

20.04.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. M. Raziq, H.C for respondents present.

Written reply/comments on behalf of respondents submitted which is placed on file. A copy of the same is also handed over to the learned counsel for the appellant. Adjourned. To come up for rejoinder as well as arguments on 22.06.2022 before D.B.


(MIAN MUHAMMAD)
MEMBER(E)

22.06.2022

Appellant in person present.

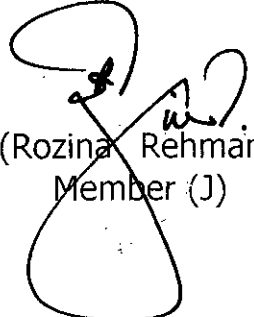
Naseer Ud Din Shah learned Assistant Advocate General for respondents present.

At the very outset an application seeking withdrawal of the instant appeal was submitted by the appellant alongwith order dated 02.06.2022 vide which, appellant was reinstated in service and the period of absence as well as intervening period was treated as leave of the kind due, if any on his credit.

Keeping in view the written request coupled with the order of his reinstatement, instant appeal stands dismissed as withdrawn. No order as to costs. File be consigned to the record room.

Announced
22.06.2022


(Fareeha Paul)
Member(E)


(Rozina Rehman)
Member (J)

20.12.2021 Appellant present through counsel.

Preliminary arguments heard. Record perused.

Points raised need consideration. Instant appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notice be issued to respondents for submission of written reply/comments. To come up for written reply/comments on 07/03/2022 before S.B.

Appellant Deposited
Security & Process Fee

23/12/21

(Rozina Rehman)
Member (J)

7-3-2022

Due to retirement of the Honorable Chairman the case is adjourned to come up for the same as before on 20-04-2022

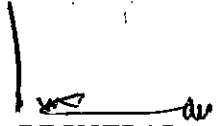

R.
Reader

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 7709 /2021

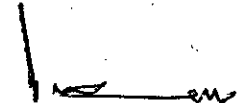
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	01/11/2021	<p>The appeal of Mr. Sajid Khan resubmitted today by Shabana Bibi Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2-</p> <p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put up there on <u>20/12/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Sajid Khan S/O Firoz Khan, R/O Shekhkaly Dakhana Mathra, Tehsil and District Peshawar received today i.e. on 28.10.2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1. Copy of departmental appeal in respect of appellant made to CCPO is not attached with the appeal.
2. Copies of Impugned order dated 28/12/2020, order dated 15/10/2021, service card and CNIC are illegible which may be replaced by legible/better one.

No. 2152 /S.T,

Dt. 28-10 /2021


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Shabana Bibi Adv.
High Court Peshawar.

Respected. Sir,
30-10-21. All the necessary documents are hereby re-submitted.
Shabana Bibi Advocate. 30-10-21.

KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

CHECK LIST

SAJID KHAN

Versus

SP.HQ } Gouvernement, KP, ETC.

..... Appellant

..... Respondents

S NO	CONTENTS	YES	NO
1.	This petition has been presented by: <u>Shabana Bibi Advocate High Court Peshawar</u>	✓	
2.	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	✓	
3.	Whether appeal is within time?	✓	
4.	Whether the enactment under which the appeal is filed mentioned?	✓	
5.	Whether the enactment under which the appeal is filed is correct?	✓	
6.	Whether affidavit is appended?	✓	
7.	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
8.	Whether appeal/annexures are properly paged?	✓	
9.	Whether certificate regarding filing any earlier appeal on the subject, furnished?	✓	
10.	Whether annexures are legible?	✓	
11.	Whether annexures are attested?		
12.	Whether copies of annexures are readable/clear?	✓	
13.	Whether copy of appeal is delivered to AG/DAG?	✓	
14.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15.	Whether numbers of referred cases given are correct?	✓	
16.	Whether appeal contains cutting/overwriting?	x	
17.	Whether list of books has been provided at the end of the appeal?	✓	
18.	Whether case relate to this court?	✓	
19.	Whether requisite number of spare copies attached?	✓	
20.	Whether complete spare copy is filed in separate file cover?	✓	
21.	Whether addresses of parties given are complete?	✓	
22.	Whether index filed?	✓	
23.	Whether index is correct?	✓	
24.	Whether Security and Process Fee deposited? On _____		
25.	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____	✓	
26.	Whether copies of comments/reply/rejoinder submitted? On _____		
27.	Whether copies of comments/reply/rejoinder provided to opposite party? On _____		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name:- SHABANA BIBI

Signature:- 

Dated:- 28.10.2021.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal No. 7709/2021

Sajid khan.....Appellant

VERSUS

The SP KP& others Respondents

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Service Appeal		1-7
2.	Affidavit		8
3.	Copy of the CNIC, Service card	A,B	9-10
4.	Copy of the FIR, Acquittal order	C,D	11-31
5.	Copy of the prior dismissal order , Departmental appeal, and order	E,F,G	32 ^{to} 35
6.	copies of Naqalmads/Roznamcha	H,I	36,37
7.	Copy of Payment release application and order	J,K	38,39
8.	WakalatNama		40

Through
Dated: 28.10.2021

Appellant


Shabana Bibi

&

Zainab

Advocates, High Court
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

Service Appeal No. 7709/2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 7828

28/10/2021

Sajid khan S/o Firoz khan R/o Shekhkaly Dakhana
Mathra Tehsil & District Peshawar.

..... **Appellant**

VERSUS

1. Superintendent Police Head Quarter, Khyber Pakhtunkhwa Peshawar.
2. Inspector General of Police, Khyber Pakhtunkhwa Peshawar.
3. Capital City Police Officer Peshawar.

~~..... Respondents~~

Filed to-day

..... **Respondents**

Regd. 28/10/2021

SERVICE APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT 1974 AGAINST THE ORDER
BEARING NO.3527 DATED 28.12.2020
PASSED BY THE OFFICE OF
SUPERINTENDENT POLICE CIRCLE HEAD
QUARTER PESHAWAR VIDE WHICH THE

Re-submitted to
and filed.

Registrar
01/11/2021

APPELLANT HAS BEEN AWARDED MAJOR
PENALTY OF DISMISSAL FROM SERVICE
WHEREBY APPELLANT FILED
DEPARTMENTAL APPEAL ON 15.10.2021
UPON WHICH THE RESPONDENT NO 3 VIDE
ORDER NO 4037-41 DATED 15.10.2021 KEPT
INTACT THE DISMISSAL ORDER.

PRAYER :

ON ACCEPTANCE OF INSTANT APPEAL ,
THE IMPUGNED ORDERS DATED 28.12.2020,
15.10.2021 MAY KINDLY BE SETASIDE INTO
SERVICE WITH ALL BACK BENEFITS.

Respectfully Sheweth:

1. That the Appellant was appointed as Police Constable Belt no 6365 in the year 2010 and since his appointment the appellant performed his duty very well and to the entire satisfaction of the department.
(Copy of the CNIC, Service Card are annexure A,B)
2. That the Appellant was falsely and malafidely implicated in criminal case FIR no 1080, dated 28.10.2020 ,u/s 324/34/337F(II)(V), PS Mathra, and

acquitted from the charges leveled against him on 16.6.2021. **(FIR annexure C)**

3. That the initial orders has been passed on the basis of above mentioned false FIR and the absence was due to the false allegation mentioned in the FIR and no conviction order is present which proves the allegation upon appellant ,the basis upon which the dismissal order has been passed has been found to be false as the appellant has been acquitted from the charges leveled against him by the honorable Additional Session Judge Muhammad Tahir Aurangzeb through his order dated 16.6.2021, Furthermore the absence on the part of appellant was due to false FIR which is condonable if once the appellant is acquitted hence the dismissal order amounts to pre-trial punishment and is against to recommended to inquiry officer ,hence liable to be set-aside. **(Copy of Aquittal Order is annexure D)**
4. That proper procedure for conducting inquiry has not been followed furthermore the appellant was behind the bar and was not properly represented and was not a free man and was in custody and inquiry was conducted just like formality without proper hearing to the appellant hence the impugned orders are liable to be set-aside.
5. That the Appellant was not in knowledge that he was removed from service on dated 28.12.2020 during the period of above mentioned occurrence and no show cause notice was served upon him and no cross

examination opportunity was given to the appellant for giving his proper reply, and Appellant after release from the jail on 16.6.2021 came into knowledge about the dismissal from service, and only dismissal order dated 28.12.2020 was given to appellant, whereby the appellant was dismissed from the service with retrospective effect without serving a charge sheet or conducting regular inquiry which this Honorable court can requisite from the department upon which the appellant filed Departmental appeal dated 15.10.2021, however the Appellant was shown to have been removed from service on 28.12.2020 due to willful absence from duty w.e.f 29.10.2020 to 28.12.2020, and upon false allegation of FIR **(it is need to mentioned that wrong section of law as 302/34 was mentioned in dismissal order dated 28.12.2020 instead of 324/34/337F(ii)(v) against the appellant.**

6. That the applicant had properly moved leave mentioned in Naqal mad No 32 roznamcha 29.11.2020 till 09.01.2021 according to which appellant was on leave, and the report of PS Sharqi regarding the leave is available on record about arrival into duty in PS and his departure according to Naqal mad No 24 roznamcha dated 6.11.2020 but the departmental appeal was also dismissed vide order dated 15.10.2021. **(Copy of departmental application and impugned orders are annexures E,F,G)**
7. That in fact during pendency of case Appellant proceeded on forty days leave w.e.f 29.11.2020 till

09.01.2021, and 23 days the appellant performed his proper duty during his case in PS Sharqi, and during leave the appellant surrendered himself to police on 30.12.2020 and on 16.6.2021 acquitted from the charges leveled against him. **(Naqalmad/Roznamcha reports are annexures H,I).**

8. That during the pendency of case against appellant, the appellant also moved application on 3.12.2020 for his release of salary of November 2020 to SP/HQ concern upon which the applicant salary was released by the concern department. **(Copy of application and release order are annexures J,K).**
9. That feeling extremely aggrieved the Appellant invokes the appellate jurisdiction of this Hon'ble Tribunal for setting aside of the impugned orders and for reinstatement to his service with all back benefits, on the following grounds, inter alia:

GROUNDS:

- A. That the impugned orders of the Respondents are illegal, null and void in the eyes of law, hence liable to be set aside.


- B.** That the absence of the appellant was not willful but due to the false allegation mentioned in FIR attached herewith, in fact the Appellant was never served with any show cause notice, no proper proceedings had been adopted against the Appellant, no inquiry has been conducted, no opportunity of cross examination has been given to appellant to prove his innocence and the impugned order has been passed in vacume against the principles of "Audi Altrum Partum" (No one shall be condemned unheard).
- C.** That the fundamental rights of the Appellant has been violated as he has not been treated in accordance with law and has been denied due protection of law and there is no willful absence of the Appellant.
- D.** That the delay / absence on the part of Appellant was due to the above mentioned reason which has been given in detail with all supporting documents annexed with the appeal, hence the impugned order is liable to be set aside and a proper opportunity of being heard should be given to the Appellant and may kindly be reinstated to his service along with all back benefits.
- E.** That the acts of Respondent / department have vanished the very purpose of the rules/service structure of the paramedics.
- F.** That any other ground, with leave of the Hon'ble Tribunal will be raised at the time of final hearing of the appeal.


It is, therefore, humbly prayed that on acceptance of this appeal, the impugned orders may kindly be set aside and the Appellant may please be re-instated with all back benefits.

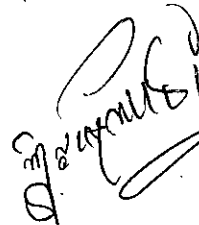
Any other relief, of which the Appellant are entitled to in the fact and circumstances of the case, may also awarded / granted in favour of the Appellant against Respondents.

Through
Dated: 28.10.2021


Appellant

Shabana Bibi,
&
Zainab 
Advocates, High Court
Peshawar


Shakiela Khalil.
Advocate


28.10.2021

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. ____/2021

Sajid khanAppellant

VERSUS

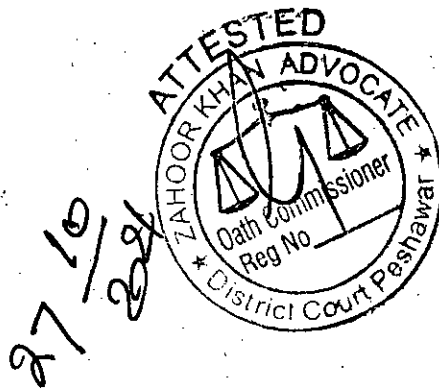
The SP KP & others Respondents

AFFIDAVIT

I, Sajid khan S/o Firoz khan R/o Shekh kaly Mathra Tehsil & District Peshawar, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

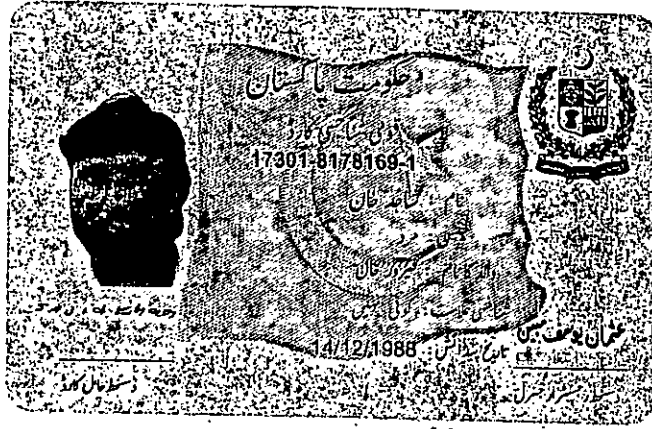

DEPONENT


17301-8178169-1

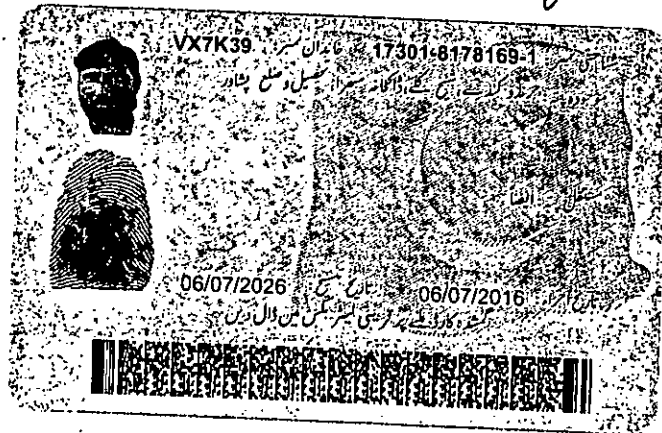


Note:- No such like service appeal for the same appellant has been filed earlier by me prior to instant one before this honourable tribunal.

ADVOCATE 



Attested




Annexure B

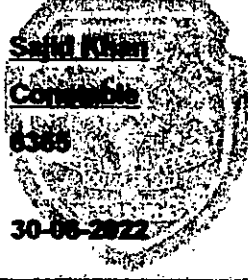

Capital City Police Peshawar

Name: Sajid Khan **S.No:** 6385

Rank : Constable

Belt No: 6385

Valid Upto: 30-06-2022

Issued Authority

Khyber Pakhtunkhwa Police


C.N.I.C. No : 17301-8178169-1

Height: 5-7 **Blood Group:** A+ve

Personal Contact # : 0346-9028475

1. This card is non transferable and is the property of Govt. of Khyber Pakhtunkhwa
2. In the event of loss report immediately to nearest Police Station and the issuing authority giving original number of the card.
3. Finder of the lost card is requested to deposit the card in the nearest Police Station.

Verification Contact No.
091-5284953

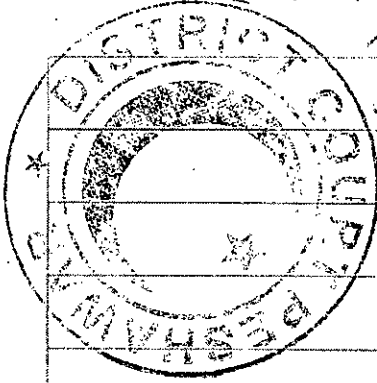


Attested
[Signature]

پشاور بعدالت جناب محمد طاہر اورنگزیب، AD&SJ-IX

مقدمہ نمبر	رجسٹر	اصل رجسٹر	تقطعات
92/SC	20/2/2021		120

نام ساجد



نمبر شمار	صفحات	تقطعات	نوعیت کا خدات
			بستہ آ
1	1	1	انڈیکس
2	2/20	19	آڈیو ریکارڈ
3	4	1	حارج
4	22/36	5	بیان Pw 80 و بیان Pw 81
5	37/111	75	شہرہ / سٹیٹمنٹ پورٹریٹ
6	112/113	2	درخواست
7	114/117	4	دعا
8	118/120	3	سماں مشور
9			
10			
11			
			بستہ ب
12			
13			
14			
15			
16			Checked and found correct.

ATTESTED

کل تقطعات 120 داخل دفتر شد

ATTESTED

20/04/2021

(Examiner)

District Court Peshawar

دستخط محرر

ایڈیشنل ڈسٹرکٹ ایڈووکیٹ جج IX پشاور

CHARGE

File No. 92/SC of 2021
Reference: FIR No. 1080 dated 28/10/2020 U/S 324/34, 337F(ii) (v) PPC of Police Station Mathra, Peshawar.

I, Muhammad Tahir Aurangzeb, Additional Sessions Judge-IX, Peshawar do hereby charge you accused (1) Sajid s/o Feroz Khan aged about 31/32 years (2) Haista Rehman aged about 46/47 years (3) Shahid sons of Feroz Khan aged about 24/25 years r/o Saeed Abad No.1 street No.3, Peshawar, as follows:-

Firstly That on 28/10/2020 at 12:30 hours near Mohallah Afridi Ghari Mathra falling within the criminal jurisdiction of police station Mathra, Peshawar, you accused named above, in furtherance of the common intention of you all, attempted at the life of complainant Afzal, Shoaib and Shah by firing at them effectively and thus you thereby committed an offence punishable under section 324/34 PPC and within my cognizance.

Secondly That on the above mentioned date, time and place you accused named in furtherance of your common intention, and with the effective fire of you accused Sajid, the complainant got injured on his left hand and chest and thus you thereby committed an offence u/s 337 F(ii) F (V) PPC and within my cognizance.

And I hereby direct that you be tried by me for the said charge.

RO & AC
08-03-2021


Muhammad Tahir Aurangzeb,
ASJ-IX, Peshawar

Note: The charge has been read over and explained to accused.

Q. Have you heard and understood the charge?

A. Yes.

Q. Do you want to plead guilty or claim trial?

A. We do not plead guilty and claim trial.


ATTESTED





Sajid (Accused)



Haista Rehman (Accused)





Shahid (accused)


Muhammad Tahir Aurangzeb,
ASJ-IX, Peshawar

CERTIFICATE u/s 364 Cr.PC

Certified that the above charge has been framed in my presence and hearing and that the record contains a full and true account of the statement made by the accused.


Muhammad Tahir Aurangzeb,
ASJ-IX, Peshawar



5. That the instant case being false, concocted and baseless could not be proved against the accused/ petitioner, hence the accused/ petitioner is entitled for acquittal
6. That other grounds will be raised at the bar during the course of arguments with special permission of this Honourable Court.

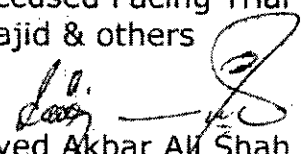
It is, therefore, most humbly prayed that on acceptance of this petition, the accused may graciously be acquitted of the charge leveled against him.

Dated:- 07/06/2021

113

Through:-

Accused Facing Trial
Sajid & others


Syed Akbar Ali Shah
Advocate High Court
Peshawar.


ATTESTED

ATTESTED

20 JULY 2021

(Examiner)
District Court Peshawar

IN THE COURT OF MUHAMMAD TAHIR AURANGZEE
ADDITIONAL SESSIONS JUDGE-IX, PESHAWAR.

State...vs.... Sajjid etc

Sessions Case No. 92 of 2021

ORDER
16.06.2021

1. Accused Sajjid in custody not produced before the court due to Covid-19 issue. Accused Khaista Rehman and Shahid on bail present. Counsel for the accused and complainant also present. PW Shehzad s/o Mir Aslam present and got recorded his statement as PW-8. Arguments on application U/S 265-K Cr.P.C heard and record perused.
2. The accused facing trial involved in case FIR No. 1080 dated 28.10.2020 U/S 324/34/337-F(ii)(v) PPC registered at PS Mathra, Peshawar wherein the complainant Afzal s/o Muhammad Nawaz has charged the accused for injuring him, Shoaib and Shah Zaib.
3. Brief facts of the case as per FIR are that complainant Afzal alongwith injured Shoaib and Shah Zaib at casualty LRH Peshawar reported the matter to the local police that at the time of occurrence he went to meet his friend where Khaista, Sajjid and Shahid sons of Feroz Khan in motorcar with unknown number came and Sajjid was having deadly weapon started firing at him as a result of which he was hit on left hand and got injured on left hand and chest. Due to the firing, near in general store Shoaib and his brother Shah Zaib also got injured. Motive behind the occurrence was disclosed previous enmity. Hence, the FIR.
4. After completion of necessary investigation, complete challan was put in court. Accused were summoned, who appeared and formal

ATTESTED

M.A.

ATTESTED

28/06/2021

(Examiner)
District Court Peshawar

charge framed against the accused, to which they pleaded not guilty and claimed trial. From the commencement of trial the prosecution has so far produced eight PWs in support of their version. The brief resume of Prosecution evidence is as under:

5. PW-01, Syed Asif Ali Shah ASI, who stated on oath that during the days of occurrence he was posted in emergency LRII. Injured Afzal in conscious state of mine reported the matter to him, in presence of Shahzaib. He recorded his report in shape of murasila and obtained his thumb impression on his report after reading the contents of the report to the complainant. Shahzaib also endorsed the contents of report and thumb impressed it. The report/murasila was in his handwriting and correctly bears his signature which was Ex PA. Similarly he prepared injury sheet of injured Shahzaib which was Ex PW 1/1 and prepared injury sheet of injured Shoaib which was Ex PW 1/2. He also prepared injury sheet of injured Afzal which was Ex PW 1/3. After preparation of the injury sheet he referred them to doctor and sent murasila to Police Station for registration of the FIR.

6

6. PW-02 was Dr Usman Ibrahim LRII, Peshawar, who stated on oath that on 28/10/2020 at 11.20 AM he examined the injured Sohaib Khan s/o Kamran Khan aged about 20 years.

Handwritten signature/initials

On examination he found the following.

FAI

1. One wound on the antero-medial region of the left thigh (upper form)
2. one wound on the upper posterior medial region of the left thigh arm.
3. both wounds are about 1x1cm in size.

Advised. Xray left thigh, Blood Group, HBS AG/HCV

Referred to COW/Vascular/ Radiology

Medico legal report Ex.PW2/1 correctly bears his signature.

ATTESTED stamp with signature

ATTESTED

28/10/2020
(Examiner)

District Court Peshawar

He also examined Shahzaib Khan s/o Kamran Khan aged about 16/17 years.

On examination he found the following.

FAI

- 1. wound on the left leg (1x1 cm in size)
- 2. walking patient.
- 3. vitally stable.

Advised, Xray left leg AP/Lateral

Referred to 9-C/COW/Radiology.

Medico legal report was Ex PW 2/2 which correctly bears his signature.

He also examined Afzal Khan s/o Nawaz Khan aged about 37 years.

On examination he found the following.

FAI

- 1. one wound on the back (lumbar region) about 1x1 cm in size.
- 2. one wound on the left splenic region of the abdomen (omentum out).
- 3. one wound on the left arm lateral region. Both wounds are 1x1 cm in size.

Advised. Xray Chest, Xray left arm, HBS AG/HCV Blood Group.

Referred to CSW/CIW/COW/Radiology.

Medico legal report was Ex PW 2/3 which correctly bears his signature.

7

Handwritten signature

ATTESTED stamp with signature

7. PW-3 was Fasih Ullah Moharrar ASI, who stated on oath that during the days of occurrence he was posted at PS Mathra. On receiving of copy of murasila he incorporated the contents of the murasila into shape of FIR.

ATTESTED

28/10/2020

(Examiner)
District Court Peshawar

8. PW-4 was Qaiser Khan Constable No. 3758, who stated on oath that on 28/10/2020. he was associated with the investigation branch and went to the place of occurrence with the IO where the IO collected bloodstained earth with cotton from point No.01 and Point No.02 and sealed in parcel No. 01 and 02 respectively. Similarly he also collected 07 empties of 30 bore pistol lying around at point A. He signed with pen on the empties and sealed in parcel No. 03. He affixed seal of MA on each three sides of the parcels and

prepared recovery memo Ex Pw 4/1. His statement u/s 161 Cr.P. was recorded by the IO.

9. PW-05 was Shoaib who stated on oath that, it was 12 noon on the eventful day that he returned from his college and was available in front of his house. He was standing there and Afzal was also accompanying him. His younger brother and some other friends were also present there. A person came on motorcycle and made firing on Afzal. He also sustained firearm injury. His brother and Afzal also sustained firearm injury by the hands of that person.

10. PW-06 was Afzal who stated on oath, that on 28/10/2020, at about 1230 noon he was standing in front of Shop of Shoaib situated in Mathra. Shahzeb and Shoaib were standing with him. In the meanwhile Shahid, Khaista Rehman and Sajid came on alto motorcar. Sajid made firing at them on the spot. He sustained three firearm injuries on his left shoulder, left inner back side of chest. The accused escaped from the spot. He noticed injury on the body of Shoaib and Shahzeb also. Ambulance came to spot and took Shoaib and Shahzeb to hospital. He went to hospital in second ambulance. He made report in the hospital to police. The witness was identified with his thumb impression. Thereafter he remained in hospital for 13 days. When he was discharged from the hospital he also made pointation to the IO on spot. He charge accused Sajid for commission of offence. He was having enmity with the accused party previous they have charged him falsely after 35 days in a murder case FIR No. 1091 dated 05/11/2019 of Police Station Mathra u/s 302 PPC and the same was reason of commission of offence the instant case.

8

Handwritten mark

ATTESTED
Handwritten signature

ATTESTED

PW-7 was Gul Said Khan ASI who stated on oath that, during the days of occurrence he was posted in Police Station Mathra. On receipt of copy of FIR, he proceeded to the spot and prepared the site plan on his personal observations which was Ex PW 7/1. He collected bloodstained earth from the spot point No.1 and sealed in parcel No.1 and similarly from point No.2 and sealed in parcel No.2. He also collected 7 empties of 0.30 bore pistol from

20/11/2020

(Examiner)

District Court Peshawar

point A. signed with pen over the empties and sealed in parcel No. 3. He affixed seal of MA on each three sides of the parcels and prepared recovery memo already Ex Pw 4/1. Then he went to hospital and could not meet with the complainant as he was inside the operation theater however he met with injured Shahzeb and recorded his statement u/s 161 Cr.PC. On the next day injured Afzal produced bloodstained garments having corresponding cut marks on the shirt in LRII Surgical Ward which he sealed in parcel No. 4 and prepared recovery memo Ex PW 7/2 and affixed the seal of MA on each three sides of the parcels. Injured Shoaib produced his bloodstained garments with cut marks to him which he sealed in parcel No. 05 and injured Shahzeb also produced his bloodstained garments to him which he sealed in parcel No.6 and prepared recovery memo Ex PW 7/3. He drafted application for sending the bloodstained garments to FSI which was Ex Pw 7/4, Ex Pw 7/5 Ex Pw 7/6. Similarly he drafted application for sending the empties to FSI vide his application Ex PW 7/7. He arrested accused Khaista Rehman and Shahid on 02/11/2020 formally through card of arrest Ex PW 7/8 as they produced their bail before arrest order to him and same was the situation of accused Sajid on 5/11/2020 vide card of arrest Ex PW 7/9. He placed on record the road certificates Ex Pw 7/10. Accused Sajid was a constable. He placed on record the departmental inquiry record as Ex Pw 7/11. He placed on record the cell phone data of accused Sajid, Shahid which was Ex PW 7/12. He moved an application to Dy.PP for opinion about the injury sheet which was Ex PW 7/13. On 12/12/2020, he produced Shoaib and Shahzeb including Kamran, who were recorded u/s 161 Cr.P.C, for their statements to Learned JMJC u/s 164 Cr.P.C vide his application Ex PW 7/14 and which was recorded. On 15/12/2020 the bail before arrest of accused was recalled by the competent court and on 16/12/2020 he produced accused Khaista Rehman and Shahid to learned JMJC vide his application Ex PW 7/15 and one day custody was granted. He also placed on record the card of arrest Ex

9

MA

ARRESTED

ARRESTED

2/12/2020

(Examinee)
District Court, Faisalabad

PW 7/16 On completion of police custody he produced the accused for further remand and they were sent to judicial lockup on his application Ex PW 7/17. He received the FSL report of crime empties which was Ex PW 7/18 and the FSL report of bloodstained garments which was Ex PW 7/19 and Ex PW 7/20. He arrested accused Sajid on 31/12/2020 vide card of arrest Ex PW 7/21 and produced in to learned JMJC for police custody vide his application Ex PW 7/22 which was granted for one day. His arrival departure was Ex PW 7/23. On completion of custody he produced him for further custody vide application Ex PW 7/24. which was refused. He recorded statements of PWs on his case diaries as and when required. He used seal of MA during his investigation. He recoded statements of accused during investigation. He found the accused guilty and forwarded the challan to SHO for presentation.

12. PW-8 was Shehzad who stated on oath that, on 29.10.2020 the IO collected blood stained garments having corresponding cut marks of the injured Afzal in LRII Surgical Wards from the injured and sealed in parcel No. 4. IO fixed the seal of MA on each three sides of the parcel and prepared recovery memo already exhibited as EX PW7/2. He alongwith Ibrar Hussain was marginal witness to the recovery memo. IO recorded his statement u/s 161 Cr.P.C.

13. On 07.6.2021 learned counsel for the accused moved an application u/s 265-K Cr.P.C. Notice of the same was given to the prosecution and complainant.

14. Arguments heard and available record perused.

15. Perusal of record shows that the complainant reported the matter regarding his injuries as well as injuries of injured Shoaib and Shah Zaib to police vide murasila report in LRII wherein he directly and specifically charged accused Sajid for effective role of firing while the remaining accused are charged for presence. It

ATTESTED

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(Examiner)
District Court Peshawar

ATTESTED

was prosecution case that complainant went to place of occurrence to meet his friend that accused Khaista, Shahid and Sajjid came on motorcar and accused Sajjid fired at him as well as at injured Shoaib and Shah Zaib who were in their shop near the place of occurrence and the complainant was on the road. The motive was disclosed by the complainant as previous blood feud. The murasila report EX PA was seconded by injured Shoaib. The medico legal report of the injured was there at file to support their injuries. The investigation was carried and the site plan was there with the prosecution to support the ocular account. The IO has also collected blood stained garments, blood stained earth followed by the supporting FSL report EX PW7/20. IO has collected seven empties of .30 bore pistol from the spot and the FSL report EX PW7/8 was there at file in support of the prosecution case. The prosecution pressed that they have a proved case on record.

ATTACHED

W.K.

16. The case of prosecution mainly rest upon injured/eye witness i.e complainant alongwith two injured witnesses. I am aware of the fact that the evidence of injured witness in an incident is already settled on certain points as presence of injured cannot be denied at spot unless it is established through evidence otherwise. It is also not generally presumed that the injured witness would alive to escape real culprits but it depends upon the facts and circumstances of the case and plea of defence. The evidence of injuries also of greater value and it cannot be doubted on some embellishment in nature conduct or minor contradictions but the

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(Examiner)
District Court Peshawar

set up and circumstances of committing of a crime shall be appreciated alongwith evidence. If there be any exaggeration of immaterial embellishment in the evidence of injured then such contradiction exaggeration and embellishment be discarded from the evidence but not the entire evidence, however, the stamp of injuries on the body of complainant/injured witness does not established that he has stated the gospel truth before the court. In simple words the stamp of injuries does not mean that he is also telling the whole truth and in cases of injured eye witness the Court has to evaluate it on the strength of narrative of the PWs regarding mode and manner of the occurrence. In the instant case the learned defense counsel argued certain points and this Court has determined the points for determination in this case. Firstly as to whether the complainant as narrative true mode and manner of the occurrence, second as to whether there was consultation, deliberation and preliminarily investigation prior to registration of the case resulted in false accusation against the accused. Thirdly whether the medico legal evidence is in line with the prosecution case and fourthly whether the motive behind the occurrence is used by the accused party for the occurrence or the complainant party for false implication.

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(Examiner)

Magistrate Court Peshawar

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17. So far as the first point for determination is concerned the entire case of prosecution was based on the ocular account furnished by the complainant as PW-6. This Court is well aware with the phrase dishonest improvement and minor contradiction.

The dishonest improvement is that if it was not made the prosecution evidence become contradictory interse and the minor contradiction or explanation of the fact are that if made or not made, carries no effect on the proof of matter in issue. The complainant Afzal appeared as PW-6 and he stated that he alongwith Shoaib and Shah Zaib were standing in front of their shop. This was contradictory to his initial version as he stated in his murasila that he went to crime village to meet some friends when he reached in front of shop, the accused came and committed occurrence. The site plan shows presence of injured Shoaib and Shah Zeb in the door of shop and complainant at road side. Though the complainant tried to move the injured PWs out of shop in his court statement to make the site plan and ocular version in line but he while making this improvement moved them more than the required and brought them at road with him. Again it was not his case that injured are his friends but he narrated some other friends to whom he went on eventful day to meet. Similarly the said friends were never produced to IO. He attributed the role of firing to accused Sajid however; he was confronted with post occurrence circumstances of the occurrence. He changed his stance consistently in that episode and the place of making report was belied in his cross examination. It was prosecution case that injured and complainant were in hospital and they jointly reported the matter to police. During court statement, he submitted that the police and ambulance came to spot and ambulance carried injured

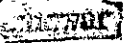
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M.A.

ATTESTED
S.V.

ATTESTED

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(Examiner)
District Court 

to hospital. He was confused on this issue then he introduced another story that he went to some distance place from spot so cannot be picked by ambulance. This explanation was dishonest improvement on his part. He submitted that he made another call to ambulance on which police and ambulance came. Let us ignore this, and presume that due to panic situation, he mixed the facts but during the course of cross-examination the complainant was not consistent regarding the place of recording of report. It is available on record that the report was recorded in the hospital but during cross-examination the complainant submitted that he was available at the spot and the police mobile came to spot within 30 minutes of the occurrence and he reported the matter there at spot. This Court found the said report missing from the record as to whether what was the report of the complainant at spot and who was charged therein. This Court cannot rule out the defense argument that within the meaning of Article 129(g) of Qanun-e-Shahdat if the said report was produced before the Court the names of accused facing trial was not there. The report was signed by co-injured Shoaib however; the complainant submitted that at arrival of police both the brothers were already carried to hospital. In such like situation this court cannot presume that the same report was recorded at the spot and signed by Shoaib. The complainant departed from his initial version and submitted that at the arrival of ambulance he was not present on the spot so the ambulance carried Shoaib and Shah Zaib to hospital and left the

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(Examiner)

District Court Peshawar

complainant this was an introduction of fact. In recent judgment 2019 PCRLJ 186, "Sadur Ali Vs Hameed ullah", the witness was related to deceased and improvement to strengthen case was on his part. The Honourable Court held that such witness lose credibility when he was found to make deliberate ad dishonest improvements. Reliance is placed on case law reported as 2018 SCMR 772:-"In the absence of any corroborative piece of evidence, the conviction of accused was not sustainable on the same set of evidence which according to the High Court, was full of doubts due to dishonest improvements in the statements of the eye-witnesses. Conviction and sentence awarded by the Trial Court and upheld by the High Court was set aside and the accused was acquitted of the charge leveled against him. Appeal was allowed accordingly." In the instant case, the witness was interested and he wanted to secure conviction by every means.

11

18. The complainant was confronted with his previous conduct. This Court is aware of the fact that the previous conduct of the person is not relevant unless and until it is pleaded by him as good conduct but to check the veracity of a witness certain facts became relevant. The complainant charged accused previously in case of abduction of one lady Nayab. He not only disclosed the name of said lady as Aliya and his daughter but when the said lady Nayab appeared before the Court her statement resulted in proceedings u/s 182 PPC against the complainant which is available on file as EX PW6/D-1. It never remained case of complainant that Shab

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[Signature]

(District Court) Bahawalpur

Zaib and Shoaib were his friends though he disclosed in report that he went to crime scene to meet his friends but he has not disclosed the names of friends. This situation demanded that there should be independent support of the ocular account through co-eye witness and physical circumstances. It was available on record that after the occurrence the accused escaped from the spot and the complainant has admitted that the police came at the spot at his presence, in such like situation the spot was in the control of the complainant after the occurrence. The police collected 7 empties from the spot which were sent to FSI and the report shows that it was not the firing of one person and the FIR and statement of complainant before Court is clear that only one person fired at the spot and he has not charged for ineffective firing anyone of the other accused. In such like situation the such physical circumstance of the case belying the complainant version and suggested that he has not disclosed true mode and manner of the occurrence to this Court.

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W.L.

ATTESTED

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(Examiner)
District Court Peshawar

19. The co-witness of the occurrence was Shoaib who appeared as PW-5. He disclosed that a person came on motorcycle and fired at complainant. He has not named anyone as accused so, the prosecution was allowed to cross examine the said witness and he was cross examined. During the cross examination by the prosecution it came to record that the previous statement of Shoaib recorded before the police was result of dictation of the complainant. He was also cross-examined by the accused wherein

the witness disclosed that the accused was wearing helmet and was not identifiable. He also admitted arrival of police at the spot. He stated that the report was not recorded at the spot and he submitted that he never thumb impressed the report in hospital. It was a brought day light occurrence but the mode and manner of the occurrence as per complainant and the PWs were contradictory interse.

17

20. So far as the second aspect of the case is concerned, it was the arguments of learned counsel for the accused that there was consultation and deliberation prior to registration of the case. The occurrence was allegedly committed at 12:30 in brought day light. The report was recorded in shape of murasila at 13:40 hours and converted into FIR at 1510 hours. The complainant admitted that he was available at the spot when police arrive to the spot but record shows that the report was not recorded till 01 hour and 10 minutes. This Court do not believe that it was recorded at 1340 hours and the reliable record with the prosecution for timing of report is the timing of registration of FIR because when the police arrived at the spot and not recorded the report then each non-registered stance of the police or complainant cannot be believed and the only believable version about the recording of report is the timing of registration of FIR which shows a delay of three hours in between occurrence and report. The complainant due to his previous enmity with the accused and the record shows that the complainant can charge the accused falsely as available in

M.K.

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28/11/2021

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(Examiner)
District Court Peshawar

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previous case EX PW6/D-1 then in such like situation, it cannot be ruled out the consultation and deliberation was utilized to false booking of the accused. In reported judgment **PLD 1967 Peshawar 269**, titled as "*Ghulam Qadir Vs The State*", the Hon'ble Court held that: "*recording of report at a place other than police station— inference unavoidable that it was recorded after preliminary investigation.*"

18

21. The medico legal evidence available on the record shows that the injured were examined at 1:20 p.m and the complainant was having firearm injury on his body without the bifurcation of entry and exit. The doctor has not reflected the nature of injury in his initial examination and the reasons with record are not available with the prosecution that why the doctor recorded it as grievous at belated stage specifically when he himself has reflected GCS 15/15 of the complainant. The complaint narrated in his statement that one fire shot hit him and the entry on the left arm and its exit followed by the entry on the left side of chest. This Court has noticed the same in injury sheet but the medico legal report shows that one wound on the back, one wound on the splenic region of abdomen and two wounds on the arm. This was not corresponding with the initial report of the complainant. The medico legal report if true then too it do not disclose the name of assailant.

M.R.

ATTESTED

28/11/2011

(Examiner)
District Court Peshawar

22. So far as the motive is concerned the complainant has disclosed previous blood feud as motive and also disclosed that he was charged falsely for murder by the accused party in FIR No. 1091

dated 05.11.2019 of PS Mathra. He was cross examined and this Court finds that the complainant can go to every extent to implicate the accused in a criminal case. In prove of it the accused side has exhibited the false report of complainant regarding abduction of Nayab where the complainant was charged u/s 182 PPC for false accusation. The motive is always a double edge weapon and has ability to cut either side of the case. It might be reason with the accused for commission of the offence and it might be a reason with the complainant for false charge however, it is determined in juxta position with the other facts of the case. The other facts suggest that it was utilized by the complainant and not by the accused. Beside this the IO has collected CDR data of the accused and it is further confirming the above appreciation of evidence where the presence of accused was not at the time of occurrence.

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N.R.

ATTESTED *[Signature]*

23. It is prima responsibility of the prosecution to prove its case beyond shadow of doubt. The mode and manner of occurrence was constantly improved by the complainant with dishonesty which is fatal towards the prosecution version and the co-complainant i.e. injured Shoaib was against the prosecution version. The physical circumstance of collection of empties from the dominating control of the complainant further negates the prosecution. This Court holds that the prosecution has not proved their case. The remaining witnesses are formal and their statement could not change the fate of prosecution case.

ATTESTED

28/11/2011

(Examiner)
District Court Peshawar

24. In this view of the scenario, the complainant failed to establish mode and manner of the occurrence. The eye witness Shoab created material dent in the prosecution case. The contradiction of complainant with the circumstances and negations of injured Shoab to prosecution story suggested that the prosecution badly failed to prove their case. A single doubt would be sufficient for acquittal of the accused. In the circumstances, even if the remaining PWs are produced and examined there is no probability of conviction of accused in the instant case. As such, the accused facing trial named above are acquitted of the charges leveled against them U/S 265-K Cr.P.C. Accused Sajid is in custody, he be released forthwith if not required to be detained in any other case. Accused Khaista Rehman and Shahid are on bail, so they and their sureties are relieved from the liability of bonds.

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ATTACHED

25. The case property if any be kept intact till the expiry of period provided for appeal /revision and thereafter be disposed of in accordance with law.

26. File be consigned to record room after necessary completion and compilation.

Announced
16.06.2021

25249


Muhammad Tahir Aurangzeb,
Addl: Sessions Judge-IX
Peshawar.

No
Date	17-6-21
By	(Signature)
For	P-20
Fee
Signature	(Signature)
Dated of Preparation	28-6-21
Dated of Entry	28-6-21

CERTIFIED TO BE TRUE COPY
(Signature)
(Examiner)
Copying Agency District Court
Peshawar

ORDER

This office order relates to the disposal of formal departmental enquiry against Constable Sajid No.6365 of Capital City Police Peshawar on the allegations that he while posted at East Cantt, Peshawar involved in criminal case vide FIR No.1080 dated 28.10.2020 u/s 302/34-PPC PS Mathra.

In this regard, he was placed under suspension & issued charge sheet & summary of allegation. DSP Complaint/Enquiry was appointed as E.O. He conducted the enquiry & submitted his report/findings that the departmental enquiry may be kept pending till the decision of the case which is already pending adjudication in the learnt court. The E.O further recommended that the alleged official absented from duty from 29.10.2020 till date & found guilty. The E.O further recommended suitable punishment for defaulter official vide Enquiry Report No.43/PA dated 30.11.2020.

In the light of recommendations of E.O & other material available on record, the undersigned came to conclusion that he involved in criminal case & also remained absent from duty. Therefore, he is hereby dismissed from service under Police & Disciplinary Rules-1975 with immediate effect. Hence, the period he remained absent from 29.10.2020 till date is treated without pay.

[Signature]
SUPERINTENDENT OF POLICE
HEADQUARTERS, PESHAWAR

ATTACHED
[Signature]

[Signature]

OB. NO. 3527 / Dated 28/12/2020

No. 6346-52 /PA/SP/dated Peshawar the 28/12/2020

Copy of above is forwarded for information & n/action to:

- ✓ Capital City Police Officer, Peshawar.
- ✓ DSP/HQrs, Peshawar.
- ✓ DSP Complaint/Enquiry
- ✓ Pay Office, OASI,
- ✓ CRC & FMC along-with complete departmental file.

PA/HQ

Arshad
Make Entry in
20/12

Annex

ڈیپارٹمنٹل اپیل:

ڈیپارٹمنٹل اپیل بر خلاف فیصلہ و حکم مورخہ 28.12.2020 سپر ڈنٹ پولیس آف ہیڈ کوارٹر جس کی رو سے
سائل ساجد خان ولد فیروز خان پولیس کنستبل پلاٹ نمبر 6365 کو بوجہ مقدمہ علت 1080 مورخہ
28.10.2020 جرم 324.34.337F(IDV) تھانہ متھراپشاور ملازمت سے برخواست کیا گیا تھا۔

استدعا:

استدعا کی جاتی ہے کہ بمنظوری ڈیپارٹمنٹل اپیل ہذا سائل ساجد خان ولد فیروز خان پولیس کنستبل پلاٹ نمبر 6365 کو
ملازمت پر دوبارہ بحال (Reinstate) کیا جائے۔ کیونکہ سائل کو محمد طاہر اور نگزیب ایڈیشنل سیشن جج IX پشاور نے مورخہ
16.6.2021 کو مقدمہ بالا میں بری کر دیا ہے۔

جناب عالی! سائل حسب ذیل عرض رساں ہے۔

1. یہ کہ سائل جو کہ ایک شریف اور قانون کا پابند شہری ہے اور پولیس ڈیپارٹمنٹ میں بطور کنستبل ملازمت کرتے تھے۔

جسکو مورخہ 28.12.2020 سپر ڈنٹ پولیس آف ہیڈ کوارٹر پشاور نے بوجہ ملوث ہونے مقدمہ علت 1080 مورخہ

28.10.2020 جرم 324.34.337F(IDV) تھانہ متھراپشاور ملازمت سے برخواست کیا گیا تھا۔ یہاں پر یہ امر

قابل ذکر ہے کہ حکم مورخہ 28.12.2020 میں جرم 302.34 لکھ دیا ہے۔ حالانکہ جرم

324.34.337F(IDV) میں جو کہ عدالت حضور کے حکم مورخہ 16.6.2021 سے صاف ظاہر ہے۔ (نقل

شناختی کارڈ سروس کارڈ حکم مورخہ 29.12.2020 سپر ڈنٹ پولیس آف ہیڈ کوارٹر پشاور لف ہیں)

2. یہ کہ بعد از مقدمہ بالا سائل نے محکمہ پولیس سے چالیس دن کی چھٹی لی یعنی مورخہ 29.11.2020 سے مورخہ

9.1.2021 تک جو کہ اسی دوران مورخہ 1.1.2021 کو سائل نے خود ہی مقدمہ بالا میں تھانہ میں گرفتاری دی اور

بعد از سائل کو بعد الت محمد طاہر اور نگزیب ایڈیشنل سیشن جج IX پشاور نے مورخہ 16.6.2021 کو مقدمہ بالا بے گناہ

ثابت ہونے پر بری کر دیا۔ (نقل فیصلہ لف ہے)

3. یہ کہ سائل روز وقوعہ کسی کام کے سلسلے میں لنڈی کوتل میں موجود تھا۔ سائل پر غلط دعویٰ جاری ہوئی ہے۔ سائل کے زیر

استعمال سم نمبرات 03149168117، 03469028475 کی CDR سے لوکیشن معلوم کی جاسکتی ہے۔

4. یہ کہ سائل جب جیل سے باہر آیا۔ تو محکمہ پولیس سے رجوع کیا تو سائل کو اہلکار محکمہ پولیس نے حکم مورخہ

28.12.2020 سے آگاہ کیا۔ تو سائل نے اس مقدمہ عنوان بالا میں عدالت حضور کا حکم مورخہ 16.6.2021 پیش کیا

Attested
[Signature]

Annex

ڈیپارٹمنٹل اپیل:

ڈیپارٹمنٹل اپیل برخلاف فیصلہ و حکم مورخہ 29.12.2020 سپر ڈنٹ پولیس آف ہیڈ کوارٹر جس کی رو سے
سائل ساجد خان ولد فیروز خان پولیس کنسٹیبل پبلک نمبر 6365 کو بوجہ مقدمہ علت 1080 مورخہ
28.10.2020 جرم 324.34.337F(ID(V) تھانہ مٹھراپشاور ملازمت سے برخاست کیا گیا تھا۔

استدعا:

استدعا کی جاتی ہے کہ بمشغوری ڈیپارٹمنٹل اپیل ہذا سائل ساجد خان ولد فیروز خان پولیس کنسٹیبل پبلک نمبر 6365 کو
ملازمت پر دوبارہ بحال (Reinstated) کیا جائے۔ کیونکہ سائل کو محمد طاہر اور نگزیب ایڈیشنل سیشن جج IX پشاور نے مورخہ
16.6.2021 کو مقدمہ بالا میں بری کر دیا ہے۔

جناب عالی! سائل حسب ذیل عرض رساں ہے۔

1. یہ کہ سائل جو کہ ایک شریف اور قانون کا پابند شہری ہے اور پولیس ڈیپارٹمنٹ میں بطور کنسٹیبل ملازمت کرتے تھے۔

جسکو مورخہ 29.12.2020 سپر ڈنٹ پولیس آف ہیڈ کوارٹر پشاور نے بوجہ ملوث ہونے مقدمہ علت 1080 مورخہ

28.10.2020 جرم 324.34.337F(ID(V) تھانہ مٹھراپشاور ملازمت سے برخاست کیا گیا تھا۔ یہاں پر یہ امر

قابل ذکر ہے کہ حکم مورخہ 29.12.2020 میں جرم 302.34 لکھ دیا ہے۔ حالانکہ جرم

324.34.337F(ID(V) ہیں جو کہ عدالت حضور کے حکم مورخہ 16.6.2021 سے صاف ظاہر ہے۔ (نقل

شناختی کارڈ سروس کارڈ حکم مورخہ 29.12.2020 سپر ڈنٹ پولیس آف ہیڈ کوارٹر پشاور لف ہیں)

2. یہ کہ بعد از مقدمہ بالا سائل نے محکمہ پولیس سے چالیس دن کی چھٹی لی یعنی مورخہ 29.11.2020 سے مورخہ

9.1.2021 تک جو کہ اسی دوران مورخہ 1.1.2021 کو سائل نے خود ہی مقدمہ بالا میں تھانہ میں گرفتاری دی اور

بعد از سائل کو بعد الت محمد طاہر اور نگزیب ایڈیشنل سیشن جج IX پشاور نے مورخہ 16.6.2021 کو مقدمہ بالا بے گناہ

ثابت ہونے پر بری کر دیا۔ (نقل فیصلہ لف ہے)

3. یہ کہ سائل روز وقوعہ کسی کام کے سلسلے میں لنڈی کوتل میں موجود تھا۔ سائل پر غلط دعویداری ہوئی ہے۔ سائل کے زیر

استعمال سم نمبرات 03149168117، 03469028475 کی CDR سے لوکیشن معلوم کی جاسکتی ہے۔

4. یہ کہ سائل جب جیل سے باہر آیا۔ تو محکمہ پولیس سے رجوع کیا تو سائل کو اہلکار محکمہ پولیس نے حکم مورخہ

29.12.2020 سے آگاہ کیا۔ تو سائل نے اس مقدمہ عنوان بالا میں عدالت حضور کا حکم مورخہ 16.6.2021 پیش کیا

Accepted
[Signature]

سہا اور سائل نے کہا کہ مجھے ملازمت پر دوبارہ بحال کرنے کا حکم صادر فرمایا جائے لیکن اہلکاران محکمہ پولیس سائل کو دوبارہ

ملازمت پر بحال کرنے میں لیت و لعل سے کام لے رہے ہیں۔ اس لئے آپ صاحبان سے بذریعہ ڈیپارٹمنٹل اپیل ملازمت پر

دوبارہ بحال کرنے کی استدعا کی جاتی ہے۔

لہذا استدعا کی جاتی ہے کہ بمستوری ڈیپارٹمنٹل اپیل سائل ساجد خان ولد فیروز خان پولیس کنسٹیبل بیلٹ نمبر 6365 کو

With all back benefit دوبارہ ملازمت پر بحال کیا جائے اور دیگر دادرسی جو قرین انصاف ہوں بحق سائل بھی

مرحمت فرمائی جائے۔

سائل: ساجد خان ولد فیروز خان پولیس کنسٹیبل بیلٹ نمبر 6365

موبائیل نمبر: 03469028475

29-06-2021

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Annex - 1

35

OFFICE OF THE
CAPITAL CITY POLICE OFFICER,
PESHAWAR

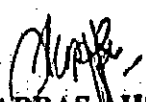
ORDER.

This order will dispose of the departmental appeal preferred by Ex-Constable Sajid Khan No. 6365 who was awarded the major punishment of "Dismissal from service" under PR-1975 by SP/HQ Peshawar vide OB No. 3527, dated 28.12.2020.

2- Short facts leading to the instant appeal are that the appellant while posted at PS East Cantt was proceeded against departmentally on the charges of his involvement in a criminal case vide FIR No.1080 dated 28-10-2020 U/S 324/34 PPC PS Mathra. His prolong absence from his lawful duty w. e. from 29.10.20 till his dismissal i.e 28.12.20 (Total 2 Months).

3- He was issued proper Charge Sheet and Summary of Allegations by SP/HQ Peshawar and DSP complaint and inquiry CCP Peshawar was appointed as enquiry officer to scrutinize the conduct of the accused official. The inquiry officer after conducting proper inquiry submitted his findings and found the accused official guilty, of the charges levelled against him in the charge sheet.

4- He was heard in person in O.R and the relevant record along with his explanation perused. During personal hearing the appellant failed to submit any plausible explanation in his defence. Therefore, his appeal for reinstatement in service is hereby rejected/file being also time barred, for 05 months.


(ABBAS AHSAN) PSP
CAPITAL CITY POLICE OFFICER,
PESHAWAR

ATTESTED


No. 4037-41 /PA dated Peshawar the 15 /10/2021

Copies for information and necessary action to the:-

1. SP/HQ, Peshawar.
2. DSP-Complaint & Inquiry CCP Peshawar.
3. OSI, CRC.
4. FMC along with Fuji Missal.
5. Official Concern.

توان شرف

نقار 32 روز تا 29

خلع و شلوار

در 32 روز تا 29 اس وقت ڈرائیور
کشیل راجر 6365 سب الہام بناب SHO صاحب دفتر رندہ
40 یوم وقت کاروں پر روان کرتے ہیں m To صاحب سے رابطہ
مقرر دوسرا ڈرائیور کا بندہ دیت کیا جائے

مذکورہ بالا
ذیل مطابق ایل میں

mm B Elcott
30/06/21

ATTACHED

صالح احمد

فقیر 24 ستمبر 2006

الوقت 8:30 صبح 11/6/06، بس روٹ کے طور پر 6365 پر پہنچا مینٹر کے پاس 37
 مینٹر کے پاس 29/10 سے عامر نے 6/10/06 کو ایک ڈیڑھ گھنٹہ تک صوفیوں کے ساتھ گفتگو کی اور 32/10
 کو ایک دن جو طلبہ تھا۔ 1- ڈیڑھ گھنٹہ تک گفتگو کی اور 2- طلبہ کو بتایا کہ BBA کی کیا ہے۔
 کیا طالبان اور طالبات MT میں کونسی لکھتے اور 3- MT سے کونسی میں (60 تا 90) سے لے کر
 سے یہی لکھتے ہیں۔ جب 3/11/06 کو MT کے کچھ لکھنے والے آئے۔ ڈیڑھ گھنٹہ تک گفتگو کی اور
 ڈیڑھ گھنٹہ تک گفتگو کی اور 4- طالبان کو بتایا کہ میں ڈیڑھ گھنٹہ تک صوفیوں کے ساتھ گفتگو کی اور
 دن روزت کا جو یہو ہے اس کے بارے میں بتایا۔ طالبان کو بتایا کہ میں ڈیڑھ گھنٹہ تک صوفیوں کے ساتھ گفتگو کی اور

کتاب شرح

29

عامر

روٹ

ص-6

ص-7

لکھنے والے کے پاس
 29/10 کو ایک ڈیڑھ گھنٹہ تک
 20

ایک دن جو طلبہ تھا
 29/10 کو ایک ڈیڑھ گھنٹہ تک
 20

ص-7
 ص-7

ص-7
 ص-7

6-11-20



ص-7

26-7-21

Scanned with CamScanner

Annex - J

حضرت عالی

تراش میں داخل کی گئی ہے اور اس کا نمبر 324 ہے

اس کا رجسٹریشن نمبر 6365 ہے اور اس کا رجسٹریشن ڈیٹا 03-12-2020 ہے

بذریعہ درخواست اس کا رجسٹریشن پیم کی گئی ہے اور اس کا رجسٹریشن نمبر 6365 ہے

اس کا رجسٹریشن ڈیٹا 03-12-2020 ہے

الراحم

اس کا رجسٹریشن ڈیٹا 03-12-2020 ہے

REGISTRATION
O.S No. 324
Date 4-12-2020
Peshawar

RECEIVED
[Signature]

رجسٹریشن ڈیٹا 03-12-2020 ہے

اس کا رجسٹریشن ڈیٹا 03-12-2020 ہے

اس کا رجسٹریشن ڈیٹا 03-12-2020 ہے

اس کا رجسٹریشن ڈیٹا 03-12-2020 ہے

03-12-2020

03-12-2020

Forwarded / PC

Current Page is released

04-12-20

By: [Signature]
Supt. of Police
Cantt Circle Peshawar
03/12/2020

From The Capital City Police Officer,
Peshawar.

To The Manager

HBK Mathura Pesh (0304)

NO 3271 /PO, date Peshawar the 4/12 /2020

Subject RELEASE OF PAY.

Memo:

Reference this office Letter No 3018 date 24/11/20

Pay in respect of Sajid Khan 6365 for the month
of Nov 2020 maintained vide your bank A/C NO 0003247900076403
is hereby released by the of SP HQ

It is therefore requested that his pay may please be
released.

**FOR CAPITAL CITY POLICE OFFICER,
PESHAWAR**

Annex - K

- 39 -

قیمت 50 روپے	103688			
ایڈوکیٹ: 		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل/ایسوسی ایشن نمبر BC-09-2683				
رابطہ نمبر: 0314-5086462				

بعدالت جناب: محترم جناب سروس ٹریسٹمنٹ صاحب ساہو

دعویٰ: <u>سروس</u>	منجانب: <u>سائل (ساجد خان)</u>
علت نمبر:	
مورخہ:	
جرم:	
تھانہ:	

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام ساہو کے لیے شہانہ بی بی اسد زینب کے لیے شہانہ بی بی اسد زینب کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقریر ثالث و فیصلہ بر حلف دینے جو اب دعویٰ اقبال اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لے جانے کے لیے لقمہ اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ برداشتہ منظور و قبول ہوگا دوران مقدمہ میں جو چیز چاہے ہر جانہ انوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سندر ہے

المقام: ساہو

المقام

نوٹ: اس وکالت نامہ کی فونوکاپی ناقابل قبول ہوگی۔

28.10.2022

ساجد خان

ساجد خان ولد فیروز خان ساہو
سلہ شیخ علیہ ڈاک خانہ گلبرگ چیمبر
پشاور

Before the Learned Service Tribunal
KPK, Pesh

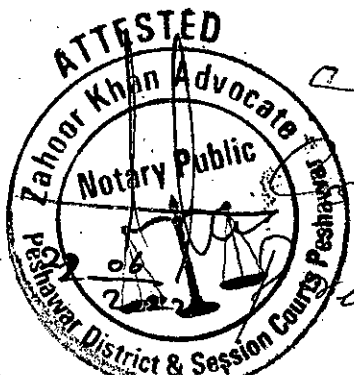
Sajid Khan vs Govt

Application for withdrawal
of the instant petition/appeal

Respectfully Sheweth,


1- That the above noted Petition/appeal
is pending before this honorable court
and is fix for today

2- That the grievance of Petitioner
mentioned in the departmental
order is removed by the
competent authority, hence the
present Application.



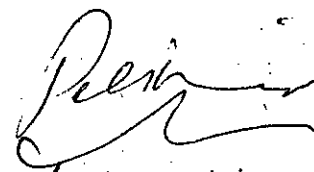
AFFIDAVIT

I declare the
the contents of
this Application
are true and
correct


Deponent

29/6/22

It is therefore requested
that the above Petition
of Petitioner may kindly
be withdrawn.


tuzil
Junaid Ashraf Wali
Adv



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Ex-PC Sajid Khan No. 6365. The petitioner was dismissed from service by Superintendent of Police, HQrs: Peshawar vide OR No. 3527, dated 28.12.2020 on the allegations that he while posted at Police Station East Cantt: Peshawar was involved in a criminal case vide FIR No. 1080, dated 28.10.2020 u/s 324/34 PPC Police Station Mathra and also remained absent from duty from 29.10.2020 till date of dismissal i.e. 28.12.2020 (total 60 months). His appeal was rejected by Capital City Police Officer, Peshawar vide order No. 4037-41/PA, dated 15.10.2021.

Meeting of Appellate Board was held on 19.05.2022 wherein petitioner was heard in person. Petitioner contended that he is innocent and he was acquitted by the court of Addl: Session Judge-IX, Peshawar vide judgment dated 16.06.2021.

Perusal of record revealed that petitioner has been acquitted u/s 265-K Cr.P.C by the court of Additional Session Judge-IX, Peshawar vide judgment dated 16.06.2021. Therefore, the Board decided that the petitioner is hereby re-instated in service and the period of absence as well as intervening period to be treated as leave of kind due, if any on his credit.

Sd/-

SABIR AHMED, PSP

Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar.

No. S/1955-61/22, dated Peshawar, the 2/6/2022.

Copy of the above is forwarded to the

1. Capital City Police Officer, Peshawar. One copy of Roll, one copy of file of the above named PC received in office Memo No. 14/CRC, dated 02.11.2021 is returned herewith for your office record.
2. Superintendent of Police, Headquarter, Peshawar.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

(DR. TAHID ULLAH) PSP
AIG/Establishment,

For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.