

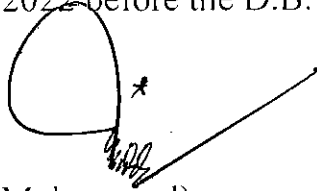
17.10.2022

Appellant alongwith his counsel present. Mr. Arif Saleem, Steno alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Partial arguments heard. To come up for remaining arguments on 20.10.2022 before the D.B.



(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)



20th Oct., 2022

Counsel for the appellant and Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Arif Saleem Steno for the respondents present.

On previous date partial arguments have been heard by the Division Bench comprising of Mr. Salah-ud-Din, learned Member (J) and Mr. Mian Muhammad, learned Member (E). This appeal be fixed before the said Bench on 19.12.2022 for remaining arguments.

(Fareeha Paul)
Member (E)

(Kalim Arshad Khan)
Chairman



04.04.2022

Appellant present in person and Mr. Kabirullah Khattak, Addl. AG alongwith Arif Saleem, Steno for the respondents present.

Former seeks adjournment due to non-availability of his learned counsel. Last opportunity is granted. To come up for arguments on 7-7-2022 before the D.B.



(Mian Muhammad)
Member(E)

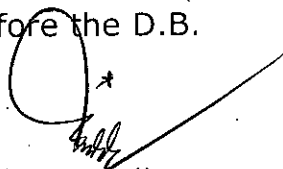


Chairman

07.07.2022

Clerk of learned counsel for the appellant present. Mr. Arif Saleem, Steno alongwith Mr. Riaz Ahmad Paindakhel, Assistant Advocate General for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to strike of lawyers. Adjourned. To come up for arguments on 08.08.2022 before the D.B.



(Mian Muhammad)
Member (E)



(Salah-ud-Din)
Member (J)

8-8-2022

Due to the Public holiday the case is adjourned to 22-11-22

afz
Reader

20.08.2021
20.12.2021

Counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant contends that the appellant was dismissed from service for no fault of his as he on account of his false involvement in a criminal case was behind the bar. After his acquittal, he approached the department for his reinstatement through departmental appeal and then by departmental review petition but all in vain. Points raised during preliminary arguments disclose a prima facie case for full hearing. The appeal is, therefore, admitted for full hearing subject to all just and legal objections, including that of limitation to be determined during full hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 20.12.2021 before the D.B.

Appellant Deposited
Security & Process Fee


Chairman

20.12.2021

Counsel for the appellant and Mr. Muhammad Adeel Butt, Addl. AG alongwith Arif Saleem, Steno for the respondents present.

Representative of the respondents has submitted written reply/comments. Placed on file. The appeal is assigned to D.B for arguments on 04.04.2022.

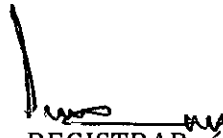


Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 6646 /2021

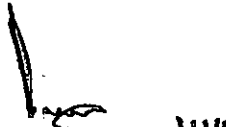
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	30/06/2021	<p>The appeal of Mr. Islam Badshah resubmitted today by Mr. Taimur Ali Khan Advocate, may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>20/08/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Islam Badshah Ex-Constable 1295 r/o Nusrat khel District Kohat received today i.e. on 18.06.2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the counsel.
- 2- Affidavit may be got attested by the Oath Commissioner.
- 3- Appeal has not been flagged/marked with annexures' marks.
- 4- Annexures of the appeal may be attested.
- 5- Page No.26 of the appeal is illegible which may be replaced by legible/better one.
- 6- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1046 /S.T,

Dt. 21/06 /2021


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Taimur Ali Khan Adv. Peshawar.

Respected Sir,

- 1- Removed.*
- 2- Removed.*
- 3- Removed*
- 4- Removed*
- 5- Page- 28 is replaced by better copy-*
- 6- Removed*

*Resubmitted after
compliance*

30/6/21.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

SERVICE APPEAL NO. 8646 /2021

Islam Badshah

V/S

Police Deptt:

INDEX

S. No.	Documents	Annexure	P. No.
01.	Memo of appeal	-----	01-04
02.	Condonation of delay Application	-----	05-06
02	Affidavit	-----	07
03.	Copy of FIR	A	08-09
04.	Copy of charge sheet along with statement of allegations	B&C	10-11
05.	Copy of inquiry report	D	12-14
06.	Copy of show cause notice	E	15
07.	Copy of order/judgment dt: 30.11.2020 and letter dt: 03.12.2020	F&G	16-25
08.	Copy of order dated 04.07.2018	H	26
09.	Copies of departmental appeal and rejection order and revision	I,J&K	27-30
10.	Vakalat Nama	-----	31

APPELLANT

THROUGH:



**(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT**

Room No. FR 8, 4th Flour,
Bilour plaza, Peshawar cantt:
Cell# 0333-9390916

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. _____/2021

Khyber Pakhtunkhwa
Service Tribunal

Case No. 6614

Dated. 18/6/2021

Islam Badshah, Ex-Constable, 1295,
R/O Nusrat Khel District Kohat.

(APPELLANT)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Kohat Region Kohat.
3. The District Police Officer, Kohat.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974
AGAINST THE ORDER DATED 04.07.2018, WHEREBY THE
APPELLANT WAS DISMISSED FROM SERVICE AND
AGAINST THE ORDER DATED 25.02.2021, WHEREBY THE
DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN
REJECTED FOR NO GOOD GROUNDS AND AGAINST NOT
TAKING ACTION ON THE REVISION OF THE APPELLANT
WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

Filed to-day

Registrar

18/6/2021

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE ORDER
DATED 04.07.208 AND 25.02.2021 MAY KINDLY BE SET
ASIDE AND THE RESPONDENTS MAY FURTHER BE
DIRECTED TO REINSTATE THE APPELLANT INTO HIS
SERVICE WITH ALL BACK AND CONSEQUENTIAL
BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST
TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY
ALSO BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWTH:
FACTS:

1. That the appellant joined the department in the year 2008 and since his appointment, the appellant has performed his duty with great devotion and honesty, whatsoever assigned to him and no complaint has been filed against him regarding his performance.
2. That the appellant was falsely implicated in criminal case vide FIR No.01 dated 02.01.2018 u/s 9 (C) CNSA PS Sabir Abad. **(Copy of FIR is attached as Annexure-A)**
3. That charge sheet along with statements of allegations were served to the appellant through Superintendent, central Prison Karak, which was replied by the appellant in which he denied the allegations, however he did not keep the copy of reply to charge sheet which may be requisite from the department. **(Copies of charge sheet along with statement of allegations are attached as Annexure-B&C)**
4. That inquiry was conducted against the appellant in which no opportunity of defence was provided to the appellant as neither statements were recorded in presence of the appellant nor gave him opportunity of cross examination. **(Copy of inquiry report is attached as Annexure-D)**
5. That show cause notice was issued to the appellant which was properly replied by the appellant in which he again denied the allegations, however he did not keep the copy of reply to show cause which may be requisite from the department. **(Copy of show cause notice is attached as Annexure-E)**
6. That on the basis of criminal case, the appellant was sentenced to undergo rigorous imprisonment for life with fine of Rs.50,000/- and in default thereof he has to further undergo one year imprisonment by learned Additional Session Judge-II/Special judge vide order/judgment dated 29.11.2018. The appellant filed Cr. Appeal No.227-B of 2018 in the Honourable Peshawar High Court Bannu Bench. The Criminal Appeal of the appellant was heard on 30.11.2020 by the Honourable High Court Peshawar Bannu Bench. The Honourable High Court accepted the appeal and the appellant not found guilty of offence under section 9 (c) CNSA and conviction recorded by the learned Trial court dated 29.11.2018 was set aside and the appellant was acquitted and the Additional Registrar of Peshawar High Court Bannu Bench sent the copy of order/judgment dated 30.11.2020 to the Learned District & Session Judge through letter

dated 03.12.2020 for compliance. (Copies of order/judgment 30.11.2020 and letter dated 03.12.2020 are attached as Annexure-F&G)

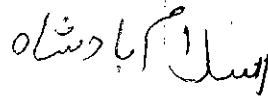
7. That after acquittal from the criminal case, the appellant went to department to join his duty, but he was informed that he has been dismissed from service from the date of his absence vide order dated 27.07.2018. (Copy of order dated 04.07.2018 is attached as Annexure-H)
8. That against the order dated 27.07.2018, the appellant filed departmental appeal on 14.01.2021, which was rejected for no good ground on 25.02.2021. The appellant then filed revision under 11-A of Police Rules-1975 (amended in 2014) on 10.03.2021, which was not responded within the statutory period of ninety days. (Copies of departmental appeal and rejection order and revision are attached as Annexure-I,J&K)
9. That the appellant has no other remedy except to file the instant service appeal in this Honourable Tribunal on the following grounds amongst others.

GROUND:

- A. That the impugned orders dated 27.07.2018, 25.02.2021 and against not taking action on the revision of the appellant within the statutory period are against the law, facts, norms of justice and material on record, therefore, not tenable and liable to be set aside.
- B. That no proper and regular inquiry was conducted against the appellant as neither statements were recorded in the presence of the appellant nor gave him opportunity of cross examination which is violation of law and rules and the impugned orders are liable to be set aside on this ground alone.
- C. That no opportunity of defence was provided to the appellant during inquiry proceeding, which is violation of Article-10A of the Constitution of Pakistan.
- D. That the appellant was falsely implicated in criminal case as per Civil Service Regulations, 194-A, the appellant should be suspended till the criminal case pending against him, but the appellant was dismissed from service without waiting to conclusion of criminal case pending against him, which is violation of CSR, 194-A.

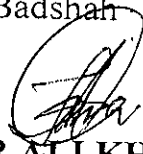
- E. That the appellant was falsely implicated in the criminal case and on the allegation of that criminal case the appellant was dismissed from service, but the Honourable Peshawar High Court Bannu Bench honorably acquitted the appellant in that criminal case, therefore, there remain no ground to penalize the appellant on the basis of that criminal case.
- F. That as per superior court judgment that mere allegation of commission of an offence and registration of FIR against a person would not ipso facto made him guilty rather he would be presumed to be innocent until convicted by a competent court, but the appellant was dismissed from service merely on the basis of FIR in which he was also acquitted.
- G. That the appellant has been condemned unheard and has not been treated according to law and rules.
- H. That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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



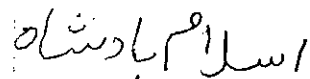
APPELLANT
Islam Badshah

THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

CERTIFICATE:

It is certified that no other similar service appeal between the parties has been filed earlier.



DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. ___ /2021

Islam Badshah

V/S

Police Deptt:

.....
APPLICATION FOR CONDONATION
OF DELAY IN THE INSTANT APPEAL.

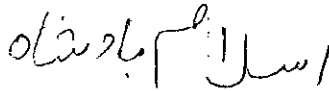
RESPECTFULLY SHEWETH:

1. That the instant appeal is pending before this Honourable Tribunal in which no date is fixed so for.
2. That the appellant was involved in criminal case and was behind the bar. The appellant was dismissed from service on the basis of that criminal on 04.07.2018 and the Honourable Peshawar High Court Bannu Bench acquitted the appellant from that criminal case on 30.11.2020 and in that respect the Additional Registrar of Peshawar High Court Bannu Bench sent the copy of order/judgment dated 30.11.2020 to the Learned District & Session Judge through letter dated 03.12.2020 for compliance and after acquittal from criminal case, the appellant filed departmental appeal on 14.01.2021 against the dismissal order dated 04.07.2018 and as per Apex court judgment, it would be have been a futile attempt on the part of civil servant to challenge his removal/dismissal from service before earning in the relevant criminal case and as such the departmental appeal filed by the appellant was well in time.
3. That the appellant was absent from duty and was dismissed service from the date of his absence, which means that impugned removal order is retrospective order and as per superior courts judgments such like order is void order and no limitation runs against such like orders.
4. That the august Supreme Court of Pakistan has held that decision on merit should be encouraged rather than knocking-

out the litigants' on technicalities including limitation. Therefore, appeal needs to be decided on merit (PLD-2003 (SC) 724).

5. That the the instant appeal may kindly be decide on merit as the appellant has good cause to be decided on merit.

It is therefore most humbly prayed that on the basis of above submission, the instant appeal may be decided on merit by condoning the delay to meet the ends of justice.



APPELLANT

THROUGH:



**(TAIMUR ALI KHAN)
ADVOCATES PESHAWAR.**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. _____/2021

Islam Badshah

V/S

Police Deptt.

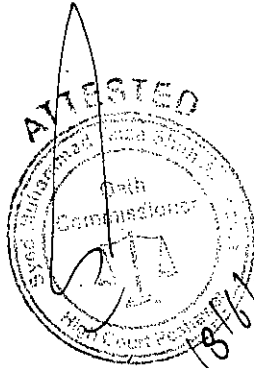
AFFIDAVIT

I, Islam Badshah S/O Eid Badshah, R/O Nusrat Khel, District Kohat, (appellant) do hereby affirm and declare that the contents of this service appeal are true and correct and nothing has been concealed from this august Court.

اسلام بادشاہ

DEPONENT

Islam Badshah
(APPELLANT)



8
A
B

Butler Copy FIR

فاریڈی

AHsted

انٹیکس جنرل پولیس صوبہ سرحد فارم نمبر ۳۷

ابتدائی اطلاعی رپورٹ

(کوثر فائل) ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زبردفعہ 154 مجموعہ خلیفہ جلداری 10-12-2018

ضلع: کک

تھانہ صابر آباد

نمبر: 01

دقت درتعم 02-01-2018 دقت 06135

تاریخ و وقت وقوع

تاریخ و وقت رپورٹ	02-01-2018 دقت 06135	تاریخ و وقت وقوع	02-01-2018 دقت 06135
نام و سکونت، اطلاع دہندہ و مستغیث	محمد رحیم خان SHO	نام و سکونت ملزم	اسلام باد شاہ، دلہ عبد بناد شاہ، کمنہ لفظ جلی کوٹ
مختصر، کیفیت، جرم (معد دفعہ) حال اگر کچھ لیا گیا ہو	9 CNSA	کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کریں۔	لبرسہ گی در اسلمہ یرھیر دیا ہوتا ہے
جائے وقوعہ فاصلہ تھانہ سے اور سمت	کمنہ لفظ جلی کوٹ، کمانڈر لاک، کانٹرا، محمد لاک، کمانڈر لاک، کمانڈر لاک، کمانڈر لاک، کمانڈر لاک	تھانہ سے روانگی کی تاریخ و وقت	پرسپیل ڈاک

ابتدائی اطلاع نیچے درج کرو

اس وقت ایک تقریری مراسلہ مجانب محمد رحیم خان SHO

بدست کنشیل نثار 605 موصول ہو کر کہہ ذیل ہیں۔ محمد تھانہ صابر، الفار میتھن تھی کہ ہم سویرے جا رہے تھے کہ وہاں موٹر کار کنڈر لیک ۳ مدان شہید ہو کر کے راستے منشیات سمگل ہو گا۔ اطلاع کو تصدیق جانے کہ میں محہ اقبال شریف 1309، زبیر 1310، واجہ علی 358، زاہد اکرم 1294، بہ سواری گاڑی سرکاری بہ تحویل ڈرائیور نثار احمد 605 اور آمدہ لفظی ریسکیو 15 موبائلز، لفظ خان HC مع لفظی اور نور الامین HC مع لفظی کے کارڈان شہید ہو کر ہتکت بمبلی کیساتھ ناکہ بندی کر کے ناکہ لگائے ہوئے اس دوران ایک سفید موٹر کار نمبری 2-W-575 جانب کوٹا ہندری روڈ آئے ہوئے پہنچے پر روکنے کا اشارہ کر کے ڈرائیور نے پولیس موبائلز اور لفظی کو دیکھتے ہوئے فوری طور پر بھاگ نکلنے لگے موٹر کار کی رُخ بڑی کھرتی کیساتھ واپس موٹر کار بھاگ دوڑانا شروع کر کے جسکی تعاقب بذریعہ پولیس موبائلز شروع کر کے کپڑے سے یاد دہندہ لاک کانٹرا، محمد لاک کانٹرا، محمد لاک کانٹرا کو قابو کر کے روک کر ڈرائیور کو نیچے اتار دیا کہ جنہوں نے پولیس کی سرکاری وردی جرسی کانشیل رنگ لگایا تھا۔ دریافت پر ایسا نام اسلام باد شاہ، دلہ عبد بناد شاہ، کمنہ لفظ جلی کوٹا بتلایا۔ موٹر کار نمبری 2-W-575 بموقع کوٹا کی، اندرونی بلا خطر کر کے اندر سیٹوں کے نیچے ڈنگی کے اندر اور فٹنٹ طریقوں سے چھپائے گئے جیسا بیگت برآمد ہو کر سمیت 32 گرام دھبہ لکے فی بیگت 1200 گرام وزن کر کے چھپوا کر دہ لکل کر اکٹھا کر کے کل

PA

وزن 38,400 گرام نکی، پر ایک پیکیٹ سے 10% گرام دس گروہ
 برائے تجزیہ FSL بشادہ اور لقیایا علیحدہ بطور وجہ ثبوت بہ موقع
 بندہ سہ یا رسل لم سرزمہ کے موثر کاربوری 575. 2018. دس گروہ
 اسلام آباد
 برائے 4۔ رجسٹریشن کاپی مع کلید اور دیگر برائے 4 دستاویزات، بیوہ
 کارڈز وغیرہ اور سرکاری دس دس پوریں کو بہ موقع برائے فرد قبضہ پولیس
 علیحدہ علیحدہ کرتے اسلام آباد شاہ ولہ عید بادشاہ سکنہ لہری محل
 کوہٹ کو نہ تک شرم بالا کا یا کہ حسب ضابطہ گرفتار کر کے حملہ شہادت
 سرکی لو انہر اسمگل کر رہا تھا۔ انہر بالا صاحبان کے لوٹس میں
 لائی جا کر واسطہ واسطے قائمی مقدمہ بہ ست کانسیٹل شہرا احمد قہ
 برسنال قمانہ ہے۔ لہذا اندراج مقدمہ لغرض تفتیش KBI شان حوالہ ہے
 دستخط انڈینری صدر جم خان SHO بدرجہ 02 01/18 کاروائی قمانہ یس
 آندہ واسطہ خدمت بہ خدمت در۔ بانڈا پوکھ پیر جم پیرم جاک پوکھ
 لغرض FIR. ہم دوسلہ لغرض تفتیش حوالہ KBI شان کیا گیا۔ بہرہ گزارنے

دستخط انڈینری
 ASI 01 PS SA
 02-01-2018

Handwritten notes in Urdu script, including the name 'طیغ عزیز' and other illegible text.



No 212-13/PA

Office of the
District Police Officer,
Kohat

Dated 08/11/2018

CHARGE SHEET.

I, ABBAS MAJEED KHAN MARWAT, DISTRICT POLICE OFFICER, KOHAT, as competent authority under Khyber Pakhtunkhwa Police Rules 1975 (amendments 2014) am of the opinion that you **Constable Driver Islam Badshah No. 1295** rendered yourself liable to be proceeded against, as you have committed the following act/omissions within the meaning of Rule 3 of the Police Rules 1975.

Being involved in Criminal Case vide FIR No. 01 dated 02.01.2018 u/s 9 C-CNSA PS Sabir Abad district Karak, which is a gross misconduct on your part.

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

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

Your written defense if any should reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and ex-parte action shall be taken against you.

4. A statement of allegation is enclosed.


DISTRICT POLICE OFFICER,
KOHAT

08/11/2018



Office of the
District Police Officer,
Kohat

(Handwritten signatures and initials)

No _____/PA

Dated _____/2018

DISCIPLINARY ACTION

I, **ABBAS MAJEED KHAN MARWAT, DISTRICT POLICE OFFICER, KOHAT**, as competent authority, am of the opinion that you **Constable Driver Islam Badshah No. 1295** have rendered yourself liable to be proceeded against departmentally under Khyber Pakhtunkhwa Police Rule 1975 (Amendment 2014) as you have committed the following acts/omissions.

STATEMENT OF ALLEGATIONS

Being involved in Criminal Case vide FIR No. 01 dated 02.01.2018 u/s 9 C-CNSA PS Sabir Abad district Karak, which is a gross misconduct on your part.

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

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

(Signature)
DISTRICT POLICE OFFICER,
KOHAT *21/11*

No. *212-13* /PA, dated *08-1-* /2018.

Copy of above to:-

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

DEPARTMENTAL INQUIRY AGAINST
DRIVER CONSTABLE ISLAM BADSHAH NO. 1295

R/Sir,

It is submitted that I have been appointed as inquiry officer in departmental inquiry initiated against Driver Constable Islam Badshah No. 1295, Police Lines, Kohat presently confined in Central Prison, Karak.

Short facts of the inquiry are that the accused official while posted at MT staff Kohat was reported absent by MTO vide DD No. 8 dated 01.01.2018. On 02.02.2018, it was reported that the accused official while trafficking narcotics (charas) total weighing 48.000 Kgs in a motorcar ZW 575 Islamabad was arrested by SHO Police station Sabir Abad, district Karak. The accused official was wearing official uniform during his arrest. A case vide FIR No. 01 dated 02.01.2018 u/s 9 C CNSA, PS Sabir Abad, district Karak was registered against the accused official. Therefore, a departmental proceedings were initiated against the accused official.

The accused official was served with charge sheet alongwith statement of allegations issued by your good office vide No. 212-13/PA dated 08.01.2018 on the below score of charge:-

"Being involved in criminal case vide FIR No. 01 dated 02.01.2018 u/s 9 CCNSA PS Sabir Abad District Karak, which is a gross misconduct on your part".

The accused official is confined in Central Prison Karak. Therefore, the charge sheet alongwith statement of allegation was sent to Superintendent, Central Prison Karak vide this office Letter No. 841/LB dated 09.01.2018 for service upon him. In compliance, the accused official submitted reply to the charge sheet wherein, he denied the charge levelled against him.

In order to proceed properly against the accused official, MTO, Kohat was called and examined. The witness stated that accused official was posted as driver constable at MT staff. He submitted a daily diary No. 08 dated 01.01.2018 wherein the accused official was reported absent from duty on 01.01.2018. Similarly, in DD No. 06 dated 02.01.2018 the accused official is reported arrest in case FIR No. 01 dated 02.01.2018 u/s 9C-CNSA PS Sabir Abad, Karak.

As, the accused official is confined in Karak Prison, therefore, the following witnesses related to the case FIR No. 01/2018 were called through SP Investigation Karak vide this office Letter No. 10455/LB dated 14.05.2018 and directed to attend the inquiry proceedings alongwith relevant record at Karak Prison on 16.05.2018.

1. Inspector Muhammad Yousaf Investigating officer
2. SI Raheem Khan, the then SHO PS Sabir Abad.
3. HC Naseer Khan (Recovery Memo witness)
4. Constable Waheed Ali (Recovery Memo witness)
5. Const: Eid Azad (Recovery Memo witness)

[Handwritten signature]
17/5/2018

On 16.05.2018, the witnesses and accused official were present in the office of Central Prison Karak. The witnesses were examined in the presence accused, who was afforded ample opportunity of cross examination. Similarly, the accused official also recorded his statement. The witnesses submitted as under:-

SI Raheem Khan the then SHO PS Sabir Abad stated that on 02.01.2018 he alongwith Police officials intercepted a motor car No. ZW 575 Islamabad driven by one Islam Badshah s/o Eid Badshah r/o Nusrat Khel, Kohat wearing Police driver uniform. On search he recovered 38400 Gms charas from secret cavities of the motor car on the spot. He further stated that the motorcar was again searched at Police station wherein 9600 Gms charas was recovered. He took into possession all the contrabands and other items on recovery memos. He lodge a report against the accused official and produced copies of FIR and recovery memos and verified his signatures.

The accused official cross examined the witness and put a question that he was not arrested on the spot by you (SHO). The question was answered in negative.

Recovery memo witnesses of the case, named constable Waheed Ali, IHC Naseer Khan, Eid Azad were examined in presence of accused officials. The witnesses admitted the recovery of contrabands, other items recovered from the possession of accused and stated that they have correctly signed the recovery memos prepared by the SHO. The accused official was afforded opportunity of cross examination.

Inspector Muhammad Yousaf Oll of the case stated that he investigated the case, prepared site plan at the instance of SHO Muhammad Raheem, accused was interrogated during legal custody, who admitted his guilt but refused to confess before the court u/s 364 CrPC. He further stated that on completion of investigation, he submitted challan to the court.

At the end, the accused official submitted his statement wherein he stated that he has been falsely involved in the case, but was not able to advance any mala fide, bad intention on the part of Police. He was cross examined by me (E.O) but failed to submit any defense.

I have gone through the available record, which transpired that the accused official while posted in MT staff Kohat absented himself from lawful duty and proceeded in a motorcar for trafficking narcotics. The accused official was arrested by SHO Police station Sabir Abad at early in the morning i.e 0630 AM on 02.01.2018. The record further transpired that a huge quantity of charas was recovered from the motorcar driven by accused official. He was also wearing driver official uniform during the trafficking. All the proceedings were supported by witnesses duly signed by them and cross examined by the accused official in the office of Central Prison Karak. Furthermore, the accused official was also afforded opportunity of hearing, but he failed to submit any plausible explanation for traveling in official uniform toward Karak and also failed to establish any enmity or ill-will with the police party of Karak district.

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E.O. / J.P.L.
17/5. 2018

Keeping in view of the above and available record, I reached to the conclusion that the accused official while trafficking huge quantity of charas in official uniform was apprehended by the local Police of Karak. The accused has committed professional misconduct, indulged himself in trafficking of narcotics in addition to commission of a criminal act. The accused official also earned bad name to a disciplined force. Therefore, the charge levelled against the accused official has been established beyond any shadow of doubt and accused official driver constable Islam Badshah No. 1295 is recommended for one of the major punishment provided under the Khyber Pakhtunkhwa, Police Rules (Amended - 2014) 1975.

Encl: Inquiry File

W/DPO Kohat

[Signature]
12/5/248
DSP Legal, Kohat
Enquiry Officer

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OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT

Tel: 0922-9260116 Fax: 9260125

No. S247 /PA dated Kohat the 28 /5 /2018

FINAL SHOW CAUSE NOTICE

1. I, **Abbas Majeed Khan Marwat, District Police Officer, Kohat** as competent authority, under the Khyber Pakhtunkhwa Police Rules 1975, (amended 2014) is hereby serve you, **Constable Driver Islam Badshah No. 1295** as follow:-

- i. That consequent upon the completion of inquiry conducted against you by the inquiry officer for which you were given opportunity of hearing vide office No. 212-13/PA dated 08.01.2018.
- ii. On going, through the finding and recommendations of the inquiry officer, the material on record and other connected papers including your defense before the inquiry officer.

I am satisfied that you have committed the following acts/omissions, specified in section 3 of the said ordinance.

Being involved in Criminal Case vide FIR No. 01 dated 02.01.2018 u/s 9 C-CNSA PS Sabir Abad District Karak, which is a gross misconduct on your part.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you major penalty provided under the Rules *ibid.*

3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within 07 days of its delivery in the normal course of circumstances, it shall be presumed that you have no defence to put in and in that case as ex-parte action shall be taken against you.

5. The copy of the finding of inquiry officer is enclosed.


DISTRICT POLICE OFFICER,
KOHAT 28/5



JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, BANNU BENCH
(Judicial Department)
Cr. Appeal. No.227-B of 2018

Islam Badshah
Versus
The State.

JUDGMENT

Date of hearing 30.11.2020

Petitioner by: **Mr. Shah Hussain Advocate.**

Respondents by: **Mr. Shahid Hameed Qureshi, Addl: A.G
for the State.**

MUSARRAT HILALI, J.--- Through instant criminal appeal the appellant has called in question the order/judgment dated 29.11.2018 passed by the learned Additional Sessions Judge-II/Special Judge, Karak, whereby after having tried the appellant was convicted U/S: 9(c) CNSA, 1997 in case FIR No.01 dated 02.01.2018 registered U/S. 9(c) CNSA at PS Sabir Abad, District Karak, and sentenced to undergo rigorous imprisonment for life with fine of Rs.50,000/-. In default thereof he has to further undergo one year imprisonment. Benefit of Section. 382-B Cr.P.C was extended to the appellant/convict.

ATTESTED
EXAMINER
Peshawar High Court
Bannu Bench

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(15) (17)

2. Brief facts of the case are that on 02.01.2018 the complainant Muhammad Rahim Khan SHO had information about smuggling of narcotics in a motorcar from Kohat through Kamran Shaheed Chowk. Upon such information the SHO along with other police Nafri proceeded and made *nakabandi* there at Kamran Shaheed Chowk. In the meanwhile a white colour motorcar bearing registration No.ZW-575/Islamabad while coming from Kohat side was stopped. The driver of the said motorcar on seeing the police nafir, changed direction of the car back and started running, who was chased and overpowered on Kacha road of Lakana. Driver of the motorcar was alighted from the car who was dressed in police uniform and police jersey in the rank of constable and upon inquiry he disclosed his name as Islam Badshah. Upon searching of the car beneath the seats, trunk and secret cavities, 32 packets *charas gardah*, each weighing 1200 grams, total 38400 was recovered. 10 grams charas was separated from each packet

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EXAMINER
Peshawar High Court
Banna Basha

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while the remaining charas was packed and sealed in parcel No.33. Hence, the ibid F.I.R.

3. After completion of usual investigation, complete challan was submitted against the accused. Provision of section 265-C Cr.P.C was complied with and thereafter, charge was framed, to which accused pleaded not guilty and claimed trial. In order to prove its case, the prosecution produced as many as eight witnesses. After closure of prosecution evidence, the accused was examined U/S: 342 Cr.P.C wherein he pleaded innocence and denied implication. He opted to be examined on oath u/s 342 Cr.P.C and also produce evidence in his defence. The accused/ appellant recorded his own statement as DW-1. He also produced Nazeer Gul as DW-2. On conclusion of trial, the accused/ appellant was convicted and sentenced in above terms vide its judgment dated 29.11.2018. Hence, the instant appeal.

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ATTESTED
JUN 2019
Peshawar High Court
Bannu Bench

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4. Learned counsel of accused/appellant raised number of arguments about non-compliance of the mandatory provisions of rules 5 and 6 of the (Government Analyst) Rules 2001. Learned counsel added that there are material contradictions in the process of seizure of alleged contraband and the report of FSL; that the safe custody of samples and case property has also not been proved.

5. As against that worthy A.A.G while supporting the judgment dated 29.11.2019 passed by the learned trial Court and contended that the prosecution has fully proved its case beyond reasonable doubts; that the rules quoted in the arguments of learned counsel for the appellant are directory in nature and non-compliance thereof does not vitiate the whole trial and conviction. Learned A.A.G submitted that the appeal filed by the accused/ appellant be dismissed being without merits.

6. We have heard the arguments of learned counsel for the appellant and the worthy Addl: Advocate

ATTESTED

EXAMINER
Bharuwar High Court
Bannu Bench

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General and have gone to the statements of material witnesses, namely Rahim Khan S.H.O (PW-4) the complainant and the seizing officer, Wahid Ali (PW-5) the witness to the recovery of 38400 grams charas and PW-6 Eid Azad, the witness of recovery of 9600 grams recovered from motorcar. All these witnesses deposed that the accused/ appellatant was apprehended initially with 38400 grams charas consisting of 32 packets. From each packet 10 grams sample was separated for the purpose of laboratory test. They further stated that two packets charas was recovered from the doors of the motorcar wherefrom each packet 10 grams samples were taken for the laboratory test and on the same day vide transit receipt Ex.PW8/9 these samples were sent to FSL. According to them samples were sent to FSL on 02.01.2018.

7. As can be seen from the record of this case, the murasila Ex.PA/1, F.I.R Ex.PA, recovery memo Ex.LC, transit receipt Ex.PW8/9 and the application addressed to

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EXAMINER
Peshawar High Court
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(18) (21)

the Director Forensic Science Laboratory Ex.PW4/2,
Ex.PW 4/3 the kind of charas shown therein was charas
gardhah.

8. Charas gardah is a raw form of charas and its
physical appearance is in yellowish brown solid or greenish
brown solid. In hot weather charas gardah changes colour in
15 days while in cold weather it takes 3 to 4 months or if
undergoes some baking process it turns into brown solid.
The samples seized from the recovered stuff were sent to
FSL on 02.01.2018 which were received by the laboratory
on 04.01.2018, wherein on physical examination the
samples were found brown solid which has put this Court
on alert. Our suspicion was further strengthened when we
found that the official who took the samples to laboratory
was not examined by the learned trial Court and was
abandoned by the prosecution on 15.9.2018 being
unnecessary. Non-examining the police official who took
the samples to FSL raises a serious question as to in whose

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JUDGE
Honn Bench

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custody the samples remained during the interregnum period and where. Thus tampering with samples received by the officials of the Forensic Science Laboratory on 04.01.2018 cannot be ruled out. The case of accused/appellant is squarely covered by the ratio of the august Supreme Court judgment reported in (2018 SCMR 2039), the relevant para is reproduced as under:-

"Chain of custody began with the recovery of the seized drug by the police and included the separation of the representative sample(s) of the seized drug and their dispatch to the Narcotics Testing Laboratory--- Said chain of custody, was pivotal, as the entire construct of the Control of Narcotic Substances Act, 1997 and the Control of Narcotic Substances (Government Analysts) Rules, 2001 rested on the report of the Government analyst, which in turn rested on the process of sampling and its safe and secure custody and transmission to the laboratory--- Representative samples of the alleged drug must be in safe custody and undergo safe transmission from the stage of recovery till it is received at the Narcotics Testing Laboratory--- Prosecution must establish that the chain of custody was unbroken, unsuspecting, indubitable, safe and secure---Any break in the chain of custody or lapse in the control of possession of the

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ATTESTED

 JUDGE
 Peshawar High Court
 Bannu Bench

(21) (23)

sample, would cast doubts on the safe custody and safe transmission of the sample(s) and would impair and vitiate the conclusiveness and reliability of the report of the Government Analyst, thus rendering it incapable of sustaining conviction. "Reference can also be made on case title "Amjad Ali Vs. State 2012 SCMR 577) and "Ikramullah Vs.State"(2015 SCMR 1002).

9. That apart the FSL report shows that except bare conclusion there is nothing to show that on what basis of test the particular conclusion that the samples contain charas was drawn as it did not contain any data about scientific test applied while analyzing the same.

10. It is well settled principle of criminal jurisprudence that more stringent the punishment more heavy the burden upon the prosecution to prove case against the person alleged to have committed the offence. Thus the prosecution has not only failed to produce link evidence i.e. F.C No.1282 mentioned in the FSL report which was imperative to demonstrate that the samples taken from seized substance were not tampered with throughout from

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ATTESTED
Peshawar High Court
Ranaul Bakhsh

(20) (24)

the stage of their seizer till it reached at Narcotics Testing Laboratory but also that the incomplete FSL report is inconclusive and cannot be relied upon.

11. For the reasons mentioned hercinabove, we find that the prosecution has miserably failed to prove its case beyond reasonable doubts, as a result this appeal is accepted. The appellant is not found guilty of the offence under section 9 (c) CNSA, therefore, the conviction recorded by the learned trial Court dated 29.11.208 is set aside. The appellant is acquitted. He be released forthwith if not required in any other case.

These are the detailed reasons of the short order of even date.

CERTIFIED TO BE TRUE COPY

Announced
30.11.2020
Jhsant

Examiner
Peshawar High Court Bannu Bench
Authorised Under Article 87 of
The Qanun-e-Shahadat Ordinance 1984

28/12/20

SCANNED

30/11/2020
Jhsant

(D.B)
Hon'ble Justice Musarrat Hiloti &
Hon'ble Justice Sahibzada Asadullah

29/11/2020

PESHAWAR HIGH COURT , BANNU BENCH BANNU

No 377 /Criminal Branch, P.H.C, Bannu Bench, Dated : 03/12/2020

From

The Additional Registrar,
Peshawar High Court,
Bench Bannu.

TO

The learned District & Sessions Judge,
Karak.

Subject:

FORMAL ORDER

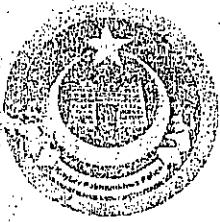
Ref: Cr.A# 227-B/2018, Islam Badshah Vs The State
FIR# 01, dated: 02-01-2018, U/Section: 9(C) CNSA, P.S: Sabir Abad ,
District Karak.



1	Case details	Spl.Case # 05/CNSA of 2018, The State vs Islam Badshah vide FIR# 01, dated: 02-01-2018, U/Section: 9(C)CNSA P.S: Sabir Abad, , District Karak. Appellant /Convict: Islam Badshah Son of Eid Badshah R/o Nusrat Abad Tehsil & District Kohat (now confined in Central jail Bannu).
2	Date of Judgment	29/ 11/2018 (Trial Court)
3	Court (Division Bench)	Justice, MS Musarrat Hilali, (J) Justice, Mr.Sahibzada Asadullah (J)
4	Previous Conviction/ (Sentence Court/Judge) of Muhammad Tayyib, Additional Sssions Judge-II/Judge Spl: Court,Karak. Dated:29-11-2018	"The accused facing trial islam badshah is hereby convicted U/Sec 9(C) CNSA, 1997, and upon conviction is sentenced to imprisonment for life. He is also sentenced to pay fine of Rs:500,000/- and in case of default , he shall under go further imprisonment for one year. Benefit of sec 382-B Cr.PC is however, extended to the accused/convict.
5	High Court Order (Operative part only) Dated: 30-11-2020	For the reasons to be recorded later on , this criminal appeal is allowed, the impugned judgment dated:29-11-2018 , rendered by the learned Additional Sessions Judge-II/Spl: Judge , Karak ,is set aside and accused/appellant islam Badshah is acquitted of the charges leveled against him. He be`set at liberty forthwith, if not required in any other criminal case.
6	Direction	Appellant /Convict: Islam Badshah Son of Eid Badshah R/o Nusrat Abad Tehsil & District Kohat (now confined in Central jail Bannu be released forthwith, if not required in any other criminal case.
7	Attached	Copy of Order Judgment dated: 30-11-2020 is attached herewith.

377
03.12.2020
ADDITIONAL REGISTRAR

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OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT

No. 7121-25 PA dated Kohat the 27 / 7 / 2018

ORDER


This order will dispose of departmental proceedings initiated against Driver Constable Islam Badshah No. 1295 (hereinafter called accused) under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014).

Facts arising of the proceedings are that the accused official while posted at MT Staff Kohat had absented himself from official duty vide DD No. 108 dated 01.01.2018. Subsequently, he was involved/charged in a narcotics case vide FIR No. 01 dated 02.01.2018 u/s 9 C-CNSA PS Sabir Abad. The accused was arrested while trafficking charas high quantity 48 KGs in a motor car.

Charge Sheet & Statement of Allegations were served upon accused official, through, superintendent of Jail Karak vide letter No.841/L.B dated 09.01.2018. DSP Legal Kohat was appointed as enquiry officer to proceed against him departmentally. The E.O visited district Jail Karak and examined witnesses in the presence of accused official. The enquiry officer stated that the accused official were trafficking huge quantity of charas in official uniform was apprehended by the local Police of Karak. The accused has committed professional misconduct, indulged himself in commission of a criminal act. He was held guilty of the charges and was recommended for major punishment.

Final Show Cause Notice alongwith copy of enquiry finding was served upon the accused official through Superintended of District Jail Karak. Reply was received unsatisfactory.

In the light of above, and available record, I reached to the conclusion that the accused official indulged in professional and criminal case. He earned bad name to the discipline force. Therefore, the charged leveled against him have been established. Therefore, in exercise of power conferred upon me, I Sohail Khalid, District Police Officer, Kohat impose a **major punishment of dismissal from service on the rules ibid** from the date of his absence. Kit etc be collected from him.


DISTRICT POLICE OFFICER,
KOHAT 27/3/7

OB No. 781

Date 4-7-2018

No. 7121-25 / PA dated Kohat the 27-7 2018.

Copy of above to the:-

1. Superintendent of District Jail Karak with the request that the accused constable be informed accordingly.
2. R.I for necessary action and sent clearance report.
3. Reader, Pay officer, SRC and OHC for necessary action.


DISTRICT POLICE OFFICER,
KOHAT 27/3/7

27/7/18
18/2/18

بھنور جناب DIG صاحب کو ہاٹ رینج کو ہاٹ

27
2021

اپیل برائے بحالی سروس سائل

جناب عالی:

سائل ذیل گزارش کرتا ہے۔

مؤدبانہ گزارش ہے کہ سائل سال 2008 میں بحیثیت کنسٹبل محکمہ پولیس میں بھرتی ہوا تھا۔ اور اپنی ڈیوٹی انتہائی ایمانداری اور جانفشانی سے ادا کرتا تھا کہ مورخہ 02.01.2018 کو من سائل SHO گل جنان IPS استرزی کے ساتھ سپرویشن گشت پر تھا۔ اگلی صبح میں بغرض علاج و معالجہ بوجہ گردے میں پتھری دم درود کے لئے ڈیرہ اسماعیل خان میں موجود ایک مولوی کے پاس جا رہا تھا کہ حدود ضلع کرک انڈس ہائی وے پر SHO رحیم خان PS صابر آباد نے مجھے بلا وجہ گرفتار کر کے حوالات میں ڈالامیرے خلاف مقامی عدالت میں اسمگلنگ کا پرچہ کاٹ کر عمر قید کی سزا دلائی من سائل نے مقامی عدالت کے فیصلے کے خلاف ہائی کورٹ بنوں برانچ میں اپیل کردی اور پچھے میں مجھے ہائی کورٹ نے من گھڑت اور بے بنیاد مقدمے میں باعزت بری کر کے رہا کر دیا۔

چونکہ من سائل کی بے گناہی عدالت عالیہ نے ثابت کردی ہے اور میرا تعلق بھی انتہائی غریب اور نادار گھرانے سے ہے بال بچے دار بھی ہوں۔ اور بے بنیاد مقدمہ جو کہ نامعلوم وجوہات کی بناء پر میرے خلاف درج تھا اس میں جسمانی و زہنی تکالیف سمیت مالی لحاظ سے کنگال ہو کر قرضدار ہو چکا ہوں۔

لہذا اب میرے حال پر رحم کر کے مجھے اپنے سابقہ سروس پر بحالی کرنے کی استدعا کرتا ہوں۔ نیز جملہ واجبات بحق سرکار میری دوران برخاستگی ادا کرنے کی بھی اپیل کرتا ہوں۔

امید ہے آپ صاحبان مجھ نا امید نہیں کریں گے اور میرے حال پر رحم کر کے مجھے اپنے سابقہ سروس پر بحالی کے احکامات صادر فرما کر مشکور ممنون ہونے کا موقع عنایت فرمائیں گے۔

اللہ تبارک و تعالیٰ ہم سب کا حامی و ناصر ہوں

نوٹ! جملہ فیصلہ جات کاغذات از عدالت عالیہ ہذا قابل ملاحظہ ہے۔

عین نوازش ہوگی۔

نقطہ: 14.01.2021

آپ کا تابعدار:

کنسٹبل اسلام بادشاہ ولد عمید بادشاہ سکنہ نصرت خیل ضلع کوہاٹ

اسلام آباد شاہ

بیلٹ نمبر 1295

رابطہ نمبر: 0334-9746020

03339624996

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ORDER.

This order will dispose of an appeal preferred by Ex-Constable Islam Badshah No. 1295 of Operation Staff Kohat against the punishment order, passed by DPO Kohat vide OP No. 781, dated 04.07.2018 whereby he was awarded major punishment of dismissal from service on the allegations of his absence and involvement in a criminal case vide FIR No. 01, dated 02.01.2018 u/s 9C-CNSA PS Sabir Abad. He was arrested while trafficking Charas high quantity of 48 KGs in a Motorcar driven by him.

Comments as well as relevant record were requisitioned from DPO Kohat. The appellant was also heard in person in Orderly Room, held in this office on 18.02.2021 wherein he failed to advance any plausible explanation.

Record gone through, which indicates that the appellant being a member of disciplined force was trafficking high quantity 48 KGs Charars and caught red handed by the Police which tarnished the image of Police.

Above in view, the undersigned reached to the conclusion that the allegations leveled against the appellant are fully proved duly established by the E.O in his findings. Hence, the impugned order passed by DPO Kohat is justified, upheld and the appeal is hereby rejected.

Order Announced
18.02.2021

Handwritten signature and date: 26/2/2021

Handwritten signature of Tayyab Hafeez

(TAYYAB HAFEEZ) PSP
Region Police Officer,
Kohat Region.

No. 2460-61 /EC. dated Kohat the 25/2 /2021.

Copy to District Police Officer, Kohat for information and necessary action w/r to his office Memo: No. 1675/L.B, dated 01.02.2021. His Service Record & Fauji Missal is returned herewith.

- 1. The appellant Ex-Const: Islam Badshah.1295 of Kohat

Handwritten initials on the left margin.

Handwritten signature and date: 25/2/2021

Handwritten signature of Tayyab Hafeez

(TAYYAB HAFEEZ) PSP
Region Police Officer,
Kohat Region.

Circled handwritten number 2.

Handwritten signature and date: 25/2/2021

Handwritten number 17/2

K (29)

محضوَر جناب انسپکٹر جنرل آف پولیس خیبر پختون

محکمہ جاتی اپیل بر خلاف حکم جناب ریجنل پولیس آفیسر کوہاٹ ریجن نمبر

61,FC مورخہ 25.02.2021 جس کی رو سے جناب نے DPO کوہاٹ

بابت ملازمت سے میری برخاستگی کو انہوں نے برقرار رکھا اور میری اپیل مسترد فرمائی۔

جناب عالی:- سائیل حسب ذیل عرض رساں ہے۔

1- یہ کہ من سائیل کو زیر FIR نمبر 01 مورخہ 02.01.2018 زیر دفعہ CNSA C-9 تھانہ صابر آباد ضلع کرک گرفتار کیا گیا تھا جس پر DPO صاحب کوہاٹ نے مجھے ملازمت سے از روئے حکم 7121-25 مورخہ 27.07.2018 کو برخاست کیا۔

2- یہ کہ من سائیل کو جناب ایڈیشنل سیشن جج-II / سیشن جج کرک نے مجھے عمر قید اور 5 لاکھ روپے جرمانہ کی عدم ادائیگی پر مزید ایک سال قید گزارنے کا حکم جاری کیا اور ساتھ ہی دفعہ 382 Cr.PC کی رعایت بھی دی۔ یہ کہ قبل ازیں DPO یہ کہ سائیل نے مذکورہ فیصلہ پشاور ہائی کورٹ بنوں پنج میں زیر کریمینل اپیل 227-13/2018 چیلنج کیا۔

کہ ہائی کورٹ نے جناب سیشن جج کرک کا مذکورہ فیصلے یکسر منسوخ کر دیا۔

من سائیل نے مورخہ 2021/01/14 کو جناب DIG کوہاٹ رنج کوہاٹ کو اپیل برائے وس دائر کی۔ جنہوں نے ہائی کورٹ کے فیصلے کو یکسر نظر انداز کر کے DPO کوہاٹ کے ار رکھتے ہوئے میری اپیل یکسر مسترد کر دی۔

30

لہذا استدعا ہے کہ مذکورہ دونوں احکامات کو منسوخ فرما کر من سائیل کو حسب الحکم عدالت عالیہ پشاور ہائی کورٹ بنوں بیچ میری ملازمت پر بحالی فرمادیں اور مجھ پر تمام تنخواہیں و دیگر مراعات کریں۔

العبد اسلام آباد شاہ

نام: اسلام آباد شاہ ولد عید باد شاہ

پتہ: - نصرت خیل کوہاٹ

شناختی کارڈ: - 5-1987876-14301

فون نمبر - 0333-9624996+0300-9153776

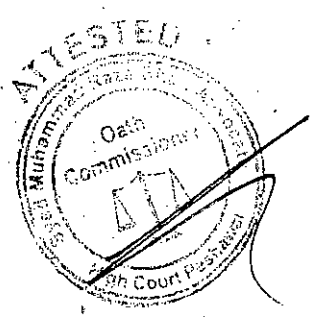
مورخہ: 10 مارچ 2021ء

بیان حلفی:-

حلفاً بیان کیا ہے کہ جملہ مراتب کردہ

میرے علم و یقین کے مطابق درست

اور صحیح ہے اور کوئی امر پوشیدہ نہیں ہے۔ اسلام آباد شاہ



10 MAR 2021

VAKALAT NAMA

NO. _____/2021

IN THE COURT OF KP Service Tribunal, Peshawar

Islam Badshah

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Police Dep't

(Respondent)
(Defendant)

I/We, Islam Badshah


Do hereby appoint and constitute **Taimur Ali Khan, Advocate High Court 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 costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/2021

Islam Badshah
(CLIENT)

ACCEPTED


TAIMUR ALI KHAN
Advocate High Court
BC-10-4240
CNIC: 17101-7395544-5
Cell No. 0333-9390916

OFFICE:

Room # FR-8, 4th Floor,
Bilour Plaza, Peshawar,
Cantt: Peshawar

جناب قابل صد احترام عترت ماب ڈسٹرکٹ پولیس افسیر صاحب ضلع کوٹھارے
محوالہ فائنل نوٹس نمبر 5247 مورخہ 28-05-2018

جناب عالی!

گزارش بحضور الوریہ کے سائل پر کیس علت نمبر 01 مورخہ 02/05/2018 بحسب 01
تھانہ ماہر آباد کے تحت جو مقدمہ درج ہوا ہے۔ اور سائل اب سنٹرل جیل
سے مقدمہ چلا رہا ہے۔ جو ایوں کہ وقوعہ کے دن میں S.H.O گل خان صاحب
کے ساتھ جنرل گنٹ ڈیوٹی کر کے بیماری کے سلسلے میں بنوں ایک حکیم کی پاس
جانے کیلئے پولیس اسٹیشن سے سوزو کی میں بیٹھ کر بورڈ کے پاس چائی وے ٹریو
پوائنٹ پر آکر بنوں جانے کیلئے کھڑا ہو گیا۔ چند منٹ بعد ایک سفید موٹر کار
پشاور کی طرف سے آیا جس نے رکھنے کا اشارہ کیا اس میں صرف ایک بندہ تھا
جو ڈرائیو کر رہا تھا اسے روک کر مجھے بنوں کیلئے اٹھالیا سفر کرتے کرتے علاقہ کراچی
میں چائی وے پر ناکہ بندی تھی۔ پولیس نے گاڑی رکھوائی کار کے ڈرائیو کو
اتر کر پولیس اسٹیشن میں بیٹھا لیا اور مجھے موٹر کار میں چھوڑ دیا۔ ادھا گھنٹہ
تعمیر کھڑے رہے مقررہ کار کی کوئی تلاش نہیں کی گئی۔ ادھا گھنٹے بعد مجھے اسٹیشن
میں لے گئے اور ڈرائیو کو موٹر کار میں لے آئے۔ اس کے بعد ابھی تک میں
نے اس موٹر کار اور اس بندے کو نہیں دیکھا ہے۔ ہمیں H.C نصیر نے رکھوایا
اور تھانے لے گیا۔ پانچ ماہ تک میں نے S.H.O کو نہیں دیکھا اور نہ بات ہوئی
ہے۔ اور نہ میں نے مجھے دیکھا۔ S.H.O رحیم کی ملاقات میرے ساتھ کرکٹ
جیل میں 05/05/2018 کو ہوئی جب وہ لیگل D.S.P کو پاٹ اسحاق گل
کے ساتھ آئے۔ اور تعجب کی بات ہے کہ رحیم خان نے مجھے کہا کہ
آپکی ٹیچر داڑھی کہاں گئی۔ میں نے رو رو کر S.H.O کو کہا کہ میں
تو شروع ہی سے کلین شیو کرتا ہوں۔ داڑھی والے یعنی اصل مجھ
کو تو نصیر H.C نے پیسے لیکر چھوڑ دیا ہے۔
شاید یہ میرے کسی بدخواتے مجھے تھانے کا منصوبہ بنایا تھا۔

انک ناکردہ جسم کی سزا بھگت رہا ہوں۔ شاید اللہ تعالیٰ نے
اور گناہ پیر بکڑا ہے۔ 2, 3 گھنٹے بعد مجھے پتہ چلا کہ مجھ پر

Tax: 0927291137
districtjalkarak@gmail.com

کا پتہ بنا یا گیا ہے۔ جس کا میں عدالت میں دفاعی مقابلہ کر رہا
ہے۔ جناب کی خدمت میں گزارش ہے کہ مجھے Suspent

پر کر کے مجھے نوکری پر بحال رکھا جائے۔ مقدمہ ختم ہوتے ہی ڈیوٹی
پر حاضر ہو جاؤں گا۔ میں اپنے بوڑھے والدین اور بیوی بچوں کا وافر
ذریعہ معاش ہوں۔

میں اللہ تعالیٰ اور کھسپہ ایکٹیو رضم کا طلبگار ہوں۔

07/06/2018

موسم

عین نوازش ہوگی۔

عزیز

اسلام بادشاہ ولد عید بادشاہ ساکن نصرت فیل کوہ چٹاں حال سنٹرل جیل

کسر کی



اسلام بادشاہ

9

**DEPARTMENTAL INQUIRY AGAINST
DRIVER CONSTABLE ISLAM BADSHAH NO. 1295**

R/Sir,

It is submitted that I have been appointed as inquiry officer in departmental inquiry initiated against Driver Constable Islam Badshah No. 1295, Police Lines, Kohat presently confined in Central Prison, Karak.

Short facts of the inquiry are that the accused official while posted at MT staff Kohat was reported absent by MTO vide DD No. 8 dated 01.01.2018. On 02.02.2018, it was reported that the accused official while trafficking narcotics (charas) total weighing 48.000 Kgs in a motorcar ZW 575 Islamabad was arrested by SHO Police station Sabir Abad, district Karak. The accused official was wearing official uniform during his arrest. A case vide FIR No. 01 dated 02.01.2018 u/s 9 C CNSA, PS Sabir Abad, district Karak was registered against the accused official. Therefore, a departmental proceedings were initiated against the accused official.

The accused official was served with charge sheet alongwith statement of allegations issued by your good office vide No. 212-13/PA dated 08.01.2018 on the below score of charge:-

"Being involved in criminal case vide FIR No. 01 dated 02.01.2018 u/s 9 CCNSA PS Sabir Abad District Karak, which is a gross misconduct on your part".

The accused official is confined in Central Prison Karak. Therefore, the charge sheet alongwith statement of allegation was sent to Superintendent, Central Prison Karak vide this office Letter No. 841/LB dated 09.01.2018 for service upon him. In compliance, the accused official submitted reply to the charge sheet wherein, he denied the charge levelled against him.

In order to proceed properly against the accused official, MTO, Kohat was called and examined. The witness stated that accused official was posted as driver constable at MT staff. He submitted a daily diary No. 08 dated 01.01.2018 wherein the accused official was reported absent from duty on 01.01.2018. Similarly, in DD No. 06 dated 02.01.2018 the accused official is reported arrest in case FIR No. 01 dated 02.01.2018 u/s 9C-CNSA PS Sabir Abad, Karak.

As, the accused official is confined in Karak Prison, therefore, the following witnesses related to the case FIR No. 01/2018 were called through SP Investigation Karak vide this office Letter No. 10455/LB dated 14.05.2018 and directed to attend the inquiry proceedings alongwith relevant record at Karak Prison on 16.05.2018.

1. Inspector Muhammad Yousaf Investigating officer
2. SI Raheem Khan; the then SHO PS Sabir Abad.
3. HC Naseer Khan (Recovery Memo witness)
4. Constable Waheed Ali (Recovery Memo witness)
5. Const: Eid Azad (Recovery Memo witness)

IR/12
17/5/2018

12

On 16.05.2018, the witnesses and accused official were present in the office of Central Prison Karak. The witnesses were examined in the presence accused, who was afforded ample opportunity of cross examination. Similarly, the accused official also recorded his statement. The witnesses submitted as under:-

SI Raheem Khan the then SHO PS Sabir Abad stated that on 02.01.2018 he alongwith Police officials intercepted a motor car No. ZW 575 Islamabad driven by one Islam Badshah s/o Eid Badshah r/o Nusrat Khel, Kohat wearing Police driver uniform. On search he recovered 38400 Gms charas from secret cavities of the motor car on the spot. He further stated that the motorcar was again searched at Police station wherein 9600 Gms charas was recovered. He took into possession all the contrabands and other items on recovery memos. He lodge a report against the accused official and produced copies of FIR and recovery memos and verified his signatures.

The accused official cross examined the witness and put a question that he was not arrested on the spot by you (SHO). The question was answered in negative.

Recovery memo witnesses of the case, named constable Waheed Ali, IHC Naseer Khan, Eid Azad were examined in presence of accused officials. The witnesses admitted the recovery of contrabands, other items recovered from the possession of accused and stated that they have correctly signed the recovery memos prepared by the SHO. The accused official was afforded opportunity of cross examination.

Inspector Muhammad Yousaf OI of the case stated that he investigated the case, prepared site plan at the instance of SHO Muhammad Raheem, accused was interrogated during legal custody, who admitted his guilt but refused to confess before the court u/s 364 CrPC. He further stated that on completion of investigation, he submitted challan to the court.

At the end, the accused official submitted his statement wherein he stated that he has been falsely involved in the case, but was not able to advance any malafide, bad intention on the part of Police. He was cross examined by me (E.O) but failed to submit any defense.

I have gone through the available record, which transpired that the accused official while posted in MT staff Kohat absented himself from lawful duty and proceeded in a motorcar for trafficking narcotics. The accused official was arrested by SHO Police station Sabir Abad at early in the morning i.e 0630 AM on 02.01.2018. The record further transpired that a huge quantity of charas was recovered from the motorcar driven by accused official. He was also wearing driver official uniform during the trafficking. All the proceedings were supported by witnesses duly signed by them and cross examined by the accused official in the office of Central Prison Karak. Furthermore, the accused official was also afforded opportunity of hearing, but he failed to submit any plausible explanation for traveling in official uniform toward Karak and also failed to establish any enmity or ill-will with the police party of Karak district.

Muhammad Yousaf
5th 12/18
17/5-2018

(11)

Keeping in view of the above and available record, I reached to the conclusion that the accused official while trafficking huge quantity of charas in official uniform was apprehended by the local Police of Karak. The accused has committed professional misconduct, indulged himself in trafficking of narcotics in addition to commission of a criminal act. The accused official also earned bad name to a disciplined force. Therefore, the charge levelled against the accused official has been established beyond any shadow of doubt and accused official driver constable Islam Badshah No. 1295 is recommended for one of the major punishment provided under the Khyber Pakhtunkhwa, Police Rules (Amended - 2014) 1975.

Encl: Inquiry File

W/DPO Kohat


12/5/248
DSP Legal, Kohat
Enquiry Officer



No 212-13/PA

Office of the D.S.P.
Legal, Kohat.

Dy: No. 17

Dated 29.01.2018

Office of the
District Police Officer,
Kohat

Dated 08/1/2018

CHARGE SHEET.

I, **ABBAS MAJEED KHAN MARWAT, DISTRICT POLICE OFFICER, KOHAT,** as competent authority under Khyber Pakhtunkhwa Police Rules 1975 (amendments 2014) am of the opinion that you **Constable Driver Islam Badshah No. 1295** rendered yourself liable to be proceeded against, as you have committed the following act/omissions within the meaning of Rule 3 of the Police Rules 1975.

Being involved in Criminal Case vide FIR No. 01 dated 02.01.2018 u/s 9 C-CNSA PS Sabir Abad district Karak, which is a gross misconduct on your part.

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

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

Your written defense if any should reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and ex-parte action shall be taken against you.

4. A statement of allegation is enclosed.


DISTRICT POLICE OFFICER,
KOHAT 29/1/18



Office of the
District Police Officer,
Kohat

No _____/PA

Dated _____/2018

DISCIPLINARY ACTION

I, **ABBAS MAJEED KHAN MARWAT, DISTRICT POLICE OFFICER, KOHAT**, as competent authority, am of the opinion that you **Constable Driver Islam Badshah No. 1295** have rendered yourself liable to be proceeded against departmentally under Khyber Pakhtunkhwa Police Rule 1975 (Amendment 2014) as you have committed the following acts/omissions.

STATEMENT OF ALLEGATIONS

Being involved in Criminal Case vide FIR No. 01 dated 02.01.2018 u/s 9 C-CNSA PS Sabir Abad district Karak, which is a gross misconduct on your part.

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

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

**DISTRICT POLICE OFFICER,
KOHAT**

No. 212-13/PA, dated 08-1- /2018.

Copy of above to:-

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



... ہے۔ پرویز و قاسم ... ہے۔ انڈس ہال و ... پر گرفتار کیا گیا تھا۔ یہ
 انسان کی دم کیلئے لکھا جا رہا تھا۔ نہ جانے کد تہہ میرے حریف محمد رحیم خان
 ۶۱۵۰ میرا تہہ چیرا گزردہ ڈال دیا ہے۔ جو کہ بالکل جھوٹ ہے۔
 جناب والا نشان ... یہ مشورہ ملتا ہے۔ باہر کی صفائی دینی ہے تاکہ اس عمارت
 میں خود بین کر دیا گیا۔

... کی اسٹریٹ جیک جیسٹ ... باہر دو جوانوں کی بنا پر تہہ بالکل
 بے تہہ ہے۔ - چارج شیٹ ... چیز ... میں مندرجہ کارروائی کے داخل
 دفتر مندرجہ جاکر مافوق پروردگار کے بارے میں ... تہہ کی دعا گزری ہوگی۔
 ۱۳/۱۸ - سرخ ...

ڈی آر ایف ... ۱۲۹۵۰ ... حال ...

اسلام آباد شاہ

بابت مزید رقم کاٹا گیا ہے

(27)

بہاؤ اللہ سے منسوب 1450 روپے کی ادائیگی ہوئی

صبح 10 بجے سے 12 بجے تک 18.00 بجے گھنٹی بج رہی تھی

میرٹھ میں 11 بجے تک ٹریفک جام ہو گیا اور 12 بجے تک

گھنٹی بج رہی تھی۔ اس کے بعد 12 بجے سے 1295 روپے

درج ہوئے۔ اس کے بعد 12 بجے سے 1295 روپے تک

1295 روپے تک 12 بجے سے 1295 روپے تک

1295 روپے تک 12 بجے سے 1295 روپے تک

1295 روپے تک 12 بجے سے 1295 روپے تک

[Handwritten signature]
MTO, KOL

Route

[Handwritten scribble]
1450
BO

بین انسان و حیوان در حال ۵۶۰ کرو -

نمونه بین انسان و حیوان در مورد ۵۶۰ مهارت‌های فکری

۱۸/۵۰۰ که در این بخش بر مبنای Z.W.575 موش‌ها و سگ‌ها

در مورد بارها در مورد سگ‌ها و سگ‌ها در مورد سگ‌ها

فکر بر نفس شکر و سگ‌ها در مورد سگ‌ها

۳۸۴۰۰۰ گرام جیب کف و سگ‌ها در مورد سگ‌ها

۹۶۰۰۰ گرام جیب بر مبنای سگ‌ها در مورد سگ‌ها

تورکار و سگ‌ها در مورد سگ‌ها

۱۸/۵۰۰ که در این بخش بر مبنای سگ‌ها

تورکار و سگ‌ها در مورد سگ‌ها

۱۸/۵۰۰ که در این بخش بر مبنای سگ‌ها

تورکار و سگ‌ها در مورد سگ‌ها

۱۸/۵۰۰ که در این بخش بر مبنای سگ‌ها

تورکار و سگ‌ها در مورد سگ‌ها

۱۸/۵۰۰ که در این بخش بر مبنای سگ‌ها

تورکار و سگ‌ها در مورد سگ‌ها

۱۸/۵۰۰ که در این بخش بر مبنای سگ‌ها

تورکار و سگ‌ها در مورد سگ‌ها

۱۸/۵۰۰ که در این بخش بر مبنای سگ‌ها

تورکار و سگ‌ها در مورد سگ‌ها

۱۸/۵۰۰ که در این بخش بر مبنای سگ‌ها

P.O. cross

۱۶۱۵۱۸

۲ صدم

۱- به درستی و آسانی در وقت و در هر وقت
۲- به درستی و آسانی در هر وقت و در هر جا

اسلام آباد شاہ

محمد

Rosa
11/5
2015
2015

(2)

بیان آذان و گنبد خان 248 / IHC تعادلاً بر آذان

نے پورے بیان کیا۔ اسی طرح 2 1/8 پروڈیوم جو کما کر 58 2000 سے زیادہ
 بر آذان ہڈیوں کے ساتھ ساتھ میں خصوصاً جو کما کر آذان و زون و کول کر
 پر آذان و زون سے 2/2 عدد ہڈیوں کے ساتھ ساتھ 12000 گرام بر آذان
 کل اٹھارہ 9600 گرام سنگل فینڈ ہڈیوں سے 10/10 گرام جس میں
 9520 گرام ہڈیوں کے ساتھ ساتھ 9520 گرام ہڈیوں کے ساتھ ساتھ
 ہڈیوں کے ساتھ ساتھ ہڈیوں کے ساتھ ساتھ ہڈیوں کے ساتھ ساتھ
 ہڈیوں کے ساتھ ساتھ ہڈیوں کے ساتھ ساتھ ہڈیوں کے ساتھ ساتھ

مختار
 MHCPS SA
 16-05-2018
 0346-5595774

XXXX صبا صبر

س۔ آذان و گنبد خان

ج۔ آذان و گنبد خان
 اسلام آباد شاہ

Ro & Ac.
 16/5/2018
 BP

بیان اثری از عبدالواحد 203 چھان صاحب آباد
DPC

کے پیرائیں بالکل 203 چھان صاحب آباد سے لے کر 575
کے پیرائیں بالکل 203 چھان صاحب آباد سے لے کر 575
کے پیرائیں بالکل 203 چھان صاحب آباد سے لے کر 575

جس سے گروہ وزنی 1200 اور کل چھان صاحب آباد سے 9600
کے پیرائیں بالکل 203 چھان صاحب آباد سے لے کر 575
کے پیرائیں بالکل 203 چھان صاحب آباد سے لے کر 575

بیان اثری جو چھان صاحب آباد سے لے کر 575
عبدالواحد 203
DPC
DPC PS/SA
16-05-018

MobNo = 03465563790

XXX مندر

سے لے کر 575
کے پیرائیں بالکل 203 چھان صاحب آباد سے لے کر 575
کے پیرائیں بالکل 203 چھان صاحب آباد سے لے کر 575
اسلام آباد شاہ

Recd

20/5/2018
63

بیان اذکار اسمع بارگاہ (ڈوبو دھاشن) وید عبدیہ
کتبہ نورانی کوکھاٹ کالی سٹیشن جن ٹرک

صفا بیان 12/18 1918ء میں پیرہن گل حیات 540 قاضی آسٹریائی

کے ساتھ سٹیشن سٹیشن پر لگا لگا کر سٹیشن میں سٹیشن عالی سوزاوی
میں پتھر ٹرک پر پتھر کوکھاٹ آیا، پتھر و پتھر کے اس
موضوع میں پتھر ٹرکوں میں شارج حکیم کے پاس موجود ہیں
راستہ میں پتھر کی ٹرک سٹیشن تھی۔ مجھے پتھر ٹرک کا کس قسم کا
کا مقررہ کارے ڈرا ہوا اور اس کی کیا کیا چیزیں پتھر ٹرک
کیا اور پتھر ٹرک میں کیا کیا، اس کے پتھر ٹرک اور ڈرا ہوا
میں سے پتھر دینا۔ پتھر ٹرک کا کیا کیا اور پتھر ٹرک
میں پتھر ٹرک کے پتھر کے پتھر میں پتھر ٹرک کا کیا کیا
پتھر ٹرک اور پتھر ٹرک میں پتھر ٹرک کا کیا کیا
پتھر ٹرک اور پتھر ٹرک کا پتھر ٹرک کا کیا کیا

اسلام آباد شاہ

XXXX (5-5)

- س۔ پتھر ٹرک سے پتھر ٹرک کا کیا کیا اور پتھر ٹرک کا کیا کیا
- 2۔ پتھر ٹرک میں پتھر ٹرک کا کیا کیا اور پتھر ٹرک کا کیا کیا
- س۔ پتھر ٹرک اور پتھر ٹرک کا کیا کیا اور پتھر ٹرک کا کیا کیا
- 2۔ پتھر ٹرک میں پتھر ٹرک کا کیا کیا اور پتھر ٹرک کا کیا کیا
- س۔ پتھر ٹرک اور پتھر ٹرک کا کیا کیا اور پتھر ٹرک کا کیا کیا
- 2۔ پتھر ٹرک میں پتھر ٹرک کا کیا کیا اور پتھر ٹرک کا کیا کیا
- س۔ پتھر ٹرک اور پتھر ٹرک کا کیا کیا اور پتھر ٹرک کا کیا کیا
- 2۔ پتھر ٹرک میں پتھر ٹرک کا کیا کیا اور پتھر ٹرک کا کیا کیا

اسلام آباد شاہ

کار

۱- در ۱۹ آبان ماه ۱۳۸۵
۲- بین من و حضرت ابی طالب (ع)
اسلام آباد شاہ

Roza

2015

2010

02

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

PROFORMA FOR EARLY HEARING

FORM 'B'

Inst#

Early Hearing _____ -p/20 _____

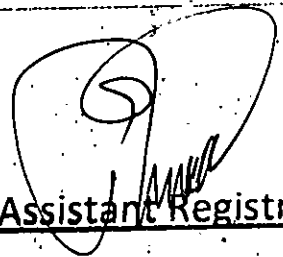
In case No. 6646/2021 -p/20 _____

Islam Badshah vs Police Deptt


Presented by Farmox Ali Advokat on behalf of Appellant Entered
in the relevant register.

Put up alongwith main-case _____

Last date fixed	<u>08-08-2022</u>
Reason(S) for last adjournment, if any by the Branch Incharge.	<u>Case adjourned on account of public holiday.</u>
Date(s) fixed in the similar matter by the Branch Incharge.	—
Available dates Readers/Assistant Registrar branch	<u>Available date</u> <u>17/10/2022</u>


Assistant Registrar

REGISTRAR

Allowed

13/9/2022

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

PROFORMA FOR EARLY HEARING

FORM 'A'

To be filled by the Counsel/Applicant

Case Number	6646/2021		
Case Title	Islam Badshah		
Date of Institution			
Bench	SB		DB ✓
Case Status	Fresh		Pending
Stage	Notice		Reply Argument ✓
Urgency to clearly stated.	Last date was fixed for arguit but was unfortunately adjourn on account of Public Holiday.		
Nature of the relief sought.	Reinstatement		
Next date of hearing	22-11-2022		
Alleged Target Date			
Counsel for	Petitioner	Respondent	In person

① noted for I-G-P Peshawar.

(Signature)
14-10-2022 CPO
Signature of counsel/party

② D-P-O Kohat Received
(Signature)
14-10-022

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
JUDICIAL COMPLEX (OLD), KHYBER ROAD, D.B
PESHAWAR.

No.

Appeal No. 6646 of 20 21

Islam Bad Shah

Appellant/Petitioner

The P.P.O Peshawar

Respondent

Respondent No.

The Regional Police Officer Kohat Region Kohat

Notice to: —

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 20/12/21 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No. dated~~

Given under my hand and the seal of this Court, at Peshawar this 9th

Day of Nov 20 21

(for Reply)



Registrar,

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

- Note:
1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
 2. Always quote Case No. While making any correspondence.

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD, D.B
PESHAWAR.

No.

Appeal No. 6646 of 20 21

Islam Badshah Appellant/Petitioner

The P.P.O KPK Peshawar Respondent

Respondent No. 3

Notice to: —

The Distt. Police Officer Kohat

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 20/12/21 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No.....dated.....~~

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Day of Nov 20 21

(For Reply)

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
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"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD, D.B
PESHAWAR.

No.

Appeal No. 6646 of 20 21

Islam Bad Shah Appellant/Petitioner

The P-P-O KPK Peshawar Respondent

Respondent No. 1

Notice to:

The Provincial Police Officer KPK Peshawar

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 20/12/21 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. Copy of ~~appeal has already~~ been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this 9th

Day of Nov 20 21

(for Reply)



Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 6646/2021
Islam Badshah
Ex-Constable No. 1295, District Kohat

..... Appellant

VERSUS

Inspector General of Police & other

..... Respondents

INDEX

S #	Description of documents	Annexure	pages
1.	Parawise comments.	-	01-03
2.	Affidavit	-	04
3.	Copy of DD No. 08/2018, MT Police Lines, Kohat & FIR No. 01/2018 u/ss 9 CNSA PS Sabir Abad Karak.	A	05-06
4.	Copy of charge sheet & statement of allegation.	B	07-08
5.	Copy of dismissal order dated 27.07.2018 against the appellant.	C	09

Deponent

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

Writ Petition No. 6646/ 2021.

Islam Badshah..... (Appellant)

VERSUS

Inspector General of Police KP etc..... (Respondents)

PARA-WISE COMMENTS BY RESPONDENT NO. 1 TO 3.

RESPECTFULLY SHEWETH:

PRELIMINARY OBJECTIONS:-

- a) That the appeal is not based on facts.
- b) That the appellant has got no cause of action and locus standi to file present appeal.
- c) That the appeal is bad for non-joinder and miss-joinder of necessary and proper parties.
- d) That the appellant is estopped by his own conduct to file the present appeal.
- e) That the appeal is not maintainable in the present form.
- f) That the appellant has not come to this Honorable Tribunal with clean hands.
- g) That the appeal of the appellant is time barred.
- h) The appellant concealed facts from this Honorable Tribunal.
- i) That the appellant violated the Government Servant Conduct Rules.

OBJECTIONS ON FACTS:

1. Pertains to service record of the appellant hence needs no comments. However the appellant is morally and legally bound to perform his duty with devotion and honesty.
2. The appellant was charged in said case but the appellant did not intimate the department and absented himself from lawful duty without any leave and information vide DD No. 08 dated 01.01.2018. Subsequently he was involved/ charged in a narcotics case vide FIR No. 01 dated 02.01.2018 u/s

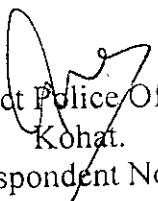
- 9 CCNSA PS Sabir Abad. The accused was arrested while trafficking charas high quantity of 48 KGs in a motor car. (Copy is annexed as "A").
3. The appellant was served with charge sheet/ statement of allegations by District Police Officer, Kohat vide Letter No. 212-13/ PA, dated 08.01.2018. (Copy is annexed as "B").
 4. Incorrect. Motor Transport Officer, Kohat was called and examined. The witness stated that accused official was posted as Driver Constable at MT Staff. As the accused official was confined in Karak Prison therefore, the witnesses related to the case FIR No. 01/ 2018 were called through Superintendent of Police, Investigation Karak vide District Police Officer, Kohat Letter No. 10455/ LB, dated 14.05.2018 and directed to attend the inquiry proceedings along with relevant record at Karak Prison on 16.05.2018. The witnesses and appellant were present in the office of Central Prison, Karak on 16.05.2018. The witnesses were examined in the presence of appellant who was afforded proper opportunity of cross examination. Similarly the appellant also recorded his statement. Thus the appellant was given full opportunity of self defense
 5. Incorrect. The appellant replies to the charge sheet and show cause notice were not satisfactory.
 6. Pertains to record of the Honorable Court hence, needs no comments. However, the Honorable High Court gave benefit of doubt to appellant.
 7. The appellant had committed professional misconduct, indulged himself in commission of a criminal act. The appellant was held guilty of the charges and was recommended for major punishment by the enquiry officer therefore, he was dismissed from service vide order dated 27.07.2018. (Copy is annexed as "C").
 8. Incorrect. The departmental appeal of the appellant against his dismissal order was rejected on the grounds that Regional Police Officer, Kohat also agreed with the recommendations of enquiry officer.
 9. The instant service appeal of the appellant is not maintainable on the following Grounds.

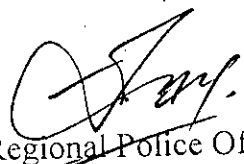
OBJECTIONS ON GROUNDS:

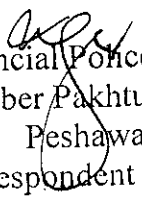
- A. Incorrect. The orders dated 27.07.2018 and 25.02.2021 are quite legal in accordance with law, facts and norms of justice therefore, no need to be set aside.
- B. Incorrect. As already explained in Para 4 of the Facts. However all the codal formalities were fulfilled before the dismissal order.
- C. Incorrect. Appellant was provided with ample opportunity of defense in Central Prison Karak hence, no violation of Constitution of Pakistan exists on the part of answering respondents.
- D. Incorrect. No violation has been committed by the answering respondents as criminal proceedings and departmental proceedings can run side by side. Rather appellant was bound to intimate the department regarding his involvement in criminal case.
- E. Incorrect. As already explained in preceding Paras.
- F. Incorrect. Appellant was dismissed from the service after completion of all codal formalities and he badly failed to produce any evidence in his favor.
- G. Incorrect. Appellant was provided ample opportunity of defense in Central Prison, Karak.
- H. The answering respondents may also be allowed to raise additional Grounds at the time of hearing of instant service appeal.

PRAYERS:

In view of the above narrated facts, it is, humbly prayed that the instant service appeal is not maintainable being devoid of merits may kindly be dismissed with costs, please.


District Police Officer,
Kohat.
(Respondent No. 3)


Regional Police Officer,
Kohat.
(Respondent No. 2)
Regional Police Officer
Kohat Region Kohat


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 1)

P-4

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 6646/2021
Islam Badshah
Ex-Constable No. 1295, District Kohat:

..... Appellant


VERSUS

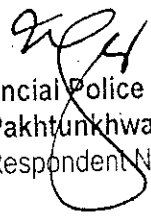
Inspector General of Police & other


..... Respondents

COUNTER AFFIDAVIT

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


Regional Police Officer,
Kohat
(Respondent No. 2)
Regional Police Officer
Kohat Region Kohat


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)


District Police Officer,
Kohat
Respondent No. 3)

روزنامہ MT

تقلید روزنامہ MT 01/01/18

ضلع کوہاٹ

مدد گنتی ملازمت

پورٹ غیر حاضری MTs حورق 01/01/18 وقت 18:00
اس وقت گنتی ملازمت نیگی قمارغ از ڈیوٹی ملازمت گنتی
میں موجود ہیں۔ نوکریاں ملازمت بحوالہ مدد کالا کھانی
حاکر ملازمتان کوستانی جی جیک ڈریسٹور استلیم بارستان 12:05
جوشتی میں عدم موجود پایا گیا۔ جسکے خلاف پورٹ غیر حاضری کا درج
روزنامہ MT کے تقلید پیشین مناسب کارروائی افسران بالا صاحبان
کو ارسال ہوگی۔

جانی
نور علی خان

(Signature)
M: 01-01-18

Sir
Forwarded

Sub Divisional Police Officer
HQrs: Kohat

Sir
Forwarded
(Signature)
MTO POLICE
KOHAT



Office of the D.S.P.
Legal, Kohat.

Office of the
District Police Officer,
Kohat

No 212-13/PA

Dy: No. 17
Dated 09-01-2018

Dated 08-1-2018

Annex "B"

16

CHARGE SHEET.

I, ABBAS MAJEED KHAN MARWAT, DISTRICT POLICE OFFICER, KOHAT, as competent authority under Khyber Pakhtunkhwa Police Rules 1975 (amendments 2014) am of the opinion that you **Constable Driver Islam Badshah No. 1295** rendered yourself liable to be proceeded against, as you have committed the following act/omissions within the meaning of Rule 3 of the Police Rules 1975.

Being involved in Criminal Case vide FIR No. 01 dated 02.01.2018 u/s 9 C-CNSA PS Sabir Abad district Karak, which is a gross misconduct on your part.

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

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

Your written defense if any should reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and ex-parte action shall be taken against you.

4. A statement of allegation is enclosed.


DISTRICT POLICE OFFICER,
KOHAT 5/1.



Office of the
District Police Officer,
Kohat

No. _____/PA

Dated _____/2018

DISCIPLINARY ACTION

I, ABBAS MAJEED KHAN MARWAT, DISTRICT POLICE OFFICER, KOHAT, as competent authority, am of the opinion that you Constable Driver Islam Badshah No. 1295 have rendered yourself liable to be proceeded against departmentally under Khyber Pakhtunkhwa Police Rule 1975 (Amendment 2014) as you have committed the following acts/omissions.

STATEMENT OF ALLEGATIONS

Being involved in Criminal Case vide FIR No. 01 dated 02.01.2018 u/s 9 C-CNSA PS Sabir Abad district Karak, which is a gross misconduct on your part.

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

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


DISTRICT POLICE OFFICER,
KOHAT

No. 212-13/PA, dated 08-1-/2018.

- Copy of above to:-
1. Ishaz Gul DSP/legal :- The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Rule-1975.
 2. The Accused Official:- with the directions to appear before the Enquiry Officer, on the date, time and place fixed by him, for the purpose of enquiry proceedings.

OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT

No 7121-25/PA dated Kohat the 27/7/2018

ORDER

This order will dispose of departmental proceedings initiated against Driver Constable Islam Badshah No. 1295 (hereinafter called accused) under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014).

Facts arising of the proceedings are that the accused official while posted at MT Staff Kohat had absented himself from official duty vide DD No. 08 dated 01.01.2018. Subsequently, he was involved/charged in a narcotics case vide FIR No. 01 dated 02.01.2018 u/s 9 C-CNSA PS Sabir Abad. The accused was arrested while trafficking charas high quantity 48 KGs in a motor car.

Charge Sheet & Statement of Allegations were served upon accused official, through, superintendent of Jail Karak vide letter No.841/L.B dated 09.01.2018. DSP Legal Kohat was appointed as enquiry officer to proceed against him departmentally. The E.O visited district Jail Karak and examined witnesses in the presence of accused official. The enquiry officer stated that the accused official were trafficking huge quantity of charas in official uniform was apprehended by the local Police of Karak. The accused has committed professional misconduct, indulged himself in commission of a criminal act. He was held guilty of the charges and was recommended for major punishment.

Final Show Cause Notice alongwith copy of enquiry finding was served upon the accused official through Superintended of District Jail Karak. Reply was received unsatisfactory.

In the light of above, and available record, I reached to the conclusion that the accused official indulged in professional and criminal case. He earned bad name to the discipline force. Therefore, the charged leveled against him have been established. Therefore, in exercise of power conferred upon me, I Sohail Khalid, District Police Officer, Kohat impose a **major punishment of dismissal from service on the rules ibid** from the date of his absence. Kit etc be collected from him.

DISTRICT POLICE OFFICER,
KOHAT 27/7

OB No. 781
Date 4.7.2018

No 7121-25/PA dated Kohat the 27-7-2018

Copy of above to the:-

1. Superintendent of District Jail Karak, with the request that the accused constable be informed accordingly.
2. P.I for necessary action and sent clearance report.
3. Reader, Pay officer, SRC and OHC for necessary action.

DISTRICT POLICE OFFICER,
KOHAT 27/7

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

D.B

No.

Appeal No. 66046 of 20 21

Islam Badshah Appellant/Petitioner

Versus

the provincial police officer Respondent

Respondent No. 3

Notice to:

the Distt. police officer Kohat

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal on 17/10/2022 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this

office Notice No. dated

Given under my hand and the seal of this Court, at Peshawar this

Day of 20

instead of 24/11/22

Received

Registrar,

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays. Always quote Case No. while making any correspondence.

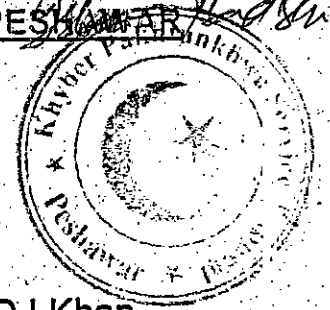
14-10-22

For appellant
Jalaluddin

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 767/2019

Date of Institution ... 31.05.2019
Date of Decision ... 29.03.2022



Waqas Ahmad, Ex-Constable No.8055, FRP Lines, D.I.Khan.
... (Appellant)

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar
and two others:
... (Respondents)

Taimur Ali Khan,
Advocate ... For appellant.

Kabir Ullah Khattak,
Additional Advocate General ... For respondents.

Salah-Ud-Din ... Member (J)
Rozina Rehman ... Member (J)

JUDGMENT

Rozina Rehman, Member(J): The appellant has invoked the jurisdiction of this Tribunal through above titled appeal with the prayer as copied below:

"That on acceptance of this appeal, the order dated 08.04.2019, 16.04.2018 and 26.10.2017 may kindly be set aside and the appellant may be reinstated into service with all back benefits."

2. Brief facts of the case are that appellant joined the Police Force on 01.12.2015 as Constable. While serving in the respondent Department, he was falsely implicated in a criminal case. Due to the above mentioned criminal case, he remained absent and was dismissed from service vide order dated 26.10.2017. He filed

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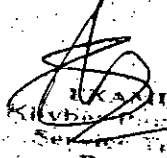
ATTESTED

MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

06.06.2017 of PS Mulazai Tank, you are habitual and involved in criminal activities and also having link with law breaking persons. Your this act is against the norms* of discipline and highly objectionable which is punishable under the Khyber Pakhtunkhwa Police Rules,-1975 Amendment Act-2014."

From the above-mentioned statement of allegations, it is evident that the appellant was departmentally proceeded against on the allegation of his involvement in criminal activities and also having link with law breaking persons. One Muhammad Ismail Khan Marwat, DSP FRP D.I.Khan Region conducted inquiry and his report is available on file. There is no evidence on record which could show his links with law breaking persons. Charge sheet and statement of allegations are totally silent in respect of his absence and his involvement in criminal case vide FIR No.238 dated 05.06.2017. The impugned orders show that he was proceeded against on the allegations of absence and his involvement in a criminal case but he was not specifically shown that period for which he remained absent. As per Rule-16.3 of Police Rules, 1934 when a Police Officer has been tried and acquitted by a criminal court, he shall not be punished departmentally on the same charge or on a different charge based upon the evidence cited in the criminal case. In the instant case, he was departmentally proceeded against not only on the allegation of his involvement in a criminal case but also for absence whereas, charge sheet and statement of allegations are totally silent in respect of the specific period of his absence and his involvement in criminal case rather he was charged for having links with law breaking persons. So far as his involvement in criminal case is concerned, he has been acquitted by a competent


ATTESTED


 EXAMINER
 Khyber Pakhtunkhwa
 Services Tribunal

court of Law on 15.03.2019. The Superintendent of Police FRP while awarding major punishment did not wait for the outcome of criminal case and awarded major punishment on 26.10.2017. He filed departmental appeal after getting the dismissal order but his appeal was rejected on 10.04.2018. Just after earning acquittal on 15.03.2019, he filed revision petition which was rejected on 08.04.2019 which was communicated to the appellant on 27.05.2019, where-after, service appeal was filed on 31.05.2019. The assertion of the learned AAG regarding the revision being barred by time does not find support from any document. He filed a revision after earning acquittal. It would have been a futile attempt on the part of appellant to challenge his dismissal from service before earning acquittal in the criminal case and it would be unjust to penalize the appellant for not filing his revision petition before earning his acquittal in the criminal case which had formed the foundation of his dismissal from service. It has been held by the superior fora that all acquittals are certainly honorable. There can be no acquittal which may be said to be dishonorable. Involvement of the appellant in the criminal case was also a ground on which he had been dismissed from service and the said ground had subsequently disappeared through his acquittal, making him re-emerge as a fit and proper person entitled to continue his service. His links with law breaking persons were not brought on record and the inquiry report is silent in this regard.

8. It is established from the record that charges of his involvement in the criminal case ultimately culminated in honorable acquittal of the appellant by the competent court of Law. In this respect we have sought guidance from 1988 PLC (CS) 179, 2003 SCMR 215 and PLD


ATTESTED

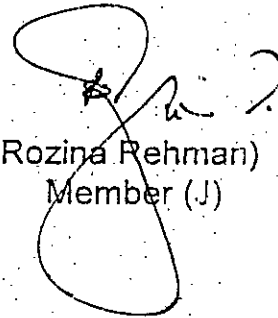

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal

2010 Supreme Court, 695 and judgments rendered by this Tribunal in Service Appeal No.1380/2014 titled Ilam Nawaz Vs. Police Department; Service Appeal No.616/2017 titled Mumtaz Ali Vs. Police Department; Service Appeal No.863/2018 titled Fateh-ur-Rehman Vs. Police Department; Service Appeal No.1065/2019 titled Naveed Gul Vs. Police Department and Service Appeal No.12098/2020 titled Ali Imran Vs. Police Department.

9. (For what has been discussed above, this appeal is accepted and the impugned order 26.10.2017 is set aside alongwith other orders on the appeal of the appellant and the appellant is reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.)

ANNOUNCED.
29.03.2022.


(Salah-Ud-Din)
Member (J)


(Rozina Rehman)
Member (J)

Certified to be true copy

EX-1078
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 04/07/22
Number of Words 2800
Copy Fee 30/-
Urgent
Total 30/-
Name of Applicant
Date of Copy 05/7/22
Date of Delivery of Copy 05/7/22