

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 991/2019

Date of Institution ... 30.07.2019

Date of Decision ... 31.01.2022

Wisal Ahmad Ex-ASI No. 1379 District Police Officer Mardan.

... (Appellant)

VERSUS

District Police Officer Mardan and others.

... (Respondents)

Roeeda Khan,
Advocate

... For Appellant

Noor Zaman Khattak,
District Attorney

... For respondents

AHMAD SULTAN TAREEN
ATIQU-UR-REHMAN WAZIR

...
...

CHAIRMAN
MEMBER (EXECUTIVE)

JUDGMENT

ATIQU-UR-REHMAN WAZIR MEMBER (E):- Brief facts of the case

are that the appellant was initially appointed as Constable in the year 2011 and was later on promoted as Assistant Sub Inspector (ASI) in 2016. During the course of his service, the appellant was charged in FIR U/Ss 295/342/PPC 15AA dated 30-01-2019 and another FIR U/S 325 PPC dated 30-01-2019. Consequently the appellant was suspended from service vide order dated 01-02-2019. The appellant was arrested and later on granted bail by competent court of law vide judgment dated 12-04-2019. During the course of litigation, the appellant was acquitted of the charges vide judgment dated 2-09-2021. Simultaneously, the appellant was also proceeded departmentally and was ultimately dismissed from service vide order dated 12-04-2019. Feeling aggrieved, the appellant filed departmental appeal dated 06-05-2019, which was rejected vide order dated 27-

05-2019, thereafter, the appellant filed revision petition, which was not responded, hence the instant service appeal with prayers that the impugned orders dated 12-04-2019 and 27-05-2019 may be set aside and the appellant may be re-instated in service with all back benefits.

02. Learned counsel for the appellant has contended that the impugned orders are void ab initio as it has been passed without fulfilling the codal formalities; that the appellant has not been served with charge sheet/statement of allegation, thus skipped a mandatory step as prescribed in law. Reliance was placed on 2009 SCMR 615; that the appellant has not been treated in accordance with law, as no regular inquiry was conducted and no chance of personal hearing was afforded to the appellant, which was a mandatory pre-requisite. Reliance was placed on 2008 SCMR 1369; that no final showcause notice was served upon the appellant before imposing major penalty, which is illegal and unlawful. Reliance was placed on 2009 PLC(CS) 176; that no statement of any witnesses has been recorded in presence of the appellant nor the appellant was afforded opportunity to cross-examine such witnesses; that all the departmental proceedings were conducted at the back of the appellant as the appellant was in jail during disciplinary proceedings, as the impugned order was passed on 12-04-2019 and the appellant was released on bail on the same date i.e. 12-04-2019; that the impugned order is also void as it has been passed with retrospective effect; that the appellant has been acquitted of the criminal charges, hence there remains no ground to maintain such penalty.

03. Learned District Attorney for the respondents has contended that the appellant was charged in two FIRs and based on the charges, the appellant was proceeded departmentally; that proper charge sheet/statement of allegation was served upon the appellant and proper inquiry was initiated against him, but the appellant did not respond to the charge sheet, which clearly depicted that he had nothing to offer in defense; that the inquiry officer after thorough probe held the appellant responsible, hence he was served with final showcause notice, which

was also not responded by the appellant; that the appellant was awarded with major punishment of dismissal from service; that the appellant was afforded appropriate opportunity of defense but he failed to appear before the inquiry officer.

04. We have heard learned counsel for the parties and have perused the record.

05. Record reveals that the appellant after being charged in FIRs, was proceeded departmentally in absentia as the appellant was in jail and was released on bail on the 12-04-2019, the same date, when the impugned order of his dismissal was issued, hence the appellant in the first place was not afforded opportunity of defense, as the appellant was not associated with proceedings of the departmental inquiry. To this effect, the Supreme Court of Pakistan in its judgment reported as 2008 SCMR 1369 have held that in case of imposing major penalty, the principles of natural justice required that a regular inquiry was to be conducted in the matter, otherwise civil servant would be condemned unheard and major penalty of dismissal from service would be imposed upon him without adopting the required mandatory procedure, resulting in manifest injustice.

06. Being involved in a criminal case, the respondents were required to suspend the appellant from service under section 16:19 of Police Rules, 1934, which specifically provides for cases of the nature. Provisions of Civil Service Regulations-194-A also supports the same stance, hence the respondents were required to wait for the conclusion of the criminal case, but the respondents hastily initiated departmental proceedings against the appellant and dismissed him from service before conclusion of the criminal case. It is a settled law that dismissal of civil servant from service due to pendency of criminal case against him would be bad unless such official was found guilty by competent court of law. Contents of FIR would remain unsubstantiated allegations, and based on the same, maximum penalty could not be imposed upon a civil servant. Reliance is

placed on PLJ 2015 Tr.C. (Services) 197, PLJ 2015 Tr.C. (Services) 208 and PLJ 2015 Tr.C. (Services) 152.

07. The criminal case was decided vide judgment dated 02-09-2021 and the appellant was exonerated of the charges. In a situation, if a civil servant is dismissed from service on account of his involvement in criminal case, then he would have been well within his right to claim re-instatement in service after acquittal from that case. Reliance is placed on 2017 PLC (CS) 1076. In 2012 PLC (CS) 502, it has been held that if a person is acquitted of a charge, the presumption would be that he was innocent. Moreover, after acquittal of the appellant in the criminal case, there was no material available with the authorities to take action and impose major penalty. Reliance is placed on 2003 SCMR 207 and 2002 SCMR 57, 1993 PLC (CS) 460. It is a well-settled legal proposition that criminal and departmental proceedings can run side by side without affecting each other, but in the instant case, we are of the considered opinion that the departmental proceedings were not conducted in accordance with law. The authority and the inquiry officer badly failed to abide by the relevant rules in letter and spirit. The procedure as prescribed had not been adhered to strictly. All the formalities had been completed in a haphazard manner, which depicted somewhat indecent haste. Moreover, the appellant was acquitted of the same charges by the criminal court, hence there remains no ground to further retain the penalty so imposed.

08. In view of the foregoing discussion, the instant appeal is accepted. The impugned orders are set aside and the appellant is re-instated in service with all back benefits. Parties are left to bear their own costs.

ANNOUNCED

31.01.2022



(AHMAD SULTAN TAREEN)
CHAIRMAN



(ATIQU-UR-REHMAN WAZIR)
MEMBER (E)

ORDER

31.01.2022

Learned counsel for the appellant present. Mr. Noor Zaman Khattak, District Attorney ^{for} respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, the instant appeal is accepted. The impugned orders are set aside and the appellant is reinstated in service with all back benefits. Parties are left to bear their own costs.

ANNOUNCED

31.01.2022



(AHMAD SULTAN TAREEN)
CHAIRMAN



(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

- Accused
Ashraf Ali

31/1/2022 D.B. Pech. T,

Wisal Ahmed

P/17 .. ~~impugned order~~ 12/4/2019.

D.A

6/5/2019.

Rejected.

27/5/2019.

R.P.

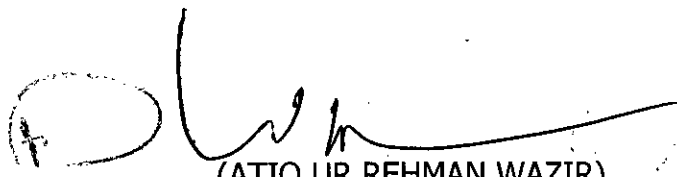
Acquittal. 29.2021

21.10.2021

Learned counsel for the appellant present.

Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

Learned counsel for the appellant requested for adjournment; granted. To come up for arguments on 31.01.2022 before D.B.



(ATIQ UR REHMAN WAZIR)
MEMBER (E)



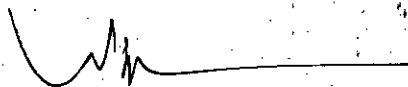
(ROZINA REHMAN)
MEMBER (J)

31.03.2021

Junior to counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, instant case is adjourned to 13/7/2021 for arguments before D.B.



(Atiq ur Rehman Wazir)
Member (E)



(Rozina Rehman)
Member (J)

13.07.2021

Clerk of counsel for the appellant present. Mr. Khyal Roz, Inspector alongwith Mr. Javed Ullah Assistant Advocate General for the respondents present.

Clerk of counsel for the appellant stated that learned counsel for the appellant is unable to attend the Tribunal today due to strike of Lawyers. Adjourned To come up for arguments before the D.B. on 21.10.2021



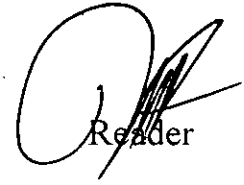
(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

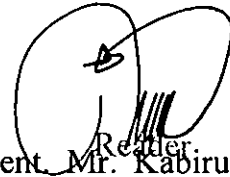
23.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 04.08.2020 before D.B.


Reader

04.08.2020

Due to summer vacation case to come up for the same on 15.10.2020 before D.B.

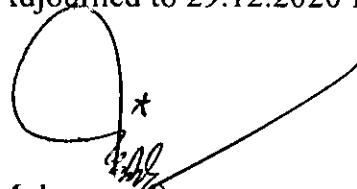

Reader


15.10.2020

Counsel for the appellant is present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Zaheer Muhammad, PASI for the respondents is present.

Learned counsel for the appellant seeks adjournment as she has not prepared the brief.


Adjourned to 29.12.2020 for arguments before D.B.


(Mian Muhammad)
Member (E)


(Rozina Rehman)
Member(J)

29.12.2020

Due to summer vacation, case is adjourned to 31.03.2021 for the same as before.


Reader

991/19

28.11.2019

Nemo for appellant. Addl. AG alongwith Attaur Rahman, Inspector for the respondents present.

Representative of the respondents seeks further time to furnish the reply/comments. Adjourned to 09.01.2020 on which date reply/comments shall positively be submitted.

Chairman 

09.01.2020

Junior to counsel for the appellant and Addl. AG alongwith Attaur Rahman, Inspector for the respondents present.

Representatives of respondents furnished parawise comments on behalf of the respondents. Placed on record. The matter is assigned to D.B for arguments on 12.03.2020. The appellant may furnish rejoinder, within one month, if so advised.


Chairman

12.03.2020

Learned counsel for the appellant present. Mr. Usman Ghani learned District Attorney alongwith Atta ur Rehman Inspector for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourn. To come up for arguments on 23.04.2020 before D.B.


Member


Member

27.08.2019

Counsel for the appellant present.

7.15/0.113

Contends that the impugned order dated 12.04.2019 was passed ex-parte as noted in its last paragraph while the appellant was shown to have been under suspension and confinement at Central Prison Mardan at the relevant time. No service of statement of allegations or the charge sheet was ~~received~~^{effected} upon the appellant before imposing the impugned penalty, that too, in the nature of dismissal from service. In cases departmental proceedings entail, major punishment a regular enquiry is all the more necessitated, it was added. It was further stated that in the criminal case against the appellant compromise was already effected and there was no likelihood of his conviction therein.

In view of arguments of learned counsel as well as available record instant appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 25.10.2019 before S.B.

Appellant Deposited
Security & Process Fee

2/9/19


Chairman

25.10.2019

Counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney alongwith Atta ur Rehman Inspector for the respondents present.

Representative of the respondents requests for time to furnish requisite reply/comments. Granted. To come up for written reply/comments on 28.11.2019 before S.B.


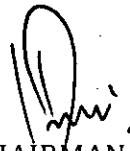

Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - _____ 991/2019 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	30/07/2019	<p>The appeal of Mr. Wisal Ahmad presented today by Roeeda Khan 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 30/7/19</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>27-8-19</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. 991 /2019

Wisal Ahmad ex- ASI No.1379 District Police
Officer Mardan

Appellant

VERSUS


1. District Police Officer Mardan & others.

INDEX

S#	Description of Documents	Annexure	Pages
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3.	Addresses of parties		8
4.	Copy of FIRs	"A" & "B"	9910
5.	Copy of bail granting order	"C"	11 to 15
6.	Copy of dismissal order	"D"	16
7.	Copies of departmental appeal and rejection order	"E" & "F"	18 to 20
8.	Copy of 11A appeal	"G"	21
9.	Copy of the compromise deed	"H"	22
10.	Wakalatnama		


APPELLANT

Through


Roeda Khan
Advocate, High Court
Peshawar.

Dated: 29/07/2019

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BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. 991 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1101

Dated 30/07/2019

Wisal Ahmad ex- ASI No.1379 District Police
Officer Mardan

Appellant

VERSUS

1. District Police Officer Mardan.
2. Regional Police Officer Mardan.
3. Provincial Police Officer Khyber Pakhtunkhwa
Peshawar.
4. Inspector General of Police Khyber Pakhtunkhwa.

Respondents

Filed to-day
Registrar
30/7/19

APPEAL U/S-4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL ACT
1974 AGAINST THE ORDER DATED 12/04/2019
WHEREBY THE APPELLANT HAS BEEN
AWARDED MAJOR PUNISHMENT OF
DISMISSAL FROM SERVICE AND AGAINST
WHICH THE APPELLANT FILED
DEPARTMENTAL APPEAL ON 06/05/2019
AGAINST THE ORDERS DATED 12/04/2019
WHICH HAS BEEN REJECTED ON 27/05/2019
ON NO GOOD GROUNDS

(21)

Prayer:-

ON ACCEPTANCE OF THIS APPEAL
BOTH THE IMPUGNED ORDERS DATED
12/04/2019 & 27/05/2019 MAY KINDLY BE
SET ASIDE AND THE APPELLANT MAY
KINDLY BE REINSTATED IN SERVICE
ALONG WITH ALL BACK BENEFITS.
ANY OTHER REMEDY WHICH THIS
AUGUST TRIBUNAL DEEMS FIT THAT
MAY ALSO BE ONWARD TRIBUNAL
DEEMS FIT THAT MAY ALSO BE
GRANTED IN FAVOUR APPELLANT.

Respectfully Sheweth,

1. That the Appellant has been initially appointed as Constable in Police department on 2011.
2. That the appellant performed his duty regularly and with full devotion and no complaint whatsoever has been made against the appellant.
3. That due to hard work and un blemish record of service, the appellant has been promoted as ASI on 2016.
4. That while posted at District Police Office Mardan, false and fabricated cases FIR No.90 dated 30/01/2019 U/S 295/342/412

3

PPC/15AA at Police Station Shahbaz Ghari, and FIR No.91, dated 30/01/2019 U/S 325-PPC, PS Shahbaz Ghari has been lodged against the appellant in which the appellant has been placed under suspension vide OB No. 263 dated 01-02-2019 (**Copy of FIRs attached at annexure "A" &B"**).

5. That the appellant has been arrested in the said false and fabricated cases in which later-on the bail has been granted to the appellant by the concerned court (**Copy of bail granting order attached at annexure "C"**).
6. That the Respondent Department without fulfilling codal formalities and without providing opportunity of defence to the appellant, dismissed the appellant from service on 12/04/2019 on the ground of involvement of the said false and fabricated criminal cases. (**Copy of dismissal order is attached at annexure "D"**).
7. That the appellant submitted department appeal on 06/05/2019 against the dismissal order dated 12/04/2019 which has been rejected on 27/05/2019 on no good grounds. (**Copies of departmental appeal and**

rejection order are attached at annexure "E" & "F").

8. That after that the appellant submitted 11A Petition within one month of the rejection order dated 27/05/2019, which has not been responded by the respondent department. (Copy of 11A appeal is attached at annexure "G").
9. That feeling aggrieved the Appellant prefers the instant service appeal before this Hon'ble Tribunal on the following grounds inter alia:-

GROUND:-

- A. That the impugned order 12/04/2019 is void and abinitio order because it has been passed without fulfilling codal formalities.
- B. That no charge sheet has been served or communicated to the appellant in this respect the appellant relied upon a judgment reported on 2009 SCMR page:615
- C. That no regular inquiry has been conducted by the Respondent department and no chance of personal hearing has been provided to the appellant in this respect the appellant relied upon the judgment dated 2008 SCMR Page:1369.

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- D. That no final show cause notice has been issued and communicated to the appellant by Respondent department before imposing the major penalty in this respect the appellant relied upon a judgment reported on 2009 PLC (CS) 176.
- E. It is a well settled maxim no one can be condemned unheard because it is against the natural justice of law in this respect the appellant relied upon a judgment reported on 2008 SCMR page:678.
- F. That no statement of witnesses has been recorded by the inquiry officer and there is no proof of involvement in the said criminal cases against the appellant by the Respondent department.
- G. That no opportunity of cross examination has been provided to the appellant.
- H. That no opportunity of personal hearing has been provided to the appellant which has been clarified from impugned order because the appellant has been arrested on 30/01/2019 and has been bailed out on 12/04/2019 and the impugned order has also been passed on 12/04/2019 as well as no pistol has been recovered from his personal possession of the appellant so one sided action has been taken against the appellant.
- I. That the punishment has been given by the Respondent department is harsh one.
- J. That the medical report has also not supported the version of prosecution.
- K. That the innocence of the appellant has also been clarified from the compromise deed of

(6)

the complainant. (Copy of compromise deed is attached at annexure "H").


- L. That the impugned order dated 12/04/2019 is also void because it has been passed from retrospective effects.
- M. That the respondent department should be waited for the decision of the criminal cases above.
- N. That any other ground not raised here may graciously be allowed to be raised at the time full of arguments on the instant service appeal.

It is therefore, most humbly prayed that on acceptance of this appeal both the impugned order dated 12/04/2019 & 27/05/2019 may kindly be set aside and the appellant may kindly be reinstated in service with all back benefits.

Any other relief not specifically asked for may also graciously be extended in favour of the Appellant in the circumstances of the case.


APPELLANT

Through


Roeeda Khan
Advocate, High Court
Peshawar.

Dated: 29/07/2019

NOTE:-

As per information furnished by my client, no such like appeal for the same petitioner, upon the same subject matter has earlier been filed, prior to the instant one, before this Hon'ble Tribunal.




Advocate.

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BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2019

Wisal Ahmad ex- ASI No.1379 District
Police Officer Mardan


AFFIDAVIT

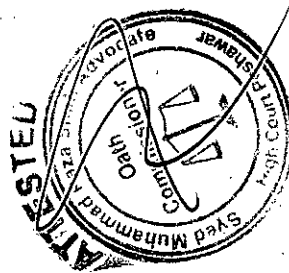
I, **Wisal Ahmad ex- ASI No.1379 District Police Officer Mardan**, do hereby solemnly affirm and declare that all the contents of the **instant appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Court.



DEPONENT

Identified by:


Roeeda Khan
Advocate High Court
Peshawar.



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BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2019

Wisal Ahmad ex- ASI No.1379 District Police
Officer Mardan

Appellant

VERSUS

1. District Police Officer Mardan & others.

Respondents

ADDRESSES OF PARTIES

PETITIONER.

Wisal Ahmad ex- ASI No.1379 District
Police Officer Mardan.

ADDRESSES OF RESPONDENTS

1. District Police Officer Mardan.
2. Regional Police Officer Mardan.
3. Provincial Police Officer Khyber Pakhtunkhwa
Peshawar.
4. Inspector General of Police Khyber
Pakhtunkhwar.

APPELLANT

Through

Roeda Khan
Advocate, High Court
Peshawar.

Dated: 26/07/2019

ابتدائی اطلاع رپورٹ

فائل نمبر

ابتدائی اطلاع نسبت قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ ۱۵۴ مجموعہ ضابطہ نو جداری
مدی 0333-9692514

تھانہ شہساز پورہ ضلع مردان
نمبر 40 عد 90
تاریخ 25-12-18 وقت 18:00

۱- تاریخ و وقت رپورٹ	26-12-18 وقت 02:00	ظاہر کنندہ نمبر 395-342	30:00 وقت 10:00
۲- نام و سکونت اطلاع دہندہ مستثنیت	عزت نیر اکبر ولد محمد اکبر	قوم افعال نمبر 40/ سال ساکن سٹی بگرام ضلع پونہر	
۳- شاجھی کارڈ نمبر انویسٹیشن نمبر			
۴- مختصر کیفیت جرم (معدومہ) حال اگر کچھ لیا گیا ہو۔			
۵- جائے وقوعہ فاصلہ تھانہ سے اور دست		میں سوالیہ تردد نزد ماٹریٹری	
۶- نام و سکونت ملزم	۱ وصال ۲ خان ولد ممتاز احمد ۳ اشرف علی ولد قندول سائمان ٹریڈی گورڈ ۵		
۷- شاجھی کارڈ نمبر انویسٹیشن نمبر	۴ قمر مرزا خان ولد محمد ۵ ماسن گورڈ ۶		
۸- کارروائی جو تفتیش کے مقاصد کی گئی اگر اطلاع ذریعہ کرنے میں توقف ہوا تو وجہ بیان کرو	۷ مدعی کی بیان زیر دفعہ 164 میں غیر متعلقہ چیزیں جمع کرائی گئی ہیں		
۹- تھانہ سے روانگی کی تاریخ و وقت			

ابتدائی اطلاع نیچے درج کرو۔ تصدیق مذکورہ خانہ نمبر 2 نے 13
روز ماہ 26 12 18 شہساز پورہ میں اپنے آپ سے رہنے والے ان کے عزیز خان ولد عزیز سے رقم مبلغ 97355
میں جمع کر کے رپورٹ کر کے ہر طرف نا معلوم کسان کے مدعی والا ہے دوران انکو انعام کا ہر طرف
ملزمان مذکورہ خانہ نمبر 164 مالک خان شہساز طارق صاحب کے دوران میں بیان زیر دفعہ 164
تعلقہ کے ملزمان والا مختلف مامورہ دعویٰ کر کے ملزمان والا مختلف ملزم بگرام والا
فوق چاک کیا جا کر انکو انعام کا اعزاز عہد نقول FIR عدالت تفتیش حوالہ اخبار مختلف
کے ملے جاتے ہیں۔ رقم گزارش کے بعد تعلقہ ذیل ہے

Sho - P.S. Shah bag goth
30-12-2019
آصف خان SHO

تعلقہ 13 رپورٹ عینی عزت نیر اکبر ولد محمد اکبر نمبر 40/ سال ساکن سٹی بگرام ضلع پونہر تعلقہ 13
دلیر صاحب ساکن دیگر۔ بیان حضور ولد قندول ساکن جیناڑا وقت 02:00 بجے مورخ 26-12-18
کو صاحب کا نام اگر عزت نیر اکبر لعل رپورٹ کرنا ہے کہ میں نے نیز انکا حاضرہ جمع لوسر میں کرنی کا نام
کے ہیں۔ کل مورخ 25-12-18 کو میں نے نیز انکا حاضرہ جمع لوسر میں سے اے فولڈ کار میں سوار ہو کر
تعلقہ 13 مالک کر لیں فورٹ جیناڑا کے پاس میں تعلقہ 13 میں تعلقہ 13 کے تعلقہ 13 کے تعلقہ 13 کے
میں کرنی تبدیلی کے پاس میں کل مبلغ 97355 سے میں کا بیان کرنی کو ملز میں سے صاحب کے
لوقت قریب 20:00 بجے لوسر تعلقہ 13 کے تعلقہ 13 کے تعلقہ 13 کے تعلقہ 13 کے
میں میں سوالیہ تردد ماٹریٹری تعلقہ 13 کے تعلقہ 13 کے تعلقہ 13 کے تعلقہ 13 کے
کی مدد میں ملز میں تعلقہ 13 کے تعلقہ 13 کے تعلقہ 13 کے تعلقہ 13 کے
تعلقہ 13 کے تعلقہ 13 کے تعلقہ 13 کے تعلقہ 13 کے تعلقہ 13 کے

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جوں جوں ہم آگے گئے۔ تو فوراً کار سے وردی میں اسی طرف لڑائی شروع ہو گئی۔ رات کے
 ایک اور افسردہ آنے لگے۔ جاتے ہیں۔ اور فوراً ہماری گاڑی میں بیٹھ کر سب طرف لڑائی شروع ہو گئی۔
 متذکرہ کسان نے جیبیں سے لڑائی شروع کی۔ عیادہ کی آنکھوں کو تیرے سے مدعا کرنا بند کر لیا۔
 ہم آگے گئے۔ تو وہ لڑائی کمرہ میں کچھ دیر لپیٹ لیا۔ اور لڑائی سے نکل کر کچھ جگہ پر پیش قدمی کرنا
 انا کر وہ لوگ چلے گئے۔ جب ہم نے اپنے آنکھوں سے منظر آشکار دیکھا۔ تو ہمارا چکارا شروع ہو گیا
 موجود تھی۔ ایک کمرہ لیا گیا۔ جسے رقم متذکرہ بالا کو ذکر شدہ کسان چھوڑ گئے ہیں۔ عیادہ انہیں
 مدیر جیب سے آئی اور فون پر اسٹال سم نمبری: 576 9692-0333 آئی اور CNIC عیادہ جیب سے
 سمی عیادہ خان کی جیب سے 0346-9433222 اور سمی حضرت خان کی جیب سے 4000 فنڈ روڈ بھی لے کر گئے
 ہیں۔ لہذا کچھ دیر بعد دوبارہ پولیس کی حورجی میں ملوس ایل کے کاروں سفید حورجی میں لے کر
 ہم سے خدیجہ دریافت کی۔ جو ہم نے ڈر کیوجہ سے وقوف کی نسبت کوئی لب کشائی نہیں
 اور بہانہ بنا کر دست لگے۔ وقوف متذکرہ کسی کی چشم دید ہیں۔ میں انہیں رخصت دیا گیا ہے
 جسے رقم متذکرہ بالا اس کے توں پر ضرور حورجی لے گا۔ یہ صرف کسان نامعلوم دربارہ
 رپورٹ کرنا ہے۔ دستخط آؤ۔ عیادہ خان حاضرہ ہنوز خان و دیگر حاصل حاصل کرنا ہے
 سمی حضرت خان و دیگر کسان جیناڑو پورے رپورٹ کرنا ہے۔ کسان نامعلوم دربارہ
 کارروائی پولیس آفیسر صاحبان رپورٹ کرنا ہے۔ کسان نامعلوم دربارہ
 شائع کرنا ہے۔ رپورٹ خود دست لگائی ہے۔ جسے نام لکھنا ہے۔ کسان نامعلوم دربارہ
 جس کی میں تصدیق کرتا ہوں۔ رپورٹ کنندہ اور اس کے عیادہ خان میں حورجی کارروائی سے ملو گئے ہیں۔
 جو لوگ 0346 سے صلح ہوئے ہیں۔ دستخط آؤ۔ عیادہ خان اور اس کے عیادہ خان
 سے ملے گئے۔ جو جاتے وقت متذکرہ بالا پر حورجی کارروائی نامعلوم دربارہ
 کرنے کا شعلہ ظاہر کرنا ہے۔ جسے روکنے کے بعد متذکرہ بالا کسان کا حاصل حاصل کرنا ہے۔
 بیان معاً۔ اور صلح میں پولیس اہلکاروں سے دریافت کرنا۔ اور متذکرہ بالا کسان کا
 سب سے پہلے رونا ہونا ہے۔ ضابطہ آؤ۔ عیادہ خان سے زنی لڑائی رخصت ہوئی تھا اور ان کو
 یہ عیادہ خان سے مل گیا تھا۔ دستخط آؤ۔ عیادہ خان اور اس کے عیادہ خان سے مل گیا تھا۔
 اس کے بعد لہذا زنی لڑائی رخصت ہوئی کے واسطے لکھنا ہے۔ کسان نامعلوم دربارہ
 دستخط آؤ۔ عیادہ خان اور اس کے عیادہ خان سے مل گیا تھا۔ دستخط آؤ۔ عیادہ خان
 میں تصدیق کرتا ہوں۔ عیادہ خان سے مل گیا تھا۔ دستخط آؤ۔ عیادہ خان اور اس کے
 عیادہ خان سے مل گیا تھا۔ دستخط آؤ۔ عیادہ خان اور اس کے عیادہ خان سے مل گیا تھا۔

19-01-2019
 عیادہ
 اطلاع کے لیے دہندہ کا دستخط ہوگا یا اس کی ہر نشان لگایا جائے گا۔ اور ہر تحریر کنندہ ابتدائی اطلاع کا دستخط بطور تصدیق ہوگا۔ حرف الف یاب سرخ روشنائی سے بالقابل
 ایک ٹرم یا شہری علی الترتیب واسطے باشندگان علاقہ غیر یا وسط ایشیا یا افغانستان جہاں موزوں ہوں لکھنا ہے۔

ATTEST

(Signature)

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BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.



Cr.Misc.No. 633-P /2019

Wisai Khan son of Iftikhar Ahmad
R/o Yaqoob Khel, Kot Ismailzai, P.O. Garhi Kapoora,
Tehsil and District Mardan
Presently Central Jail, Mardan..... **ACCUSED/ PETITIONER**

Versus

- 1) The State
- 2) Aziz Akbar s/o Muhammad Akbar
R/o Sanigram, District Buner.....**RESPONDENTS**

—————
CASE FIR NO.90 DATED 30.01.2019
CHARGE U/S 395/342/412 PPC, 15-AA
POLICE STATION SHAHBAZAZ GARHI (MARDAN).

—————
APPLICATION U/S 497 Cr.P.C. FOR THE
GRANT OF POST ARREST BAIL TO THE
ACCUSED/ PETITIONER TILL THE FINAL
DISPOSAL OF THE INSTANT CASE.

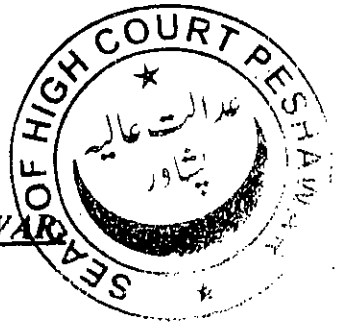
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EXAMINED
Peshawar High

Respectfully Sheweth;

1. That the petitioner has been falsely charged in the above mentioned case and are lying behind the bar since his arrest. (Copy of FIR is attached).
2. That the accused/ petitioner moved the court of learned Sessions Judge, Mardan for his release on bail, but the same was dismissed

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Amir's (18)



Judgment Sheet

IN THE PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT.

Cr. M. B.A No. 633-P/2019.

Wisal Khan
VS
The State.

Date of hearing.....12.04.2019.....

Petitioner(s) by: M/S Javed A.Khan and Syed Abdul Fayaz,
Advocates

State by: Mr. Abid Mehmood, State counsel

Complainant by: Mr. Hassan Ali Khan, advocate.

JUDGMENT

ABDUL SHAKOOR.J- After being remained unsuccessful to get the concession of bail from the Court below, accused petitioner Wisal Khan has now moved instant application seeking his release on bail in case FIR No. 90 dated 30.1.2019 registered under sections 395/342/412 PPC/15 AA, at Police Station Shahbaz Ghari, Mardan.

(2)

2. Brief facts, as per the contents of Naqal Mad No. 13 D.D dated 26.12.2018 are that complainant Aziz Akbar son of Mohammad Akbar

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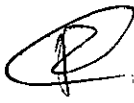
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resident of Sangram District Buner alongwith Izzat Khan and Mian Hizar reported to police on 26.12.2018 that he is dealing in currency and on the fateful day he alongwith his companion in his motorcar took different currency for its exchange to Peshawar, where exchanged the currency into Pakistani currency Notes and got Rs. 97,35,000/- from Kamran Currency Dealer Peshawar and while returning to Buner in his motorcar No. UC-043 when at 06.00 hours came to Mardan-Swabi road at Shahi Bagh, a motorcar wherein two persons in police uniform duly armed with Kalashnikovs while two in simple clothes were seated, crossed the motorcar of complainant and the driver signaled them to stop. That when they stopped, the persons in police uniform alighted from the motorcar and told the complainant party to be dealing in business of ICE and sat with them on the pretext that they are taking them to their high ups to Mardan. On the way the said persons put hand cuffs to them and muffled their eyes. After some distance they

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EXAMINER
Peshawar High Court

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awaited the complainant party in a room for a while whereafter the accused took them to some distance and went away after alighting them from vehicle. That when they untied their eyes they found their vehicle on the spot, but on checking it was found that the entire amount had been stolen by said persons. Apart from that, from the pocket of complainant a mobile set having SIM No. 0333-9692574 and NIC while from the pocket of Izzat Khan 4/5 thousand rupees; one NIC mobile phone Samsung having SIM No. 0346-9433222 and from the pocket of Hizar Khan four thousand rupees have been snatched. That after a while other police personnel again came to the spot in white motorcar and asked but due to fear they could not disclose anything to them. The complainant charged unknown accused for the commission of offence. Later on, complainant recorded his statement under section 164 Cr.P.C on 30.1.2019 wherein he charged Mumrez, Ashraf Ali, Abu Bakar and Wisal ASI for taking the amount of 97,35,500/- from their

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EXAMINER
Peshawar High Court

motorcar while, the accused Auranzeb alias Kaki has been charged being aiding the accused persons.

Hence the instant FIR.

3. Arguments heard and record perused.

4. Perusal of record would reveal that the complainant of the case namely Aziz Akbar had submitted an affidavit before the lower Court stating therein that he has patched up the matter with the accused petitioner as he is satisfied regarding his innocence and would have no objection upon his release on bail. Admittedly, the sections of law levelled against the petitioner are non-compoundable but the statement of complainant towards compromise can be taken into consideration as mitigating circumstance and one of the relevant factor for grant of relief to the accused/petitioner at bail stage. This court, in similar situation, has rendered judgments in case titled "Mehboob Sani Vs the State and another" (2009 P.Cr.L.J-542 Peshawar) and case titled "Sartaj Vs Lal Rehman and another" (2012 YLR 1606) wherein bail was granted to accused, charged for

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Peshawar High Court

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non-compoundable offences. Thus the case of petitioner is arguable for the purpose of bail.

5. These are the reasons for my short order even dated which is reproduced below:

“For the reasons to be recorded lateron, the instant bail application is allowed and the accused petitioner is admitted to bail provided he furnishes bail bonds in the sum of Rs. 200,000/- with two sureties each in the like amount to the satisfaction of the Illaqa/Judicial, Magistrate, who shall ensure that the sureties are local, reliable and men of means.”

JUDGE

Announced on;
Dated. 12.04.2019.

CERTIFIED TO BE TRUE COPY

EXAMINER
Peshawar High Court Peshawar
Appointed Under Article 8.7 of
The Janun-o-Shahadat Order 1984

17 APR 2019

Nd - Abdul Shakoor J

No. 15614

Date of Present. 15/4/19

No of Page. 06

Copying Fee. /

Urgent. /

Total. Rs 24/-

Date of receipt. 17/4/19

Date of Delivery of Copy. 17/4/19

Received By. [Signature]

ATTESTED



OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpo_mardan@yahoo.com

2019

No. 2450-54 /PA

Dated 15/4 /2019

ORDER ON ENQUIRY OF ASI WISAL AHMAD

This order will dispose-off a Departmental Enquiry under Police Rules 1975, initiated against the subject Police Official, under the allegations that while posted at DPO Office Mardan (Now under suspension & in Central Jail Mardan) was placed under suspension and closed to Police Lines with immediate effect vide this office OB No.263 dated 01-02-2019, issued vide order/endorsement No.875-78/EC dated 04-02-2019 on account of being charged in the following cases:-

- 1) FIR No.90 dated 30-01-2019 U/S 395/342 PPC PS Shahbaz Garh.
- 2) FIR No.91 dated 30-01-2019 U/S 325 PPC PS Shahbaz Garh.

Brief:

In case FIR No.90 dated 30-01-2019 U/S 395/342, ASI Wisal Ahmed snatched away a huge amount from one Aziz Akbar Son of Muhammad Akbar Resident of Sunigram Buner, while in second case, he attempted suicide within Police Custody inside Police Post Garzala.

To ascertain real facts, he was proceeded against departmentally through ASP Ali Bin Tariq SDPO/City Mardan vide this office Statement of Disciplinary Action/Charge Sheet No.40/PA dated 06-02-2019, who (E.O) after fulfilling necessary process, submitted his Finding Report to this Office vide his Office letter No.256/S dated 11-02-2019, holding responsible the alleged official of gross misconduct, on account of non submitting his reply in compliance of delivered Statement of Disciplinary Action/Charge Sheet within stipulated time as well as recovery of snatched amount of Rs.26,00,000/- from his possession during investigation; verifying his actual involvement in the case with recommending for major punishment of dismissal from service.

In this connection, ASI Wisal Ahmed was served with a Final Show Cause Notice on 23-03-2019, issued vide this office No.78/PA dated 22-03-2019, wherein, his reply was due to reach this office within (07) days i-e up-to 30-03-2019, but he again failed to submit his reply even **till date**, meaning thereby that he has nothing to present in his defense.

Final Order

ASI Wisal Ahmed, being a member of a disciplined force with holding a responsible rank therein, has committed gross misconduct, earning bad name to the entire Police Force in the eyes of general public, so keeping in view the above facts, I am of the considered opinion that his more retention in Police Force is against the justice/department, therefore, an **ex-parte action** is taken against him by awarding major punishment of dismissal from Police Force with effect from 01-02-2019 (suspension's date) with immediate effect, in exercise of the power vested in me under Police Rules-1975.

OB No. 814

Dated 12/4 2019.

Seen

*RPO-Mdn
16-4-2019.*

(Sajjad Khan) PSP
District Police Officer
ib Mardan

Copy forwarded for information & n/action to:-

- 1) The Regional Police Officer Mardan, please.
- 2) The SP Operations Mardan.
- 3) The Superintendent Central Jail Mardan.
- 4) The P.O + E.C (Police Office) Mardan.
- 5) The OSI (Police Office) Mardan with () Sheets.

ATTESTED

حکومت اہیل

①

حنا عالی!

سائل (صبا ذیل عرض گزار ہے

1۔ یہ کہ سائل، سال 2011ء تا جونی شدہ ہے

2۔ کہ سائل کی اولیہ کرکس ہے لیکن اجاڑ عدت اچھو دیوان ٹیولٹ
دیگر سٹا، کوہ انٹرنیٹ ٹیولٹ کوہ، عدت میں نقیب ٹیولٹ

پتیل (ٹیولٹ ٹیولٹ، ترقی، عدت، عدت، عدت (ASIA)
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3 یہ کہ فوراً 2019ء کو سائل کیخلاف مقدمہ عدلہ 90 فوراً 30/19ء

PPC 395/342 مقدمہ عدلہ 91 فوراً 30/19ء ج م ا 325-1 PC درج از

بجگا ہے۔

4 یہ کہ مدعی مقدمہ سہی عزیز الہ نے خوب تسلی کر کے باقاعدہ پیپر ہر فیرو بی گناہی تحریر کی ہے (سٹامپ پیپر فخرانہ لف لچے)

بذالہ عمل انرا پیل استدعا کیجاتی تھی کہ سائل کی پیشی و قوا

کہ سائل اپنی بگناہی پیش کرے اور عملہ لکھڑا میں واپس

مقدمہ پر مجال ہو سکیں

775/ES
6/5/18

۱ عین کو ازش ہو گئی!

ATK

العارض

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آریگانا بعد از درجہ - Ex - 1977 وصال احمد فروری 1977

EC 1000/18/18

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ORDER.

This order will dispose-off the departmental appeal preferred by **Ex-Adhoc ASI Wisal Ahmad No. 1379** of Mardan District Police against the order of the District Police Officer, Mardan, wherein he was awarded Major Punishment of dismissal from Service by the District Police Officer, Mardan vide his office OB: No. 814 dated 12.04.2019.

Brief facts of the case are that the appellant while posted at DPO Office Mardan. Dismissed from service on account of being charged in the following cases:-

1. **FIR No.90 dated 30-01-2019 U/S 395/342 PPC PS Shahbaz Garh.**
2. **FIR No.91 dated 30-01-2019 U/S 325 PPC PS Shahbaz Garh.**

Brief: In case FIR No.90 dated 30-01-2019 U/S 395/342, ASI Wisal Ahmed snatched away a huge amount from one Aziz Akbar Son of Muhammad Akbar Resident of Sunigram Buner, while in second case, he attempted suicide within Police Custody inside Police Post Garyala.


To ascertain real facts, he was proceeded against departmentally through ASP Ali Bin Tariq SDPO/City Mardan. The Enquiry Officer after fulfilling necessary process, submitted his Finding Report, holding responsible the alleged official of gross misconduct, on account of non submitting his reply in compliance of delivered Statement of Disciplinary Action/Charge Sheet within stipulated time as well as recovery of snatched amount of **Rs.26,00,000/-** from his possession during investigation, verifying his actual involvement in the case with recommending for major punishment of dismissal from service.

In this connection, ASI Wisal Ahmed was served with a Final Show Cause Notice on 23-03-2019, wherein, his reply was due to reach within (07) days i-e up-to 30-03-2019, but he again failed to submit his reply even **till date**, meaning thereby that he has nothing to present in his defense.

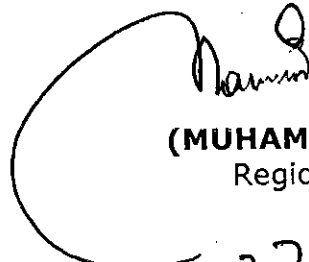
ASI Wisal Ahmed, being a member of a disciplined force with holding a responsible rank therein, has committed gross misconduct earning bad name to the entire Police Force in the eyes of general public, his more retention in Police Force is against the justice/department, therefore, an ex-parte action is taken against him by awarding major punishment of dismissal from Police Force with effect from 01-02-2019 by the District Police Officer, Mardan.

He was called in orderly room held in this office on **23.05.2019** and heard him in person. Having serious Allegations, bad reputation. **Appeal for reinstatement into service is filed.**

ORDER ANNOUNCED.



ATTESTED



(MUHAMMAD ALI KHAN)PSP
Regional Police Officer,
Mardan. *Ali*

No. 8298 /ES,

Dated Mardan the 27/05 /2019.

Copy to District Police Officer, Mardan for information and necessary action w/r to his office Memo: No. 240/LB dated 13.05.2019. His Service Record is returned herewith.

(*****)

فصل اول

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For Power

جناب عالی!

1. یہ کہ سائیل 2011ء کا ہرتی شدہ ہوں سائیل ایٹھ انتہت انتہت
نگن اور مکہ پو لیس کیساتھ خبتانی لوسہ سے ایک رٹ، کوئٹہ
اور انٹرسٹیٹ کورس میں بحیثیت کیڈٹس منتخب ہوا۔

2. یہ کہ سائیل سال 2016ء سے 2018ء میں اور سائیل میں منت
AST, GHC خلف قہانہ جوت، ایچ ایچ جوت، ایچ ایچ جوت، ایچ ایچ جوت
میں افسران بالائے ارتد، ایچ ایچ جوت، ایچ ایچ جوت، ایچ ایچ جوت
جو بعد میں اونٹ آر

15/11/16

18/04/16

3. یہ کہ 27/19 کو سائیل 2 سٹالٹ
نقلہ نمبر 335، 9016، 19
یہ کہ سادہ سا کرڈ کسی سبب سے لستہ کی درینہ اور دہا قلاویہ ہوزا
بے کٹائی سٹا سبب سے ہوزا ہوزا ہوزا ہوزا ہوزا ہوزا ہوزا ہوزا
است عا ہے کہ میرا خلاف ویزا کسی کاروائی کے تحت لایا گیا ہے کہ سادہ سا
سلازمتا ہر جمال کزینٹا سلم سادہ سا ہوزا ہوزا ہوزا ہوزا ہوزا ہوزا ہوزا

①
عین کو ازش پوئی

العارض

آیکاتا بعد از وصال احمد خان (EX-ASIA)

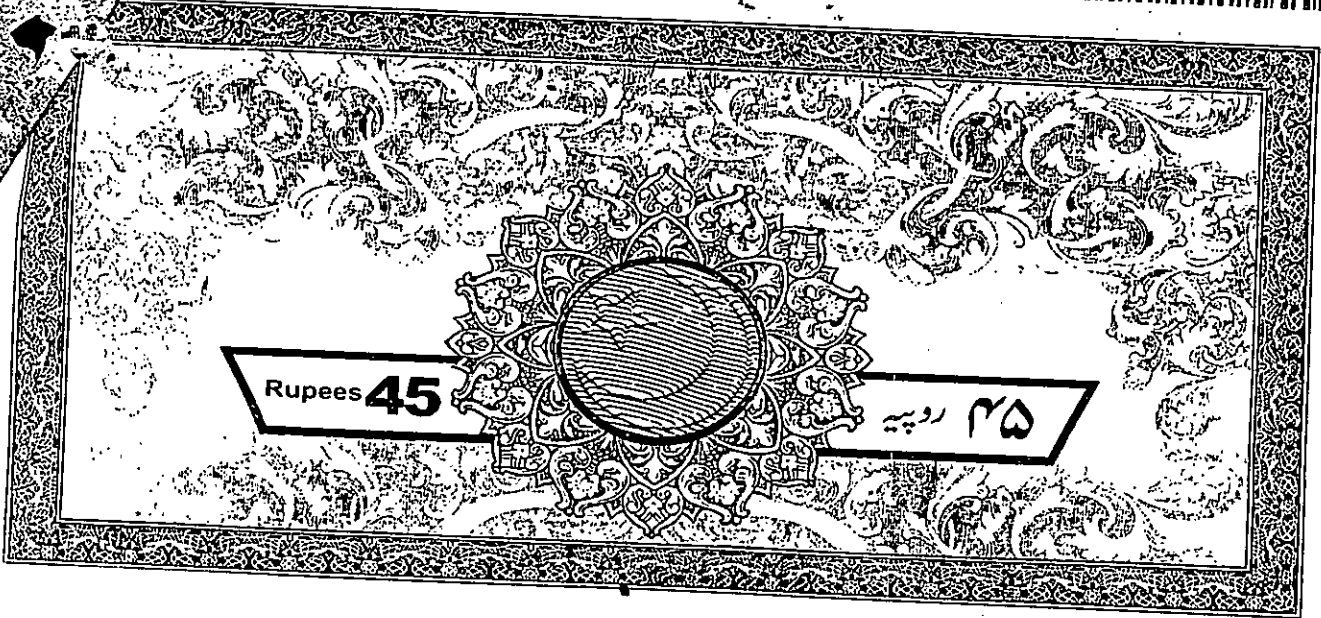
0311-9593008

0311-1315094

0312-5585547

S

ATTESTED



گہدات ضابطہ پیشکش میں طلبہ مردوں

سرکار ہندوستان عزیز اکبر و لاہور ڈیپارٹمنٹ سائنس گرام ضلع پونہ

تہا

وصول خانہ در اختیار لگے سائن گرام ضلع پونہ تحصیل پونہ . مدرسہ

عہدہ ۹۵ درجہ ۳۵/۱۹ ۲۷ ۳۶۵/۳۴۲ خانہ پست پونہ

بیان حلفی

مذکورہ عزیز اکبر و لاہور ڈیپارٹمنٹ سائنس گرام ضلع پونہ کا مبلغ صفاً بیان دیتا ہوں کہ مذکورہ بالا
میں الحاد کے ایجاب میں جہتہ باریک خلاف درجہ پونہ موجود تھا۔ جن کی سہولت پونہ
ادھی لکھنؤ میں کہ وصول لگے مذکورہ میں ہے گناہ ہے کہ وقت میں متفق
انمولہ ہوا تھا اس وقت وصول خانہ موجود نہیں تھا۔ اگر وصول خانہ کو دستہ باریک
میں ہدایت لکھنؤ میں کر سکیں تو من و تقویٰ اور جہتہ دیکھ سکیں تو کوئی
عذر اور اعتدال نہ ہوگا۔ میں بیان حلفی کرتا ہوں۔ ۱۶/۱۱/۵۲

۱۶۱۰۱-۶۸۲۶۴۲۵

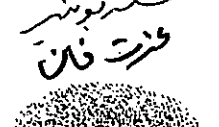
عزیز اکبر

۱۶۱۰۱-۶۸۲۶۴۲۵

صاحب خانہ دار حلالہ



عزیز اکبر و لاہور ڈیپارٹمنٹ


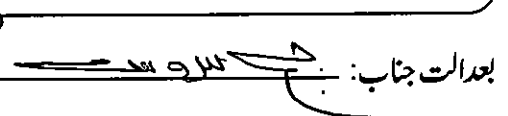
عزیز خانہ دار حلالہ



[Handwritten Signature]

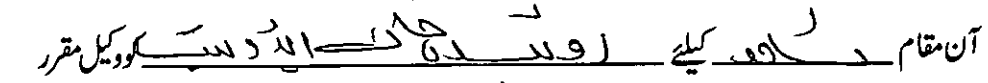
ATTESTED

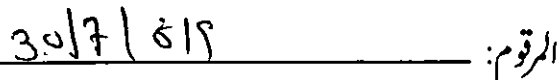
قیمت 50 روپے	24407	PBA PESHAWAR BAR ASSOCIATION		
ایڈویکٹ:		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل / ایسوسی ایشن نمبر:				
رابطہ نمبر:	03370265900			

بعدالت جناب:  

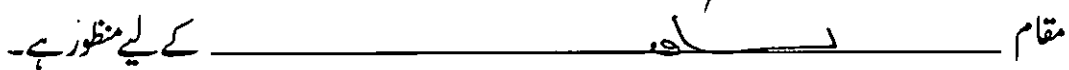
منجانب: اسلام آباد	دعویٰ:
وصولی نامہ بنام لوہیہ سیاحت	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:
باعث تحریر آنکہ	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

آن مقام کے لیے  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 تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ 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 یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جاندا التوائے 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 سند رہے

المرقوم: 

العبد  العبد

مقام  کے لیے منظور ہے۔

C

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

Service Appeal No. 991/2019

Ex- ASI Wisal Ahmad No. 1379Appellant

VERSUS

1. The District Police Officer, Mardan.
2. Regional Police Officer, Mardan.
3. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
4. Inspector General of Police Khyber Pakhtunkhwa.

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S. No.	Description of Documents	Annexure	Pages.
1.	Written Reply.	----	1-3
2.	Affidavit.	----	4
3.	Copy of Final SCN	A	5-8
4.	Copy of Authority Letter.	----	9

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

Service Appeal No. 991/2019

Ex- ASI Wisal Ahmad No. 1379Appellant

VERSUS

1. The District Police Officer, Mardan.
2. Regional Police Officer, Mardan.
3. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
4. Inspector General of Police Khyber Pakhtunkhwa.

Para-wise comments on behalf of respondents:-

Respectfully Sheweth,

PRELIMINARY OBJECTIONS

1. That Petitioner has not approached this Hon'ble Court with clean hands.
2. That petitioner has concealed actual facts from this Hon'ble Court.
3. That the petitioner has got no cause of action or locus standi to file the instant petition.
4. That the petitioner is estopped by his own conduct to file the instant writ petition.
5. That the petition is unjustifiable, baseless, false, flawless and vexatious and the same is liable to be dismissed with special compensatory cost in favour of respondents.

REPLY ON FACTS

1. Para not related as the same pertains to initial recruitment of appellant.
2. Plea taken by the appellant is not plausible because every police officer / official is under obligation to perform his duty regularly and will devotion because in this department no room lies for lethargy. Besides neat and clean service record does not mean a clean chit for future wrong deeds.
3. Plea taken by the appellant is not plausible rather the appellant is raising a flimsy and whimsical grounds because police officers / officials get promoted to the next higher ranks by undergoing promotional courses, hence, plea of promotion to the next higher rank does not exonerate any police officer / official from his future ill-deeds.
4. Incorrect stance taken by the appellant is totally devoid of merit because complainant namely Aziz Akbar r/o Sanglam District Buner along-with Izzat Khan & Mian Hizar reported to the local police of Police Station Shahbaz Garhi on 26.12.2018 to the effect that he is dealing in currency and on the eventful day, he along-with his companions in his motorcar took different currency for its exchange to Peshawar, where exchanged the currency into Pakistani currency notes and got Rs. 97,35,000/- from Kamran currency dealer Peshawar and while returning to Buner in his motorcar No. UC-043 when at 0600 hrs came to Mardan Swabi road at Shahi Bagh a motorcar wherein 02 persons in Police Uniform duly armed with Kalashnikovs while two in civies were seated, crossed the motorcar of complainant and the driver signaled them to stop, that when they stopped the persons in Police uniform alighted from the motorcar and told the complainant party to be dealt in business of Ice and sat with them on the pretext that they are taking them to the high-ups to Mardan. On the way the said person put them hand cuffs and covered / tied their eyes. After some distance they kept the complainant party in a room for a while, where after the accused took them to some distance and went away after de-boarding them from vehicle.

That when they untied their eyes, they found their vehicle on the spot, but on checking it was found that the entire amount had been stolen by said persons. Besides the said persons also took mobile phone having Sim No. 0333-9692574 and CNIC from the pocket of complainant while from the pocket of Izzat Khan mobile set Samsung having Sim No.

0346-9433222 along-with cash amount to the tune of 4/5 thousand whereas also took from Hizar Khan)complaint's companion) Rs. 4000/-. Initially the complainant charged unknown accused but on 30.01.2019 his statement u/s 164 Cr.P.C was recorded wherein he charged the present appellant along-with others hence, a criminal case vide FIR No. 90 dated 30.01.2019 u/s 395/342 P.P.C PS Shahbaz Garhi Mardan was registered against him. The appellant was arrested who also attempted to commit suicide therefore, another criminal case FIR No. 91 dated 30.01.2019 u/s 325 P.P.C PS Shahbaz Garhi was also registered against him.

It is worthwhile that during investigation Rs. 26,00,000/- was also recovered from him. Therefore, the appellant was issued charge sheet and statement of allegations. Moreover, stance of the appellant regarding bail granting order is also devoid of any legal footing because he was allowed bail on the statement of complainant in shape of affidavit wherein he stated in a categorical manner that he has patched up the matter with appellant hence, bail granting order is not based on merit rather the appellant has patched-up the matter with the complainant party. Moreover, release on bail is mere a release from custody and the same does not mean acquittal from the charges.

5. Incorrect, on account of afore-mentioned allegations the appellant was proceeded against departmentally by issuing him charge sheet & statement of allegations and enquiry was entrusted to ASP City Mardan. The same were served upon the appellant but he did not bother to submit his reply to the same which clearly depicted that he had nothing to offer in his defense. The enquiry officer after fulfillment of all legal & codal formalities, recommended, held the appellant responsible. Therefore, the competent authority issued the appellant Final Show Cause Notice but this time too, the appellant bitterly failed to submit his reply because he had nothing to offer in his defense hence, the appellant was awarded appropriate punishment of dismissal from service which does commensurate with the gravity of misconduct of appellant (copy of Final Show Cause Notice) is annexed as annexure "A")
6. Incorrect, stance raised by the appellant is not plausible because the appellant was provided right of self defense through orderly room by the appellate authority but he badly failed to produce even a single iota of evidence in his defense. Moreover, the retention of such like police officer / official is certainly a stigma on police department which stigmatize the prestige of police force and brings bad name to the entire police department. Therefore, by keeping all the elements coupled with his conduct departmental appeal of the appellant was rejected.
7. Para not related needs no comments.
8. That appeal of the appellant is liable to be dismissed on the following grounds amongst the others.


REPLY ON GROUNDS:


- A. Incorrect, stance taken by the appellant is not plausible because all legal and codal formalities have been fulfilled and the appellant himself failed bitterly to produce any cogent reason in his defense.
- B. Incorrect, charge sheet and statement of allegations have duly been served upon the appellant but he did not bother to respond the same because he had nothing to offer in his defense.
- C. Incorrect as discussed earlier, proper departmental enquiry was initiated against the appellant during the course of which all legal and codal formalities were fulfilled but the applicant in order to save his skin took this plea which has no legal footings to stand on.
- D. Incorrect as explained in the preceding para, after conclusion of enquiry by the enquiry officer, the competent authority issued the appellant Final Show Cause Notice but he did not bother to submit his reply to the same for the reasons that he had nothing to offer in his defense.
- E. Plea taken by the appellant is devoid of any merit because all legal and codal formalities have duly been fulfilled but the appellant himself, because of his lethargic

- attitude neither bothered to reply to the charge sheet nor to the Final Show Cause Notice and now in order to get favour / concession propounded this tailored one story which is far away from the facts.
- F. Stance taken by the appellant is not plausible because he did not bother to respond to the charge sheet what to speak of statement of witnesses and cross test by the appellant.
- G. Para already explained hence no comments.
- H. Incorrect plea taken by the appellant is not based on facts because during the course of investigation an amount to the tune of Rs. 26,00,000/- was recovered from the possession of appellant which clearly depicted his involvement in such filthy activities. Besides retention of such police officers / officials will certainly detrimental to the prestige of police department rather his this act has brought bad name for the entire police force.
- I. Incorrect the punishment awarded by the competent authority to the appellant does commensurate with the gravity of misconduct of appellant.
- J. Incorrect plea of the appellant will be judged by the concerned trial court at the time of recording evidence, hence the same is not plausible to be taken into consideration at this stage.
- K. Incorrect the appellant himself admitted his involvement by affecting compromise rather he was supposed to wait for the court verdict on merit but the appellant attached compromise on which the Peshawar High Court extended him the benefit and granted bail.
- L. Para explained earlier needs no comments.
- M. Plea taken by the appellant is not plausible because criminal and departmental proceedings are two different entities which can run parallel and the fate of one has no binding effect on the other.
- N. The respondents also seek permission of this honorable tribunal to adduce additional grounds at the time of arguments.

PRAYER:-

It is therefore most humbly prayed that on acceptance of above submissions, appeal of the appellant may very kindly be dismissed with costs.


**Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.**
(Respondent No. 03 & 04)


**Regional Police Officer,
Mardan.**
(Respondent No. 02)


**District Police Officer,
Mardan.**
(Respondent No. 01)

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

Service Appeal No. 991/2019


Ex- ASI Wisal Ahmad No. 1379Appellant


VERSUS


1. The District Police Officer, Mardan.
2. Regional Police Officer, Mardan.
3. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
4. Inspector General of Police Khyber Pakhtunkhwa.

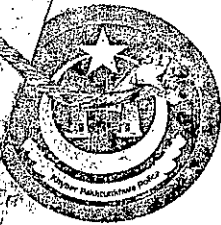
COUNTER AFFIDAVIT.

We, the respondents do hereby declare and solemnly affirm on oath that the contents of the Para-wise comments in the service appeal cited as subject are true and correct to the best of our knowledge and belief and nothing has been concealed from this Honourable Tribunal.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 03 & 04)


Regional Police Officer,
Mardan.
(Respondent No. 02)


District Police Officer,
Mardan.
(Respondent No. 01)



(2) *90/18* ✓
**OFFICE OF THE
 DISTRICT POLICE OFFICER,
 MARDAN**

Tel No. 0937-9230109 & Fax No. 0937-9230111
 Email: dpo_mardan@yahoo.com

2019

No. 78 /PA

Dated 22-13 /2019

FINAL SHOW CAUSE NOTICE

Whereas, you ASI Wisal Ahmad, while posted at DPO Office Mardan (Now under suspension Police Lines & is in Central Jail Mardan) has been charged in the following two cases:-

- 1) FIR No.90 dated 30.01.2019 U/S 395-342 PPC PS Shahbaz Garh.
- 2) FIR No.91 dated 30.01.2019 U/S 325 PPC PS Shahbaz Garh.

In this connection, during the course of Departmental Enquiry conducted by ASP Ali Bin Tariq SDPO City Mardan vide his Office letter No.256/S dated 11-02-2019, in pursuance of this Office Statement of Disciplinary Action/Charge Sheet No.40/PA dated 06-02-2019, holding responsible you of gross misconduct with recommending for Major Punishment of Dismissal from Service.

Therefore, it is proposed to impose Major penalty as envisaged under Rules 4 (b) of the Khyber Pakhtunkhwa Police Rules 1975.

Hence, I Sajjad Khan (PSP) District Police Officer Mardan, in exercise of the powers vested in me under Rules 5 (3) (a) & (b) of the Khyber Pakhtunkhwa Police Rules 1975, call upon you to Show Cause Finally as to why the proposed punishment should not be awarded to you.

Your reply shall reach this office within 07 days of receipt of this notice, failing which; it will be presumed that you have no explanation to offer.

You are liberty to appear for personal hearing before the undersigned.

Received by

Dated: 23/03/2019 Time: 10.45

(SAJJAD KHAN) PSP
 District Police Officer
 Mardan

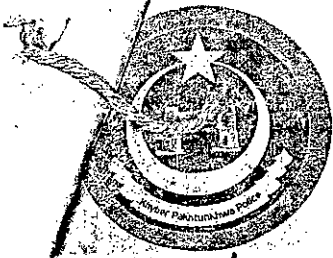
*Failed to reply to PSCOP
 hence no defence.
 Hence no award of punishment.
 23/3/19*

*Sig
 He was bound to submit his within (07) days upto 30-3-19, he failed to do so till date*

PA
10/1

Copy to RI Police Lines Mardan to deliver this Notice upon ASI Wisal Ahmad at Central Jail Mardan & the receipt thereof shall be returned to this office within (05) days positively for onward necessary action.

*دستور العمل برائے مارجنل جیل ماردان
 23/3/19*



2

400

**OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN**

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpo_mardan@yahoo.com

2019

No. 40 /PA

Dated 6 / 12 / 2019

DISCIPLINARY ACTION

I, Sajjad Khan (PSP), District Police Officer Mardan, as competent authority am of the opinion that ASI Wisal Ahmad, himself liable to be proceeded against, as he committed the following acts/omissions within the meaning of Police Rules 1975.

STATEMENT OF ALLEGATIONS


Whereas, ASI Wisal Ahmad, while posted at DPO Office Mardan (Now under suspension Police Lines) has been charged in the following two cases:-

- 1) FIR No.90 dated 30.01.2019 U/S 395-342 PPC PS Shahbaz Garh
- 2) FIR No.91 dated 30.01.2019 U/S 325 PPC PS Shahbaz Garh

For the purpose of scrutinizing the conduct of the said accused Official with reference to the above allegations, ASP Ali Bin Tariq SDPO/City Mardan is nominated as E.O.

The Enquiry Officer shall, in accordance with the provision of Police Rules 1975, provides reasonable opportunity of hearing to the accused Police Officer, record/submit his findings and make within (30) days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused Official.

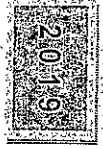
ASI Wisal Ahmad is directed to appear before the Enquiry Officer on the date, time and place fixed by the Enquiry Officer.


(SAJJAD KHAN) PSP
District Police Officer
Mardan

2

OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN


Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpo_mardan@yahoo.com



CHARGE SHEET

I, Sajjad Khan (PSP), District Police Officer Mardan, as competent authority, hereby charge ASI Wisal Ahmad, while posted at DPO Office Mardan (Now under suspension Police Lines), as per attached Statement of Allegations.

1. By reasons of above, you appear to be guilty of misconduct under Police Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in Police Rules, 1975:
2. You are, therefore, required to submit your written defense within 07 days of the receipt of this Charge Sheet to the Enquiry Officer, as the case may be.
3. Your written defense, if any, should reach the Enquiry Officers 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 follow against you.
4. Intimate whether you desired to be heard in person.


(Sajjad Khan) PSP
District Police Officer
Mardan

تاریخ و وقت رپورٹ	ضلع	حوالہ
41	91	تاریخ وقوعہ 30-1-018 وقت 14:18
تاریخ و وقت رپورٹ	30-1-19 وقت 14:50	ضلع
نام کنوینٹنشن ہال	آصف خان 574	حوالہ
شناختی کارڈ نمبر اسپتال نمبر	0345-5160297	
محقق کیفیت جرم (معدومہ) حال اگر کچھ لیا گیا ہو۔	325	
جائے وقوعہ کا پتہ/تھانہ سے اور سمت	جولہ گردیالہ	
نام کنوینٹنشن ہال	Asi و ہلال	مسکن کوٹ اسماعیل زئی گڑھی کورہ
شناختی کارڈ نمبر اسپتال نمبر		
کارروائی/تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو		برسڈن ہراسہ قتلہ ذریعہ رپورٹ کیا جائے
تاریخ و وقت		برسڈن ہراسہ

ابتدائی اطلاع نیچے درج کرو۔ ہراسہ حوصلہ منافی آصف خان 574 پر
 کنوینٹنشن ہال روم 2006 بریفوں ذیل ہے۔ حشر آئی تھا شہساز گڑھی۔ حسب اطلاع کنوینٹنشن ہال
 سردان آیا۔ Asi زبیر خان و دیگر تقریباً لوہیں جولہ گردیالہ سے ملزم و ہلال و ہلال مسکن کوٹ
 اسماعیل زئی گڑھی کورہ گڑھا بڑھ بڑا۔ قتلہ 90 عرصہ 05/09/2018 جرم 0345-5160297
 جو بمقام فی روایت ہسپتال لائے ہوئے ہیں۔ معلوم ہوا کہ ملزم بالا محفوظ حراست میں رکھے
 کے دوران Asi زبیر کی پٹن جو اس نے نقل اور اختتامی سے کر کے میں رکھا ہوا تھا
 کو اچانک آٹھا کر اپنے آپ پر خودکشی کی خاطر فائر کے خود کو زخمی کیا ہے۔ جس کو
 زبیر خان اور دیگر عمل جولہ گردیالہ سے آٹھا کر لغرض مسلح و مسلح ہسپتال پہنچایا۔ وہ
 کے متذکرہ بالا ملزم و ہلال قلعہ لوہیں میں Asi تھا۔ اور کنوینٹنشن کی دعوت پر اس کے
 قتلہ منوٹ بالا میں حسب ضابطہ گرفتار ہو چکا تھا۔ اور کنوینٹنشن کے ہر ریشماں اور خادم تھا۔ اور اس کے
 کو سپردداشت نہیں کیا گیا تھا۔ جس سے دلہبرداشتہ ہو کر خودکشی کی ارٹیاں کا اقدام
 کیا ہے۔ ہر جرم بالا کی مائی جانر مذکورہ کا مقصد ہر تیار کر کے یہ حفاظت کنوینٹنشن
 حوالہ ڈال کر ہے۔ ملزم بالا کو قتلہ بالا کے علاوہ مقدم میں آسین کہا جب ہلال
 گرفتار کے حوالے سے کنوینٹنشن ہال روم 2006 ارسال تھا ہے لوہیں لائن کو گارڈ کیے گئے
 دیگر سرپرست حوالوں خان ای و دیگر سردار ہلال 1826/2018 خلیل 574/2018 حشر و حراست پر مہور کیے۔ حشر
 رپورٹ کے تفتیش حوالہ سردار ہلال کی جا ہے۔ دستاویز گڑھی آصف خان 574/2018 جرم 30-1-19
 کا پورے نئے لیا آمد سرخ حشر بہ حشر جرم نقل ہوا ہے۔ F.I.R. کے درجہ تفتیش حوالہ سردار ہلال 574/2018 جرم 30-1-19



OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111

Email: dpo_mardan@yahoo.com



No. 245054 /PA

Dated 15/4 2019

ORDER ON ENQUIRY OF ASI WISAL AHMAD

This order will dispose-off a Departmental Enquiry under Police Rules 1975, initiated against the subject Police Official, under the allegations that while posted at DPO Office Mardan (Now under suspension & in Central Jail Mardan) was placed under suspension and closed to Police Lines with immediate effect vide this office OB No.263 dated 01-02-2019, issued vide order/endorsement No.875-78/EC dated 04-02-2019 on account of being charged in the following cases:-

- 1) FIR No.90 dated 30-01-2019 U/S 395/342 PPC PS Shahbaz Garh.
- 2) FIR No.91 dated 30-01-2019 U/S 325 PPC PS Shahbaz Garh.

Brief:

In case FIR No.90 dated 30-01-2019 U/S 395/342, ASI Wisal Ahmed snatched away a huge amount from one Aziz Akbar Son of Muhammad Akbar Resident of Sunigram Buner, while in second case, he attempted suicide within Police Custody inside Police Post Garyala.

To ascertain real facts, he was proceeded against departmentally through ASP Ali Bin Tariq SDPO/City Mardan vide this office Statement of Disciplinary Action/Charge Sheet No.40/PA dated 06-02-2019, who (E.O) after fulfilling necessary process, submitted his Finding Report to this Office vide his Office letter No.256/S dated 11-02-2019, holding responsible the alleged official of gross misconduct, on account of non submitting his reply in compliance of delivered Statement of Disciplinary Action/Charge Sheet within stipulated time as well as recovery of snatched amount of Rs.26,00,000/- from his possession during investigation, verifying his actual involvement in the case with recommending for major punishment of dismissal from service.

In this connection, ASI Wisal Ahmed was served with a Final Show Cause Notice on 23-03-2019, issued vide this office No.78/PA dated 22-03-2019, wherein, his reply was due to reach this office within (07) days i-e up-to 30-03-2019, but he again failed to submit his reply even till date, meaning thereby that he has nothing to present in his defense.

Final Order

ASI Wisal Ahmed, being a member of a disciplined force with holding a responsible rank therein, has committed gross misconduct, earning bad name to the entire Police Force in the eyes of general public, so keeping in view the above facts, I am of the considered opinion that his more retention in Police Force is against the justice/department, therefore, an **ex-parte action is taken against him by awarding major punishment of dismissal from Police Force with effect from 01-02-2019 (suspension's date)** with immediate effect, in exercise of the power vested in me under Police Rules-1975.

OB No. EM4

Dated 12/4 2019.

(Sajjad Khan) PSP
District Police Officer
Mardan

Copy forwarded for information & n/action to:-

- 1) The Regional Police Officer Mardan, please.
- 2) The SP Operations Mardan.
- 3) The Superintendent Central Jail Mardan.
- 4) The P.O + E.O (Police Office) Mardan.
- 5) The OSI (Police Office) Mardan with () Sheets.

ORDER

This order will dispose of the departmental appeal preferred by Ex-Adhoc ASI Wisal Ahmed No. 1379 of Mardan District Police against the order of the District Police Officer, Mardan, wherein he was awarded Major Punishment & Dismissal from Service by the District Police Officer, Mardan vide his office Order No. 814 dated 12.04.2019.

Short facts of the case are that the appellant while posted at DPO Office Mardan, Dismissed from service on account of being charged in the following cases:-

- 1. FIR No. 90 dated 30-01-2019 U/S 302/342 PPC PS Shahbaz Garh.
- 2. FIR No. 91 dated 30-01-2019 U/S 325 PPC PS Shahbaz Garh.

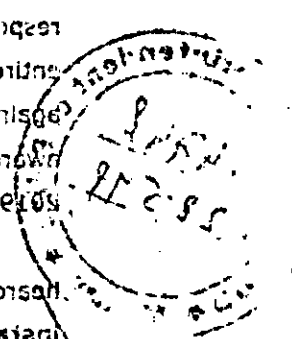
In case FIR No. 90 dated 30-01-2019 U/S 302/342, ASI Wisal Ahmed snatched away a huge amount from one Aziz Akbar Son of Muhammad Akbar, resident of Sunjgram Buner, while in second case, he attempted suicide within Police Custody inside Police Post Garjala.

To ascertain real facts, he was proceeded against departmentally through ASP Ali Bin Tard DPO/City Mardan. The Enquiry Officer after fulfilling necessary process, submitted his Finding Report, holding responsible the alleged official of gross misconduct, on account of non submitting his reply in compliance of delivered Statement of Disciplinary Action/Charge Sheet within stipulated time as well as recovery of snatched amount of Rs. 25,00,000/- from his possession during investigation, verifying his actual involvement in the case with recommending for major punishment of dismissal from service.

In this connection, ASI Wisal Ahmed was served with a Final Show Cause Notice on 23-03-2019, wherein, his reply was due to reach within (07) days i.e. up-to 30-03-2019, but he again failed to submit his reply even till date, meaning thereby that he has nothing to present in his defence.

ASI Wisal Ahmed, being a member of a disciplined force with holding a responsible rank therein, has committed gross misconduct earning bad name to the entire Police Force in the eyes of general public, his more retention in Police Force is against the justice/departement, therefore, an ex-parte action is taken against him by awarding major punishment of dismissal from Police Force with effect from 01-02-2019 by the District Police Officer, Mardan.

He was called in orderly room held in his office on 23.02.2019 and heard him in person. Having serious allegations, bad reputation, Appeal for reinstatement into service is filed.



(MUHAMMAD ALI KHAN) PSP

Regional Police Officer,
Mardan

Dated Mardan the 27/02/2019

Copy to District Police Officer, Mardan for information and necessary action v/r to his office Memo: No. 240/LB dated 13.02.2019. His Service Record is returned herewith.

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

Service Appeal No. 991/2019

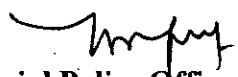
Ex- ASI Wisal Ahmad No. 1379Appellant

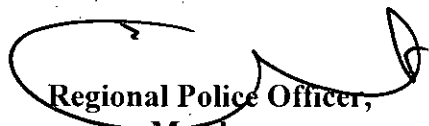
VERSUS


1. The District Police Officer, Mardan.
2. Regional Police Officer, Mardan.
3. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
4. Inspector General of Police Khyber Pakhtunkhwa.

AUTHORITY LETTER.

Mr. Atta-ur-Rahman Inspector Legal, (Police) Mardan is hereby authorized to appear before the Honourable Service Tribunal, Khyber Pakhtunkhwa, Peshawar in the above captioned service appeal on behalf of the respondents. He is also authorized to submit all required documents and replies etc. as representative of the respondents through the Addl: Advocate General/Govt. Pleader, Khyber Pakhtunkhwa Service Tribunal, Peshawar.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 03 & 04)


Regional Police Officer,
Mardan.
(Respondent No. 02)


District Police Officer,
Mardan.
(Respondent No. 01)



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No. 881 /ST

Dated: 7-4-2022

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262


To

The District Police Officer,
Government of Khyber Pakhtunkhwa,
Mardan.

Subject: JUDGMENT IN APPEAL NO. 991/2019, MR. WISAL AHMAD

I am directed to forward herewith a certified copy of Judgement dated 31.01.2022 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR