

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 185/2020

Date of Institution ... 06.01.2020

Date of Decision ... 23.02.2021

Mr. Hafeezur Rehman son of Kamdar Khan R/O Village Wazir Ghari Post Office Railways Station Pabbi, Tehsil Pabbi, District Nowshera, presently posted as Reserve Inspector (R.I) Police Lines Headquarter, Peshawar.  
... (Appellant)

VERSUS

The Senior Superintendent of Police (Operation) Police Lines Headquarter, Peshawar and two others.  
...(Respondent)

Present.

Hafiz Noor Muhammad,  
Advocate.

... For appellant

Mr. Kabirullah Khattak,  
Addl. Advocate General

... For respondents.

MR. HAMID FAROOQ DURRANI,  
MIAN MUHAMMAD,

... CHAIRMAN  
... MEMBER(E)

JUDGMENTHAMID FAROOQ DURRANI, CHAIRMAN:-

1. As claimed in the memorandum of instant appeal, the appellant joined the Khyber Pakhtunkhwa Police on 30.10.2003. After qualifying the competitive examination conducted by the Khyber Pakhtunkhwa Public Service Commission, he was appointed as ASI BPS-09 on 12.02.2009. Later, the appellant also qualified professional as well as promotional courses and trainings. Consequently, he was promoted as Sub Inspector BPS-14 in December, 2013 and Inspector BPS-16 in April, 2018. The appellant was posted at Police Station, Gulbahar Peshawar as Officer In-charge Investigation (OII), when he was served with charge sheet and statement of

allegations dated 06.09.2019. It shall be useful to reproduce hereunder the allegations, as laid in the statement.:-

1. In case FIR # 999 dated 26.07.2019 u/s 324/427/109/34 PS Gulabahaar, vehicle number mentioned in original fir 754-BX was later on tempered to 827-UG.
2. There was no over writing in original FIR but the FIR annexed in police file contains over writing/tempering.
3. One of the nominated accused namely Sohail Safdar died (03) months before the registration of FIR.
4. The injured Shoaib whose name has been mentioned in FIR has not even been called for statement u/s 161 Cr.PC.
5. Date mentioned on medico legal report has also been deliberately tempered from 25.07.2019 to 26.07.2019.
6. Site plan also contains over-writing which appears to have been done deliberately to provide benefit of doubt to accused.
7. Marking in site plan has deliberately been made wrongly to provide benefit of doubt to accused.
8. Place 'A' marked at the end of site plan has been altered to 'C' while mark 'A' has been shown in front of 'B'.
9. Blood stained Shjalwar of complainant Aamir son of Muqarab Khan has not been preserved as case property and deliberately been misplaced.
10. Registration number of motorcar in recovery memo has again been altered to 857-UG instead of the already altered number 827-UG.
11. These omissions/commissions were deliberately made to make loop holes in the case for ulterior motives."

It was replied to on 12.09.2019, which was followed by an enquiry by enquiry committee. Consequently, a penalty of forfeiture of one year approved service was imposed upon the appellant on 29.10.2019.

2. We have heard learned counsel for the appellant and learned Addl. Advocate General on behalf of the respondents. Available record was also gone through with their assistance.

3. Learned counsel for the appellant chose to address arguments touching technical issues. It was contended that the punishment awarded to the appellant was on the strength of enquiry report which was followed/relied upon by the competent authority without applying independent judicious mind. He referred to the statement of allegations and stated that the appellant was not an Investigation Officer while the allegations were relatable more to the Investigation Officer in the case. It was also the argument of learned counsel that copy of enquiry report was not provided to the appellant nor any evidence was recorded during the enquiry. Further, no chance of personal hearing was extended to the appellant, as such due process of law was not followed. It was further contended that an enquiry committee was constituted to probe into the allegations against appellant, whereas, the Khyber Pakhtunkhwa Police Rules, 1975 provide only for appointment of an enquiry officer for the purpose. In support of his arguments learned counsel relied on PLD 2014 Islamabad 1, 2012 PLC (C.S) 968, 2015 SCMR 795, 2018 Pakistan Cr. Law Journal 354, 2018 PLC 56, PLD 1981 Supreme Court 176, 1987-SCMR 1774 and PLD 2017 Lahore 381.

As against that, learned Addl. AG referred to charges against the appellant and stated that being the Officer In-charge Investigation (OII) it was obligatory upon the appellant to scrutinize the investigation and remove any shortcoming/irregularity contained therein. He, while opposing the claim of appellant regarding his non-participation in the departmental

proceedings, learned AAG referred to the order of appellate authority dated 19.12.2019. In paragraph 4, thereof, it was categorically noted that the appellant was called in orderly room and heard in person. He was provided full opportunity to defend himself but failed to offer any plausible explanation in his favour. The appellant was exposed to all codal requirements during the departmental proceedings.

4. Taking up the objection by learned counsel for the appellant regarding the liabilities and obligations of the appellant in the case in hand, it requires to be noted that the Khyber Pakhtunkhwa Police Act, 2017 (Act No. II of 2017) was promulgated, inter-alia, for the purpose to maintain effective internal discipline, achieve high performance standards and ensure across the board service delivery, it was considered necessary to give operational, administrative and financial autonomy to the Police.

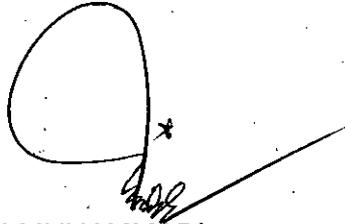
There was visible departure from the conventional system when the investigation functions were separated for the purpose of Act. Section 26 of the Act provides for the mode, manner as well as the procedure for such separation. The Investigation Branch was separated from other staff of a Police Station thereby providing a check on the performance of Investigator in separation to other staff of a Police Station. The appellant, being Officer In-charge Investigation (OII) was answerable for the untoward errors committed due to handicap on the part of Investigation Branch. It would, therefore, not lie in the mouth of the appellant to state that he was not responsible for the commission of misdeeds as contained in the statement of allegations.

5. In order to meet the objection regarding formation of enquiry committee instead of appointment of an enquiry officer, it is noted that the

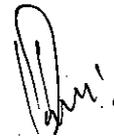
appellant also being a civil servant was not to be deprived of any provision of law extending benefit or to facilitate a civil servant. For all intents and purposes the formation of an enquiry committee comprising of two officers, instead of one enquiry officer, was not to be considered as a step to mar the merits of the case of appellant. Similarly, the non-provision of enquiry report, alongwith the statement of allegations, was not to be taken as illegality on the part of respondents while seen minutely under the Khyber Pakhtunkhwa Police Rules, 1975.

6. For what has been discussed above and also in view of quantum of penalty awarded to the appellant, the appeal in hand is dismissed. Parties are, however, left to bear their respective costs.

7. File be consigned to the record room.



(MIAN MUHAMMAD)  
MEMBER(E)



(HAMID FAROOQ DURRANI)  
CHAIRMAN

ANNOUNCED  
23.02.2021

S.No.	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	23.02.2021	<p><u>Present.</u></p> <p>Mr. Hafiz Noor Muhammad, ... For appellant Advocate</p> <p>Mr. Kabirullah Khattak, Addl. Advocate General, ... For respondents.</p> <p>We have heard learned counsel for the appellant and learned Addl. A.G on behalf of the respondents. Available record gone through with their assistance.</p> <p>Vide our detailed judgment, the appeal in hand is dismissed. Parties are, however, left to bear their respective costs.</p> <p>File be consigned to the record room.</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">         (MIAN MUHAMMAD)        Member(E)     </div> <div style="text-align: center;">         CHAIRMAN     </div> </div> <p><u>ANNOUNCED</u> 23.02.2021</p>

16.09.2020

Junior to counsel for the appellant and Addl. AG alongwith Muhammad Raziq, Reader on behalf of the respondents present.

Representative of the respondents has furnished reply by respondents No. 1, 2 and 3. The matter is assigned to D.B for arguments on 02.12.2020. The appellant may furnish rejoinder, within one month, if so advised.

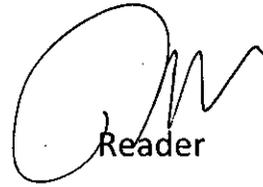
Chairman



02.12.2020

Due to pandemic of Covid-19, the case is adjourned to 23.02.2021 for the same as before.

Reader



20.03.2020

Clerk of counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Written reply on behalf of respondents not submitted. Learned Additional AG seeks time to obtain written reply/comments from respondents. Adjourned to 29.04.2020 for written reply/comments before S.B.

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

29.04.2020

Due to COVID19, the case is adjourned to 21.07.2020 for the same as before.

  
Reader

21.07.2020

Appellant himself is present. Mr. Kabirullah Khattak, Additional AG alongwith representatives of the department Mr. Muhammad Raziq, Reader are also present.

Representative of the department request for further time to submit the requisite reply/comments. May do so on next date of hearing. Adjourned to 16.09.2020 for submission of written reply/comments before S.B.

  
(MUHAMMAD JAMAL KHAN)  
MEMBER



21.01.2020

Counsel for the appellant present.

Contends that the impugned order dated 24.10.2019, whereby the appellant was awarded punishment of forfeiture of one year approved service, was purportedly passed upon recommendations of an enquiry committee not in accordance with Khyber Pakhtunkhwa Police Rules, 1975. In that context, he referred to Rule 5(4) of the rules ibid and contended that the competent authority was authorized to appoint an enquiry officer and not the committee to probe into allegations against the appellant. Learned counsel further contends that the entire proceedings of enquiry were conducted at the back of appellant. He was neither provided any opportunity of cross-examining the witnesses appearing against him nor was handed over a copy of the enquiry report. In that manner the appellant was deprived of setting forth his defence to the allegations.

In view of arguments of learned counsel and the available record, instant appeal is admitted to regular hearing subject to all just exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 20.03.2020 before S.B.

Appellant Deposited  
Security & Process Fee  
21/1/20

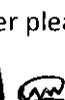
  
Chairman

Form- A

# FORM OF ORDER SHEET

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

Case No.- 185/2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	06/01/2020	<p>The appeal of Mr. Hafeez-ur-Rehman presented today by Mr. Hafiz Noor Muhammad 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 06/01/2020</p>
2-	07/01/20	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>21/01/2020</u></p> <p style="text-align: right;"> CHAIRMAN</p>

PS

**BEFORE THE KPK SERVICE TRIBUNAL,  
PESHAWAR.**

Service Appeal No. 185 /2020

**Inspector Hafeez ur Rehman**

**Versus**

**The SSP Operations Peshawar etc.**

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*Hafiz Noor Muhammad*  
Appellant

Through

  
**Hafiz Noor Muhammad**

Advocate High Court

Islamabad

CC No.50798

Cell No:0331-5533123

-17 -

**BEFORE THE KPK SERVICE TRIBUNAL,**  
**PESHAWAR.**

Appeal No. \_\_\_\_\_/2020

Hafeez ur Rehman

Appellant

VERSUS

The S.S.P (Operation), Peshawar etc.

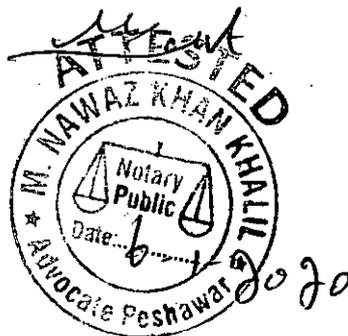
Respondents.

**AFFIDAVIT**

AFFIDAVIT OF: I, Inspector Hafeez ur Rehman S/o Kamdar Khan,  
Presently posted as R.I, Police Lines Headquarters, Peshawar.

I, the above named deponent do hereby solemnly declare and affirm as  
under:-

That the contents of the attached Application are true and correct to the best of  
my knowledge and belief and nothing has been kept concealed from this Hon'  
able Court.



*[Signature]*  
Deponent

- 1 -

(1)

**BEFORE THE KPK SERVICE TRIBUNAL,**  
**PESHAWAR.**

Service Appeal No. 185 /2020

Inspector Hafeez ur Rehman S/o Kamdar Khan, R/o Village Wazir Ghari, Post Office Railways Station Pabbi, Tehsil Pabbi, District Nowshera, Presently Posted as Reserve Inspector (R.I), Police Lines Headquarters, Peshawar.

Appellant  
Khyber Pakhtunkhwa  
Service Tribunal

VERSUS

Diary No. 2000

Dated 06/01/2020

1. The Senior Superintendent of Police (Operations), Police Lines Headquarters, Peshawar.
2. The Capital City Police Officer, Police Lines Headquarters, Peshawar.
3. The Provincial Police Officer, Central Police Office, Peshawar, KPK.

Respondents

**APPEAL UNDER SECTION-4 OF KPK SERVICE TRIBUNAL ACT-1974, AGAINST THE ORDER DATED 24.10.2019 (Annex-A), PASSED BY THE RESPONDENT NO. 01, AGAINST WHICH THE APPELLANT SUBMITTED DEPARTMENTAL APPEAL DATED 20.11.2019 (ANNEX-B) WHICH HAS BEEN REJECTED BY THE RESPONDENT NO.02 VIDE ORDER DATED 19.12.2019 (ANNEX-C).**

**PRAYER:**

**ON ACCEPTANCE OF THIS APPEAL, BOTH THE ORDERS DATED 24.10.2019 & 19.12.2019 PASSED BY RESPONDENTS MAY KINDLY BE SET ASIDE.**

**Respectfully Sheweth:**

**FACTS:**

1. That the appellant joined the KP Police on 30.10.2003 and after qualifying the competitive examination conducted by the KP Public

Service Commission, the appellant was appointed as ASI (BS-09) on 12.02.2009.

2. That during service, the appellant qualified various professional as well as promotional courses and trainings, and consequently promoted as Sub Inspector (BS-14) in December-2013 and Inspector (BS-16) in April-2018.
3. That during service, the appellant remained posted in different police stations with the responsibilities of SHO, OII, IO, in different Districts and Ranges i.e. District Police Nowshera, Mardan Range and District Police, Peshawar, CCP, Peshawar. The performance of the appellant always remained up to the mark and to the entire satisfaction of his seniors and supervisory officers. During his service, the appellant has been awarded a number of Commendation Certificates as well as cash rewards by the senior police officers. The service record of the appellant is neat and clean throughout his career.
4. That while posted to police station Gulbahar, Peshawar as Officer In-charge Investigation (OII), the appellant was served with Charge Sheet and Statement of Allegations Dated 06-09-2019 (**Annex D**), by the respondent No.01 i.e. SSP Operations Peshawar which was duly replied vide Reply Dated 12-09-2019 (**Annex E**), wherein not only each and every aspect of the matter was clarified and each and every allegation responded, but also a comprehensive reply given and position clarified. But despite that, a facts finding enquiry was conducted through the enquiry committee and consequently a penalty of forfeiture of one year approved service was imposed upon the appellant by the respondent No.01 vide Order dated 24.10.2019 (**Annex-A**) against which the appellant submitted departmental appeal dated 20.11.2019 (**Annex-B**) which has been rejected by the respondent No.02 vide Order dated 19.12.2019 (**Annex-C**), hence this Appeal inter alia on the following grounds: -

GROUND:

- A. That both the orders original and appellate are against law, rules, facts on record, malafide hence untenable.
- B. That the so called facts finding enquiry was conducted through an enquiry committee while the KP Police (E&D) Rules,1975 does not provide for the same. It is trite of law that when a thing is to be done, that is to be done in the prescribed manner and not otherwise. Hence the proceedings were misconducted and the enquiry is no enquiry in the eyes of Law. Therefore, the orders may kindly be set aside.
- C. That during the facts finding enquiry conducted by the Inquiry Committee, no due process as enshrined in the Article 10-A of the Constitution of Islamic Republic of Pakistan 1973 was followed, hence the enquiry proceedings are nullity in the eyes of law.
- D. That during the said inquiry proceedings, neither any witness was examined in presence of the appellant nor any opportunity of cross examining the witness was provided to the appellant. Hence the enquiry is no enquiry in the eyes of Law.
- E. That neither a Departmental Inquiry has been conducted nor any witness has been examined nor the opportunity of cross examination of the witnesses is extended to the appellant, nor any witness or record was produced and the appellant confronted, therefore, the orders are not sustainable in the eyes of law and need to be set aside.
- F. That copy of the so called Inquiry Report has also not been provided to the appellant in violation of the law as declared by the Supreme Court of Pakistan in Mir Muhammad Khan case reported as PLD 1981 SC 176 thus the punishment is not warranted under the law.
- G. That as per KP Police (E&D) Rules-1975, the Inquiry Officer has no domain to recommend punishment but in the instant case, not only the inquiry is conducted by the Inquiry Committee instead of Inquiry Officer, but the committee has also recommended

punishments, thus, the Inquiry Committee has transgressed its legal limits making the punishment unwarranted under the law.

- H. That the Appellant has unblemished service record and has never ever committed any negligence or misconduct in the past.
- I. That the impugned orders are without jurisdiction and in conflict with rule-5 & 6 of the KPK Police Rules-1975 and the whole action taken against the appellant is therefore, Coram non-judice and of no legal effect.
- J. That the respondents acted illegally and with material irregularity in proceedings against the appellant on the basis of alleged charges of "misconduct" in as much as the appellant never committed any such act which could warrant disciplinary proceedings against him.
- K. That the appellant had an excellent record of service in the department and he was also awarded with commendation certificates for his good performance.
- L. That the respondents even otherwise while proceedings against the appellant under the KPK Police Rules-1975 has failed to adhere to mandatory requirements of rule-5 & 6 of the said rules and not holding of the regular inquiry in the matter was in negation of rule -6 and was in the nature of sham proceedings not approved by law. The non-holding of departmental inquiry in the instant case is apparently against the settled procedure which Omission and Commission go to the root of the case and renders the impugned orders as void ab initio and of no legal effect. The appellant was denied a fair chance of defense. Thus actions of the respondents are not only against the law but also against the principles of natural justice as well, hence untenable.
- M. That the defense version of the appellant as contained in the reply to Charge Sheet and Statement of Allegations etc and in the departmental appeal in which the appellant specifically dealt with the alleged charge of "Misconduct" have been brushed aside without any just cause and in this manner the appellant has been denied adequate opportunity of defending himself.



- N. That the respondents failed to give meaningful hearing to the appellant. The malafide of the respondents are apparent from the face of the record. It is thus crystal clear that the respondents did not apply their judicious and independent mind before the imposition of penalty of forfeiture of one year approved service.
- O. That the impugned orders are in negation with the express provisions of law laid down by this Hon' able Tribunal, superior courts of the country including that of Supreme Court of Pakistan in which it has been ruled unequivocally that in case a penalty is proposed to be inflicted upon the civil servants then concrete evidence is necessary and regular inquiry is to be held. In the instant case, neither any evidence is available nor any inquiry is conducted.
- P. That the appellant committed no misconduct as per reply to the Charge Sheet and Statement of Allegations (**Annex-E**), wherein each and every aspect of the matter was explained, expounded and clarified, hence no punishment is justifiable.
- Q. That the impugned orders are otherwise erroneous and not sustainable in law.
- R. That the appellant shall urge some more grounds at the time of pre-admission and final hearing of the appeal after the receipt of objections etc. with permission of this Hon' able Tribunal.

**PRAYER:**

It is, therefore, most humbly prayed that on acceptance of this Appeal, the impugned orders dated 24.10.2019 (**Annex-A**) passed by the respondent No.01 and Appellate Order dated 19.12.2019(**Annex-C**) passed by the respondent No.02 may very kindly be set aside and services of the appellant restored to the previous position alongwith all back and consequential benefits including seniority with his batch mates.

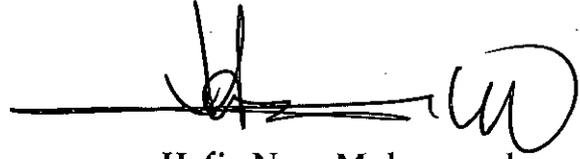
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Any other relief which this Hon' able Tribunal may deem fit and appropriate, may also be granted in the interest of justice.

*Amir Raza*

APPELLANT

Through



**Hafiz Noor Muhammad**  
Advocate High Court,  
Islamabad.  
CC No.50798  
Cell: 0331-5533123

**BEFORE THE KPK SERVICE TRIBUNAL,**  
**PESHAWAR.**

Appeal No. \_\_\_\_\_ /2020

Hafeez ur Rehman

Appellant

VERSUS

The S.S.P (Operation), Peshawar etc.

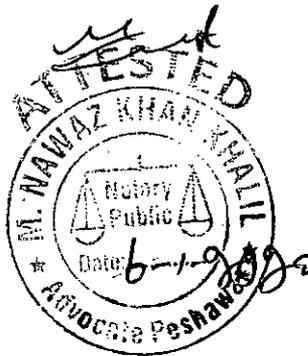
Respondents.

**AFFIDAVIT**

AFFIDAVIT OF: I, Inspector Hafeez ur Rehman S/o Kamdar Khan,  
Presently posted as R.I, Police Lines Headquarters, Peshawar.

I, the above named deponent do hereby solemnly declare and affirm as under:

That the contents of the attached Appeal are true and correct to the best of my  
knowledge and belief and nothing has been kept concealed from this Hon'  
able Court.



  
Deponent



- 8 -

OFFICE OF THE  
SENIOR SUPERINTENDENT OF POLICE,  
OPERATIONS,  
PESHAWAR

ANNEX-A

ORDER

1. This office order will dispose of the formal departmental enquiry against Inspector Hafeez-ur-Rehman No. P/391, who while posted as OII PS Gulbahar was placed under suspension vide endst: No. 1195-1210/PA-CCPO and proceeded against departmentally vide this office No. 195/E/PA dated 06.09.2019 on account of allegedly committing irregularities in case FIR No. 999 dated 26/07/2019 u/s 324/427/109/34 PPC PS Gulbahar.

2. Proper departmental proceedings were initiated against him and an Enquiry Committee consisting of the following officers was constituted under Rule 5(4) of Police Rules 1975:

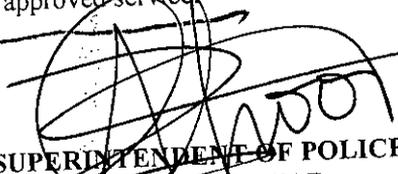
- i. Mr. Banaras Khan SP PBI Investigation
- ii. Mr. Niaz Muhammad DSP Civil Secretariat

3. The Enquiry Committee after conducting a thorough probe into the allegations submitted its findings on 02/10/2019 wherein they mentioned that:

"Their exists slight slackness on the parts of Inspector Hafiz-ur-Rehman to the extent that he did not investigate the case in depth as the report of the complainant seems to be dubious/suspected and the officer should have investigated the case cautiously on the line of false charge. However, his lethargy does not involve any mala-fide, therefore, is recommended for minor penalty".

4. The Enquiry Committee also mentioned in its findings that one the face of record, the complainant has falsely implicated innocent persons Mst. Sumaira Safdar etc just for the sake of his cousins' dispute / litigation with the accused party and nothing else more.

5. After going through facts and circumstances of the case, the undersigned do agree with the findings / recommendations of the Enquiry Committee. Therefore, Inspector Hafiz-ur-Rehman, the then OII PS Gulbahar is hereby awarded the minor punishment of forfeiture of one year approved service.

  
SENIOR SUPERINTENDENT OF POLICE,  
OPERATIONS, PESHAWAR

No. 1398-1402 PA dated Peshawar, the 24/10 /2019.

Copy for information and necessary action to:

1. The Capital City Police Officer, Peshawar with the request to release the official from suspension as the enquiry against him has been disposed of.
2. The Sr: Superintendent of Police, Investigation: CCP, Peshawar.
3. EC-I/EC-II/AS
4. FMC along with complete enquiry file containing \_\_\_ pages.

e J L  


-9-

ANNEX-B

To  
The Capital City Police Officer,  
Peshawar,  
Through Proper Channel

**Subject: Appeal against order No.1398-1402/PA Dated 24-10-2019, Annex A (Copy received to me on 30-10-2019) passed by the worthy SSP Operations, Peshawar wherein he imposed the minor penalty of Forfeiture of One Year Approved Service**

Respected Sir,

1. It is submitted that I have joined police service on 30-10-2003 and after qualifying the Public Service Commission Examination I was appointed as ASI on 12-02-2009.
2. That during my service I have qualified the various professional as well as promotional courses, consequently promoted as Sub-Inspector BPS 14 and Inspector BPS 16.
3. That during my service I remained posted in District Nowshera and Peshawar in different police stations with the responsibilities of SHO, OII, IO. My performance always remained up to the mark and to the entire satisfaction of my seniors and supervisory officers. During my service I have been awarded a number of Commendation Certificates as well as cash rewards by the senior police officers. My service record is neat and clean throughout.
4. That while posted to police station Gulbahar as Officer Incharge Investigation(OII), I was served a Charge Sheet and Statement of Allegations Dated 06-09-2019, Annex B, by the worthy SSP Operations Peshawar which was duly replied vide my Reply Dated 12-09-2019, Annex C, (my reply may very kindly be read as integral part of this departmental Appeal), wherein not only each and every allegation was responded but also a comprehensive reply given and position clarified, but despite that the enquiry was conducted through enquiry committee and consequently a minor penalty is imposed upon the appellant without due process, hence this appeal on the following grounds;

**GROUNDs:**

- A. That the so called enquiry is conducted through an enquiry committee, hence no enquiry in the eyes of Law.
- B. That during enquiry, due process as enshrined in the Article 10-A of the Constitution of Islamic Republic of Pakistan 1973 was not followed, hence the enquiry is against the law.
- C. That neither any witness was examined in presence of the appellant nor any opportunity of cross examining the witness was provided, hence the enquiry is no enquiry in the eyes of Law.

CJL  
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D. That the enquiry committee recommended the penalty, hence against the law.

E. That no enquiry report was provided to the appellant thus the law is violated.

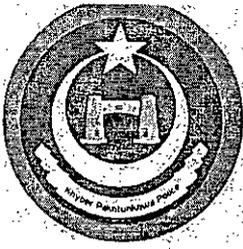
F. That the appellant committed no misconduct as per reply to the Charge Sheet and Statement of Allegations, Annex C, each and every aspect of the matter was explained; expounded and clarified, hence no punishment is justifiable.

It is therefore requested that the Order No.1398-1402/PA dated 24-10-2019 (received to me on 30-10-2019) passed by worthy SSP Operations Peshawar may very kindly be set aside in the interest of justice.

*(Signature)*

Inspector Hafeezur Rehman, No.P/391,  
Officer Incharge Investigation  
Police Station Bhana Mari  
Dated: 20-11-2019

*Q T C*  
*Q*



11 -

OFFICE OF THE <sup>ANNEX-C</sup>  
CAPITAL CITY POLICE OFFICER  
PESHAWAR

Phone No. 091-9210989

Fax No. 091-9212597

ORDER.

This order will dispose of departmental appeal preferred by Inspector Hafeez Rehman No.P/391 who was awarded the minor punishment of "Forfeiture of one year approved service by SSP-Operations, Peshawar vide No.1398-1402/PA, dated 24-10-2019.

2- Brief facts are that the appellant while posted as OII Police Station Gulbaha committed irregularities while conducting investigation in case vide FIR No.999, dated 26-07-201 u/s 324/427/109/34/PPC PS Gulbahar.

3- He was issued Charge Sheet and Summary of Allegations by SSP/Operation Peshawar and an enquiry committee consisting of Mr. Banaras Khan SP PBI Investigation Peshawa and Mr. Niaz Muhammad DSP Civil Secretariat Peshawar to scrutinize the conduct of the appellant with reference to the allegations framed against him. The enquiry committee after thorough prob into the matter found slight slackness on the part of the appellant and recommended him for minor penalty. On perusal of the finding of the enquiry committee the competent authority i.e. SSP/Operations Peshawar awarded him the above minor punishment.

4- He was called in O.R and heard in person. Enquiry file was thoroughly examined. He was provided full opportunity to defend himself but he failed to offer any plausible explanation in his favour. **Therefore, his appeal for setting aside the punishment of forfeiture of 01 year approved service awarded to him by SSP/Operations Peshawar is hereby rejected/filed.**

*Nasir*  
(MUHAMMAD ALI KHAN)PSP  
CAPITAL CITY POLICE OFFICER,  
PESHAWAR

No. 1788-94 /PA dated Peshawar the 19-12 2019

Copies for information and n/a to the:-

1. SSP/Operations Peshawar.
2. SSP/Investigation Peshawar.
3. OS/EC-I/EC-II/AS, *FMC Along with complete FM.*
4. Official Concerned

*CTC*

*[Signature]*

-12-

ANNEX-D

**DISCIPLINARY ACTION**

1. Senior Superintendent of Police Operations, Peshawar as competent authority, in the opinion that Insp; Infeez-ur-Rahman No. P/391 while posted as OI/PS Gulistan District Peshawar has rendered him liable to be proceeded against, as he committed the following act/omission, within the meaning of section 03 of the Police Rules 1975.

**STATEMENT OF ALLEGATIONS**

After going through the case file of FIR # 999 dated 26.7.2019 u/s 324/427/109/34 PS Gulistan following discrepancies were noted which shows gross misconduct on his part:

1. In case FIR # 999 dated 26.7.2019 u/s 324/427/109/34 PS Gulistan, vehicle number mentioned in original FIR ~~754-BX~~ was later on tempered to 827-UG.
2. There was no over writing in original FIR but the FIR annexed in police file contains over writing/tempering.
3. One of the nominated accused namely Sohail Saifdar, died (03) months before the registration of FIR.
4. The injured Shoab whose name has been mentioned in FIR has not even been called for statement u/s 161 CrPC.
5. Date mentioned on medico legal report has also been deliberately tempered from 25.07.2019 to 26.07.2019.
6. Site plan also contains over-writing which appears to have been done deliberately to provide benefit of doubt to accused.
7. Marking in site plan has deliberately been made wrongly to provide benefit of doubt to accused.
8. Place "A" marked at the end of site plan has been altered to "C" while mark "A" has been shown in front of "B".
9. Blood stained Shalwar of complainant Aamir s/o Muqarab Khan has not been preserved as case property and deliberately been misplaced.
10. Registration number of motorcar in recovery memo has again been altered to 857-UG instead of the already altered number 827-UG.
11. These omissions/commissions were deliberately made to make loop holes in the case for ulterior motives.

For the purpose of scrutinizing the conduct of afore said police official in the aforesaid episode with reference to the above allegations an enquiry committee of the following Police Officers constituted under Rule 5 (4) of Police Rules 1975.

- i. Mr. Banaras Khan SP PBI Investigation.
- ii. Mr. Niaz Muhammad DSP Civil Secretariat.

The Enquiry Officer shall in accordance with the provision of the Police Rules (1975) provide reasonable opportunity of hearing to the accused Official and make recommendations and initiate or other action to be taken against the accused official.

  
SENIOR SUPERINTENDENT OF POLICE  
(OPERATIONS), PESHAWAR

No. 145 P/A dated Peshawar the 26/07/2019  
Copy to the above is forwarded to the Enquiry Officer for initiating proceedings against the accused under the provision of Police Rules 1975.



-12A

**DISCIPLINARY ACTION**

I, Senior Superintendent of Police Operations Peshawar as competent authority, am of the opinion that Insp: Hafeez ur Rehman No.P/391 while posted as OII PS Gulbahar district Peshawar has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning of section-03 of the Police Rules 1975.

**STATEMENT OF ALLEGATIONS**

After going through the case file of FIR No.999 date 26.07.2019 under section 324/427/109/34 PS Gulbahar, following discrepancies were noted which shows gross misconduct on his part.

1. In case FIR No.999 dated 26.07.2019 u/s 324/427/109/34 PS Gulbahar vehicle Number mentioned in original FIR 754-BX was later on tempered to 827-UG.
2. There was no over writing in original FIR but the FIR annexed in police file contains over writing/tempering.
3. One of the nominated accused namely Sohail Safdar died 03 months before the registration of FIR.
4. The injured Shoaib whose name has been mentioned in FIR has not even been called for statement u/s 161-CrPC.
5. Date mentioned on medico legal report has also been deliberately tempered from 25.07.2019 to 26.07.2019.
6. Site plan also contains over writing which appears to have been done deliberately to provide benefit of doubt to accused.
7. Marking in site plan has deliberately been made wrongly to provide benefit of doubt to accused.
8. Place "A" marked at the end of site plan has been altered to "C" while mark "A" has been shown in front of "B".
9. Blood stained Shalwar of complainant Aamir S/O Muqarab khan has not been preserved as case property and deliberately been misplaced.
10. Registration Number of motor car in recovery memo has again been altered to 857-UG instead of already altered number 827-UG.
11. These omissions/commissions were deliberately made to make loop holes in the case for ulterior motives.

For the purpose of scrutinizing the conduct of aforesaid police official in the said episode with reference to the above allegation an inquiry committee of the following police officers is constituted under Rule 5(4) of Police Rules 1975.

- i. Mr.Banaras Khan SP PBI Investigation.
- ii. Mr.Niaz Muhammad DSP Civil Secretariat.

The inquiry officers shall in accordance with the provision of Police Rule 1975, provide reasonable opportunity of hearing to the accused official and make recommendations as to punish or other action to be taken against the accused official.

Sd

Senior Superintendent of Police  
(Operations Peshawar)

No.195 E/PA, dated Peshawar the 06.09.2019

Copy to the above is forwarded to the inquiry officers for initiating proceedings against the accused under the provision of Police Rules 1975.

12-A

-13-

ANNEX-"E"

To,

The Respected Members,

Enquiry Committee.

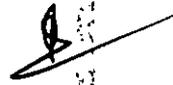
**Subject: REPLY TO THE CHARGE SHEET/STATEMENT OF ALLEGATIONS.**

Honorable Sir,

With reference to Charge Sheet/Statement of Allegations No. 195 E/PA Dated: 06-09-2019, issued by w/SSP Operations Peshawar whereby certain allegations have been leveled against me including tempering in FIR, non-recording of statement of injured witness, tempering in medico-legal report, overwriting in site plan, non-preservation of circumstantial evidence etc. In this regard following few lines are submitted :

- That on Dated: 19-02-2019 I have been posted as OII PS Gulbahar and since then a number of investigations have been conducted by me in different types of cases, with utmost care, caution, devotion, honesty, efficiency, professionalism and as per requirement of law and rules. During investigations all lawful methods have been applied and even modern gadgets have been used in order to bring the offenders to justice. By the grace of Allah Almighty I remained successful and satisfied in the Court of my conscience as I have performed my duties in Allah's fearing manner.
- That as per Police Act 2017 Section 26 Sub Section 9 the SDPOs have been assigned the powers of supervisory officers as the ibid Section explains the same in a categorical manner that the supervisory officer means SDPO or such other Police officer not below the rank of ASP or DSP. Therefore the OII cannot be termed as supervisory officer. Moreover the supervisory officers have been empowered to summon the IO, review the case file, evaluate the evidence and issue instructions. Hence I being OII lack the powers either to examine the case file or issue instructions.
- That on 26-07-2019 copies of FIR No.999 Dated: 26-07-2019 U/S 324/427/109/34 PPC of PS Gulbahar were received by SI Waris Khan for investigation. The said SI/IO carried on with the investigation of the case absolutely in his independent capacity. The said IO is the known patient of Epilepsy and is unable to travel long. As in the said FIR the accused charged were/are the residents of Rawalpindi, therefore on 31-07-2019 I along with ASI Akhtar Munir and Lady Constable Basmeen proceeded to Rawalpindi with the approval of high-ups vide DD No.30, Dated 31-07-2019 (Annex "A") for the arrest of the accused.
- That upon reaching PS Civil Line Rawalpindi, arrival report vide DD No.2/9 Dated 31-07-2019 (Annex "B") was entered in the Daily Diary and the SHO and all

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concerned of PS Civil Line were accordingly informed. We along with local Police proceeded for the arrest of the accused. Two of the accused namely Sher Shah Shinwari S/O Mubeen Khan and Sumaira Safdar W/O Mubeen Khan Rs/O Gulistan Colony Rawalpindi were arrested with the active and effective help and cooperation of the local police. Both the accused were brought to the Police Station Civil Line and report vide DD No. 2/19 dated 31-07-2019 was entered in Roznamcha (Annex "C").

- That after that we proceeded to the Court of Alaka Magistrate vide the same DD (Annex "C") and the Honorable Court verbally directed us to appear before the Court of Sessions Judge Rawalpindi. We along with the accused appeared before the Honorable Sessions Court who directed us to appear before the Court of Mr. Malik Shafique Ahmad, ASJ Rawalpindi. The Honorable ASJ Rawalpindi allowed interim bail to lady accused Sumaira Safdar for five days and rejected the bail petition of accused Sher Shah Shinwari vide order Dated 31-07-2019 (Annex "D") and verbally directed us to appear before the Court of Mr. Yasir Mehmood JM Rawalpindi for the transit custody of accused Sher Shah Shinwari. We then produced accused Sher Shah Shinwari before the Court of Mr. Yasir Mehmood JM Rawalpindi who granted one day transit custody vide order dated 31-07-2019 (Annex "E").
- That after the transit custody we returned back to Peshawar and a detailed report was entered in Daily Diary of PS Gulbahar vide DD No.7 Dated 31-07-2019 (Annex "F").
- That besides the above i.e proceeding to Rawalpindi, arrest of the accused and return back to Peshawar, I have performed no other act in the said case. Furthermore, neither I am the scribe of the Murasila/FIR, nor I am the IO or Supervisory Officer, nor I have conducted the investigation except the portion referred above, nor I have made any alteration, mutilation, erasing, overwriting etc by myself nor under my directives by anyone else, nor I have any knowledge about the said overwriting etc. 011
- That so far the name of deceased accused Sohail Safdar is concerned, it is submitted that neither am I the scribe of Murasila/FIR, nor I am Investigation Officer. Even otherwise when the complainant charges someone to be the accused of some cognizable offence, the Police is duty bound to chalk an FIR (Section 154 CrPC read with Chapter 24 Rule 1 of Police Rules 1934 refer).
- That so far non-recording of statement of injured witness Shoaib is concerned, suffice it to say that I was/am not the IO of the case.
- That so far the alteration in Medico-Legal Report, Site Plan and vehicle registration number etc are concerned, the position has been clarified herein above.

Q.T.C.  
S

- That so far the preservation of blood stained Shalwar of the complainant Amir is concerned, it is submitted that neither I am the scribe of the Murasila and FIR, nor I am the IO of the case, nor anyone produced the said Shalwar to me, nor I am the Moharar of the PS Gulbahar to preserve and keep in safe custody such articles.

Keeping in view the above, I have committed no misconduct, nor I have omitted any action required by law to be performed by me. So far my meagre role in the investigation is concerned, I have performed that role with prior permission of my seniors and strictly in accordance with law and rules as is evident from the Annexures attached with my reply. It is therefore requested that the departmental proceedings against me may very kindly be dropped and I may be exonerated of the charges.

  
Insp Hafeezur Rehman  
No. P/391

(now under suspension)

12-09-2019

PTC



-16-

**BEFORE THE KPK SERVICE TRIBUNAL,**  
**PESHAWAR.**

Appeal No. \_\_\_\_\_/2020

Hafeez ur Rehman

Appellant

**VERSUS**

The S.S.P (Operation), Peshawar etc.

**Respondents.**

**SERVICE APPEAL**

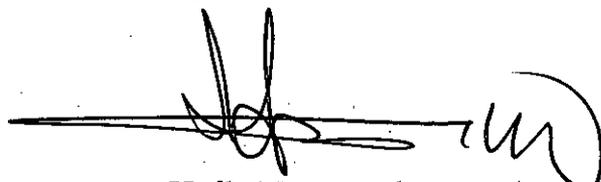
**APPLICATION UNDER SECTION-151 OF CPC FOR DISPENSING WITH**  
**FROM PRODUCTION OF CERTIFIED COPIES OF ALL ANNEXURE.**

**Respectfully Sheweth:**

1. That the Appellant has filed the accompanying Appeal before this Hon'able Tribunal. This application may kindly be read and considered as an integral part thereof.
2. That at this stage, it is impossible for the Appellant to produce certified copies of all the annexure, however, I undertake to produce the same subsequently as per directions of this Hon' able Tribunal.
3. That it is in the best interest of law and justice to allow this Appeal. Under the circumstances, it is therefore, humbly and respectfully prayed that this Hon' able Tribunal may kindly be pleased to allow this Appeal and the Appellant may be exempted from the production of certified copies of all annexure.

*QINIL GOKS*  
Appellant

Through



Hafiz Noor Muhammad  
Advocate High Court,  
CC No.24227 (RWP)  
Cell: 0331-5533123

WAKALATNAMA

BEFORE THE KPK SERVICE TRIBUNAL,

PESHAWAR

VERSUS

1. Shafiq ur Rahman hereby appoint Hafiz Noor Muhammad, Advocate in the above mentioned case, to do all or any of the following acts, deeds and things: -

3. To appear, act and plead for me/ us in the above mentioned case in the Court/ Tribunal in which the same may be tried or heard, and any other proceedings arising out of or connected herewith.

4. To sign, verify and file appeals, petitions, suits, affidavits and applications etc for compromise or withdrawal or for referring to arbitration of the said case as may be deemed necessary or advisable by him for the conduct, prosecution or defense of the said case at all its stages.

AND hereby agree: -  
b. That the advocate shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remained unpaid.

In witness whereof I/ we have signed this Wakalatnama hereunder, the contents of which have been read/ explained to me/ us and fully understood by me/ us.

Signature of executant  
Amir Ghous

[Signature]

Hafiz Noor Muhammad

Advocate High Court,

Islamabad,

CC: 50798

Cell: 0331-5533123

Accepted by:

4

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

**Service Appeal No.185/2020**

Hafeez Ur Rehman Inspector CCP, Peshawar.....**Appellant.**

**VERSUS.**

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar...
3. Senior Superintendent of Police Operations, Peshawar .....**Respondents.**

**Reply by Respondents No. 1, 2, &3.**

**Respectfully Sheweth:-**

**PRELIMINARY OBJECTIONS.**

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has not come to Hon'able Tribunal with clean hands.
4. That the appellant has no cause of action and locus standi.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from Honorable Tribunal.

**FACTS:-**

- (1) Pertains to record, hence needs no comments.
- (2) Pertains to record, hence needs no comments.
- (3) Pertains to record. However, the Para clearly reflects that a fair process in the respondent department is done that in case of showing honesty and dedication toward the duty, the individual is encouraged by making good entry in service record and in case of commission of misconduct, the defaulter is penalized under the relevant law as per gravity of misconduct. The instant case is an example of fairness and impartiality.
- (4) Incorrect. Infact the appellant while posted as OII (Officer Incharge Investigation) PS Gulbahar committed irregularities while conducting investigation in case FIR No.999 dated 26.07.2019 u/s 324/427/19/34/PPC PS Gulbahar Peshawar. in this regard he was issued charge sheet with statement of allegations and an enquiry committee were constituted for proper departmental enquiry. The enquiry committee after thorough probe into the matter found slackness on the part of the appellant. After fulfilling all the codal formalities, the competent authority awarded him the minor punishment of Forfeiture of one year approved service. The appellant filed departmental appeal which after due consideration was

filed/rejected. (copy of the charge sheet and statement of allegations are annexure as A,B)

**GROUND.**

- A. Incorrect. The orders are just legal and have been passed in accordance with law/rules.
- B. Incorrect. The whole enquiry proceedings were initiated purely on merit and in accordance with law/rules. The appellant availed the opportunities of defense but he could not prove himself innocent.
- C. Incorrect. Proper departmental enquiry was initiated against the appellant in accordance with law/rules.
- D. Incorrect. Appellant was associated in the enquiry proceedings and proper opportunity of defense was provided to appellant. The appellant failed to defend the charges leveled against him.
- E. Incorrect. The appellant failed to rebut the charges during the course of enquiry and the inquiry committee conducted thorough probe into the matter and found the appellant guilty of the charges. The appellant was given proper opportunity of personal hearing and defense. The enquiry was conducted on merit.(copy of enquiry report is annexure as C)
- F. Incorrect. The appellant was treated as per law/rules.
- G. Incorrect. The enquiry officer or enquiry committee has no binding to recommend punishments which do commensurate with the gravity of misconduct of accused official.
- H. Incorrect. Para already explained in above.
- I. Incorrect. The punishment orders are passed by the competent authority as per law/rules.
- J. Incorrect. Proper charge sheet and statement of allegations was issued to appellant and enquiry was conducted by the enquiry officers as per law/rules. The appellant was found guilty of the charges leveled against him.
- K. Incorrect. Para already explained in above paras.
- L. Incorrect. The whole enquiry proceedings were initiated against him under KP Police Rules 1975. Proper charge sheet with statement of allegations was issued to him. The punishment orders were passed after fulfilling all the codal formalities.
- M. Incorrect. The appellant was provided full opportunity of defense, but shearing failed to prove himself innocent. He was found guilty hence awarded the punishment.
- N. Incorrect. The appellant was treated as per law/rules.
- O. Incorrect. Proper departmental enquiry was conducted against him, wherein the charges leveled against him were proved.

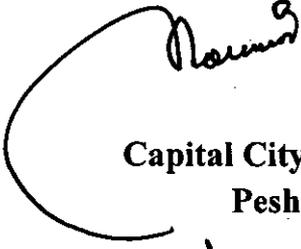


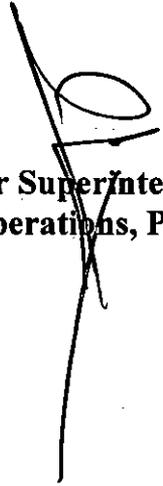
- P. Incorrect. The allegations leveled against him were proved, hence he was awarded minor punishment.
- Q. Incorrect. The punishment orders are passed by the competent authority in accordance with law/rules.
- R. Respondents may also be allowed to raise additional grounds at the time of argument please.

**PRAYERS:-**

It is therefore most humbly prayed that in light of above facts, submissions the appeal of the appellant being devoid of merits, legal footing, may kindly be dismissed with cost.

  
Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar. 3

  
Capital City Police Officer,  
Peshawar. 2

  
Senior Superintendent of Police,  
Operations, Peshawar. 1

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

**Service Appeal No.185/2020**

Hafeez Ur Rehman Inspector CCP, Peshawar.....**Appellant.**

**VERSUS.**

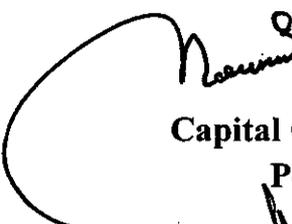
1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar...
3. Senior Superintendent of Police Operations, Peshawar .....**Respondents.**

**AFFIDAVIT**

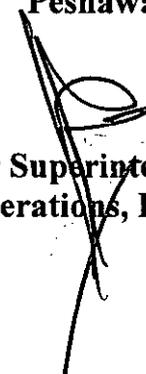
We respondents No. 1 ,2 & 3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.

  
Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.

3

  
Capital City Police Officer,  
Peshawar.

2

  
Senior Superintendent of Police,  
Operations, Peshawar.

1

## CHARGE SHEET

Whereas I am satisfied that a Formal Enquiry as contemplated by Police Rules 1975 is necessary & expedient in the subject case against **Insp: Hafeez-ur-Rahman No. P/391 while posted as OI PS Gulbahar District Peshawar.**

And whereas, I am of the view that the allegations if established would call for major/minor penalty, as defined in Rule 3 of the aforesaid Rules.

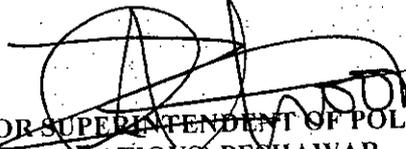
Now therefore, as required by Rule 6 (1) (a) & (b) of the said Rules, I, Senior Superintendent of Police, Operations, Peshawar hereby charge you **Insp: Hafeez-ur-Rahman No. P/391 while posted as OI PS Gulbahar District Peshawar** under Rule 5 (4) of the Police Rules 1975 on the basis of following allegations:

After going through the case file of FIR # 999 dated 26.7.2019 u/s 324/427/109/34 PS Gulbahar following discrepancies were noted which shows gross misconduct on your part.

1. In case FIR # 999 dated 26.7.2019 u/s 324/427/109/34 PS Gulbahar, vehicle number mentioned in original FIR 754-BX was later on tempered to 827-UG.
2. There was no over writing in original FIR but the FIR annexed in police file contains over writing/tempering.
3. One of the nominated accused namely Sohail Safder died (03) months before the registration of FIR.
4. The injured Shoaib whose name has been mentioned in FIR has not even been called for statement u/s 161 CrPC.
5. Date mentioned on medico legal report has also been deliberately tempered from 25.07.2019 to 26.07.2019.
6. Site plan also contains over-writing which appears to have been done deliberately to provide benefit of doubt to accused.
7. Marking in site plan has deliberately been made wrongly to provide benefit of doubt to accused.
8. Place "A" marked at the end of site plan has been altered to "C" while mark "A" has been shown in front of "B"
9. Blood stained Shalwar of complainant Aamir s/o Muqarab Khan has not been preserved as case property and deliberately been misplaced.
10. Registration number of motorcar in recovery memo has again been altered to 857-UG instead of the already altered number 827-UG.
11. These omissions/commissions were deliberately made to make loop holes in the case for ulterior motives.

I hereby direct you further under Rule 6 (1) (b) of the said Rules to put forth written defence within 7 days of the receipt of this Charge Sheet to the Enquiry Officer, as to why the action should not be taken against you and also stating at the same time whether you desire to be heard in person.

In case your reply is not received within the specific period to the Enquiry Officer, it shall be presumed that you have no defence to offer and ex-parte action will be taken against you.

  
SENIOR SUPERINTENDENT OF POLICE,  
(OPERATIONS) PESHAWAR

## DISCIPLINARY ACTION

I, Senior Superintendent of Police Operations, Peshawar as competent authority, am of the opinion that **Insp: Hafeez-ur-Rahman No. P/391** while posted as **OII PS Gulbahar District Peshawar** has rendered him liable to be proceeded against, as he committed the following acts/omission within the meaning of section 03 of the Police Rules 1975.

### STATEMENT OF ALLEGATIONS

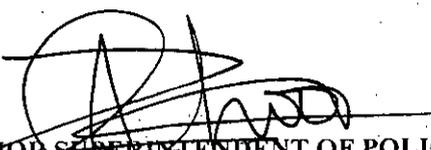
After going through the case file of FIR # 999 dated 26.7.2019 u/s 324/427/109/34 PS Gulbahar following discrepancies were noted which shows gross misconduct on his part.

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2. There was no over writing in original FIR but the FIR annexed in police file contains over writing/tempering.
3. One of the nominated accused namely Sohail Safder died (03) months before the registration of FIR.
4. The injured Shoaib whose name has been mentioned in FIR has not even been called for statement u/s 161 CrPC.
5. Date mentioned on medico legal report has also been deliberately tempered from 25.07.2019 to 26.07.2019.
6. Site plan also contains over-writing which appears to have been done deliberately to provide benefit of doubt to accused.
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10. Registration number of motorcar in recovery memo has again been altered to 857-UG instead of the already altered number 827-UG.
11. These omissions/commissions were deliberately made to make loop holes in the case for ulterior motives.

For the purpose of scrutinizing the conduct of afore said police official in the said episode with reference to the above allegations an enquiry committee of the following Police Officers is constituted under Rule 5 (4) of Police Rules 1975.

- i. Mr. Banaras Khan SP PBI Investigation.
- ii. Mr. Niaz Muhammad DSP Civil Secretariat.

The Enquiry Officer shall in accordance with the provision of the Police Rules (1975), provide reasonable opportunity of hearing to the accused Official and make recommendations as to punish or other action to be taken against the accused official.

  
SENIOR SUPERINTENDENT OF POLICE,  
(OPERATIONS), PESHAWAR

No. 195 E/PA, dated Peshawar the 06/09/2019.

Copy to the above is forwarded to the Enquiry Officer for initiating proceeding against the accused under the provision of Police Rules 1975.

2. Short facts are that on 26.03.2019 at 20:45 hr. in the limits of PS Gulabgar, near  
 Mansa Colony Service road, an unknown culprit made indiscriminate fire at the car  
 bearing RC No.827-UG, driven by one Amir Khan who was hit and sustained severe  
 injuries. The injured Amir Khan was immediately shifted to hospital where he made report  
 to ASI Abdullah Khan I.R.H casualty, allegedly charged Mr. Sumaira Saif, Sher Shah.

RC No. of motor car 827-UG was again altered to 827-UG in the recovery  
 as case property.

g. Blood stained shirt of complainant Amir were not taken into possession  
 "A" has been shown in front of point B.

f. Overwriting in site plan placed "A" was changed to placed "C" while point

e. Dates tempering with the medico-legal report

d. Non examination of injured Shozib wa 101 Cr.Pc

c. registration of the store-stated case.

b. Death of one the accused namely Sohail Saifur 03 months before the

a. Overwriting in FIR

Tempering with RC No.827-UG instead of 754-BX

finding report.

of the same criminal case, the views / opinions are being submitted through this single  
 with nomination of same committee for inquiry, therefore the alleged charges being chosen  
Gulabgar. All accused officers were issued separate charge sheets/statements of allegations  
 been committed in the investigation of case FIR No.9972019 wa 324A2710913 POC PS  
 dated 06.09.2019, in order to enquire into the following discrepancies / loop-holes having  
 The subject inquiry was referred to this committee vide order No.192-1997PA

**INSPECTOR HABEEN UR RAHMAN & SHARIF KHAN**  
**ASADULLAH IHC & SI SHAKIRULLAH J. SHO OAZI NISAR A**  
**(AMENDED 2014) IN DEPARTMENTAL INQUIRY AGAINST J**  
**FINDING REPORT UR (V) OF KP POLICE RULES 1975**

No. 12  
 ST, dated Peshawar, the 04/10/2019.

From  
 The Superintendent of Police,  
 Investigation FBI HQ Peshawar.

To  
 The Senior Superintendent of Police,  
 Operations, Peshawar.

On receipt of  
 07/10/19  
 02-X-2019  
 E. No. 12

Sohail Safdar and Nadeem Safdar for the alleged occurrence, **through unknown hired assassin**. During the course of firings, a passerby namely Shoaib was also hit and injured.

3. During the course of investigation, the high ups of KP police came to know about improper investigation in the case by the subject officers, hence this departmental inquiry was initiated against them whereas the case was directed to be cancelled. DPP vide his opinion dated 30.09.2019 did not agree and advised submission of challan against the accused for disposal on merits.

4. All the officers submitted their replies to the charge sheets / summary of allegations and they all were also examined in person who professed their innocence, submitting that the alleged charges are not based on mala-fide rather fatal to the prosecution case and requested for filing of inquiry against them.

4. This committee has to place their focus on the following justifications.

- Whether the registration of case against the charged accused Mst. Sumaira Safdar etc legally warrants and is based on veracity/authenticity?
- Whether the eligibility of FIR exists rather stands against the charged accused?
- Whether the trial of case could have succeeded in absence of lecnas/alleged loop holes and also to adjudge magnitude of loop-holes with regard to the fatality/harm to prosecution case?
- Whether there exists any mala-fide on the part of accused officers, behind the alleged charges, extending favour to accused party?

5. At the very outset, this committee has to find out the status of case i.e veracity of FIR / charge of complainant against the accused. On the face of record, it is crystal clear that the complainant while charging his opponents was not in knowledge that one of the accused namely Sohail Safdar had died before the alleged occurrence but included in his report, allegedly committing attempt on life of the complainant / injured Amir Khan. This has created serious dent in the case as a dead person was charged by the complainant, reflecting doubts on his part (injured complainant) which cannot be overlooked. Worth clarifying that it was a blind occurrence with no eye witness account or other circumstantial evidence hence the case, if would have been challaned, shall not meet a fruitful end but ultimately the result would be acquittal. In view of the available evidence, this fact is not disputed that the case is judicially weak and there is not a single

percent chance of conviction of charged accused. Moreover death of one of accused before the alleged occurrence has further doubted the whole episode. The case though is not worth of cancellation however it is a case not fit to be challaned as per provision, contained u/s 170 Cr.PC due to insufficient evidence and the accused should have set free as per the legal norm u/s 169 Cr.PC, filing the case as untraced within the meaning of Rule 25.57 PR 1934.

6. In our opinion, the alleged loop holes, if not existed there and then there was no probability or chance for success of the criminal case as per available record, firstly there is no ocular, circumstantial or incriminating materials which could substantiate the alleged attempting on the life of injured complainant Amir Khan and secondly the report is just based on surmises and conjectures, rather not true one.

7. Now coming to the independent/individual role of above accused officers; discussing one by one to justify their involvement or otherwise in the act of misconduct, allegedly committed.

- a. ASI Asadullah Khan has recorded report of the complainant Amir Khan and as per spirit of Sec 154 Cr.PC, he dispatched murasila for registration of case to PS Gulbahar. Worth mentioning, that the wrong registration No. of case property car i.e 754-BX was recorded on the statement of complainant who disclosed the same as 754-BX, now what was his (murasila scribe) fault in recording the RC No., stating by the complainant and further the medico-legal report was the specific job of medical officer, so if any alteration occurred, for this act he cannot be condemned, therefore in our opinion, we do't see any fault on his part, thus stands not connected.
- b. Secondly, SI Shakir as ASHO has recorded the FIR, incorporating the murasila with same contents of the murasila in FIR book, therefore his involvement for substandard investigation, logically cannot stand.
- c. So far link of SHO Qazi Nisar with irregularities, conducted during investigation of the alleged case is concerned, this is obvious that as per available record; he did not play any role in the case and after promulgation of separation from operation--- investigation within the meaning of section 26(1) of KP Police Act 2017, the investigation hierarchy comes under the control of OII at PS level and with supervisory officer DSP/ASP at Sub

Division level, to cautiously investigate the case worth mention  
section 26 of KP Police Act 2017 carries/mentions nowhere  
burden the process of investigation on the officer incharge / Station  
Station. There incumbents upon the operation staff of Police Station within  
the meaning/mandate of section 154 Cr.PC to register FIR, in case of  
cognizable offence. Moreover, there is no alteration or change of the RC No.  
in the original FIR which is in the possession of operation staff hence he  
cannot be made liable for any default/fault to connect him with the  
alleged charges, vocalized in the charge sheet.

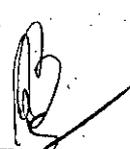
d. Their exists slight slackness on the parts of Inspector Hafeez ur Rehman as  
OII(supervisory body) and the IO Waris Khan to the extent that they did not  
investigate the case in depth as the report of the complainant seems to be  
dubious / suspected and both the officers should have investigated the case  
cautiously on the line of false charge, however their this lethargy does not  
involve any mala-fide, therefore are recommended for minor penalty.  
May be added here that the statement of injured person Shoaib, if recorded  
would have not serve the purpose as he was passerby and did not know /  
identify either party. Moreover, such like person do not wish and make  
himself party to the case, to avoid enmity to the accused or complainant.

8. In circumstances, this committee recommends the following suggestions.

- a. The case in light of Sec 170 Cr.PC needs not to be challaned, rather to be  
filed as untraced.
- b. On the face of record, the complainant has falsely implicated innocent  
persons Mst. Sumaira Safdar etc just for the sake of his cousins dispute /  
litigation with the accused party and nothing else more, hence complaint u/s  
182/211 PPC needs to be filed in the court of competent jurisdiction  
against injured / complainant Amir Khan.

9. Relevant record is enclosed herewith, please.

  
DSP NIAZ MUHAMMAD  
CIVIL SECRETARIAT

  
SUPERINTENDENT OF POLICE,  
INVESTIGATION PBI HQ PESHAWAR



FOR APPENDIX

# **The Khyber Pakhtunkhwa Police Rules, 1975**

(With Amendments-2014)

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## **Khyber Pakhtunkhwa Police Rules, 1975**

In exercise of the powers conferred under section 7 of Police Act 1861, the Government of Khyber Pakhtunkhwa, is pleased to make the following Rules, namely:-

### **1. Short title, commencement and application:-**

- (i) These rules may be called the Police Rules, 1975;
- (ii) They shall come into force at once and shall apply to all Police Officers of and below the rank of Deputy Superintendent of Police.

### **2. Definitions:-**

**In these rules, unless the context otherwise requires:-**

- (i) 'Accused' means a Police Officer against whom action is taken under these rules;
- (ii) 'Authority' means authority competent to award punishment as per Schedule
- (iii) 'Misconduct' means conduct prejudicial to good order of discipline in the Police Force, or contrary to Government Servants (Conduct) Rules or unbecoming of a Police Officer and a gentleman, any commission or omission which violates any of the provisions of law and rules regulating the function and duty of Police Officer to bring or attempt to bring political or other outside influence directly or indirectly to bear on the Government or any

Government Officer in respect of any matter relating to the appointment, promotion, transfer, punishment, retirement or other conditions of service of a Police Officer.

- (iv) 'Punishment' means a punishment which may be imposed under these rules by authority as indicated in Schedule I.

**3. Grounds of punishment.-**

Where a Police Officer, in the opinion of the authority-

- a) Is inefficient or has ceased to be efficient: or
- b) Is guilty of misconduct; or
- c) Is corrupt or may reasonably be considered corrupt because-
  - (i) He is or any of his dependents or any other person through him or on his behalf is, in possession (for which he cannot reasonably account) of pecuniary resources of property disproportionate to his known sources of income; or
  - (ii) He has assumed a style of living beyond his ostensible means; or
  - (iii) He has a persistent reputation of being corrupt; or
- (d) Is engaged Or is reasonably suspected of being engaged in subversive activities, or is reasonably suspected of being associated with others engaged in subversive activities or is guilty of disclosure of official secrets to any unauthorized person, and his retention in service is, therefore, prejudicial to national security, the authority may impose on him one or more punishments.

**4. Punishments.-**

1. The following are the minor and major punishments, namely:---

**(a) Minor punishments-**

- (i) Confinement of Constables and Head Constables for 15 days to Quarter Guards;
- (ii) Censure;
- (iii) Forfeiture of approved service up to 2 years;
- (iv) With holding of promotion up to one year;
- (v) Stoppage of increment for a period not exceeding 3 years with or without cumulative effect;

❖

- (iv) Fine up to Rs15000/- as per schedule-I.

**(b) Major punishments-**

- (i) Reduction in rank/pay;
- (ii) Compulsory retirement;
- (iii) Removal from service; and
- (iv) Dismissal from service.

2. (a) Removal from service does not but dismissal from service does, disqualify for future employment.

(b) Reversion from an officiating rank is not a punishment.

3. In this rule, removal or dismissal from service does not include the discharge of a person.
  - (a) Appointed on probation, during the period of probation, or in accordance with the probation or training rules applicable to him; or
  - (b) Appointed, otherwise than under a contract, to hold a temporary appointment on the expiration of the period of appointment; or
  - (c) Engaged under a contract, in accordance with the terms of the contract.

**4-A.**

In case a Police Officer is accused of subversion, corruption or misconduct the Competent Authority may require him to proceed on leave or suspend him.

**5. Punishment proceedings.-**

The punishment proceedings will be of two kinds. i.e. (a) Summary Police Proceedings and (b) General Police Proceedings and the following procedure shall be observed when a Police Officer is proceeded against under these rules:---

(1) When information of misconduct or any act of omission or commission on the part of a Police Officer liable for punishment provided in these rules is received' by the authority, the authority, shall examine the information and may conduct or cause to be conducted quick brief inquiry if necessary, for proper evaluation of the information and shall decide whether the misconduct or the act of omission or commission referred to above should be dealt with in a Police Summary Proceedings in the Orderly Room or General Police Proceedings.

(2) In case the authority decides that the misconduct is to be dealt with in Police Summary Proceedings, he shall proceed as under-

- (i) The accused officer liable to be dealt with in the Police Summary Proceedings shall be brought before the authority in an Orderly room.
- (ii) He shall be apprised by the authority orally the nature of the alleged misconduct, etc. The substance of his explanation for the same shall be recorded and if the same is found unsatisfactory, he will be awarded one of the minor punishments mentioned in these rules.
- (iii) The authority conducting the Police Summary Proceedings may, if deemed necessary, adjourn them for a maximum period of 7 days to procure additional information.

(3) If the authority decides that the misconduct or act of omission or commission referred to above should be dealt with in General Police Proceedings he shall proceed as under-

- a) The authority shall determine if in the light of facts of the case or in the interests of justice, a departmental inquiry, through an Inquiry Officer if necessary. If he decides that is not necessary; he shall-
- b) By order in writing inform the accused of the action proposed to be taken in regard to him and the grounds of the action: and

- c) Give him a reasonable opportunity of showing cause against that action: Provided that no such opportunity shall be given where the authority is satisfied that in the interest of security of Pakistan or any part thereof it is not expedient to give such opportunity.
- (4) If the authority decides that it is necessary to have departmental inquiry conducted, through an Inquiry Officer, he shall appoint for this purpose an Inquiry Officer, who is senior in rank to the accused.
- (5) On receipt of the findings of the Inquiry Officer or where no such officer is appointed, on receipt of the explanation of the accused, if any, the authority shall determine whether the charge has been proved or not. In case the charge is proved the authority shall award one or more of major or minor punishments as deemed necessary.

6. **Procedure of Departmental Inquiry:-**

- i. Where an Inquiry Officer is appointed the authority shall-
  - a. Frame a charge and communicate it to the accused together with statement of the allegations explaining the charge and of any other relevant circumstances which are proposed to be taken into consideration;
  - b. Require the accused within 7 days from the day the charge has been communicated to him to put in a written defence and to state at the same time whether he desires to be heard in person;
- ii. The Inquiry Officer shall inquire into the charge and may examine such oral or documentary evidence in support of the charge or in defence of the accused as may be considered necessary and the witnesses against him.
- iii. The Inquiry Officer shall hear the case from day to day and no adjournment shall be given except for reasons to be recorded in writing and where any adjournment is given,
  - a. It shall not be more than a week; and
  - b. The reasons therefore shall be reported forthwith to the authority.
- iv. Where the Inquiry Officer is satisfied that the accused is hampering, or attempting to hamper the progress of the inquiry he shall administer a warning and if thereafter he is satisfied that the accused is acting in disregard of the warning, he shall record a finding to that effect and proceed to complete the departmental inquiry ex parte.
- v. The Inquiry Officer shall within 10 days of the conclusion of the proceedings or such longer period as may be allowed by the authority, submit his findings and grounds thereof to the authority.

7. **Powers of Inquiry Officer:-**

- 1) For the purpose of departmental inquiry under these rules, the Inquiry Officer shall have the powers of a Civil Court trying a suit under Code of Civil Procedure, 1908 (Act V of 1908) in respect of the following matters, namely:---
  - (a) Summoning and enforcing the attendance of any person and examining him on oath;
  - (b) Requiring the discovery and production of documents;
  - (c) Receiving evidence on affidavits;
  - (d) Issuing commission for the examination of witnesses or documents.
- 2) The proceedings under these rules shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Pakistan Penal Code (Act XLV of 1860).

8. **Rules 5 and 6 not to apply in certain cases.-**

Nothing in rules 5 and 6 shall apply in a case-

- (a) where the accused is dismissed or removed from service or reduced in rank, on the ground of conduct which has led to a sentence of imprisonment; or
- (b) where the authority competent to dismiss or remove a person from service, or to reduce a person in rank, is satisfied that for reasons to be recorded in writing by that authority, it is not reasonably practicable to give the accused an opportunity of showing cause.

9. **Procedure of inquiry against officers lent to other Government or Authority.-**

- i. Where the services of Police Officer to whom these rules apply are lent to any other Government or to a local or other authority, in this rule referred to as the borrowing authority, the borrowing authority shall have the powers of the authority for the purpose of placing him under suspension or requiring him to proceed on leave and of initiating proceedings against him under these rules.
  - ii. Provided that the borrowing authority shall forthwith inform the authority which has lent his services, hereinafter in this rule referred to as the lending authority, of the circumstances leading to the order of his suspension or the commencement of the proceedings, as the case may be.
  - iii. If in the light of the findings in the proceedings taken against the Police Officer in terms of sub-rule (1) the borrowing authority is of opinion that any punishment should be imposed on him, it shall transmit to the lending authority the record of the proceedings and thereupon the lending authority shall take action as prescribed in these rules.
10. No party to any proceedings under the rules before the authority or Inquiry Officer shall be represented by an Advocate.

**11. Appeal.-**

For rule 11, the following shall be substituted, namely:

- ❖ **“11. Appeal.--(1)** An accused, who has been awarded any penalty under these rules except the penalty of confinement of constable and head constable for fifteen days to quarter guards, may, within thirty days from the date of communication of the order, prefer an appeal to the Appellate Authority as provided in sub-rule (2).

(2) The appeal, against the orders of the officer, specified in Schedule-I, who passes it shall lie to the Appellate Authority as may be specified in the table below:

S.No	Punishing Authorities	Appellate/Reviewing Authorities
1.	Provincial Police Officer	Provincial Police Officer (Review)
2.	Regional Police Officer/ Deputy Inspector General of Police/ Capital City Police Officer/ Additional Inspector General of Police.	Provincial Police Officer.
3.	District Police Officer/ Senior Superintendent of Police/ Superintendent of Police.	Regional Police Officer/Deputy Inspector General of Police/ Capital City Police Officer/ Additional Inspector General of Police.
4.	Assistant Superintendent of Police/ Deputy Superintendent of Police.	District Police Officer/ Senior Superintendent of Police/ Senior Superintendent of Police Operations.

Provided that where the order has been passed by the Provincial Police Officer, the delinquent officer/official, may within a period of thirty days submit review Petition directly to the Provincial Police Officer.

(3) There shall be only one appeal from the original order and the order of the Appellate Authority, in appeal, shall be final.

(4) The Appellate Authority or Review Authority, as the case may be, may call for the record of the case and comments on the points raised in the appeal or review, as the case may be, from the concerned officer, and on consideration of the appeal or the review petition, as the case may be, by an order in writing-

- (a) uphold the order of penalty and reject the appeal or review petition; or
- (b) set aside the orders and exonerate the accused; or

❖ Amended vide Notification No: 3859/Legal, dated 27/08/2014 issued by IGP, KPK

- (c) modify the orders and reduce or enhance the penalty; or
- (d) set aside the order of penalty and remand the case to the authority, where it is satisfied that the proceedings by the authority or the inquiry officer or inquiry committee, as the case may be, have not been conducted in accordance with the provisions of these rules, or the facts and merits of the case have been ignored, with the directions to either hold a de novo inquiry or to rectify the procedural lapses or irregularities in the proceedings:

Provided that where the Appellate Authority or Review Authority, as the case may be, proposes to enhance the penalty, it shall by an order in writing-

- (a) inform the accused of the action proposed to be taken against him and the grounds of such action; and
- (b) give him a reasonable opportunity to show cause against the action and afford him an opportunity of personal hearing.

(5) An appeal or review preferred under this rule, shall be made in the form of a petition, in writing, and shall set forth concisely the grounds of objection to the impugned order in a proper and temperate language”.

12. After rule 11, the following new rule shall be inserted, namely:

❖ **“11-A Revision”**..... (1) The Inspector General, Additional Inspector General, a Deputy Inspector General of Police or a Senior Superintendent of Police may call for the records of awards made by their subordinates and confirm, enhance, modify or annul the same, or make further investigation or direct such to be made before passing orders.

(2) If an award of dismissal is annulled, the officer annulling it shall state whether it is to be regarded as suspension followed by re-instatement, or not. The order should also state whether service prior to dismissal should count for pension or not.

(3) In all cases in which officers propose to enhance an award the officer shall, before passing final orders, give the defaulter concerned an opportunity of showing cause, either personally or in writing, why his punishment should not be enhanced.

(4) The revision petition shall lie or taken cognizance by the authorities under sub rule-(1) within thirty days of the order passed on original appeal.

Provided that the Provincial Police Officer, while acting as revisional authority, in certain cases, may constitute a Revision Board for the speedy disposal of revision petitions, before passing any orders.” And

13.

No order passed under these rules shall be subject to review by any Court/Tribunal.

14. **Repeal.-**

Any Disciplinary Rules applicable to Police Officers to whom these rules apply are hereby repealed but the repeal thereof shall not affect any action taken or anything done or suffered there under.

**NASIR KHAN DURRANI (PSP)  
Inspector General of Police,  
Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.**



## ❖ SCHEDULE-I

## POWER OF PUNISHMENT TABLE

S #	DEPARTMENTAL PUNISHMENTS	AUTHORITIES COMPETENT TO AWARD PUNISHMENT TO:					
		Deputy Superintendent of Police/Deputy Superintendent of Police (Legal)	Inspector/Inspector (Legal)	Sub-Inspector/Sub-Inspector Legal	Assistant Sub-Inspector	Head Constable	Constable
1.	<b>A-Major Punishments:</b> (i) Dismissal, removal from service, compulsory retirement.	Provincial Police Officer	DPO/SSP	DPO/SSP	DPO/SSP/SP	DPO/SSP/SP	DPO/SSP/SP
	(ii) Reduction from substantive rank to lower rank or from higher stage to lower stage in the same time scale of pay.	Provincial Police Officer	DPO/SSP	DPO/SSP/SP	DPO/SSP/SP	DPO/SSP/SP	DPO/SSP/SP
2.	<b>B-Minor Punishments:</b> Withholding of promotion for one year or less.	PPO/Addl: IGP/CCPO/RPO/DIG	DPO/SSP/SP	DPO/SSP/SP	DPO/SSP/SP/ASP/DSP	DPO/SSP/SP/ASP/DSP	DPO/SSP/SP/ASP/DSP
3.	(i) Fine up to rupees Fifteen thousand (15000/-)	Provincial Police Officer	---	---	---	---	---
	(ii) Fine up to rupees Ten thousand (10000/-)	Addl: IGP/CCPO	---	---	---	---	---
	(iii) Fine up to rupees Ten thousand (10000/-)	RPO/DIG	---	---	---	---	---
	(iv) Fine up to rupees Five thousand (5000/-)	---	DPO/SSP/SP	DPO/SSP/SP	DPO/SSP/SP	DPO/SSP/SP	DPO/SSP/SP
	(v) Fine up to rupees one thousand (1000/-)	---	---	---	ASP/DSP	ASP/DSP	ASP/DSP
4.	Stoppage of increments for a period not exceeding three (3) years with or without cumulative effect.	PPO/Addl: IGP/CCPO/RPO/DIG	DPO/SSP/SP	DPO/SSP/SP	DPO/SSP/SP/ASP/DSP	DPO/SSP/SP/ASP/DSP	DPO/SSP/SP/ASP/DSP
5.	Censure	PPO/Addl: IGP/CCPO/RPO/DIG	DPO/SSP/SP	DPO/SSP/SP	DPO/SSP/SP/ASP/DSP	DPO/SSP/SP/ASP/DSP	DPO/SSP/SP/ASP/DSP
6.	Forfeiture of approved service up to two (2) years	PPO/Addl: IGP/CCPO/RPO/DIG	DPO/SSP/SP	DPO/SSP/SP	DPO/SSP/SP/ASP/DSP	DPO/SSP/SP/ASP/DSP	DPO/SSP/SP/ASP/DSP
7.	Confinement to quarters guard up to fifteen (15) days of Constables and Head constables.	---	---	---	---	DPO/SSP/SP/ASP/DSP	DPO/SSP/SP/ASP/DSP

**NASIR KHAN DURRANI (PSP)**  
Inspector General of Police,  
Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.