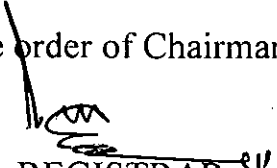


# FORM OF ORDER SHEET

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

Case No. - \_\_\_\_\_

1773/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	09/12/2022	<p>The appeal of Mr. Aurang Zeb Khan resubmitted today by Naila Jan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____.</p> <p>Notices be issued to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman</p>  <p>REGISTRAR</p>

The appeal of Mr. Aurang Zeb Ex-Constable No. 1329 Bannu Region received today i.e. on 02.12.2022 is incomplete on the following score which is returned to the counsel for the appellat for completion and resubmission within 15 days.

Annexure-B & C of the appeal are illegible which may be replaced by legible/better one.

No. 3460 /S.T,

Dt. 05-12 /2022

  
REGISTRAR

SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Naila Jan Adv. Pesh.

*Remond the above  
maintain objection  
and Resubmit  
by Naila Jan  
9/12/2022*

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA**  
**SERVES TRIBUNAL PESHAWAR.**

Service Appeal No. 1773 2022.

Aurang Zeb, ex-Constable

VERSUS

(1) DPO /RPO Bannu \_\_\_\_\_ /Respondents.

**I N D E X**

<b>Sr. No.</b>	<b>Description of documents</b>	<b>Annex</b>	<b>Pages.</b>
1.	Ground of appeal.		1 to 3
2.	Application of condonation of delay		4
3.	Affidavit.		5
4.	Addresses of parties		6
5.	Copies of educational, service and medicate certificates	"A"	7 to 11
6.	Copies of FIR and impugned order dated 20/08/2021.	"B & C"	12 to 13
7.	Copy of judgment of Addl; Session judge / judge special court (CNSA) Rahim yar Khan dated 11/06/2022	"D"	14 to 24
8.	Copies of departmental appeal and order of appellate authority, dated 26/9/2022.	"E & F"	15 to 17
9.	Copies of application for provision of copies of inquiry file, opinion of Inspector legal and remarks of DPO Bannu.	"G"	18 to 19
10.	Wakalat Nama		20

Dated: /11/2022

APPELLANT.

Through:

( )  
Advocate High Court,  
Peshawar.

*Aurang Zeb*

D

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

**SERVICE APPEAL NO. 1773/2022**

Aurang zeb Khan Ex- Constable No. 1329 .....(Appellant)

**Versus**

1. Regional Police Officer Bannu Region, Bannu, Khyber Pakhtunkhwa.
  2. District Police Officer, Bannu Region, Bannu, Khyber Pakhtunkhwa.
- .....(Respondents)

**Appeal under section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 against the impugned order dated 20/08/2022 whereby the appellant was awarded punishment of dismissal from service in utter violation of law, rules and appellate order dated 26/09/2022 (communicated on dated 11-11-2022 whereby the departmental appeal of appellant has been rejected in a cursory and haphazard manner through a non speaking order.**

**PRAYERS:**

On Acceptance of the instant appeal the impugned order dated 20-08-2022 and order dated 26-09-2022 may kindly be set aside, being contrary to law, rules and corm non-judice, the service of the appellant may kindly be reinstated with all back benefits.

**Respectfully Sheweth;**

**FACTS:**

1. That the appellant was inducted into service as constable vide order dated 25-05-2006 and after recruitment, the appellant performed his duties with great zeal and zest and during the course of service qualified the recruit course. (Copies of service record, educational and professional certificates are annexure A)
2. That on 18-04-2021 he along Nasir and Yasir proceeded to district Rahim Yar Khan Punjab province in connection with tracing out missing siraj Ahmad, where they became prey of the trap, planted by notorious narcotics substance

**Mulla J. I. J.**  
Advocate  
Peshawar High Court

seller and informer of police Mst: Beno pathani. Resultantly, he along with others were falsely implicated and arrested in case FIR No. 209 dated 18-08-2021, u/s CNSA 1997, 9- (c), PS City Division, district Rahim Yar Khan. **(copy of the FIR is annexure B)**

- 3. That respondent No. 02 knew the fact that the appellant was behind the bar event then the appellant was proceeded departmentally without serving a charge sheet to the appellant or associating the appellant with inquiry proceedings and straight away issued the impugned dismissal order vide OB No. 909, dated 20-08-2021. However, the same was never communicated to the appellant. **(Copy of dismissal order is Annexure C)**
- 4. That after conducting proper trail the Addl; Session Judge/ Judge Special Court (CNSA, Rahim Yar Khan honorably acquitted the appellant vide judgment dated 11-06-2022 **(Copy is at annex D)**, the appellant requested respondent No. 02 for provision of copies of departmental inquiry proceedings but only copy of impugned dismissal order dated 20-08-2021 was provided. The appellant filed a departmental appeal before respondent No. 01. **(Copy of the departmental appeal is Annexure E)**
- 5. That the appellate authority respondent No. 01 rejected the departmental appeal without looking into the merit of the case through a non-speaking order on 26-09-2022 in utter violation of police rules 1975. However, the same was never communicated to the appellant and the appellant through his own efforts got the same on 11-11-2022. **(Copy of order dated 26-09-2022 is annexure F)**
- 6. That the appellant again, requested DPO Bannu in writing under KP police rules 1975 (amended in 2014) and RTI Act 2013 for provision of copies of inquiry file but in vain. (Copies of application, note sheet of Inspector legal and the remarks of DPO are annexure G). Thus, feeling aggrieved from the orders, the appellant, again, had to file the instant appeal on the following grounds.

**GROUND:**

- A. That the impugned orders dated 20-08-2021 and 26-09-2022 are against the law, rules and Principles of natural justice vide abi nitio hence liable to be set aside.
- B. That the ex parte proceedings of inquiry officer and respondent No. 02 are in contrary to Article 4 and 10 of the constitution of Pakistan as well as the spirit of natural justice because the appellant has not been provided opportunity of fair trail and due procedure/ due process of law has been infringed at each and every stage of the proceedings. Hence, the impugned orders passed by the competent and appellate authority are against the constitution, laws and rules and required to be set aside.

*Wala Jan Advocate*  
Peshawar High Court

- C. That no opportunity of personal hearing or defense has been provided to the appellant hence the appellant has been condemned unheard.
- D. That no charge sheet along with statement of allegation or show cause notice had been issued/served on the appellant which are mandatory under the Khyber Pakhtunkhwa Police Rules 1975.
- E. That the inquiry officer neither recorded statement of any witness nor did the appellant was provided opportunity of cross examination or association with the inquiry proceedings.
- F. That opportunity of **FAIR TRAIL**, as guaranteed by Art 10 A of the constitution has not been provided to the appellant.
- G. That the appellant has not been treated in accordance with Art 4&25 of the constitution.
- H. That the appellant was honorably acquitted from the charges by a competent court of law and the respondents were duty bound to reinstate the appellant with all back benefits under FR 54 however the appellant has not been treated in accordance with settled law.
- I. That no doubt departmental and proceedings before criminal court are different from each other however the inquiry officer was required to conduct inquiry in accordance with law and proved the charges by recording pro and contra evidence however no such evidence has been recorded in order to prove the charges.
- J. That since the impugned order the appellant is jobless and facing hardship.
- K. That the appellant sought permission of this honorable Tribunal to adduce other grounds during final hearing of the instant appeal.

Appellant

*Arong Zeb*

Through: Naila Jan Advocate  
Peshawar High Court

*Naila Jan*

**Naila Jan**  
Advocate High Court  
Peshawar.

4

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

SERVICE APPEAL NO. /2022

Aurang zeb Khan Ex- Constable No. 1329 District Bannu.....(Appellant)

Versus

Regional Police Officer & others..... (Respondents)

**APPLICATION FOR CONDONATION OF DELAY**

Respectfully sheweth;

1. That the above titled appeal is filing today in which no date has been fixed so far.
2. That the final order dated 05-09-2022 was communicated on 11-11-2022 therefore the instant appeal is within time as per section 4 of the Khyber Pakhtunkhwa Act 1974.
3. That the impugned orders have been issued in violation of law and constitution of Islamic republic of Pakistan 1973 therefore, the impugned orders are void order and as per dictum laid down by superior court no limitation runs against void order reference is made to 2019 SCMR 648,2019 PLCCS S.C 928
4. That the Supreme Court also laid down the dictum that cases are to be decided on merits rather than technicalities.
5. That valuable rights of the appellant is involved which may not be take away on the basis of technicalities

It is therefore requested that the delay in filing the instant appeal may kindly be condoned for the end of justice.

*Aurang zeb Khan*

Appellant

Through

*Naila Jan*

Naila jan

Advocate High Court Peshawar

D S

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

**SERVICE APPEAL NO. /2022**

Aurang zeb Khan Ex- Constable No. 1329 District Bannu.....(Appellant)

**Versus**

1. Regional Police Officer Bannu Region, Bannu, Khyber Pakhtunkhwa.
2. District Police Officer, Bannu Region, Bannu, Khyber Pakhtunkhwa.

.....(Respondents)

**AFFIDAVIT**

I, Aurangzeb Khan S/O Akbar Zaman, Ex-Constable , No. 1329, District Bannu do hereby solemnly affirm and declare that all the contents of the **accompanied appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Tribunal.

**DEPONENT**

**CNIC:**

*Aurang Zeb*

**Cell No:**

Identified By: *Naila Jan* Advocate  
Peshawar High Court

**NAILA JAN**

Advocate High Court

Peshawar.



*26/10/22*



8

**BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

Appeal No \_\_\_\_/2022

Aurang zeb Khan

VS

Regional Police Officer Bannu Region, Bannu, Khyber Pakhtunkhwa and others

**ADDRESS OF PARTIES**

**APPELLANT**

Aurang zeb Khan Ex- Constable No. 1329 District Bannu.

**RESPONDENTS**

1. Regional Police Officer Bannu Region, Bannu, Khyber Pakhtunkhwa.
2. District Police Officer, Bannu Region, Bannu, Khyber Pakhtunkhwa.

Dated: \_\_/11/2022

*Aurang Zeb*

Appellant

Through

*Naila Jan*

Naila Jan

Advocate High Court

Peshawar

Naila Jan Advocate  
Peshawar High Court

Annexure A

THE DISTRICT  
ELECTORAL  
& ESTATE

# POLICE TRAINING COLLEGE HANGU



Estb 1935

## History Sheet

College Course : Recruit  
Rank : Constable  
Comp# : A 350  
Starting Date : 01.07.06  
Merit : 151/903  
Name : **Aurangzeb Khan**  
Belt No. : **1338**  
District : **Bannu**  
Ending Date : 20-03-07

LAW			DRILL			REMARKS
PPC	70	/100	SD	45	/70	Board/Test /200
PPW/GPD	64	/100	RF	60	/80	
LSL, QS	74	/100	SF	22	/35	
Sec, WT, FP, GK	71	/100	MD	16	/30	
CrPC	69	/100	TFC	13	/20	
IST/HR	61	/100	PT	13	/20	
PR	56	/100	UC	13	/20	
			BNT	7	/10	
			AC	83	/150	

465.00 / 700 272.00 / 435

G-Total: 737.00 / 1135

% age: 64.93

Declared as PASSED

Leave Obtained: Nil days Medical Rest : 2 days Absence: 1 days  
Punishment : 02 days ED.

**Naila Jan**  
Advocate  
Peshawar High Court

**Commandant,**  
Police Training College Hangu.

Annexure A

SECONDARY SCHOOL CERTIFICATE EXAMINATION

**RESULT CARD**

8



Roll No : 95138  
Group : Arts Session 2005 (Annual)  
Registration No : 519-BB-BU-2-1-02  
Certificate No : 20595138

This is to certify that Aurang Zeb Khan  
Son / Daughter of Akber Zaman  
and a student of District Bannu

has secured the marks shown against each subject, in the Secondary School Certificate Examination of the Board of Intermediate & Secondary Education, Bannu, held in March, 2005 as Private Candidate

Subject	Marks	10Th		Total	In Words
		Theory/Paper A	Pract/Paper B		
1. English-I	75	27		27	Twenty-Seven
2. English-II	75	27		27	Twenty-Seven
3. Urdu-I	75	25		25	Twenty-Five
4. Urdu-II	75	27		27	Twenty-Seven
5. Istahiyat (Comp)	75	26		26	Twenty-Six
6. Pakistan Studies	75	27		27	Twenty-Seven
7. General Science	100	33		33	Thirty-Three
8. Islamic Studies-I	100	35		35	Thirty-Five
9. A.M. Drawing	100	34	17	51	Fifty-One
10. Mathematics	100	40		40	Forty Only

Total 850      318      Three Hundred Eighteen Only  
Remarks      AMD, IS-I

Date of Birth according to Registration Record: 16.10.1987 (16 September Nineteen Eighty Seven)  
Date of Declaration of Result: 20.06.2005

Prepared by: \_\_\_\_\_  
Checked by: \_\_\_\_\_  
Date of Issue: 20.06.2005

*Naila Jan Advocate*  
Bannu High Court

Controller of Examinations  
Board of Intermediate and  
Secondary Education, Bannu

DISTRICT OFFICER REVENUE & ESTATE / COLLECTOR  
BANNU



Annexure - A

(28)

9

MEDICAL CERTIFICATE

Name of Official..... Awrang Zeb Ichan

Caste or race..... Pashtoon

Father's name..... Akbar Zaman

Residence..... Katka Khatakun Hingal Shergs Ichan  
D/S Mandan Distt. Bannu

Date of birth..... 29-9-87 NID No. - 350 9823-8

Height by measurement..... Height 5 - 8 1/2 Chest 34 1/2 x 37 1/2

Personal mark of identification..... A Scar on finger LT

Signature of the Official..... Awrang Zeb Ichan

Signature of head of office.....

Took over  
Date 25/5/06

Seal of Office..... (Mugh)

I do hereby certify that I have examined Mr..... a candidate for  
employment in the Office of the.....  
and can not discover that head any disease communicable or other constitutional effice-  
tion or bodily infirmity except.....

I do not consider this as disqualification for employment in the office of the.....  
.....His age according to his own statement..... year and by  
appearance about..... years.

Naila Jan Advocate  
Peshawar High Court

LEFT HAND THUMB AND FINGER  
IMPRESSIONS.....

Medical Superintendent,  
Civil Hospital.....

18/5/06

5-12-18

... of ...  
... of ...  
... of ...  
... of ...

1-12-018-170901

1-12-019-177001

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Date of Bl:  
Date of De:  
Prepared b:  
Checked b:  
Date of Iss:

TR 13-5-18  
as pay is allowed  
1/3 To 3rd TB

D

دستخط اعلیٰ کورٹ نسبت جرم قتل دست اعلیٰ کیس نمٹانے کے لئے 154 نمبر تیار ہو رہی

نمبر: 208/21 قتل کی اورینٹیشن : ریم 8 نمبر ان کیلک : 594-2021/17/2021 CITY CD-4

تاریخ: 11-04-2021 09:35 PM

1	مقررہ وقت : 17-04-2021 1:00:00 PM	6	تعداد سے روٹ کی تعداد : 6
2	مقام : سکونت علاقہ 100، مستحق	لمے کے ASI ہونے کی وجہ سے روٹ کی اورینٹیشن میں تبدیلی کی گئی ہے	
3	مقررہ کیفیت : جرم (دفعہ اول) کیلک ہو گیا ہے	کیلک نمبر : 02097B21355	
<b>THE CONTROL OF NARCOTIC SUBSTANCES ACT, 1987 - 9-(c)</b>			
4	کیلک ڈاؤن لوڈ کرنے سے اور	کیلک نمبر : 2/92	
5	کیلک ڈاؤن لوڈ کرنے سے اور وقت میں کیلک کی اورینٹیشن	کیلک نمبر : 1-17-2021	

دستخط : مہرا

دستخط : مہرا

51

15/04/2021

دستخط : مہرا

دستخط : مہرا

دستخط : مہرا

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دستخط : مہرا

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Handwritten number: "12" in a circle.

Handwritten text: "Naila Jinn Advocate" and "Pashtun High Court".

Handwritten text: "مہرا"

Handwritten text: "15-04-2021"



Annexure A

# DOMICILE CERTIFICATE

District Bannu N.W.F.P. Pakistan

101

I declare that I was born of parents who are permanently domiciled in N.W.F.P. having belonged to it by birth / settled in it.

I belong by birth to village/Mchallah Kotka Khatakan Hongel

Tehsil \_\_\_\_\_ District Bannu Sherza Khan

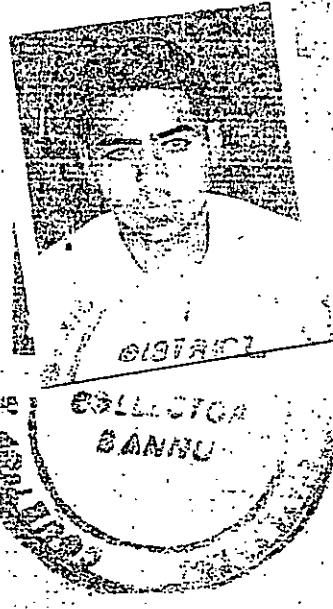
[Signature]  
Signature of the applicant

Date 12.12.2004

Pursuance to the declaration dated 12.12.2004 filed by Aurangzeli Khan son / daughter / wife Akhar Zaman Khan domiciled in the N.W.F.P. It is hereby certified that the said Aurangzeli Khan is born of parents who are permanent residents of the N.W.F.P. having belonged to it by birth settled in it.

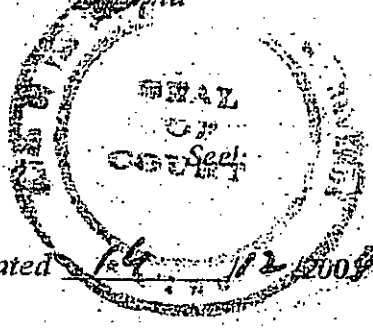
I have satisfied myself from ~~personal~~ members / my knowledge verification that the above declaration is true and certify.

This 14th day of Dec 2004



[Signature]  
Deputy District Officer Revenue

Mulla Jan Advocate  
Peshawar High Court



No. 12796

Dated 14.12.2004

**COUNTERSIGNED**

[Signature]

DISTRICT OFFICER REVENUE & ESTATE / COLLECTOR  
BANNU

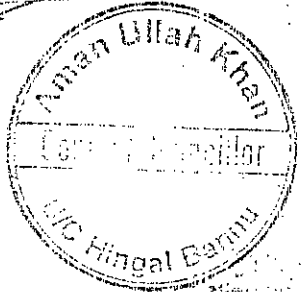




جہاں مال!

تصویر کی جاتی ہے۔ دستخط اور تہہ ریختان  
 بلکہ آئینہ خان کو سب ڈالی طور پر جانتا ہوں۔  
 منشی خود اور آئی ڈی والی سے موقع بہت ہی سیر جان  
 تصدیق و صحت ہوں سے منشا  
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 علیہ اللہ  
 علیہ اللہ

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 HAZAM  
 J/C Hingal Bannu.



Annexure - A

STATE AND SERVICE ROLL OF

DISTRICT.  
DISTRICT.  
DISTRICT.

11	Axay Zeh																		
	Alchad Zaman																		
	Po Khatoon																		
	Higal Slezzu																		
	Manda																		
	Bannu																		
	M. N. P.																		
	30-09-89																		
	5-11-88																		
	34 1/2 4 11 1/2																		
	25-05-2006																		
	7-7-88																		

... dated ... received back and attached to the Fauji Misal.

... Service prior to present employment, which is approved for pension service

Department	Rank of Grade	Pay of last Appointment	From	To	Period		
					Years	Month	Days
		Alchad					

Reference to orders approving above service for pension service in the Police Department.

UNO C-1007  
 10/11/2006  
 Released

I understand that I have been appointed under section 7 of the Police Act (V of 1861), and the purport of that section is to ... I agree to serve faithfully under the provisions of the said Police Act and to obey all lawful orders issued by my superiors and undertake not to resign my appointment within three years from the date of my enrolment. I have signed the date of appointment issued under section 8 of the Police Act (V of 1861).

Signature.

Impression of fingers and thumb of left hand.

Left ring	Left middle	Left index	Left thumb

Annexure - A

13

ORDER

This order of the undersigned will dispose of the departmental proceedings against accused Constable Aurangzeb No. 1329 (Suspended) under Police Rule 1975 (as amended vide Govt. of Khyber Pakhtunkhwa Gazette Notification of even No: dated 27<sup>th</sup> of August 2014) by issuing charge sheet and statement of allegation to him for committing the following commissions/omissions:-

That reportedly Constable Aurangzeb No. 1329 has been found charged/involved in a criminal case vide FIR No. 209/21, dated 17.04.2021 u/s The Control of Narcotic Substances Act 1997-9-(C) PS City C Division District Rahim Yar Khan.

Charge sheet and statement of allegation were issued to him and DSP/HQ, Bannu was appointed as Enquiry Officer to hold a regular departmental enquiry under Police Rule 1975 (as amended vide Govt. of Khyber Pakhtunkhwa Gazette Notification of even No: dated 27<sup>th</sup> of August 2014). The Enquiry Officer submitted findings report vide letter No. 355/HQ dated 26.07.2021 and reported that the said Constable was called for cross questions time and again but he deliberately did not appear. However, in the light of the departmental enquiry proceedings, statements of enquiry officer and ASI Muhammad Asim, the allegations leveled against the accused official have been proved. please. placed at file.

Keeping in view of the above, the undersigned meticulously perused all the relevant record enquiry report and other circumstances of the case and came to the conclusion that the allegation leveled against the said official has been proved and agreed with the findings of the enquiry officer. His further retention in service would be proved detrimental for the department. Hence, I, IMRAN SHAHID, District Police Officer, Bannu, in exercise of the power vested in me under Police Rule 1975 (as amended vide Govt. of Khyber Pakhtunkhwa Gazette Notification of even No: dated 27<sup>th</sup> of August 2014), hereby awarded him Major Punishment of "Dismissal from Service" with immediate effect.

OB No: So 2  
Dated: 20-08-2021

(IMRAN SHAHID) PSP  
District Police Officer,  
Bannu.

No. 6296-97 /SRC dated Bannu, the 20.08.2021

- Copy of above is submitted:
1. The District Police Officer, Rahim Yar Khan for favor of information.
  2. Reader, Pay Officer, SRC, OHC for necessary action.
  3. Fauji Misal Clerk along with enquiry file for placing it in the Fauji Misal of the concerned official.

Naila Jan Advocate  
Peshawar High Court

(IMRAN SHAHID) PSP  
District Police Officer,  
Bannu.

## Better Copy No. 13

### ORDER

This order of the undersigned will dispose of the department proceedings against accused Constable Aurangzeb No. 1329 (Suspended) under Police Rule 1975 (As amended vide Govt: of Khyber Pakhtunkhwa Gazette Notification of even No: dated 27<sup>th</sup> of August 2014) by issuing charge sheet and statement of allegation to him for committing the following commissions/ omissions:-

That reportedly Constable Aurangzeb No. 1329 has found charged involved in a criminal case vide FIR No. 209/21, dated 17.04.2021 u/s The Control of Narcotics Substances Act 1997-9-(C ) PS City C Division District Rahim Yar Khan.

Charge sheet and statement of allegation were issued to him and DSP/IIQ Bannu was appointed as Enquiry Officer to hold a regular departmental enquiry under Police Rule 1975 (As amended vide Govt: of Khyber Pakhtunkhwa Gazette Notification of even No: dated 27<sup>th</sup> of August 2014). The Enquiry Officer submitted findings report vide letter No. 355/HQ, dated 26.7.2021 and reported that the said Constable was called for cross questions time and again but he deliberately did not appeared. However, in the light of the departmental enquiry proceedings, statements of enquiry officer and ASI Muhammad Asim, the allegations levelled against the accused official have been proved, please placed at file.

Keeping in view of the above, the undersigned meticulously perused in the relevant record , enquiry report and other circumstances of the case and come to the conclusion that the allegation leveled against the said official has been proved and \_\_\_\_\_ with the findings of the enquiry officer. His further retention in service would be proven detrimental for the department. Hence, I, IMRAN SHAHID, District Police Officer, Bannu, in exercise of the power vested in me under Police Rule 1975 (As amended vide Govt: of Khyber Pakhtunkhwa Gazette Notification of even No: dated 27<sup>th</sup> of August 2014), hereby awarded him Major Punishment of "Dismissal from Service" with immediate effect.

OB No. 909

Dated: 20-08-2021

(IMRAN SHAHID) PSR  
District Police Officer  
Bannu

No.6294-97/SRC dated Bannu, the 20/8/2021

Copy of above is submitted:

1. The District Police Officer, Rahim Yar Khan for favor of information
2. Reader, Pay Officer, SRC, OHC for necessary action.
3. Fauji Misal Clerk along with enquiry file for placing it in the Fauji Missal of the concerned official.

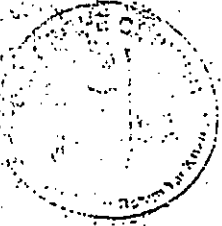
(IMRAN SHAHID)PSP  
District Police Officer  
Bannu

Annexu - B

14

Annexu - "D"

**IN THE COURT OF MUBBASHAR NADEEM KHAN,**  
**ADDL. SESSIONS JUDGE/JUDGE SPECIAL**  
**COURT(CNSA), RAHIMYARKHAN**



Narcotic Case No.108 of 2021  
Narcotic Trial No.03 of 2022.

**The State.**

**Versus.**

**Aurangzeb Khan S/O Akbar Zaman, Caste Khatak Pathan, age 35 years R/O Bannu.**

FIR No.209/2021 dated: 17.04.2021  
U/S 9-C Control of Narcotic Substances Act, 1997.  
Police Station City "C" Division, Rahim Yar Khan.

**DATE OF DECISION: 11.06.2022.**

**JUDGMENT:**

Brief facts of the case according to contents of complaint Exh.PB are that on 17.04.2021, PW-1 Muhammad Asim ASI (complainant) alongwith Abdul Jabbar 1932/C, Abdul Samad 656/C, Zaheer Ahmad 1240/C, on official vehicle driven by Muhammad Bilal 1373/C with Muhammad Asif ASI/PHP and officials of PHP Post Bahoodi Pur Maachhian, was present at Thalli Chowk, when he received spy information that accused Aurangzeb Khan S/O Akbar Zaman, Caste Khatak Pathan R/O Bannu, having narcotic substance was about to reach. Upon receiving information, PW-1 Muhammad Asim ASI (complainant) reached at a distance of few paces from Thalli Chowk towards Bye-pass Chak No.72/NP and installed picket. After about 25/30 minutes, a person came towards them. As pointed out by the

Muhammad Asif Advocate  
Faisalabad High Court

**TESTED**

11.06.2022

informer, PW-1 Muhammad Asim ASI (complainant) along with police officials encircled and apprehended that person who disclosed his name Aurangzeb Khan S/O Akbar Zaman. Upon search of that person, under the shirt, a packet wrapped with yellow colour tape and tied in a cloth at belly of the accused Aurangzeb Khan recovered. Upon weighing, it was found 1210-grams. PW-1 Muhammad Asim ASI (complainant) separated 60-grams charas for chemical analysis from Punjab Forensic Science Agency. PW-1 Muhammad Asim ASI (complainant) prepared sample parcel, remaining charas in another parcel and affixed seal MA on both parcels. PW-1 Muhammad Asim ASI (complainant) took recovered charas into possession through recovery memo Ex.P-A. PW-1 Muhammad Asim ASI (complainant) drafted complaint Exh.PB and sent to Police Station for registration of case, on the basis of which FIR Exh.PB/1 was lodged.

(2). Matter was investigated and report U/S 173 of The Code of Criminal Procedure was sent to Court for trial of accused Aurangzeb Khan.

(3). On 16.05.2022, copies of statements of witnesses U/S 161 of The Code of Criminal Procedure, Inspection note and other relevant documents were supplied to accused Aurangzeb Khan as envisaged U/S 265-C of The Code of Criminal Procedure.

(4). On 28.05.2022, charge was framed against accused Aurangzeb Khan, to which he pleaded not guilty and claimed trial, therefore, prosecution evidence was summoned and examined.

ESTED

JUL 2022

CLERK

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- (5). Prosecution examined;
- i). PW-1 Muhammad Asim ASI who was complainant in this case.
  - ii). PW-2, Abdul Samad 656/C who was witness of recovery proceedings and recovery memo Exh.PA.
  - iii). PW-3 Muhammad Aslam S.I who, on the basis of complaint Exh.PB got generated computerized FIR Exh.PB/1 and was Investigating Officer of this case.
  - iv). PW-4 Zahid Mehmood 1950/HC who was Moharrer, received two sealed parcels of charas and then handed over one sealed sample parcel to Muhammad Aslam S.I for onward transmission to the office of Punjab Forensic Science Agency, Lahore.

(6). On 09.06.2022, Mr. Muhammad Naeem Tahir, learned DDPP gave up witness Abdul Jabbar 1932/C being unnecessary, tendered report of Punjab Forensic Science Agency, Lahore Exh.PD and closed the prosecution evidence.

(7). On 09.06.2022, statement of accused Aurangzeb Khan U/S 342 of The Code of Criminal Procedure was recorded. In reply to question why this case registered against him and why the witnesses deposed against him, accused Aurangzeb Khan replied:

**ATTESTED**


*"Actually on the day of alleged occurrence, I alongwith my friends Yasir Khan and Nadir Khan residents of KPK was present in the house of one Mst. Bena Pathani in connection to inquire about missing person namely Siraj Ahmad. I am serving in police*

Naveed Jan Advocate  
Feshwar High Court  
11.6.22

department in KPK, so the mother of Siraj Ahmad and  
also gave a mobile number of Mst.Bena Pathani with  
whom Siraj Ahmad was reported to be lastly seen in  
her company. In that regard, I alongwith Yasir Khan  
and Nadir Khan were present in the house of Mst.Bena  
Pathani on the fateful day of recovery. After long  
sitting with Mst.Bena Pathani, she could not satisfy us  
regarding missing person. In the meantime, Mst.Bena  
Pathani went out from the place where we were sitting  
and after a short while, she came back. After about  
half an hour, police encircled the house of Mst.Bena  
Pathani, arrested me and lodged present case/FIR  
No.209/21 dated 17.4.2021 against me, showing my  
arrest from Thall Chowk. Fake recovery of charas was  
planted upon me. Likewise two other FIRs No.207/21  
and 208/21 dated 17.4.2021 were also lodged against  
my other two companions. Surprisingly enough, their  
arrest was shown from a different place and different  
quantity of charas was also shown from their  
possession. I was never arrested from Thall Chowk  
and nothing recovered from my possession. Rather  
police snatched Rs.23,000/- alongwith a mobile phone  
J-4 Samsung valuing Rs.27000/- alongwith a wrist watch Casio  
valuing Rs.2500/-, my CNIC and service card from my  
possession. I produce copies of FIR No.207/2021 as  
Mark-D/A and FIR No.208/2021 as Mark-D/B.

Admittedly, Mst.Bena Pathani is a notorious drug  
seller of city Rahim Yar Khan. She is also spy informer  
of police and gets commission from police officers. It  
was not absolutely difficult for her to get lodge  
criminal cases against innocent persons. As I and my  
two other companions put pressure upon Mst.Bena  
and also extended threats for lodging criminal case  
against her regarding missing person Siraj Ahmad, so  
before proceeding against her, she got arrested me in  
present case and my companions in other two cases. It  
is also noteworthy that although different places of  
recoveries and time of recoveries is shown in three  
FIRs, yet the departure of complainant from police

ARRESTED



Mubashir Khan  
Page No. 1 of 1  
Date: 17.4.2021



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The State Vs. Aurangzeb Khan.  
 FIR NO.209/2021, U/S 9-C of CNSA 1997  
 Police Station City "C" Division, Rahim Yar Khan.

*Station shown on 18.4.2021 at 08.00 A.M in all the three FIRs which is highly doubtful and unbelievable."*

Accused neither opted to produce defence evidence nor to appear in witness box U/S 340(2) of The Code of Criminal Procedure.

(8). I have heard arguments of learned defence counsel Hafiz Khaliq Langah, advocate, Muhammad Naeem Tahir, learned DDPP for the State and gone through the record.

(9). PW-1 Muhammad Asim ASI was complainant of the case. According to his deposition, on 17.4.2021, he alongwith Abdul Jabbar 1932/C, Abdul Samad 656/C and Zaheer Ahmad 1240/C, on official vehicle, being driven by Bilal Ahmad 1373/C, was present at Thali Chowk, where he received spy information that a drug peddler namely Aurangzeb Khan S/O Akbar Zaman, Caste Khatak Pathan, R/o Bannu was coming towards Thali chowk alongwith narcotic substance. Asif ASI of PHP alongwith officials of PHP was also with them at that time. Upon that information, after briefing all officials about spy information, they installed a secret picket in the Southern side of road leading to Chak No.72/NP from Thali Chowk. After about 25/30 minutes, a person came towards them. As pointed out by the informer, they circled and apprehended that person. Upon query, that person disclosed his name Aurangzeb Khan. Upon search of that person, a packet of charas wrapped with yellow colour tape and tied in a cloth at belly of the accused recovered. Upon weighing, it was found 1210-grams. PW-1 Muhammad Asim ASI (complainant) separated 60 grams for chemical analysis and made it into a

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sealed parcel. PW-1 Muhammad Asim ASI (complainant) sealed remaining charas P-1 in another parcel and affixed seal MA on both parcels. PW-1 Muhammad Asim ASI (complainant) took into possession, sample parcel, parcel of remaining charas P-1 and cloth/Safa P-2 through recovery memo Exh.FA. PW-1 Muhammad Asim ASI (complainant) drafted complaint Ex.P-B and sent to Police Station for registration of case through Zaheer Ahmad 1240/C. After registration of case, Muhammad Aslam SI alongwith Zaheer Ahmad 1240/C reached at the place of recovery. PW-1 Muhammad Asim ASI (complainant) handed over him two sealed parcels of charas, recovery memo, cloth/safa and custody of accused. PW-2 Abdul Samad 656/C was witness of recovery proceedings and recovery memo Ex.P-A who appeared in the witness box and reiterated statement of PW-1 Muhammad Asim ASI (complainant).

(10). PW-3 Muhammad Aslam S.I. was Investigating Officer who received written complaint Ex.P-B and got generated computerized FIR Ex.P-B/1. After registration of FIR, he went to place of recovery, received custody of the accused, took into possession case property from PW-1 Muhammad Asim ASI (complainant), prepared un-scaled site plan of place of recovery Ex.P-C, recorded statements of witnesses under Section 161 of The Code of Criminal Procedure and concluded investigation. On 21.04.2021, he received one sealed sample parcel from Moharrir for onward transmission to the office of Punjab Forensic Science Agency and deposited in the concerned office, intact on 21.04.2021. On 10.05.2021, upon receiving report of Punjab Forensic Science Agency, Lahore, he recorded statement of

ATTESTED

11 JUN 2022

STAFF OFFICER

District & Session Judge Rawalpindi

6-2-22



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The State Vs. Aurangzeb Khan.  
FIR NO.209/2021, U/S 9-C of CNSA 1997.  
Police Station City "C" Division, Rahim Yar Khan.

Moharrir Zahid Mehmood 1950/HC under Section 161 of The Code of Criminal Procedure.

(i). According to deposition of PW-1 Muhammad Asim ASI (complainant), he did not know on 17.04.2021, at what time, they left the Police Station, whereas according to deposition of PW-2 Abdul Samad 656/C (witness of recovery proceedings and recovery memo) they left the Police Station at about 06:00 P.M. It meant PW-1 Muhammad Asim ASI (complainant) was not with PW-2 Abdul Samad 656/C (witness of recovery proceedings and recovery memo) at relevant time.

ii). According to deposition of PW-1 Muhammad Asim ASI (complainant), they reached at Thalli Chowk at about 08:00 P.M, whereas according to deposition of PW-2 Abdul Samad 656/C (witness of recovery proceedings and recovery memo), they reached at Thalli Chowk at about 08:30 P.M. Statements of both the witnesses are contradictory to each other at this point.

iii). According to deposition of PW-1 Muhammad Asim ASI (complainant) accused Aurangzeb Khan arrived at the place of recovery from the Eastern side, where they were standing, whereas according to deposition of PW-2 Abdul Samad 656/C (witness of recovery proceedings and recovery memo), accused came

Mubashir Peshawar Khan  
Adv. Secy.  
Judge Secy.  
Rahim Yar Khan

Naila Jam Advocate  
Peshawar High Court

11-6-22

**ATTESTED**  
11 JUN 2022  
STAFF OFFICER  
District & Session Judge Rahim Yar Khan

8.

from the Southern side. Statements of both the witnesses are contradictory to each other at this point.

iv). According to deposition of PW-1 Muhammad Asim ASI (complainant), officers/officials of PHP came there at their own as that area fell under their jurisdiction, whereas according to deposition of PW-2 Abdul Samad 656/C (witness of recovery proceedings and recovery memo), they were called by PW-1 Muhammad Asim ASI (complainant). Statements of both the witnesses are contradictory to each other at this point.

v). According to deposition of PW-1 Muhammad Asim ASI (complainant), he remained present at the place of recovery for about one hour and 30 minutes, whereas according to deposition of PW-2 Abdul Samad 656/C (witness of recovery proceedings and recovery memo) they remained there for half an hour. Statements of both the witnesses are contradictory to each other at this point.

vi). According to deposition of PW-2 Abdul Samad 656/C (witness of recovery proceedings and recovery memo), there were shops in the Eastern and Western side of place of recovery, whereas according to un-scaled site plan Ex.P-C, in the Eastern side of

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The State Vs. Aurangzeb Khan.  
 FIR NO:209/2021, U/S 9-C of CNSA 1997  
 Police Station City "C" Division, Rahim Yar Khan.

place of recovery, there was a road which is fatal to prosecution case:

vii). According to deposition of PW-2 Abdul Samad 656/C (witness of recovery proceedings and recovery memo) only charas recovered from the possession of accused Aurangzeb Khan and no sale amount recovered from the accused. If accused had come from Bannu, there must be money in his possession for transportation which is fatal to prosecution case.

viii). According to deposition of PW-2 Abdul Samad 656/C (witness of recovery proceedings and recovery memo), they were standing in the Southern side of Thalli Chowk, whereas according to deposition of PW-3 Muhammad Aslam (investigating officer), when he reached at the place of recovery, police party and accused were standing on the road at a distance of

one acre from Thalli Chowk towards Chak No.72/NP.

Statements of both the witnesses are contradictory to each other at this point.

(11). Version of accused Aurangzeb Khan was that he was serving in police department in Khyber Pakhtunkhwa. A person Siraj Ahmad was missing. Reportedly, he was lastly seen with Mst. Beno Pathani. Upon the asking of mother of Siraj Ahmad, he along with Yasir Khan and Nadir Khan came to Mst. Beno Pathani who could not satisfy them about Siraj Ahmad. That Mst. Beno Pathani was narcotic substance seller and informer of the police.

11.6.22

**ATTESTED**  
 JUN 2022  
 STAFF OFFICER  
 Rahim Yar Khan

Naila Jafri Advocate  
 Feshawaz High Court

She joined hands with police and got arrested all of them from her house. After that, police registered present case against him and two other cases, FIR No.207/2021 dated 17.04.2021 under Section 9-C Control of Narcotic Substances Act, 1997 Police Station City "C" Division, Rahim Yar Khan against Nadir Ali Shah and FIR No.208/2021 dated 17.04.2021 under Section 9-C Control of Narcotic Substances Act, 1997 Police Station City "C" Division, Rahim Yar Khan against Yasir Khan at the same time mentioning different place of recoveries. Copies of FIR No.207/2021 dated 17.04.2021 under Section 9-C Control of Narcotic Substances Act, 1997 Police Station City "C" Division, Rahim Yar Khan and FIR No.208/2021 dated 17.04.2021 under Section 9-C Control of Narcotic Substances Act, 1997 Police Station City "C" Division, Rahim Yar Khan are produced by the accused in which Nadir Ali Shah and Yasir Khan were nominated as accused. Version of the accused read with contradictory evidence of the prosecution seems plausible and believable.

(12). It is settled law that a single discrepancy or dent in prosecution evidence is sufficient to extend benefit of doubt to an accused. Prosecution evidence is full of doubts and discrepancies which are seriously fatal to prosecution case.

(13). For the above discussion, prosecution has miserably failed to prove the charge/case against accused Aurangzeb Khan, therefore, accused Aurangzeb Khan S/O Akbar Zaman

is acquitted from the charge/case. Accused is present before the Court on bail. He and his surety are discharged from their liabilities. Case property, charas and cloth/safa be destroyed after one month or decision of appeal, if any. Local police be

ATTESTED

11 JUN 2022

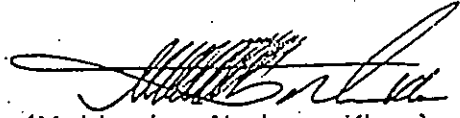
STAFF OFFICER  
Session Judge Rahim Yar Khan

Mudassar Khan  
S/O Akbar Zaman  
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24

The State Vs. Aurangzeb Khan.  
 FIR NO.209/2021, U/S 9-C of CNSA 1997  
 Police Station City "C" Division, Rahim Yar Khan.

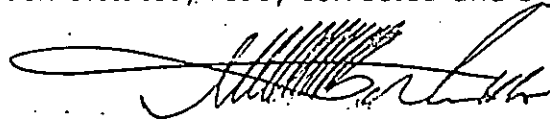
informed accordingly. A copy of this judgment be sent to District Public Prosecutor, Rahim Yar Khan. Ahlmads Muhammad Ejaz and Muhammad Farhad are directed to consign the file to record room after due completion.



(Mubbashar Nadeem Khan)  
 Addl. Sessions Judge/  
 Judge Special Court( CNSA)  
 Rahim Yar Khan.

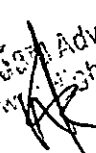
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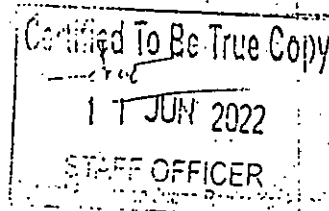
Certified this judgment consists of Eleven (11) pages, each page has been dictated, read, corrected and signed by me.



Dated:  
 11.06.2022

Addl. Sessions Judge/  
 Judge Special Court( CNSA)  
 Rahim Yar Khan.

Mulla Jogi Advocate  
 Ferozpur High Court  




15

To: The Deputy Regional Police Officer,  
Bamun. Region, Bamun.

Sub: Appeal for setting aside the  
punishment of dismissal from  
Service under OB No. 909 dated  
20/8/2021

Respected Sir,

With due respect it is requested:-

- 1- That the appellant was falsely implicated in Case FIR No. 209/2021, dated 17/4/2021, U/S 9-c Control of Narcotic Substance Act, 1997 Police Station city "C" Division, Ratin. Gur Khan. Copy of FIR is at A/A)
- 2- That the appellant was acquitted from the charges as the prosecution miserably failed to prove the charge. (Copy of judgement passed by Addl. Session Judge/Judge special court (CNVA) Ratin Gur Khan is at A/B)
- 3- That no department without waiting to the court judgement as mandatorily under police Rules initiated departmental proceedings against the appellant and without associating in

Advocate  
High Court



3. with the departmental proceedings dismissed him from service with DPO office OB No. 909 dt 20/8/2021. copy is at A/C

11 - that the order of competent authority is against the norms of natural justice as the appellant has condemned un- heard without associating with the departmental proceeding as well as giving opportunity of showing cause.

5 - that there is no best forum for evaluating the guilt/exoneration of the appellant than the competent court whereas, the appellant has been exonerated by the court as evident from the judgement.

Keeping in view the above, it humbly requested the subject punishment may be set aside for the best interest of Justice and obliged please.

Dated 4/7/2022

Appellant,  
Aurang Zeb ex-constable  
No 1329 R/O of PS  
Manchar Bann  
M/No. 03329364720

17/07/2022  
Subordinate  
Court

17

Annexure - 'F'

ORDER:

This order will dispose of departmental appeal, preferred by Ex-Constable Aurang Zeb No.1329 of District Police Bannu, wherein he has prayed for setting aside the order of major punishment of "Dismissal from service", imposed upon him by DPO Bannu vide OB No.909 dated 20.08.2021 on the following allegations:-

- That the appellant was found involved in criminal case vide FIR No.209 dated 17.04.2021 u/s The Control of Narcotics Substance Act, 1997- 9-(c) PS City C-Division District Rahim Yar Khan.

9637  
27/8

Comments, service record and departmental inquiry file were received from DPO Bannu vide his office letter No.3821/SRC dated 26/08/2022 and perused. The DPO Bannu has reported that Charge Sheet was issued to the appellant and DSP Hqrs: Bannu was appointed as Enquiry Officer. The E.O conducted inquiry into the allegations and submitted his findings, wherein, the E.O concluded that the appellant was found guilty of the charge leveled against him. The DPO Bannu awarded him major punishment of dismissal from service vide O.B No.909 dated 20.8.2021. The appellant was heard in person in orderly room held in RPO Office Bannu on 15.09.2022. His plea was not found convincing. His service record and enquiry file were perused thoroughly, which transpired that during short span of service he had been punished 17 times including Removal from Service, Dismissal from Service and Reduction to time scale. This time too, he has involved himself in a serious case of drug smuggling. His further retention in Police force is not desirable as he seems to be incorrigible.

Therefore, I, Syed Ashfaq Anwar, PSP, Regional Police Officer, Bannu Region Bannu, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules, 1975 (amended in 2014) hereby reject his appeal and endorse the punishment awarded to him by DPO Bannu vide OB No. 909 dated 20.08.2021.

ORDER ANNOUNCED  
OB No. 302  
Dated: 26/9/2022

LL

Regional Police Officer,  
Bannu Region,  
Bannu

3792  
No. 3792 /EC, dated Bannu the 26/9/2022  
Cc:

DPO-Bannu for necessary action w/r to his office letter No. cited above. Complete Service Roll of Ex-Constable Aurang Zeb No 1329 and enquiry file are sent herewith for record in your office which may be acknowledged, please.

OASI/SRC

for n/a & early compliance

Regional Police Officer,  
Bannu Region,  
Bannu

Received  
on 11/11/2022  
Aurang Zeb

Aurang Zeb No 1329

District Officer  
Bannu

گزارش کی جاتی ہے کہ سائل کو بیچہ حکمانہ انکوائیری سرورس سے برحاست کیا گیا تھا۔ بعد میں اپیلیٹ اتھارٹی نے سائل کی درخواست فائل کی۔  
اب سائل کو سرورس ٹریبونل میں اپیل دائر کرنے کیلئے انکوائیری فائل کی کاپیز درکار ہیں۔ لہذا استدعا ہے کہ سائل کو پولیس روڈ  
1975 اور RTI ACT KPK Peshawar کے تحت انکوائیری فائل کی کاپیز دیئے جانے کا حکم صادر فرمادیں۔

عین نوازش ہوگی۔

العارض۔ اورنگزیب ایکس پائی نمبر 1329

احقر شکریت

Inspector Legal

For Comments

DPD Bannu  
01.11.2022

Advocate  
Peshawar High Court

فوری عمل چلے کر سائل کر رہے

Annexus - 9-1

19

Respected Sir,

It is submitted that applicant Aurang Zeb 1329( Ex. Constable) was submitted an application in respect of charge sheet summary of allegation and complete Inquiry file under RTI ACT KPK Peshawar Police Rules 1975.

Which was marked to me for Legal Opinion.

LEGAL OPINION:

“The Khyber Pakhtunkhwa Right to Information ACT, 2013.

( Khyber Pakhtunkhwa ACT NO. XXVII of 2013)”

According to section (3) Right to information... (1) Every citizen shall subject to the provisions of this Act and any rules made under it, have the right to access any information or record held by a public body.

(2) Notwithstanding anything contained in any other law for the time being in force, and subject to the provisions of this Act, no requester shall be denied access to any information or record.

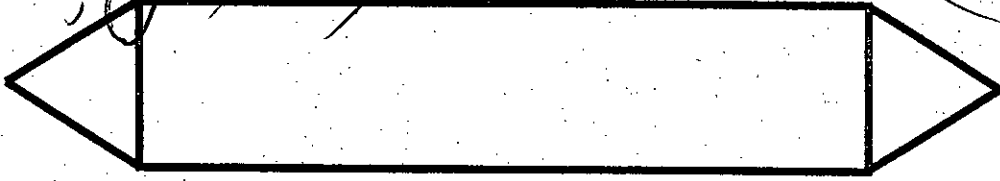
Reported submitted Please.

~~MA-7~~

Muhammad Farooq Khan  
I/C Legal

Naila ~~Advocate~~  
Peshawar High Court

- 1/4  
- Provide  
- Dummali order by DPO  
& Appeal Rejection by DPO  
7 2 1



مورخہ

مقدمہ

دعویٰ

جرم

۲۰۲۲ء ۲۰ مئی  
اورنگزیب بیگ بنام پولیس

### باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام لٹریچر کیلئے سائیکل

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 ق تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا محتاج ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکور با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ ہوں گے سب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھدیا کہ سندر ہے۔

۲۰۲۲ء

ماہ نومبر

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المرقوم

العبد د گ د واه العبد

Accepted  
کے لئے منظور ہے۔  
Accepted by

Naila Jan Advocate  
Peshawar High Court  
Peshawar High Court

لٹریچر

مقام