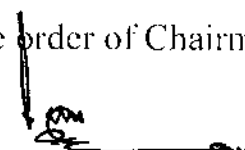


FORM OF ORDER SHEET

Court of _____

Case No.- 100/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	10/1/2023	<p>The appeal of Mr. Sajjad Khan presented today by Mr. Noor Muhammad Khattak Advocate. It is fixed for preliminary hearing before touring Single Bench at Swat on _____. Parcha Peshi is given to appellant/counsel.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 100 /2023

SAJJAD KHAN

VS


POLICE DEPTT:

I N D E X

S. NO.	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGE
1.	Memo of Appeal with affidavit	-----	1-3/A
2.	Copy of FIRs, Bail orders & Impugned order	A, B & C	4-7
3.	Copies of orders/judgments, departmental appeal & rejection order	D, E, F & G	8-11
4.	Copy of Revision Petition	H	12-15
5.	Vakalatnama	-----	16

APPELLANT

Through:


NOOR MOHAMMAD KHATTAK,
ADVOCATE
SUPREME COURT OF PAKISTAN

-1-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 100 /2023

Mr. Sajjad Khan, Constable No.6065,
Police Line Bajaur.

.....APPELLANT

VERSUS

- 1- The Inspector General of Police Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Regional Police Officer, Malakand Division.
- 3- The District Police Officer, Bajaur.

..... RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUNGNEED ORDER DATED 25.04.2022 WHEREBY THE APPELLANT HAS BEEN REMOVED FROM SERVICE AND AGAINST THE APPELLATE ORDER DATED 19.09.2022 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS AND AGAINST NO ACTION TAKEN ON THE REVISION PETITION OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the impugned orders dated ~~25~~ 25.04.2022 and ~~19~~ 19.09.2022 may very kindly be set aside and the appellant may please be reinstated into service with all back benefits. Any other remedy which this august Service Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:

- 1- That the appellant was appointed as Constable in the respondent Department and was serving the respondent Department quite efficiently and up to the entire satisfaction of his superiors.
- 2- That during service the appellant was falsely charged in FIR's No.13 dated 23.2.2022 and No.15 dated 25.2.2022. That in both the FIR's the appellant was granted bail by the competent court of

law but unfortunately the respondent department without waiting for the decision of the trial Court and without conducting regular inquiry in the matter straight away issued the impugned order dated 25.4.2022 whereby major penalty of removal from service was imposed on the appellant. Copies of the FIRs, bail order and impugned order are attached as annexure **A, B and C.**

- 3- That after earning acquittal in case FIR No.13 and regular bail in case FIR No.15 the appellant visited the concerned quarter for joining of duty but in response the appellant was handed over the impugned order dated 25.4.2022. That feeling aggrieved the appellant preferred departmental appeal before the respondent No.2 but the same was rejected by the respondent no.2 on no good grounds. Copies of the orders/judgments, departmental appeal and rejection are attached as annexure **D, E, F & G.**
- 4- That feeling aggrieved the appellant filed Revision petition before the respondent No.1 but no reply has been received so far. Copy of the revision petition is attached as Annexure **H.**
- 5- That appellant, having no other remedy, prefer the instant appeal on the following grounds amongst the others.

GROUND:

- A- That the impugned order dated 25.04.2022 and appellate order dated 19.09.2022 are against the law, facts, norms of natural justice and materials on the record, hence not tenable in the eye of law therefore are liable to be set aside.
- B- That appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That no charge sheet and statement of allegations what so ever has been served on the appellant prior to the issuance of the impugned order.
- D- That no show cause notice has been issued to the appellant by the respondents prior to the issuance of the impugned order dated 25.4.2022.
- E- That no right of personal hearing/personal defense was given to the appellant before issuance of the impugned orders.
- F- That no regular enquiry has been conducted in the matter and as such the respondents violated the E&D rules, 2014 while issuing the impugned order dated 25.4.2022.

G- That the respondents acted in arbitrary and mala fide manner while issuing the impugned orders dated 25.04.2022 and 19.09.2022.

H- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated: 3.1.2023

APPELLANT



SAJJAD KHAN

THOROUGH



**NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT**



WALEED ADNAN



UMAR FAROOQ MOMAND



MUHAMMAD AYUB



KHANZAD GUL

ADVOCATES

AF

3/A

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL No. _____/2023

SAJJAD KHAN

VS

POLICE DEPT:

AFFIDAVIT

I, Sajjad Khan, Constable No.6065, Police Lines, Bajaur do hereby solemnly affirm on oath that the contents of the above appeal are true and correct to the best of my knowledge and believe and nothing has been concealed from this Honorable Tribunal.



DEPONENT

کاؤنٹر فائل ابتدائی اطلاع رپورٹ

فارم نمبر ۲۳-۵ (۱)

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ 164 مجموعہ ضابطہ نو جداری

تھانہ :- خار ضلع :- باجوڑ

علت نمبر :- 15 تاریخ وقت وقوعہ 22-2-23 وقت نامعلوم

1	تاریخ وقت رپورٹ :- 22-2-23 وقت 15:40 بجے	چاکیڈگی پرچہ
2	نام و سکونت اطلاع دہندہ مستغیث	اشفاق علی خان ولد تاج علی خان ساکن غریب آباد
3	مختصر کیفیت جرم (معد دفعہ) حال اگر کچھ لیا گیا ہو۔	PPC 381-A-34
4	جائے وقوعہ فاصلہ تھانہ سے اور سمت :-	نزد عسکری پمپ میٹرنی ہوم خار بفاصلہ تقریباً 1 کلومیٹر جانب غرب از تھانہ
5	نام و سکونت ملزم	سجاد خان ولد نور محمد۔ امان اللہ ولد عزیز الرحمن ساکن صدیق آباد پھانگ
6	کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو	حسب رائے جناب ڈی پی پی صاحب پر چر دیا گیا
7	تھانہ سے روانگی کی تاریخ وقت	بہ سبیل ڈاک

ابتدائی اطلاع نیچے درج کرو۔

مستغیث مندرجہ خانہ نمبر 2 کے رپورٹ بحوالہ مد 14 روز نامہ 22-02-02 میں درج کر کے جس پر 157 ض ف شروع کی تھی دوران انکواری مستغیث بالانے ملزمان بالا پر باقاعدہ دعویداری کر کے عدی کے مجسٹریٹ بیان میں قلمبند کر کے انکواری پر جناب ڈی پی پی صاحب سے قانونی رائے و رہنمائی حاصل حاصل کر کے حسب رائے جناب DPP صاحب بر خلاف ملزم چر بجرم بالا چاک کیا جا کر نقل پر چر معد انکواری کا فڈات بغرض تفتیش حوالہ HC لائق شاہ کی جاتی ہے افسران بالا کو اطلاع دی جا رہی ہے عدی کے مجسٹریٹ بیان ذیل ہے پر چر گزارش ہے دستخط انگریزی میان زیر دفعہ 164 ض ف حلفا بیان کیا کہ مورخہ 22/2/02 بوقت شب نامعلوم کسی ملزم / ملزمان نامعلوم نے میرا ملکیتی گاڑی موٹر کار سوزوکی مہران ماڈل 2004 رجسٹریشن نمبر HF-159 انجن نمبر 290734 جیس نمبر 829268 میرے گھر کے قریب واقعی نزد عسکری 1 پمپ نے سرقت کر کے لے گیا تھا چوری کے بابت میں نے تھانہ میں رپورٹ کر کے جو قلمد 14 روز نامہ 22/2/02 میں درج کی تھی معلومات و پید براری پر مجھے پورا یقین و تسلی ہے کہ میرا ملکیتی گاڑی متذکرہ بالا جس کا مبلغ 300000/- روپے ہے ملزم سجاد ولد نور محمد ساکن خانے ماموند، امان اللہ ولد عزیز الرحمن ساکن صدیق آباد پھانگ نے مشترکہ طور پر سرقت کی ہے میں اپنا گاڑی چوری کرنے کا برخلاف ہر دو کسان بالا دعویداری کرتا ہوں سب یہی میرا بیان ہے جو کہ حقیقت پر مبنی ہے پڑھ کر دست تسلیم کیا العبد اشفاق علی خان ولد تاج علی خان ساکن غریب آباد اسماعیلہ ضلع صوابی حال نزد عسکری دن پمپ خار باجوڑ شناختی کارڈ نمبر 1-09277821-16202-0301-8983633 نمبر جناب عالی نقل بمطابق اصل ہے۔

دستخط انگریزی

فارم نمبر (A)

ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس ذمہ دہ شدہ پر واقعہ 152 مجموعہ ضابطہ نوعداری

نام	بابا جگر
شعبہ	پولیس ایوانہ 102
تاریخ	23/02/22
سزاوتی پورٹ	11/04/22
جنگل	بھنگی پور
سزاوتی پورٹ	23/02/22
جنگل	بھنگی پور
سزاوتی پورٹ	11/04/22
جنگل	بھنگی پور

ابتدائی اطلاع شیخ درویش کے گھر سے ملنے والی ایک گولہ باریک بندوق کی کاپی فراہم کی گئی ہے۔ گولہ باریک بندوق کی کاپی فراہم کرنے والے کی شناخت کی جا رہی ہے۔ گولہ باریک بندوق کی کاپی فراہم کرنے والے کی شناخت کی جا رہی ہے۔

گولہ باریک بندوق کی کاپی فراہم کرنے والے کی شناخت کی جا رہی ہے۔ گولہ باریک بندوق کی کاپی فراہم کرنے والے کی شناخت کی جا رہی ہے۔ گولہ باریک بندوق کی کاپی فراہم کرنے والے کی شناخت کی جا رہی ہے۔

گولہ باریک بندوق کی کاپی فراہم کرنے والے کی شناخت کی جا رہی ہے۔ گولہ باریک بندوق کی کاپی فراہم کرنے والے کی شناخت کی جا رہی ہے۔ گولہ باریک بندوق کی کاپی فراہم کرنے والے کی شناخت کی جا رہی ہے۔

گولہ باریک بندوق کی کاپی فراہم کرنے والے کی شناخت کی جا رہی ہے۔ گولہ باریک بندوق کی کاپی فراہم کرنے والے کی شناخت کی جا رہی ہے۔ گولہ باریک بندوق کی کاپی فراہم کرنے والے کی شناخت کی جا رہی ہے۔

گولہ باریک بندوق کی کاپی فراہم کرنے والے کی شناخت کی جا رہی ہے۔ گولہ باریک بندوق کی کاپی فراہم کرنے والے کی شناخت کی جا رہی ہے۔ گولہ باریک بندوق کی کاپی فراہم کرنے والے کی شناخت کی جا رہی ہے۔

گولہ باریک بندوق کی کاپی فراہم کرنے والے کی شناخت کی جا رہی ہے۔ گولہ باریک بندوق کی کاپی فراہم کرنے والے کی شناخت کی جا رہی ہے۔ گولہ باریک بندوق کی کاپی فراہم کرنے والے کی شناخت کی جا رہی ہے۔

1951-PS-1611
23.2.22

۱۹۵۱-۱۶۱۱-۳

فارم نمبر ۲۳-۵ (۱)

ابتدائی اطلاعی رپورٹ

کاؤنٹر فائل

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زبردفعہ 154 مجموعہ ضابطہ فوجداری

ضلع :- ہاجوڑ

تھانہ :- خار

تاریخ وقت وقوعہ 06-02-2022 وقت شب نام معلوم

علت نمبر :- 13

1	تاریخ وقت رپورٹ :- 22/2/22 وقت 18:10 بجے	چاکیدگی پرچہ 23-02-2022 وقت 14:00 بجے
2	نام و سکونت اطلاع دہندہ مستغیث	سیراج الحق ولد نیاز الحق ساکن حاجی لونگ تحصیل خار
3	مختصر کیفیت جرم (معد دفعہ) حال اگر کچھ لیا گیا ہو۔	PPC 380-34
4	جائے وقوعہ فاصلہ تھانہ سے اور سمت :-	دکان از ان اعلیٰ مقدمہ واقع شانرے بقا صلا قریب 5 کلومیٹر جاب شرق از قنات
5	نام و سکونت ملزم	سجاد خان ولد نور محمد۔ امان اللہ ولد عزیز الرحمن۔ صدام حسین ولد ملک گل۔
6	کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو	حسب رائے جناب ڈی پی پی صاحب پرچہ دیا گیا
7	تھانہ سے روانگی کی تاریخ وقت	بہ سبیل ڈاک

ابتدائی اطلاع نیچے درج کرو۔

مستغیث مندرجہ خانہ نمبر 2 نے ایک تحریری درخواست جناب ایس ایچ اوصاحب میں دائر کی تھی جو مد 18 روز نامچ 22/02/22 میں درج کر کے مقدمہ بدست انکوائری دریافت زبردفعہ 152 شروع کی تھی دوران انکوائری مستغیث بالا ملزمان پر باقاعدہ دعویداری کر کے جس کے مجسٹریٹی بیان زبردفعہ 164 ض ف کر کے انکوائری پر جناب ڈی پی پی صاحب سے بذریعہ تحریری درخواست قانونی رائے رہنمائی حاصل کر کے جناب ڈی پی پی صاحب برخلاف ملزمان بالا پرچہ مجرم بالا چاک کیا جا کر نقل پرچہ بعد انکوائری کاغذات بغرض تفتیش حوالہ HC بالا چیا جا کر نقل پرچہ بعد انکوائری کاغذات بغرض تفتیش حوالہ HC کا پائی جاتی ہے افسران بالا کو اطلاع دی جا رہی ہے مدعی کی مجسٹریٹی بیان ذیل ہے پرچہ گزارش ہے دستخط انگریزی۔ بیان حلفی زبردفعہ 164 ض ف از ان سیراج الحق ولد ضیاء الحق قوم موئین خیل بھر قریب 18 سال ساکن حاجی لونگ تحصیل خار حلفاً بیان کیا کہ بمورخہ 06-2-22 بوقت شب نام معلوم میرے دکان واقع شانرے سے کسی ملزم/ملزمان کا معلوم دیگر سپر پائرس سامان تقریباً مبلغ 200000 دو لاکھ روپے کا چوری کر کے لیا گیا اس کے باعث میں تھانہ خار میں تحریری درخواست جناب ایس ایچ اوصاحب کے خدمت میں دائر کی تھی چونکہ ابھی مجھے پورا یقین اور تسلی ہے کہ میرے دکان کا جملہ سامان، مسیان سجاد خان ولد نور محمد ساکن۔ امان اللہ ولد فرزند الرحمان ساکن مارک، پھانک نے مشترکہ طور پر چوری کی ہے میں اپنے دکان سے چوری کرنے کا برخلاف دو کسان مسیان امان اللہ، سجاد خان دعویداری کرتا ہوں بس یہی میرا بیان ہے جو کہ با مستغیث پر مبنی ہے پڑھ کر سن کر درست تسلیم کیا العبد سیراج الحق ولد ضیاء الحق سان حاجی لونگ تحصیل خار ضلع ہاجوڑ۔ موباء نمبر 0304-1782285 جناب عالی نقل بمطابق اصل ہے۔

دستخط انگریزی

Order Sheet

Proceedings

V B"

-6-

IN THE COURT OF NAJEEB-UL-HAQ,
SENIOR CIVIL JUDGE/JUDICIAL MAGISTRATE, BAJAUR

O.....03
18/03/2022

FIR No. 15
U/S 381-A, 34 PPC

Dated 25/02/2022,
P.S. Khar, Bajaur

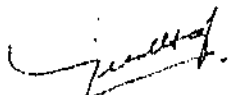
Accused/petitioner through counsel present. APP for the state present while complainant also present

Accused/petitioner namely Arman Ullah S/o Aziz Ur Ruhman seeks his post arrest bail in case FIR No. 15 dated 25/02/2022 U/S, 381-A, 34 PPC registered at Police Station Khar, District Bajaur.

Arguments heard and record perused. Perusal of record shows that accused/petitioner was charged in the instant case along with other co-accused. As the co-accused Sajjad Khan has already been released on bail on the basis of compromise vide order dated 04.03.2022. Therefore rule of consistency also attracted to the present case.

So in the light of statement of complainant the accused/petitioner is entitled for the concession of bail. The application in hand is accepted. Accused/petitioner be released on bail subject to furnishing bail bonds of Rs. 80,000/- with two reliable sureties each in the like amount. Copy of this order be placed on police file and be returned to the quarter concerned while file of this be consigned to record room after necessary completion and compilation.

Announced:
18/03/2022


Najeeb-Ul-Haq
SCJ/Judicial Magistrate,
Bajaur

CHECKED

COPIST

ATTESTED

DATE 06.03.2022





OFFICE OF THE
DISTRICT POLICE OFFICER,
BAJAUR AT KHAR

No. 1317/BP, dated 25/04/2022 7

OFFICE ORDER.

SHO Khar reported vide DD No. 13 dated 06.10.2021 that Constable Sajjad Khan No. 6065 of this District Police was charged accused in case FIR No. 13 U/s No.380-34PPC dated 23.02.2022 & No.15 U/s 381A-34PPC dated 25.02.2022 PS Khar.

In view of the above report of SHO the delinquent official was subjected to departmental action and placed under enquiry.

The enquiry officer after conducting enquiry submitted his recommendations to the undersigned, that however, did not agree to the recommendation of the enquiry officer, therefore, entrusted the enquiry to Inspector Mazoom Khan.

Inspector Mazoom Khan enquiry officer after through probe into the matter submitted his discreet findings on the basis of available record and submitted that delinquent police official is involved in case FIR No. 13 U/s No.380-34PPC dated 23.02.2022 & No.15 U/s 381A-34PPC 25.02.2022 PS Khar; hence recommended that major punishment may be imposed on the said official.

Therefore, I Abdus Samad, District Police Officer, Bajaur in exercise of power vested under (E&D) rules 1975 with amendment 2014 and consequent upon recommendations of Enquiry Officer awarded Constable Sajjad Khan No. 6065 major penalty of removal from service with immediate effect due to his involvement in criminal case which is against good order and discipline in the Police Force.

OB # AEO 119

25/04/2022

DISTRICT POLICE OFFICER,
BAJAUR AT KHAR.

No. 1318-26
/B.P

Copy forwarded to the:

1. Regional Police Officer, Malakand Division.
2. District Accounts Officer, Bajaur.
3. SP Investigation, Bajaur.
4. Sub Divisional Police Officer, Khar & Nawagai.
5. Lines Officer, Police Lines Bajaur.
6. Accountant/Pay Officer, District Police Office, Bajaur.
7. Station House Officer, Khar.
8. OASI/OHC, District Police Office, Bajaur.

DISTRICT POLICE OFFICER,

"D" - 8 -
- 10 -

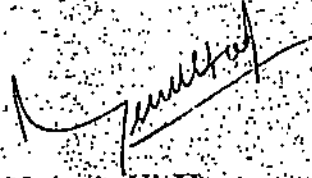
Order#07
15.06.2022

APP Arshad Ali for the state present. Accused on bail present. Complainant is also in attendance. Today the case is fixed for attendance, however the complainant stated at the bar that he has patched up the matter with the accused Sajjad and Aman Ullah and forgave the accused in the name of Allah and if the accused are acquitted in the instant case, he has got no objection, in this regard statement of complainant recorded and placed on file. The accused Saddam Hussain has already been acquitted U/s 249-A Cr.PC on the basis of compromise vide order dated 25.04.2022.

As the complainant has affected compromise with the accused Sajjad and Aman Ullah and it is a settled principle of law that a genuine compromise should be considered. Thus the compromise between the parties is accepted and the accused are hereby acquitted on the basis of compromise in case FIR No. 13 dated 23.02.2022 U/s 380, 34 PPC, PS Khar District Bajaur. Sureties are also absolved from the liability of bail bonds. Case property (if any) be dealt in accordance with law.

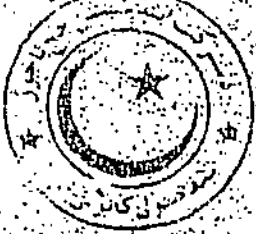
File be consigned to record room after necessary completion and compilation.

Announced
15.06.2022


Najeeb-Ul-Haq
Senior Civil Judge/JM
Bajaur

CHECKED
COPIES
ATTESTED

DATE
15.06.2022



C Order
Sheet

Proceedings

9-1-E" (MP)

**IN THE COURT OF NAJEEB-UL-HAQ,
SENIOR CIVIL JUDGE/JUDICIAL MAGISTRATE, BAJAUR**

O.....02
27/05/2022

FIR No. 15,
US 381-A, 34 PPC.

Dated 25/02/2022,
P.S Khar, Bajaur.

M.P Arshad Ali for the state present. Accused/petitioner through counsel present.

Record available before the Court. Accused/petitioner namely Suddam Hussain S/o Mahang Gul seeks his post arrest bail in case FIR No. 15 dated 25/02/2022 U/Sec 381-A, 34 PPC registered at Police Station Khar, Bajaur.

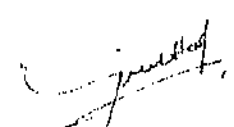
Arguments heard and record perused.

Record Perused, which reveals that the accused/petitioner is charged in the instant FIR.

Since the section of law leveled against the accused/petitioner carries punishment of less than 10 years which does not fall within the prohibitory clause of 497 Cr.PC. The accused/petitioner has not recorded any confessional statement in the instant case. Grant of bail in such like cases is a rule, while refusal is an exception.

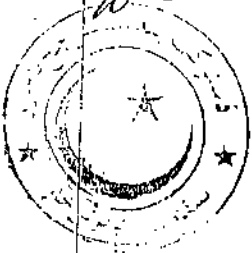
Thus in these circumstances the accused/petitioner is entitled for the concesson of bail, hence the application in hand is accepted. Accused/petitioner be released on bail subject to furnish bail bonds of Rs. 80,000/- with two sureties each in the like amount. Copy of this order be placed on police file and be returned to the quarter concerned while file of this be consigned to court room after necessary completion and compilation.

Announced:
27/05/2022


Najeeb-Ul-Haq
SC/Judicial Magistrate,
Bajaur

CHECKED
COPYIST
ATTESTED

DATE 20.06.2022





-11-190

**OFFICE OF THE
REGIONAL POLICE OFFICER, MALAKAND
AT SAIDU SHARIF SWAT.
Ph: 0946-9240388 & Fax No. 0946-9240390
Email: ebmalakandregion@gmail.com**

ORDER

This order will dispose of appeal of Ex-Constable Sajjad Khan No.6056 of Bajaur District, in connection with major punishment awarded by the District Police Officer, Bajaur vide OB No.119, dated 25-04-2022 i.e. removal from service with immediate effect due to his involvement in criminal case which is against good order and discipline in the Police Force.

Brief facts of the case are that the Line Officer, Police Line Bajaur vide DD No.13, dated 06-10-2021 submitted that as per report of security Incharge line gate Police Lines Bajaur, Constable Sajjad Khan No.6056 was absent from his duty since 04-10-2021 endorsed by OHC Bajaur Police on 07-10-2021. Pursuance to the above report he was issued Show Cause Notice & placed under suspension and his salary was stopped on 05-11-2021. However, he did not tender reply to the show cause notice, hence subjected to departmental action and Charge Sheeted vide No.601/B.P, dated 23-02-2022 and SDPO Khar was appointed as Enquiry Officer. The investigation officer, PS Khar vide report dated 28-02-2022 submitted that said Constable Sajjad Khan No.6056 is also nominated accused in case FIR No.13, dated 23-02-2022 U/S 380,34 PPC and FIR No.15, dated 25-02-2022 U/S 381-A, 34 PPC PS Khar which was marked to the enquiry officer to consider the said in the enquiry. The Enquiry Officer, after through probe into the matter submitted his recommendation that major penalty of reduction of increment for the period of three years may be imposed as the said official being involved in serious cases of stealing, however, the District Police Officer, Bajaur being competent under the rules did not agreed with recommendation of the Enquiry Officer and entrusted the enquiry file to Inspector Mazoom Khan for re-inquiry for departmental enquiry as per rules. Meanwhile, the investigation officer PS Loesam District Bajaur vide report dated 19-04-2022 submitted that Constable Sajjad Khan No.6056 is nominated in case FIR No.17, dated 12-04-2022 U/S 392, 34 PPC PS Loesam. The Enquiry Officer, after conducting enquiry wherein statement of the said delinquent official was also recorded recommended that the said Constable be imposed with major punishment, hence removed from service vide OB No.119, dated 25-04-2022.

He was called in Orderly Room on 07-09-2022 and heard him in person, but he did not produced any cogent reason to defend the charges leveled against him, therefore, his appeal is hereby rejected.

R. Asghar
Regional Police Officer,
Malakand Region Swat

No. 9961 /E,
Dated 19-9- /2022.

Copy to the District Police Officer, Bajaur for information with reference to his office Memo: No.1932/BP, dated 24-06-2022. Enquiry file of above-named Ex-Constable, received with the Memo: under reference is returned herewith for record in your office.

Encls:- Enquiry file

-12- "H"

BEFORE THE WORTHY INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA AT PESHAWAR

Appeal No _____ of 2022

Sajjad Khan Ex Constable Department of Police District
Bajaur, son of Noor Muhammad resident of Ghakay, P.O
Lagray, Tehsil Mamund, District Bajaur.Appellant

VERSUS

- 1) District Police Officer Bajaur.
- 2) Regional Police Officer Malakand Division at Saidu
Sharif, SwatRespondents

APPEAL AGAINST THE ORDER DATED 19-09-2022
PASSED BY THE RESPONDENT NO. 2 WHEREBY
HE DISMISSED THE APPEAL OF THE APPELLANT
AND MAINTAINED THE ORDER DATED 25-04-
2022, WHEREBY THE APPELLANT WAS
REMOVED FROM SERVICE.

PRAYER:-

On acceptance of this appeal the orders passed by the
Respondents be declared as illegal, discriminatory,
against law, void ab-initio and may graciously be set
aside the same and the appellant may be reinstated on
service with all back benefits. Any other relief which
are proper in the instant circumstances of the may also
be granted though not specifically asked for.

Respectfully Sheweth,

- 1) That the appellant was appointed in District Police Bajaur as constable.
- 2) That the appellant performed his duties honestly vigilantly throughout his service in different Police post, police stations, different wings of police department with unblemished service record.
- 3) That the appellant was charged mala-fidely in the criminal case vide F.I.R No. 13 dated 23-02-2022 under sections 380/34 PPC & FIR No. 15 dated 25-02-2022 under sections 381-A / 34 PPC Police Station Khar, District Bajaur.
- 4) That during the pendency of the trial, the appellant was removed from service by the respondent No. 1 vide removal order dated 25-04-2022 (Copy of removal order dated 25-04-2019 is attached annexure "A")
- 5) That the appellant was acquitted by the Senior Civil Judge / Judicial Magistrate Bajaur in the both FIRs. (Copies of judgments are attached as annexure "B")
- 6) That after discharging the appellant approached to the concerned department for his adjustment / reinstatement but the department on one pretext or other cannot respond positively, and dismissed the appeal of the appellant on 19-09-2022. (Copy of order dated 19-09-2022 is attached as annexure "C")

- 7) That extremely aggrieved from the orders, the appellant have no other remedy except to file instant appeal before this appellate authority on the following grounds.

GROUND:-

- a. That the orders of the respondents No. 1 & 2 are illegal, against the rules & regulation and exercised their power not vested to them.
- b. That in case of imposing major penalty principle of natural justice requires that a regular inquiry was to be conducted in the matter and opportunity of defense of personal hearing was to be provided to the civil servant proceeded against him otherwise the procedure against him without following the rules would be amount to condemned unheard. So, on this ground to the impugned order regarding dismissal / removal is liable to be struck down on this score alone.
- c. That issuance of show cause notice and holding of inquiry was necessary under section 3 removal from service ordinance 2000 amended 2001 but Respondent No. 1 fails to issue show cause notice nor any inquiry was conducted and major penalty of dismissal / removal was imposed upon him without adopting mandatory procedure resulting in manifest injustice so, the impugned orders are liable to be set at naught.

- d. That the penalty of dismissal / removal from service imposed upon appellant for absence from service is illegal being violative of section 7 (a).
- e. That the appellant was illegally treated & dismissal / removal from service is too harsh so, the impugned orders are not maintainable in the eye of law.
- f. That in service law concept of penalty was to make an attempt to reform the individual wrong doer (if any) but such penalty deprived the appellant from the right of earning, which defeat the reformatory concept of punishment in administration of justice so, the orders passed by the Respondents are not sustainable on this ground too.

Therefore in view of the above submissions, it is most humbly prayed that on acceptance of this appeal the orders passed by Respondents be declared as illegal, discriminatory, against law, void ab-initio and may graciously be set aside the same and the appellant may be reinstated on service with all back benefits. Any other relief which are proper in the instant circumstances of the may also be granted though not specifically asked for.

Appellant


Sajjad Khan

17/10/2022

- 16 -

VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

APPEAL NO: _____ OF 20__

Bajjaad Khan

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS


Police Deptt

(RESPONDENT)
(DEFENDANT)

I/We (Appellant)

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme Court** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. _____/_____/2022



CLIENT

ACCEPTED

NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT
(BC-10-0853)
(15401-0705985-5)


UMAR FAROOQ MOHMAND


WALEED ADNAN

&


MUHAMMAD AYUB
ADVOCATES

OFFICE:

Flat No. (TF) 291*-292 3rd Floor,
Deans Trade Centre, Peshawar Cantt.
(0311-9314232)