات قلم بند کئے گئے۔

1- SHO تھانہ بشام نے اپنے بیان میں واضح کیا کہ کنشٹیبل بنارس خان روٹین کے بچت پر گیا تھا۔ بروقت واپس نہ آنے پر بحوالہ مد 29 روز نامچہ 23-10-2019 کو تھانہ بشام میں غیر حاضر ہوا۔ محررہ 26-10-2019 کو گشت پر موجود تھا اطلاع ملی کہ کنشٹیبل بنارس خان EX جانب الپوری سے موٹر کار نمبر 6604 میں سوار ہے اور بشام آ رہا ہے اور اسکے ساتھ وافر مقدار میں چرس موجود ہے۔ اطلاع کے پیش نظر وہ ہمراہ دیگر نفری پولیس بمقام سادین ناکہ بندی کی تو جانب الپوری سے وہی گاڑی آ کر بذریعہ اشارہ روکوا یا۔ جس کی ڈرائیونگ مسمی عبداللہ ولد بخت مندر کر ہا تھا۔ پچھلی سیٹ میں سوار شخص جس کا نام فضل غنی ولد بسم اللہ جان بتلایا۔ جب کہ فرنٹ سیٹ میں بیٹھے ہوئے شخص بنارس خان EX کی گود میں پڑا ہوا بیگ جس پر بنارس خان 3778 تحریر تھا۔ بیگ معہ بنارس خان کو گاڑی سے اتار کر بیگ کی تلاشی سے 02 جوڑے ایڈیشنل وردی اور بنڈول ویئر بلیک کلر برآمد ہو کر بنڈول ویئر کی تلاشی سے چرس پلاسٹک تھیلی میں برآمد ہو کر بر موقع وزن کر کے 910 گرام نکلی۔ چرس میں سے 10 گرام بندبہ پارسل نمبر (1) جبکہ بقایہ 900 گرام، دو جوڑے ایڈیشنل وردی، بنڈول ویئر اور بیگ بندبہ پارسل نمبر (2) قبضہ پولیس میں بروئے فرد لے کر بر موقعہ تکمیل کی۔ ملزم بنارس خان کے خلاف مراسلہ بجرم 9BCNSA ض ف تحریر میں لاکر جس پر مقدمہ علت نمبر 379 تھانہ بشام درج رجسٹر ہوا۔

2- Oii سر بالی خان SI نے بیان کیا کہ ایس ایچ او حبیب سید نے برخلاف بنارس خان EX مراسلہ ارسال تھانہ کیا۔ مراسلہ پر مقدمہ علت 379 محررہ 26-10-2019 بجرم 9BCNSA تھانہ بشام درج رجسٹر ہو کر اسے بغرض تفتیش حوالہ کی۔ گواہان فرد کے بیانات زیر دفعہ 161 ض ف قلم بند کئے۔ ایس ایچ او صاحب کے نشاندہی پر نقشہ موقع بلا سکیل مرتب کیا۔ ملزم کے حق میں ایک یوم حراست پولیس حاصل کر کے انٹارویو کیا۔ دوران انٹارویو گیشن ملزم نے جرم خود سے اقراری ہوا۔ بعدہ بذریعہ تحریری درخواست برائے قلم بندی بیان 364/164 ض ف عدالت میں پیش کیا۔ ملزم مذکورہ عدالت میں جرم خود سے منحرف ہو کر جوڈیشل حوالات بھیجوانے کا حکم عدالت نے سنایا۔

3- MASI محمد حسین محرر تھانہ بشام نے بیان کیا کہ ایکس سروس میں بنارس خان شب باشی پر تھا۔ بروقت واپس حاضر نہیں آیا جس کے خلاف بحوالہ مد 29 روز نامچہ 23-10-2019 سے غیر حاضر ہو کر محررہ 26-10-2019 کو ایس ایچ او صاحب نے مذکورہ سے دوران ناکہ بندی بمقام سادین چرس برآمد کر کے جس کے خلاف بحوالہ مقدمہ علت نمبر 379 درج رجسٹر کیا گیا۔

4- FC پردول خان نمبر 124 خان نے بیان کیا کہ وہ ایس ایچ او صاحب کے ساتھ گشت انا کہ بندی پر موجود تھا کہ اسی دوران موٹر کار نمبری 6604 آیا جس کی تلاشی حسب ضابطہ شروع کر کے دوران تلاشی فرنٹ سیٹ پر بیٹھا ہوا شخص بنارس خان موجود تھا جس کے گود میں پڑا ہوا بیگ معہ بنارس خان گاڑی سے اتار کر جس کی تلاشی ایس ایچ او صاحب نے عمل میں لائی۔ بیگ میں دو جوڑے وردی ایڈیشنل، ایک عدد بنڈول ویئر کی تلاشی سے چرس برآمد ہوئی۔ وزن کرنے پر 910 گرام نکلی۔ اسی طرح کنشٹیبل نجیب اللہ نمبر 1574، کنشٹیبل الطاف حسین نمبر 988 نے کنشٹیبل پردول خان نمبر 124 کی بیان کی تائید کی۔

Arrested

ESTABLISHMENT CLERK  
District Police Office  
Shangla.

ملزم بنارس خان 3778/EX نے اپنے بیان میں واضح کیا کہ محرمہ 14-10-2019 کو میں بچت پر گھر خود گیا تھا۔ محرمہ 26-10-2019 کو اپنے جائے تعیناتی واپس آ رہا تھا تو بمقام سادین موٹر شو تھانہ بشام ہمراہ گنران موجود تھے۔ جس گاڑی میں میں بیٹھا ہوا تھا روکو اسی گاڑی سے اتار کر تلاشی لی۔ بیگ جو کہ میرے ساتھ تھا کی تلاشی لی موٹر کار کو رخصت کیا اور مجھے موبائل گاڑی میں بٹھا کر اپنے ساتھ کوارٹر لے گیا کوارٹر میں دوبارہ بیگ اور میری تلاشی لی اور پھر اپنی چرس نکال کر مجھے کہا کہ آپ کے بیگ میں چرس ہے۔ میں نے لاعلمی ظاہر کی مگر اس نے نہیں مانا اس کے بعد میرے خلاف مقدمہ درج رجسٹر کیا۔ اس سے قبل میں ایس ایچ اوصاحب کے ساتھ چوکی لیلونٹی، CP بورڈ میں تعینات رہ چکا ہوں پہلے مذکورہ ایس ایچ او کا میرے ساتھ ناگلی تھی۔ لگائے گئے جملہ الزامات کی تردید کی۔

سینی عبداللہ ولد بخت مند گل سکند کوشی نے بیان کیا کہ وہ ٹیکس کا ڈرائیور ہے۔ مورخہ 26-10-2019 کو منگورہ سے سواریاں بیٹھا کر بشام جا رہا تھا۔ سواریوں میں سے دو بمقام کیڑی اتر گئی۔ جبکہ ایک جس نے اپنے آپ کو پولیس والا ظاہر کیا تھا۔ فرنٹ سیٹ پر گود میں بیگ رکھا ہوا بیٹھا تھا جب کہ پچھلے سیٹ میں مسمی غنی سکند کوشی موجود تھا۔ جب ہم بمقام سادین پہنچے وہاں پر پولیس نے ناکہ لگایا تھا۔ اسے اشارہ دے کر اس نے گاڑی سائید پر کھڑی کر دی۔ پولیس نے فرنٹ سیٹ کی سواری کو اتار کر تلاشی شروع کی۔ مذکورہ کے بیگ کے اندر دو جوڑے کپڑے اور ایک بنڈول ویر موجود پا کر مزید تلاشی لینے پر بنڈول ویر سے چرس برآمد ہو کر جو وزن کرنے پر 910 گرام نکلی۔

مسمی فضل غنی نے بیان کیا کہ وہ مورخہ 26-10-2019 کو منگورہ سے مسمی عبداللہ کے موٹر کار میں دیگر سواریوں کیساتھ پچھلے سیٹ میں بیٹھ کر گھر خود بشام جا رہا تھا۔ ہمارے ساتھ فرنٹ سیٹ میں ایک سواری بیٹھا ہوا جس کے گود میں بیگ پڑا تھا۔ جب بمقام سادین پہنچے وہاں پر پولیس والوں نے ناکہ لگایا تھا۔ فرنٹ سیٹ کی سواری اتار کر جسکی تلاشی لی۔ دوران تلاشی بیگ میں بنڈول ویر سے چرس برآمد ہو کر وزن کرنے پر 910 گرام نکلی۔  
خلاصہ انکوائری:

حالات واقعات، قلم بند شدہ بیانات اور خفیہ معلومات سے پایا گیا کہ ایکس سروس مین بنارس خان 3778/EX محرمہ 14-10-2019 کو بچت پر گھر خود پشاور گیا تھا۔ بروقت نہ آنے پر تھانہ بشام سے مورخہ 23-10-2019 کو غیر حاضر ہوا بعدہ 26-10-2019 کو گھر سے واپس آ رہا تھا کہ ایس ایچ اوصاحب تھانہ بشام کو بذریعہ سروس اطلاع ملی کہ مذکورہ ایکس سروس مین کے ساتھ چرس ہے۔ اطلاع کے پیش نظر ایس ایچ اوتھانہ بشام نے بمقام سادین موٹر ناکہ بندی کر کے مذکورہ کے بیگ کے اندر بنڈول ویر سے چرس برآمد کر کے بر موقع وزن کر کے 910 گرام نکلی چرس میں سے 10 گرام علیحدہ کر کے پارسل نمبر 1 میں بند پیرسل بغرض تجزیہ FSL لیبارٹری بھیجوا یا جبکہ 900 گرام پارسل نمبر 2 بروئے فرد قبضہ پولیس کی۔ برخلاف ملزم بنارس خان مراسلہ تحریر میں لا کر جس پر مقدمہ علت 379/19 بجرم 9BCNSA تھانہ بشام درج رجسٹر کیا بغرض تفتیش مقدمہ انوسٹی گیشن انچارج ایس آئی سر بالی خان حوالہ کیا۔ مذکورہ ایس آئی نے حسب ضابطہ تفتیش کر کے ملزم کے حق میں ایک یوم حراست پولیس حاصل کر کے دوران حراست ملزم کو انٹارویوٹ کیا ملزم نے حراست پولیس میں اقبال جرم کرتے ہوئے اگلے روز IO نے بغرض 164/364 ض ف مجاز عدالت میں پیش کر کے ملزم جرم خود سے انکاری ہو کر عدالت نے جوڈیشل حوالات ڈگری ہو یا۔ بعدہ مذکورہ نے بعدالت ADJ صاحب ضمانت حاصل کر کے جیل سے مخلصی ہو کر تھانہ بشام میں بحوالہ مد 11 روز نامچہ 13-11-2019 حاضری کی۔ محرمہ تھانہ بشام نے اسی مد میں پولیس لائن روانہ کیا بعدہ مذکورہ نے پولیس لائن میں بحوالہ مد 24 روز نامچہ 13-11-2019 حاضری کی۔ مذکورہ کنسٹیبل 21 یوم 17 گھنٹے 20 منٹ غیر حاضر رہا۔

انکوائری ہو کر یوں پایا گیا کہ مذکورہ کنسٹیبل ایکس سروس مین بنارس خان نمبر 3778 محکمہ پولیس میں ہوتے ہوئے جرائم روکنے کی بجائے خود جرائم میں ملوث رہا ہے۔ جس کی وجہ سے محکمہ پولیس بدنامی کا سبب بنا۔ حاصل کردہ بیانات سے کنسٹیبل مذکورہ قصور وار پایا گیا۔ لہذا ان وجوہات کی بنا پر مذکورہ کنسٹیبل کو (Major Punishment) دینے کی سفارش کی جاتی ہے۔

Dismissed  
مذکورہ کی

ڈی ایس پی ہیڈ کوارٹر

ضلع شانگلہ

Arrested

ESTABLISHMENT CLERK  
District Police Office  
Shangla.  
نمبر مورخہ 06 552

ANNEX TO RE (J) (13)



Ph#: 0996-850015

Fax#: 0996-850002

Email: [dposhnagla@yahoo.com](mailto:dposhnagla@yahoo.com)

OFFICE OF THE DISTRICT POLICE OFFICER SHANGLA

ORDER

This consolidate order relates to dispose-off; departmental enquiries initiated against Ex Serviceman Banaras Khan No. 3378 of this district. The allegations against the delinquent official is that; he was found involve in case vide FIR No. 3778 dated 26.10.2019 u/s 9-B CNSA Police Station Bisham. After proper departmental inquiry into the matter, the Inquiry Officer Mr. Nasib Shah DSP Headquarter Shangla recommended the delinquent official for Major Punishment. The inquiry file of the delinquent official perused and Finding Report of the I.O vide his office letter NO 552/Reader dated 06.12.2019 which was found purely on merit.

Therefore, I Malik Ahjaz District Police Officer Shangla as a competent authority, award to the delinquent official i.e, Ex Serviceman Banaras Khan No. 3378 award major punishment i.e, dismissal from Service with immediate effect.

Order Announced

10.12.2019

OB No. 133 /E

Dated: 10 / 12 /2019

  
District Police Officer  
Shangla

Attested

  
ESTABLISHMENT CLERK  
District Police Office  
Shangla,

(14)

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

Service Appeal No. 6270/2020

Mr. Banaras Khan (Ex Serviceman).....( Applicant )

**VERSUS**

Inspector General of police KPK Peshawar and others .....(Respondents)

**AFFIDAVIT**

I **Abbas Khan Inspector Legal Office of the District police officer Shangla** do hereby solemnly affirm and state on oath that the whole contents of this Service Appeal are true and correct to the best of my knowledge/belief and nothing has been concealed from this Honorable Court.



**Abbas Khan**

Inspector Legal  
Shangla

Contact # 03468865658

Office Contact # 0996-850015

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

Service Appeal No. 6270/2020


Mr. Banaras Khan (Ex Serviceman)..... (Applicant)

**VERSUS**

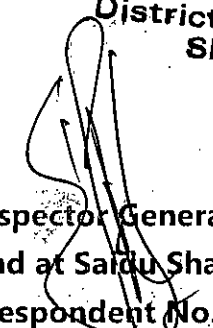
Inspector General of police KPK Peshawar and others .....(Respondents)

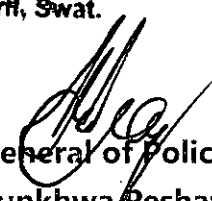
**AUTHORITY LETTER**

Abbas Khan Inspector Legal District Shangla is hereby authorized to appear on behalf of the respondents below before the Honorable court. He is authorized to submit all the required documents and replies etc to the Honorable court.

  
District Police Officer  
Shangla  
(Respondent No. 1)

District Police Officer,  
SHANGLA.

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

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