BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 535/2022

Date of Institution ... 11.04.2022
Date of Decision ... 06.12.2022

Khalid Khan, Ex-Head Constable No. 1457, Mardan Police, District Mardan.

... (Appellant)

VERSUS

The Inspector General of Police Khyber Pakhtunkhwa, Peshawar and two others.

... (Respondents)

Muhammad Amin
Advocate ... For appellant

Naseer Ud Din Shah
Assistant Advocate General ... For respondents

Mrs. Rozina Rehman ... Member (J)
Mr. Mian Muhammad ... Member (E)

JUDGMENT

ROZINA REHMAN,MEMBER (J):The appellant has invoked the jurisdiction of this Tribunal through the above titled appeal with the prayer as copied below:

"That on acceptance of the instant appeal the impugned original order dated 16.01.2012 passed by respondent No. 3 and the appellate order dated 05.04.2022 passed by respondent No. 2 may graciously be set aside and appellant be reinstated into service with all back benefits".

2. Brief facts of the case are that appellant joined police force as constable on 10.05.2006. He performed his duties elegantly and was

never ever proceeded against departmentally. As a result he was promoted to the rank of head constable on 19.05.2016. On the day of occurrence, he was performing his duties as head constable at police station Takht Bhai alongwith other colleagues and was on routine gasht when Bakhtaj, Samtaj, and Zartaj started firing upon police party. Resultantly, the police force also started firing in defence and in this regard an FIR No. 1088 dated 16.09.2021 at police station Takht Bhai was registered. Investigation under Section 156 Cr.P.C was initiated and accused Samtaj was arrested. In the meanwhile, appellant was charge sheeted on the charges of inefficiency, negligence and cowardice. He submitted his reply by refuting the allegations levelled against him. That on the basis of irregular and illegal facts finding enquiry, show cause notice was issued, he therefore, submitted his reply but he was dismissed from service. He filed departmental appeal which also met the same fate, hence the present service appeal.

3. We have heard Muhammad Amin, Advocate learned counsel for the appellant and Naseer Ud Din Shah, learned Assistant Advocate General for respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Muhammad Amin Advocate, learned counsel for the appellant submitted that appellant was not treated in accordance with law and rules and respondents acted in violation of Article 4 of the Constitution of Islamic of Republic of Pakistan. It was further submitted that whenever accused/employee is subjected to departmental proceedings a charge is framed in shape of charge sheet and

statement of allegations and the basic aim of the same is to inform the delinquent civil servant of the charges without any ambiguity and that the charges leveled against the appellant were inefficiency, negligence and cowardice which are not covered under Rule 3 of Police Rules, 1975, therefore, the impugned orders are liable to be set aside. He submitted that from the contents of FIR, it is evident that other police officials alongwith appellant were present on spot but none of them except appellant were proceeded against departmentally and that none were examined during the inquiry proceedings in order to unearth the hidden facts. Lastly, he submitted that no proper regular inquiry was conducted according to law and the appellant was discriminated and was made scapegoat. He, therefore, requested that appellant may kindly be reinstated in service with all back benefits as he was not provided any opportunity of personal hearing which is mandatory requirement of law. Reliance was made on 2003 SCMR 1126 and PLD 2008 SC 412.

5. Conversely, learned AAG submitted that the appellant was on patrolling duty with PASI Shah Faisal Shaheed the then incharge of police station Madi Baba. In the meanwhile, an encounter with some outlaws took place. Resultantly, PASI Shah Faisal embraced shahdat while accused succeeded in decamping after commission of crime despite the presence of appellant. Lastly, he submitted that proper inquiry was entrusted to SDPO Katlang who submitted his report and in the light of recommendations of inquiry officer final show cause notice was issued and major punishment of dismissal from service was awarded to the appellant which does commensurate with gravity of misconduct of the appellant.

6. We have heard learned counsel for parties and perused the record. Record reveals that appellant was on patrolling duty with Shaheed Shah Faisal the then incharge of police post Madi Baba. Copy of FIR No. 1088 dated 16.09.2021 is available on file which shows that one constable Muhmmad Nawas reported the matter in respect of occurrence. As per contents of FIR, Shaheed Shah Faisal alongwith Khalid Khan the present appellant, Parvez FC, Saeed Ur Rehman FC and Muhammad Nawaz FC were present in a private motor car and were on patrolling duty. Presence of three police officials were not mentioned by the respondents in their comments. The said motor car was being driven by Shaheed Shah Faisal at the relevant time when in the meanwhile an encounter with some outlaws took place. Resultantly, PASI Shah Faisal embraced shahadat while accused decamped from spot. From bare reading of FIR, it becomes crystal clear that besides Shah Faisal PASI, four other police officials were present in the motor car but none of them except appellant were proceeded against departmentally. Nothing was brought in black and white in order to show as to why were they exonerated from the charges and just Khalid Khan was proceeded against departmentally. One Ikhtiraz Khan SDPO Katlang was nominated as inquiry officer but he did not record the statements of those officials who were present in car at the relevant time. Appellant was not given any opportunity of cross examination. Statement of allegations is silent in respect of the presence of other police officials. The inquiry report is available on file which shows that statement of the present appellant, Inspector Akram Khan and S.I Noor Muhammad Khan were recorded but the

same are not available on file which means that the appellant was not provided opportunity of cross examination. From the inquiry repot it is also evident that S.I Noor Muhammad who was SHO at relevant time had narrated a story as he himself was not an eye witness of the occurrence. It has been held by the superior fora that where the civil servant was not afforded chance of personal hearing before passing of termination order, such order would be void ab-initio. Reliance was placed on 2003 SCMR 1126.

7. The respondents have very blatantly violated the set norms and rules and conducted the proceedings in an authoritarian manner and harsh punishment was awarded to the appellant. We have observed that the inquiry conducted by the respondents is not in accordance with law/rules. It is, however, a well-settled legal proposition duly supported by numerous judgments of Apex Court that for imposition of major penalty, regular inquiry is a must.

8. For what has been discussed above, this appeal is accepted, the impugned orders are set aside and the appellant is reinstated into service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
06.12.2022

(Mian Muhammad)
Member (E)

(Rozina Rehman)
Member (J)

ORDER

06.12.2022 Appellant present through counsel.

Naseer Ud Din Shah learned Assistant Advocate General for respondents present. Arguments heard. Record perused.

Vide our detailed judgment of today of this Tribunal place on file, instant service appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
06.12.2022

(Mian Muhammad)
Member (E)

(Rozina Rehman)
Member (J)

04.11.2022

Clerk of learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to strike of lawyers. Adjourned. To come up for arguments before the D.B on 06.12.2022.

(Mian Muhammad)
Member (E)

(Salah-ud-Din)
Member (J)

12/4/2022

Counsel for the appellant present and heard.

The appellant aggrieved of the order dated 16/1/2022, whereby he was awarded major punishment of dismissal from service against which he preferred departmental appeal on 24/1/2022, which was rejected on 5/4/2022. Hence the present appeal on 11/4/2022. The instant appeal seems to be within time. The appeal is admitted for full hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to respondents for submission of written reply on 15/6/2022 before S.B.

Rs-500/-
Appellant Deposited
Security & Process Fee
13/4/22

CHAIRMAN

15th June 2022

Counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG Atta ur Rehman Inspector (Legal) for the respondents present.

Respondents have submitted written reply/comments which are placed on file. To come up for arguments on 18.08.2022 before D.B.

(Kalim Arshad Khan)
Chairman

18.8.22

Due to bereavement the case is adjourned to 4-11-22 for the same.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

Case Title: Khalid Khan vs Police etc

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

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

Name: [illegible]

Signature:

Dated: 10-04-2022

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 535 /2022

Khalid Khan ..... Appellant

Versus

The IGP and another.....Respondents

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3.	Charge Sheet and Statement of Allegations		B	9-10
4.	Reply	15.10.2021	C	11
5.	Report of Fact Finding Inquiry		D	12-13
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7.	Impugned original order	16.01.2022	F	16
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9.	Impugned appellate order	05.04.2022	H	18-19
10.	Wakalat Nama			

Appellant

Through

Muhammad Amin Ayub
Advocate, High Court

&

Muhammad Ghazanfar Ali
Advocate, High Court
4-B, Haroon Mansion
Khyber Bazar, Peshawar
Off: Tel: 091-2592458
Cell # 0313-9040434

Dated: 06/04/2022

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.535 /2022 11/04/2022

Khalid Khan
Ex-Head Constable No.1457
Mardan Police, District Mardan.....**Appellant**

VERSUS

1. **The Inspector General of Police**
   Khyber Pakhtunkhwa, Peshawar.

2. **The Regional Police Officer,**
   Mardan Region, Mardan.

3. **The District Police Officer,**
   District Mardan .....**Respondents**

SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORIGINAL IMPUGNED ORDER DATED 16.01.2022 WHEREBY APPELLANT WAS AWARDED MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE AGAINST WHICH HE PREFERRED DEPARTMENTAL APPEAL BUT THE SAME WAS REJECTED VIDE IMPUGNED APPELLATE ORDER DATED 05.04.2022.

PRAYER:

On acceptance of the instant appeal, the impugned original order dated 16.01.2012 passed by Respondent No.3 and the impugned appellate order dated 05.04.2022 passed by Respondent No.2, may graciously be set aside and appellant be re-instated into service with all back benefits.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. **That** appellant hails from respectable family of District Mardan. He joined the Police Force as a Constable on 10.05.2006. It is apprised that during that period he performed his duties elegantly and was never ever proceeded against

departmentally. As a result he was promoted to the rank of Head Constable on 19.05.2016.

2. **That** on the day of occurrence, appellant was performing his duties against the post of Head Constable at Police Station Takht Bhai alongwith Shaheed Shah Faisal Khan PASI, Parvez Khan No.2722, Saeed-ur-Rahman No.3431 and Muhammad Nawas No.634 and were on routine *gasht* when culprits namely Bakhtaj, Simtaj and Zartaj Sons of Haider Khan started firing on the Police party resultantly the Police Force also started firing in defence. F.I.R No. 1088 (***Annex*:-A**) dated 16.09.2021 U/S 302, 324, 353, 7ATA, 404, 34 at Police Station Takht Bhai was chalked out.

3. **That** thereafter investigation under Section 156 Cr.P.C. was initiated by the local Police. It is significant to allege here that after some days of the occurrence accused Simtaj was arrested and now he is behind the bar at Mardan Jail. Appellant while performing his duties, all of sudden was subjected to the Charge Sheet and Statement of Allegations (***Annex*:-B**) on the charges of inefficiency, negligence and cowardice. Since the charges were baseless, unfounded, therefore, appellant advanced a detailed Reply (***Annex*:-C**) dated 15.10.2021 by refuting the allegations leveled against him.

4. **That** it is crystal clear from the contents of F.I.R that on the fateful day, appellant alongwith the above mentioned officials were also present on the spot but by committing utter discrimination the others were not subjected to departmental proceedings.

5. **That** under the law, Respondent were supposed to comply with the requirements as embodied in Rule-6 of the Khyber Pakhtunkhwa Police Rules-1975 by conducting a regular inquiry but at the back of the appellant a Fact Finding Inquiry (***Annex*:-D**) was conducted. The Committee jumped to the wrong conclusion and appellant was illegally found to be guilty of the charges and recommended for major punishment. It is further elucidated that the Fact Finding Inquiry Report was not provided to appellant rather appellant got the same from the concerned quarter.

6. **That** on the basis of irregular and illegal Fact Finding Inquiry, appellant was issued Final Show Cause Notice dated 29.12.2021 (***Annex*:-E**) whereby he was informed to reply the same within 07 days, therefore, he instantly submitted a detailed reply by denying the charges. It is submitted that appellant also requested to the Competent authority for chance of personal hearing but invain.

7. **That** without dispensing with the regular inquiry, appellant was visited with the impugned penalty vide original order dated 16.01.2022 (***Annex*:-F**) whereby he was dismissed from service. Appellant being disgruntled of the impugned original order dated 16.01.2022, filed Departmental Appeal on 24.01.2022 (***Annex*:-G**) but the same was unlawfully dismissed vide impugned appellate order dated 05.04.2022 (***Annex*:-H**).

8. **That** appellant being aggrieved of the impugned original order dated 16.01.2022 and impugned appellate order dated 05.04.2022, files the instant Service Appeal inter-alia on the following grounds:-

Grounds:

A. **That** Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned orders, which are unjust, unfair and hence not sustainable in the eye of law.

B. **That** it is steadfast scheme of service law that whenever an accused is subjected to Departmental proceedings, a charge is framed in the shape of Charge Sheet and Statement of Allegations. The basic aim of the same is to inform the delinquent civil servant of the charges without any ambiguity and he has to be informed that what kind of misconduct has been committed by him. The charges as inflected upon the appellant are ***inefficiency, negligence and cowardice***. Therefore, the Respondents were supposed to clearly mentioned the charges without any doubt because mentioning *inefficiency* does not exempt the authority from his legal duties. Thus the charges are not covered under Rule-3 of the Khyber Pakhtunkhwa Police Rules-1975 and thereon the impugned

orders are liable to be set aside.

C. **That** set procedure under Rule-6 of the Police Rules-1975 has been catered for but this important aspect of the matte was outright overlooked by the Respondent Department and conducted a Fact Finding Inquiry under Rule-5 of the Rules ibid, which fact is very much visible from the Final Show Cause Notice dated 29.12.2021, therefore, it vitiate the whole process of the departmental proceedings.

D. **That** Section-16 of the Khyber Pakhtunkhwa Civil Servant Act, 1973 readwith rule-3 of the Khyber Pakhtunkhwa Police Rules,1974 necessitate that civil servant has to be treated in accordance with law and rules. Therefore, Respondents adopted summary procedure rather the gravity of the charges leveled against the appellant required strict compliance with said rules and it was the basic duty to conduct a regular inquiry. Moreover, the whole proceedings have been carried out in violation of Article-10-A of the Constitution of the Islamic Republic of Pakistan, 1973.

E. **That** origin of the matter is the F.I.R wherein the complainant official does not point out any negligence, inefficiency and cowardice on the part of the appellant, while the appellant has illegally been proceeded against departmentally rather no source of satisfaction has been mentioned in the Charge Sheet, Statement of Allegations and Final Show Cause Notice that how appellant is guilty of the said charges, therefore, such a factual controversy could not be resolved by inappropriate procedure as followed by the Respondent Department, therefore, the impugned orders are not sustainable I the eye of law and liable to be struck down.

F. **That** it is visible from the F.I.R that appellant accompanied with other officials but by clear transgression of Article-25 of the Constitution of the Islamic Republic of Pakistan, 1973, they were not proceeded against departmentally while the appellant has been made scapegoat, therefore, the malafide of the Respondent Department is clear by adopting a different yardstick in the case of appellant.

G. **That** it is a settled legal principle that where major penalty is proposed then only a regular enquiry is to be conducted wherein the accused must be associated with all stages of the enquiry including the collecting of oral and documentary evidence in his presence and he must be confronted to the same and must be afforded an opportunity of cross-examining the witnesses. Thus the impugned orders are nullity in the eye of law and hence liable to be set aside.

H. **That** no opportunity of personal hearing was afforded to the appellant neither by the competent authority, nor by the Enquiry Officer nor even by the appellate authority which are the mandatory requirements of law. Reliance is placed on 2003 SCMR 1126 which states that:-

> ***"where the civil servant was not afforded a chance of personal hearing before passing of termination order, such order would be void ab-initio."***

Further reliance is placed on PLD 2008 SC 412 which states as under:-

> ***"Natural Justice, principles of --- Opportunity of hearing --- Scope --- order adverse to interest of a person cannot be passed without providing him an opportunity of hearing --- Departure from such rule may render such order illegal."***

Thus appellant was condemned unheard as the action has been taken at the back of the appellant which is against the principle of natural justice.

I. **That** the requirements of Rule-5 of the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986 have not been fulfilled and rejected the Departmental Appeal of the appellant without applying judicial mind.

J. **That** the appellant has served the Department for more than 16 years and has consumed his precious life in the service and keeping in view his unblemished service the imposition of the major penalty in peculiar facts and circumstances of the case is harsh, excessive and does not commensurate with the guilt of the appellant.

K. **That** appellant would like to offer some other additional grounds during the course of arguments when the stance of the Respondents is known to the appellant.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

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

Appellant

Through

Muhammad Amin Ayub
Advocate, High Court

&

Muhammad Ghazanfar Ali
Advocate, High Court

Dated: 08/04/2022

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No._____/2022

Khalid Khan ..... Appellant

Versus

The IGP and another.....Respondents

Affidavit

I, Khalid Khan, Ex-Head Constable No.1457, Mardan Police, District Mardan, do hereby solemnly affirm and declare on oath that the contents of this Appeal are true and correct to the best of my knowledge, and nothing has been concealed from this Hon'ble Tribunal.

ATTESTED
Gul Daraz Khan
Oath Commissioner
Advocate High Court Peshawar

Deponent

Identified by

Muhammad Amin Ayub
Advocate, Peshawar

Annex "A"

8

تھانہ تخت بھائی ضلع مردان

مقدمہ علت 1088 تاریخ و وقت وقوعہ 16/09/021 وقت 18:20 بجے

تاریخ و وقت رپورٹ 16/09/021 وقت 18:50 بجے	چاک کیا گیا پرچہ 16/9/021 وقت 19:20 بجے
کیفیت اطلاع دہندہ مستغیث / کارڈ نمبر / موبائل نمبر — کنسٹبل محمد نواس 634/FC	چوکی پڑاؤ تھانہ تخت بھائی
کیفیت جرم (معہ دفعہ) حال اگر کچھ لیا گیا ہو — 7ATA-404-34-	PPC 302-324-353
جائے وقوعہ فاصلہ تھانہ سے اور سمت — چراغ دین کلے روڈ نزد اراضی اذان	بابا زمحمد فضل گنا جانب غرب از تھانہ
کیفیت ملزم / کارڈ نمبر / موبائل نمبر — (1) بخت تاج (2) سم تاج پسران حیدر خان	ساکنان چراغ دین کلے (3) ایک شخص اسمائے مسکن نا معلوم
کاروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو	بر رسیدگی مراسلہ مقدمہ درج رجسٹر کیا جاتا ہے
تھانہ سے روانگی کی تاریخ و وقت	بطور سپیشل رپورٹ

ابتدائی اطلاع نیچے درج کرو

مراسلہ موصولہ منجانب نور محمد خان SHO تھانہ تخت بھائی بدست کنسٹبل سعید الرحمان 3431 حسب ذیل ہے۔ محرر تھانہ تخت بھائی حسب اطلاع ہمراہ نفری پولیس بسواری گاڑی سرکاری ایک اپ بیجولہ ڈرائیوران بھاٹے فوری موقع پر جائے وقوعہ بالا آکر نعش مقتول شدہ شاہ فیصل خان ASI انچارج چوکی پڑاؤ تھانہ تخت بھائی ہمراہیان خالد خان 1457/HC پرویز 2722، سعید الرحمان 3431، محمد نواس 634/FC چوکی پڑاؤ نے نعش مقتول شاہ فیصل ASI پیش کی۔ محمد نواس 634/FC نعش کی بابت یوں رپورٹ کرتا ہے۔ کہ آج شام وقت حسب معمول ہم جملہ ملازمان شاہ فیصل ASI کے ساتھ بسواری پرائیویٹ موٹر کار ریلا نمبر ... شرح بہ سلح SMG، ایمبولیشن سرکاری بارم گشت پر تھے۔ اور موٹر کار کی ڈرائیونگ شاہ فیصل خان ASI خود کر رہا تھا۔ جب جائے وقوعہ بالا پر پہنچے تو سمیان (1) بخت تاج (2) سم تاج پسران حیدر خان ساکنان چراغ دین کلے اور ایک شخص اسمائے مسکن نا معلوم جو سامنے آنے پر شناخت کر سکتا ہوں۔ ملزمان پختہ روڈ پر سامنے آکر جو بہ سلح آسلحہ آتشیں تھے نے پولیس پارٹی کو دیکھ کر راہ فرار اختیار کیا۔ جو ہم پولیس پارٹی نے موٹر کار کو سائیڈ پر کھڑا کر کے فوراً نیچے اتر کر ملزمان کا تعاقب کرتے ملزمان بھاگنے لگے۔ جس کا تعاقب جاری رکھتے ہوئے ملزمان دو پارٹیوں میں تقسیم ہوئے پھر ملزمان نے اپنے اپنے اسلحہ سے ہم پولیس پارٹی پر بہ ارادہ قتل فائرنگ شروع کیا۔ ہم نے بھی حق حفاظت خود اختیاری کے تحت ملزمان پر فائرنگ کر رہے تھے۔ دوران فائرنگ ملزمان کی فائرنگ سے شاہ فیصل ASI لگ کر موقع پر شہید ہوا اور ہم پولیس پارٹی ان کے فائرنگ سے معجزانہ طور پر بال بال بچ گئے۔ ملزمان کی فائرنگ سے شاہ فیصل ASI شہید ہو کر ملزمان نے شہید ASI کا سرکاری SMG رائفل معہ دو عدد میگزین بھی اپنے ساتھ لے گئے ہیں۔ ملزمان نے کھیتی کا فائدہ اٹھاتے ہوئے رفو چکر ہوئے۔ ملزمان بالا کی فائرنگ سے علاقہ میں شدید خوف و ہراس دہشت پھیل گیا۔ وجہ عناد سرکاری ڈیوٹی کی فرائض کی انجام دہی میں ہم پولیس پر بہ ارادہ قتل فائرنگ کرنا اور شاہ فیصل خان ASI کو قتل / شہید کرنا برخلاف بخت تاج، سم تاج اور ایک شخص اسمائے مسکن نا معلوم بالا دعویدار ہوں۔ وقوعہ ہذا میرے علاوہ خالد 1457/HC، پرویز خان 2722، سعید الرحمان 3431 کا چشم دید ہے۔ الدستخط انگریزی ہیڈ کنسٹبل خالد خان 1457/HC تھانہ تخت بھائی نے رپورٹ بالا کی تائید کی۔ الدستخط انگریزی ...

ATTESTED

انسپکٹر سنایا اور سمجھایا گیا - درست تسلیم کرکے زیر رپورٹ خود دستخط انگریزی ثبت کی اور تائید کنندہ نے
کا دستخط ثبت کی - جسکی میں تصدیق کرتا ہوں - نعش مقتول شاہ فیصل خان ASI کا کاغذات
تفتیش ضروری ہونے بمطابق نقشہ جات مرتب کیے جا کر بدست کانسٹیبل بیرونمبر 2722 بغرض پوسٹمارٹم کرا
ہسپتال THQ تخت بھائی روانہ کئے - مضمون رپورٹ سے صورت جرم بالا کا پایا جا کر مراسلہ بغرض
قائمی مقدمہ بدست کانسٹیبل سعید الرحمان 3431 ارسال تھانہ ہے - مقدمہ درج رجسٹر کرکے افسران بالا
صاحبان کو بطور سپیشل رپورٹ اطلاع دی جائے - میں معہ افسران بالا ملزمان کی گرفتاری کے سلسلہ
میں علاقہ سرچ مصروف ہوں - مقدمہ درج رجسٹر کرکے بغرض تفتیش حوالہ انچارج شعبہ تفتیش
کیجائے - دستخط انگریزی نور محمد خان SHO تھانہ تخت بھائی مورخہ 16/9/21 کارروائی تھانہ آمدہ تحریر
مراسلہ حرف بحرف درج بالا ہو کر پرچہ بجرائم بالا فوق مرتب ہو کر نقول FIR معہ مراسلہ
بغرض تفتیش حوالہ انچارج شعبہ تفتیش کیا جاتا ہے - پرچہ بطور سپیشل رپورٹ گزارش ہے

ASHO PS Takht-Bhai
Date 16-9-2021

ہمراہ مثل ریکارڈ بہ ہدایت ATC کورٹ برائے
تاریخ پیشی [illegible] حوالہ [illegible]
[illegible] کیا گیا
20-10-21

FSL [illegible]
11-10-10

چالان کامل [illegible]
[illegible]
PS-TBI
23-12-21

چالان میں بغرض تکمیل [illegible]
حوالہ انسپکٹر [illegible] کیا
PS TBI
7-12-21

دستخط

-9

Annex B

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com

2021

CHARGE SHEET

I, Dr. Zahid Ullah (PSP), District Police Officer Mardan, as competent authority, hereby charge HC Khalid Khan No.1457, while posted at Police Post Mady Baba PS Takht-Bhai (now under suspension Police Lines Mardan), 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.

(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

ATTESTED

B

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com

2021

No. 228 /PA Dated 5/2/2021

DISCIPLINARY ACTION

I, Dr. Zahid Ullah (PSP), District Police Officer Mardan, as competent authority am of the opinion that **HC Khalid Khan No.1457,** himself liable to be proceeded against, as he committed the following acts/omissions within the meaning of Police Rules 1975

STATEMENT OF ALLEGATIONS

Whereas, HC Khalid Khan No.1457, while posted at Police Post Madi Baba PS Takht-Bhai (now under suspension Police Lines Mardan), on 16-09-2021, he was on patrolling duty with PASI Shah Faisal, the then In-charge PP Madi Baba, an encounter with some outlaws namely Bakhtaj & Sam Taj residents of Charagh Din Killey took place, resultantly, PASI Shah Faisal embraced "Shahadat", while the accused after the commission of crime decamped vide case FIR No.1088 dated 16-09-2021 U/S 302/324/353/7ATA/404/ 34 PPC PS Takht-Bhai, indicating inefficiency, negligence and cowardice on his part.

For the purpose of scrutinizing the conduct of the said accused official with reference to the above allegations, Mr. Ikhtiraz Khan SDPO KTG is nominated as Enquiry Officer.

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.

HC Khalid Khan is directed to appear before the Enquiry Officer on the date & time and place fixed by the Enquiry Officer.

(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

ATTESTED

- 11 Annex C

جناب عالی!

بحوالہ چارج شیٹ نمبری 228-PA مورخہ 05.10.021 جاریہ جناب DPO صاحب مردان مشمولہ ہمراہ عرض خدمت ہے کہ من سائل جنرل ڈیوٹی چوکی مدے بابا عبدالغفار شفا مورخہ 16.09.021 کو من سائل معہ دیگر نفری پولیس بہ رہنمائی 2722 مسعود الرحمان 3431 محمد نواس و 673 کانسٹیبل شہزاد جنہوں نے PASI شیر بہادر گشت پر تھا۔ چراغ دین کے راہ و ہیر گشت کر رہے ہوئے چراغ دین پل کے نیچے دو دھانی پر 3 جوان العمر لڑکے مسلح نقاب دار ہوئے ہم پولیس نے ان کو کنٹرول کرنے کی آواز دی لیکن جنہوں نے راہ فرار اختیار کی۔ ہم پولیس پارٹی نے ملزمان کا تعاقب کرکے دوران فراری ملزمان نے ہم پولیس پارٹی پر بہ ارادہ قتل فائرنگ کرکے ملزمان کی فائرنگ سے شہزاد جان PASI لگ کر موقع پر شہید ہوا۔ ہم پولیس پارٹی نے حق حفاظت خود اختیاری کے تحت بھی ملزمان پر فائرنگ کرکے ملزمان دیہات پر نزدیک آبادی فصلات گنا کا فائدہ اٹھا کر فرار ہو گئے۔ اس کے علاوہ من سائل معہ دیگر پولیس پارٹی نے نہایت ایمانداری و فرض شناسی کیا بلکہ جانفشانی کا مظاہرہ کیا اور فرار ہو گئے مگر فصلات گنا اور اس لیے استدعا ہے کہ من سائل کے چارج شیٹ کو بغیر کسی کاروائی کے داخل دفتر کرنے کا حکم صادر فرمائیں۔

15.10.2021 تحریر

العارض

ہیڈ کانسٹیبل خالد جان 1657 پولیس لائن مردان

ATTESTED

- 12 Annex D

OFFICE OF THE
SUB-DIVISIONAL POLICE OFFICER,
KATLANG CIRCLE

Tel. & Fax: 0937575333,

No. 799 /ST, Dated: 29/11/2021.

To, The District Police Officer,
Mardan.

Subject: DISCIPLINARY ACTION AGAINST HC KHALID KHAN NO. 1457.

Memo: Kindly refer to your office Diary No. 228/PA dated 05.10.2021.

In pursuance of your kind order, the undersigned completed enquiry in the above subject case. Its step-wise detail is given below.

STATEMENTS OF ALLEGATIONS:

Whereas, **HC Khalid Khan No. 1457** while posted at PP Madi Baba, PS Takht Bhai (now under suspension Police Lines, Mardan) on 16.09.2021 he was on patrolling duty with PASI Shah Faisal the then I/C PP Madi Baba, an encounter with some outlaws namely Bakhtaj and Sam Taj residents of Charagh Din Killey took place consequently, PASI Shah Faisal embraced Shahadat while the accused mentioned above decamped after commission of offence. Case vide FIR No. 1088 dated 16.09.2021 u/s 302/324/353/404/34 PPC-7ATA PS Takht Bhai was registered against Bakhtaj and others. The alleged HC Khalid indicated inefficiency, negligence and cowardice.

PROCEEDINGS:

Inquiry proceedings were initiated, charge sheet with statement of allegations was issued and served upon the alleged official.

FINDING OF THE ENQUIRY:

Proceeding formally into the matter the alleged HC Khalid No. 1457, Inspector Akram Khan OII PS Takht Bhai and SI Noor Muhammad Khan SHO PS Takht Bhai were called and heard in person. The alleged was questioned and cross questioned at length.

STATEMENT OF HC KHALID NO. 1457 (NOW UNDER SUSPENSION).

The alleged HC Khalid No. 1457 stated that on 16.09.2021 he along with PASI Shah Faisal I/C PP Madi Baba, Parveez No. 2722, Saeed ur Rahman No. 3431 and Muhammad Nawas No. 634 were on routine patrolling in a private car. At the time of occurrence 03 young boys namely Baht Taj, Sam Taj and one unknown duly fire armed were spotted at the place of occurrence (Charagh Din killy near Baz Muhammad's field). I/C PASI Shah Faisal called them to stop but they managed to escape so, the police party chased them for their arrest. The said Baht Taj and other opened fire at police party and resultantly PASI Shah Faisal was shot dead on the spot and embraced Shahadat while the remaining police including him continued efforts for their arrest and opened fire at them in their self defense but the accused took advantage of nearby crops and hid there.

STATEMENT OF INSPECTOR AKRAM KHAN OII PS TAKHT BHAI.

Inspector Akram Khan OII PS Takht Bhai stated that the case vide FIR No. 1088 dated 16.09.2021 u/s 302/324/353/404/34 PPC-7ATA PS Takht Bhai was investigated by Inspector Mukhtiyar Khan, the then OII PS Takht Bhai wherein, Mukhtiyar Khan had submitted complete challan in the case. From the perusal of case file it was established that according to the investigation and site plan prepared by Inspector Mukhtiyar Khan, the alleged HC Khalid was present at the front seat of the car and at the time of occurrence the alleged was present next to PASI Shah Faisal therefore, if at the time of occurrence the alleged HC performed simultaneously then neither the accused can escape from the spot nor they can took rifle and ammunition of Shaheed PASI Shah Faisal.

ATTESTED

D

STATEMENT OF SI NOOR MUHAMMAD KHAN SHO PS TAKHT BHAI.

SI Noor Muhammad Khan SHO PS Takht Bhai stated that he is serving as SHO PS Takht Bhai. On 16.09.2021 the MASI PS Takht Bhai informed him that PASI Shah Faisal and his co police officials had assaulted by unknown accused while they are on routine patrolling. Therefore, he along with other police officials rushed to the spot while he was trying to contact PASI Shah Faisal time and again but he did not pick phone call hence, he contacted the alleged HC Khalid vide his cell number. After several attempts the alleged HC Khalid picked up the call and stated that 10/12 unknown persons opened fire at them while they were on routine patrolling and resultantly PASI Shah Faisal embraced Shahadat while the accused are chasing him with the intention to kill him. He added that he hid himself nearby the crop fields. When he reached to the spot the PASI Shah Faisal was dead therefore, dead body of PASI Shah Faisal was delivered to hospital through Rescue-1122 while according to the information shared by the alleged HC Khalid and to avert to untoward situation and casualty he along with police party started a search operation to rescue the alleged HC. Later on, it was established that after the occurrence the alleged HC reached to PP Madi Baba and he misguide him and the whole police party. The alleged HC Khalid did not chase the accused and also gave an opportunity to the accused due to which the accused easily escaped after commission of offence. The alleged is an inefficient person and showed cowardice.

During the course of enquiry the alleged HC Khalid categorically admitted that at the time of occurrence he was near (18/20 steps away) to PASI Shah Faisal and accused but despite of it the accused took rifle ammunition of PASI Shah Faisal. Moreover, at the time of occurrence he was second senior in command but he left the dead body of PASI Shah Faisal helpless over there and did not inform the concern SHO and authorities. It is pertinent to mention that the alleged mentioned in his written statement that he chased the accused and also opened fire at them but during cross question he stated that after occurrence he left the spot and reached to PP Madi Baba via coaster. Therefore, contradiction found among his statements and it is evident from the statement of SHO Noor Muhammad Khan that the alleged misguide him due to which the SHO and police party was busy in search of alleged HC in nearby crops field while the accused easily escaped after commission of offence.

In view of conducted enquiry it was established that the alleged HC Khalid Khan showed cowardice, negligence and inefficiency.

RECOMMENDATION:

In view of the above facts, it is recommended that alleged **HC Khalid Khan No. 1457** may be awarded with **Major Punishment**, if agreed.

Submitted please.
Encl :(11)

ATTESTED

Sub-Divisional Police Officer,
Katlang

OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com

No. 840 /PA

Dated 24/12/2021

FINAL SHOW CAUSE NOTICE

HC Khalid Khan No.1457, while posted at Police Post Maddi Baba, PS Takht-Bhai (now under suspension Police Lines Mardan), on 16-09-2021, you were on patrolling duty with Shaheed PASI Shah Faisal, the then In-charge PP Madi Baba, an encounter with some outlaws namely Bakhtaj & Sam Taj residents of Charagh Din Killey took place, resultantly, PASI Shah Faisal embraced "Shahadat", while the accused after the commission of crime decamped vide case FIR No.1088 dated 16-09-2021 U/S 302/324/353/7ATA/404/ 34 PPC PS Takht-Bhai.

In this connection, during the course of Departmental Enquiry, conducted by Mr. Haidar Ali SDPO Katlang vide his office letter No.799/ST dated 29-11-2021, in pursuance of this office Statement of Disciplinary Action/Charge Sheet No.228/PA dated 05-10-2021, holding responsible you of gross misconduct and recommended for major punishment.

You were heard in OR on 22-12-2021, but failed to submit any cogent reasons in your defense.

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

Hence, I Dr. Zahid Ullah (PSP) District Police Officer Mardan, in exercise of the power 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.

ATTESTED

(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

Received by_____

Dated:_____/2021

Copy to RI Police Lines Mardan (Attention Reader) to deliver this Notice upon the alleged official & the receipt thereof shall be returned to this office within (05) days positively for onward necessary action.

جناب عالی!

بحوالہ فائنل شوکاز نوٹس نمبری 840-PA مورخہ 29.12.2021 صادرہ جناب DPO صاحب مردان مشمولہ معروض خدمت ہوں کہ من سائل جنرل ڈیوٹی چوکی مدے بابا پڑاؤ میں تعینات تھا۔ کہ مورخہ 16-09-2021 کو من سائل معہ دیگر نفری پولیس پیرونگ 2722 سفید از گرمان 3431، محمد الیاس 4634 نفیر شاہ فیصل حمان PASI 1051 شہید کمیانوروٹین گشت پر تھا۔ چراغ دین کلے کی طرف گشت کرتے ہوئے چراغ دین کلے پہنچ کر کھنڈیات پر 3 نوجوان العمر لڑکے با اسلحہ نمودار ہوئے ٹیم پولیس نے ان کو کھڑے ہونے کا آواز دیکر جنہوں نے راہ فرار اختیار کی۔ ٹیم پولیس پارٹی نے ملزمان کا تعاقب کرکے دوران فراری ملزمان نے ٹیم پولیس پارٹی پر بر ارادہ قتل فائرنگ کرکے ملزمان کی فائرنگ سے شاہ فیصل حمان PASI لگ کر موقع پر شہید ہوا۔ ٹیم پولیس پارٹی نا حق حفاظت خود اختیاری کے لحاظ سے ملزمان پر فائرنگ کرکے ملزمان دریاب پر نزدیک آبادی۔ فصلات گنا مکئی کا فائدہ اٹھا کر رفو چکر ہوئے۔ اس کے علاوہ من سائل بمعہ دیگر نفری پولیس پارٹی نے نہایت ایمانداری کا مظاہرہ کیا۔ مگر کامیابی نصیب نہ ہوئی کیونکہ شام کا وقت تھا۔ اور ارد گرد فصلات گنا اور مکئی تھی

استدعا ہے کہ من سائل کا فائنل شوکاز نوٹس تقیہ سی کارروائی داخل دفتر کرنے کا احکامات صادر فرمائیں

العارض

31-12-2021 تحریر

کنسٹیبل خالد حمان 1457 پولیس لائن مردان

ATTESTED

DISTRICT POLICE OFFICER, MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpo.mdn@gmail.com

No. 583-85 /PA Dated 13 / 1 /2022

ORDER ON ENQUIRY OF H.C KHALID KHAN NO.1457

This order will dispose-off a Departmental Enquiry under Police Rules 1975, initiated against the subject official, under the allegations that while posted at Police Post Madi Baba PS Takht-Bhai (now under suspension Police Lines Mardan), on 16-09-2021, he was on patrolling duty with "Shaheed" PASI Shah Faisal, the then In-charge PP Madi Baba that in the mean-while, an encounter with some outlaws namely Bakhtaj & Sam Taj residents of Charagh Din Killey took place, resultantly, PASI Shah Faisal embraced "Shahadat", while accused after the commission of crime decamped vide case FIR No.1088 dated 16-09-2021 U/S 302/324/353/7ATA/404/ 34 PPC PS Takht-Bhai.

To ascertain facts, HC Khalid Khan was placed under suspension vide this office OB No.1691 dated 28-09-2021, issued vide order/endorsement No.6404-07/OSI dated 29-09-2021 & proceeded against departmentally through Mr. Haider Ali SDPO Katlang vide this office Statement of Disciplinary Action/Charge Sheet No.228/PA dated 05-10-2021, who (E.O) after fulfilling necessary process, submitted his Finding Report to this office vide his office letter No.799/ST dated 29-11-2021, holding responsible the alleged official of gross misconduct by showing cowardice, negligence & in-efficiency during encounter with recommending him for major punishment.

In this connection, HC Khalid Khan was served with a Final Show Cause Notice, under Khyber Pakhtunkhwa Police Rules-1975, issued vide this office No.840/PA dated 29-12-2021, to which, his reply was received and found unsatisfactory.

Final Order

HC Khalid Khan was heard in Orderly Room on 12-01-2022, during which, he failed to present any plausible reasons in his defence, so found him of gross misconduct/negligence by leaving "Shaheed" PASI Shah Faisal on the spot, when he came under fire, while besides "Shahadat" of PASI Shah Faisal, the accused also taken away his weapon, showing cowardice on the part of delinquent HC Khalid Khan, therefore, awarded him major punishment of dismissal from service with immediate effect, in exercise of the power vested in me under Police Rules-1975.

OB No. 123
Dated 13/01/2022.

ATTESTED

(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

Copy forwarded for information & n/action to:-

1) The DSP/HQrs Mardan.
2) The P.O & E.C (Police Office) Mardan.
3) The OSI (Police Office) Mardan with ( ) Sheets.

-17

Annex G

بحضور جناب DIG صاحب مردان ریجن مردان

درخواست بمراد: دادرسی، دلا پانے انصاف، اور بحالی ملازمت بشکل اپیل

جناب عالی!

گزارش ہے کہ سائل 10/05/2006 کو بھرتی شدہ ہے تاریخ تعیناتی سے لے کر تا برخاستگی اپنی ڈیوٹی نہایت خندہ پیشانی اور خوش اسلوبی سے سرانجام دیتے کر تا افسران بالا کو کسی قسم کی شکایت کا موقع نہیں دیا ہے۔ یہی وجہ ہے کہ میری کارکردگی کے پیش نظر افسران بالا نے کئی بار نقد انعامات اور توصیفی اسناد سے نوازا ہے۔ پس منظر حالات، واقعات یوں ہیں کہ سائل پولیس اسٹیشن ... میں تعینات تھا۔ مورخہ 16/09/2021 کو میں معہ دیگر نفری پولیس کے زیر قیادت شاہ فیصل خان PASI کے ساتھ بذریعہ موٹر کار جس کی ڈرائیونگ شاہ فیصل خان PASI خود کر رہے تھے۔ گشت پر معمول گشت پر موجود تھے۔ جب چراغ دین کلے روڈ نزد اراضی بازگل پہنچے تو تخت بھائی پسران حیدر خان ساکنان چراغ دین کلے بمعہ ایک نامعلوم شخص کے مسلح نمودار ہوئے جنہوں نے جو نہی پولیس پارٹی کو دیکھ کر راہ فرار اختیار کی۔ ہم پولیس پارٹی نے جملہ ملزمان کا تعاقب شروع کی۔ تعاقب کے دوران ملزمان دو پارٹیوں میں تقسیم ہو کر پولیس پارٹی پر اپنے اسلحہ سے بارادہ قتل فائرنگ شروع کی شاہ فیصل خان PASI۔ محمد نواس FC۔ سعید الرحمن FC نے ایک پارٹی جبکہ میں معہ پرویز FC نے دوسرے پارٹی کا تعاقب شروع کی دوسرے پارٹی کے ملزمان کا میں نے بمعہ پرویز FC ہمراہی کے تعاقب کرتا ہوا ملزمان نے رات کے اندھیرے کا فائدہ اٹھاتے ہوئے رفو چکر ہوئے بعد میں مجھے اور ہمراہ پرویز FC واپس لوٹے۔ تو ملزمان مندرجہ FIR کی فائرنگ سے شاہ فیصل خان PASI صاحب لگ کر شہید ہو چکا تھا۔ جس کو دیگر ہمراہیان نے ہسپتال گنجی تخت بھائی بھجوایا گیا۔ یہاں یہ امر قابل ذکر ہے کہ ملزمان نے شہید شاہ فیصل خان PASI کا سرکاری رائفل SMG بمعہ 2 عدد میگزین بھی ساتھ لے گیا تھا۔ جبکہ شوکاز نوٹس میں رائفل مجھ سے چھیننا بتایا گیا ہے جو کہ حقیقت پر مبنی نہیں ہے وقوعہ کی رپورٹ محمد نواس FC کی مدعیت میں درج ہو کر مقدمہ علت نمبر 1088 مورخہ 16/09/2021 جرم 7ATA-404-34 PPC,302,324,353 تھانہ تخت بھائی میں درج رجسٹر ہو چکا ہے۔ نقل FIR منسلک ہے۔

تمام بالا افسران نے شوکاز نوٹس جاری کی ... سائل ... مجھے شوکاز نوٹس اور مابعد فائنل شوکاز نوٹس جاری کی میں نے اس سلسلہ میں انکوائری افسر کو تحریری ... پیش ہوا۔ اور جملہ حالات انکوائری افسر کے خدمت میں گوش گزار کی اور مجھے وقوعہ کا ذمہ دار ٹھہرایا اور یوں انکوائری افسر کے رپورٹ کی روشنی میں محکمہ سے علیحدہ کرایا گیا۔ سائل بال بچہ دار ہے اور بچے بھی زیر تعلیم ہیں اور غریب گھرانے سے تعلق رکھتا ہیں

استدعا ہے کہ سائل کا طویل اور صاف شفاف ملازمت اور میرے بچوں پر رحم فرما کر مجھے ملازمت پر دوبارہ بحال کرنے کا حکم صادر فرمایا جائے

العارض

خالد خان 1457-HC محکمہ پولیس ضلع مردان

0345-8325192

تحریر 24/01/2022

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ORDER.

This order will dispose-off the departmental appeal preferred by Ex-Head Constable **Khalid Khan No. 1457** of Mardan District Police against the order of District Police Officer, Mardan, whereby he was awarded major punishment of dismissal from service vide OB: No. 123 dated 17.01.2022. The appellant was proceeded against departmentally on the allegations that he while posted at Police Post Madi Baba Police Station Takht Bhai District, Mardan, he was on patrolling duty with "Shaheed" PASI Shah Faisal, the then Incharge Police Post Madi Baba in the meanwhile an encounter with some outlaws namely Bakhtaj and Samtaj residents of Charaghdin Killy took place. Resultantly, PASI Shah Faisal embraced " Shahadat" while accused after the commission of crime succeeded in decamping from the spot, hence, vide case FIR No. 1088 dated 16.09.2021 u/s 302/324/353/34-PPC/7-ATA Police Station Takht Bhai.

Proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and the then Acting Sub Divisional Police Officer (SDPO) Katlang, Mardan was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities, submitted his findings stating therein that the allegations leveled against him had been proved. He recommended the delinquent Officer for major punishment of dismissal from service.

He was issued Final Show Cause Notice to which his reply was received and found unsatisfactory. He was also provided opportunity of self defense by summoning him in the Orderly Room by the District Police Officer, Mardan on 12.01.2022, but he failed to advance any cogent reason in his defense rather it came to surface that the appellant left the Shaheed at the mercy of outlaws and even did not bother to make struggle for the defense of said Officer. Hence, he was awarded major punishment of dismissal from Service vide OB: No. 123 dated 17.01.2022.

Feeling aggrieved from the order of District Police Officer, Mardan, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 30.03.2022.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations leveled against the appellant have been proved beyond any shadow of doubt. Owing to the cowardice and negligent attitude of the appellant, accused succeeded in martyring the PASI Shah Faisal as he has been left at the mercy of the accused who faced no resistance, whatsoever, to deter them from the commission of their intended designs. The retention of the appellant in the

ATTESTED

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Police Force with such an attitude will lead to the repetition of such like incidents to the general public as well. Moreover, this type of conduct is also bound to affect the discipline and conduct of other members of the force. Besides, during the course of personal hearing, he could not present any cogent justification to warrant interference in the order passed by the competent authority.

Keeping in view the above, **I, Yaseen Farooq, PSP Regional Police Officer, Mardan, being** the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being devoid of merit.

Order Announced.

Regional Police Officer,
Mardan.

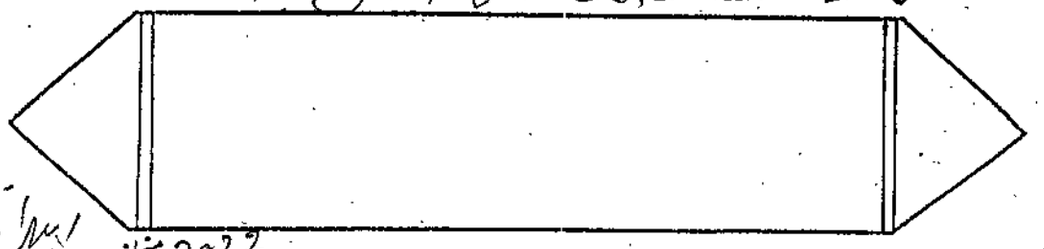
No. 2770 **/ES, Dated Mardan the** 05/04 **/2022.**

Copy forwarded to District Police Officer, Mardan for information and necessary w/r to his office Memo: No. 25/LB dated 10.02.2022. His service record is returned herewith.

(*****)

ATTESTED

بعدالت [illegible]



منجانب 2022 اسلام آباد

صادر خان بنام [illegible]

مورخہ _____

مقدمہ _____

دعویٰ _____

جرم _____

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کارروائی متعلقہ آن مقام _____ کیلئے محمد رضی [illegible]

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے وتقرر ثالث و فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارعرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرایں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برامدگی اور منسوخی نیز دائر کرنے اپیل نگرانی ونظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بااختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھدیا کہ سند رہے۔

المرقوم 08 ماہ [illegible] 2022ء

العبد _____ واہ العبد _____

بمقام _____ کے لئے منظور ہے۔

0800 780887-6

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(1)

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

Khyber Pakhtukhwa Service Tribunal

Service Appeal No. 535/2022

Diary No. 317

Dated 16/6/2022

Khalid Khan Ex-Head Constable No. 1457 Mardan Police, District Mardan

.....Appellant

VERSUS

The Inspector General of Police , Khyber Pakhtunkhwa, Peshawar and others

.....Respondents

Para-wise comments on behalf of respondents:-

Respectfully Sheweth,

PRELIMINARY OBJECTIONS

1. That the appellant has not approached this Hon'ble Tribunal with clean hands and concealed the material facts.
2. That the appeal is bad for miss joinder and non joinder of necessary & proper parties.
3. That the appellant has got no cause of action or locus standi to file the instant appeal.
4. That the appellant is estopped by his own conduct to file the instant Service Appeal.
5. That the appeal is unjustifiable, baseless, false, flawless and vexatious and the same is liable to be dismissed with special compensatory cost in favour of respondents.
6. That the appeal is barred by law & limitation.

REPLY ON FACTS

1. Para to the extent of personal information of the appellant is subject to proof while rest of para is incorrect because every Police Officer is under obligation to perform his duty upto the entire satisfaction of his superiors. Moreover, the perusal of service record of the appellant revealed that due to his lethargic attitude, his entire service record is tainted with bad entries. **(Copy of list of bad entries is attached as Annexure "A").**
2. Para to the extent of posting of appellant at Police Post Madi Baba Police Station Takht Bhai is correct, however, he was on patrolling duty with Shaheed PASI Shah Faisal the then In-charge Police Post Madi Baba. In the meanwhile an encounter with some outlaws namely Bakht Taj and Sam Taj residents of Chiragh Din Killey took place. Resultantly, PASI Shah Faisal embraced "Shahadat", while accused after the commission of crime succeeded in decamping from the spot despite of the presence of the appellant.

3. Para to the extent of initiation of investigation is correct, while rest of the Para is incorrect because the appellant have showed cowardice and negligent attitude by leaving the shaheed at the mercy of outlaws and even did not bother to make struggle for the defence of said officer. Hence, he was issued Charge Sheet alongwith statement of allegations and enquiry was entrusted to SDPO Katlang. The appellant submitted his reply which was paid due consideration but found unsatisfactory by the Enquiry Officer. However, after fulfillment all legal and codal formalities, the enquiry officer submitted his findings/report wherein he found guilty the appellant and recommended the appellant for awarding major punishment. In light of recommendation of enquiry officer, the appellant was issued Final Show Cause Notice to which he submitted his reply which was found unsatisfactory. Moreover, he was also called in orderly room for defending himself, but he failed to justify his innocence. Therefore, he was awarded major punishment of dismissal from service, which does commensurate with gravity of misconduct of the appellant.
4. As explained in Para 3.
5. Incorrect. Plea taken by the appellant is not plausible, because he has been properly proceeded against departmentally by issuing him Charge Sheet with Statement of Allegations and enquiry was entrusted to the then DSP Katlang Mardan. The enquiry officer during the course of enquiry recorded statements of all concerned and fulfilled all legal and codal formalities by extending right of self defense to the appellant to produce evidence/grounds in his defense but in fiasco. The Enquiry Officer after fulfilling necessary process, submitted his finding report and recommended the appellant for major punishment. Therefore, the appellant was issued Final Show Cause Notice to which his reply was received but found un-satisfactory and the appellant was also called in Orderly Room on 12.01.2022, but this time too, the appellant failed to justify his innocence, hence, he was awarded major punishment of dismissal from service, which does commensurate with the gravity of misconduct of the appellant **(Copies of Charge Sheet with statement of allegations and enquiry report are annexed as annexure "B & C").**
6. Incorrect. Para already explained above.
7. Incorrect. Stance taken by the appellant is not plausible, because he has properly been proceed against departmentally and after fulfillment of all legal and codal formalities, he was awarded appropriate punishment, which does commensurate with the gravity of misconduct of the appellant. The appellant then preferred departmental appeal and he was called in orderly room but this time too, he bitterly failed to

produce any cogent justification in his defense. Therefore, his departmental appeal was also rejected being bereft of any substance. **(Copies of Final Show Cause Notice , Dismissal and rejection order are attached as annexure "D, E & F").**

8. That appeal of the appellant is liable to be dismissed on the following grounds amongst the others:-

REPLY ON GROUNDS:

A. Incorrect, the appellant has been treated in accordance with law, rules, policy and the respondents did not violate any Article of the Constitution of Islamic Republic of Pakistan and orders passed by the competent authority as well as appellate authority are legal, lawful, hence, liable to be maintained.

B. Incorrect. Plea taken by the appellant is totally devoid of substance, because the very contents of the statement of allegations are much clear.

C. Incorrect. Para explained earlier.

D. Incorrect. Plea taken by the appellant is not plausible, because he has been treated according to law and properly proceeded against departmentally by issuing him Charge Sheet with Statement of Allegations and enquiry was entrusted to the then DSP Katlang Mardan. The enquiry officer during the course of enquiry recorded statements of all concerned and fulfilled all legal and codal formalities by extending right of self defense to the appellant to produce evidence/grounds in his defense but in fiasco. The Enquiry Officer after fulfilling necessary process, submitted his finding report and recommended the appellant for major punishment. Therefore, the appellant was issued Final Show Cause Notice to which his reply was received but found un-satisfactory and the appellant was also called for Orderly Room on 12.01.2022, but this time too, the appellant failed to justify his innocence, hence, he was awarded major punishment of dismissal from service, which does commensurate with the gravity of misconduct of the appellant.

E. Incorrect. Plea taken by the appellant is totally baseless because during the course of enquiry, facts were sifted from factions and after fulfillment of codal formalities the appellant was awarded appropriate punishment.

F. Incorrect, as explained above.

G. Incorrect. Stance taken by the appellant is not plausible, because the appellant has been dealt through proper departmental proceedings.

H. Incorrect. Stance taken by the appellant is not plausible, para already explained.

I. Incorrect, all requirement are fulfilled according to law and departmental appeal of the appellant was decided on merit by providing full-fledged opportunity of defending himself before the appellate authorities but he bitterly failed to produce any cogent reasons in his defense. Therefore, the same was rejected and filed being devoid of any merit.

J. Incorrect. Stance taken by the appellant is ill based because every Police Officer is under obligation to perform his duty upto the entire satisfaction of his superiors. Moreover, the perusal of service record of the appellant revealed that due to his lethargic attitude, his entire service record is tainted with bad entries.

K. That the respondents also seek permission of this Honorable Tribunal to raise additional grounds at the time of arguments.

PRAYER:-

Keeping in view the above narrated facts, it is most humbly prayed that the appeal of the appellant being badly barred by law and limitation, may kindly be dismissed with costs please.

Inspector General of Police ,
Khyber Pakhtunkhwa,
Peshawar
(Respondent No. 01)

Regional Police Officer,
Mardan
(Respondent No. 02)

District Police Officer,
Mardan.
(Respondent No. 03)

(5)

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 535/2022

Khalid Khan Ex-Head Constable No. 1457 Mardan Police, District Mardan

.....Appellant

VERSUS

The Inspector General of Police , Khyber Pakhtunkhwa, Peshawar and others

.....Respondents

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.

Inspector General of Police ,
Khyber Pakhtunkhwa,
Peshawar
(Respondent No. 01)

Regional Police Officer,
Mardan
(Respondent No. 02)

District Police Officer,
Mardan.
(Respondent No. 03)

ATTESTED

Azmat Ali Advocate
Notary Public
Judicial Complex Peshawar
15-06-2022

خالد

535/22

Annex "A"

(1) 9

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CHARACTER ROLL OF

(Continued).

15—CENSURES AND PUNISHMENTS.

2 days Absence Censured OB No. 72 dt 19/1/07

COMMANDANT FRONTIER RESERVE POLICE NWFP PESHAWAR

1 day Absence Censured OB No 339 dt 28/3/07

COMMANDANT FRONTIER RESERVE POLICE NWFP PESHAWAR

1 day Absence L.W.O. Pay and warned OB No 2201 dt 29/8/06

COMMANDANT FRONTIER RESERVE POLICE NWFP PESHAWAR

1 day Absence Censured OB No 80 dt 6/1/07

COMMANDANT FRONTIER RESERVE POLICE NWFP PESHAWAR

2 days Absence L.W.O. Pay OB No 1270 dt 19/2/08

COMMANDANT FRONTIER RESERVE POLICE NWFP PESHAWAR

Charges/Punishments: (1) Censured (2) Fine of Rs. 500/- (3) one day leave without pay vide OB No: 771 Dated: 21-04-10.

Dy. Commandent
Elite Force N.W.F.P
Peshawar.

ONE day leave w/o Pay and warned be carefull in Future by D.P.O Mardan litter No 221/EF dt 8/10/12.

COMMANDANT,
Khyber Pakhtunkhwa, Peshawar

(7) (2)

Serial No.

15—CENSURES AND PUNISHMENTS.—Contd.

Granted CC III by DPO/Mardan with Cash reward Rs. 500- for his good performance vide in Case FIR No. 646 dt 27-11-17 U/s 9CCNSA/15AA & FIR No. 648 dt 27 11/17 U/s 15AA PS Toru.

OB No. 2746
dt 28-11-17

DPO/Mardan.

ORDER:-
He is hereby placed under suspension and closed to Police lines with immediate effect for their negligence and inefficiency in official duty.

OB No. 879
22/4/19

DPO/Mardan

Orders:-
Awarded him a minor punishment by stoppage his one increment with Cumulative effect and is reinstated in service from the date of Suspension Period as duty with immediate effect

OB No. 2257
16/10/19

DPO/Mardan

(8)

CHARACTER ROLL OF (3) ...de (Continued).

15—CENSURES AND PUNISHMENTS.—Contd.

ORDER:-
He was heard in person in orderly Room held in the office of w/DIG Marda on 10-12-19. The punishment of stoppage of one increment with cummulat effect awarded by DPO/Mardan vide OB No. 2257 dt 16-10-19 is converted into minor punishment of "Censure"

DPO/Mardan

OB NO. 2728
19-12-19

Granted CC-III with cash Reward Rs:- 1000/- by DPO/Mardan for his good performance.

OB No. 810
18/05/2020

DPO/MR

ORDER
He is hereby Placed under Suspension and Closed to Police Lines Mardan. With immediate effect.

DPO/Mardan

OB NO: 1691
Dated: 28-9-2021

(4) (9) 12

CHARACTER ROLL OF (Contin

Serial No.

15—CENSURES AND PUNISHMENTS.—Concld.

ORDER

Awarded him Major punishment of dismissal From service With immediat effect, in exercise of the power vested in me under Police Rules-1975.

OB NO : 123
Dated : 17-01-2022

District Police Officer
Mardan

ORDER :

the Appeal is Rejected and filed vide DIG Mardan office order NO 2770/ES. Dated 5-04-2022

DPO/MRD

(5) (10)

(Continu...

16. LEAVE, ABSENCE AND BREAKS IN SERVICE.

All periods not counting as "approved service" to be entered in red ink.

1		2			3	4
DATE		EXTENT			No. of District Order	Description of leave i. e. privilege, hospital, sick leave, or furlough, or of absence, or forfeiture of approved service. All entries to be initialled, by Superintendent of Police.
From	To	Years	Months	Days		
				3	0/day / Effect OBM 138° dated 18-12-	COMMANDANT ... POLICE NWFP PESHAWAR
				01	1618 / 26-7-19	leave w/o pay DPO/MR
				01	1640 / 29-7-19	DO DPO/MR

Annexure "B"

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com

No. 928 /PA Dated 5/10/2021

DISCIPLINARY ACTION

I, **Dr. Zahid Ullah (PSP)**, District Police Officer Mardan, as competent authority am of the opinion that **HC Khalid Khan No.1457,** himself liable to be proceeded against, as he committed the following acts/omissions within the meaning of Police Rules 1975.

STATEMENT OF ALLEGATIONS

Whereas, **HC Khalid Khan No.1457,** while posted at Police Post Madi Baba PS Takht-Bhai (now under suspension Police Lines Mardan), on 16-09-2021, he was on patrolling duty with PASI Shah Faisal, the then In-charge PP Madi Baba, an encounter with some outlaws namely Bakhtaj & Sam Taj residents of Charagh Din Killey took place, resultantly, PASI Shah Faisal embraced "Shahadat", while the accused after the commission of crime decamped vide case FIR No.1088 dated 16-09-2021 U/S 302/324/353/7ATA/404/ 34 PPC PS Takht-Bhai, indicating inefficiency, negligence and cowardice on his part.

For the purpose of scrutinizing the conduct of the said accused official with reference to the above allegations, **Mr. Ikhtiraz Khan SDPO KTG is nominated as Enquiry Officer**.

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.

HC Khalid Khan is directed to appear before the Enquiry Officer on the date & time and place fixed by the Enquiry Officer.

(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com

(12)

2021

CHARGE SHEET

I, **Dr. Zahid Ullah (PSP)**, District Police Officer Mardan, as competent authority, hereby charge **HC Khalid Khan No.1457**, while posted at Police Post Mady Baba PS Takht-Bhai (now under suspension Police Lines Mardan), 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.

(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

[illegible] DSP [illegible]
نقل چارج شیٹ درست طور پر وصول کی۔

خالد خان HC/1457 معطل پولیس لائن مردان

OFFICE OF THE SUB-DIVISIONAL POLICE OFFICER, KATLANG CIRCLE

Tel. & Fax: 0937575333,

No. 799 /ST, Dated: 29/11/2021.

To, **The District Police Officer,**
Mardan.

Subject: **DISCIPLINARY ACTION AGAINST HC KHALID KHAN NO. 1457.**

Memo: Kindly refer to your office Diary No. 228/PA dated 05.10.2021.

In pursuance of your kind order, the undersigned completed enquiry in the above subject case. Its step-wise detail is given below.

STATEMENTS OF ALLEGATIONS:

Whereas, **HC Khalid Khan No. 1457** while posted at PP Madi Baba, PS Takht Bhai (now under suspension Police Lines, Mardan) on 16.09.2021 he was on patrolling duty with PASI Shah Faisal the then I/C PP Madi Baba, an encounter with some outlaws namely Bakhtaj and Sam Taj residents of Charagh Din Killey took place consequently, PASI Shah Faisal embraced Shahadat while the accused mentioned above decamped after commission of offence. Case vide FIR No. 1088 dated 16.09.2021 u/s 302/324/353/404/34 PPC-7ATA PS Takht Bhai was registered against Bakhtaj and others. The alleged HC Khalid indicated inefficiency, negligence and cowardice.

PROCEEDINGS:

Inquiry proceedings were initiated, charge sheet with statement of allegations was issued and served upon the alleged official.

FINDING OF THE ENQUIRY:

Proceeding formally into the matter the alleged HC Khalid No. 1457, Inspector Akram Khan OII PS Takht Bhai and SI Noor Muhammad Khan SHO PS Takht Bhai were called and heard in person. The alleged was questioned and cross questioned at length.

STATEMENT OF HC KHALID NO. 1457 (NOW UNDER SUSPENSION).

The alleged HC Khalid No. 1457 stated that on 16.09.2021 he along with PASI Shah Faisal I/C PP Madi Baba, Parveez No. 2722, Saeed ur Rahman No. 3431 and Muhammad Nawas No. 634 were on routine patrolling in a private car. At the time of occurrence 03 young boys namely Baht Taj, Sam Taj and one unknown duly fire armed were spotted at the place of occurrence (Charagh Din kiliy near Baz Muhammad's field). I/C PASI Shah Faisal called them to stop but they managed to escape so, the police party chased them for their arrest. The said Baht Taj and other opened fire at police party and resultantly PASI Shah Faisal was shot dead on the spot and embraced Shahadat while the remaining police including him continued efforts for their arrest and opened fire at them in their self defense but the accused took advantage of nearby crops and hid there.

STATEMENT OF INSPECTOR AKRAM KHAN OII PS TAKHT BHAI.

Inspector Akram Khan OII PS Takht Bhai stated that the case vide FIR No. 1088 dated 16.09.2021 u/s 302/324/353/404/34 PPC-7ATA PS Takht Bhai was investigated by Inspector Mukhtiyar Khan the then OII PS Takht Bhai wherein, Mukhtiyar Khan had submitted complete challan in the case. From the perusal of case file it was established that according to the investigation and site plan prepared by Inspector Mukhtiyar Khan, the alleged HC Khalid was present at the front seat of the car and at the time of occurrence the alleged was present next to PASI Shah Faisal therefore, if at the time of occurrence the alleged HC performed simultaneously then neither the accused can escape from the spot nor they can took rifle and ammunition of Shaheed PASI Shah Faisal.

STATEMENT OF SI NOOR MUHAMMAD KHAN SHO PS TAKHT BHAI.

SI Noor Muhammad Khan SHO PS Takht Bhai stated that he is serving as SHO PS Takht Bhai. On 16.09.2021 the MASI PS Takht Bhai informed him that PASI Shah Faisal and his co-police officials had assaulted by unknown accused while they are on routine patrolling. Therefore, he along with other police officials rushed to the spot while he was trying to contact PASI Shah Faisal time and again but he did not pick phone call hence, he contacted the alleged HC Khalid vide his cell number. After several attempts the alleged HC Khalid picked up the call and stated that 10/12 unknown persons opened fire at them while they were on routine patrolling and resultantly PASI Shah Faisal embraced Shahadat while the accused are chasing him with the intention to kill him. He added that he hid himself nearby the crop fields. When he reached to the spot the PASI Shah Faisal was dead therefore, dead body of PASI Shah Faisal was delivered to hospital through Rescue-1122 while according to the information shared by the alleged HC Khalid and to avert to untoward situation and casualty he along with police party started a search operation to rescue the alleged HC. Later on, it was established that after the occurrence the alleged HC reached to PP Madi Baba and he misguide him and the whole police party. The alleged HC Khalid did not chase the accused and also gave an opportunity to the accused due to which the accused easily escaped after commission of offence. The alleged is an inefficient person and showed cowardice.

During the course of enquiry the alleged HC Khalid categorically admitted that at the time of occurrence he was near (18/20 steps away) to PASI Shah Faisal and accused but despite of it the accused took rifle ammunition of PASI Shah Faisal. Moreover, at the time of occurrence he was second senior in command but he left the dead body of PASI Shah Faisal helpless over there and did not inform the concern SHO and authorities. It is pertinent to mention that the alleged mentioned in his written statement that he chased the accused and also opened fire at them but during cross question he stated that after occurrence he left the spot and reached to PP Madi Baba via coaster. Therefore, contradiction found among his statements and it is evident from the statement of SHO Noor Muhammad Khan that the alleged misguide him due to which the SHO and police party was busy in search of alleged HC in nearby crops field while the accused easily escaped after commission of offence.

In view of conducted enquiry it was established that the alleged HC Khalid Khan showed cowardice, negligence and inefficiency.

RECOMMENDATION:

In view of the above facts, it is recommended that alleged **HC Khalid Khan No. 1457** may be awarded with **Major Punishment**, if agreed.

Submitted please.
Encl :(11)

Sub-Divisional Police Officer,
Katlang

Issue FCN.

22.12.2021

OR

DPO/MDN 13/12/21

جناب عالی!

بحوالہ چارج شیٹ نمبری PA-228 جاریہ جناب DPO صاحب مردان 05.10.2021

عرض ہے کہ معروض خدمت ہے کہ من سائل جنرل ڈیوٹی چوکی [illegible] بابا صاحب تعینات تھا

مورخہ 16.09.21 کو من سائل بمعہ دیگر نفری پولیس بسرکردگی 2722 مسعود خان 3431

محمد نواز 4763 [illegible] سپاہیان بمعیت PASI شہید [illegible] گشت پر تھا۔ [illegible]

[illegible] گشت کرتے ہوئے [illegible] 3 جوان [illegible]

باسلحہ نمودار ہوئے ہم پولیس نے ان کو رکنے کا اشارہ دیا [illegible]

اشتہاری ہم پولیس پارٹی نے ملزمان کا تعاقب کرتے دوران فراری ملزمان نے ہم پولیس

پارٹی پر بہ ارادہ قتل فائرنگ کرکے ملزمان کی فائرنگ سے سپاہی [illegible] PASI [illegible]

موقع پر شہید ہوا ہم پولیس پارٹی نے حق حفاظت خود اختیاری کے [illegible] ملزمان

پر فائرنگ کرکے ملزمان [illegible] آبادی [illegible]

[illegible] پولیس پارٹی [illegible]

[illegible]

[illegible] چارج شیٹ [illegible]

صادر فرمائیں۔

15.10.2021 تحریر

العارض

[signature]

کانسٹیبل خالد خان 1657 پولیس لائن مردان

0345-8325192

Attested

DSP. [illegible]

[illegible]

457/HC

(16) سلسلہ سوالات و جوابات اذان خالد خان

س1: آپ پولیس میں کب بھرتی ہوئے ہوں؟
ج: سال سن 2006
س2: چوکی دیر بابا لطیف زیارت بطائی میں کتنے عرصہ سے تعینات تھے؟
ج: تقریباً 14 ماہ اور دس (15) دن
س3: آیا یہ بات ہے کہ آپ شاہ فیصل خان AC شہید کے ساتھ بحیثیت گنرڈ ڈیوٹی دے رہا تھا؟
ج: جی ہاں۔
س4: بوقت وقوعہ آپ اور شہید شاہ فیصل خان AC کے درمیان کتنا فاصلہ تھا؟
ج: تقریباً 18/20 قدم کے فاصلے پر تھا۔
س5: حملہ آوران کی گرفتاری کیلئے آپ نے موقع پر کیا کوشش کی ہے؟
ج: حملہ آوران کیساتھ وقوعہ میں استعمال ہونے والا MG4 تھا۔ جنہیں تعاقب پر وہ بھی پر فائر کرتا تھا۔
س6: آپ نے کتنا فائر کیا تھا؟
ج: میں نے اپنے رائفل سے چار (4) عدد روند فائر کیا تھا۔
س7: آیا تفتیشی افسر آپ کے جائے وقوعہ سے خول کارتوس اٹھا کر بر ذریعہ فرد قبضہ پولیس کی ہے؟
ج: مجھے یہ معلوم نہیں ہے۔
س8: وقوعہ میں حملہ آوران کے ہاتھ آنے والا رائفل کس کا تھا؟
ج: شہید AC شاہ فیصل خان کا تھا۔
س9: کیا آپ نے ریسکیو 1122 کو اطلاع دیا تھا؟
ج: نہیں۔
س10: کیا آپ نے موقع سے SHO صاحب تھانہ کو اطلاع دیا تھا؟
ج: نہیں۔

[signature]

P.T.O

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س 11: جائے واردات سے آپ ہوٹل کیوں آئے تھے؟

ج: میں اکیلا تھا۔ اور دوسرے ساتھی کو اطلاع دینے کیلئے آیا تھا۔

س 12: ہوٹل کو جائے واردات سے کیسے آئے تھے؟

ج: بذریعہ کوسٹر جو کہ وہاں سے گزر رہا تھا میں سوار ہو کر ہوٹل آیا۔

س 13: ہوٹل سے جائے واردات واپس کتنے ٹائم میں پہنچ گئے؟

ج: تقریباً 30 منٹ میں واپس گیا۔

س 14: آیا یہ بات درست ہے کہ واپسی پر SHO صاحب تھانہ آپ سے پہلے وہاں موجود تھا

ج: جی ہاں وہاں پر SHO صاحب مع نفری وہاں پر موجود تھا۔

س 15: جائے وقوعہ تھانہ سے دور ہے یا ہوٹل کے نزدیک ہے؟

ج: تھانہ سے کافی فاصلہ پر ہے۔ اور ہوٹل کے نزدیک ہے۔

س 16: آپ ملزمان کو پہلے سے جانتے تھے؟

ج: جی ہاں۔ ملزم بحتاج محمد ولد ... FIR درج کرایا تھا۔ جو کہ ... میں شہید AS صاحب نے ISHA میں

س 17: بوقت رپورٹ آپ وہاں پر موجود تھے؟

ج: نہیں۔

س 18: شہید شاہ فیصل خان AS کا باڈی کس نے اٹھایا تھا اور کس نے ہسپتال پہنچایا تھا؟

ج: ریسکیو 1122 نے مع موجودگی پولیس اٹھا کر ہسپتال پہنچایا تھا۔

س 19: آپ نے وقوعہ کی اطلاع کنٹرول روم مردان کو دیا تھا؟

ج: نہیں دیا ہے۔

س 20: جب شاہ فیصل خان AS شہید ہو گئے تو پرائیویٹ موٹر کار اور اس کا Dead body کس کو حوالہ کیا تھا؟

[signature]

ع 20
ج :- وہاں پر کوئی نہیں تھا۔ اور میں نے کسی کو خوار نہیں کیا تھا۔
س 21 :- آپ نے سلطان کی کس حد تک تعاقب کیا تھا؟
ج :- میں نے تعاقب نہیں کیا تھا۔ میں تعاقب کرنے پر اس کے ساتھ وہ ہتھیار استعمال ہونے والا رائفل تھا۔ اور مجھ پر فائر کرتا تھا۔
ع 22
س :- سلطان اور اس کے درمیان کتنا فاصلہ تھا؟
ج :- 18/20 قدم
ع 23
س :- آپ پر سلطان نے کتنا فائر کیا تھا؟
ج :- 10/12 راؤنڈ فائر کئے تھے۔
ع 24
س :- اس کے اور سلطان کے درمیان آڑ تھا؟
ج :- نہیں۔

19

جناب عالی!

بحوالہ انکوائری اردل محمد خالد 1457/HC معروض خدمت ہوں
کہ منکہ اسلٹ 011 کا تادم حال بی حیثیت محلہ افسران بالا
بحیثیت 011 تھانہ تخت بھائی امور ہے۔ حسب الحکم انکوائری
بالا ASP صاحب سرکل کا اشتہار نے طلب کرکے موصول شدہ
کی پڑتال کرکے معلوم ہوا کہ 16/9/21 کو بوقت 19:20 بجے سالیو 011
اسلٹ محمد طارق خان کو بغرض تفتیش مقدمہ 1088 مورخہ 16/9/21 جرم
302-324-353/404-34 PPC 7ATA تھانہ تخت بھائی حوالہ ہوکر موقع پر نقشہ موقع
تیار کیا ہے۔ اسی مقدمہ میں HC خالد کو موقع پر سرکاری فرائض سرانجام
پر مقتول شہید ناصر خان AC کے ساتھ موجود بتلایا ہے۔ جبکہ
وقوعہ کے وقت HC خالد کو ناصر خان شہید کے ساتھ قریب
ہی موجود کی ظاہر کی ہے۔ قابل ذکر بات یہ ہے کہ اگر محرر خالد
نے بروقت ملزمان کے خلاف کاروائی کی تھی۔ تو ہو سکتا ہے کہ
نہ ملزمان جانے دیتے اور نہ ہی سرکاری رائفل MG عبدالمحسن
ملزمان اپنے ساتھ لے جاتا۔ چنانچہ خالد کے حالات سے معلوم
ہوتا ہے کہ خالد HC نے بوقت وقوعہ بزدلی اور کمزوری کا مظاہرہ
کیا ہے۔

IN-9/011 - P.S. TBI
25-11-21

(80)

جناب عالی!

بحوالہ انکوائری اذان خالد 1457/HC معہ دیگر بیان
کہ میں بگشت SHO تھانہ تخت بھائی علاقہ لطیفات میں ہوں۔ مورخہ
16/9/2021 کو بوقت شام ہمراہ تھانہ میں موجود تھا کہ بذریعہ فون
تھانہ اطلاع ملی کہ اکازے نوکی ناکہ پر ASI شاہ فیصل خان
پر کسی نے فائر کی ہے۔ فوراً معہ نفری کے جائے وقوعہ روانہ ہو کر
میں نے بار بار شاہ فیصل خان PASI کے موبائل نمبرات پر کوشش
کی مگر کوئی جواب موصول نہیں ہو رہا تھا۔ بعد میں میں نے شاہ خالد
HC جو کہ شہید ASI کے ساتھ گن مین تھا۔ اس کے موبائل پر کوشش
کی۔ مگر پہلے کال وصول نہیں کر رہا تھا۔ بعد میں کال وصول کر
کے معلومات پر بتلایا کہ سلطان نے شاہ فیصل خان پر فائر کر کے
شہید کیا ہے۔ اب میں سمجھ 10/12 بندے ہیں مجھے مار رہے
جس نزدیک فصل گنے کی کھیت میں ہوں۔ میں فوراً جائے وقوعہ
جا کر شہید ASI کو بذریعہ 1122 ہسپتال بھجوایا۔ اور بعد میں
معہ نفری کے نزدیک فصلات کی سرچ شروع کی۔ اور اس کے
ساتھ رابطے میں تھا۔ بعد میں خالد HC نے کہا کہ میں اٹھا ہوں جلد
وہ جو کہ پہنچ گیا تھا۔ وہاں سے واپس آیا۔ چونکہ مذکورہ نے مجھے

(21)

ساتھ رابطہ ہو گیا پڑاؤ سے گرفتار کیا تھا - مذکورہ ہیڈ کانسٹیبل موقع
سے فرار ہو کر شہیدی پیٹ کر لیں دیہاڑی پر چھوڑ آیا تھا -
حامد سیال HC نے انتہائی بزدلی کا کام کیا ہے۔ اور ساتھ ہی ان جوان
کا قیمتی وقت بھی ضائع کیا ہے - جو بلکہ مذکورہ ہو گیا بھاگ
گیا تھا۔ اور جس کے نفری حضرات سرچ کرتے میں اس کے
پیچھے لگے رہے - مذکورہ نے انتہائی غفلت کا مظاہرہ کیا ہے۔ نہ
اسلحہ کو کوئی فائر نہیں کیا ہے - اور نہ ہی جان کا تعاقب کیا ہے
میں نے اپنی 30/31 سالہ نوکری کے دوران میں ایسا بزدلی کسی پولیس
کا نہیں دیکھا ہے۔ اور نہ ہی ایسا بزدلی کسی نے کیا ہے

SHO-PS-TBI

Copy to R.I Police ... within (03) days ...

انسپکٹر جنرل پولیس KPK فارم نمبر ۲۷

فارم نمبر ۲۴

فائیل

ابتدائی اطلاع رپورٹ ویڈیو

16101-0530384-9

0310-9897505

ابتدائی اطلاع نسبت قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ ۱۵۴ مجموعہ ضابطہ فوجداری

تھانہ تخت بھائی ضلع مردان

نمبر 47 مقدمہ علت 1088 تاریخ و وقت وقوعہ 16/09/021 وقت 20:18 بجے

۱۔	تاریخ و وقت رپورٹ	16/09/021 وقت 18:50 بجے
		چالان کی برجسٹہ 16/9/021 وقت 19:20 بجے
۲۔	نام و سکونت اطلاع دہندہ مستغیث شناختی کارڈ نمبر / موبائل نمبر	کنسٹیبل محمد نواس 634/FC
		چوکی بڑا اڈہ تھانہ تخت بھائی
۳۔	مختصر کیفیت جرم (معہ دفعہ) حال اگر کچھ لیا گیا ہو۔	7ATA-404-34
		PPC 302-324-353
۴۔	جائے وقوعہ فاصلہ تھانہ سے اور سمت	چراغ دین کلے روڈ نزد اراضی اذان باز محمد فضل گنا جانب غرب از تھانہ
۵۔	نام و سکونت ملزم شناختی کارڈ نمبر / موبائل نمبر	(1) بخت تاج (2) سم تاج پسران حیدر خان ساکنان چراغ دین کلے (3) ایک شخص
		اسمائے مسکن نا معلوم
۶۔	کاروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو	بر سیدگی مراسلہ مقدمہ درج رجسٹر کیا جاتا ہے
۷۔	تھانہ سے روانگی کی تاریخ و وقت	بطور سپیشل رپورٹ

ابتدائی اطلاع نیچے درج کرو

تخت بھائی بدست کنسٹیبل سعید الرحمان 3431 مراسلہ موصول منجانب نور محمد خان SHO تھانہ لنڈی پولیس گسواری گاڑی سرکاری ایمبولینس بحوالہ ڈرائیوران عملہ فوری طور پر جائے وقوعہ بالا پرویز 2722/FC، سعید الرحمان 3431، محمد نواس 634/FC چوکی بڑا اڈہ تھانہ تخت بھائی ہمراہیان خالد خان 1457/HC پیش کرتے محمد نواس 634/FC نعش کی بابت یوں رپورٹ کرتا ہے کہ آج شام حسب معمول ہم جملہ ملازمان شاہ فیصل ASI PASI کے ساتھ گسواری پر ایمبولینس موٹر کار رجسٹرڈ نمبر 7 مسلح SMG، ایمونیشن سرکاری علاقہ گشت پر تھے۔ اور موٹر کار کی ڈرائیونگ شاہ فیصل خان ASI PASI خود کر رہا تھا۔ جب جائے وقوعہ بالا پہنچے تو ملزمان (1) بخت تاج (2) سم تاج پسران حیدر خان ساکنان چراغ دین کلے اور ایک شخص اسمائے مسکن نا معلوم جو سامنے آنے پر شناخت کر سکتا ہوں۔ ملزمان پختہ روڈ پر سامنے آ کر جو مسلح اسلحہ آتشین میں تقسیم ہوئے پھر ملزمان نے پولیس پارٹی کو دیکھ کر راہ فرار اختیار کی۔ جو ہم پولیس پارٹی نے موٹر کار کو سائیڈ پر کھڑا کر کے فوراً ملزمان کا تعاقب کرتے ملزمان بھاگنے لگے۔ جس کا تعاقب جاری رکھتے ہوئے ملزمان دو یا تین دفعہ نے بھی حق حفاظت خود اختیاری کے لئے اپنے اپنے اسلحہ سے ہم پولیس پارٹی پر بہ ارادہ قتل فائرنگ شروع کیا۔ ہم فائرنگ سے شاہ فیصل ASI PASI لگ کر موقع پر شہید ہوا اور ہم پولیس پارٹی ان کے فائرنگ سے معجزانہ طور پر بال بال بچ گئے۔ ملزمان کی فائرنگ سے شاہ فیصل ASI PASI شہید ہو کر ملزمان نے شہید ASI PASI کا سرکاری SMG رائفل معہ دو عدد میگزین بھی اپنے ساتھ لے گئے ہیں۔ دوران فائرنگ ملزمان کی تکنیکی کا فائدہ اٹھاتے ہوئے رفوچکر ہوئے۔ ملزمان نے گنے کی فصلات گنا اور کھڑی فصل دہشت پھیل گیا۔ وجہ عناد سرکاری ڈیوٹی کی فرائض کی انجام دہی میں ہم پولیس پر بہ ارادہ قتل فائرنگ کرنا اور شاہ فیصل خان ASI PASI کے قتل / شہید کرنا بر خلاف بخت تاج۔ سم تاج اور ایک شخص اسمائے مسکن نا معلوم بالا دعویدار ہوں۔ وقوعہ ہذا میرے علاوہ خالد 1457/HC، پرویز خان 2722 سعید الرحمان 3431 کا چشم دید ہے۔ الدستخط انگریزی ...

... 1457/HC ... خالد خان ... 2722 ...

(SAJJAD KHAN) PSP
District Police Officer
Mardan

Copy to RI Police Lines Mardan ...
receipt thereof shall be returned to this office

(23) (۱۸) (18)

پشتو میں سنایا اور سمجھایا گیا۔ درست تسلیم کرکے زیر رپورٹ خود دستخط انگریزی ثبت کی اور تائید کنندہ نے تائیدی
کر دستخط ثبت کی۔ جسکی میں تصدیق کرتا ہوں۔ نعش مقتول شاہ فیصل خان ASI PA کا کاغذات مرتب
نقشہ ضروریہ بمطابق زخمات مرتب کیے جاکر بدست کانسٹیبل پرویز 27.22 بغرض پوسٹمارٹم کرانے
ہسپتال THQ گنجی ڈھیر عباسی روانہ کئے۔ چونکہ ازروئے رپورٹ سے صورت جرم بالا کا پایا جاکر مراسلہ بغرض
قائمی مقدمہ بدست کانسٹیبل سعید الرحمان 3431 ارسال تھانہ ہے۔ مقدمہ درج رجسٹر کرکے افسران بالا
صاحبان کو بطور سپیشل رپورٹ اطلاع دی جائے۔ میں معہ افسران بالا ملزمان کی گرفتاری کے سلسلہ
میں علاقہ میں سرگرم مصروف ہوں۔ مقدمہ درج رجسٹر کرکے بغرض تفتیش حوالہ انچارج شعبہ تفتیش
کیا جاوے۔ دستخط انگریزی نور محمد خان SHO تھانہ غازی عباسی مورخہ 16/9/021 کارروائی تھانہ آمدہ تحریری
مراسلہ حرف بہ حرف درج بالا ہو کر پرچہ بالجرم بالا فوقی مرتب ہو کر بحوالہ FIR ہمراہ مراسلہ
بغرض تفتیش حوالہ انچارج شعبہ تفتیش کیا جاتا ہے۔ پرچہ بطور سپیشل رپورٹ گزارش ہے۔

محمد علی خان
ASHO. PS Tukhat-Bhai
Date 16-9-2021.

375
LES

دستخط

عہدہ

اطلاع کے نیچے دہندہ کا دستخط ہوگا یا اس کی مہر نشان لگایا جائے گا۔ اور افسر تحریر کنندہ ابتدائی اطلاع کا دستخط بطور تصدیق ہوگا۔ حروف الف یا ب سرخ روشنائی سے بالتر
ایک ملزم یا مشتہر علی الترتیب واسطے باشندگان علاقہ غیر یا وسط ایشیا یا افغانستان جہاں موزوں ہوں لکھنا چاہئے۔

0345-8325192

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com

No. 840 /PA

Dated 24/12/2021

FINAL SHOW CAUSE NOTICE

HC Khalid Khan No.1457, while posted at Police Post Maddi Baba PS Takht-Bhai (now under suspension Police Lines Mardan), on 16-09-2021, you were on patrolling duty with Shaheed PASI Shah Faisal, the then In-charge PP Madi Baba, an encounter with some outlaws namely Bakhtaj & Sam Taj residents of Charagh Din Killey took place, resultantly, PASI Shah Faisal embraced "Shahadat", while the accused after the commission of crime decamped vide case FIR No.1088 dated 16-09-2021 U/S 302/324/353/7ATA/404/ 34 PPC PS Takht-Bhai.

In this connection, during the course of Departmental Enquiry, conducted by Mr. Haidar Ali SDPO Katlang vide his office letter No.799/ST dated 29-11-2021, in pursuance of this office Statement of Disciplinary Action/Charge Sheet No.228/PA dated 05-10-2021, holding responsible you of gross misconduct and recommended for major punishment.

You were heard in OR on 22-12-2021, but failed to submit any cogent reasons in your defense.

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

Hence, I Dr. Zahid Ullah (PSP) District Police Officer Mardan, in exercise of the power 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.

(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

Received by

Dated: 30/12/2021

Copy to RI Police Lines Mardan **(Attention Reader)** to deliver this Notice upon the alleged official & the receipt thereof shall be returned to this office within (05) days positively for onward necessary action.

(25)

سمن 3550

جناب عالی!

گزارش ہے کہ 1 عدد متوفیان نوٹس [illegible]
سمن 3550 بنام حاجی خان $\frac{1957}{PPC}$ تقسیم [illegible]
[illegible] واپس [illegible] ہے

RI-PL-NRD
30-12-02

26

جناب عالی!

بحوالہ فائنل شوکاز نوٹس نمبری 840-PA مجاریہ جناب DPO صاحب و
29-12-2021

مشمولہ معروض خدمت ہوں کہ من سائل جنرل ڈیوٹی چوکی مدے بابا پڑاؤ تعینات تھا کہ مورخہ 16-09-2021 کو من سائل معہ دیگر نفری پولیس پروبز 722 سعید الرحمان 3431، محمد یونس 634 شہید شاہ فیصل خان ASI PA شہید کمبائنڈ گشت پر تھا۔ چراغ دین کلے کے قریب گشت کرتے ہوئے چراغ دین کلے پہنچے تو دیکھا کہ 3 نوجوان العمر لڑکے بااسلحہ نمودار ہوئے۔ ٹیم پولیس نے ان کو کھڑے ہونے کا آواز دی جنہوں نے راہ فرار اختیار کی۔ ٹیم پولیس پارٹی نے ملزمان کا تعاقب کرتے دوران فراری ملزمان نے ٹیم پولیس پارٹی پر بارادہ قتل فائرنگ کرتے ملزمان کی فائرنگ سے شاہ فیصل خان ASI PA زخمی ہو کر موقع پر شہید ہوا۔ ٹیم پولیس پارٹی نے حق حفاظت خود اختیاری کے تحت بھی ملزمان پر فائرنگ کی۔ ملزمان دیہات پر تر رش آبادی، فصلات گنا مکئی کا فائدہ اٹھا کر رفوچکر ہوئے۔ اس کے علاوہ من سائل بمعہ دیگر نفری پولیس پارٹی نے نہایت ایمانداری کا مظاہرہ کیا مگر کامیابی نصیب نہ ہوئی کیونکہ شام کا وقت تھا اور ارد گرد فصلات گنا اور مکئی تھی

امید ہے کہ من سائل کا فائنل شوکاز نوٹس بغیر کسی کاروائی داخل دفتر کرنے کا احکامات صادر فرمائیں

DPO

العارض

31-12-2021 تحریر [illegible signature]

کنسٹیبل خالد خان 1457 پولیس لائن مردان

. The officer was heard in O.R.
. The officer was on duty with ASI Shah Faisal (Shaheed) when he came under fire/R
. The officer HC/Khalid 1457 showed cowardice & left Shah Faisal (Shaheed) on the spot. Who was killed and his weapon was also taken away by the accused.
Keeping in view the findings of the E.O & material
05/01/2022
P.T.O

Inspector Mukhtiyar Khan, the alle[...]
car and at the time of [...]

(27)

on record, he Khalid b
1457
awarded major punishment of
dismissal from service.

12.1.2022.

OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN
Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpo.mdn@gmail.com

1457

No. 383-85 /PA Dated 17/1/2022

ORDER ON ENQUIRY OF H.C KHALID KHAN NO.1457

This order will dispose-off a Departmental Enquiry under Police Rules 1975, initiated against the subject official, under the allegations that while posted at Police Post Madi Baba PS Takht-Bhai (now under suspension Police Lines Mardan), on 16-09-2021, he was on patrolling duty with "Shaheed" PASI Shah Faisal, the then In-charge PP Madi Baba that in the mean-while, an encounter with some outlaws namely Bakhtaj & Sam Taj residents of Charagh Din Killey took place, resultantly, PASI Shah Faisal embraced "Shahadat", while accused after the commission of crime decamped vide case FIR No.1088 dated 16-09-2021 U/S 302/324/353/7ATA/404/ 34 PPC PS Takht-Bhai.

To ascertain facts, HC Khalid Khan was placed under suspension vide this office OB No.1691 dated 28-09-2021; issued vide order/endorsement No.6404-07/OSI dated 29-09-2021 & proceeded against departmentally through Mr. Haider Ali SDPO Katlang vide this office Statement of Disciplinary Action/Charge Sheet No.228/PA dated 05-10-2021, who (E.O) after fulfilling necessary process, submitted his Finding Report to this office vide his office letter No.799/ST dated 29-11-2021, holding responsible the alleged official of gross misconduct by showing cowardice, negligence & in-efficiency during encounter with recommending him for major punishment.

In this connection, HC.Khalid Khan was served with a Final Show Cause Notice, under Khyber Pakhtunkhwa Police Rules-1975, issued vide this office No.840/PA dated 29-12-2021, to which, his reply was received and found unsatisfactory.

Final Order

HC Khalid Khan was heard in Orderly Room on 12-01-2022, during which, he failed to present any plausible reasons in his defence, so found him of gross misconduct/negligence by leaving "Shaheed" PASI Shah Faisal on the spot, when he came under fire, while besides "Shahadat" of PASI Shah Faisal, the accused also taken away his weapon, showing cowardice on the part of delinquent HC Khalid Khan, therefore, awarded him major punishment of dismissal from service with immediate effect, in exercise of the power vested in me under Police Rules-1975.

OB No. 123
Dated 17/01/2022.

(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

Copy forwarded for information & n/action to:-

1) The DSP/HQrs Mardan.
2) The P.O & E.C (Police Office) Mardan.
3) The OSI (Police Office) Mardan with 6 Sheets.

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com

No. 383-85 /PA Dated 18 / 1 /2022

ORDER ON ENQUIRY OF H.C KHALID KHAN NO.1457

This order will dispose-off a Departmental Enquiry under Police Rules 1975, initiated against the subject official, under the allegations that while posted at Police Post Madi Baba PS Takht-Bhai (now under suspension Police Lines Mardan), on 16-09-2021, he was on patrolling duty with "Shaheed" PASI Shah Faisal, the then In-charge PP Madi Baba that in the mean-while, an encounter with some outlaws namely Bakhtaj & Sam Taj residents of Charagh Din Killey took place, resultantly, PASI Shah Faisal embraced "Shahadat", while accused after the commission of crime decamped vide case FIR No.1088 dated 16-09-2021 U/S 302/324/353/7ATA/404/ 34 PPC PS Takht-Bhai.

To ascertain facts, HC Khalid Khan was placed under suspension vide this office OB No.1691 dated 28-09-2021, issued vide order/endorsement No.6404-07/OSI dated 29-09-2021 & proceeded against departmentally through Mr. Haider Ali SDPO Katlang vide this office Statement of Disciplinary Action/Charge Sheet No.228/PA dated 05-10-2021, who (E.O) after fulfilling necessary process, submitted his Finding Report to this office vide his office letter No.799/ST dated 29-11-2021, holding responsible the alleged official of gross misconduct by showing cowardice, negligence & in-efficiency during encounter with recommending him for major punishment.

In this connection, HC Khalid Khan was served with a Final Show Cause Notice, under Khyber Pakhtunkhwa Police Rules-1975, issued vide this office No.840/PA dated 29-12-2021, to which, his reply was received and found unsatisfactory.

Final Order

HC Khalid Khan was heard in Orderly Room on 12-01-2022, during which, he failed to present any plausible reasons in his defence, so found him of gross misconduct/negligence by leaving "Shaheed" PASI Shah Faisal on the spot, when he came under fire, while besides "Shahadat" of PASI Shah Faisal, the accused also taken away his weapon, showing cowardice on the part of delinquent HC Khalid Khan, therefore, awarded him major punishment of dismissal from service with immediate effect, in exercise of the power vested in me under Police Rules-1975.

OB No. 123
Dated 17/01/2022.

(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

Copy forwarded for information & n/action to:-

1) The DSP/HQrs Mardan.
2) The P.O & E.C (Police Office) Mardan.
3) The OSI (Police Office) Mardan with ( ) Sheets.

30

ORDER.

This order will dispose-off the departmental appeal preferred by Ex-Head Constable Khalid Khan No. 1457 of Mardan District Police against the order of District Police Officer, Mardan, whereby he was awarded major punishment of dismissal from service vide OB: No. 123 dated 17.01.2022. The appellant was proceeded against departmentally on the allegations that he while posted at Police Post Madi Baba Police Station Takht Bhai District, Mardan, he was on patrolling duty with "Shaheed" PASI Shah Faisal, the then Incharge Police Post Madi Baba in the meanwhile an encounter with some outlaws namely Bakhtaj and Samtaj residents of Charaghdin Killy took place. Resultantly, PASI Shah Faisal embraced " Shahadat" while accused after the commission of crime succeeded in decamping from the spot, hence, vide case FIR No. 1088 dated 16.09.2021 u/s 302/324/353/34-PPC/7-ATA Police Station Takht Bhai.

Proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and the then Acting Sub Divisional Police Officer (SDPO) Katlang, Mardan was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities, submitted his findings stating therein that the allegations leveled against him had been proved. He recommended the delinquent Officer for major punishment of dismissal from service.

He was issued Final Show Cause Notice to which his reply was received and found unsatisfactory. He was also provided opportunity of self defense by summoning him in the Orderly Room by the District Police Officer, Mardan on 12.01.2022, but he failed to advance any cogent reason in his defense rather it came to surface that the appellant left the Shaheed at the mercy of outlaws and even did not bother to make struggle for the defense of said Officer. Hence, he was awarded major punishment of dismissal from Service vide OB. No. 123 dated 17.01.2022.

Feeling aggrieved from the order of District Police Officer, Mardan, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 30.03.2022

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations leveled against the appellant have been proved beyond any shadow of doubt. Owing to the cowardice and negligent attitude of the appellant, accused succeeded in martyring the PASI Shah Faisal as he has been left at the mercy of the accused who faced no resistance, whatsoever, to deter them from the commission of their intended designs. The retention of the appellant in the

Police Force with such an attitude will lead to the repetition of such like incidents to the general public as well. Moreover, this type of conduct is also bound to affect the discipline and conduct of other members of the force. Besides, during the course of personal hearing, he could not present any cogent justification to warrant interference in the order passed by the competent authority.

Keeping in view the above, **I, Yaseen Farooq, PSP Regional Police Officer, Mardan, being** the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being devoid of merit.

Order Announced.

Regional Police Officer,
Mardan.

No. 2770 /ES, Dated Mardan the 05/04 /2022.

Copy forwarded to District Police Officer, Mardan for information and necessary w/r to his office Memo: No 25/LB dated 10.02 2022. His service record is returned herewith.

(*****)

DSP/Legal/HQrs
Encl: 1/Letter

Office of the Superintendent of Police
No. 3323
Dated 28/4/22
Mardan

Mardan

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

39

Service Appeal No. 535/2022

Khalid Khan Ex-Head Constable No. 1457 Mardan Police, District Mardan

.....Appellant

VERSUS

The Inspector General of Police , Khyber Pakhtunkhwa, Peshawar and others

.....Respondents

AUTHORITY LETTER.

Mr. Atta-ur-Rehman 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.

Inspector General of Police ,
Khyber Pakhtunkhwa,
Peshawar
(Respondent No. 01)

Regional Police Officer,
Mardan
(Respondent No. 02)

District Police Officer,
Mardan.
(Respondent No. 03)