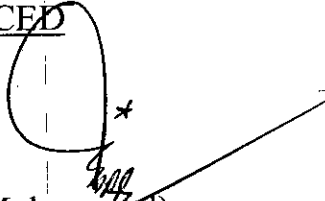


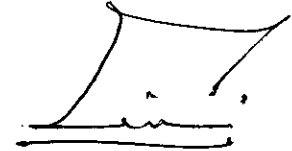
ORDER
10.01.2023

Nemo for the appellant. Mr. Muhammad Farooq, DSP (Legal) alongwith Mr. Muhammad Jan, District Attorney for the respondents present.

Vide previous order sheet dated 13.12.2022, last opportunity was given to the appellant for arguments but today nobody put appearance on behalf of the appellant despite repeated calls at different intervals till rising of the court, therefore, the appeal in hand stands dismissed in default. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
10.01.2023


(Mian Muhammad)
Member (E)

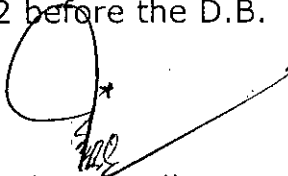

(Salah-Ud-Din)
Member (J)

SCANNED
IN
57
PESHAWAR

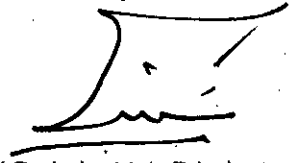
23.09.2022

Miss. Uzma Syed, Advocate, junior of learned counsel for the appellant present. Syed Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy in Service Tribunal Camp Court Abbottabad. Adjourned. To come up for arguments on 13.12.2022 before the D.B.



(Mian Muhammad)
Member (Executive)



(Salah-Ud-Din)
Member (Judicial)

13.12.2022

Junior to learned counsel for the appellant present.

Mr. Muhammad Riaz Khan Painsdakhel, Assistant Advocate General for the respondents present.

Former requested for adjournment due to engagement of learned senior counsel for the appellant in the Hon'ble Peshawar High Court today. Last opportunity is granted. To come up for arguments on 10.01.2023 before the D.B.



(FAREEHA PAUL)
Member(E)



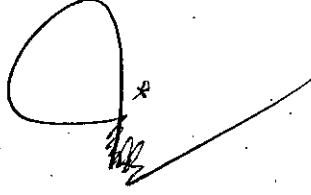
(ROZINA REHMAN)
Member (J)

SCANNED
KPST
Peshawar

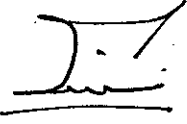
13.04.2022

Counsel for the appellant present. Mr. Riaz Khan Paindakhel, Asst: AG for respondents present.

Learned counsel for the appellant seeks adjournment. Adjourned and to come up for arguments before the D.B on 02.06.2022.



(Mian Muhammad)
Member(E)



(Salah Ud Din)
Member(J)

02.06.2022

Junior to counsel for the appellant present.

Noor Zaman Khattak, learned District Attorney for respondents present.

Lawyers are on general strike, therefore, case is adjourned to 27.07.2022 for arguments before D.B.



(Fareeha Paul)
Member(E)



(Rozina Rehman)
Member (J)

27th July 2022

Junior of learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is busy in the august Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 23.09.2022 before the D.B.



(Salah-Ud-Din)
Member (J)

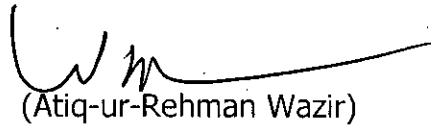


(Kalim Arshad Khan)
Chairman

13.01.2021

Mr. Asad Mahmood, Advocate on behalf of counsel for the appellant and Addl. AG for the respondents present.

Former requests for adjournment as learned senior counsel for the appellant is not in attendance today due to some private engagement. Adjourned to 14.04.2021 for hearing before the D.B.




(Atiq-ur-Rehman Wazir)
Member(E)



Chairman

14.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 29.07.2021 for the same as before.



Reader

29.07.2021

Junior to counsel for appellant present.

Mr. Riaz Khan Paindakheil learned Assistant Advocate General for respondents present.

Former made a request for adjournment as senior counsel is busy before Hon'ble Peshawar High Court; granted. To come up for arguments on 17.12.2021 before D.B.



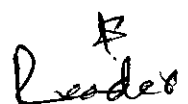
(Rozina Rehman)
Member (J)



Chairman

17.12.21

DB is on Tour case to come up
For the same on Dated. 13-4-22



Reader

9.4 .2020

Due to COVID19, the case is adjourned to
7/7/2020 for the same as before.


Reader

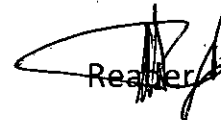
07.07.2020

Due to COVID19, the case is adjourned to 27.08.2020 for
the same as before.


Reader

27.08.2020

Due to summer vacation, the case is adjourned to
04.11.2020 for the same as before.


Reader

04.11.2020

Junior to counsel for the appellant and Usman Ghani
District Attorney for the respondents present.

The Bar is observing general strike, therefore, the
matter is adjourned to 13.01.2021 for hearing before the
D.B.


(Mian Muhammad)
Member


Chairman

17

26.12.2019

Counsel for the appellant present. Mr. Ziaullah,
DDA for respondents present. Learned counsel for the
appellant seeks adjournment. Adjourn. To come up for
arguments on 24.02.2020 before D.B.


Member


Member

24-2-2020

The Bench is incomplete

Therefore case is adjourned

to 9-4-2020


Reader

16.05.2019

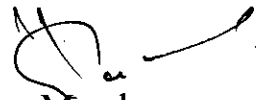
Counsel for the appellant and Addl. AG for the respondents present.

Due to demise of his father, learned Member of the Bench (Mr. Hussain Shah) is on leave. Adjourned to 29.07.2019 for arguments before the D.B.

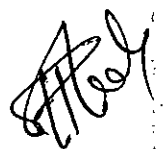

Chairman

29.07.2019 Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 22.10.2019 before D.B.


Member


Member

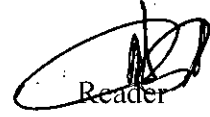
22.10.2019 Learned counsel for the appellant present. Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 26.12.2019 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

13.11.2018

Due to retirement of Hon'able Chairman, the Tribunal is defunct. Therefore, the case is adjourned for the same on 02.01.2019 before D.B.



Reader

02.1.2019

Mr. Muhammad Asif Yousafzai, Advocate for appellant and Mr. Usman Ghani, District Attorney for the respondents present.

Learned counsel for the appellant requests for adjournment due to engagement in many other cases. Adjourned to 12.03.2019 for arguments before the D.B.


Member


Chairman


12.03.2019

Appellant in person and Assistant A.G for the respondents present.

Appellant requests for adjournment due to engagement of his learned counsel before the Honourable High Court today in many cases.

Adjourned to 15.05.2019 before the D.B.


Member

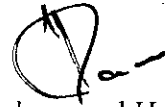

Chairman

08.06.2018

Clerk to counsel for the appellant present. Addl: AG for respondents present. Clerk to counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 06.08.2018 before D.B



(Ahmad Hassan)
Member



(Muhammad Hamid Mughal)
Member

06.08.2018

Learned counsel for the appellant and Mr. Zia Ullah, learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 01.10.2018 before D.B.



(Muhammad Amin Kundi)
Member



(Muhammad Hamid Mughal)
Member

01.10.2018

Junior to counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney for the respondent present. Junior to counsel for the appellant seeks adjournment on the ground that learned senior counsel is not available today. Adjourned. To come up for arguments on 13.11.2018 before D.B.



(Hussain Shah)
Member



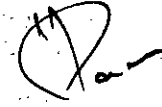
(Muhammad Hamid Mughal)
Member

04.04.2018

Counsel for the appellant and Addl; AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 08.06.2018 before D.B.



(Ahmad Hassan)
Member



(M. Hamid Mughal)
Member

04.04.2018

Counsel for the appellant and Addl; AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 08.06.2018 before D.B.

(Ahmad Hassan)
Member

(M. Hamid Mughal)
Member

05.04.2017

Counsel for the appellant and Mr. Asghar Ali, H.C alongwith Mr. Adeel Butt, Addl: AG for the respondents present. Learned counsel for the appellant submitted rejoinder which is placed on file. To come up for final hearing on 01.08.2017 before D.B.


Chairman

01.08.2017

Clerk to counsel for the appellant and Asst: AG for respondents present. Clerk to counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 27.11.2017 before D.B.


(Gul Zeb Khan)
Member


(Muhammad Hamid Mughal)
Member

27.11.2017


Clerk to counsel for the appellant and Addl: AG alongwith Mr. Muhammad Farooq, Inspector for respondents present. Due to general strike of the Bar arguments could not be heard. Adjourned. To come up for arguments on 06.02.2018 before D.B.

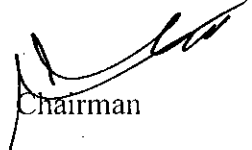

Member


Chairman

06.2.2018

Counsel for the appellant and Mr. Kabeerullah Khattak, Addl. AG alongwith Asghar Ali, H.C for the respondents present. Due to shortage of time, arguments could not be heard. To come up for arguments on 04.4.2018 before the D.B.


Member


Chairman

07.12.2016

Counsel for appellant present. Learned counsel for appellant argued that the appellant was serving as ASI in Police Department. That an inquiry was conducted against the appellant for having connection with Drug Peddlers. That on the basis of said inquiry he was dismissed from service vide order dated 03.02.2016. However in departmental appeal dated 10.02.2016 the Appellate Board decided the appeal of the appellant in his favour on 26.10.2016 and reinstated him in service by imposing penalty of forfeiture of two years approved service. Being aggrieved from that order he has preferred the instant appeal.

Points urged needs consideration. Admit. Subject to limitation. Subject to deposit of security and process fee within 10 days. Notices be issued to the respondents for written reply/comments for 16.01.2017 before S.B.


(ASHFAQUE TAJ)
MEMBER

16.01.2017

Counsel for appellant and Mr. Asghar Ali, H.C alongwith Muhammad Adeel Butt, Additional AG for respondents present. Written reply by respondents not submitted. Learned Additional AG requested for adjournment on behalf of respondents. Adjourned. To come up for written reply/comments on 16.02.2017 before S.B.


(ASHFAQUE TAJ)
MEMBER

16.02.2017



Junior to counsel for the appellant, and Mr. Muhammad Farooq (Inspector Legal) alongwith Addl: AG for respondents present. Written reply submitted. To come up for rejoinder and arguments on 05.04.2017.


(AHMAD HASSAN)
MEMBER

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1185/2016


S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	30/11/2016 SCANNED KP ST REGISTRAR	<p style="text-align: center;">The appeal of Mr. Hamza Ali Khan resubmitted today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	1/12/2016	<p style="text-align: center;">This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>07-12-2016</u></p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Hamza Ali Khan Ex-ASI PS Ghazni Khel Lakki Marwat received today i.e. on 14.11.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1- Annexure-H of the appeal is illegible which may be replaced by legible/better one.

No. 1910 /S.T,

Dt. 15/11 /2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. M.Asif Yousafzai Adv. Pesh.

Sir,
objection removed & Resubmitted
Asif Yousafzai

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1185/2016

Hamza Ali Khan

V/S

Police Deptt:


I N D E X

S.No.	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	1-4
2.	Copy of statement of allegation	-A-	5
3.	copy of charge sheet	-B -	6
4.	copy of reply to charge sheet	-C-	7-10
5.	Copy of inquiry report	-D-	11-13
6.	copy of application	-E-	14-15
7.	Copy of order dated: 3.2.2016	-F-	16
8.	Copy of departmental appeal	-G-	17-19
9.	Copy of order dated 26.10.2016	-H-	20
10.	Copy of order sheet	-I-	21
11.	Copy of Cell NO Documents	-J-	22-23
12.	Copy of RTI Application	-K-	24-26
13.	Vakalat Nama	-----	

APPELLANT

THROUGH:


(M.ASIF YOUSAFZAI),


(TAIMUR ALI KHAN),

& 
(Syed Noman Ali Bukhari)
(ADVOCATES, PESHAWAR)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1185/2016

Khyber Pakhtukhwa
Service Tribunal

Hamza Ali Khan, Ex-ASI
PS Ghazni
Khel Lakki Marwat.

Diary No. 1183

Dated 14-11-2016

.....(Appellant)

VERSUS

1. The Provincial Police Officer, KPK Peshawar.
2. The Regional Police Officer, Bannu Region.
3. The District Police Officer Bannu.

.....(Respondents)

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 26.10.2016, PASSED BY REVIEW COMMITTEE WHEREIN THE PENALTY OF DISMISSAL FROM SERVICE IS MODIFIED IN TO FORFEITURE OF 2-YEARS APPROVED SERVICE.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 26.10.2016 MAY BE SET-ASIDE AND RESPONDENTS MAY BE DIRECTED TO RESTORE THE FORFEITED SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

Filed to-day

Registrar

14/11/16

Re-submitted to -day
and filed.

Registrar

30/11/16

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant was serving as ASI in a police department and also has good service record throughout.
2. That the charge sheet and statement of allegation was served upon appellant. The appellant properly replied to the Charge sheet and denied all the allegations. **(Copy of statement of allegation, charge sheet and replied are attached as Annexure- A, b & C)**
3. That the inquiry was conducted against the appellant and gave his recommendation that the allegation level against the accused police officer ASI Hamza are Proved. **(Copy of departmental Inquiry was attached as Annexure-D).**
4. That the appellant filed an application to regional police officer against the inquiry report that the inquiry was not conducted properly which is against the law and rules, therefore may be proper inquiry will be conduct and give opportunity to appellant to defend himself but despite that request and without final show cause notice, the impugned order was passed against the appellant. **(Copy of application is attached as Annexure-E).**
5. That there is no final show cause notice was served upon the appellant, therefore appellant not submitted reply to the show case notice.
6. That without final show cause notice, on dated 3.2.2016, the impugned order was issued wherein the major penalty of dismissal from service was imposed on the appellant under Police Rules 1975. **(Copy of order is attached as Annexure-F).**
7. That the appellant preferred departmental appeal against the order dated 3.2.2016 which is un-responded with in statutory period of 90 days till date. **(Copy of Departmental appeal is attached as annexure-G).**
8. That during the pendency of previous appeal, the Appellate Board decided the appeal of appellant on 26.10.2016 wherein

the appellate Board modified the penalty of Dismissal from service into Forfeiture of two years approved service. Therefore, on receiving the said order of Appellate Board, the appellant filed an application for withdrawal of Appeal No. 619/2016 with the permission to file a fresh one. The said application was allowed on 1.11.2016. **(Copy of the order 26.10.2016 & Order Sheet dated. 1.11.2016 are attached as Annexure-H & I).**

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

GROUNDS:

- A) That the impugned order dated 26.10.2016 is against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That the allegations mentioned in the charge sheet fully explained in reply to charge sheet as well as before inquiry officer. But despite that harsh view was taken and major penalty was imposed.
- C) That the charge sheet served upon the appellant not signed by RPO which is gross illegality.
- D) The allegation mentioned in the charge sheet not proved beyond the shadow of doubt which is necessary for imposing major penalty.
- E) That the inquiry report is silent about statement of complaint about money matter which is necessary, that clear shows the malafide intention of the appellant.
- F) That the appellant filed an application to regional police officer against the inquiry report that the inquiry was not conducted properly which is against the law and rules, therefore may be proper inquiry will be conduct and give opportunity to appellant to defend himself but despite that request and without final show cause notice, the impugned order was passed against the appellant which is against the law and rules.

- G) That according to the Superior's Court judgment regular inquiry is mandatory before imposing major punishment. Moreover the show cause notice was served to the appellant on 3.12.2014 and imposed major penalty of compulsory retirement on 5.12.2014 without providing any chance of defence to the appellant.
- H) That the cell No. given in the inquiry report is not correct and wrongly referred which shows malafide intention. The documents regards cell no is attached. **(Copy of documents is attaches as Annexure-J).**
- I) That the statement of witness not recorded in the presence of the appellant not opportunity provided to the appellant to cross examined the witness which is against the law and rules.
- J) That there is no CDR record is available thus inquiry officer's allegation /report are baseless and based on malafide intention.
- K) The appellant was not given final show cause notice which is necessary requirement as per relevant rules and thus the illegal order was passed.
- L) That the appellant has not been treated accordance with law, fair played justice, despite he was a civil servant of the province, therefore, the impugned order is liable to be set aside on this score alone.
- M) That the statement of witness not recorded in the presence of the appellant not opportunity provided to the appellant to cross examined the witness which is against the law and rules.
- N) That the penalty of forfeiture of 2 year approved service is very harsh and not according to justice and fair play because the appellant was not found guilty by Appellate Board.
- O) That the penalty forfeiture of 2 year approved service is very harsh which is passed in violation of law and, therefore, the same is not sustainable in the eyes of law.
- P) The appellant was not given final show cause notice which is necessary requirement as per relevant rules and thus the illegal order was passed.
- Q) That the appellant has not been treated accordance with law, fair played justice, despite he was a civil servant of the province,

therefore, the impugned order is liable to be set aside on this score alone.

- R) Even no inquiry report was provided which effected the defence right of the appellant. The attached report was provided through RTI. **(Copy to RTI is attached as Annexure-K).**
- S) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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



APPELLANT

Hamza Ali Khan

THROUGH:



(M.ASIF YOUSAFZAI),



(TAIMUR ALI KHAN),

&


Syed Noman Ali Bukhari
(ADVOCATES, PESHAWAR)

(S)

(A)

(S)

STATEMENT OF ALLEGATIONS.

I, **Muhammad Tahir PSP, Regional Police Officer, Bannu Region, Bannu** as competent authority, am of the opinion that **ASI Hamz Ali Khan PS: Ghazni Khel, Lakki District Police** has rendered himself liable to be proceeded against as he committed the following misconduct within the meaning of disciplinary rules-1975 (amendment vide NWFP Gazette 27th: January-1976)

SUMMARY OF ALLEGATION.

- That you ASI Hamz Ali Khan, posted as PS: Ghazni Khel, District Lakki have taken a zero-meter Motor-cycle CD/70 from one Sher Aslam s/o Sher Dil Azam r/o Tajazai, District Lakki and he was made free for narcotics.
- That you had taken Rs. 100000/- from PO Salah-ud-Din s/o Hayau-ud-Din PS: Naurang during raid of the local police on the house of deceased Yasin Wahab r/o Tajazai, District Lakki.
- That you have taken some goods from the case property vehicles.
- That you were collecting weekly from the narcotics paddlers in the areas of Ghazni Khel and adjacent areas in a Private vehicle of one Ali Marjan alias Majoo s/o Mohammad Azam r/o Khero Khel, District Lakki.
- That you have taken Rs. 10000/- from one Shoib s/o Rafiullah r/o Tajazai District, Lakki during a music programme in his hotel.

For the purpose of scrutinizing the conduct of the said accused w/r to the above allegations **DSP-HQr-Bannu** is appointed as Enquiry Officer.

The Enquiry Officer shall provide reasonable opportunity of hearing to the accused, record statements etc: and findings within 25-days after the receipt of this order.

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

✓ **Regional Police Officer,
Bannu Region, Bannu.**

No. 3658-60 IEC 07/12/15
Copy to :-

07/12/15

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar for favour of information.
2. The District Police Officer, Lakki for information.
3. The Enquiry Officer.

ATTESTED

**Regional Police Officer,
Bannu Region, Bannu.**

(A) (B) (6)

CHARGE SHEET

WHEREAS, I am satisfied that a formal inquiry as contemplated in the N.W.F.P. Police Rules, 1975 is necessary and expedient.

AND WHEREAS, I am of the view that the allegation, if established would call for a Major penalty as confined in Rules 4-1 (b) of the aforesaid Rules.

NOW THEREFORE, as required by Rule 6-1 (a) of the aforesaid Rules, I, **Muhammad Tahir PSP, Regional Police Officer, Bannu Region, Bannu** charge you **ASI Hamza Ali Khan PS: Ghazni Khel, Lakki District Police** for misconduct on the basis of summary of allegations appended herewith.

AND WHEREAS, I direct you further under the Rule (6-1) b of the aforesaid rules to put in a written defense within 07-days of the receipt of this charge sheet as to why a Major punishment as defined in Rule 4-1 (b) should not be awarded to you. Also state at the same time whether you desire to be heard in person or not.

In case your reply is not received within the prescribed period without sufficient reasons it would be presumed that you have no defense to offer and an ex-parte action will be taken against you.

✓ 
Regional Police Officer,
Bannu Region, Bannu.

04/7/12/15

ATTESTED


جواب خارج شد

صاحب عالی

سائلین ذیل عرض کرتے ہیں۔

یہ کہ سائلین محکمہ لیس میں بطور سماجی ترقی ہو کر اچھا کارکردگی کا بنیاد
پر ترقی۔ Asi ترقی کے منازل طے کرتے ہوئے اسیکل بھی
اسی Asi کے علم پر مختلف حالات میں ڈیڑھ سا سر انجام
دے رہا ہوں۔

یہ کہ سائلین کا جان تسلی ڈیڑھ سے سائلین کے افسران بالا تو ہیں
اور کئی کئی سائلین کے خلیفہ خارج شد کے الزامات میں سے کسی
اک ان الزامات کا بھی شکایت نہیں کرتے۔ جس سے واضح ہے کہ سائلین
نے ہمیشہ دلیان اثر شد کے خلیفہ بطریق احسن کا روالا کیا ہے۔

اور اثر شد عام کر کے کسی قسم کے ردالط نہیں کرتے ہیں۔
خارج شد کے الزامات کے بارے میں کوئی شخص شہادت دے گا کہ
کسی ایسے علم کو طے سے اب

پر نہیں لگتا تھا میں اور جملہ الزامات کسی ایسے علم کو طے سے اب
خارج شد کے اثر میں لگتا تھا۔ جس کے سائلین کے ساتھ دل دیا
تھوگا یا سائلین کے ایسے کاروائی سے ناراض ہوگا یا سائلین کو کسی اثر شد
جو علم پر عام کا سفارش کا ہوگا جو سائلین نے ٹھکرائی ہوگا۔

الزامات کے بارے میں گزارش ہے کہ سائلین کو علم ہو گیا کہ دلیان
عزاد اور دلا نادر خان، بوند مطیع الرحمن و دیگر علم کماں تاخیر
تہذیب و سائلین CD 70 برقیات کا جلتا حقیر یا کاروبار کرتا ہے۔

مسلوبات کو صحیح جان کر میں لوگوں کو آہستہ بہ آہستہ باہر لائے گا۔
 چھاپہ بازی کر کے آڑھ ہاتھ لگائی نہیں ڈیرہ روڈ پر ملزبان یا لا ہوٹل سائیکل یا لا
 پر موجود یا کر جائیداد ملائی یا جاوید کے قبضہ سے سترگرام جیسے جیکہ مطیع الرحمن
 کے قبضہ سے شراب برآمد ہوئی ہے۔ ملزبان یا کسوا اور شخص سے ہوٹل سائیکل کے
 308 حورم 21/15 جم ہارٹیکل درج ہوئے چھاپہ غفرانی نیل کتا گیا۔ ملزبان
 بلکہ ہوٹل سائیکل چھاپہ لے آئے۔ ملزبان یا کسوا اور شخص سے ہوٹل سائیکل کے
 بارے میں کیسی قسم کا کاغذات ہیں نہیں کا سینکو صاحب نہایت SHO
 صاحب چھاپہ ہزار کھڑا گیا SHO صاحب کو یہاں شواہد ہیں تاکہ مذکورہ ہوٹل سائیکل
 کا ثابت کوئی بھی کاغذات نہ لائے ہوٹل سائیکل چھاپہ میں کھڑا رہے۔ یہ ہوٹل سائیکل
 حق سائل نے تیرا مسلم حاجی شخص سے نہیں کھڑی ہے بلکہ ملزبان یا لا سے کھڑی ہے۔
 مذکورہ ہوٹل سائیکل چھاپہ میں رکارڈ موجود ہے۔ جس کا تعلق SHO

چھاپہ سے کر سکتے ہیں۔
 الزام زدہ کے بارے میں ترائس ہے کہ ملزبان نہیں وہاں اور صلح اللہ
 جو کہ ید تمام زمانہ ضروری تھے اور کافی قریب میں لوگوں کو مطلوب تھے
 میں نے چھاپہ بازی کر کے ملزبان نے لوگوں کو باہر لائے ہوٹل سائیکل سے
 لوگوں نے بھی قاطع قرار دیا کہ جو الٹی ہوٹل سائیکل سے کھیں جو تائیر ٹاک
 کا تیار نہ تھی دیر ٹاک چھاپہ یا تائیر ٹاک سے طہار و لا عبد الرشید کہ
 چھاپہ بازی کو رجحان حالت میں جسکے قبضہ سے کلر شکوف ہمہ المولین

برادر چھاپہ میں برقیہ عدت 349 حورم 24/15 جم 1544
 چھاپہ غفرانی نیل اور اسکے ساتھ ید تمام زمانہ حرم انہی کی صلح اللہ
 کھیں جو حق برقیہ کرتے ہوئے گرفتار ہوا جسکے خلاق بھی حق درج کتا گیا

ATTESTED

اس کاروائی پر میرے سپرد ہونے پر اس کے ساتھ جو رقم سرکاری اہلیان سے
 قدریر ایک لاکھ روپے کے بارے میں الزام سراسر غلط ہے اور اس بارے
 میں آپ نے کیا کیا سالیٹر ریڈر رضوان خان سے جواب دیا ہے
 اور اس سے قدریر ایک لاکھ روپے کے بارے میں معلومات کرنے کا اندیشہ
 میں نے نہ کیا ہے کہ رقم تہ لای ہے اور نہ الیہ غلطی کا حوالہ کا سلوہ سکتا ہے
 الزام پر 3 کے بارے میں گزارش ہے کہ میں نے نہ کہا حال قدر کاروں

میں کسی قسم کی سرپرستی یا سہاوت نہ کلا ہے اور نہ سلوہ سکتا ہوں
 قدریر گزارش ہے کہ دائرہ کار میں اساتذہ 5140 / تحریر صحیفوں کا
 ڈائریکٹ جوہل اور نگرانی میں ہوتے ہیں اسکو کوئی بھی دوسرا لوگس افسر
 باقاعدگی نہیں لگا سکتا۔ اس سلسلے میں تحریر قاتم اور 5140 5140 سے

کریبی بیانات رہے ہیں جو کہ جواب دہ سرپرست کیا جاتا ہے
 الزام پر 4 کے بارے میں گزارش ہے کہ میں علیٰ ہر حال نامی شخص کو
 ہوتا ہوں نہ رابطہ کیا ہے نہ کسی قسم کی نسبت فریشوں / خبروں
 سے دھو لایا ہے تاکہ ہمیشہ نسبت فریشوں اور ہالیم سیر افراد کے خلاف
 گھبرائے کر کے زندے خلاف کاروائیاں کر کے انہوں کو جیل کا رشتہ ہے
 ہاں واضح ہے

الزام پر 5 گزارش ہے یہ الزام بھی من گھڑت اور بے بنیاد ہے
 میری اجنبالی قاتم میں اس سوشل کے علاوہ کسی دوسرے سوشل میں بھی
 کسی قسم کی خبر نہ کا سرگرم نہ ہوا ہے اور نہ میں الیہ سلوہ سکتا ہوں
 اور الزام سراسر جوہل ہے الیہ فعل کے کرنے کو پہلے قاتم کے 5140 کو

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اور بعد میں DSP کو علم ہوا ہے اگر البتہ فعل ہو یا تو لفظنا 540/SA
صاحبان اپنے خدو کا حق قائم کرنا چاہتے ہیں۔

ہیہ عالی! خود یا تہ گزار ہے کہ یہاں الزامات کو مد نظر رکھتے ہوئے
اگر میرے خدو کوئی شخص قریب یا زبانی بیان دینے کا ہدف آراں
ہوں تو ان کے بیانات میری موجودگی میں لے جائے اور ان پر مجھے کوئی سزا
انٹواری اسیر حرج کا حق محفوظ رکھ دئے۔

استدعا حکم میں مسائل پر گائے الزامات لغیر قوس
تہ کے سنی سنا گیا ہوں پر منحصر ہے میرے خدو کا حق
ملا تہ سیکرانی داخل دستہ قوسا 540

الحار

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قریر

مہرہ علیماں آئی اسٹیل لائن ٹکماروہ

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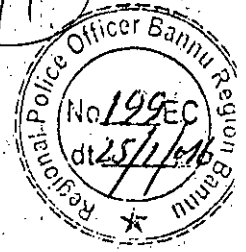
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From: The Superintendent of Police,
Investigation, Bannu.

To: The Regional Police Officer,
Bannu Region, Bannu.

No: 257 /Dated Bannu, the 25/1 /2016.


Subject: FINDING OF DEPARTMENTAL ENQUIRY AGAINST ASI HAMZALI.

Memo:

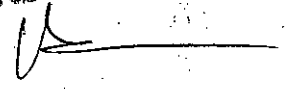
Kindly refer to your Memo No. & dated Nil on the above subject.

The Finding report against ASI Hamzali conducted by the undersigned is submitted herewith for kind perusal and favour of further order please.

EC
25/1/16


Superintendent of police,
Investigation, Bannu.

ATTESTED



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FINDINGS.

ASI Hamza Ali while posted at PS Ghazni Khel, District Lakki Marwat has been charged for the commissions of following misconducts within the meaning of Police Rules-1975 amended vide NWFP Gazette 27th January, 1976.

- That he while posted at PS Ghazni Khel District Lakki Marwat have taken a zero meter Motor Cycle CD/70 from one Sher Aslam s/o Sher Dil Azam R/O Tajazai District Lakki and he was made free for Narcotics.
- That he had taken one Lac from PO Salah-ud-Din s/o Hayu-ud-Din PS Naurang during raid of the Local Police on the house of deceased Yaseen Wahab r/o Tajazai District Lakki.
- That he has taken some goods from the case property vehicle.
- That he was collecting weekly from the Narcotics peddlers in the area of PS Ghazni Khel and adjacent areas in a private vehicle of one Ali Marjan alias Majoo s/o Mohammad Azman r/o Hero Khel District Lakki.
- That he has taken Rs.10,000/- from one Shoib s/o Rafi Ullah r/o Tajazai District Lakki Marwat during a music program in his hotel.

The enquiry was marked to the DSP/HQrs, Bannu. The accused police officer submitted application before the W/RPO, Bannu Region, Bannu that the enquiry conducted by the DSP/HQrs has not followed the rules/law. The Worthy RPO, Bannu Region, Bannu noted remarks "pl conduct the said enquiry" and handed over to the undersigned for re-probe of the allegations leveled against the accused Police Officer.

To probe into the allegations the undersigned perused all the recorded statements, relevant records and secretly enquired the background of the accused police officer. The undersigned summoned the accused police officer and recorded his statement and cross opportunity has been given and recorded cross questions & answers. SHO Haider Ali and MHC Farid Ullah No. 222 of PS Ghazni Khel, Lakki Marwat were summoned and recorded their statements, they were given cross opportunity and recorded cross question & answers. Short brief are given below:

STATEMENT OF SHO HAIDER ALI SHAH & MHC FARID ULLAH NO. 222 OF PS GHAZNI KHEL DISTRICT LAKKI MARWAT.

They stated in their statement that during their postings at PS Ghazni Khel, no complaint against the accused Police Officer was received. MHC further stated that all the case properties are in his custody and it is impossible to take goods from the vehicles anyone. The SHO admitted in his statement during cross examination that Mir Aslam is drug narcotics seller in the limits of PS Ghazni Khel, Lakki Marwat. Yasin Wahab is the cousin of Salahudin s/o Hiya-u-din and he was wanted in more than 34 cases. Salahudin is also wanted to the local Police u/s 324/353 PPC.

STATEMENT OF ACCUSED POLICE OFFICER ASI HAMZA ALI PS GHAZNI KHEL.

He stated that he has submitted detail written reply on 16.12.2015 of the charge sheet and he did not want to change in the previous reply. He further stated that the allegations leveled against him are baseless and requested for the filing of charge sheet. The undersigned crossed examined the accused officer, according to CDR report the owner of Mobile Nos. 0343-9994925 & 0348-9378208 have contacted with him and Drug Transporter Zarwali, when it was asked from him that the owners of the said numbers has paid communication role with him and drug transporter, the accused police officer had no sufficient answer of the question. In further cross examination the said accused police officer had no sufficient proof to deny the allegations.

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CONCLUSION.

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Keeping in view the above facts, circumstances, recorded statements and perusal of relevant records and during the cross examination the undersigned reached to the following conclusions:

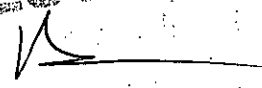
1. Statement of the accused Police Officer Hamza Ali is not satisfied and during the cross examination he did not prove his innocence.
2. In cross examination about the CDR it was dig out that accused Police Officer ASI Hamzali and narcotics peddler Zarwali had middle men in contacts, whose had contact with the accused Police Officer and narcotics peddlers, it means that middle persons (companions) of narcotics peddler had remained contact with the accused Police officer. In this regard he had no sufficient answer.
3. According to the statement of SHO Haider Ali Shah and cross examination about the allegation leveled against the said accused Police Officer, SHO admitted in his cross examination that Mir Aslam & Sher Alsam are drug narcotics peddlers.
4. SHO also added that Yasin Wahab is the cousin of Salahudin s/o Hiya-u-din wanted in more than 34 cases and Salahudin is also wanted to the local Police u/s 324/353 PPC. Later on the said notorious PO Yasin Wahab was murdered during encounter.
5. In one side SHO & MHC rejected that allegations leveled against the accused Police Officer, but in the other side in cross examination they were not known about the suspension of the accused Police Officer, their statements are unsatisfactory.
6. The accused Police Officer showed himself the SHO of PS Ghazni Khe and he was dealt all matters as he was SHO of the said PS.
7. In secret information it was dig out that reputation of the accused Police Officer is also unsatisfactory.

RECOMMENDATION.

⇒ In view of the above conclusion the allegations leveled against the accused Police Officer ASI Hamzali are proved.

Submitted please.


Superintendent of Police,
Investigation, Bannu.

ATTESTED


حضرت صاحب کونسل نوٹس آف سروس رولز میں
مضمون درخواست دربار انکوائری از سر توجہ بحوالہ جاری ٹیٹ
تجاریہ آئینا صاحب

صاحب عالی

- ① یہ کہ سائل شکہ پولیس میں ثبت ASHO ڈیوٹی سرانجام دے رہا تھا اور آج کل پولیس لائن میں معین ہے
 - ② یہ کہ سائل کے خلاف کرپشن و دیگر الزامات کا سبب درج جاری ٹیٹ جاری کیا گیا ہے جس کا مفصل جواب انکوائری آفیسر کے حضور میں دیا گیا اور جواب جاری ٹیٹ میں الزامات کا ثبوت کیسے تہہ تردید کئی ہے جس کے لئے سائل کو مکمل موقع فراہم کرنا چاہئے تھا
 - ③ یہ کہ انکوائری آفیسر نے بغیر موقع اور سائل کو گواہان پر حرج کا حق فراہم رکھتے ہوئے اپنے جاری ٹیٹ کے جواب میں ریکارڈ تہہ لیس کرتے ہوئے از خود انکوائری میں خود فائنڈنگ دیا ہے جو کہ خلاف procedure اور Natural جسٹس ہے
 - ④ یہ کہ اعلیٰ عدالتوں کے نظائر کے روشنی میں ہم ایسی فائنڈنگ نہیں ملزیم آفیسر کو ہتھیال کا موقع نہ دینا اور گواہان پر حرج کا حق نہ دینا غیر قانونی ہے
 - ⑤ یہ کہ سائل کے پاس جاری ٹیٹ کے تردید میں کافی حوالہ موجود ہے اور اس حوالہ کا اگر غور سے مطالعہ کیا جائے تو سائل کے خلاف تمام الزامات میں گھڑت اور بے سبب ہے
- لہذا مذکورہ درخواست استدعا ہے کہ سائل کا انکوائری حکم از سر توجہ کیا جا کر کیسہ اور حجاز آفیسر کو انکوائری تہہ لیس کرنے کا حکم صادر فرمایا جائے

اور سائیل کو مکمل صفائی کا موقع دیا گیا اور سائیل دستگور ریٹنگ

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قریر

الحاشی

سائیل محمد علی خان Asi معین محطن مکی بکری لائین

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ORDER.

My this order will dispose off the departmental proceedings initiated against ASI Hamza Ali, PS: Ghazni Khel, District Lakki on account of the following omission:-

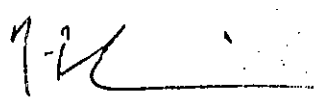
- That he, ASI Hamz Ali Khan, posted as PS: Ghazni Khel, District Lakki have taken a zero-meter Motor-cycle CD/70 from one Sher Aslam s/o Sher Dil Azam r/o Tajazai District Lakki and he was made free for narcotics.
- That he had taken Rs. 100000/- from PO Salah-ud-Din s/o Hayau-ud-Din PS: Naurang during raid. of the local police on the house of deceased Yasin Wahab r/o Tajazai, District Lakki.
- That he have taken some goods from the case property vehicles.
- That he was collecting weekly from the narcotics paddlers in the areas of Ghazni Khel and adjacent areas in a Private vehicle of one Ali Marjan alias Majoo s/o Mohammad Azam r/o Khero Khel, District Lakki.
- That he has taken Rs. 10000/- from one Shoib s/o Rafiullah r/o Tajazai District, Lakki during a music programme in his hotel.

The said Police Officer was charge sheeted based upon statement of allegations and SP/Invest Bannu was appointed as Enquiry Officer. The Enquiry Officer conducted proper departmental enquiry under Police Rules 1975 and submitted his findings, wherein the aforementioned charges against the said delinquent Police Officer have been proved without any shadow of doubt.

The enquiry proceedings were thoroughly perused and the officer concerned heard in orderly room on 29.1.2016.

Therefore, I, Muhammad Tahir PSP, Regional Police Officer, Bannu Region, Bannu in exercise of the powers vested in me, after thoroughly perusal the record/proceedings and hearing the Police Officer in orderly room on 29.1.2016 came to the conclusion that order of Major punishment is required to be imposed upon him, being held guilty of the allegations by the Enquiry Officer as well as un-satisfactory hearing for showing himself innocent with the undersigned. Hence, the delinquent Police Officer is hereby dismissed from service.

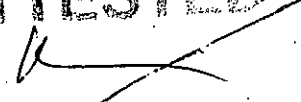
Order announced.


(Muhammad Tahir)PSP
Regional Police Officer,
Bannu Region, Bannu.

No. 357 /EC, dated. 03/2/2016. 4-03/2/16-

Copy to :-

- The District Police Officer, Lakki.

ATTESTED


(Muhammad Tahir)PSP
Regional Police Officer,
Bannu Region, Bannu

To,

The Provincial Police officer
Khyber Pakhtunkhwa Peshawar.

Subject: REPRESENTATION AGAINST THE ORDER OF WORTHY RPO
BANNU VIDE NO. 357 DATED 03/02/16 THROUGH WHICH
THE PETITIONER WAS DISMISSED FROM THE SERVICE.

Respected Sir,

The petitioner Prayed as under:-

1. That Detail facts and figures pertaining to the departmental proceedings have been advanced by the petitioner in shape of reply to the charge sheet as well as during the course of statement to the inquiry officer but the inquiry officer has altogether ignored the real facts and recommended the petitioner for major penalty. In the inquiry proceedings petitioner was hold responsible for the charges mentioned in the charge sheet but a single statement recorded by the EO has not brought charges home to the petitioner.
2. That the inquiry officer has in haphazard manner submitted his finding ignoring the real facts because nothing has been brought on record during the course of inquiry connecting the defaulting officer with the charges. The authority has also ignored the real facts of the inquiry proceedings and blindly relied upon the finding of inquiry officers against the spirit of law. As per the finding of the EO, the petitioner has hold responsible but the EO has not mention in the inquiry proceeding the evidence connecting the accused with the charges rather all the statements recorded by the EO negates the version of inquiry proceedings and the authority has also not considered the statements of the witnesses recorded by the EO during the course of passing the impugned order.
3. According to the procedure of inquiry and dicta of Superior courts, the inquiry officer and the authority are bound to based upon their finding on solid reasons connecting the accused with the charges without breaking any channels but in my case, a single iota of evidence is not available on record connecting me with the charges but even then I have been dismissed from the service without any fault. The major penalty is justified when someone commits the fault willfully regarding any responsibility shouldered upon the officer by the authority but a single instant has not been quoted with proof showing my connection with the criminals or has got any linkage with the miscreants.
4. That the inquiry officer has not brought on record any solid evidence connecting me that I have got zero meter motor cycle CD-70 from one Sher Asiam s/o Dil Azam r/o Taja Zai District Lakki and he was made free for narcotics, rather if record of PS is...

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against the narcotics sealers and possessor. A single evidence is not available in the inquiry proceedings regarding the obtaining of the said motor cycle but even then the EO has not mentioned the source and connection of myself with the said charges and what I had been stated in my reply to the charge sheet and statement before the EO, the inquiry officer has not established any relation of myself with the said miscreants. I have got no linkage with any criminal's activities. Even a single thing is not available in inquiry proceeding showing that I have facilitated any criminals activates in the illaqa. The authority has also agreed with the enquiry officer without any reason and rebutting my statement and grounds taken in the charge sheet.

5. That the RPO Bannu while passing an order of dismissal has not consulted the record according to the procedure of inquiry because my duty and act cannot lead toward major penalty. The charges regarding obtaining of one lacs rupees from PO Salahudin is also not proved through any evidence as well as the charges of taking some goods from the case property, collecting money weekly from narcotics paddlers in the area of Ghazni khel and also taking of rupees 10000/- from one shoaib against me.
6. That for the establishment of the charges it was incumbent upon the inquiry officer to summons the above persons for statements and providing an opportunity to the defaulting officer for cross examination upon them but a single witness has not been summoned for the said purpose and without their examination during the course of inquiry, the declaring of the petitioner as guilty of the charges is against the spirit of justice.
7. According to the dicta of superior courts, officer/official should be hold responsible for major penalty when the charges are proved against the officer without any shadow of doubt but in my case nothing is available on record regarding the proof of charges but even then I have been dismissed from the services.
8. That the statement of concern SHO of PS Ghazni khel has also been thrown to dustbeen regarding declaring all the vehicles in the police stations in ok condition. Furthermore the case property in the PS is not under control of ASHO but under the control of SHO and Muharar of the PS.
9. That actually the DPO Iakki has made a video from one PO Arab Khan of Taja Zai and he was compelled to narrate some allegations against me but the same has not been mentioned in the charge sheet. Furthermore it is worth mentioning here that I have demolish the house of the said PO and also brought so many articles from his house which got annoyed the said

ATTESTED

PO against me and utilization of such video against me is against the spirit of service.

10. That during the course of my posting at PS Ghazni Khel, I have taken sever action against the miscreants /criminals and from my action the criminals and miscents were annoyed. The SHO of the PS can best judge the character of his subordinate and no such complaint has been made by any SHO against me.

11. That the reasons and the ground mentioned by me in the reply to the charge sheet and statement before the EO has not been rebutted either by the EO or by the authority while passing the impugned order which is mandatory as per the decision of service tribunal.

12. That a single charge mention in the charge sheet has not been proved against me during the course of inquiry proceedings and the charges not proved in the inquiry proceedings, officer/officials can not be held responsible for other charges.

13. That throughout my service I have performed my duty for bringing good name to police department as evident from my service record and have not committed any blunder /fault which is against the spirit of police rules.

14. That I am a poor man having the responsibility of large family and the service is my only bread earning. Any action on the basis of charge sheet will ruined my life. Being the police officer I know my bound and cannot dare to commit not only this laxity but any other oo. I have performed my duty honestly and devotedly.

PAYER:-

Keeping in view the above, it is requested that the order of RPO NO. 357 DATED 03/02/2016 may be set-aside and the petitioner may be re-instated in to the service from the date of dismissal. I also be heard in person.

ATTESTED

Yours opedient

Hamza Ali Khan
Ex: ASI PS Ghazni
Khel Lakki Marwat

3339742480

Peshawar
562/16
2-16

Better Copy
Annexure H

Better Copy
OFFICE OF THE
DIRECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar

No. S/6763-72416, Dated Peshawar the 26.10.2016

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-a of Khyber Pakhtunkhwa Police Rule - 1975 submitted by EX-ASI Hamza Ali Khan against the punishment order i.e 1) Dismissed from service by RPO/Bannu vide order endst: No. 357/EC. dated 03.02.2016.

Meeting of Appeal Board was held on 20.07.2016 wherein the appellant was heard in person. He contended that no evidence was brought on file in support of the charges during course of enquiry. The enquiry papers were also examined in detailed. On examination of record, it revealed that the appellant was served with charge sheet/Statement of Allegations. The allegations were not established against the appellant, the enquiry officer has based his opinion on unsatisfactory statement.

In view of the finding of enquiry officer, favourable statement of witnesses examined during enquiry 21 years long service appellant's penalty of dismissed from service is very harsh, therefore the Board recommended that the petitioner may be re-instated in service and penalty of dismissed from service may be modified into forfeiture of 02 years approved.

Keeping in view above Ex-ASI Hamza Ali Khan is hereby re-instated in service from the date of dismissal and the penalty of dismissal from service is modified into forfeiture of 2 years approved service.

The order is issued with approval by the Competent Authority.

((MUHAMMAD ALAM SHIWARI))
DIG/HQrs.

For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

ATTESTED

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

Sl. No. 6763-7216 Dated Peshawar the 26/11/16

ORDER


Shyber Pakhtunkhwa Police Case No. 1975 submitted by Ex-ASI Hamza Ali Khan against the appellant for punishment order i.e Dismissal from Service by RPO/Bahau vide order endst: No. 357/E/2016 Dated 02.2016.

Meeting of Appraisal Board was held on 20.07.2016, wherein the appellant was heard in person. He contended that the evidence was brought on file in support of the appellant during course of enquiry. The documentary papers were also examined in detailed. On examination of record, it revealed that the appellant was served with Charge Sheet/Statement of Allegations. As the allegations were not established against the appellant, the enquiry officer has taken a favourable opinion on unsatisfactory statement.

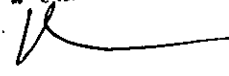
In view of the finding of enquiry officer, favourable statement of appellant examined during enquiry, 21 yrs 3 months service of appellant, penalty of dismissal from service is very harsh, therefore the Board recommends that the petitioner may be re-instated in service and the penalty of dismissal from service may be modified into forfeiture of 02-years approved service.

Keeping in view above Ex-ASI Hamza Ali Khan is hereby re-instated in service from the date of dismissal and the penalty of dismissal from service is modified into forfeiture of 02-years approved service.

This order is issued with approval by the Competent Authority.


(MUHAMMAD ALAM SAINWARI)
DIG/IGPs:
Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

ATTESTED



(I)

(H)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 619 /2016

Hamza Ali Khan, Ex-ASI
PS Ghazni
Khel Lakki Marwat.



Khyber Pakhtunkhwa
Service Tribunal

Diary No. 593

Dated 8-6-2016

.....(Appellant)

VERSUS

1. The Provincial Police Officer, KPK Peshawar.
2. Deputy Inspector General of Police Bannu Region-1.
3. District Police Officer Bannu.

.....(Respondents)

**APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL
ACT, 1974 AGAINST THE ORDER DATED 3.2.2016
WHEREBY THE APPELLANT HAS BEEN DISMISSED
FROM THE SERVICE AND NOT TAKING ACTION ON THE
DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN
STATUTORY PERIOD OF 90 DAYS.**

01.11.2016

Counsel for the appellant and Mr. Ziaullah, GP
for respondents present. Counsel for the appellant
submitted an application for withdrawal of the instant
appeal with the permission to file a fresh one.
Application is allowed and the appeal is dismissed as
withdrawn. File be consigned to the record room.

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Announced
01.11.2016

sd/- Naumber

ATTESTEL

Date of Presentation of Application 3-11-16
Number of Words 4000
Copying Fee 4
Urgent 2
Total 6
Name of Applicant KAD
Date of Completion 3-11-16
Date of Delivery of Copy 3-11-16


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NIC: 1120103470359 Gender: مرد NIC Expiry: 20-09-2017
 Identity Mark: ہاتھ پر لکھے ہوئے نشان رجسٹرڈ FatherName: سلطان جان DOB: 06-12-1966
 Present Address: ٹاک خانہ حیات خیل، حیات خیل، تحصیل لکی مروت، ضلع لکی مروت
 Permanent Address: ٹاک خانہ حیات خیل، حیات خیل، تحصیل لکی مروت، ضلع لکی مروت



923489378208

923489378208

NIC: 1120198211842 Gender: عورت NIC Expiry:
 Identity Mark: گوشہ نیوں FatherName: افضل داد DOB: 01-01-1955
 Present Address: حسن خیل، ٹاک خانہ تاجہ زئی، دولت تاجہ زئی، تحصیل/ضلع لکی مروت
 Permanent Address: حسن خیل، ٹاک خانہ تاجہ زئی، دولت تاجہ زئی، تحصیل/ضلع لکی مروت



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 [Signature]
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 [Signature]

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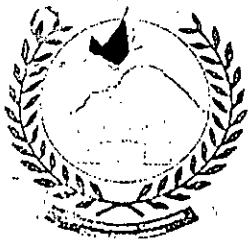
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DSP/HQ
27/12/015

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I

GOVERNMENT OF KHYBER PAKHTUNKHWA
RIGHT TO INFORMATION COMMISSION
7th Floor, Tasneem Plaza, Near Benevolent Fund Building,
6th Saddar Road, Peshawar
Email: complaints@kprti.gov.pk
Ph: 91-91-9212643
Fax: +92-91-9211163

No: RTIC/AR/1-1857/16/3049-5
Dated: 09th March, 2016

To

The Regional Police Officer (RPO) / PIO,
Police Department,
Bannu.

Ref:

HAMZA ALI KHAN VS. POLICE DEPARTMENT, BANNU

Subject:

COMPLAINT AGAINST NON-SUPPLY OF INFORMATION BY POLICE DEPARTMENT,
BANNU (COMPLAINT NO: 01857)

Memo:

Complainants Mr. Hamza Ali Khan had filed a request with your Department on 04/02/2016. You have failed to respond to the request within the timeline fixed by the Right to Information Act, 2013, and hence he has approached this Commission with the subject complaint under the Law. (Copy attached)

2. You are directed to provide complete and relevant information to the complainant within ten working days of the receipt of this letter, under intimation to RTI Commission.
3. In case, you need any clarification/guidance in the matter, you are required to contact this Commission within five working days of the receipt of this letter on phone No. 091-9212643, e-mail: complaints@kprti.gov.pk or fax No. 091-9211163, so that the provision of information within fifteen working days is ensured.
4. In case the information is not supplied, you are directed to attend this Commission on 31/03/2016 to give reasons for the failure on your part.
5. Failure to comply with the above would compel this Commission to make resort to the punitive clauses of the Law.

ATTESTED

Assistant Registrar
Right to Information Commission,
KPK, Peshawar.

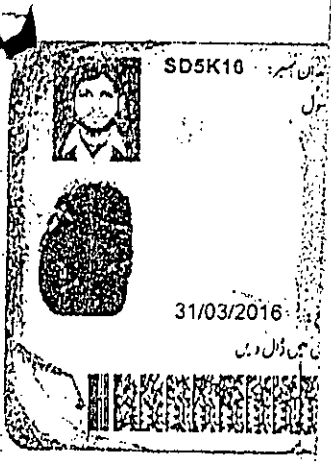
Copy to:

Mr. Hamza Ali Khan (Complainant)

Assistant Registrar
RTI-Commission, KPK

Assistant Registrar
Right to Information Commission

25



خدمت جناب رائٹ ٹو انفارمیشن (RTI) جناب عالی!

گزارشیں جسٹس سائل EX-Asi سٹریٹریٹس کے تعلق رکھتا ہے۔

سائل 2/2016 کو جناب RPO سے یوں بھیج کر ایک کپی بھیج دی گئی تھی۔ جس میں سائل RPO کے اپنے حذف شدہ ہونے انکوائری کے تصدیق شدہ کاپیوں کے تقوالت مانگے تھے۔ ابھی تک کوئی کارروائی نہیں ہوئی۔

RTI Act 2013 کے تحت ہے

مذکورہ درخواست اسٹریٹریٹ کے تحت ہے۔

Date: 07/03/16

الطاف رحمان

حضرت عالی جناب ASI حال برخواستہ شاہہ منگھو پور

03339742480

Handwritten signature and stamp.

ATTESTED

Right to Information Commission Government of Punjab	
Sl. No.	1612
Date	07-3-16
Page No.	9/c

حیدرآباد سینٹر کیسوں آفیسر جنرل ریٹائرمنٹوں کو آگاہ کیا



حیدرآباد 1

موضوع میں کہ میں مسائل کو آگاہ کیا گیا ہے
میں نے اس پر جواب دیا ہے

بزرگ عمر درخواست استدعا ہیکہ میں مسائل کو
عام انکو ایئر کے کاغذات وغیرہ کی توکلہ کالی تصدیق
شدہ دئے جاتے کے اکامات جادد درخواستیں
مسائل وغیرہ سے

تاریخ 04-02-16

الکھارن

مسائل جرنل علیاں ASI کال برخواست شدہ

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03/16

E/c
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avoidance with
rules.

ATTESTED
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BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No.1185/2016

Hamza Ali Khan

..... Appellant

Versus

The Provincial Police Officer, KPK, Peshawar & others

..... Respondents

PARA WISE COMMENTS / REPLY ON THE ABOVE SUBJECT SERVICE APPEAL ARE SUBMITTED BY THE RESPONDENTS NO.1, 2 & 3.

Preliminary Objections

1. That the appeal of appellant is badly time-barred.
2. That the appeal is not maintainable in its present form.
3. That the appellant has concealed the actual facts from the Honorable Tribunal.
4. That the appeal is bad in law due to non-joinder and mis-joinder of unnecessary parties.
5. That the appellant has approached the Honorable Tribunal with unclean hands.
6. That the appellant has got no cause of action and locus-standi to file the instant appeal.
7. That the appellant has been estopped by his own conduct.

OBJECTIONS ON FACTS:

Respectfully Sheweth

1. Pertains to record. Hence no comments.
2. Pertains to record. Hence no comments.
3. Correct. Needs no comments.
4. Incorrect. The enquiry was conducted according to law/rules and proper opportunity was provided to the appellant and the impugned order dated 03.02.2016 was issued. Moreover, there is no need to issue Final Show Cause Notice under Police Rules 1975.
5. Incorrect. There is no need to issue Final Show Cause Notice under Police Rules 1975 therefore, after proper enquiry and recommendation of enquiry officer the impugned order dated 03.02.2016 was issued.
6. Incorrect. Reply has already been given in the above para.
7. Incorrect. The Appellate Board held on 20.07.2016, re-instated the Appellant into service with effect from the date of dismissal.
8. Pertains to record, hence needs no comments.

9. The respondent department submit their comments with the following grounds:-

OBJECTIONS ON GROUNDS

- A) Incorrect. The impugned order dated 26.10.2016 is quite legal and was issued by the Appellate Board held on 20.07.2016, after hearing the Appellant in person and perusal of record.
- B) Incorrect. All codal formalities were adopted and legal opportunities were provided, hence punishment was awarded after proper departmental proceedings where the charges proved beyond any shadow of doubt.
- C) Incorrect. There is no illegality.
- D) Incorrect. In light of all connected evidence, the allegations leveled in statement of allegations were found proved and the competent authority awarded him major punishment of dismissal from service.
- E) Incorrect. The then RPO Bannu has awarded punishment according to law/rules. His contacts with PO Salah-ud-Din also proved through CDR.
(Copy of CDR is annexed as annexure "A").
- F) Incorrect. All relevant Police officers i.e SHO, MHC etc were summoned by the Enquiry Officer alongwith the appellant and cross opportunity was provided. Moreover, there is no need to issue Final Show Cause Notice under Police Rules 1975.
- G) Incorrect. The appellant was properly charge sheeted based upon statement of allegations and properly probed by the enquiry officer, the allegations were proved and the competent authority awarded him major punishment of dismissal from service.
- H) Incorrect. During enquiry proceedings, it was proved that the SIM Numbers was utilized by the Appellant on different occasions.
- I) Incorrect. All codal formalities were adopted during enquiry proceedings.
- J) Incorrect. Complete CDR record is available which proved his connections with PO Salah-ud-Din etc.
- K) Incorrect. According to Police Rules 1975, there is no need to issue Final Show Cause Notice to the Appellant.
- L) Incorrect. The Appellant was treated according law/rules and there is no malafide intention on the part of respondent/Police Department.
- M) Incorrect. Reply has already been given in sub-para-F.
- N) Incorrect. The impugned order dated 26.10.2016 is quite legal and was issued by the Appellate Board held on 20.07.2016 at CPO Peshawar, after hearing the Appellant in person and thorough perusal of record.

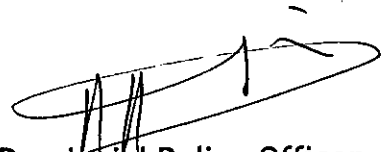
- O) Incorrect. Reply has already been given in above para.
- P) Incorrect. Reply has already been given in sub-para-K.
- Q) Incorrect. The Appellant treated according to law/rules and after taking lenient view the said punishment was awarded by the Appellate Board.
- R) Incorrect. All documents connected to the enquiry were provided according to law.
- S) That the respondents also seek permission to raise additional grounds and proof at the time of arguments.

Prayer:-

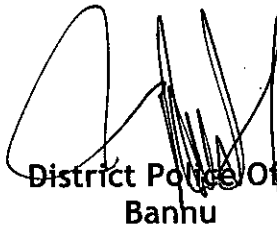
Therefore, it most is respectfully submitted before this Honourable Service Tribunal that the present Service Appeal filed by ASI Hamza Ali Khan may very graciously be dismissed with cost.



**Regional Police Officer,
Bannu Region, Bannu
(Respondent No.2)**



**Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar
(Respondent No.1)**



**District Police Officer,
Bannu
(Respondent No.3)**

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No.1185/2016

Hamza Ali Khan

..... Appellant

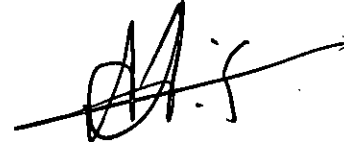
Versus

The Provincial Police Officer, KPK, Peshawar & others

..... Respondents

AFFIDAVIT.

I, Muhammad Farooq Khan, Inspector Legal Regional Police Office, Bannu representative for respondent No.1, 2 & 3 do hereby solemnly affirm and declare that the contents of the accompanying comments submitted by me are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Tribunal.



DEPONENT

11101-1483421-1

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No.1185/2016

Hamza Ali Khan

..... Appellant

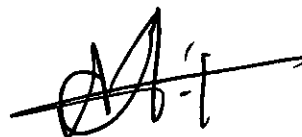
Versus

The Provincial Police Officer, KPK, Peshawar & others

..... Respondents

INDEX

S/No	Description of Documents	Annexure	Page
1	Comments/Reply	A	1 to 3
2	Affidavit		4
3	Authority Letter		5



DEPONENT

11101-1483421-1

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No.1185/2016

Hamza Ali Khan

.....

Appellant

Versus

The Provincial Police Officer, KPK, Peshawar & others

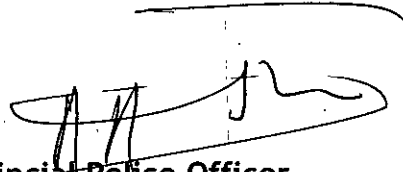
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Respondents

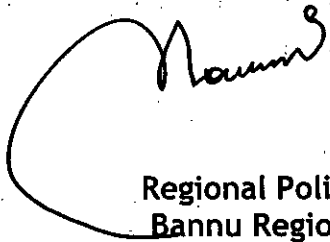
AUTHORITY LETTER.

Mr. Muhammad Farooq Khan, Inspector Legal, is hereby authorized to appear before the Honourable Service Tribunal, Khyber Pakhtunkhwa, Peshawar on behalf of the Provincial Police Officer, KPK & Others in the above cited Appeal.

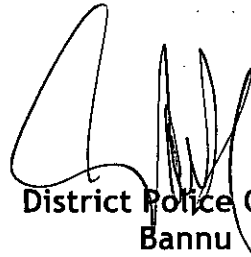
He is authorized to submit and sign all documents pertaining to the present Petition.



**Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar
Respondent No.1**



**Regional Police Officer
Bannu Region, Bannu
Respondent No.2**



**District Police Officer
Bannu
Respondent No.3**

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 1185/2016

Hamza Ali Khan

vs

Police Deptt,

.....
REJOINDER ON BEHALF OF APPELLANT
.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-7) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 Para-1 of the appeal was admitted correct by the respondent's department as record is already in the custody of the respondents.
- 2 Para-2 of the appeal was admitted correct by the respondent's department as record is already in the custody of the respondents.
- 3 Admitted correct. Needs no comments.
- 4 Incorrect. While para-4 of the appeal is correct as mentioned in the main appeal of the appellant.
- 5 Incorrect. While Para-5 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, being a civil servant show cause notice is must according to E&D Rules 2011 and superior court judgments.
- 6 Incorrect. While Para-6 of the appeal is correct as mentioned in the main appeal of the appellant.

- 7 Incorrect and misconceived. While Para-7 of the appeal is correct as mentioned in the main appeal of the appellant.
- 8 Para-8 of the appeal was admitted correct by the respondent's department as record is already in the custody of the respondents.
- 9 Needs no comments.

GROUND:

- A) Incorrect. While Para-A of grounds of the appeal is correct. Moreover, impugned order dated 26.10.2016 is against the law, facts and norms of justice.
- B) Incorrect. While Para-B of grounds of the appeal is correct as mention in the main appeal of the appellant.
- C) Incorrect. While Para-C of grounds of the appeal is correct as mention in the main appeal of the appellant.
- D) Incorrect. While Para-D of grounds of the appeal is correct as mention in the main appeal of the appellant.
- E) Incorrect. While Para-E of grounds of the appeal is correct as mention in the main appeal of the appellant. Moreover, the not taking statement of complainant about money matter which clearly shows the malafide intention of the respondents.
- F) Incorrect. While Para-F of grounds of the appeal is correct as mention in the main appeal of the appellant.
- G) Incorrect. While Para-G of grounds of the appeal is correct as mention in the main appeal of the appellant.
- H) Incorrect. While Para-H of grounds of the appeal is correct as mention in the main appeal of the appellant.
- I) Incorrect. While Para-I of grounds of the appeal is correct as mention in the main appeal of the appellant.
- J) Incorrect. While Para-J of grounds of the appeal is correct as mention in the main appeal of the appellant.

- K) Incorrect. While Para-K of grounds of the appeal is correct as mention in the main appeal of the appellant.
- L) Incorrect. While Para-L of grounds of the appeal is correct as mention in the main appeal of the appellant.
- M) Incorrect. While Para-M of grounds of the appeal is correct as mention in the main appeal of the appellant.
- N) Incorrect. While Para-N of grounds of the appeal is correct as mention in the main appeal of the appellant.
- O) Incorrect. While Para-O of grounds of the appeal is correct as mention in the main appeal of the appellant.
- P) Incorrect. While Para-P of grounds of the appeal is correct as mention in the main appeal of the appellant.
- Q) Incorrect. While Para-Q of grounds of the appeal is correct as mention in the main appeal of the appellant.
- R) Incorrect. While Para-R of grounds of the appeal is correct as mention in the main appeal of the appellant.
- S) Legal.

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

APPELLANT

Through:


(M. ASIF YOUSAFZAI)
ADVOCATES PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder and appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from Hon'able tribunal.

ATTESTED
Oath Commissioner
Zafoor Khan Advocate
Distt: Court Peshawar

5 APR 2013


DEPONENT