

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 7947/2020

BEFORE: SALAH UD DIN --- MEMBER(J)
MIAN MUHAMMAD --- MEMBER(E)

Zahoor Ur Rehman Inspector No. P/285, Police Lines
Peshawar..... (*Appellant*)

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
2. Capital City Police Officer, Peshawar..... (*Respondents*)

Present:

FAZAL SHAH MOHMAND,
Advocate --- For Appellant.

MUHAMMAD JAN,
District Attorney --- For respondents.

Date of Institution.....15.07.2020
Date of Hearing.....07.12.2022
Date of Decision.....07.12.2022

JUDGEMENT

MIAN MUHAMMAD, MEMBER(E):- The instant service appeal has been instituted with the prayer that “on acceptance of this appeal the impugned adverse remarks/entries in the ACR of the appellant for the period/year 01.03.2016 to 31.12.2016 communicated to the appellant vide letter dated 21.02.2020 may kindly be expunged”.

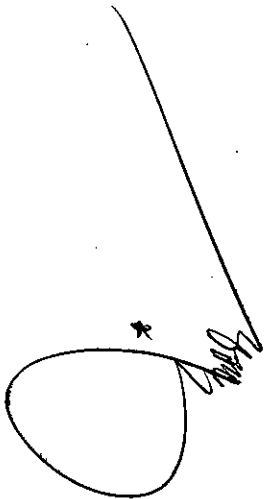
02. Brief facts, as averred in the memorandum of service appeal, are that the appellant has been working in the respondent department for the last 30 years. The appellant earned adverse

remarks recorded in his ACR for the period from 01.03.2016 to 31.12.2016. He therefore, filed departmental appeal which was not responded within the statutory period of ninety days, hence the instant service appeal was preferred on 15.07.2020.

03. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions raised by the appellant in his appeal. We have heard arguments of learned counsel for the appellant as well as learned District Attorney for the respondents and have gone through the record with their valuable assistance.

04. Learned counsel for the appellant vehemently contended that the appellant was serving as Inspector in the respondent department and previously he had been dismissed from service on the allegations of corruption, league with criminals and inefficiency against which he filed service appeal No. 1045/2017 which was allowed vide judgement dated 08.10.2018. He further argued that the appellant was subjected to numerous inquiries against which he also approached the Honourable Peshawar High Court, in Writ Petition No. 3997-P/2017 which was also allowed vide judgement dated 11.02.2020. Moreover, the impugned adverse remarks/entry recorded in ACR of the appellant for the period (01.03.2016 to 31.12.2016) was communicated to the appellant after lapse of more than four years and that too, without having issued him any counseling, warning or advice, therefore, the instructions relating

to recording of adverse remarks in the ACR of government Servant and particularly as laid down in 17.13 of the Police Rules, 1934 were not complied with. It was further argued that no opportunity of personal hearing or self defense was ever afforded to the appellant to prove himself innocent, therefore, the impugned adverse remarks/entry recorded in ACR of the appellant are liable to be expunged. To strengthen his arguments, he relied on 1999 SCMR 1587 and PLD 2004 Supreme Court 191.



05. Learned District Attorney controverted the arguments of learned counsel for the appellant and contended that the charges against the appellant to have been in league with criminals, were proved from CDR of his cell number during the course of enquiry proceedings. He further argued that the appellant was provided opportunity of personal hearing and self defense time and again but he did not appear to prove himself innocent. He next contended that the appellant failed to mend his ways, therefore, adverse remarks/entry was rightly recorded in his ACR for the period from 01.03.2016 to 31.12.2016. He requested that the service appeal being devoid of merits, may kindly be dismissed while concluding his arguments.

06. A careful perusal of the record reveals that the appellant is aggrieved of the following adverse remarks recorded in his ACR for the period from 01.03.2016 to 31.12.2016.

"He is a corrupt officer who was in league with criminals. His efficiency was also below par & subsequently removed from Gulbahar & suspended:."

07. It is astonishing to note that during this specific period, the period from 13.08.2016 to 31.12.2016 is included when the appellant was posted at Gulbahar Police Station and he was proceeded against departmentally. His penalty of dismissal from service was set aside by the Service Tribunal vide judgement dated 08.10.2018. Now penalizing the appellant by way of depriving him of confirmation as Inspector on the same charge, tantamounts to double jeopardy which is a blatant violation of Article 13 of the Constitution. It is also a matter of the record that the adverse remarks/report was not communicated to the appellant within the specified timelines and three enquiries conducted of which in two, the concerned clerk was held responsible for it. Para 17.13 of the Police Rules, 1934 as well as Para 4.1 of the Provincial Government "Instructions on Performance Evaluation Report (2006)" are quite clear and elaborate as to how, in what manner and when adverse remarks in ACR are to be communicated to the person reported upon. It is also noted that neither documentary evidence is available in support of the adverse remarks nor provided by the respondents at the time of arguments by the District Attorney. Moreover, no documentary evidence was produced to establish that proper counseling of the appellant was undertaken before awarding him

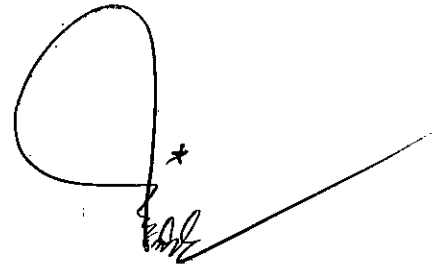
the adverse remarks in question. Above all is the established fact that adverse remarks were communicated to the appellant after lapse of over four years on 21.02.2020 despite the fact the competent authority had decided it on 27.04.2017 to convey the adverse remarks to the appellant.

08. As a sequel to the above we have arrived at the conclusion that the appellant has made his case and it stands established without any iota of doubt. The instant service appeal is therefore, allowed and the adverse remarks for the year 2016 are hereby expunged. Parties are left to bear their own costs. File be consigned to the record room.

09. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 07th day of December, 2022.*



(SALAH UD DIN)
MEMBER (J)



(MIAN MUHAMMAD)
MEMBER (E)

ORDER

07.12.2022

Mr. Fazal Shah Mohmand, Advocate for the appellant present.

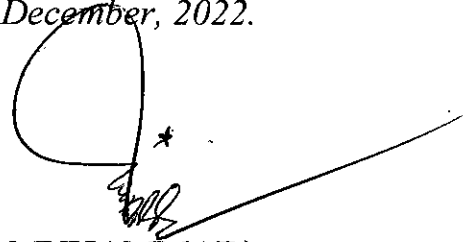
Mr. Muhammad Jan, District Attorney for the appellant present.

02. Vide our detailed judgement of today separately placed on file consisting (05) pages, we have arrived at the conclusion that the appellant has made his case and it stands established without any iota of doubt. The instant service appeal is therefore, allowed and the adverse remarks for the year 2016 are hereby expunged. Parties are left to bear their own costs. File be consigned to the record room.

03. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 07th day of December, 2022.*



(SALAH UD DIN)
MEMBER (J)



(MIAN MUHAMMAD)
MEMBER (E)

137

NO. 13-17

ccp.

Police Department

Khyber Pakhtunkhwa Police

Annual confidential Report on the working of Assistant Sub-Inspectors, Sub-Inspectors and Inspector for the period/year from 01.03.2016 to 31.12.2016

Name, Provincial or Range No. Rank and Grade.	INSPECTOR ZAHOOR REHMAN NO. 2/235
Father's Name	SHAMS UR REHMAN
Where and on what duties employed During the past 12 months	RECEIVED FROM CTD, KPK. 01.03.2016 to 20.04.2016 P/LIN B, PSH: 20.04.2016 to 11.07.2016 SHO JALBAHL 11.07.2016 to 11.09.2016 SHO NATTAL 11.09.2016 to 31.12.2016 SHO GULBANAR
Class of Superintendent of Police's Report, i.e. 'A' or 'B'	A
Is he/she honest?	Yes

Remarks:-

- (1) Superintendent of Police;
- (2) Regional Deputy Inspector-General of Police.

1.3.2016 to 25.10.2016

His performance was very good.

1.3.2016 to 11.8.2016

[Signature]

(MUBARAK ZEB)
CAPITAL CITY POLICE OFFICER,
PESHAWAR

[Signature]
(ABBAS MAJID KHAN MARWAT)
SR: SUPERINTENDENT OF POLICE,
OPERATION, PESHAWAR

25.11.2016 to 31.12.2016

13.8.2016 to 31.12.2016

He is a corrupt officer who was in league with criminals. His officering

(MUHAMMAD TAHIR)
CAPITAL CITY POLICE OFFICER,
PESHAWAR

[Signature]
(SAJJAD KHAN)
SR: SUPERINTENDENT OF POLICE,
OPERATION, PESHAWAR

was also below par & subsequently removed from Gulbanar & suspended

Additional IGP/Headquarters
Khyber Pakhtunkhwa
Peshawar

[Signature]
21-2-2017
C.C.P.O. Peshawar

Representation rejected/Filed
by c/o S/3579-82/20
dt 10.9.2020

137

NO. 15-17

ccp

Police Department

Khyber Pakhtunkhwa Police

Annual confidential Report on the working of Assistant Sub-Inspectors, Sub-Inspectors and Inspector for the period/year from 01.03.2016 to 31.12.2016

Name, Provincial or Range No. Rank and Grade.	INSPECTOR ZAHOOR REHMAN NO. P/235
Father's Name	SHAMS UR REHMAN
Where and on what duties employed During the past 12 months	RECEIVED FROM CTD, KPK. 01.03.2016 to 20.04.2016 P/LIN P, PSH; 20.04.2016 to 11.07.2016 SHO GAZIABAD; 11.07.2016 to 11.09.2016 SHO MATTAN L. 11.09.2016 to 31.12.2016 SHO GULBAGH
Class of Superintendent of Police's Report, i.e. 'A' or 'B'	A
Is he/she honest?	Yes

Remarks:-

- (1) Superintendent of Police;
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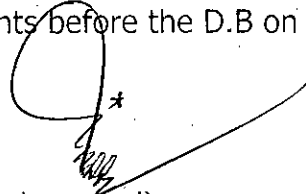
[Signature]
21-2-2017
C.C.P.O. Peshawar

Referance attached / filed
by c/o S/3579-82/20
dt 10.9.2020

10.10.2022

Appellant in person present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Appellant sought adjournment on the ground that his counsel is busy in the august Peshawar High Court, Peshawar. Adjourned. To come up for arguments before the D.B on 07.12.2022.



(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)

24.01.2022

Learned counsel for the appellant present. Mr. Muhammad Raziq H. Calongwith Mr. Muhammad Riaz Khan Paindakheil Assistant Advocate General for the respondents present.

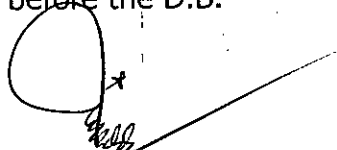
Mrs. Rozina Rehman learned Member (Judicial) is on leave, therefore, case is adjourned. To come up for arguments on 31.03.2022 before D.B.


(Salah-Ud-Din)
Member (J)

31st March, 2022

Junior to counsel for the appellant present. Mr. Kabirullah Khattak, Addl. A.G for the respondents present.

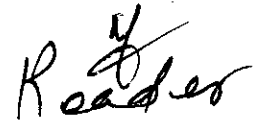
Former seeks adjournment due to non-availability of learned senior counsel for the appellant. Adjourned. Last opportunity is granted. To come up for arguments on 02.06.2022 before the D.B.


(Mian Muhammad)
Member(Executive)


Chairman

2-6-2022

Proper DB not available the case is adjourned to 15-8-2022


Reader

15-8-22

Due to summer vacation, the case is adjourned to 10-10-22 for the same.


Reader

08.04.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 01.07.2021 for the same as before.



READER

01.07.2021

Counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG alongwith Abdur Razaq, Reader for the respondents present.

Parawise comments on behalf of respondents have been submitted. Cost of Rs. 1000/- paid by the said representative, has been handed over to appellant and receipt thereof obtained from him which is placed on file. The appeal is entrusted to D.B for arguments on 15.11.2021.

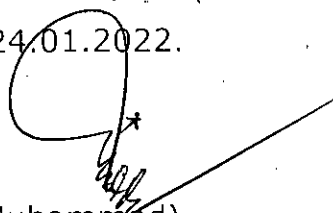


Chairman


15.11.2021

Learned counsel for the appellant present. Mr. Aziz Shah, Reader alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Learned counsel for the appellant sought adjournment for arguments. Adjourned. To come up for arguments before the D.B on 24.01.2022.



(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)

29.10.2020

Appellant in person present.

Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Aziz Shah Reader for respondents present.

Written reply on behalf of respondents is still awaited. Representative of respondents requests for time to submit written reply/comments; granted. To come up for submission of reply/comments on 24.12.2020 before S.B.



(Rozina Rehman)
Member (J)

24.12.2020

Counsel for the appellant and Asstt. AG for the respondents present.

Learned AAG is required to contact the respondents and facilitate submission of reply/comments on the next date.

To come up for reply/comments on 10.02.2021 as last chance.



Chairman

10.02.2021

Junior to counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate General alongwith Muhammad Raziq Reader for respondents present.

Written reply ^①submitted on behalf of respondents is still awaited. Representative of respondents made a request for time to furnish reply/comments. Opportunity is granted but on cost of payment of Rs.1000/-. To come up for written reply/comments on 08.04.2021 before S.B.



(Rozina Rehman)
Member (J)

05.08.2020

Mr. Fazal Shah Mohmand, Advocate for appellant is present.

The point for consideration as pressed into service by the learned counsel representing the appellant, are that as to whether the late communication of adverse remarks/entry in the ACR of a civil servant can give rise and accrue any right in favour of the appellant and whether such an action on the part of authorities is in consonance or contravention of the law and rules on the subject.

The issue agitated at the bar requires proper consideration and resolution in the light of law and rules in vogue, therefore, the appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments. File to come up for written reply/comments on 05.10.2020 before S.B.

Appellant Deposited
Security & Process Fee →

10/8/20

(MUHAMMAD JAMAL KHAN)
MEMBER

05.10.2020

Junior to counsel for the appellant and Addl. AG for the respondents present.

Learned AAG seeks time to furnish reply/comments. He is required to contact the respondents and facilitate the submission of requisite reply/comment on next date positively.

Adjourned to 29.10.2020 before S.B.

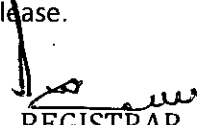

Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 7947 /2020

1S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	15/07/2020	<p>The appeal of Mr. Zahoor-ur-Rehman presented today by Mr. Fazal Shah Mohmand Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2-</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>05/08/2020</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 2947/2020

Zahoor Ur Rehman.....Appellant

V E R S U S


PPO and another.....Respondents

I N D E X

S. No	Description of Documents	Annexure	Pages
1.	Service Appeal		1-3
2.	Application for condonation of delay with affidavit		4
3.	Copy of Judgment dated 08-10-2018	A	5-11
4.	Copy of Writ Petition & Judgment dated 11-02-2020	B	12-22
5.	Copy of Letter dated 21-02-2020	C	23
6.	Copy of Departmental appeal	D	24-26
7.	Copy of Police Rules	E	27
8.	Copy of letter dated 27-04-2017	F	28
11.	Wakalat Nama		29

Dated:-14-07-2020


Appellant
(Zahoor Ur Rehman)

Through 
Fazal Shah Mohmand-
Advocate,
Supreme Court of Pakistan.

OFFICE:- Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell#
0301 8804841

Email:- fazalshahmohmand@gmail.com

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 7947/2020

Zahoor Ur Rehman Inspector No P/285, Police Lines Peshawar.

.....Appellant Khyber Pakhtunkhwa Service Tribunal

V E R S U S

Diary No. 7228

Dated 15/7/2020

1. Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
2. Capital City Police Officer, Peshawar.....Respondents

APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE ADVERSE REMARKS/ENTRIES IN THE ANNUAL CONFIDENTAIL REPORT OF THE APPELLANT FOR THE PERIOD/YEAR 01-03-2016 TO 31-12-2016 COMMUNICATED TO THE APPELLANT VIDE LETTER DATED 21-02-2020 AND AGAINST WHICH DEPARTMENTAL APPEAL OF THE APPELLANT HAS NOT BEEN RESPONDED SO FAR DESPITE THE LAPSE OF MORE THAN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:-

On acceptance of this appeal the impugned Adverse Remarks/entries in the ACR of the appellant for the period/year 01-03-2016 to 31-12-2016 communicated to the appellant vide letter dated 21-02-2020 may kindly be expunged.

Respectfully Submitted:-

1. That the appellant is serving as Inspector in the respondent department for the last about 30 years and since enlistment the appellant has performed his duties with honesty and full devotion and to the entire satisfaction of his high ups.
2. That on 31-05-2017 the appellant was dismissed from service on various allegations including corruption, in league with criminals and inefficiency, the appellant after exhausting departmental remedy filed Service Appeal No 1045/2017 which was accepted vide Order/Judgment dated 08-10-2018 and even no CPLA was filed by the respondents. **(Copy of Judgment dated 08-10-2018 is enclosed as Annexure A).**
3. That the appellant was subjected to numerous inquiries which he impugned before the honorable Peshawar High Court in Writ Petition No 3997-P/2017 which was allowed vide Judgment dated 11-02-2020. **(Copy of Writ Petition & Judgment dated 11-02-2020 is enclosed as Annexure B).**

Filed to-day
 Registrar
 15/7/2020

4. That to the utter surprise and for reasons other than fair and bonafide the appellant was communicated adverse remarks/entries in the ACR for the period/year 01-03-2016 to 31-

12-2016 vide letter dated 21-02-2020. **(Copy of Letter dated 21-02-2020 is enclosed as Annexure C).**

5. That the appellant preferred departmental appeal before respondent No 1 on 09-03-2020 which has not been responded so far despite the lapse of more than the statutory period of ninety days. **(Copy of Departmental appeal is enclosed as Annexure D).**
6. That the adverse remarks/entires recorded in the ACR of the appellant for the period/year 01-03-2016 to 31-12-2016 communicated vide letter dated 21-02-2020 are against the law, facts and principles of justice on grounds inter alia as follows:-

GROUND S:-

- A. That the impugned adverse remarks/entires recorded in the ACR of the appellant for the period/year 01-03-2016 to 31-12-2016 are illegal, unlawful and void ab-initio.
- B. That mandatory provisions of law and rules have badly been violated by the respondents and the appellant has not been treated according to law and rules.
- C. That the adverse entries are void being by made an authority who is the countersigning authority and as such too liable to be expunged.
- D. That the impugned adverse remarks/entires recorded in the ACR of the appellant for the period/year 01-03-2016 to 31-12-2016 are not tenable as the same have been communicated after more than four years in violation of the Instructions and Police Rules on the subject. **(Copy of Police Rules is enclosed as Annexure E).**
- E. That no counseling etc as required under the instructions on PER/ACR were made before the communication of such remarks and the same as such are liable to be expunged.
- F. That the appellant was not associated, ex parte action has been taken and even no evidence of any sort has been collected in support of the allegations.
- G. That through the impugned adverse entries the appellant has been subjected to double jeopardy as the entries relates to the period and allegations on the basis of which he was dismissed from service and on appeal he was reinstated by this honorable tribunal.
- H. That period the malafide is proved from the fact that the appellant was subjected to three inquiries and when the malafide and illegalities were declared illegal by the competent Courts of

law, the respondents have now communicated the appellant an ACR of 2016 which speaks of anything but not fair and bonafide.


- I. That by communicating the impugned adverse entries after reinstatement and declaration of three inquiries as illegal, is aimed at putting the appellant in constant agonies.
- J. That the appellant was never provided opportunity of defense, improving and hearing in violation of the instructions on the subject and principles of natural justice.
- K. That the charges were never established nor was any material collected against the appellant warranting adverse entries.
- L. That from letter dated 27-04-2017 it is clear that the authority had decided to convey the adverse entries to the appellant but the same were conveyed in the year 2020 for reasons best known to the appellant. **(Copy of letter dated 27-04-2017 is enclosed as Annexure F).**
- M. That the appellant while posted as SHO during the subject period tried his best to have cordial relations with the general public and performed his duties to the best of his abilities and potential.
- N. That the appellant has about 30 years of service with unblemished service record.
- O. That the appellant seeks the permission of this honorable tribunal for further/additional grounds at the time of arguments.

It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.

Any other relief deemed appropriate and not specifically asked for, may also be granted in favor of the appellant.

Dated:-14-07-2020


Appellant
(Zahoor Ur Rehman)

Through 
Fazal Shah Mohmand
Advocate,
Supreme Court of Pakistan.

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No _____/2020

Zahoor Ur Rehman.....Appellant

V E R S U S

PPO and another.....Respondents

Application for condonation of delay if any


Respectfully Submitted:-

1. That the accompanying appeal is being filed today in which no date of hearing has been fixed so far.
2. That the grounds of appeal may be considered as integral Part of this application.
3. That ex-parte action has been taken, the adverse entries are void being without jurisdiction and lawful authority as such and the limitation becomes irrelevant in such circumstances, the appeal as such is well within time.
4. That the law as well as the dictums of the superior Courts also favors decisions of cases on merit.

It is therefore prayed that on acceptance of this application, the delay if any in filing of appeal may kindly be condoned.

Dated:-14-07-2020


Appellant
(Zahoor Ur Rehman)

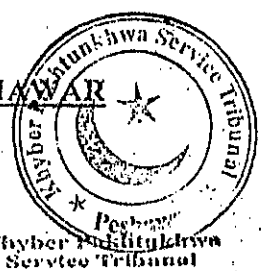
Through 
Fazal Shah Mohmand
Advocate,
Supreme Court of Pakistan.

AFFIDAVIT

I, Zahoor Ur Rehman Inspector No P/285, Police Lines Peshawar, do hereby solemnly affirm and declare on oath that the contents of this **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.


DEPONENT

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR



APPEAL NO. 1045 /2017

Mr. Zahoor-Ur-Rahman Ex-Inspector,
Police Lines Peshawar.

Diary No. 1076

Dated 15/9/2017

(Appellant)

VERSUS

1. The Provincial Police Officer, KPK, Peshawar.
2. The Capital City Police Officer, KPK, Peshawar.
3. The Senior Superintendent Police Officer, KPK, Peshawar.

(Respondents)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 31.05.2017 WHEREBY THE PENALTY OF DISMISSAL FROM SERVICE WAS IMPOSED UPON THE APPELLANT AND AGAINST NOT TAKING ANY ACTION AND DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN A STATUTORY PERIOD OF 90 DAYS.

PRAYER:

Filed to Day
Registrar
15/9/17

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 31.05.2017 MAY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

ATTESTED

[Signature]
Registrar
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.



Service Appeal No. 1045/2017

Date of Institution... 15.09.2017

Date of decision... 08.10.2018

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar.

Mr. Zahoor-Ur-Rehman Ex-Inspector, Police Lines Peshawar.

... (Appellant)

Versus

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and two others. (Respondents)

Mr. Muhammad Asif Yousfazai,
Advocate

... For appellant.

Mr. Muhammad Riaz Paindakhel,
Assistant Advocate General

... For respondents.

MR. AHMAD HASSAN,
MR. MUHAMMAD AMIN KHAN KUNDI,

... MEMBER
... MEMBER

JUDGMENT

AHMAD HASSAN, MEMBER:- Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. Brief facts of the case are that while posted as SHO, Gulbahar Police Station, Peshawar disciplinary proceedings were initiated against the appellant on charges contained in charge sheet/statement of allegations. After conducting enquiry major penalty of dismissal from service was imposed on him vide impugned order dated 31.05.2017. He preferred departmental appeal on

f

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal

12.06.2017 which was not responded within stipulated period, hence, the instant

service appeal.

ARGUMENTS

3. The learned counsel for the appellant argued that disciplinary proceedings were initiated against him on the allegations of not taking action against drug paddlers/criminals and upon culmination major penalty of dismissal from service was imposed on him vide impugned order dated 31.05.2017. In this case glaring illegalities were committed by the respondents. That charge sheet and statement of allegations were served by the CCPO Peshawar, while the competent authority in this case was DPO/SSP, so the impugned order passed by the incompetent authority, was *coram-non-judice* in the eyes of law. Enquiry was also conducted in a perfunctory manner and the Enquiry Committee failed to record or produce any solid documentary evidence against the appellant in the enquiry report. The Enquiry Committee conceded that progress of the appellant during posting as SHO Police Station, Gulbahar for the period 12.09.2016 to 25.01.2017 and for the month of December was satisfactory. However, CDR revealed his contacts with PO, Lal Sher and Jan Sher, who were involved in attacks on police. On the other hand in reply to the show cause notice served on him the appellant replied that his brother-in-law (Fazal Amin) and Jan Sher had some property dispute so in that context he had a brief telephonic chat with them. The enquiry committee failed to record the statement of any officer/official and did not provide opportunity of cross examination to the appellant. Chance of personal hearing was also not afforded to him so condemned unheard. The appellant has more than thirty years service at his credit and penalty awarded did not commensurate with his guilt and appeared to be very harsh. Learned counsel for the appellant relied on case law

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reported as 2009 SCMR 339, PLD 1980 (S.C) 310, 1980SCMR 850, 2017 SCMR 1249, judgment of this Tribunal dated 03.08.2017 and 24.04.2018 passed in service appeal no. 1499/2011 and 331/2017 respectively:


4. On the other hand, the learned Assistant Advocate General argued that all codal formalities were observed before passing the impugned order. He was treated according to law and rules. Hence; there was no illegality in the said order. The appeal was not maintainable and be dismissed.

CONCLUSION.

5. At the very outset learned Asst; AG was confronted on the point that impugned order was passed by the incompetent authority i.e CCPO Peshawar. According to Police Rules 1975 competent authority for proceedings against the officers upto the rank of Inspector was DPO/SSP. In these circumstances charge sheet/statement of allegations and impugned order were issued by the incompetent authority which was *corum-non-judice* and void ab-initio. It is a fatal blow for the entire disciplinary proceedings and does not seem to be sustainable at any forum. It has put into question the legality of these proceedings.

6. In the presence of aforementioned fatal lapses there is hardly any need to touch other aspects of the case but in order to sensitize the respondents about their responsibilities, we would like to point out various inherent flaws in the enquiry proceedings. In the enquiry report, the committee conceded that performance of officer from 12.09.2016 to 25.01.2017 was found satisfactory. So far as the allegations contained in the charge sheet about his unsatisfactory performance for the month of December was concerned, it was termed as satisfactory by the committee. Hence, the charge against the appellant did not hold water. As regards

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Service Tribunal
Peshawar

charge pertaining to his links with criminals could be proved with the help of solid documentary evidence, which was not forthcoming in the said report. Mere reliance on CDR and that too without confronting the appellant with the same had no legal value. The enquiry committee failed to record statement of ASP, Gulbahar, on whose report dated 10.02.2017 disciplinary proceedings against the appellant were undertaken. Statements of concerned officials were not recorded by the committee for reasons best known to them. Opportunity of cross examination is a rudimentary requirement of rules was also denied the appellant, alongwith opportunity of personal hearing. Penalty awarded to appellant was very harsh and did not commensurate with his guilt. We have no hesitation to conclude that charges leveled against the appellant were not established by the enquiry committee.

7. As a sequel to above, the appeal is accepted and the impugned order 31.05.2017 is set-aside. The intervening period may be treated as leave of the kind due. Parties are left to bear their own cost. File be consigned to the record room.

Announced
08.10.2018

Edy- Ahmad Hassan
Mander

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Edy M. Amin Khan Kundli
Mander

Date of Presentation of Application 16-10-18
 Number of Words 2000
 Copying fee 12.00
 Urgent 2.00
 Total 14.00
 Name of Copyist [Signature]
 Date of Completion of Copy 16-10-18
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GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT

No.SO(Lit)/LD/9-13(125)Home/2018/ 37915
Dated Peshawar the 06/11/2018

To


1. The Advocate General,
Khyber Pakhtunkhwa, Peshawar.
2. The Secretary to Govt. of Khyber Pakhtunkhwa,
Home & Tribal Affairs Department.

Subject: Service Appeal No.1045/2017 titled as Mr. Zahoor-ur-Rehman Vs Provincial Police Office Khyber Pakhtunkhwa and others.

Dear Sir,

I am directed to refer to Inspector General of Police Khyber Pakhtunkhwa, Peshawar letter No.3269-70/Legal, dated 25-10-2018 on the subject noted above and to forward herewith minutes of the meeting held on 31-10-2018 under the Chairmanship of Secretary Law Department (which are self explanatory) for perusal and further necessary action, please.

Yours faithfully,


(JAZ KHAN)
SECTION OFFICER (Lit)

Endst: No. & Date Even.

Copy alongwith copy of minutes is forwarded to the:

1. Inspector General of Police Khyber Pakhtunkhwa, Peshawar.
2. PS to Secretary Law Department Khyber Pakhtunkhwa.
3. PA to Deputy Solicitor Law Department.

SECTION OFFICER (Lit)

f



GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS &
HUMAN RIGHTS DEPARTMENT

MINUTES OF THE SCRUTINY COMMITTEE MEETING.

(Agenda Item No.09)

S.A No.1045/2017 titled as Mr. Zahoor-ur-Rehman VS Provincial Police Officer Khyber Pakhtunkhwa and others.

A meeting of the Scrutiny Committee was held on 31-10-2018 at 12:00 hours in the office of Secretary Law Parliamentary Affairs & Human Rights Department under his Chairmanship to determine the fitness of the subject case for filing of appeal / CPLA in the proper forum. AAG (Mr. M.Sohail) was also present during the meeting being representative of Advocate General Khyber Pakhtunkhwa.

2. The Chairman of the Committee invited the representative of Secretary Home / Police Department Mr. Imtiaz Ali AIG / Legal CPO Peshawar to apprise the Committee about the background of the case which he did accordingly and stated that the appellant being aggrieved from the order of dismissal from service vide order dated 31-05-2017 has filed the subject service appeal in Khyber Pakhtunkhwa Service Tribunal after existing departmental remedy. The Service Tribunal vide judgment dated 08-10-2018 accepted the appeal set-aside the impugned order dated 31-05-2017 and treated the intervening period as leave without pay. Now the department intended to file CPLA against the judgment on the following grounds:-

GROUND:-

3. The grounds as proffered by the representative were that the Service Tribunal has not been considered the available record. The representative was confronted by the Scrutiny Committee with para-6 of the judgment wherein it was held that the charges leveled against the appellant have been cleared in the inquiry report. On which the representative produced the inquiry report before the Scrutiny Committee and candidly acceded that the charges have not been proved as it appeared from the bare perusal of the inquiry report. Another query was raised that whether opportunity of cross examination was provided to the appellant by the inquiry officer or otherwise. On which the representative stated that no such like opportunity has been provided to the appellant.

DECISION:-

4. Hence in view of above it was decided with consensus by the Scrutiny Committee that the subject case was not a fit case for filing of appeal in the Supreme court of Pakistan as no solid grounds was existed with the help of which Administrative Department may file CPLA in the Supreme Court of Pakistan.


(TAHIR IQBAL KHATTAK)
DEPUTY SOLICITOR

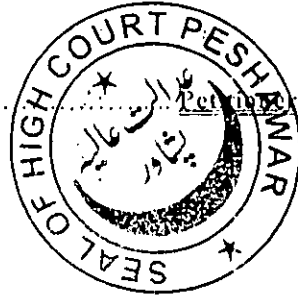
IN THE PESHAWAR HIGH COURT PESHAWAR

Writ Petition No. 3977 /2017

Zahoor-ur-Rahman

Ex-Inspector
Capital City Police, Police Lines, Peshawar
R/o Mian Gujar, Tehsil and District Peshawar.....

Versus



1. The Provincial Police Officer
Khyber Pakhtunkhwa, Peshawar
2. The Capital City Police Officer,
CPO, Police Lines, Peshawar
3. The Deputy Inspector General of Police
Inquiry & Inspection,
Khyber Pakhtunkhwa
Central Police Office, Peshawar
4. The Deputy Inspector General of Police
Headquarters, Khyber Pakhtunkhwa
Central Police Office, Peshawar Respondents

WRIT PETITION UNDER ARTICLE, 199 OF THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN, 1973.

Respectfully Sheweth,

Facts giving rise to the present writ petition are as under:-

1. That Petitioner was employee of the Police Department serving as Inspector. He had had 28 years unblemished service record at his credit. He has been removed from service by Respondent No.2 quite illegally and maliciously on account of an ill-based charge vide order dated 31.05.2017 (Annex:-A) which has been challenged before the Khyber Pakhtunkhwa Service Tribunal.
2. That in the Police Department there has been a longstanding practice that the subordinate Police Officers and Ministerial staff initiate their ACRs

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EXAMINER
Peshawar High Court

themselves for the purpose of further processing to the high-ups. As the confirmation of the Petitioner as Inspector was under consideration and directions were issued from the office of Respondent No.2 to complete the missing ACRs, therefore, the Proforma (Annex;-B) of the ACR for the period w.e.f. 01.03.2016 to 31.12.2016 after preparation by the ACR Clerk of the office of Respondent No.2 and Reporting Officers was presented to Respondent No.2 for countersigning who accordingly countersigned the same.

3. That later on, Respondent No.2 cancelled the ACR and directed for initiating departmental action against the Petitioner on the ground that the Department had also processed his ACR beforehand vide letter dated 18.04.2017 (Annex;-C) which contained adverse entries, however, the same adverse entries had never been communicated/conveyed to Petitioner.
4. That pursuant to the directions ibid, a preliminary enquiry was then conducted by the Enquiry Committee wherein the statement (Annex;-D) of Petitioner as well as ACR Clerk were recorded and thereafter the Enquiry Report (Annex;-E) was submitted to the competent authority recommending exoneration of Petitioner and it was suggested that all Police Officers in the Province be directed to initiate ACRs well within time and discourage/avoid writing of ACRs by hand. The Enquiry Report was approved by the competent authority and accordingly circular dated 27.04.2017 (Annex;-F) was issued throughout the Province.
5. That later on, Petitioner was taken aback when he was issued Charge Sheet and Statement of Allegations (Annex;-G) on the basis of the same issue of dual ACR and a second Enquiry Committee was constituted to conduct enquiry. The statement (Annex;-H) of Petitioner was recorded and a detailed second Enquiry Report (Annex;-I) was submitted to the competent authority wherein once again it was recommended to drop the proceedings against the Petitioner and that ACR Clerk be strictly directed to initiate ACRs within time and discourage writing of ACRs by hand.

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EXAMINER
Peshawar High Court

6. That thereafter once again to the utter bewilderment and shock of Petitioner a third enquiry was initiated vide letter dated 24.05.2017 (Annex;-J) by Respondent No.2 mala fide and revengefully. Again the statement (Annex;-K)-of Petitioner was recorded and since Respondent No.2 was bent upon victimizing the Petitioner, therefore, under his dictation a third Enquiry Report (Annex;-L) was procured wherein major penalty was recommended for Petitioner as well as criminal action. Pursuant to the Enquiry Report, Respondent No.2 vide letter dated 02.10.2017 (Annex;-M) directed for initiating criminal action against the Petitioner.
7. That the Petitioner is highly aggrieved of the acts and actions and unlawful conduct of Respondents and having and having no other adequate and efficacious remedy challenges the same through this constitutional petition inter-alia on the following grounds:-

Grounds:

- A. That Respondents have not treated petitioner in accordance with law, rules and policy on subject and acted in violation of Article 4, 10A of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned directions, which are unjust, unfair and hence not sustainable in the eye of law.
- B. That twice the matter was sufficiently enquired into by the Enquiry Committees and it was concluded that Petitioner was innocent and recommendations were made for dropping further proceedings against the Petitioner but since Respondent No.2 was having deep grudge and animosity towards Petitioner, therefore, he got a third enquiry conducted under his strict influence and thus an incriminatory report was submitted in highly illegal manner and finally issued the impugned letter for legal action as well as criminal proceedings. Since the action of Respondent No.2 is fraught with mala fide intention, therefore, the impugned letter as well as the third Enquiry Report are illegal, unlawful and therefore, not legally sustainable.

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EXAMINER
Peshawar High Court

- C. That the practice of initiating ACRs by the officers/officials themselves is quite old and for that very reason after the incident, proper circular was issued forbidding such practice. Moreover, the earlier adverse ACR had never been communicated to Petitioner in terms of Rule-13.17 of Police Rules (Extracts Annex;-N) for that very reason the instant occurrence took place, therefore, there was no malafide whatsoever on the part of Petitioner.
- D. That in peculiar facts and circumstances of the case, neither criminal act or omission has been committed by Petitioner nor he can be awarded another major penalty because he has already been removed from service by Respondent No.2 and that too on quite illegal grounds. The initiating of criminal proceedings by Respondent No.2 is based upon unlawful vengeance and is an act of highhandedness and arbitrary exercise of power which has resulted into victimizing the Petitioner's for no just cause or reasons. Moreover, the disputed ACR has already been cancelled by the competent authority.
- E. That Article-13 of the Constitution of the Islamic Republic of Pakistan-1973 "*No person shall be prosecuted or punished for the offence more than once,*" therefore, the initiating of third enquiry proceedings as well as issuance of the impugned letter for initiating further criminal proceedings against Petitioner amounts to *double jeopardy* and is thus ultra vires of the Constitutional mandate and as such is liable to be struck down.

For the aforesaid reasons, it is therefore, humbly prayed that on acceptance of this writ petition, this Hon'ble Court may graciously be pleased to declare the acts and actions of the Respondents, the impugned letter dated 02.10.2017 issued by Respondent No.2 and the third Enquiry Report conducted by Respondent No.3. as without lawful authority and hence of no legal effect and this august Court may further be pleased to strike down the same being against the constitutional mandate, illegal, malafide and direct the Respondents to act in the matter in accordance with law and to refrain from taking any adverse action against the Petitioner.

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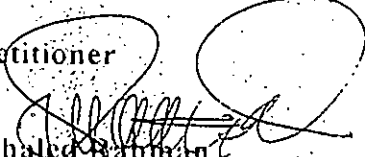
ATTESTED
EXAMINER
Peshawar High Court

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to petitioner.

Interim Relief:

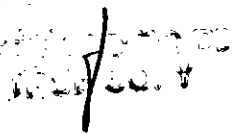
By way of Interim Relief, the Respondents may graciously be restrained from taking any adverse action against the Petitioner, till the final disposal of the instant writ petition

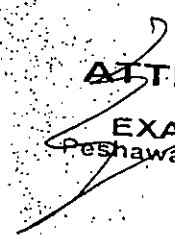
Through

Petitioner

Khaleel Rahman
Advocate,
Supreme Court of Pakistan

Dated: 07/10/2017

FILED TODAY
Deputy Registrar
07 OCT 2017



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EXAMINER
Peshawar High Court


IN THE PESHAWAR HIGH COURT,
PESHAWAR,
JUDICIAL DEPARTMENT

- 17 -

Writ Petition No. 3997P/2017..

Zahoor ur Rehman..... Petitioner.

Versus.

The PPO Peshawar..... Respondents.

For petitioner :- Mr. ~~Khalid Rehman~~, Advocate

For respondents: Barrister Babar Shahzad Imran.

Date of hearing: 11.02.2020



J U D G M E N T

MUHAMMAD NAEEM ANWAR, J.- The petitioner

through instant petition under Article 199 of the

Constitution of the Islamic Republic of Pakistan, 1973,

has prayed that:-

"on acceptance of this writ petition, this Hon'able Court may graciously be pleased to declare the acts and actions of the respondents, the impugned letter dated 02.10.2017 issued by respondent No.2 and the third enquiry report conducted by respondent No.3 as without lawful authority and hence of no legal effect and this august court may further be pleased to strike down the same being against the constitutional mandate, illegal, malafide and direct the respondents to act in the matter in accordance with law and to refrain from taking any adverse action against the petitioner."

2. As per averments of the petition, the petitioner was serving as Inspector in the Police Department and when his case for confirmation as Inspector was under consideration, in the meantime, it

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EXAMINER
Peshawar High Court

was found that in his one ACR, there was adverse entry but he by cheating, submitted fresh ACR for the said period, therefore, vide letter dated 18.4.2017, enquiry was initiated against him, wherein it was concluded that since the petitioner was not in the knowledge of his previous ACR as the same were not conveyed to him, therefore, vide letter dated 27.4.2017, the enquiry initiated against him was filed. Subsequently, on 20.4.2017, on the same allegation, charge sheet and statement of allegation were served on the petitioner and in the second inquiry too, he was exonerated. Again on 24.5.2017, third enquiry was initiated against him and after completion of the same, he was dismissed from service on 31.5.2017. Subsequently, vide letter dated 2.10.2017, criminal action was also proposed to be taken against him, hence, the instant petition;

4/

3. Arguments heard and record perused.
4. The perusal of record reveal that there was allegation against the petitioner that he submitted ACR for the period from 01.03.2016 to 31.12.2016 for countersigning to DIG/CTD Peshawar and after checking, it was found that ACR for the same period was already countersigned by him, however, for the period from 13.8.2016 to 31.12.2016, the CCPO Peshawar had recorded the remarks as below standard/adverse and sent to CP Peshawar on 23.02.2016, thus, by doing so,

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ATTESTED
EXAMINER
 Peshawar High Court

accusation of cheating his senior officer was levelled against him. During inquiry, it was found that since the office had not communicated the negative remarks to the officer, therefore, he was exonerated. Again on the same allegation, a second inquiry was initiated, accordingly, he was issued charge sheet and statement of allegations on 20.4.2017, and, after its conclusion, it was recommended that the enquiry against him may be filed as the same was already filed by CPO. Subsequently, third inquiry was initiated against him on the allegation that he was having close link with the criminals/narcotics peddlers of the area, therefore, by awarding major punishment, he was dismissed from service on 31.05.2017 and, similarly, vide letter dated 2.10.2017, it was directed that criminal proceedings be initiated against him.

5. Evidently, the enquiry conducted by Senior Superintendent of Police, Coordinator, was submitted to Capital City Police Officer, Peshawar, with the following conclusion:-

"After thorough examination of statements and circumstances, it was concluded that as per Police Rules 13.17, the negative remarks will be communicated to officer reported upon, well in time for information, but the office staff was unable to do so. Moreover, no malafide was found on the part of Inspector Zahoor ur Rehman as he was unaware of the ACR and its remarks, which was already prepared by Amjld Ali ACR clerk and submitted to CPO for record.

ATTESTED
EXAMINER
Peshawar High Court

Moreover, the adverse remarks has not yet conveyed to Inspector Zahoor ur Rehman."

Whereas in the enquiry, it was recommended that:-

"Keeping in view the above facts, it is suggested that enquiry against Inspector Zahoor ur Rehman may be filed, as the same has already been filed by CPO. Moreover, ACR clerk may be strictly directed to initiate ACRs well in time and discourage the initiating of ACRs by hand by the concerned officers, because this practice creates such like problems. The ACR of Inspector Zahoor ur Rehman with negative remarks stands and is kept on record."

6. Besides the above, on the basis of enquiry, vide order dated 31.5.2017, the petitioner was dismissed from service, however, the petitioner filed service appeal before the Khyber Pakhtunkhwa Service Tribunal, Peshawar, which was allowed on 08.10.2018, consequently, the impugned order dated 31.5.2017, was set aside and the intervening period was treated as leave of the kind due. The respondents in their commits have admitted that in compliance of the judgment of Service Tribunal, the petitioner has now been reinstated into service.

In such like situation, when in respect of same charges an enquiry was completed and was filed, on initiating of second enquiry on the same charges, in the case of Executive Engineer and others vs. Zahir Sharif (2005 S C M R 824), it was held by their lordships that:-

ATTESTED

EXAMINER

Peshawar High Court

"Be as it may it is worth mentioning here at this juncture that the direction regarding dispensation of inquiry was given by the competent authority and summary procedure was preferred to be followed, therefore, no fresh inquiry can be held again as it would cause serious prejudice to the respondent and the department would be in an advantageous position to fill in the gaps, benefit whereof, if any should be given to the respondent."

Reference can also be made to case law reported in 2018 PLC (CS) Note 99 (Sabz Ali vs. The Govt of KPK through Chief Secretary and 2 others), wherein it was held:-

"A bare look at show cause notice impugned herein and show-cause notice dated 23.12.2016 shows that both are having the same charge against the petitioner. As it is an admitted fact that petitioner as a result of show cause notice dated 23.12.2016 has been awarded minor punishment by the competent authority i.e., respondent No.3 in term of censure. In this view of the matter, the respondent No.3 according to the command of Article 13 of the Constitution of Pakistan no way could issue show cause notice dated 05.05.2017 for proceeding against the petitioner on the basis of the charges against which he has already been punished. This act on the part of the respondent No.3 amounts to double jeopardy which is not permissible under the terms of Article 13 of the Constitution of Islamic Republic of Pakistan, 1973.

6. This Court is fully in agreement with the contention of learned counsel for the petitioner that once the competent authority has awarded the punishment to the petitioner against the charge of illegal detention then whatever the case may be the respondent No.3/competent authority

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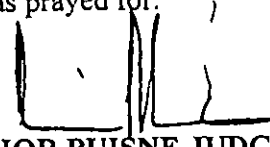
Peshawar High Court

could not initiate fresh proceeding against the said charge of illegal detention of aforesaid Siraj and this amount to vexing twice for the same case/charge. In this regard, he has referred to this court tow cases, one of apex Court reported in 1989 SCMR 1224 and second of Labore High Court, reported as 2000 PLC (CS) 1373".

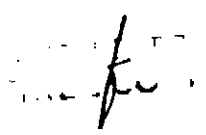
Reliance is also placed on the case titled Javed Maqbool Bhatti vs. Secretary, Irrigation and power department (1998 PLC (CS) 208 and Muhammad Khaliq vs. Board of intermediate and Secondary Education, Faisalabad and another (2000 PLC (CS) 1373.

7. For what has been discussed above, we are of the view that the petitioner has successfully made out a case for issuance of the desired writ and, as such, this petition is admitted and allowed as prayed for.

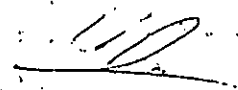
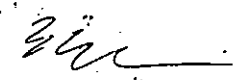

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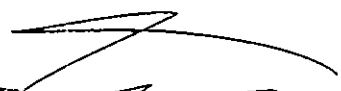

SENIOR PUISNE JUDGE


JUDGE



(DB: Hon'able Mr. Justice Qaiser Rashid Khan & Hon'able Mr. Justice Muhammad Naeem Anwar)

28517


02/3/2020



CERTIFIED TO BE TRUE
02 MAR 2020
The Qanun
02 MAR 2020



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar

"C"

-23-

No. S/ 984 /20, Dated Peshawar the 2/10/2020.

Confidential/In-duplicate

To:- The Capital City Police Officer,
Peshawar.

Subject:- ACR/COMMUNICATION OF ADVERSE REMARKS

Memo:

In the Annual Confidential Report on the working of Inspector Zahoor Rahman No. P/285 for the period/year 01.03.2016 to 31.12.2016 it has been mentioned that:-

1st Countersigning Officer Remarks

"He is a corrupt officer who was in league with criminals. His efficiency was also below par and subsequently remand from Gulbahar and suspended"

2nd Countersigning Officer Remarks

"Convey as Adverse"

The above adverse remarks may please be conveyed to the official concerned in order that he may remedy the defects. Representation if made should be sent not later than one month from the date of receipt of this communication.

The acknowledgement as token of the receipt of this memo may be obtained from him on the attached duplicate copy of this communication and returned to this office for record in his Character Roll Dossier.

(ZAIBULLAH KHAN)PSP
AIG/Establishment.

For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar

18/10/2020

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BEFORE THE PROVINCIAL POLICE OFFICE KPK PESHAWAR

PAUL
Received
3/3/20
PA SSI-875

Through Proper Channel

SUBJECT: REQUEST FOR EXPUNCTION OF ADVERSE REMARK
REPORTED IN ACR 2016

Respected Sir,

With due respect I submit and explain my position with reference to the subject adverse remark reported in ACR 2016, as under:-

1. That I have served police department for more than 31/32 years and due to my efficient performance I got promotion from the rank of constable to the rank of inspector.
2. That I have always performed my duties up to the satisfaction of my seniors and on the basis of good work, number of commendation Certificates and Cash rewards have been awarded to me, which are available in my service record an worth perusal.
3. That during my service, I remained posted at various hard police stations as SHO and during discharge of official duty, I left no stone unturned and performs dedicatedly.
4. That during entire service I earned good entries and maintained unblemished record.
5. That in view of the above explained facts I was posted as SHO Police Station Gul Bahar and achieved 2nd position in arrest of P.Os

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Campaigns, which reflect my good working and cash reward of Rs. 5000/- with commendation certificate.

6. That is astonishing to not that I was given adverse ACR for the year 2016 wherein it was reported that "He is a corrupt officer who was in league with criminals. His efficiency was also below par and subsequently removed from Gulbahar and suspended" by the counter signing Authority despite the fact that (02) reporting officers had given me "A" report and as well as first countersigning Authority.
7. It is worth to clarify that the adverse remarks reflected in the ACR were also faced by me as charges in the departmental enquiry, which never proved by the E.O and grievance of the appellant were subsequently addressed by the honorable service Tribunal, Vide Judgment order dated 31-05-2017 and the adverse remarks costed as identical charges in the charge sheet were declared as null and void.
8. That under the law the counter-signing Authority was supposed to issue me notice but he without issuing any notice reported the same which is contrary to the laid down law/rules.
9. The after reporting the adverse remarks, the counter-signing Authority was under obligation to convey the same to me but he in violation of P.R 17-13 deliberately kept me unaware about the said adverse remarks which reflect his ill-will against me. \
10. That the Mr. Mian Asif the worth Addl: I.G Khyber Pakhtunkhwa being a counter-signing Authority of the A.C.R after observing, passed remarks to the 1st counter-signing Authority to put up documentary evidence with reference to the Adverse Remarks, given to applicant but till date no compliance has been made, having no plausible ground.

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11. That when the under-signed came to know about the adverse remarks. He personally submitted application to the worthy AIG/Establishment and subsequently on the basis of my application the ACR was provided to me after lapse of more than **03 years**, hence the instant application for expunction of ACR.
12. That the adverse remarks reported in my ACR are based on flimsy grounds having no truthfulness at all.
13. That I am totally innocent and the charge written in the ACR 2016 as well as contained in charge sheet have never proved against me.

Keeping in view the above factual position, Adverse remarks in the ACR 2016 may kindly be expunged in the interest of Justice please.


Zahoor Ur Rehman
Inspector CCP Peshawar

4-3-2020

1

تقرری کے لیے مخصوص کی گئی ہوں۔ تو ان کو قاعدہ 1-13 میں مقرر کردہ اصولوں کے مطابق فہرست ایف سے بذریعہ ترقی پر کیا جائے گا۔

(2) عہدہ انسپکری کی جڑ آسامیاں عارضی طور پر خالی ہوں ان کی فہرست ایف سے بطور قائم مقام ترقی دے کر وہ افسران پر کریں گے۔ جن کو قاعدہ 4-13 میں اس قسم کی تقرریات کرنے کا اختیار دیا گیا ہو۔ ایسی قائم مقام ترقیاں متعلق فہرست ایف مضمونی قاعدہ 12-13 (1) میں مقرر کردہ اصولوں کی بنا پر کی جائیں گی۔ اور قاعدہ مذکور کا دوسرا حصہ مناسب رد و بدل کے بعد فہرست ایف میں درج شدہ افسران کے کام کی چھان بین اور فہرست آخر الذکر سے ان اشخاص کے ناموں کے اخراج پر جو عہدہ انسپکری کے ناقابل ثابت ہوں جاری ہوگا۔

(3) جس افسر کا نام فہرست ایف میں درج نہ ہو اسے انسپکری جنرل کی خاص منظوری کے بغیر قائم مقام انسپکری مقرر نہیں کیا جائے گا۔ جب کسی خالی آسامی کے لیے جسے ڈپٹی انسپکری جنرل نے بڑ کرنا ہو۔ طبقہ میں فہرست ایف کا کوئی افسر موجود نہ ہو تو انسپکری جنرل سے درخواست کی جائے گی کہ کسی دوسرے حلقے سے آدی مقرر کیا جائے۔

سالانہ خفیہ رپورٹیں - 13-17 (1) پرنٹڈزٹ کو اپنے امتحان اعلیٰ کی کارکردگی کے بارے میں فارم 13-17 پر سالانہ رپورٹیں تیار کر کے ڈپٹی انسپکری جنرل کو ماہ جنوری کی 15 تاریخ تک بھجوا دینی چاہئیں۔ ڈپٹی انسپکری جنرل اپنی رائے شامل کریں گے۔ اور ان اسٹنٹ سب انسپکری اور سب انسپکری ان کی رپورٹیں جو فہرست ایف پر نہیں ہیں اپنے اپنے دفتر میں رکھیں گے۔ فہرست ایف کے تمام انسپکری اور سب انسپکری ان کی رپورٹیں ڈپٹی انسپکری جنرل 15 فروری تک انسپکری جنرل کو ارسال کریں گے۔ جنرل لائن کے انسپکری اور فہرست ایف کے سب انسپکری ان کی صورتوں میں ڈپٹی انسپکری جنرل پیش کردہ ہر ایک رپورٹ کے ساتھ اس رپورٹ کی کاپی کاپی منسلک کریں گے۔ انسپکری جنرل جو بھی رائے اس رپورٹ پر دیں اسے ان کے دفتر میں ایسی رپورٹ کی کاپی پر نقل کیا جائے گا۔ جسٹریٹس کے اسے مشن ڈائی مسل قائم کردہ مطابق قاعدہ 12-38 (1) کے ساتھ ریکارڈ کے لیے دفتر میں دیا جائے۔

(2) رپورٹیں جن میں قسم کی ہوں گی۔ یعنی اے بی اور سی اور ایٹیل اس طرح لکھا جائے گا۔

اسے رپورٹیں۔ ایسی رپورٹیں جن میں خاص وجوہات کے باعث یہ سفارش کی جائے کہ قطع نظر مقدم ملازمت ترقی دی جائے۔ بی رپورٹیں۔ وہ رپورٹیں جن میں سفارش کی جاتی ہے کہ ترقی مقدم ملازمت کے معمول کے مطابق دی جائے۔

سی رپورٹیں۔ وہ رپورٹیں ہیں جن میں یہ سفارش کی جاتی ہے کہ افسر کو ترقی میں نظر انداز کر دیا جائے یا اس کی خلاف نکلانہ کارروائی اس کے نااہل ہونے یا ناقصی بخش چلن ہونے کی باعث پر غور کیا جائے۔ ای اور سی رپورٹوں میں منسلک وجوہات تحریر کی جائیں کہ کیوں ایسی سفارش کی گئی ہے۔ تمام سی رپورٹوں کا مفہوم متعلقہ افسر کی ذاتی ملاقات کے دوران بتلایا جائے گا۔ اور اگر یہ نامکن ہو تو بذریعہ تحریر اس افسر کو مطلع کیا جائے گا۔ تحریری رسید وصولی حاصل کی جائے گی۔ جو اس کی پرسنل فائل کے ساتھ منسلک کی جائے گی۔ ان رپورٹوں کو افسران متعلقہ تک پہنچانے میں ان ہدایات کو جن کا ذکر پنجاب گورنمنٹ

کے سرکل نمبر 1 کے بجرا 7 میں ہے ملاحظہ فرمایا رکھا جائے گا۔ اگر عام طور پر دیکھی رپورٹیں متواتر آئیں تو افسر مذکور کے خلاف خود بخود ہی نکلانہ کارروائی ان الزامات کے متعلق شروع ہو جائے گی جو کہ ان رپورٹوں میں درج ہوں۔

(3) پرنٹڈزٹ صاحبان اپنے ماتحت گزٹڈ افسران کے متعلق خفیہ سالانہ رپورٹیں فارم 13-17 اسے ہر سال 15 جنوری تک ڈپٹی انسپکری جنرل کو بھجوا کریں گے۔ ڈپٹی انسپکری جنرل ان رپورٹوں پر اپنے ریڈرکس دے کر انسپکری جنرل کو 15 فروری تک بھجوا دیں گے۔ خلاف رپورٹوں کا خلاصہ افسران متعلقہ کو تحریری طور پر دیا جائے گا۔ جیسا کہ پنجاب گورنمنٹ سرکل نمبر 1 کے بجرا 7 میں دیا ہوا ہے۔ اور جن کی رسید حاصل کر کے ان کی پرسنل فائل میں لگا دی جائے گی۔

(4) افسران رپورٹ کنندہ کا نام اور عہدہ مونا ناپ ہو کریں گے۔ یا ان کی دستخطوں کے نیچے علی حروف میں لکھے جائیں گے۔ (5) رپورٹ کنندہ افسران عام طور پر تحریر کیا کریں گے۔ کہ افسر متعلقہ نے کس طرح مختلف فرائض کو سالانہ میں انجام دیا اور اس کی شخصیت و چال چلن اور قابلیت کے متعلق اپنی رائے دیا کریں گے۔ نیز وہ افسر کی تقابلی قابلیت و پیردی مقدمات کی اہمیت کا جائزہ لے کر اس کا حوالہ دیا کریں گے۔ رپورٹ مذکور میں ایسی رائے ہوگی جو کہ کسی وقت بھی کام آسکے۔ مثلاً بوقت عبور حد قابلیت افسر مذکور کے متعلق خاص طور پر یہ تحریر ہونا چاہیے کہ اس کا اپنے ساتھی افسران اور نوام کے کسے تعلقات ہیں اور دیانت داری کیسی ہے۔

ترقی کا آزمائشی دور۔ 13-18 تمام افسران پولیس جن کو عہدہ میں ترقی دی جائے دو سال تک زیر آزمائش رہیں گے۔ بشرطیکہ مقرر کرنے والا حاکم مجاز ہر ایک صورت میں ایک خاص حکم کے ذریعہ قائم مقامی ملازمت کے عرصہ کو آزمائشی عرصہ میں شامل کرنے کا حکم دے دے۔ آزمائشی عرصہ کے اختتام پر اس حاکم کے پاس رپورٹ کی جائے گی۔ جسے ترقی کو مستقل کرنے کا اختیار حاصل ہے۔ حاکم مذکور یا تو اسے مستقل کر دے گا یا اسے اس کی سابقہ آسامی پر واپس کر دے گا۔ لیکن کسی حالت میں بھی آزمائشی عرصہ دو سال سے تجاوز نہیں ہوگا۔ اور مستقل کنندہ حاکم کے لیے لازم ہوگا کہ وہ عرصہ مذکور کے دوران قطعی فیصلہ کر دے کہ آیا افسر مذکور کو مستقل کر دیا جائے یا اسے اس کے سابقہ عہدہ پر واپس کیا جائے۔ آزمائشی عرصہ کے دوران افسران کو نکلانہ کارروائی کے بغیر آسامی پر واپس کیا جاسکتا ہے۔ اس قسم کی واپسی قاعدہ 16-4 کی غرض کے لیے بمنزل ترقی صورتوں ہوگی۔ قاعدہ ہذا متعلق گریڈ میں ترقی یافتہ کنسٹیبلان اور سب انسپکری ان پر عائد نہیں ہوگا۔ ان پر قاعدہ 13-5 اور 13-14 کا مطلق ہوتا ہے۔

قائد اعظم پولیس میڈل اور پریذیڈنٹ پولیس میڈل وصول کنندگان کو خاص ترقیاں۔ 13-19 (1) جس کنسٹیبل کو قائد اعظم پولیس میڈل عطا کیا گیا ہو اسے ہیڈ کنسٹیبل کی پٹی ایسی مستقل آسامی پر ترقی دی جائے گی جو اس حلقہ میں واقع ہو۔ جس میں وہ میڈل مذکور کی عطا گئی کی گزٹ میں اشاعت کے بعد خدمت انجام دے رہا ہو۔

(2) جس کنسٹیبل کو پریذیڈنٹ پولیس میڈل عطا کیا گیا ہو (اگر وہ پہلے ہی ہیڈ کنسٹیبل گریڈ میں نہ ہو) اسے جیسا کہ قاعدہ 13-5 (7) تجویز کیا گیا ہے گریڈ مذکور میں ترقی دی جائے گی۔



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar

28

No. S/ 2572 /17, Dated Peshawar the 27/04/2017.

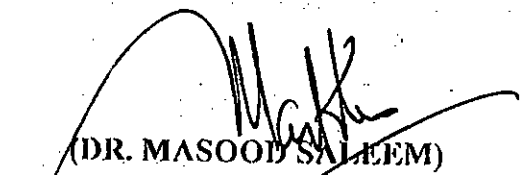
To: The Deputy Inspector General of Police,
CTD, Khyber Pakhtunkhwa, Peshawar.

Subject:- Dual ACRs

Memo:

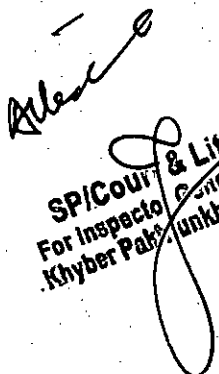
Please refer to your office memo: No. 5511/PA, dated 18.04.2017 on the subject cited above.

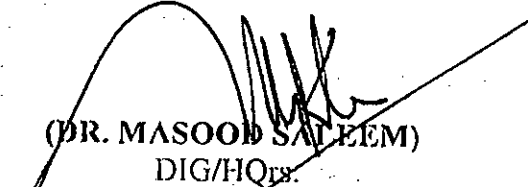
The competent authority has pleased to file the enquiry against Inspector Zahoor-ur-Rahman and directed that the ACR for the period from 01.03.2016 to 31.12.2016 which is adverse in nature will be conveyed to him.


(DR. MASOOD SALEEM)
DIG/HQs:
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

No. S/ 2573-2622/17.

1. Copy of above is forwarded to all Heads of police offices in Khyber Pakhtunkhwa with the directions that in future all ACRs of Executive/Ministerial Staff may be initiated well in time and discourage/avoid the writing of ACRs by hand because this practice creates such like problems please.
2. Capital City Police Officer, Peshawar w/r to DIG/CTD Khyber Pakhtunkhwa Peshawar letter endst: No. 5512-13/PA, dated 18.04.2017 for information and necessary action please.


SP/CTD & Liaison
For Inspector General of Police
Khyber Pakhtunkhwa, Peshawar


(DR. MASOOD SALEEM)
DIG/HQs:
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

ATTESTED TO BE
TRUE COPY

WAKALAT NAMA

IN THE COURT OF KPK Service Tribunal Peshawar

Zahoor Ux Rehman

VERSUS

PPO & others

Accused/
Petitioner/
Appellant/
Plaintiff.

Respondent/
Defendant/
Complainant

FIR No.....Dated: Police Station:

Charge U/s.....

KNOW ALL to whom these presents shall come that I the undersigned appoint:

Fazal Shah Mohmand Advocate Supreme Court of Pakistan,

(herein after called the advocate) to be the Advocate for the Appellant in the above mentioned case, to do all the following acts, deeds and things or any of them that is to say :

- 1) To act and plead in the above mentioned case in this court or any other Court in which the same may be tried or heard in the first instance or in appeal or review or execution or in any other stage of its progress until its final decision.
- 2) To sign, verify and present pleadings, appeals, cross - objections, petitions for execution, review, revision, withdrawal, compromise or other petition or affidavits or other documents as shall be deemed necessary or advisable for the prosecution of said case in all its stages.
- 3) To withdraw or compromise in the said case or submit to arbitration any difference or dispute that shall arise touching or in any manner relating to the said case.
- 4) To receive money and grant receipts therefore and to do all other acts and things which may be necessary to be done for the progress and the course of the prosecution of the said case.
- 5) To engage any other Legal practitioner authorizing him to exercise the power and authorities hereby conferred on the Advocate whenever he may think fit to do so.

AND I hereby agree to ratify whatever the Advocate or his substitute shall do in the promises.

AND I hereby agree not to hold the Advocate or its substitute responsible for the result of the said case and in consequence of his absence from the court when the said case is called up for hearing

AND I hereby that in the event of the whole or any part of the fee agreed by me to be paid to the Advocate remaining unpaid, He shall be entitled to withdraw from the prosecution of the said case until the same is paid.

IN WITNESS WHEREOF I hereunto set my hand to these presents the contents of which have been explained to and understood by me, this 8th day of July 2026

Accepted By

Fazal Shah Mohmand,
Advocate Supreme Court of Pakistan

Signature / thumb impression
of party / parties.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.7947/2020.

Zahoor –ur-rehman Inspector Police Lines, Peshawar.....Appellant.

VERSUS.

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.....**Respondents.**

REPLY BY RESPONDENTS NO. 1, &2.

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS.

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

FACTS:-

1. Correct to the extent that the appellant was employee of respondent department. Furthermore, he has a blemish service record as he did not ever perform his service according to the expectation of superior officers. The appellant on the basis of such acts was also previously dismissed from service and later on reinstated into service.
2. In reply, it is submitted that the appellant being posted on sensitive duty as SHO was found involved in the objectionable activities related to gravest misconduct of having nexus with notorious criminals and leakage of secret information due to which criminals easily escaped themselves from lawful arrest during raid conducted at their harbours. After fulfilling all codal formalities, appellant was awarded the major punishment of dismissal from service. The appellant filed departmental appeal which after due consideration was filed/rejected with speaking order. The appellant then filed service appeal, which was accepted by this Honorable Service Tribunal.
3. Para pertains to record of court, hence needs no comments.
4. Incorrect. Appellant being directly working under the command of reporting officer, so the reporting officer was in better position to evaluate and assess his performance. Therefore reporting officer correctly passed adverse remarks based on the ground reality.

5. Para is totally incorrect. Representation of the appellant was filed/rejected with stipulated period after due deliberation/examination as the Reporting Officer remarks were based on merit as appellant was working under his direct supervision was able to assess evaluate his working. (copy is Annexure as "A")
6. That appeal of the appellant being devoid of merits may kindly be dismissed on the following grounds.


GROUND:-


- A. Incorrect. The adverse remarks passed by the reporting officer are correct, legal and as per law/rules.
- B. Incorrect. The appellant was treated as per law/rules and no violation of law/rules has been done by the respondents.
- C. Incorrect. As Reporting Officer has no ill will towards appellant. Hence remarks recorded by the Reporting Officer are in its true sense image, decorum of the department was involved, hence the said remarks recorded in the ACR.
- D. Incorrect. No violation of law has ever been made by the respondents and no ill treatment was occurred with the appellant. The appellant was aware about the adverse remarks passed by the reporting officer.
- E. Incorrect. The appellant was given opportunity of self defense time and again verbally directed to mend his way, but appellant turned deaf ears toward his directions, therefore the adverse remarks were passed which are based on its own merit.
- F. Incorrect. Para already explained above.
- G. Incorrect. Detail reply already explained in Para No.02 ibid.
- H. Para pertains to record of court.
- I. Incorrect. The appellant concealed the actual position from the honorable Tribunal.
- J. Incorrect. The appellant was provided full opportunity of defense. The appellant was treated as per law/rules.
- K. Incorrect. The reporting officer after proper examining the performance of the officials passed adverse remarks in his ACR i.e grade "A", "B", "C".
- L. Incorrect. The appellant was well aware about the adverse remarks.
- M. Incorrect. During the period of SHO his Links with criminals were proved, during the course of enquiry. His supervisory officers were having strong reservation about the appellant's nexus with criminals and this fact was fully proved from CDR of his cell numbers. The alleged witness Fazal Ameen being close relative of appellant having sympathy with him, was constrained to say on the behest of appellant.(CDR is annexure as B)
- N. Incorrect. Already explained in para No.01.

O. That the respondents also seek permission to raise additional grounds at the time of arguments.

PRAYER:-

It is therefore most humbly prayed that in light of above stated facts/submissions, the appeal of the appellant may kindly be dismissed being devoid of merit please.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.


Capital City Police Officer,
Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.7947/2020.


Zahoor -ur-rehman Inspector Police Lines, Peshawar.....**Appellant.**

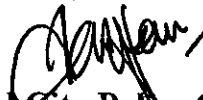
VERSUS.

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.....**Respondents.**

AFFIDAVIT.

We respondents 1 and 2 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.



**Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.**


**Capital City Police Officer,
Peshawar.**

Receipt

Zahoor vs Rehman - v.c. PPO etc

I have received Rs. 1000 cost
in appeal No 7947/2020.


01/7/21