FORM OF ORDER SHEET

Court of _____

Case No.- 1907 /2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	23/12/2022	The appeal of Mr. Sibghat Ullah presented today by Syed Noman Ali Bukhari Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____. Notices be issued to appellant and his counsel for the date fixed. By the order of Chairman REGISTRAR.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1907 /2022

Sibghatullah V/S Police Deptt:

.....

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APPELLANT

THROUGH:

(SYED NOMAN ALI BUKHARI)
ADVOCATES, HIGH COURT
PESHAWAR
0306-5109438

Date: 23/12/2022

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

(1)

APPEAL NO. 1907 /2022

Mr. Sibghatullah , Junior Clerk (Ex-Senior Clerk),
DPO. Bannu.

.....**(Appellant)**

VERSUS

1. The inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Additional Inspector General of Police HQrs, Khyber Pakhtunkhwa, Peshawar.
3. The Regional Police Officer Bannu Region Bannu.

.....**(Respondents)**

APPEAL UNDER SECTION 4 OF THE KP SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 16/05/2022 WHEREBY THE PENALTY OF REVERSION FROM THE POST OF SENIOR CLERK TO THE POST OF JUNIOR CLERK WAS IMPOSED UPON THE APPELLANT AND AGAINST THE ORDER DATED 25/11/2022 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS.

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 16/05/2022 AND 25/11/2022 MAY PLEASE BE SET ASIDE AND THE APPELLANT MAY BE RESTORED TO HIS ORIGINAL POST OF SENIOR CLERK WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL

DEEMS FIT AND APPOPRIATE THAT MAY ALSO BE AWARADED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant was appointed as Junior Clerk in the police Department in year 1989 and the appellant performed his duties with great Zeal and Zest and due to best performance appellant was promoted to the rank of Senior Clerk in year 2007 and also has good service record throughout.

2. That the appellant was charge sheeted based upon statement of allegation wherein baseless allegation leveled against the appellant mentioned therein charge sheet. The appellant submitted reply to charge sheet and rebutted the allegations.**(Copy, statement of allegation ,charge sheet and reply are attached as Annexure- A & B).**

3. That the inquiry officer conducted inquiry in improper manner (in questioner form) other than the manner provided in E&D Rules 2011, which is alien to law. Moreover, the inquiry officer submitted in his finding that the accused appellant has prepared the bill for Sher Akbar in light of legal opinion and after recording remarks of competent authority regards the entitlement of salary in respect of Sher Akbar. The inquiry officer without proving any charge opined that the appellant had committed inefficiency and incompetency. **Copy of the finding and questioner is attached as annexure-C & D.**

4. That the authority instead of communicating the charges proved by the inquiry officer communicated the allegations levelled in the charge sheet in shape of final show cause notice, so the show cause notice served upon the appellant is not as per law and rules. The appellant again denied the allegation by offering plausible reason. But the copy of show cause reply is not available with the appellant may be requisition from the department. **Copy of the show cause notice is attached as annexure-E.**

5. That without considering the reply of the appellant, the major penalty of *"reversion from the Post of Senior Clerk to the post of Junior Clerk"* was imposed upon the appellant vide impugned order dated 16.5.2022

in violation of E&D rules 2011 and FR29. **Copy of the impugned order is attached as Annexure-F).**

6. That the appellant preferred departmental appeal against the order dated 16.5.2022 which was rejected vide order dated 25/11/2022 for no good grounds. **(Copy of Departmental appeal and rejection order are attached as annexure-G & H).**

7. That now the appellant come to this august Tribunal on the following grounds amongst others.

GROUNDS:

A) That the impugned order dated 16.5.20222 and 25-11-2022 are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.

B) That actual responsible inspector legal Muhammad Farooq who gives legal opinion in respect of salaries, as mentioned in the charge sheet but his departmental appeal was accepted by the authority and left unpunished. While with malafide intention the appellant was held responsible, which means that the appellant was mad scapegoat and has been punished for the fault of others. **Copy of order is attached as annexure-I.**

C) That the authority without considering the explanation of the appellant awarded major punishment on the charge of malafide which was not proved by the inquiry officer. So the appellant is punished without any fault.

D) That the Sher Akbar had been serving in Police Deptt: Bannu Region Bannu in the capacity of DSP/SDPO-Sub Division, Wazir Bannu since the merger of Levy/Khasadar in the police deptt. During this period he made FIRs. Seizure of NCP-vehicles, the high-ups made recommendation for his promotion, it is evident from the order annexed as annexure-I. Therefore, he filed application for released of salaries which is marked to PI Legal for legal opinion and Final Decision. So it is cleared there is no role of appellant or malafide intention because the appellant only prepare bill on direction of High Ups. **Copy of application is attached as annexure-J.**

E) That during the inquiry, the statement of witness recorded if any neither in the presence of the appellant nor provided opportunity to the appellant to cross examined the witness which is against the law and rules.

F) That the penalty order of the appellant is the violation of FR-29 as in the penalty order it was not mention the period of reversion to the post of junior clerk to be effective.

G) That the impugned order is void-ab- initio being passed under police rules 1975 but the appellant was related to ministerial staff and police rules 1975 is not applicable on him and Void also on the ground that passed by the incompetent authority.

H) That the principles of natural justice have ruthlessly been violated in colorable exercise of the powers which may amount to misuse of the power.

I) That appellant has not been dealt with according to law despite fact it is his inalienable fundamental right to be dealt with according to law as enshrines under article 4 of the constitution Islamic republic of Pakistan.

J) That learned competent authority violated the principle of audi alteram parterm without assigning any reason and the penalty was imposed in sheer violation of provisions contained in S-24(A)of the general clause Act,1887.

K) That the appellant was condemned unheard and has not been treated according to law and rules.

L) That the penalty of reversion to the lower post is very harsh and not commensurate with the guilt and the appellant is well qualified and trained and being the comptent officer deserves lenient view.

M) That the appellant has not been treated accordance with law, fair played justice, despite he was a civil servant of the province, therefore, the impugned order is liable to be set aside on this score alone.

N) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

(5)

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

APPELLANT
Sibghatullah

THROUGH:

(SYED NOMAN ALI BUKHARI)
ADVOCATES, HIGH COURT
PESHAWAR

CERTIFICATE:

It is certified that no other service appeal earlier has been filed between the present parties in this Tribunal, except the present one.

DEPONENT

LIT OF BOOKS:

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. The ESTA CODE.
3. Any other case law as per need.

(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT

(6)

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO._____/2022

Sibghatullah V/S Police Deptt:

AFFIDAVIT

I, Sibghatullah, (Appellant) do hereby affirm that the contents of this service appeal are true and correct, and nothing has been concealed from this honorable Tribunal.

DEPONENT

Sibghatullah

A 7

CHARGE SHEET

I, **Syed Ashfaq Anwar (PSP)**, Regional Police Officer, Bannu Region, Bannu as competent authority, hereby charge you, Senior Clerk Sibghat Ullah, the then Pay Officer DPO Office Bannu as follows:-

- That Sher Akbar was appointed as khasadar in 1977 vide Order No.857/APA dated 27.05.1977. On 18.04.2011, he was appointed as Lance Naik in BPS-06 in Levy Force vide Order No.408-17 dated 18.04.2011 on contract basis only by the Deputy Commissioner/Political Agent. As per DC/PA Office record, Sher Akbar Khan has been given extension twice-each time for three years i.e fist extension from 2011 to 2014 and second from 2014 to 2017. No extension has been given to him after 2017. The DC Office closed the salary of Sher Akbar Khan on 18.04.2017 on the expiry of his contracted period before merger. After the lapse of 02 years, 09 months & 14 days, Inspector Legal Muhammad Farooq Khan and the then Pay Officer Sibghat Ullah with malafide intention and some ulterior motives best known to them, started his salary on 02.02.2020, despite the fact that Sher Akbar Khan was no more a government servant. Thus, they both unlawfully and illegally favored Sher Akbar Khan to received the arrears of the period mentioned above and thus, Sher Akbar Khan made himself a part of police (through the back door) with the unlawful favor of Pay Officer and Inspector Legal as he opined "***Sher Akbar Khan was entitled to get salary***". Sher Akbar Khan has not been absorbed in police. His name has been sent neither by DC's Office nor forwarded to CPO Peshawar by DPO Office for absorption. Moreover, his name has not been forwarded and filtered through by the scrutiny committee within the meaning of Rule-3 of KP Khasadar Absorption into (KP Police) Rules 2019. Therefore, it is requested to initiate proper departmental action against the responsible persons-the then Inspector Legal Muhammad Farooq Khan and the then Pay Officer Sibghat Ullah, who were involved in the unlawful entry of Sher Akbar Khan in Police Department.

1. By reason of the above you appear to be guilty of misconduct under the Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules, 2011 vide Notification No.SO(REG-VI)E&AD/2-6/2010, dated 16th September, 2011 while exercising powers delegated vide Khyber Pakhtunkhwa Gazette Notification Endst: No.8511-8615/E-V, dated 28.12.2015 (amended vide CPO Peshawar addendum Notification No.4740-4850/E-V, dated 29.08.2017) and have rendered yourself liable to all or any of the penalties specified in the said rules.

2. You are therefore, directed to submit your defense within 07 days of the receipt of this Charge Sheet to the enquiry officer.

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

4. You are directed to intimate whether you desire to be heard in person.

5. A statement of allegation is enclosed.

4/3/22

Regional Police Officer,
Bannu Region,
Bannu
01/02/22

(8)

STATEMENT OF ALLEGATIONS

I, **Syed Ashfaq Anwar** (PSP), Regional Police Officer, Bannu Region, Bannu as competent authority, am of the opinion that Senior Clerk Sibghat Ullah, the then Pay Officer DPO Office Bannu has rendered himself liable to be proceeded against as he has committed the following misconduct within the meaning of Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules, 2011 vide Notification No.SO(REG-VI)E&AD/2-6/2010, dated 16th September, 2011 while exercising powers delegated vide Khyber Pakhtunkhwa Gazette Notification Endst: No.8511-8615/E-V, dated 28.12.2015 2015 (amended vide CPO Peshawar addendum Notification No.4740-4850/E-V, dated 29.08.2017).

SUMMARY OF ALLEGATIONS

- That Sher Akbar was appointed as khasadar in 1977 vide Order No.857/APA dated 27.05.1977. On 18.04.2011, he was appointed as Lance Naik in BPS-06 in Levy Force vide Order No.408-17 dated 18.04.2011 on contract basis only by the Deputy Commissioner/Political Agent. As per DC/PA Office record, Sher Akbar Khan has been given extension twice-each time for three years i.e fist extension from 2011 to 2014 and second from 2014 to 2017. No extension has been given to him after 2017. The DC Office closed the salary of Sher Akbar Khan on 18.04.2017 on the expiry of his contracted period before merger. After the lapse of 02 years, 09 months & 14 days, Inspector Legal Muhammad Farooq Khan and the then Pay Officer Sibghat Ullah with malafide intention and some ulterior motives best known to them, started his salary on 02.02.2020, despite the fact that Sher Akbar Khan was no more a government servant. Thus, they both unlawfully and illegally favored Sher Akbar Khan to received the arrears of the period mentioned above and thus, Sher Akbar Khan made himself a part of police (through the back door) with the unlawful favor of Pay Officer and Inspector Legal as he opined "***Sher Akbar Khan was entitled to get salary***". Sher Akbar Khan has not been absorbed in police. His name has been sent neither by DC's Office nor forwarded to CPO Peshawar by DPO Office for absorption. Moreover, his name has not been forwarded and filtered through by the scrutiny committee within the meaning of Rule-3 of KP Khasadar Absorption into (KP Police) Rules 2019. Therefore, it is requested to initiate proper departmental action against the responsible persons-the then Inspector Legal Muhammad Farooq Khan and the then Pay Officer Sibghat Ullah, who were involved in the unlawful entry of Sher Akbar Khan in Police Department.

1. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations **SP/Investigation and SDPO Rural-II Circle Bannu** are appointed as Enquiry Committee members.

2. The Enquiry Committee members shall provide reasonable opportunity of hearing to the accused, record statements etc and finding s within the targeted days after the receipt of this order.

3. The accused shall join the proceedings on the date, time and place fixed by the Enquiry Committee members.

Regional Police Officer,
Bannu Region,
Bannu

No. 490-93 /EC, dated 07-02-2022

Copies to:-

1. The District Police Officer, Bannu for information w/r to his office Memo: No. 225 dated 12.01.2022.
2. The Addl: SP, Bannu for information w/r to his office Memo: No.04/ASP dated 10.01.2022.
3. The Enquiry Committee for necessary action with the direction to complete the enquiry within stipulated period and submit findings.

B 9

بحوالہ چارج شیٹ مجاریہ جناب RPO صاحب بنوں مراسلہ نمبر 490-93/EC مورخہ 07/02/2022 معروض ہوں۔

کہ شیر اکبر خان نے ایک قطہ تحریری درخواست 24-12-2019 جناب ڈی پی او صاحب بنوں کو بغرض تنخواہ کھولنے واگزار کر دیا۔ درخواست جناب ڈی پی او صاحب نے من پے آفیسر کو مورخہ 26-12-2019 کو مارک کر دیا۔ بعدہ یہی درخواست جناب ڈی پی او صاحب نے مورخہ 08-01-2020 کو PI لیگل بنوں بغرض لیگل رائے، حتمی فیصلہ/کومینٹس مارک کیا۔ PI لیگل نے حکم کی تعمیل کرتے ہوئے۔ ایک تحریری نوٹ/لیگل رائے جناب ڈی پی او صاحب کو بغرض مزید کارروائی پیش کیا۔ جسمیں انہوں نے واضح الفاظ میں لکھا تھا۔ کہ درخواست کنندہ شیر اکبر خان تنخواہیں قانون، پالیسی کے مطابق لینے/وصول کرنے کا حق بنتا ہے۔ جو کہ جناب ڈی پی او نے حسب ضابطہ منظور کیا۔ تو من پے آفیسر نے مورخہ 02-02-2020 کو انسپکٹر لیگل کے رائے اور جناب DPO صاحب کی حکم کی تعمیل کرتے ہوئے شیر اکبر کیلئے پے بل تیار کر کے DPO صاحب نے منظور کیا۔ اور اکاونٹ آفس بھجوایا۔ من سائل کے پاس تنخواہ کھولنے اور دینے کا کوئی اختیار نہیں ہے۔ من سائل نے صرف لیگل رائے اور مجاز اتھارٹی کے حکم کی تعمیل میں دفتری ذمہ داری نبھائی ہے۔ مزید یہ کہ اکاونٹ آفس بنوں نے اس بل پر کوئی اعتراض نہیں اٹھایا ہے۔

سابقہ پے آفیسر ڈسٹرکٹ پولیس بنوں

11

جناب عالی!

بحوالہ نامہ مراسلہ نمبر 844 مورخہ 07/03/2022 بجاریہ جناب SP انوسٹی گیشن صاحب ضلع بنوں کے سلسلے میں پیرا وائز رپورٹ درج ذیل ہے۔

1 – ہاں جی۔ میں نے انسپکٹر لیگل کے قانونی رائے کی روشنی میں شیر اکبر خان کیلئے تنخواہ کا بل تیار کیا تھا۔ کیونکہ انسپکٹر لیگل کے قانونی رائے میں صاف اور واضح الفاظ میں لکھا گیا تھا کہ شیر اکبر خان تنخواہ لینے کا حق دار ہے۔ جہاں تک شیر آکبر کی پولیس سروس کا حصہ بنانے کا تعلق ہے، اس کیلئے انسپکٹر لیگل نے راہ ہموار کی میں نے انسپکٹر لیگل اور اتھارٹی کے حکم کی تعمیل میں کلریکل ڈیوٹی سرانجام دی ہے۔

2۔ شیر اکبر کیلئے کانسٹیبل گریڈ 07 میں تنخواہ کی بل تیار کی تھی۔

3۔ ہاں جی۔ تمام ترفکسیشن سروس ریکارڈ میں ہوئی تھی۔

4۔ شیر اکبر کیلئے جو بل بنایا تھا وہ ابھی مجھے یاد نہیں ہے کیونکہ کافی عرصہ ہو چکا ہے۔ مگر پے برانچ ریکارڈ سے کنفرم کی جاسکتی ہے۔ اور بل کی کاپی بھی ریکارڈ پر رکھی تھی۔ مگر وہ بھی پے برانچ ریکارڈ سے معلوم کی جاسکتی ہے۔

5۔ بل کی کاپی ریکارڈ پر موجود تھی جیسا کہ اوپر ذکر کیا گیا ہے اور چارج چھوڑنے کے وقت جانشین کو حوالے کیا۔ البتہ کیش بک پر چارج حوالہ کرنا ساری ریکارڈ کی حوالگی تصور ہوتا ہے جو کہ آج کل چلا آرہا ہے۔

6۔ انسپکٹر لیگل نے صاف طور تنخواہ کھولنے کا تحریر کیا تھا۔ اس صورت میں اکاونٹ آفس جانا یا نہ جانا کوئی معنی نہیں رکھتا۔ البتہ اگر اکاونٹ آفس نے کوئی Observation کی ہوتی تو اس وقت اکاونٹ آفس نہ جانے کی اہمیت بن سکتی تھی۔

7۔ پیرا گراف نمبر 6 قابل ملاحظہ ہے۔

8۔ جیسا کہ ریکارڈ سے واضح ہے کہ انسپکٹر لیگل نے ایک تنخواہ کھولنے کا نہیں تحریر کیا ہے بلکہ تنخواہیں کھولنے کا تحریر کیا ہے۔ اور شیر اکبر حصہ دار فورس کی پولیس میں انضمام سے لیکر آخر تک ڈی ایس پی/سرکل آفیسر سب ڈویژن وزیر کے پوسٹ پر ڈیوٹی سرانجام دے رہا تھا۔ لہذا انسپکٹر لیگل کا یہ کہنا کہ میں نے کسی تاریخ سے تنخواہ لینے کا نہیں تحریر کیا تھا کوئی اہمیت نہیں رکھتا ہے انھوں نے تنخواہیں کھولنے کا تحریر کیا تھا۔

9۔ شیر اکبر نے اپنا سروس بک بذات خود ہمیں حوالہ کیا تھا۔ اور سروس بک بمعہ پے بل بغرض مزید کاروائی میرے آفس اسسٹنٹ نے خود اکاونٹ آفس بنوں میں جمع کیا تھا۔

10۔ پیرا نمبر 9 اس سلسلے میں قابل ملاحظہ ہے

11۔ کسی کیطرف سے کوئی دباؤ نہیں تھا۔ میں نے جو بھی کیا ہے۔ سب کچھ انسپکٹر لیگل کے قانونی رائے کی روشنی میں کی ہے۔ کسی قسم کا دباؤ نہیں تھا۔ البتہ آفسران بالا اور حکومت کی پالیسی تھی کہ حصہ داروں کے ساتھ نرمی کی جاوے۔

سینئر کلرک

آفس DPO بنوں

D 18

FINDINGS REPORT IN R/O SENIOR CLERK SIBGHAT ULLAH THE THEN PAY OFFICER DPO OFFICE, BANNU.

The instant departmental proceedings relates to Senior Clerk Sibghat Ullah of DPO Office, Bannu who has been served with charge sheet based upon summary of allegations by competent authority (RPO Bannu) under KP Government Servants (Efficiency and Disciplinary)Rules, 2011, wherein, it has been alleged that the accused Senior Clerk, inter alia, had committed the following omissions/commissions:

That in the year 2020, he (accused Police officer) while posted as Pay Officer, Bannu had extended illegal and unlawful favour to Mr. Sher Akbar Khan by preparing arrear bill for him for the years 2017 to 2022 in spite of termination of his contract employment, in erstwhile FR Bannu, on 18.4.2017 by DC, Bannu. Owing to his undue favour, Mr. Sher Akber neither only managed arrear bill himself for the year 2017 to 2020 as well as usurped huge amount from govt: exchequer but also made himself as a part of police.

On receipt of charge sheet based upon Summary of allegations, issued vide RPO Office endst No. 490-93/EC dated 07.02.2022, the undersigned probed into the allegations. The reply of the accused police officer was perused and placed on inquiry file, wherein, he rebutted the leveled allegations on the grounds that Mr. Sher Akber Khan had submitted an application to the then DPO Bannu on 24.12.2019 for preparing/opening his salaries. On 26.12.2019, the said application was marked to him and on 08.01.2020, it was marked to Inspector legal for his legal opinion. On 02.02.2020, in the light of legal opinion of Inspector legal and remarks of competent authority, he drafted the in-questioned bill which was sanctioned by competent authority as well as processed by District Account Office Bannu with no observations. He further added that Inspector legal had opined that Sher Akber was entitled for salaries as per law, rules and policy, hence, he had acted and discharged his ministerial duty in the light of legal opinion of Inspector legal as well as remarks of competent authority.

In order to get the copy of bill, drafted for Sher Akber, the undersigned issued a Parwana for the incumbent Pay Officer (Sr Clerk Shahid Ullah), wherein, he was directed to provide the detail of salaries cashed by Sher Akber. On 24.02.2022, he was served with another Parwana whereby, he was directed to ensure his appearance before the undersigned. He accordingly recorded his statement along with productions of salary slips (thirty in numbers) but still not produce the copy of drafted bill, prepared for Sher Akbar by the accused Sr: clerk. When he was questioned about the procurement of photocopy of in-questioned drafted bill, he responded that the said bill was not available on his record. When he was questioned as to whether he had obtained the said bill from his predecessor while taking over the charge of his post? he responded that handing over/taking over charge of pay branch is limited only to cash book. When he was questioned as to whether it was rules or laws that only the charge of cash book would be taken or it was a practice? on this he refused to respond.

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SENIOR CLERK SIBGHAT ULLAH

On 11.03.2022, accused Sr; clerk submitted replies to the questionnaires served upon him on 07.03.2022. His replies were perused and placed on enquiry file, wherein, he inter alia responded that he had handed over the copy of drafted bill. prepared for Sher Akber, to his predecessor Sr; Clerk Shahid Ullah(incumbent Pay officer).

CONCLUSION:

After going through pros and cons of the inquiry it is concluded:

1. That accused Sr; Clerk Sibghat ullah has prepared the in-questioned bill for Sher Akber in the light of legal opinion of Inspector legal and after recording the remarks of competent authority, thereupon.
2. That he was found incompetent and inefficient without shadow of any doubt.
3. That missing of drafted bill, prepared for Sher Akber Kahn, is beyond understanding and its copy could further let the cat out of the bag. Therefore, separate searching inquiry is needed for its recovery and fixing responsibility to this effect.

Submitted for kind perusal and order please.

(ZIA HASSAN)
Superintendent of Police,
Investigation, Bannu.
25/3/2022

E 14

Dated:

FINAL SHOW CAUSE NOTICE

I, **Syed Ashfaq Anwar (PSP), Regional Police Officer, Bannu** as competent authority within the meaning of Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules, 20[illegible] vide Notification No.SO(REG-VI)E&AD/2-6/2010, dated 16th September, 2011 while exercising powers delegated to me under Article 31 of Police Order 2002 vide Khyber Pakhtunkhwa gazette Notification Endst: No.8512-8615/E-V, dated 28.12.2015 hereby serve you **Senior Clerk Sibghat Ullah, the then Pay Officer, DPO Office Bannu** with this final show cause notice for committing the following misconduct;

- That Sher Akbar was appointed as khasadar in 1977 vide Order No.857/APA dated 27.05.1977. On 18.04.2011, he was appointed as Lance Naik in BPS-06 in Levy Force vide Order No.408-17 dated 18.04.2011 on contract basis only by the Deputy Commissioner/Political Agent. As per DC/PA Office record, Sher Akbar Khan has been given extension twice-each time for three years i.e fist extension from 2011 to 2014 and second from 2014 to 2017. No extension has been given to him after 2017. The DC Office closed the salary of Sher Akbar Khan on 18.04.2017 on the expiry of his contracted period before merger. After the lapse of 02 years, 09 months & 14 days, Inspector Legal Muhammad Farooq Khan and the then Pay Officer Sibghat Ullah with malafide intention and some ulterior motives best known to them, started his salary on 02.02.2020, despite the fact that Sher Akbar Khan was no more a government servant. Thus, they both unlawfully and illegally favored Sher Akbar Khan to received the arrears of the period mentioned above and thus Sher Akbar Khan made himself a part of police (through the back door) with the unlawful favor of Pay Officer and Inspector Legal as he opined "***Sher Akbar Khan was entitled to get salary***". Sher Akbar Khan has not been absorbed in police. His name has been sent neither by DC's Office nor forwarded to CPO Peshawar by DPO Office for absorption. Moreover, his name has not been forwarded and filtered through by the scrutiny committee within the meaning of Rule-3 of KP Khasadar Absorption into (KP Police) Rules 2019. Therefore, it is requested to initiate proper departmental action against the responsible persons-the then Inspector Legal Muhammad Farooq Khan and the then Pay Officer Sibghat Ullah, who were involved in the unlawful entry of Sher Akbar Khan in Police Department.

That consequent upon the completion of inquiry conducted through Enquiry Officer SP/Inv: Bannu for which you were given opportunity of hearing and on going through the findings and recommendations of Enquiry Officer, the material on record and other connected papers, I am satisfied that you have committed gross misconduct by proving allegations and you have committed the above commission and omission.

As a result, I, as competent authority, have tentatively decided to impose upon you one or more punishments including dismissal as specified in the rules.

You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you.

If no reply to this notice is received within seven days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

Regional Police Officer
Bannu Region,
Bannu

F (15)

ORDER:

This order will dispose of departmental enquiry conducted against Sibghat Ullah Khan Senior Clerk, the then Pay Officer, DPO Office Bannu on the following allegations:-

- That Sher Akbar was appointed as Khassadar in 1977 vide order No.857 /APA dated 27.5.1977. On 18.4.2011, he was appointed as Lance Naik in BPS-06 in Levy Force vide order No.408-17 dated 18.04.2011 on contract basis only by the Deputy Commissioner/Political Agent. As per DC/PA office record, Sher Akbar Khan has been given extension twice-each time for three years i.e first extension from 2011-2014 and second from 2014 to 2017. No extension has been given to him after 2017. The D.C Office closed the salary of Sher Akbar Khan on 18.04.2017 on the expiry of his contracted period before merger. After the lapse of 02 years, 09 months and 14 days, Mr. Muhammad Farooq Khan, the then Inspector Legal Bannu and the then Pay Officer Sibghat Ullah with malafide intention and some ulterior motives best known to them, started his salary on 02.02.2020, despite the fact that Sher Akbar Khan wan no more a government servant. Thus, they both unlawfully and illegally favourd Sher Akbar Khan to receive the arrears of the period mentioned above and thus, Sher Akbar Khan made himself a part of police (through the back door) with the unlawful favor of Pay Officer and Inspector Legal Muhammad Farooq Khan as he opined – ***"Sher Akbar Khan was entitled to get salary"***. Sher Akbar Khan has not been absorbed in police. His name has been sent neither by DC's office nor forwarded to CPO Peshawar by DPO Office for absorption. Moreover, his name has not been forwarded and filtered through by the scrutiny committee within the meaning of Rule-3 of KP Khassadar Absorption into (KP Police) Rules 2019. Therefore, it is requested to intimate proper departmental action against the responsible persons – the then Inspector Legal Muhammad Farooq Khan and the then Pay Officer Sibghat Ullah (Senior Clerk), who were involved in the unlawful entry of Sher Akbar Khan in Police Department.
- Proper charge sheet and statement of allegation were issued to the accused officer on the above allegation and DPO Bannu was appointed as Enquiry Officer to scrutinize the conduct of the accused officer. The Enquiry Officer submitted his finding report vide his covering letter No.2385/PA dated 06.04.2022.

The accused officer was also heard in person in orderly room held on 28.04.2022. The justification provided by the accused officer has been found unconvincing. His plea that he processed the case on the basis of legal opinion given by Inspector Legal Muhammad Farooq Khan has been found implausible. Being a dealing hand it was his

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responsibility to verify the accused status in job, the reason of stoppage of his pay and the expiry of his service contract. His conduct in this case does not seem to be above board and malafide float on the surface of it. Due to his delinquency, Mr. Sher Akbar has drawn salaries of more than 02 years for which he was not legally entitled. This malafide action has also tacitly opened doors to his entry into service and pension claim.

Therefore, I, Syed Ashfaq Anwar, Regional Police Officer, Bannu Region Bannu, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules, 1975 (amended in 2014) hereby award him a major punishment of reversion in rank from Senior Clerk to Junior Clerk with immediate effect.

ORDER ANNOUNCED
OB No. 150
Dated: 16/05/2022.

Regional Police Officer,
Bannu Region,
Bannu

No. 1867-73/EC, dated Bannu the 16/05/2022

Cc:

- The Deputy Inspector General of Police, Headquarters, Khyber Pakhtunkhwa, Peshawar.
- The Asstt: Inspector General of Police/Establishment, Khyber Pakhtunkhwa, Peshawar.
- DPO-Bannu for information and necessary action.
- Office Supdt:/E.C RPO Office, Bannu.

SRC/PO / Official Concerned.

Regional Police Officer,
Bannu Region,
Bannu

for n/a. & information

4966
18/5/022

18/5/2022.

(18)

The Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.

Through Proper Channel.

Subject:- **APPEAL FOR SETTING ASIDE THE PUNISHMENT OF REVERSION IN RANK FROM SENIOR CLERK TO JUNIOR CLERK VIDE RPO OFFICE OB NO.150 DATED 16.05.2022.**

Respected Sir,

With due respect it is submitted that:-

1. That the appellant while serving as Pay Officer Bannu had drafted Bill for Sher Akbar, SDPO Sub Division Wazir in the light of legal opinion of Inspector legal dully approved by competent authority (DPO Bannu).

2. That the said Bill was processed by Treasury department (District Account Office Bannu) and passed it with no observation /objection.

3. After lapse of about 6/8 months, the opinion of legal Inspector was subjected to preliminary inquiry by Addl: SP / Bannu, wherein, Inspector legal and the applicant were recommended for proper departmental inquiry.

4. That the appellant was proceeded against departmentally through, SP/Investigation Bannu and during the inquiry proceedings, the appellant rebutted all the charges with cogent reasons (copy of reply is at A/A) But strange enough, that the inquiry officer, instead of conducting regular inquiry, limited the inquiry to the questioner. Inquiry conduction under questioner, is against the principle of natural justice, however, the appellant answered the questions properly (copy is at A/B).

5. That inquiry officer, instead of proving the leveled allegations, opined that the appellant had committed inefficiency and in competency.

6. That competent authority (RPO Bannu) instead of communicating the charges proved by the inquiry officer, communicated the allegations leveled in charge sheet in shape of final show case notice (copy is at A/C)

7. That the appellant again rebutted the allegations by offering plausible reasons as well as through personal hearing (copy of reply to showcase notice is at A/D)

8. That competent authority without considering the explanation of the appellant, awarded major punishment of reversion vide OB number quoted above, on the charge of mala fide which was not proved by the inquiry officer this charge too. That the appellant being a ministerial cadre have no authority of sanctioning any bill etc. The appellant has carried out the legal opinion of Inspector legal as well as order of competent authority whether it were ultra vires or intra vires.

9. That the appellant has been made a scapegoat for the doing of others and it is the basic principal of law that no one will be punished for the wrong doing of others. That the appellant has been

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awarded the aforesaid punishment under KP Police Rules 1975 with amendment 2014 which is applicable to executive staff not to ministerial cadre, hence the impugned order is ultra vires and not maintainable under the law.

That Mr. Sher Akbar, was availing all the perk and privileges as well as a protocol of DSP under the nose of each authorities which have become part of record and the appellant can produce the same during personal hearing.

That the applicant has complied the legal and competent authorities opinion and order respectively, with no observations from the treasury branch (DAO Office) it is humbly prayed that the impugned order may kindly be set aside for the best interest of justice.

Yours Sincerely,
Sibghat Ullah Khan

S.R.C

For n/a & further process

25/5/2022

H 20

OFFICE OF THE
INSPECTOR GENERAL OF POLICE,
CENTRAL POLICE OFFICE,
KHYBER PAKHTUNKHWA, PESHAWAR

No. 3446-50 /E-V, dated Peshawar the 25 / 11 /2022

ORDER

This order is hereby passed to dispose of the Departmental Appeal dated 27.05.2022 preferred by Sibghat Ullah Junior Clerk regarding major punishment of "Reversion from the post of Senior Clerk to Junior Clerk" awarded by Regional Police Officer, Bannu vide Order No. 1967-70/EC dated 16.05.2022, on the following grounds:-

> *"Sher Akbar was appointed as Khassadar in 1977 vide Order No. 857/APA dated 27.05.1977. On 18.04.2011, he was appointed as Lance Naik in BPS-06 in Levy Force vide Order No. 408-17 dated 18.04.2011 on contract basis only by the Deputy Commissioner/Political Agent. As per DC/PA office record, Sher Akbar Khan has been given extension twice each time for three years i.e. First extension from 2011-2014 and second from 2014 to 2017. No extension has been given to him after 2017. The DC office closed the salary of Sher Akbar Khan on 18.04.2017 on the expiry of his contracted period before merger. After the lapse of 2 years, 9 months and 14 days, Mr. Muhammad Farooq Khan, the then Inspector Legal Bannu and the then Pay Officer Sibghat Ullah with malafide intention and some ulterior motives best known to them, started his salary on 02.02.2020, despite the fact that Sher Akbar Khan was no more a government servant. Thus, they both unlawfully and illegally favourd Sher Akbar Khan to receive the arrears of the period mentioned above and the unlawful favor of Pay Officer and Inspector Legal Muhammad Farooq Khan as he opined "Sher Akbar Khan was entitled to get salary". Sher Akbar Khan has not been absorbed in Police. His name has been sent neither by DCs office nor forwarded to CPO/Peshawar by DPO Office for absorption. Moreover, his name has not been forwarded and filtered through by the scrutiny committee within the meaning of Rule-3 of KP Khassadar Absorption into (KP Police) Rules, 2019. Therefore, it is requested to initiate proper departmental action against the responsible persons the then Inspector Legal Muhammad Farooq Khan and the then Pay Officer Sibghat Ullah, who were involved in the unlawful entry of Sher Akbar Khan in Police Department."*

The said Junior Clerk was called in OR and also heard in person on 18.08.2022. A view was also sought from Regional Police Officer, Bannu, who was of the opinion that as Pay Officer it was the duty of the said official to do his due diligence and this matter was overlooked by appellant. The opinion of RPO/Bannu is plausible and the appellant has also failed to advance any credible explanation in rebuttal of the charges, therefore, his appeal is rejected/filed by the Competent Authority.

DPO Bannu

Sd/-
(MUHAMMAD ALI BABAKHEL) PSP
(UNPM, NSWC)
Additional Inspector General of Police, HQrs:
Khyber Pakhtunkhwa,
Peshawar

Endst: No. & date even.

Copy forwarded to the:-

- Additional Inspector General of Police, HQrs:, Khyber Pakhtunkhwa, Peshawar.
- Deputy Inspector General of Police, HQrs:, Khyber Pakhtunkhwa, Peshawar.
- Regional Police Officer, Bannu w/r to his office letter No. 2204/EC dated 27.05.2022.
- Office Superintendent Secret Branch CPO Peshawar.
- Official concerned.

(IRFAN ULLAH) PSP
AIG/Establishment
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar

I 21

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

ORDER

This order will dispose of the departmental appeal preferred by SI Legal Muhammad Farooq Khan (the then Inspector Legal) under Rule 11 of Khyber Pakhtunkhwa Police Rules 1975 (amendment 2014) against the order of his reversion in rank from Inspector (Legal) to Sub-Inspector (Legal) passed by Regional Police Officer, Bannu vide OB No. 151, dated 16.05.2021.

The appellant was awarded punishment of reversion in rank from Inspector (Legal) to Sub-Inspector (Legal) by Regional Police Officer, Bannu vide OB No. 151, dated 16.05.2021 on the allegations that he while posted as Inspector Legal DPO Office Bannu, one Sher Akbar was appointed as Khassadar in 1977 vide order No. 857/APA, dated 27.05.1977. On 18.04.2011, he was appointed as Lance Naik in BPS-6 in Levy Force vide order No. 408-17, dated 18.04.2011 on contract basis only by the Deputy Commissioner/Political Agent. As per DC/PA office record, Sher Akbar Khan has been given extension twice-each time for three years i.e first extension from 2011 to 2014 and second from 2014 to 2017. No extension has been given to him after 2017. The D.C office closed the salary of Sher Akbar on 18.04.2017 on the expiry of his contracted period before merger. After the lapse of 02-years, 09-months & 14-days, the appellant and the then Pay officer Sibghat Ullah with malafide intention and some ulterior motives best known to them, started his salary on 02.02.2020, despite the fact that Sher Akbar was no more a government servant. Thus, they both unlawfully and illegaly favoured Sher Akbar to receive the arrears of the period mentioned above and thus, Sher Akbar made himself a part of Police (through the back door) with the un-lawful favour of Pay Officer and the appellant as he opined "Sher Akbar was entitled to get salary". Sher Akbar has not been absorbed in Police, His name has been sent neither by DC's office nor forwarded to CPO Peshawar by DPO Office for absorption. Moreover, his name has not been forwarded and filtered through by the scrutiny committee within the meaning of Rule-3 of Khyber Pakhtunkhwa Khassadar Absorption into (Khyber Pakhtunkhwa Police) Rules 2019.

Meeting of the Appellate Board was held on 25.08.2022, wherein the petitioner was present and heard in detail.

Keeping in view of above, the Board unanimously agreed that order of RPO Bannu is set aside on the grounds that the applicant Sher Akbar has been performing duties as SDPO, S.D.W Sub Division Bannu before legal opinion was given by Inspector legal. DPO Office Bannu did not ascertain whether his name was included in the list sent by DC Office to DPO Office before merger and marking his application to Inspector Legal for legal opinion. It is also noted that appellant was careless in his dealing with the matter and kept his enquiry limited to the paper put up. He should have probed in detail. Furthermore the last remark given by him was twisted by Account Officer, to give advantage to Sher Akbar. Nevertheless, he is warned to be careful in future.

Sd/-
(SABIR AHMED) PSP
Addl: Inspector General of Police, HQrs:
Khyber Pakhtunkhwa, Peshawar.

No. S/2166-74/22,

Copy of the above is forwarded to the:

1. Regional Police Officer, Bannu. Two Service Books alongwith one original enquiry file of the above named Inspector received vide your office Memo: No. 2366/EC, dated 08.05.2022 is returned herewith for your office record.
2. District Police Officer, Bannu.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/Training, Khyber Pakhtunkhwa, Peshawar.
7. PA to AIG/Establishment, Khyber Pakhtunkhwa, Peshawar.
8. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
9. Office Supdt: E-II, CPO, Peshawar.

(DR. ZAHID ULLAH) PSP
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

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جناب عالی۔

گزارش ہے کہ سائل [illegible] DPC [illegible] کے دوران اپنی [illegible]

[illegible] سائل نے سال 2017 میں اس سلسلہ میں پشاور ہائی کورٹ [illegible]

[illegible] نے سائل کے حق میں فیصلہ دیا لیکن سائل کی [illegible] سال 2017 سے تا حال [illegible]

[illegible] سائل کے حق میں [illegible]

لہٰذا استدعا ہے کہ سائل کی [illegible] کے لئے حکم صادر فرمائیں [illegible]

[illegible]

العارض

[illegible]

Sher
24/12/019

R. DPC 3-75 / 26-12-19

PO
For n/action
immediately

26-12-019

Sir,
For process through pay officer please.

DSP HQ
261219

DI Legal

For legal opinion & final decision

3/1/2020

VAKALAT NAMA

APPEAL NO._____/2022

IN THE COURT OF KP Service Tribunal, Peshawar

Sibghatullah. Appellant
Petitioner
Plaintiff

VERSUS

Police Deptt Respondent (s)
Defendants (s)

I Sibghatullah (Appellant) do hereby appoint and constitute the ***SYED NOMAN ALI BUKHARI Advocate High Court*** for the aforesaid Appellant(s), Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party to commence and prosecute / to appear and defend this action / appeal / petition / reference on my / our behalf and al proceedings that may be taken in respect of any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take documents, to accept the process of the court, to appoint and instruct council, to represent the aforesaid Appellant, Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party agree(s) ratify all the acts done by the aforesaid.

DATE_____/20

(CLIENT)

ACCEPTED

SYED NOMAN ALI BUKHARI
ADVOCATE HIGH COURT
BC-15-5643

CELL NO: 0306-5109438