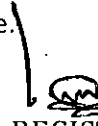


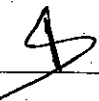


Form- A

FORM OF ORDER SHEET

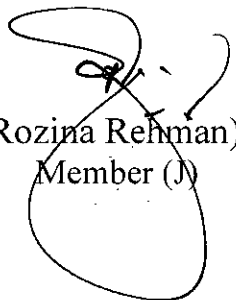
Court of _____

Case No.- 284/2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	09/01/2020	<p>The appeal of Mr. Abdul Hameed resubmitted today by Qazi Sajjid-ud-Din Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR 09/01/2020</p>
2-	10/01/20	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>10/02/2020</u></p> <p> CHAIRMAN</p>
	10.02.2020	<p>Appellant absent. Learned counsel for the appellant absent. Adjourn. To come up for preliminary hearing on 30.03.2020 before S.B. Appellant be put to notice for the date fixed.</p> <p> Member</p>
	31.03.2020	<p>Due to public holiday on account of COVID-19, the case is adjourned for the same on 29.06.2020 before S.B.</p> <p> Reader</p>

22.06.2020

Nemo for the appellant. Due to note reader, the process could not be issued, therefore, fresh notice be issued to the appellant and his counsel for 19.08.2020 before S.B.

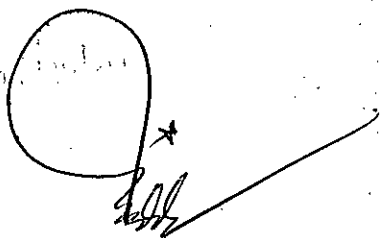

(Rozina Rehman)
Member (J)

19.08.2020

None for the appellant present.

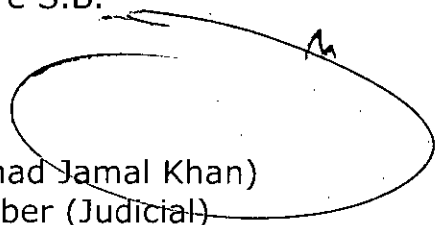
Notices be issued to the appellant and his counsel for appearance.

Adjourned to 23.10.2020 before S.B.


(Mian Muhammad)
Member(E)

23.10.2020

Since the Members of the High Court as well as of the District Bar Association Peshawar are observing strike today, therefore, the case is adjourned to 31.12.2020 on which date to come up for preliminary arguments before S.B.

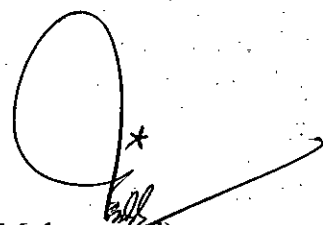

(Muhammad Jamal Khan)
Member (Judicial)

31.12.2020

Nemo for the appellant present.

Notices be issued to the appellant and his counsel for preliminary hearing.

Adjourned to 30.03.2021 before S.B.



(Mian Muhammad)
Member(E)

30.03.2021

Nemo for appellant.

Case was called time and again but neither appellant nor his counsel turned up.

In view of above, instant service appeal is hereby dismissed in default for non-prosecution. No order as to costs. File be consigned to the record room.

Announced.
30.03.2021




(Rozina Rehman)
Member (J)

The appeal of Mr. Abdul Hameed ASI presently in Elite Force Peshawar received today i.e. on 09.12.2019 is incomplete on the following score which is returned to the counsel for the appellants for completion and resubmission within 15 days.

- 1- Copy of departmental appeal and revision petition mentioned in para-6&7 of the memo of appeal are not attached with the appeal which may be placed on it.
- 2- Annexures-B, C, E and F of the appeal are illegible which may be replaced by legible/better one.
- 3- Annexures of the appeal may be attested.
- 4- Annexures of the appeal may be flagged.
- 5- Three more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

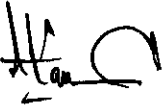
No. 2149 /S.T,

Dt. 10-12 /2019.



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Qazi Sajid ud Din Adv. Kohat.

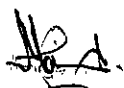
Re Submitted.



objection no - 1 is still stand
Be removed and re-submitted within
10 days.


30/12/19

Re Submitted after Doing needfull.



BEFORE THE HON'BLE KHYBER PUKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

No. 284 /2019

Abdul Hameed ASI,

(Appellant)

VERSUS

Inspector General of Police Khyber Pukhtunkhwa, Etc.

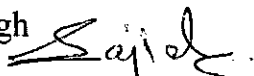
(Respondents)

INDEX

S.No	Description of Documents	Annexure	Pages
1.	Appeal		1 – 6
2.	Affidavit		7
3.	Address of the Parties		8 to 8C
4.	Copy of Punishment Order i.e. Reduction from the Rank SI to ASI dt: 08-11-2018	A	9 – 9A
5.	Copy of Order issued by the DIG Kohat dt: 31-12-2018	B	10
6.	Copy of the Order issued by the IGP (KPK) Peshawar dt: 12-4-2019	C	11
7.	Copy of Charge sheet and Statement of Allegations	D	12–13
8.	Copy of the Order of DPO dt: 18-6-2019	E	14
9.	Copy of Appeal	F	15–18
10.	Copy of Order issued by the DIG Kohat	G	19
11.	Copy of the Fundamental Rules 29)	H	20
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Dated: 06/12/2019


Abdul Hameed (ASD)

Through 
Qazi Sajid ud Din
Advocate High Court
Kohat

①

BEFORE THE HONOURABLE KHYBER PUKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

No. 284 /2020

Case No. 1794

Dated 09/12/2019

Abdul Hameed ASI, presently posted in Elite Force (KPK)
Peshawar.

(Appellant)

Versus

1. Inspector General of Police Khyber Pukhtunkhwa,
Peshawar.
2. Deputy Inspector General of police Kohat Region Kohat.
3. District Police Officer Kohat. (Respondents)

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT AGAINST THE IMPUGNED
ORDER OF THE DEPUTY INSPECTOR GENERAL OF
POLICE KOHAT REGION KOHAT DT:14-11-2019
VIDE WHICH MAJOR PUNISHMENT OF REDUCTION
FROM THE RANK OF SUB INSPECTOR TO THE RANK
OF ASSTT: SUB INSPECTOR AWARDED BY THE
WORTHY DISTRICT POLICE OFFICER KOHAT WAS
UPHELD WITHOUT ANY LAWFUL JUSTIFICATION.

PRAYER:

1. To set aside the impugned order of Reduction from the
Rank of Sub Inspector to the Rank of Asstt: Sub Inspector.
2. The appellant may be restored to the rank of Sub Inspector
from the date of reversion.
3. The appellant may be allowed all perks and privileges
including the right of seniority from the date of reversion.
4. Any other relief which the Honourable Tribunal deems
proper / suitable.

Respectfully Sheweth;

With great respect, the appellant may be allowed to submit
the following for your kind and sympathetic
consideration:-

Filed to-day

Registrar

09/12/19

Re-submitted to-day
and filed.

Registrar

09/01/2020

FACTS:

1. That the appellant was recruited as ASI through the KPK Public Service Commission Peshawar in the year 2009.
2. That the appellant after qualifying necessary trainings and courses and due to his devotion and dedication in the official work was promoted to the rank of Sub Inspector in the year 2016.
3. That the appellant due to his keen interest in the official work not only earned confidence of his senior Police Officers, but also earned a number of commendation certificates and cash rewards.
4. That the appellant while posted as SHO Police Station KDA was proceeded against departmentally on the basis of allegation that he had harassed one of Muhammad Irfan. The court had allowed superdari in case FIR No.2012 dt:21-8-2018 U/S 406 PS KDA, Kohat to one Muhammad Mufeez.

It was further added by the competent authority that the petitioner for his personal gains had called the complainant Muhammad Irfan on his cell number and falsely informed him that the superdari order has been revoked. The competent authority further alleged that the appellant on one hand had violated the court orders while on the other hand the petitioner exceeded from his lawful authority / Powers.

5. That against the appellant summary proceedings were initiated which resulted into the major punishment of reduction from the rank of SI to the rank of ASI vide order dt:08-11-2018. (Copy enclosed as annexure-A)
6. That since the punishment order involved a member of legal and factual questions, therefore, departmental appeal was preferred by the appellant before the worthy DIG Kohat Region Kohat but it was rejected vide No.13387/EC dt:31-12-2018. (Copy enclosed as annexure-B)
7. That thereafter the appellant filed a Review / Revision Petition before the worthy Inspector General of Police KPK. He vide his order No.1146 dt:12-4-2019 was pleased to

hold the punishment of reduction from the rank of SI to the Rank of ASI in abeyance and denove enquiry was ordered to be conducted. (Copy enclosed as annexure-C)

8. That before the commencement of the denove enquiry charge sheet and statement of allegations was served upon the appellant. (Copy enclosed as annexure-D)
9. That after conclusion of the denove enquiry, the DPO Kohat again awarded major punishment of reduction from the rank of SI to the rank of ASI vide order dt:18-6-2019. (Copy is enclosed as annexure-E)
10. That since the order of punishment issued by the Distt: Police Officer Kohat dated 18-6-2019 was suffering from legal and factual lacunas, therefore, the appellant filed departmental appeal before the Deputy Inspector General of Police Kohat Region Kohat. (Copy of the appeal is annexure-F)
11. That the respondent No.2 rejected appeal on 14-11-2019 received by the appellant on 22-11-2019. The respondent No.2 rejected the appeal in mechanical way. The appellant raised a number of legal and factual questions but the respondent No.2 failed to respond to the questions raised by the appellant. Thus the impugned order of the respondent No.2 has aggrieved the appellant. (Copy of order of the respondent No.2 is enclosed as annexure-G)
12. That following are some of the grounds of appeal among the other:-

GROUND:

- a. That the impugned Order of punishment issued by the respondent No.2 and as well as by the respondent No.3 are against law, facts and evidence on record, hence, they are not tenable in the eyes of law.
- b. That the appellant even during the denove enquiry was again not provided opportunity to defend himself. Hence enquiry, punishment order and the impugned order have not satisfied the ends of justice, therefore, the punishment order is of no legal effect.

- c. That during the de novo enquiry, the enquiry officer called for written statement from the appellant and the complainant. The enquiry officer did not provide opportunity to the appellant to cross examine the complainant. Such a lacuna amounts to gross illegality because it is the inherent and fundamental right of the appellant to cross examine all those witness who have deposed against the appellant. Denial of cross examination of the witnesses amounts to the denial of fair trial on the one hand and denial of fair justice on the other.
- d. That the punishment order issued by the DPO Kohat reveals that as if he has acted as the appellate authority instead of the competent authority. The order contains that "Punishment awarded in reduction in rank is upheld".

In plain words, the previous punishment order was not warranted to be mentioned in the order by competent authority. By mentioning the previous order, the competent authority has verified that the present order of punishment is the continuation of the previous order of punishment. Thus the authority fell into a material legal error.

- e. That by recalling the previous order in the fresh order, the competent authority has authenticated that the fresh order is not without bias.
- f. That the present enquiry should have been given fresh start, presuming thereby that the previous enquiry was not in existence at all. By recalling the previous enquiry the authority fell into a material legal error on one hand and by using the word upheld in the order, the authority has given the impression that if he has acted in capacity of an appellate authority.
- g. That the superdari order was passed in favour of Mufeez, but surprisingly complaint was made by his father Irfan. During the previous and present enquiry proceeding Mufeez remained silent while Irfan played an active role against the appellant. Moreover, the enquiry Officer has also not touched Mufeez, so that to verify the contents of complaint. At this score the enquiry has become legally

defective and of no legal effect on the rights of the appellant.

- h. That the enquiry officer did not afford opportunity to the appellant to cross examine the complainant. The enquiry officer himself put questions of his choice upon the complainant, which is obviously repugnant to the principles of law, justice and fair play.
- i. That Art. 10-A of the 1973 Constitution of Pakistan has ensured fair transparent and independent trial/ enquiry. Denial of fair enquiry undoubtedly amounts to denial of the fundamental rights of the petitioner thus making the enquiry and order doubtful, unlawful and of no legal effect.
- j. That the impugned order is null and void because it does not fulfill the requirement envisaged under Rules 29 of the Fundamental Rules. The said rule has stated that in case of reversion to the lower rank the authority is bound to mention that for how much period the punishment order will remain operative. (Photocopy of the Rules 29 is enclosed). Thus by not mentioning the period during which the impugned order will remain operative the authority has fell into a material legal irregularity and made the order void and illegal.
- k. That it is the well established practice to deliver findings reports alongwith the order of the competent authority but the appellant has been only delivered the impugned order.
- l. That the impugned order is based on misreading of evidence on record. In fact the petitioner to whom superdai was granted by the court was not interested to come to police station and collect the vehicle. The appellant told him on phone that if he would not collect the vehicle, it is likely that the court may revoke its order. Intention of the appellant was that the owner of vehicle shall collect his vehicle immediately, but unfortunately the good gesture of the appellant was taken negatively and made the basis of punishment against the appellant.
- m. That the appellant was having no malafide whatsoever on his part. Similarly during enquiry as well no malafide of the appellant could be established. Hence the appellant is

absolutely innocent and the punishment awarded to the appellant is unwarranted and legally not justified.

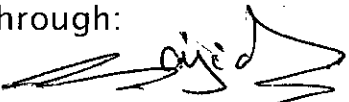
- n. That the punishment order has been awarded without observing legal formalities which under the law has made the punishment questionable and legally defective.
- o. That the appellant being responsible Police Officer and law abiding person cannot imagine to switch over to such unlawful, unethical and illegal practices.
- p. That the impugned order is not sustainable in the eyes of law, because no allegation whatsoever has been established against the appellant during the enquiry proceedings. The punishment order is based on whims and unfounded grounds, which cant not made the basis of punishment. Hence the punishment awarded to the appellant is not tenable in the eyes of law deserves to be set aside.

PRAYER:

It is, therefore, humbly prayed that the impugned order of punishment being one sided, arbitrary, harsh, not in accordance with law and rules may please be set aside and the appellant may be restored to his old position i.e. Sub Inspector from the date of reversion with all back benefits and any other relief which the Honourable Tribunal deems proper.


Abdul Hameed (ASI)

Dated: 06-12-2019.

Through:

Qazi Sajid ud Din Advocate,
Kohat.

BEFORE THE HONOURABLE KHYBER PUKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

No. _____/2017.

Abdul Hameed ASI,

(Appellant)

Versus


Inspector General of Police Khyber Pukhtunkhwa, etc.

(Respondents)

Appeal

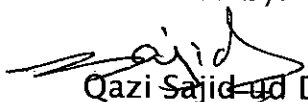
AFFIDAVIT

I, Abdul Hameed ASI, presently posted in Elite Force (KPK) Peshawar do hereby solemnly affirm that the contents of the appeal is true and correct to the best of my knowledge and belief and nothing has been concealed from this honourable court.


Deponent

Abdul Hameed

Identified by:


Qazi Sajid ud Din

Advocate

Distt: Courts Kohat.



7/12/17

8

**BEFORE THE HONOURABLE KHYBER PUKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

No. _____/2017.

Abdul Hameed ASI,

(Appellant)

Versus

Inspector General of Police Khyber Pukhtunkhwa, etc.

(Respondents)


ADDRESS OF THE APRTIES

Appellant:

Abdul Hameed ASI, presently posted in Elite Force (KPK)
Peshawar.

Respondents:

1. Inspector General of Police Khyber Pukhtunkhwa,
Peshawar.
2. Deputy Inspector General of police Kohat Region Kohat.
3. District Police Officer Kohat.


Abdul Hameed (ASI)

Dated: 06-12-2019.

Through:


Qazi Sajid ud Din Advocate,
Kohat.



8

Annex "A"

OFFICE OF THE
DISTRICT POLICE OFFICER
KOHAT

Tel: 0922-9260116 Fax 9260125

ORDER

This order is passed on the departmental summary proceedings enquiry against SI Abdul Hameed, SHO PS (KDA), hereinafter called accused official under the Khyber Pakhtunkhwa, Police Rules, 1975 (Amended 2014).

Facts are that a complaint of Muhammad Irfan regarding misuse of authority of the SHO PS KDA regarding handing over a vehicle to him ordered by the court on supardari and legal harassment / delayed.

DSP HQrs Kohat was directed to probe into the matter. The enquiry officer vide his report held him guilty of the allegations leveled against him.

In the light of complaint and a report of DSP HQrs, Kohat the defaulter officer was served with Show Cause Notice under Rule 5 (3) of the Khyber Pakhtunkhwa, Police Rules 1975 (Amendment 2014), as under:-

- i. It has been complained by Irfan resident of KDA Kohat that you have harassed him and tried to delay the handing over vehicle granted on supardari by the court in case FIR No. 212 dated 21.08.2018 u/s 406 PPC PS KDA.
- ii. He called the complainant on his cell number that the supardari order has been revoked/cancelled to which the complainant has video recording produced in memory card.
- iii. He deliberately played delay tactics for his personal gain, violated the lawful orders of the court and misused his authority.
- iv. DSP HQrs has conducted a preliminary enquiry on the SMS complaint Code 2018/10-5386 and held him guilty vide his letter No. 876/PA dated 06.11.2018 for the charges leveled against him.

The defaulter submitted reply to the Show Cause Notice, perused found unsatisfactory. He was called in OR on 06.11.2018, heard in person, but failed to explain his position. The complainant was also called and heard, who supported his complaint as well. The memory card produced by the complainant to enquiry officer was also examined.

A. Khan
S

S

840

In view of above, and report of DSP HQrs, I reached to the conclusion that the defaulter willfully delayed handing over a vehicle to the complainant, harassed and miss led him as a evident from audio recording and misused his authority, therefore, the defaulter has done sheer misconduct. He has stirring reputation. Therefore, in exercise of powers conferred upon the undersigned and dispensed with the general proceedings, SI Abdul Hameed is awarded a major punishment of reduction from the rank of SI to the rank of ASI with immediate effect.

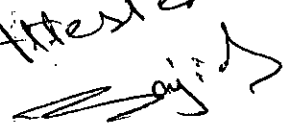
Announced
06.11.2018

Capt. @ Wahid Mohmood PSP
District Police Officer,
Kohat 9016/11

OB No. 1181
Date 08-11-2018

No 10793.25 PA dated Kohat the 09-11-2018.

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

Attested


QAZI SAJID-UD-DIN
MA (Pol. Sc) LLB
(Retd) SSP
Advocate Kohat

Attested


9 A

THE HONORABLE DEPUTY INSPECTOR GENERAL OF POLICE
KOHAT REGION KOHAT

APPEAL UNDER RULE 11 OF THE POLICE RULES 1975 (AMENDED 2014)
AGAINST IMPUGNED ORDER OF THE W/DPO KOHAT DATED 08.11.2018,
WHEREIN THE APPELLANT WAS AWARDED MAJOR PUNISHMENT OF
REDUCTION FROM THE RANK OF SI TO THE RANK OF ASI.

Sir,

Respectfully it is submitted that the appellant may be allowed to submit the following for your kind and sympathetic consideration:-

Facts:

1. That the appellant was recruited in the rank of ASI in the year 2009.
2. That the appellant after qualifying necessary trainings and courses and due to his devotion / dedication in the official work was promoted to the rank of sub inspector.
3. That the appellant due to his keen interest in the official work not only earned confidence of his senior Police officers but also earned a number of commendation certificates and cash reward.
4. That the appellant while posted as SHO Police station KDA was proceeded against departmentally on the basis of allegation that the appellant had harassed one Muhammad Ifan and tried to delay the handing over vehicle granted to him on superdari by the court in case FIR No. 212 dated 21.08.2018 U/S 406 PPC PS KDA.
It was further alleged by the competent authority that the appellant for his personal gains had called the complainant Ifan on his cell number and falsely informed him that the superdari order has been revoked. The competent authority further alleged that the appellant on one hand had violated the court orders while on the other hand the appellant exceeded from his lawful authority / powers.
5. That resultantly the worthy DPO Kohat (competent authority) awarded major punishment of reduction from the rank of SI to the rank of ASI with immediate effect vide order dated 08.11.2018.
6. That the impugned order of punishment involves questions of law and facts having aggrieved the appellant.
7. That in view of the mixed questions of law and facts, the impugned order has become legally defective and for removal of grievances, the appellant is having no option except to exercise his legal right and move appeal against the impugned order as has been provided under Rule-11 of the Police Rules 1975 (Amended-2014).

Attested
Handwritten signature

" " " " " "

B

Stated in order

Grounds:-

- A. That the impugned punishment order is not in accordance with law, facts and evidence on record.
- B. That in facts, the appellant has never received any charge sheet, statement of allegation or show cause notice from the worthy competent authority.
- C. That in absence of service of the charge sheet / statement of allegations and show cause notice, no departmental proceedings can be initiated against a government servant / police official / policer officer. As such initiation of proceedings against the appellant under the law is illegal ab-initio.
- D. That the impugned order does not clearly specify that whether appellant was proceeded against the summary proceedings or preliminary proceedings. Thus the impugned order has lost legal force in the eye of law.
- E. That under the law / rules, preliminary enquiry is alien to the police rules-1975 (Amended-2014). Hence legally speaking no action can be taken nor any punishment can be awarded to the police officer/official as a result of preliminary enquiry.
- F. That in case if competent authority decides to proceed against a Police officer/official in summary proceedings, in this case too the competent authority will apprise the defaulter Police official that Police summary proceedings are being initiated against him, however, in such a situation the competent authority cannot award major punishment. Rule -5 sub Rule-2 clause -II Police Rules 1975 is very clear in this regard.
- G. That from the impugned punishment order it is not clear that whether against the appellant preliminary enquiry or summary enquiry was initiated. Hence, infliction of punishment under such circumstances is not approved by law.
If for arguments sake, it is assumed that the punishment was the result of summary proceedings, even in this case too vide Rule 5 sub Rule (2) clause (ii) of the Police Rules 1975 (Amended-2014) the competent authority is barred from awarding major punishment. Hence at this score alone the punishment to the appellant has become legally nul and void.
- H. That the impugned order is nul and void because it does not fulfill the requirement envisaged under Rule 29 of the Fundamental Rules. The said rule has stated that in case of reversion to the lower rank the authority is bound to mention that for how much period the punishment order will remain operative. (Photo copy of the rule-29 is enclosed).
- I. That the impugned order is based on misreading of evidence on record. In fact the applicant to whom superdari was granted by the court was not interested to come to Police station and collect the vehicle. The appellant told him on phone that if he would not collect the vehicle, it is likely that the court may revoke its order. Intention of the appellant was that the appellant shall collect his vehicle immediately.
- J. That the appellant was having no malafide whatsoever, on his part.

At the end of the day

- 9C
- ~~Abdul Hameed~~
- K. That being (SHO) responsible police officers, the appellant was conscience about the fact that due to the scarcity of place for the vehicles in the police station and to absolve from the responsibility of looking after the vehicle being already released on superdari, the appellant was making effort for its delivery to the person to whom superdari was allowed, without further delay.
- L. That the appellant has not been afforded opportunity to defend himself.
- M. That the punishment order has been awarded without observing legal formalities which has made the punishment order questionable and legally defective.
- N. That on 05.11.2018 FIR No. 302 U/Ss 506, 186, 189, 34 PPC was registered in PS KDA. Due to the efforts of the appellant one accused was arrested on the same day of registration of the case while the next day i.e 06.11.2018 two accused succeeded to surrender before the court and got Bail Before arrest. The BBA also annoyed the W/DPO Kohat and awarded the appellant punishment of censure vide order dated 06.11.2018. Such an action reflects that the authority was bent upon to punish the appellant at any cost.
- O. That the appellant being responsible Police officer and law abiding person cannot imagine to switch over to unlawful and illegal practices.
- P. That the punishment awarded to the appellant is neither warranted under the law nor rules / facts.

Prayer:-

It is therefore, prayed that the punishment order being not in accordance with law / rules / fact and based on misreading of the evidence may be set aside in the great interest of law / justice. The appellant may be reinstated on his old position i.e sub inspector. The appellant shall be highly obliged.

Yours obediently,

Abdul Hameed SI

Abdul Hameed
SI

ORDER.

10

Annex B

This order will dispose of a departmental appeal, moved by ASI Abdul Hameed, the then SI/SHO PS KDA of Operation Staff Kohat against the punishment order, passed by DPO Kohat vide OB No. 1181, dated 08.11.2018, whereby he was awarded major punishment of reduction from the rank of SI to ASI.

Facts of the departmental proceedings were that one Muhammad Irfan lodged SMS complaint to Inspector General of Police, Khyber Pakhtunkhwa wherein he complained that the appellant had harassed him and tried to delay in handing over the vehicle granted to him on superdari by the Court of law in case FIR No. 212, dated 21.08.2018 u/s 406 PPC PS KDA Kohat.

He preferred an appeal to the undersigned, upon which comments were obtained from DPO Kohat and his service record was perused. He was also heard in person in Orderly Room, held in this office on 26.12.2018. During hearing, he did not advance any plausible explanation in his defense.

Going through the available record, I have reached to the conclusion that despite clear cut directives / order of the court, he did not comply with it and delayed to hand over the vehicle to its legal owner which shows his malafide and misconduct. His appeal being devoid of merit is hereby rejected.

Order Announced
26.12.2018

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

No: 13387 /EC, dated Kohat the 31/12/2018.

Copy for information and necessary action to the District Police Officer, Kohat w/r to his office Memo: No. 27156/LB, dated 12.12.2018. His Service Record containing Two Service Books & Fauji Missal / Enquiry File is returned herewith.

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

SRE
Per [Signature] Place

Received

011-01 018

[Signature]

Attested
[Signature]

QAZI SAJID-UD-DIN
MA (Pol. Sc) LLB
(Retd) SSF
Kohat

Better copy

POLICE DEPTT:

KOHAT REGION

ORDER.

This order will dispose of a departmental appeal, moved by ASI Abdul Hameed, the then SI/SHO PS KDA of Operation Staff Kohat against the punishment order, passed by DPO Kohat vide OB No. 1181, dated 08.11.2018, whereby he was awarded major punishment of reduction from the rank of SI to ASI.

Facts of the departmental proceedings were that one Muhammad Irfan lodged SMS complaint to Inspector General of Police, Khyber Pakhtunkhwa wherein he complained that the appellant had harassed him and tried to delay in handing over the vehicle granted to him on superdari by the Court of law in case FIR No. 212, dated 21.08.2018 u/s 406 PPC PS KDA Kohat.

He preferred an appeal to the undersigned, upon which comments were obtained from DPO Kohat and his service record was perused. He was also heard in person in Orderly Room, held in this office on 26.12.2018. During hearing, he did not advance any plausible explanation in his defense.

Going through the available record, I have reached to the conclusion that despite clear cut directives / order of the court, he did not comply with it and delayed to hand over the vehicle to its legal owner which shows his malafide and misconduct. His appeal being devoid of merit is hereby rejected.

Order Announced
26.12.2018

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

No. 13387 /EC, dated Kohat the 31/12 /2018.

Copy for information and necessary action to the District Police Officer, Kohat w/r to his office Memo: No. 27156/LB, dated 12.12.2018. His Service Record containing Two Service Books & Fauji Missal / Enquiry File is returned herewith.

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

OL



11

Annex C

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. SI 1146

/19, dated Peshawar the 12/04/2019.

ORDER

This order will dispose of the Revision Petition preferred by ASI Abdul Hameed No. 117/K (the then SI) under Rule 11-A of Khyber Pakhtunkhwa Police Rules 1975 (amended 2014) against the order of his reduction from the-rank of SI to ASI passed by District Police Officer, Kohat vide OB No. 1181, dated 08.11.2018.

The brief, yet relevant, facts, of the case are that penalty of reduction from the rank of SI to ASI was imposed on petitioner by District Police Officer, Kohat vide OB No. 1181, dated 08.11.2018 on the following allegations:-

- (i) He, while posted as SHO Police Station KDA Kohat, it has been complained by Inān resident of KDA Kohat that the appellant has harassed him and tried to delay the handing over vehicle granted on superdari by the court in case FIR No. 212, dated 21.08.2018 u/s 496 PPC Police Station KDA Kohat.
- (ii) He, called the complainant on his cell number that the superdari order has been revoked cancelled to which the complainant has video recording produced in memory card).
- (iii) He deliberately played delay tactics for his personal gain, violated the lawful orders of the court and misused his authority.
- (iv) DSP/HQrs: has conducted a preliminary enquiry on the SMS complaint code 2018/10-5386 and held him guilty vide his letter No. 876/PA, dated 06.11.2018.

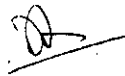
His appeal was rejected by Regional Police Officer, Kohat vide order Endst: No. 13387/EC, dated 31.12.2018.

On 13.03.2019, the meeting of Appellate Board was held at CPO Peshawar, wherein the petitioner was present and heard in person.

The appellant has been awarded major punishment of reduction from the rank of SI to ASI by DPO, Kohat without proper regular departmental inquiry. He has been awarded punishment in a summary proceedings. Perusal of the record, appeal and verbal contentions of the appellant warrant lenient view.

Therefore, de-novo enquiry be conducted as departmental enquiry was faulty. His punishment is held in abeyance.

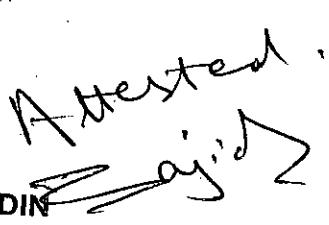
This order is issued with the approval by the Competent Authority.

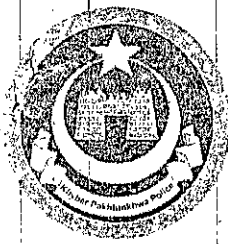

(DR. MUHAMMAD ABID KHAN) PSP
Deputy Inspector General of Police, HQrs:
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

No. SI 1147-53/19.

Copy of the above is forwarded to the:

1. Regional Police Officer, Kohat, 02-Service Books, Fauji Missal + enquiry file and 04 GB Memory Card of the above named officer received vide your office Memo: No. 1599/EC, dated 20.02.2019 is returned herewith for your office record.
2. District Police Officer, Kohat.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-III, CPO, Peshawar.


QAZI SAJID-UD-DIN
MA (Pol. Sc) LLB
(Retd) SSP
Advocate Kohat



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. S/

1146

/19, dated Peshawar the 12/04/2019.

ORDER

This order will dispose of the Revision Petition preferred by ASI Abdul Hameed No. 117/K (the then SI) under Rule 11-A of Khyber Pakhtunkhwa Police Rules 1975 (amended 2014) against the order of his reduction from the rank of SI to ASI passed by District Police Officer, Kohat vide OB No. 1181, dated 08.11.2018.

The brief, yet relevant, facts, of the case are that penalty of reduction from the rank of SI to ASI was imposed on petitioner by District Police Officer, Kohat vide OB No. 1181, dated 08.11.2018 on the following allegations:-

- (i) He while posted as SHO Police Station KDA Kohat, it has been complained by Irfan resident of KDA Kohat that the appellant has harassed him and tried to delay the handing over vehicle granted on superdari by the court in case FIR No. 212, dated 21.08.2018 u/s 406 PPC Police Station KDA Kohat.
- (ii) He called the complainant on his cell number that the superdari order has been revoked cancelled to which the complainant has video recording produced in memory card).
- (iii) He deliberately played delay tactics for his personal gain, violated the lawful orders of the court and misused his authority.
- (iv) DSP/HQrs: has conducted a preliminary enquiry on the SMS complaint code 2018/10-5386 and held him guilty vide his letter No. 876/PA, dated 06.11.2018.


His appeal was rejected by Regional Police Officer, Kohat vide order Endst: No. 13387/EC, dated 31.12.2018.

On 13.03.2019, the meeting of Appellate Board was held at CPO Peshawar, wherein the petitioner was present and heard in person.

The appellant has been awarded major punishment of reduction from the rank of SI to ASI by DPO, Kohat without proper regular departmental inquiry. He has been awarded punishment in a summary proceedings. Perusal of the record, appeal and verbal contentions of the appellant warrant lenient view.

Therefore, de-novo enquiry be conducted as departmental enquiry was faulty. His punishment is held in abeyance.

This order is issued with the approval by the Competent Authority.


(DR. MUHAMMAD ABID KHAN) PSP
Deputy Inspector General of Police, HQrs:
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

No. S/ 1147-53 /19,

Copy of the above is forwarded to the:

1. Regional Police Officer, Kohat. 02-Service Books, Fauji Missal + enquiry file and 04 GB Memory Card of the above named officer received vide your office Memo: No. 1599/EC, dated 20.02.2019 is returned herewith for your office record.
2. District Police Officer, Kohat.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: F-III, CPO, Peshawar.



No. 5356-57/PA

(Annex D)

12

12

Office of the
District Police Officer,
Kohat

Dated 23-4/2019

CHARGE SHEET.

1. **CAPT @ WAHID MEHMOOD, DISTRICT POLICE OFFICER, KOHAT,** as competent authority under Khyber Pakhtunkhwa Police Rules (amendments 2014) 1975, am of the opinion that you **Off: SI Abdul Hameed No. 117/K** 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.

- i. He while posted as SHO PS KDA Kohat, it has been complained by Irfan resident of KDA Kohat that you have harassed him and tried to delay the handing over vehicle granted on supardari by the court in case FIR No. 212 dated 21.08.2018 u/s 406 PPC PS KDA.
- ii. He called the complainant on his cell number that the supardari order has been revoked (cancelled to which the complainant has video recording produced in memory card.
- iii. He deliberately played delay tactics for his personal gain, violated the lawful orders of the court and misused his authority.
- iv. DSP HQrs has conducted a preliminary enquiry on the SMS complaint Code 2018/10-5386 and held him guilty vide his letter No. 876/PA dated 06.11.2018 for the charges leveled against him.

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

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.

Received
06-05-19
QAZI SAJID-UD-DIN
MA (Pol. Sc) LLB
(Retd) SSP
Advocate Kohat

Attested
Sajid

DISTRICT POLICE OFFICER,
KOHAT 23/4.



No 5356-57/PA

13

7

Office of the
District Police Officer,
Kohat

Dated 23-4-2019

DISCIPLINARY ACTION

1. **CAPT @ WAHID MEHMOOD, DISTRICT POLICE OFFICER, KOHAT** as competent authority, am of the opinion that you **Off: SI Abdul Hameed No. 117/K** 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

- i. He while posted as SHO PS KDA Kohat, it has been complained by Irfan resident of KDA Kohat that you have harassed him and tried to delay the handing over vehicle granted on supardari by the court in case FIR No. 212 dated 21.08.2018 u/s 406 PPC PS KDA.
- ii. He called the complainant on his cell number that the supardari order has been revoked (cancelled to which the complainant has video recording produced in memory card.
- iii. He deliberately played delay tactics for his personal gain, violated the lawful orders of the court and misused his authority.
- iv. DSP HQrs has conducted a preliminary enquiry on the SMS complaint Code 2018/10-5386 and held him guilty vide his letter No. 876/PA dated 06.11.2018 for the charges leveled against him.

Attested
GAZI SAJID-UD-DIN
MA (Pol. Sc) LLB
(Retd) SSF
Advocate Kohat

2. For the purpose of scrutinizing the conduct of said accused with reference to the above allegations **SDPO Saddar, Kohat** 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 23/4/19

No. 5356-57/PA, dated 23-4-2019.

Copy of above to:-

1. **SDPO Saddar, Kohat**:- The Enquiry Officer for initiating **denovo enquiry proceedings** against the accused officer and submit the findings report at earliest.
2. The **Accused Officer**:- with the directions to appear before the Enquiry Officer, on the date, time and place fixed by him, for the purpose of denovo enquiry proceedings.



(Annex E) 14

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

No. _____ /PA dated Kohat the ___/___/2019

ORDER

This order will dispose of de-novo departmental proceedings initiated against ASI Abdul Hameed serving in district Karak under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014).

- The essential facts arising of the case are that :-
- i. He while posted as SHO PS KDA Kohat, it has been complained by Irfan resident of KDA Kohat that you have harassed him and tried to delay the handing over vehicle granted on supardari by the court in case FIR No. 212 dated 21.08.2018 u/s 406 PPC PS KDA.
 - ii. He called the complainant on his cell number that the supardari order has been revoked (cancelled to which the complainant has video recording produced in memory card.
 - iii. He deliberately played delay tactics for his personal gain, violated the lawful orders of the court and misused his authority.
 - iv. DSP HQ's has conducted a preliminary enquiry on the SMS complaint Code 2018/10-5386 and held him guilty vide his letter No. 876/PA cated 06.11.2018 for the charges leveled against him.

In compliance with the Order No. S/ 1146/19 dated 12.04.2019 of W/ Inspector General of Police Khyber Pakhtunkhwa, Peshawar, a denovo departmental proceedings initiated against the delinquent ASI, ASP Saddar, Kohat was appointed as enquiry officer by the competent authority. Charge Sheet alongwith statement of allegations issued to the accused official. The accused official was associated with the proceedings and afforded ample opportunity of defense by E.O. The accused official was held guilty of the charges vide finding of the enquiry officer.

Therefore, the accused official was called in Orderly Room, held on 03.06.2019 and heard in person, but he failed to submit any plausible explanation to his gross professional misconduct. Denovo inquiry proves guilt of ASI Abdul Hameed, hence the punishment of reduction in rank awarded is justified.

In view of the above and available record, I agreed with the finding of enquiry officer, the afore, in exercise of powers conferred upon me under the rules ibid I, Capt @ Wahid Mehmood, District Police Officer, Kohat the punishment awarded reduction in rank is upheld, with immediate effect.

Announced
03.06.2018

DISTRICT POLICE OFFICER,
KOHAT *22/10/16*

OB No. *701*
Date *18-06-2019*

No. *7445-481* PA dated Kohat the *18-6-2019*.

- Copy of above to the:-
1. District Police Officer, Karak
 2. Reader, Pay officer, SRC and OHC for necessary action.

Attested
Sajid

QAZI SAJID-UD-DIN
MA (Pol. Sc) LLB
(Retd) SSF
Advocate Kohat

Revised copy
14

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

No. _____ /PA dated Kohat the ___/___/2019

ORDER

This order will dispose of de-novo departmental proceedings against ASI Abdu' Hameed serving in district Karak under the Khyber Pakhtunkhwa Police Rules, 1975 (amendment 2014)

- The essential facts arising of the case are that -
- He while posted as SHO PS KDA Kohat, it has been complained by a resident of KDA Kohat that you have harassed him and tried to delay the handing over vehicle granted on supardari by the court in case FIR No. 212 dated 21.08.2018 u/s 406 PPC PS KDA.
- He called the complainant on his cell number that the supardari order has been revoked (cancelled) to which the complainant has video recording produced in memory card.
- He deliberately played delay tactics for his personal gain violated the lawful orders of the court and misused his authority.
- DSP HQs has conducted a preliminary enquiry on the SMS complaint Code 2018/10-5386 and held him guilty vide his letter No. 876/PA dated 06.11.2018 for the charges leveled against him.

In compliance with the Order No. S/1146/19 dated 12.04.2019 of Inspector General of Police Khyber Pakhtunkhwa, Peshawar, a de-novo departmental proceedings initiated against the delinquent ASI, ASP Saddar, Kohat was appointed as enquiry officer by the competent authority. Charge sheet alongwith statement of allegations issued to the accused official. The accused official was associated with the proceedings and afforded ample opportunity of defense by E.O. The accused official was held guilty of the charges vide finding of the enquiry officer.

Therefore, the accused official was called in Orderly Room, held on 03.06.2019 and heard in person, but he failed to submit any plausible explanation to his gross professional misconduct. Denovo inquiry proves guilt of ASI Abdul Hameed hence the punishment of reduction in rank awarded is justified.

In view of the above and available record, I agreed with the finding of enquiry officer, therefore, in exercise of powers conferred upon me under the rules Ibid I, Capt. @ Wahid Mehmood, District Police Officer, Kohat the punishment awarded reduction in rank is upheld with immediate effect.

Announced
03.06.2018

DISTRICT POLICE OFFICER,
KOHAT

OB No. 101
Date 13.06.2019

No. 7225-45 /PA dated Kohat the 13.6.2019

Received

(15)

(Annex F)

THE DEPUTY INSPECTOR GENERAL OF KOHAT

APPEAL UNDER RULE 11 OF THE POLICE RULES 1975 (AMENDED 2014) AGAINST THE IMPUGNED ORDER OF THE DPO KOHAT VIDE ORDER BOOK NO.101 DT:18-6-2019, WHEREIN THE MAJOR PUNISHMENT REDUCTION FROM THE RANK OF SUB INSPECTOR TO THE RANK OF ASSTT: SUB INSPECTOR UPHELD WITHOUT ANY LEGAL JUSTIFICATION.

Respected Sir,

Respectfully, the appellant may be allowed to submit the following for your kind and sympathetic consideration:-

FACTS:

1. That the appellant was recruited in the ranks of ASI in the year 2009.
2. That the appellant after qualifying necessary trainings and courses and due to his devotion and dedication in the official work was promoted to the rank of Sub inspector.
3. That the appellant due to his keen interest in the official work not only earned confidence of his senior Police Officers, but also earned a number of commendation certificates and cash rewards.
4. That the appellant while posted as SHO Police Station KDA was proceeded against departmental on the basis of allegation that the appellant had harassed one Muhammad Mufeez son of Irfan owner of vehicle, who was granted superdari by the court in case FIR No.2012 dt:21-8-2018 U/S 406 PS KDA, Kohat.

It was further added by the competent authority that the appellant for his personal gains had called the complainant Irfan on his cell number and falsely informed him that the superdari order has been revoked. The competent authority further alleged that the appellant on one hand

M. A. J.
R. A.

had violated the court orders while on the other hand the appellant exceeded from his lawful authority / Prowers.

5. That against the appellant summary proceedings were initiated which resulted into the major punishment of reduction from the rank of SI to the rank of ASI vide order dt:08-11-2018.
6. That since the punishment order involved a member of legal and factual questions, therefore, departmental appeal was preferred by the appellant before the worthy DIG Kohat Region Kohat but it was rejected vide No.13387/EC dt:31-12-2018.
7. That thereafter the appellant filed a review / Revision Petition before the worthy Inspector General of Police KPK. He vide his order No.1146 dt:12-4-2019 was pleased to hold the punishment of reduction from the rank of SI to the Rank of ASI in abeyance and denove enquiry was ordered to be conducted.
8. That after conclusion of the denove enquiry, the Worthy DPO Kohat ordered the punishment of reduction from the rank of SI to the rank of ASI vide order dt:18-6-2019.
9. That even the fresh enquiry against the appellant and order of the worthy DPO Kohat suffer from legal and factual short coming. Thus the appellant has serious reservation on both the inquiry and the impugned order.
10. That following are some of the grounds of appeal, which may kindly be considered sympathetically and in line with the legal perspective:-

GROUND:

- a. That the impugned punishment order is not in accordance with law, facts and evidence on record.

- b. That the appellant was again not provided opportunity to defend himself during the enquiry proceedings.
- c. That the enquiry officer only called for written report from the appellant and the complainant but did not provide opportunity to cross examine the complainant. Such a lacuna amounts to gross illegality because it is the inherent and fundamental right of the appellant to cross examine himself all those witness who have deposed against the appellant. Denial of cross examination of the witness amounts to denial of fair trial on one hand and denial of fair justice on the others.
- d. That the impugned order of the Worthy DPO Kohat also contains a number of legal flaws and infirmities because if it is perused, it will reflect that the competent authority acted as the appellate authority. It was required that fresh order of punishment should have been mentioned/recorded in the impugned order but instead it was mentioned that "punishment awarded reduction in rank is upheld" meaning thereby that the impugned order is merely continuation of the old order which is a serious legal irregularity. Thus part of order shows that as if order was issued by the appellant authority instead of the competent authority.
- e. That the enquiry should have been given fresh start presuming thereby that the previous enquiry was not in existence at all. Thus the competent authority has fell into a material legal errors.
- f. That while denove inquiry was ordered by the Provincial Chief then reference to the old punishment was not required. Reference to the old punishment reflects bias and ill will against the appellant.
- g. That the appellant has not been afforded opportunity to defend himself during the inquiry proceedings.

Alleged
N/A

- h. That the punishment order has been awarded without observing legal formalities, which under the law has made the punishment order questionable and legally defective.
- i. That on 05-11-2018 FIR No.302 U/Ss 506/186/189/34 PPC was registered in PS KDA. Due to the efforts of the appellant one accused was arrested on the same day of registration of the case while the next day i.e. 16-11-2018 two accused succeeded to surrender before the court and got bail before arrest. The BBA also annoyed the Worthy DPO Kohat and awarded the appellant punishment of censure vide order dt:16-11-2018. Such an action reflects that the authority was bent upon to punish the appellant at any cost.
- j. That the appellant being responsible Police Officer and law abiding person cannot imagine to switch over to unlawful, unethical and illegal practices.
- k. That punishment awarded to the appellant is neither warranted under the law nor rules / facts.

PRAYER:

In view of the above, it is humbly prayed that the impugned order dt:18-6-2019 being harsh, one sided, arbitrary, not accordance with law, rules and facts of record may be set aside in the great interest of law and justice. The appellant may kindly be restored to his old position i.e. Sub Inspector with all back benefits from the date of the impugned order. The appellant will pray for your long life and prosperity for this act of kindness.

Yours obediently,

Dated: -07-2019.

Abdul Hameed
ASI

Abdul Hameed

19

(Annex GT)

POLICE DEPTT:

Office of the D.S.D,
Kohat.

KOHAT REGION

ORDER.


Op. No. 920
Dated 14-11-2019

This order will dispose of a departmental appeal, moved by ASI Abdu Hameed of Operation Staff Karak against the punishment order, passed by DPO Kohat vide OB No. 701, dated 18.06.2019 whereby he was awarded major punishment of reduction from the rank of SI to ASI for the allegations of delay in handing over the case property (vehicle) to its legal owner despite of clear cut court orders.

He preferred an appeal to the undersigned upon which comments were obtained from DPO Kohat and his service record was perused. He was also heard in person in Orderly Room, held on 07.11.2019. During hearing, he did not advance any plausible explanation in his defense to prove his innocence.

I have gone through the available record and came to the conclusion that the allegations leveled against the appellant are proved beyond any shadow of doubt and the same has also been established by the E.O in his findings. In spite of clear-cut orders of the court, he deliberately delayed the case property and did not hand over to its legal owner well in time. Therefore, his appeal being devoid of merits is hereby rejected.

Order Announced
07.11.2019

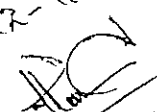

(TAYYAB HAFEEZ) PSP
Region Police Officer,
Kohat Region.

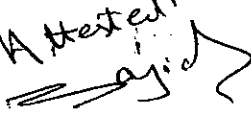
No. 1038682 /EC, dated Kohat the 14/11 /2019.

Copy to DPO Kohat for information w/r to his office Letter No. 14509/LB, dated 08.08.2019. His Service Record containing 02 Service Books, temporary Fauj Missal alongwith enquiry file & memory card is returned herewith.

2. The District Police Officer, Karak.


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

Received
22-11-2019

SHE-55

Attested


(Annex H)

"FR-24 prescribes that an increment shall ordinarily be drawn as a matter of course unless it is with-held. In ordering the with-holding of an increment, the with-holding authority is required to state the period for which it is with-held and whether the postponement shall have the effect of postponing future increments".

The corresponding provision FR-29 provides as follows: -

"If a Government servant is, on account of mis-conduct or in-efficiency, reduced to a lower grade or post or to a lower stage in his time scale, the authority ordering such reduction shall state the period for which it shall be effective and whether on restoration it shall operate to postpone future increments and if so, to what extent."

(b) **Explanatory note**

Obviously the above provision if read to-gather lead to the irreparable conclusion that: the with-holding authority is under legal obligation to state clearly the period for which the punishment would have the future effect. The point is necessarily to be decided with reference to the exact terms of FR-29, and Rule 4(1)(a)(ii) of (E & D) rules. This view has been supported by the Peshawar High Court in a case reported in P.L.J. 1982 Pesh: 85. Withholding of promotion or increment has been classified as minor penalty in the (E & D) Rules. The minor penalty could be imposed by the Authorised officer after having re-coursed to the Rule-5 or 6. When prejudicial allegations are made against an accused official he must normally be provided with details and particulars of charges alleged against him, so that he could prepare his answer.

If relevant evidential material is not disclosed to the accused who is potentially prejudiced by it, there is a prima-facie breach of natural justice.

The stoppage of promotion or increments constitutes penalty, therefore, requires regular procedure to be observed, giving him a reasonable opportunity of show cause against that action.

(c) **As to promotion**

The withholding of promotion has two different features. The distinction between withholding of promotion as penalty and simple stoppage of promotion is summed up as below: -

(d) **Illustrations**

Answer

۲۰۱۹ء منجانب

سرور سی ای پی

مقدمہ

آئی جی پولیس جسٹس کو

عبدالحمید اے الی نام
آئی

علت نمبر

جرم زیر دفعہ

مورخہ

تھانہ

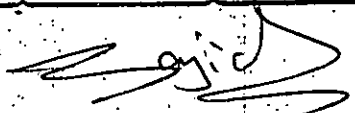
باعث تحریر آنکھ

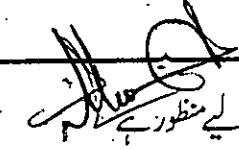
مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جوابدہی کل کارروائی متعلقہ آں مقام کے لیے فاضلی مساجد کے ہیں

اوپر مذکورہ مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا اختیار ہوگا۔ نیز وکیل صاحب کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف دینے جواب دی اور اقبال دعویٰ اور بصورت ڈگری کرانے اجرا اور وصولی چیک در روئیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق و ترس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمدگی اور منسوخ و نیز دائر کرنے اپیل نگرانی نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ اور بصورت ضرورت مقدمہ مذکور کے کل یا جزو کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سب سے ہوگا اس کے مستحق کیا صاحب موصوف ہوں گے نیز بقایا خرچہ کی وصولی کرنے کا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی مقام دورہ پر ہوا یا حد سے باہر ہو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

Accepted

الرقوم


 QAZI SAJID-UD-DIN
 MA (Pol.Sc) LLF
 (Retd) SS
 District Judge Kohat


 عبدالحمید اسلام آباد
 مقام کوہاٹ