

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.**



Service Appeal No. 3870/2020
Date of Institution .. 06.08.2020
Date of Decision .. 25.08.2021

Gul Nabi, Ex-ASI, Police Line, Swabi.

... (Appellant)

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and
two others.

... (Respondents)

Mr. Ali Azim Afridi,
Advocate

--- For appellant.

MR. USMAN GHANI,
District Attorney

--- For respondents.

MR. SALAH-UD-DIN
MR. MIAN MUHAMMAD

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

JUDGMENT:

SALAH-UD-DIN, MEMBER:- The appeal in hand has been preferred against the impugned order dated 01.06.2020, whereby major penalty of dismissal from service was imposed upon the appellant, as well as against the order dated 16.07.2020, whereby departmental appeal of the appellant was rejected.

2. Precise facts giving rise to filing of the instant appeal are that during posting of the appellant as Investigation Officer at Police Station Battagram, disciplinary action was initiated against him on the ground that he was having links with criminals. In this context, case FIR No. 245 dated 25.04.2020 under section 118 Police Act, 2017 was also registered against the appellant in Police Station Tangi. On

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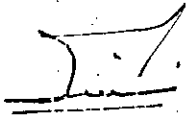
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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

conclusion of the inquiry, vide order dated 01.06.2020, the competent Authority awarded major penalty to the appellant by dismissing him from service. The appellant preferred departmental appeal against the said order, however the same was also dismissed vide order dated 16.07.2020. The appellant has assailed both the aforementioned orders through filing of the instant service appeal.

3. Notice was issued to the respondents, who submitted their comments, wherein they refuted the contention of the appellant.

4. Learned counsel for the appellant has argued that the inquiry proceedings were conducted in a hasty manner and the appellant was not even provided an opportunity of personal hearing; that no evidence whatsoever was brought on record during the departmental inquiry, which could show that the appellant was having any links with criminals; that a criminal case was also registered against the appellant, however he has been discharged in the said case by the learned Judicial Magistrate-I Tangi vide order dated 20.1.2021; that the impugned orders were passed in a superficial manner, without assigning any legal and valid reasons, therefore, the same are liable to be set-aside.

 5. On the other hand, learned District Attorney has argued that the appellant was having links with criminals, which fact was bringing bad name to Police Department, therefore, disciplinary action was rightly taken against the appellant; that the inquiry proceedings were conducted in accordance with law/rules and the appellant was afforded ample opportunity of his defense; that the appellant was found guilty during the inquiry conducted against him, therefore, he was rightly dismissed from service and the departmental appeal of the appellant was also rightly rejected being devoid of merit.

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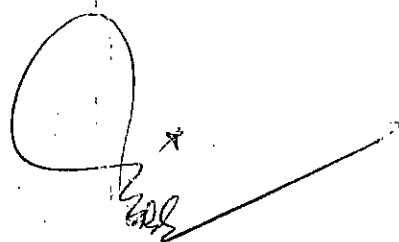
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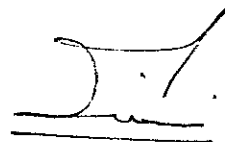
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9. In view of the above discussion, the appeal in hand is accepted by setting-aside the impugned orders and the appellant is re-instated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
25.08.2021



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)



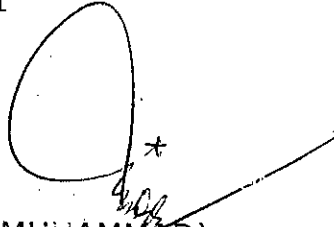
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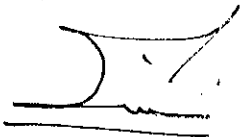
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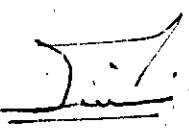
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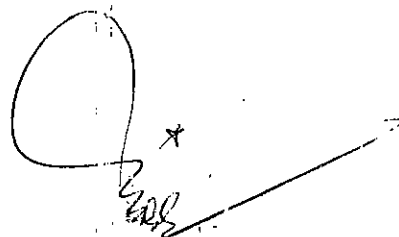
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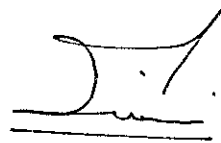
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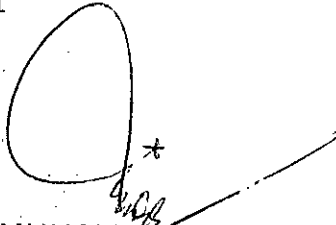
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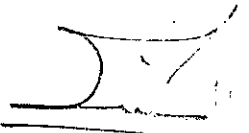
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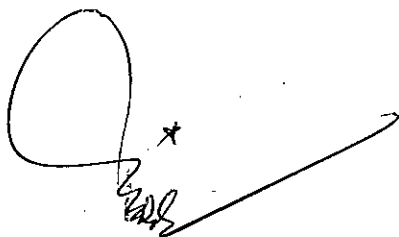
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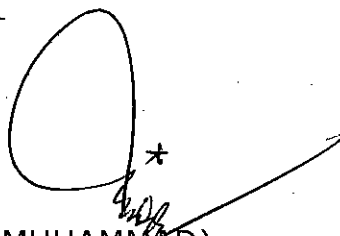
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MEMBER (JUDICIAL)

ORDER
25.08.2021

Appellant alongwith his counsel Mr. Ali Azim Afridi, Advocate, present. Mr. Usman Ghani, District Attorney for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand is accepted by setting-aside the impugned orders and the appellant is re-instated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

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A handwritten signature in black ink, consisting of a large, stylized 'M' followed by a horizontal line and a diagonal stroke extending to the right. There is a small asterisk-like mark above the signature.

(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

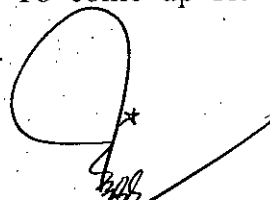
A handwritten signature in black ink, consisting of a stylized 'S' followed by a horizontal line and a diagonal stroke extending to the right.

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

23.08.2021

Mr. Ali Azim Afridi, Advocate and Mr. Hafeez Ullah, Afridi, Advocate for the appellant present and submitted Wakalatnama on behalf of the appellant. Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present.

Learned Additional Advocate General sought adjournment on the ground that he has not prepared the case. Adjourned. To come up for arguments before the D.B on 25.08.2021.



(MIAN MUHAMMAD)
Member(E)




(SALAH-UD-DIN)
Member(J)

14.01.2021

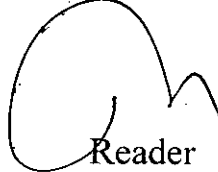
Appellant is present in person. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Fazle Subhan, Head Constable, for the respondents, are also present.

Representative of the department submitted written reply on behalf of respondents which is placed on record. File come up for rejoinder and arguments on 23.04.2021 before D.B.


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

23.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 16.08.2021 for the same as before.


Reader

16.08.2021

Since 16.08.2021 has been declared as Public holiday on account of Moharram, therefore, case is adjourned to 23.8.2021 for the same as before.


Reader

28.09.2020

Counsel for the appellant present.

Contends that during the departmental proceedings the appellant was not associated in proper manner nor the enquiry was carried out in accordance with rules. Referring to the enquiry report dated 29.04.2020, it is contended that extraneous grounds prevailed before the enquiry officer for recommending penalty which included the holding of a Press Conference. On the other hand, the nature of charge against the appellant was of such nature that required cogent proof through a regular enquiry which was not done.

Subject to all just exceptions including the delay, instant appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 25.11.2020 before S.B.

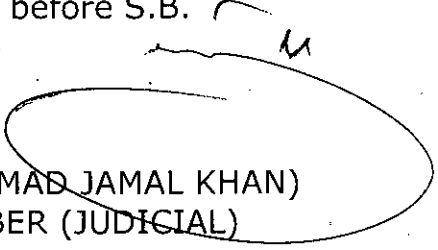
Appellant has deposited
Security & Process Fee
28/9/20


Chairman

25.11.2020

Appellant is present in person. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is also present.

Written reply on behalf of respondents not submitted. Learned Additional Advocate General requests for further time to contact the respondents and furnish written reply/comments on the next date of hearing. Adjourned to 14.01.2021 on which date file to come up for written reply/comments before S.B.

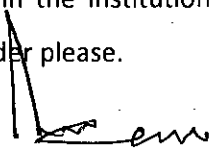
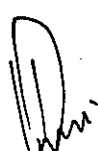

(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 8870/2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	06/08/2020	<p>The appeal of Mr. Gul Nabi presented today by Mr. Noor Mohammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>28/09/2020</u></p> <p> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 8870 /2020

GUL NABI

VS

POLICE DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1	Memo of appeal	1- 3.
2	Charge sheet & Statement of allegation	A	4- 5.
3	Reply	B	6- 7.
4	Final Show cause & reply	C	8- 9.
5	Inquiry	D	10- 11.
6	Impugned order	E	12.
7	Departmental appeal	F	13.
8	Rejection order	G	14- 15.
8	Vakalat nama	16.

APPELLANT

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

APPEAL NO. 8870/2020

Diary No. 8290

Dated 6/8/2020

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Police Line, Swabi.....

APPELLANT

VERSUS

- 1- The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2- The Regional Police Officer, Mardan Region, District Mardan.
- 3- The District Police Officer, District Swabi.

.....**RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT,1974 AGAINST THE IMPUGNED ORDER DATED 01.06.2020 WHEREBY MAJOR PENALTY OF DISMISSAL FROM SERVICE HAS BEEN IMPOSED UPON THE APPELLANT AND AGAINST THE APPELLAT ORDER DATED 16.07.2020 WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT HAS ALSO BEEN REJECTED ON NO GOOD GROUNDS.

PRAYER:

That on acceptance of this appeal the impugned orders dated 01.06.2020 and 16.07.2020 may very kindly be set aside and the appellant be reinstated into service with all back benefits. And any other remedy which this August Tribunal deems fit that may also be awarded in his favor.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:-

- 1- That appellant was the employee of respondent Department and was serving as ASI quiet efficiently and up to the entire satisfaction of his superior.
- 2- That during service the appellant has been charge sheeted alongwith statement of allegation whereby it was alleged that during posting as Investigation Officer at Police Station Battagram, he has links with criminals. That appellant submitted a detail reply of the charge sheet and statement of allegations and denied all the allegations leveled

Filed to-day
6/8/2020
Registrar

against him. Copies of the charge sheet, statement of allegation & reply are attached as annexure.....**A & B.**

3- That then after the appellant has served with final show cause notice which was properly replied by the appellant. Copy of the show cause notice is attached as annexure.....**C.**

4- That due to the above mentioned baseless allegation an FIR No.254, U/S 118-Police Act, 2017 vide dated 25.04.2020 in Police Station Tangi was also lodged against the appellant but the Learned Court has granted bail to the appellant.

5- That it is pertinent to mention that the Department conducted a Departmental inquiry into the matter without associating the appellant into the aforementioned inquiry and straight away issued the impugned order dated 01.06.2020 whereby major penalty of dismissal from service has been imposed on the appellant. Copies of the inquiry and impugned order are attached as annexure.....**D & E.**

6- That appellant feeling aggrieved from the impugned order dated 01.06.2020 preferred departmental appeal but the same has been rejected by the appellate authority vide order dated 16.7.2020 on no good grounds. Copies of the Departmental Appeal & Rejection order are attached as annexure.....**F & G.**

7- That appellant feeling aggrieved and having no other remedy but to file the instant service appeal on the following grounds amongst the others.

ON GROUNDS:

A- That the impugned orders dated 01.06.2020 and 16.07.2020 are against the law, facts, norms of natural justice and material on the record, hence not tenable and liable to be set aside.


B- That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.

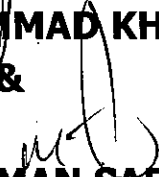
C- That the respondent department acted in arbitrary and malafide manner while issuing of the impugned order dated 01.06.2020.

- D- That no chance of personal hearing/defense has been provided to the appellant before issuing the impugned order dated 01.06.2020 which is necessary as per judgment of the Apex Court before taking punitive action against the Civil Servant.
- E- That no opportunity of cross examination has been given to the appellant before issuing the impugned order dated 01.06.2020.
- F- That the allegations leveled against the appellant has not been proved, therefore, the impugned order dated 01.06.2020 is not tenable in the eye of law, hence the same is liable to be set aside.
- G- That the impugned order dated 01.06.2020 has been issued by the respondent Department in hasty manner and without waiting for the outcome of the trial in the criminal case.
- H- That the appellant seeks permission to advance any other grounds and proof at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may very kindly accepted as prayed for.

Dated: 04.07.2020

APPELLANT

GUL NABI

THROUGH:
NOOR MUHAMMAD KHATTAK
&

MIRZAMAN SAFI
ADVOCATES

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Handwritten signature and date: 20/1/21

Handwritten signature and date: 26/11/2020

1. Sameen Ahmad, learned APP for the state present. Accused Gul-Nabi on bail present. Arguments on application have already been heard. Record is gone through.

2. Accused Gul Nabi Khan (ASI) s/o Ghulam Nabi r/o Hajizai, Shabqadar, Tehsil Shabqadar, District Charsadda has been charged vide case FIR No.254 dated: 25.04.2020 u/s 118 of the Khyber Pakhtunkhwa Police Act, 2017 registered at Police Station Tangi, District Charsadda.

3. Background of the instant FIR are that, the accused named above being a Police official is having links with criminals/smugglers of narcotics and during a press conference, he leveled serious allegations against his high ups and Police department, hence, complainant Mr.Masood Khan SHO of P.S Tangi has lodged the instant FIR against the accused.

4. After registration of the case, investigation was carried out and after completion of investigation challan was forwarded against the accused for trial.

On receipt of challan, accused was summoned, who put appearance and the case was fixed for indictment of the accused on 19.12.2020, when learned counsel for the accused submitted an application for dismissal/cancellation of FIR being not

Handwritten signature and date: 10/1/21

ATTESTED
Examiner/Muharrir
Copying Agency Branch
Court of CI / ADJ. Tangi
20/1/21

maintainable. Notice of the application given to learned APP for the state.

6. The instant case has been registered against the accused for committing certain misconduct to be penalized u/s 118 of the Khyber Pakhtunkhwa Police Act, 2018. Section 118 of the Act is reproduced as under:-

118. Penalty for certain types of misconduct by Police officers:--- (1) Any Police Officer who—

- (a) makes for obtaining release from service as Police officer, a false statement or a statement which is misleading in material particulars or uses a false documents for the purpose;*
- (b) is guilty of cowardice, or being a Police officer, resigns his office or withdraws himself from duties without permission;*
- (c) is guilty of any willful breach or neglect of any provision of law or of any rule or regulation or any order which he is bound to observe or obey;*
- (d) is guilty of any violation of duty;*
- (e) is found in a state of intoxication while on duty;*
- (f) is grossly insubordinate to his superior officer or uses criminal force against a superior officer; or*
- (h) engages himself or participants in any demonstration, procession or strike or resorts to or in any way abets any form of strike or coercion or physical duress to force any authority to concede anything shall, on conviction, for every such offence shall be punished with imprisonment for a terms which may extend to three or with fine.*

(2) Criminal proceedings under section shall be initiated after approval is accorded in writing by Head of District Police, head of unit, Regional Police Officer or Provincial Police Officer, as the case may be.

[Handwritten signature]
26/01/2024

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Examiner/ Muharrir
Copying Agency Branch
Court of CJ / ADJ Tangi
26/1/24

Chapter-X of the ibid Act relates to the offences and punishments as given under sections 102 to 115 of the Act and section 116 of the act provides that only offences falling under section 112 to 115 shall be cognizable. For the sake of convenience, section 116 of the Act is reproduced as under:-

"116. Certain offences to be cognizable:- The offences falling under sections 112 to 115 shall be cognizable"

7. Thus, the above provisions of law clearly suggest that misconducts u/s 118 of the ibid Act are not falling in the category of cognizable offences and though criminal proceedings can be initiated against the delinquent Police officer, but registration of FIR in wake of section 116 of the ibid Act is not warranted under the law as registration of criminal case u/s 154 Cr.P.C can only be made whenever an act of an accused persons constitutes commission of cognizable offence. Similarly, the Police cannot investigate such an offence without permission of the Court. It is relevant to point out here that when the Police forwarded challan for put-in-Court, the prosecution agency also highlighted the above situation

regarding offence being of non-cognizable nature and learned

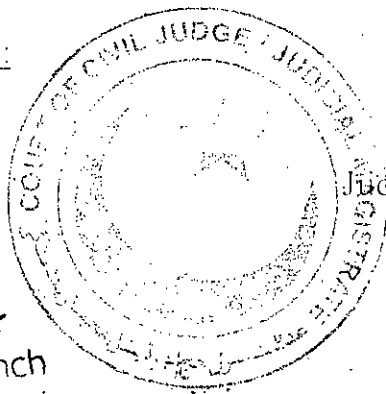
for the State though forwarded the case for put-in-Court but with the following remarks:

"Forwarded to Court with comments of APP. Let the Court decide fate of the case."

8. In the given circumstances, the proceedings initiated against the accused in form of registration of present case are void abinitio, however, since this court has already taken cognizance of the case, while cancellation of case is administrative powers of the Magistrate, therefore, at this stage cancellation of case cannot be ordered. However, in the aforesaid situation, accused cannot be tried for a non-cognizable offence, hence, he is discharged of the charges leveled against him in the shape of instant criminal case.

9. File be consigned to Record Room after compilation.

Announced:
20.01.2021



(Muhammad Ishfaq)
Judicial Magistrate-I, Tangi

20/01/2021

ATTESTED
Examiner/ Muharrir
Copying Agency Branch
Court of CJ / ADJ Tangi
26/1/21



State

vs

Oral No. 1

FIR No. - 254

Dated - 19/12/20

U/S - 118 Police Act

Pls. - Page

6
19/12/20

Application for the dismissal of
FIR being not maintainable.

Respectfully search,

1. - That the aforesaid case is pending
before the Honorable Court which is
fixed for charge.

ATTESTED
Examiner / Muharir
Coping Agency Branch
Court of CJ / ADJ Tangi
26/1/21

2. - That the case is not maintainable
therefore liable to be dismissed.

It is thus for liberty and that the
case may well be dismissed. The

Dated 19/12/2020

Attorney
through
Wardha
Del.

A-9

CHARGE SHEET UNDER KPK POLICE RULES 1975

I, **Mr. Iftikhar Shah**, SP Investigation, Charsadda, as competent authority hereby charge you **ASI Gul Nabi**, I.O PS Batagram as follows.

That you **Gul Nabi**, while posted as I.O PS Batagram, it came to light through reliable sources that you have links with criminals, which is highly objectionable and earns bad name for the Police Force.

Being a member of discipline force, such act is highly objectionable and against the norms of discipline force.

Verified to be True Copy.

This amount to grave misconduct on your part, warranting Departmental action against you as defined in section-6(l)(a) if the KPK Police Rules 1975.

1. By reason of the above, you appear to be guilty of misconduct under section 02(III) of the KPK Police Rules 1975 and das render hour self-lialbe to all or any of the penalties as specified in section 04(I) a & b of the said rules.
2. You are therefore, directed to submit your written defense within seven days of the receipt of the Charge Sheet to the Enquiry Officer.
3. Your written defense, if any should reach to the enquiry officer within the specified period, in case of failure, it shall be presumed that you have no defense to put-in and in that case an ex-parte action shall follow against you.
4. Intimate, whether you desired to be heard in person.

ATTESTED

District Police Officer, Swat

*Superintendent of Police,
Investigation, Charsadda.*

ATTESTED



**OFFICE OF THE SUPERINTENDENT OF POLICE
INVESTIGATION CHARSADDA
PHONE NO.091-9220402**

5

DISCIPLINARY ACTION UNDER KPK POLICE RULES-1975

I, Mr. Iftikhar Shah, Superintendent of Police, Investigation, Charsadda, as competent authority am of the opinion that ASI Gul Nabi, I.O PS Batagram, has rendered himself liable to be proceeded against as he has committed the following acts/omissions within the meaning of section-02 (iii) of KPK Police Rules-1975.

STATEMENT OF ALLEGATIONS.

Certified to be true copy.

That Gul Nabi, while posted as I.O PS Batagram, it came to light through reliable sources that he has links with criminals, which is highly objectionable and earns bad name for the Police Force.

Being a member of discipline forced, such act is highly objectionable and against the norms of discipline force.

This amounts to grave misconduct on his part, warranting departmental action against him.

For the purpose scrutinizing the conduct of the said official Mr. Shehinshah Gohar, DSP Headquarters, Charsadda is hereby deputed to conduct proper departmental enquiry against the aforesaid official, as contained in section -6 (I)(a) of the afore mentioned rules. The enquiry officer after completing all proceedings shall submit his verdict to this office within stipulated period of (10) days. ASI Gul Nabi, is directed to appear before the enquiry officer on the date, time and place fixed by the (enquiry officer). Charge sheet is attached herewith.


Superintendent of Police,
Investigation, Charsadda.

No. 469-70 /PA/Inv: dated Charsadda the 06-04 /2020.

Copies for information to the:

1. DSP Headquarters, Charsadda, (Enquiry Officer)

2. ASI Gul Nabi, I/O PS Batagram

ATTESTED



جناب عالی
خواجہ فراج شیخ مجریر SP صاحب ایجوکیشن میں چار بارہ حصوں میں

6

کہ مسائل رقم یوں میں 1990 سے لہور کینسل ہوئی ہو اور اس
دوران خراج حقرا میں مختلف کمانڈر جات میں ڈیوٹی انجام دی
جسے سرکل تنگی میں لہور میں ASI کمانڈر کی حیثیت سے کیا گیا
جو کہ جینڈری - جو کہ ٹیڈری - جو کہ ٹکوری اور جو کہ منڈری میں
حسب حکم اخراج کیا گیا ڈیوٹی انجام دیا ہے
جو کہ ٹیڈری میں لہور ایچارج عبدالرشید سے شاید عمل
اظہار شاہ خاں بہادر خان تاج صاحبان DSP صاحبان کے زیر
ڈیوٹی انجام دے چکے ہیں

صبر ایام لگائی کے دوران خود ساختہ عدالت غیر اہل قہ سے لے کر لوچر
بیکے قہ سے شاہ کبیر سے جین اے تک کا کیا ہے کارروائیاں کر کے
تصدقات میں حکومت منڈران کو گزارا کیا ہے جس سے بیماری
اسلم ایجوکیشن بہتر ہو گیا ہے اور ایسی خود ساختہ عدالتوں میں قانونی
جملداری قائم کر کے جو لوچر سے لے کر جین اے تک
سے دار تحسین حاصل ہے جسے جب تک مسائل کمانڈر جات میں
ریا ہے تو کمانڈر تنگی کی FIR اور رپورٹ گواہ ہے
اس دوران جتنی بھی کارروائیاں ہوئی ہیں اور جس میں جتنی بھی اسلم ایجوکیشن

اور منشیات بہتر ہوئی ہے جس سے مسائل کے انکواریشن اور فوری
دہشت پر رہ کر ہے

جناب عالی مسائل قدرتی طور پر سخت فراج کے علاوہ مسائل اور کام مسائل
دو گنا جاری پڑنا ہے اور ایسی وجہ ہے مسائل پر جملہ پیشہ شخصیت کے
ایسی حالتوں سے متنبہ ہو کر جو صبر DSP اور صاحبان میں
نہیں کر رہے ہیں

صبر ایام لگائی کے دوران جو کہ ٹیڈری کے حدود میں سیکڑوں اور
کا دخل اور اس میں فریڈ دہشت میں رہ کر ڈیوٹی انجام دی ہے
اور کارروائی عملداری کو قائم رکھنے میں ہم کردار ادا کیا ہے

ATTESTED

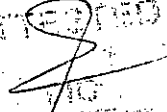
Director, Swabi

4

7

بیان آزاد انگریزوں کے بارے میں (۱۹۴۵ء) قلمبند کیا گیا
 اصل میں ۸۹۹ میں ساخو قلمبند کیا گیا (۱۹۴۵ء) میں
 شعبہ تحقیقات میں ۱۶ ماہ گزار چکا ہے۔ بہترین
 پولیس آفیسر ہے۔ اعلیٰ درجے کے افسر ہے۔
 ڈی ایچ ایم ایف افسر ہے۔ سابق میں میڈیا پر لکھی
 کتاب ہے۔ گریجویٹ پروسیجر آف لاء ہے۔
 Q.A. er
 S.H.

(Certified to be True Copy)

ATTESTED

 DISTRICT POLICE OFFICER, SWABI.

ATTESTED


C (8)

FINAL SHOW CAUSE NOTICE

Whereas you **ASI Gul Nabi**, while posted as I.O Police Station Batagram, it came to light through reliable sources that you have links with criminals, which is highly objectionable and earns bad name for the Police Force, your this act is highly against the discipline and amounts to gross mis-conduct.

In this connection you were charge sheeted and served with summary of allegation and **DSP, Tangi, Charsadda**, was appointed to conduct proper departmental enquiry. The enquiry officer held enquiry and submitted his findings, wherein, he found you **ASI Gul Nabi**, guilty for the mis-conduct and recommended for major punishment.

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

Hence, I, **Imran Shahid, PSP, QPM**, District Police Officer, Swabi in exercise of powers vested in me under Rules 5(3) of the Khyber Pakhtunkhwa Police Rules 1975 call upon you **ASI Gul Nabi**, to show cause finally as to why the proposed punishment should not be awarded to you.

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

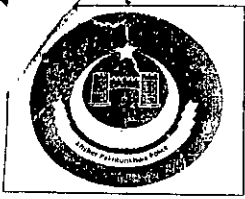
You are also at liberty to appear for personal hearing before the undersigned.

9 - - -

District Police Officer,
Swabi.

District Police Officer, Swabi.

ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
OFFICE OF THE
DEPUTY SUPERINTENDENT OF POLICE, TANGI

D-10

No. 343 /ST,
Dated 29/04 /2020

Ph#: 091-6555284
E-mail: dsptangi@gmail.com

To: **The District Police Officer,
Charsadda.**

Subject: **DEPARTMENTAL ENQUIRY AGAINST ASI GUL NABI.**

Memo:

This is a proper departmental enquiry initiated/conducted against ASI Gul Nabi on the allegations, that he while posted as I.O PS Batgram, information through some reliable sources was received that the said officer has links with criminal elements which is highly objectionable and also stigmatized the entire Police force. Being member of disciplined force, his such conduct is highly objectionable and against the norms of disciplined force.

On the ground of aforementioned allegations, he was served with Charge sheet and summary of allegations by the SP Investigation Charsadda and enquiry was marked to the undersigned for the purpose to scrutinize the conduct of the said ASI and bring the facts to the surface.

In order to probe into the matter, ASI Gul Nabi was called to office and his statement was also recorded.

Statement of ASI Gul Nabi:

He stated that the statement, he had earlier recorded before DSP HQrs Charsadda Mr. Shaheen Shah Gohar, may be considered as his statement wherein he denied the allegations leveled against him and further mentioned his good performance during his entire service.

Conclusion:

1. During enquiry proceeding, the defaulter ASI carried out Press Conference with notorious international drug smuggler Nasir Ali which went viral on Social Media in which the defaulter Police officer violated Police Rules 1934 and Police Act-2017, a criminal case was also registered against him vide FIR No. 254 dated 25.04.2020 u/s 118-Police Act-2017 at PS Tangi, which is under investigation.
2. The undersigned has come to the conclusion that the allegations against the said ASI have been proved without any shadow of doubt which can be well reflected from the Press Conference held by him with the aforementioned drug smuggler. His joint press conference also proved that he not only has links with the said smuggler but also in league with him.
3. Hence, he is recommended for major punishment, if agreed, please.

ATTESTED

Deputy Superintendent of Police,
Tangi

FSCN

DPO/Su...
12-05-2020

Deputy Superintendent of Police,
Tangi

GOVERNMENT OF KHYBER PAKHTUNKHWA
OFFICE OF THE SUPERINTENDENT OF POLICE
INVESTIGATION CHARSADDA
PHONE No. 091-9220402

11

ADDENDUM/CORRINGENDUM

In continuation of this office endst: No. 469-70/PA/Inv:, dated 06.04.2020.

Enquiry Officer.

The name of Enquiry Officer Mr. Khalid Khan, DSP Tangi may be read instead of Mr. Shehishah Gohar, DSP HQrs: Charsadda, please.

Encl: (A.A)

Original is the True Copy.

*Superintendent of Police,
Investigation, Charsadda.*

No. 710-12/PA/Inv: dated Charsadda, the 10/04/2020.

Copy for information and necessary action to the: -

1. DSP Tangi together with copy of Charge Sheet and Statement of Allegation in respect of ASI Gul Nabi. The Enquiry Officer after completing all proceedings shall submit his verdict to this office within 10-days.
2. DSP Headquarters, Charsadda.
3. ASI Gul Nabi. He is directed to appear before the enquiry officer DSP Tangi in this regard.

ATTESTED
District Police Officer, Swabi.

Reader

Call the defacto ASI

ATTESTED

[Signature]

20/4



E-12

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI.

ORDER.

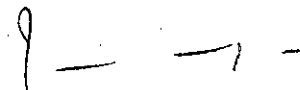
My this order will dispose off departmental enquiry against ASI **Gul Nabi**, the then I.O Police Station Batagram. It came to light through reliable sources that he has links with criminals, which is highly objectionable and earns bad name for the Police Department. His this act is highly against the discipline and amounts to gross mis-conduct.

Therefore, he was served with Charge Sheet and Summary of allegations. DSP, Tangi, Charsadda, was appointed as Enquiry Officer. The Enquiry Officer conducted proper departmental enquiry, collected evidence and recorded statements of all concerned. The enquiry officer submitted his findings, wherein he found **ASI Gul Nabi**, guilty for the mis-conduct and recommended him for Major Punishment. The undersigned perused the enquiry papers, and by agreeing with the recommendation of Enquiry Officer, served him with a Final Show Cause Notice, The reply of final show cause notice was received, perused and found unsatisfactory. However, he was given an opportunity of personal hearing, but his reply was found un-satisfactory.

Therefore, I, **Imran Shahid, PSP,QPM**, District Police Officer, Swabi, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules 1975, hereby award **ASI Gul Nabi**, Major Punishment of dismissal from service, with immediate effect.

O.B No. 535

Dated 01-06/2020.

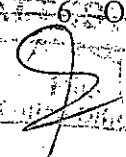

(IMRAN SHAHID) PSP,QPM
District Police Officer, Swabi.

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI.

No. 1640-45/PA, dated Swabi, the 01/06 /2020.

Copies to the: -

1. District Police Officer, Charsadda, w/c his office letter No.406/HC dated 11.05.2020.
2. DSP, H.Qrs, Swabi.
3. Pay Officer.
4. Establishment Clerk.
5. Fauji Missal Clerk.

No. 6 Official concerned

District Police Officer, Swabi

ATTESTED



Date of Presentation of Application: 04/2020
 Copying Fee: Nil
 Total Pages: 20
 Name of Copying: Rasool Ali
 Date of Completion of Copy: 10/6/2020
 Date of Delivery of Copy: 10/6/2020



The Regional Police Officer,
Mardan Region, District Mardan.

3756
18/6/2020

F-13

SUBJECT: DEPARTMENTAL APEAL AGAINST THE IMPUGNED ORDER DATED 01.06.2020 WHEREBY MAJOR PENALTY OF DISMISSAL FROM SERVICE HAS BEEN IMPOSED ON THE APPELLANT.

Respectfully Sir,

With due regard it is stated that I was the employee of your good-self Department and has performed my duties for more than twenty nine years with all zeal and zest and up to the entire satisfaction my superiors. That I have a very clear and unblemished service record and had never done any illegality during my entire service. That during service a serious allegation of links with criminals has been leveled against me. That the allegation leveled against me is not based on fact and the same has no any source according to which the concerned authority can prove against me.


That on the basis of the abovementioned baseless allegation an FIR No. 254, under section 118-Police Act, 2017 vide dated 25.04.2020 in Police Station Tangi was also lodged against me, whereas the Court concerned granted bail to me in the above mentioned criminal case. That the concerned authority while conducting departmental enquiry in the matter without associating me in the said departmental enquiry and straight away issued the impugned dismissal order dated 01.06.2020.

That it is also pertinent to mention here that the allegation leveled against me has not been proved until now and according to law and rules as well as judgments of the Apex Court unless the charges/allegations against the civil servant has not been proved, the civil servant cannot be awarded major punishment, therefore, the impugned dismissal order dated 01.06.2020 is not tenable in the eye of law and liable to be set aside.

It is therefore, most humbly prayed that on the acceptance of this departmental appeal the impugned order dated 01.06.2020 may very kindly be set aside and I may be re-instated into service with all back benefits. Any other remedy which your good self deems fit that may also be awarded in my favor.

Dated: 16.06.2020

ATTESTED



YOUR OBEDIENTLY

GUL NABI, Ex-ASI
Police Lines, Swabi

3
G-14

ORDER.

This order will dispose-off the departmental appeal preferred by Ex-ASI Gul Nabi No. 942 of Investigation Wing, Swabi against the order of District Police Officer, Swabi, whereby he was awarded major punishment of dismissal from Service vide OB: No. 535 dated 01.06.2020. The appellant was proceeded against departmentally on the allegations that he while posted in Investigation Wing, Police Station Batagram District Charsadda, it came to light through reliable sources that he had links with criminals, which was highly unbecoming of a disciplined Police Officer and earned a bad name for the Police Department.

Therefore, proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and Sub Divisional Police Officer, (SDPO) Tangi, Charsadda was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities submitted his findings wherein he found the delinquent officer guilty of the misconduct and recommended him for major punishment.

He was issued him Final Show Cause Notice to which his reply was received and found unsatisfactory. He was also provided opportunity of self defense by summoning him in the Orderly Room held in the office of District Police Officer, Swabi. But he failed to advance any cogent reason in his defense. The District Police Officer, Swabi, therefore, awarded him major punishment of dismissal from service vide OB: No. 535 dated 01.06.2020.

Feeling aggrieved from the order of District Police Officer, Swabi, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 07.07.2020.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations against the appellant have been proved beyond any shadow of doubt. As sufficient material is available on record which established the nexus and frequent contacts of the appellant with drug smugglers. Being a responsible Officer, the conduct of appellant is certainly detrimental to the prestige of Police Force as instead of fighting crime, he has himself indulged in supporting the criminal activities. Moreover, the appellant failed to present any cogent justification which could warrant interference in the order passed by the competent authority.

ATTESTED

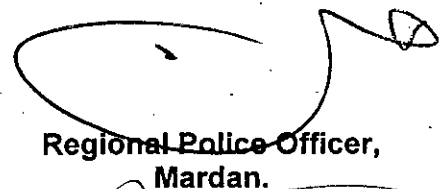


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Keeping in view the above, I, Sher Akbar, PSP S.St Regional Police Officer, Mardan, being the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being devoid of merit.

Order Announced.



Regional Police Officer,
Mardan.

No. 4409-11 /ES, Dated Mardan the 16-7- /2020.

Copy forwarded for information and necessary action to the:-

1. District Police Officer, Swabi w/r to his office Memo: No. 65/Insp: Legal dated 25.06.2020. His service record is returned herewith.
2. District Police Officer, Charsadda.
3. Superintendent of Police Investigation, Swabi and Charsadda.

(*****)

ATTESTED



VAKALATNAMA

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

_____ OF 2020

Gul Nabi

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Police Deptt.

(RESPONDENT)
(DEFENDANT)

I/We *Gul Nabi*

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2019

[Signature]

CLIENT

[Signature]
ACCEPTED
NOOR MOHAMMAD KHATTAK

SHAHZULLAH YOUSAFZAI

&

[Signature]
MIR ZAMAN SAFI
ADVOCATES

OFFICE:

Flat No.4, 2ND Floor,
Juma khan plaza near
FATA secretariat, warsak road
Peshawar City.
Mobile No.0345-9383141

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No. 8870/2020.

Gul Nabi Ex-ASI..... Appellant

VERSUS

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

WRITTEN REPLY BY RESPONDENTS.

Preliminary Objections.

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


REPLY ON FACTS.


1. Para No. 01 of appeal pertains to service record, hence need no comments.
2. Para No. 02 of appeal to the extent of service of Charge Sheet/Summary of Allegations on account of having links with criminals is correct.
3. Para No. 03 of appeal to the extent of service of Final Show Cause Notice is correct, however after proper departmental enquiry proceedings, appellant was served with Final Show Cause Notice.
4. That the case FIR No. 254 dated 25.04.2020 u/s 118 Police Act 2017 in PS Tangi was registered on the misconduct of appellant.
5. Para No. 5 of appeal is incorrect. Proper departmental enquiry was conducted against appellant during which appellant was associated, but he failed to prove himself innocent, hence dismissed from service through speaking order.
6. Para No. 6 of appeal to the extent of filing of departmental appeal is correct, however the same was examined by the appellate authority and dismissed being devoid of merits.
7. That the orders of department are based on sound reasons and the instant appeal is groundless, hence liable to be dismissed.

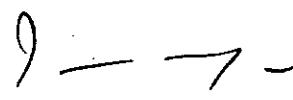
GROUND.

- A. Incorrect. The orders of competent as well as appellate authority is based on facts, law and natural justice.
- B. Incorrect. Appellant has been treated in accordance with law/rules.
- C. Incorrect. There is no malafide on the part of respondents, however he was treated in accordance with law/rules.
- D. Incorrect. After proper departmental enquiry and before passing final orders, appellant was personally heard.
- E. Incorrect. Appellant was proceeded against departmentally during which he was found guilty, hence after issuance of Final Show Cause Notice and personal hearing, dismissed from service.
- F. Incorrect. Reply already given vide para above.
- G. Incorrect. Appellant was found guilty for the misconduct on account of which, he was dismissed from service through speaking order.
- H. That the respondents also seeks permission to advance further grounds at the time of arguments/hearing.

Keeping in view the above narrated facts, it is humbly prayed that the instant appeal being devoid of merits may very kindly be dismissed with costs, please.


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


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


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

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No. 8870/2020.


Gul Nabi Ex-ASI..... Appellant

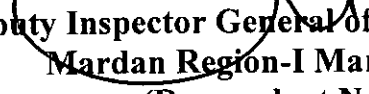
VERSUS

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

AFFIDAVIT:-

We the respondent No. 1 to 3 do hereby solemnly affirm and declare on oath that the contents of the written reply are correct/true to the best of our knowledge / belief and nothing has been concealed from the honorable Tribunal.


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


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


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

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No. 8870/2020.


Gul Nabi Ex-ASI..... Appellant

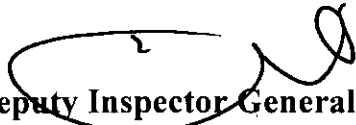
VERSUS

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

POWER OF ATTORNEY.

We, the respondent No. 1 to 3 do hereby appoint Mr. Faheem Khan, Inspector Legal Swabi as special representative on our behalf in the above noted appeal. He is authorized to represent us before the Tribunal on each and every date fixed and to assist the Govt: Pleader attach to Tribunal.


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


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


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

BEFORE THE SERVICE TRIBUNAL KP, PESHAWAR

Service Appeal No. 8870/2020



Gul Nabi

.....Applicant

VERSUS

IG KP & Others

.....Respondent(s)

APPLICATION FOR EARLY HEARING

Respected Sir,

1. That the above-titled case is pending adjudication before the Hon'ble Court and is fixed for hearing on 16-08-2021.
2. That for the sake of brevity and information; the appellant has been dismissed from service and is solely responsible for earning bread and butter; aimed at supporting his family.
3. That the titled case was fixed for hearing on 23.04.2021; as such was adjourned on account of dysfunctionality of the Tribunal.

In lieu of above; It is therefore, humbly submitted that appropriate orders may please be passed for fixation of the

put up to the Hon'ble Chair - an
in lieu of appeal

Reader

NFA
08/07/2021

case before the Hon'ble Court in the month of July, 2021 or
as deemed appropriate for securing the ends of justice.

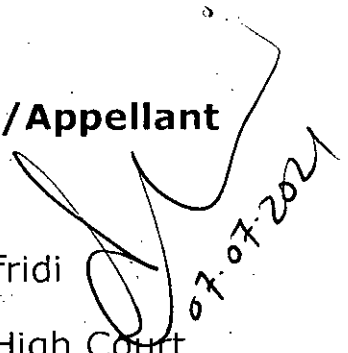
Applicant/Appellant

Through

Ali Azim Afridi

Advocate High Court

Contact # 0333-9555000


07.07.2021

Bi-16.6960

Ali Azim Afridi

0333-9555000

Service Appeal No
8870 / 2020

VAKALATNAMA

BEFORE THE Service Tribunal Peshawar

Cml Narsi Ex-ASI Plaintiff(s)/Appellant(s)
Applicant(s)/Petitioner(s)

VERSUS

MS Peshawar Cml up 8/8/15 Defendant(s)/Respondent(s)
Accused

FOR Appellant

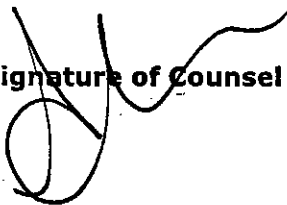
I/We, hereby appoint **Mr. Ali Azim Afridi**
(Advocate High Court)


1. To appear, act and plead for me/us in the titled case before the Court/Tribunal in which the same maybe tried or heard, and any other proceedings arising therefrom or ancillary therewith and its stages that I personally could do if this instrument had not been executed.
2. That fee paid, or agreed to the said Counsel is for this Court alone and no part of the fee is refundable. The Counsel shall be entitled to retain costs payable by the opposite side.
3. I, we, will make arrangement for attending the Court on every hearing to inform my/our Counsel when the case is called. The Counsel shall in no way be responsible for any loss caused to me/us through my/our failure to inform him.

AND hereby agree:-

4. That the Counsel shall be entitled to withdraw from the prosecution of the titled case if the whole or any part of the agreed fee remains unpaid.
5. I/We have read the above terms and conditions and the same have been explained to me/us; and I/We have accepted them in WITNESS WHEREOF; I/We have set my/our hand this ___ day of ___ 20

ACCEPTED

Signature of Counsel


Signature of Client

0302 5590733

Email: - alee_1@live.com
Contact # 0333-9555000

BZ-16.6960

Ali Azim Afridi

0333-9555000

Service Appeal No
8870 / 2020

VAKALATNAMA

BEFORE THE Service Tribunal Peshawar

Cmd Narsi Ex-Asst Plaintiff(s)/Appellant(s)
.....Applicant(s)/Petitioner(s)

VERSUS

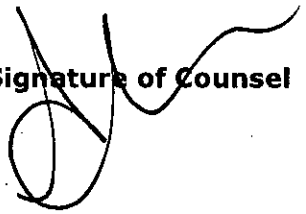
Inspector General Peshawar Defendant(s)/Respondent(s)
.....Accused

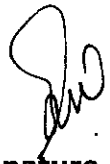
FOR Appellant

I/We, hereby appoint **Mr. Ali Azim Afridi**
(Advocate High Court)

1. To appear, act and plead for me/us in the titled case before the Court/Tribunal in which the same maybe tried or heard, and any other proceedings arising therefrom or ancillary therewith and its stages that I personally could do if this instrument had not been executed.
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- AND** hereby agree:-
4. **That** the Counsel shall be entitled to withdraw from the prosecution of the titled case if the whole or any part of the agreed fee remains unpaid.
 5. I/We have read the above terms and conditions and the same have been explained to me/us; and I/We have accepted them in WITNESS WHEREOF; I/We have set my/our hand this ___ day of ___ 20

ACCEPTED

Signature of Counsel


Signature of Client

0302 5590733

Email: - alee_1@live.com
Contact # 0333-9555000

خبرنامه / اسپیڈ / اسپیڈ

اسپیڈ / اسپیڈ

2021 / 8 / 23 / اسپیڈ

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BC - 20325
Hafeezullah
Abdullah
2021

اسپیڈ / اسپیڈ

8870/2020



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 1795 /ST

Dated: 08/09 /2021

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.
Ph:- 091-9212281
Fax:- 091-9213262

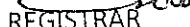
To

The District Police Officer,
Government of Khyber Pakhtunkhwa,
Swabi.

Subject: JUDGMENT IN APPEAL NO. 8870/2020, MR. GUL NABI.

I am directed to forward herewith a certified copy of Judgement dated 25.08.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR