

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR
AT CAMP COURT SWAT

Service Appeal No. 992/2019

Date of Institution ... 30.07.2019

Date of Decision ... 06.10.2022

Constable Irfan Ali No. 2722 posted at Police Station Saidu Sharif Swat.

... (Appellant)

VERSUS

Provincial Police Officer Khyber Pakhtunkhwa at CPO Peshawar and two others.

... (Respondents)

MR. SHABIR AHMAD KHAN,
Advocate

--- For appellant.

MR. MUHAMMAD RIAZ KHAN PAINDAKHEL,
Assistant Advocate General

--- For respondents.

MR. SALAH-UD-DIN
MS. ROZINA REHMAN

--- MEMBER (JUDICIAL)
--- MEMBER (JUDICIAL)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Precisely stated the facts giving rise to filing of the instant appeal are that Charas weighing 1015 grams was allegedly recovered from the possession of an accused namely Tariq Hussain S/O Amir Mashaal and case FIR No. 1062 dated 24.10.2016 under sections 9C CNSA was thus registered against him in Police Station Mingora District Swat. The appellant was one of the witness to the recovery memo, which was prepared in respect of the recovered Charas. Disciplinary action was taken against the appellant on the allegations that he while appearing as witness during the trial of the accused in the aforementioned

case, had deliberately negated the version mentioned in the FIR and had tendered contradictory statement, resulting in acquittal of the accused. On conclusion of the inquiry, the appellant was removed from service vide order dated 03.08.2018 but the same was set-aside by the appellate Authority and the appellant was reinstated in service, however the major penalty was converted into minor penalty of stoppage of two increments with cumulative effect. The same was challenged by the appellant through filing of revision petition before Inspector General of Police Khyber Pakhtunkhwa Peshawar but the same was rejected, hence the instant service appeal.

2. Respondents contested the appeal by way of submitting para-wise comments, wherein they refuted the assertions as raised by the appellant in his appeal.

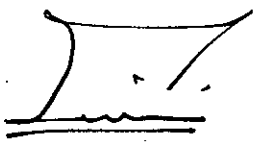
3. Learned counsel for the appellant has contended that the appellant had not extended any concession to the accused in his evidence recorded during the trial, which is evident from the fact that no request was made by the prosecution for declaring him as *hostile* witness; that as per story narrated in the FIR, recovery was not effected from personal possession of the accused and in view of so many dents in the prosecution case, the accused was acquitted by the court by invoking provision of 265-K Cr.PC; that acquittal of the accused was not challenged through filing of appeal before august High Court, which clearly shows that the case of prosecution was too weak and the burden was wrongly and illegally laid upon shoulder of the appellant by taking disciplinary action against him; that the mandatory provisions of Police Rules, 1975 were not complied with and the appellant was neither provided copy of the inquiry report nor any final show-cause notice was issued to him, therefore, the impugned orders are not sustainable in the eye of law and are liable to be set-aside.

4. On the other hand, learned Assistant Advocate General for the respondents has argued that the appellant had deliberately furnished contradictory statement during

trial, which resulted in acquittal of the accused; that the appellant has already been treated with leniency by the appellate Authority and punishment of his removal from service was converted into stoppage of two increments with cumulative effect; that the appellant was provided opportunity of self defence as well as personal hearing and the mandatory provisions of Police Rules, 1975 were duly complied with in the inquiry proceedings.

5. We have heard the arguments of learned counsel for the parties and have perused the record.

6. A perusal of the record would show that disciplinary action was taken against the appellant on the allegations reproduced as below:-



"Whereas, a case was registered against an accused vide FIR No. 1062 dated 24.10.2016 u/s 9C-CNSA Police Station Mingora and he was produced by prosecution as PW-I. During cross examination, he deliberately concealed the facts and negated the version of FIR. The trial court acquitted the accused from all charges in light of his contradictory statement which is a sheer violation of discipline and is punishable."

7. The appellant was marginal witness to the recovery memo, vide which the allegedly recovered contraband Charas was taken into possession. The appellant was examined as PW-I during the trial. Learned trial court acquitted the accused vide order dated 26.06.2018 by invoking the provision of 265-K Cr.PC. Paras-8 & 9 of the aforementioned order are reproduced as below:-

"The main allegations leveled against the present accused are that he was involved in narcotics business and on spy information, the alleged place of occurrence was raided by the complainant alongwith other police officials, the accused was arrested, his body search was made but nothing was recovered and from nearby, an alleged basket was recovered, wherein, inside the basket, the alleged contraband was recovered and the ownership of which was attributed to the present accused petitioner but according to the available evidence nothing was found to the fact that this alleged agency was the

ownership of present accused petitioner and more so, the available record was keenly perused but nothing was found to the effect that whether it was a travel agency, shopping mall or other business related spot. So, the prosecution badly failed to at least clarify the above mentioned questions.


9. Normally it so happens that in any type of agency, there are more than one employee but no evidence has been collected to the effect that who were other employees in the said agency and the most interesting aspect of the present case is that the alleged basket was lying outside the agency. So if suppose that whole evidence is allowed to be recorded then the question is that how the prosecution would prove the fact that who was the owner of the alleged basket."

8. The dents in the prosecution case as mentioned in the above mentioned paras-8 & 9 were not on account of any outcome of alleged contradictory statement of the appellant. The only contradiction, which was pointed out in the statement of the appellant and mentioned in para-10 of the acquittal order dated 26.06.2018 was to the effect that in his examination in chief, he had stated that recovery memo was prepared on the spot, while in cross examination, he had stated that the same was prepared in the P.S. It cannot be concluded with certainty that the appellant had deliberately extended any concession to the accused in his testimony recorded during the trial. Moreover, no request was made by the concerned Assistant Public Prosecutor for declaring the appellant as *hostile*, which fact negates the charge leveled against the appellant. Besides that nothing is available on the record, which could show that copy of the inquiry report was provided to the appellant and final show-cause notice was issued to him. The afore-mentioned fact has created material dent in the inquiry proceedings. In view of material available on the record, we are of the view that the appellant has wrongly been awarded the impugned penalty, which requires to be set-aside.


9. For what has been discussed above, the appeal in hand is allowed by setting-aside the impugned penalty of stoppage of two increments with cumulative effect. The two increments

of the appellant stands restored with all back benefits and the intervening period during which the appellant remained out of service shall be treated as period on duty with all consequential benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
06.10.2022



(ROZINA REHMAN)
MEMBER (JUDICIAL)
CAMP COURT SWAT



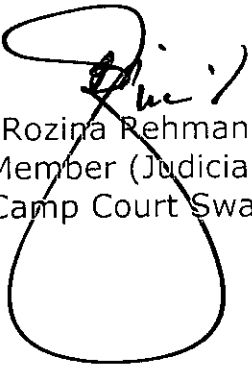
(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT SWAT

O R D E R
06.10.2022

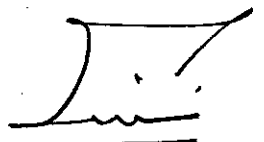
Appellant alongwith his counsel present. Mr. Ali Rehman, Inspector (Legal) alongwith Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand is allowed by setting-aside the impugned penalty of stoppage of two increments with cumulative effect. The two increments of the appellant stands restored with all back benefits and the intervening period during which the appellant remained out of service shall be treated as period on duty with all consequential benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
06.10.2022



(Rozina Rehman)
Member (Judicial)
Camp Court Swat




(Salah-Ud-Din)
Member (Judicial)
Camp Court Swat

05.10.2022

Appellant alongwith his counsel present. Ali Rehman, Inspector (Legal) alongwith Mr. Muhammad Riaz Khan Pindakhel, Assistant Advocate General for the respondents present.

Arguments heard. To come up for order on 06.10.2022 before the D.B at Camp Court Swat.

(Rozina Rehman)
Member (J)
Camp Court Swat



(Salah-Ud-Din)
Member (J)
Camp Court Swat


07.07.2022

Nemo for appellant.

Noor Zaman Khan Khattak, learned District Attorney for respondents present.

Notice be issued to appellant and his counsel for 02.08.2022 for hearing before the D.B at Camp Court, Swat.


(Fareeha Paul)
Member(E)
Camp Court, Swat


(Rozina Rehman)
Member (J)
Camp Court, Swat

2.8.22

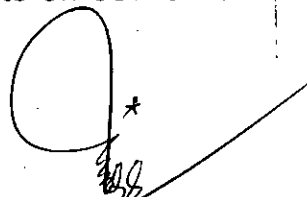
due to Sammar vacation the case is adjourned to 6-9-22 for the same.

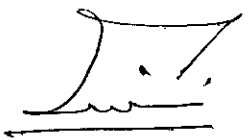


06.09.2022

Junior of learned counsel for the appellant present. Mr. Musa Khan, Head Constable alongwith Mr. Muhammad Riaz Khan Paindakhel, 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 the august Peshawar High Court, Mingora Bench (Dar-ul-Qaza), Swat. Adjourned. To come up for arguments on 05.10.2022 before the D.B at Camp Court Swat.

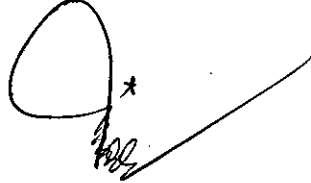

(Mian Muhammad)
Member (Executive)
Camp Court Swat


(Salah-Ud-Din)
Member (Judicial)
Camp Court Swat

06.06.2022

None for the appellant present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Muhammad Moosa, HC for respondents present.

On the call of Khyber Pakhtunkhwa Bar Council, District Bar Association is observing strike today, therefore, learned counsel for the appellant did not appear before the court. Adjourned. To come up for arguments on 08.06.2022 before the D.B at camp court Swat. .



(Mian Muhammad)
Member(E)

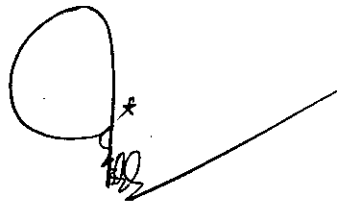


(Kalim Arshad Khan)
Chairman
Camp Court Swat

8th June, 2022

None for the appellant present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Ali Rehman, SI for respondents present.

Counsel are on strike. To come up for arguments on 07.07.2022 before the D.B at camp court Swat.



(Mian Muhammad)
Member(E)




(Kalim Arshad Khan)
Chairman
Camp Court Swat


10.02.2022 Tour is hereby canceled. Therefore, the case is adjourned to 07.04.2022 for the same as before at Camp Court Swat.


Reader

07.04.2022 Nemo for the appellant. Mr. Ali Rehman, Inspector (Legal) alongwith Mr. Noor Zaman Khattak, District Attorney for the respondents present.

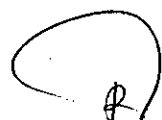
Previous date was changed on Reader Note, therefore, notice for prosecution of the appeal be issued to the appellant as well as his counsel through registered post and to come up for arguments on 06.06.2022 before the D.B at Camp Court Swat.

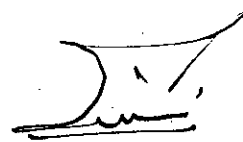

(Rozina Rehman)
Member (J)
Camp Court Swat


(Salah-ud-Din)
Member (J)
Camp Court Swat

Post Script
07.04.2022

Later on appellant appeared at about 12:40 P.M and P.P. given to him.


(Rozina Rehman)
Member (J)
Camp Court Swat

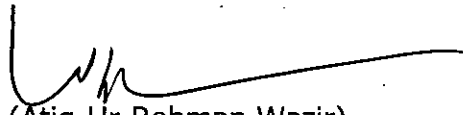

(Salah-ud-Din)
Member (J)
Camp Court Swat

07.10.2021

Appellant present through representative.

Mr. Asif Masood Ali Shah, Deputy District Attorney for respondents present.

Learned Members of the DBA are observing Sogh over the demise of Qazi Imdadullah Advocate and in this regard request for adjournment was made; allowed. To come up for arguments before the D.B on 09.12.2021 at Camp Court, Swat.



(Atiq-Ur-Rehman Wazir)
Member (E)
Camp Court, Swat



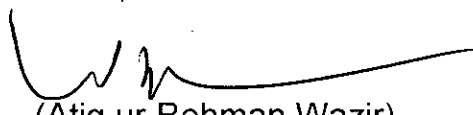
(Rozina Rehman)
Member (J)
Camp Court, Swat

09.12.2021

Appellant in person present.

Muhammad Rasheed learned Deputy District Attorney for respondents present.

Former made a request for adjournment as his counsel is not in attendance today. Request is accorded and case is adjourned. To come up for arguments on 10.02.2022 before D.B at Camp Court, Swat.



(Atiq ur Rehman Wazir)
Member (E)
Camp Court, Swat.



(Rozina Rehman)
Member (J)
Camp Court, Swat

06:01.2021

Due to COVID 19, the case is adjourned to
03 .03.2021 for the same as before.

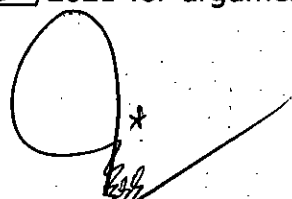

Reader


03.03.2021

Nemo for appellant.


Riaz Khan Paindakheil learned Assistant Advocate General
alongwith Khawas Khan S.I for respondents present.

Preceding date was adjourned on a Reader's note,
therefore, appellant/counsel be put on notice for
07 / 6 / 2021 for arguments before D.B at Camp Court,
Swat.


(Mian Muhammad)
Member (E)
Camp Court, Swat


(Rozina Rehman)
Member (J)
Camp Court, Swat

Due to COVID-19, the case is
adjourned to 7/10/21


Reader

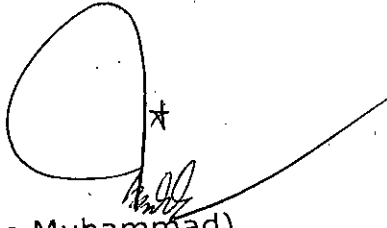
_____ .2020

Due to COVID19, the case is adjourned to
05/10/2020 for the same as before.

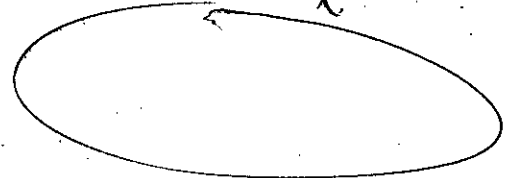
Reader 

05.10.2020

Appellant is present in person. Mr. Usman Ghani, District Attorney for the respondents is also present. Appellant is seeking adjournment on the ground that his counsel is not available today. Adjourned to 04.11.2020 on which to come up for arguments before D.B at Camp Court, Swat.



(Mian Muhammad)
Member (Executive)
Camp Court Swat



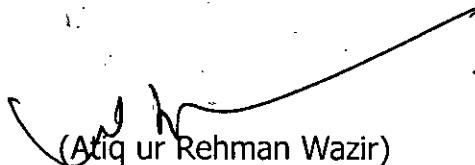
(Muhammad Jamal Khan)
Member (Judicial)
Camp Court Swat

04.11.2020

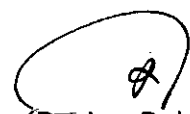
Nemo for appellant.

Riaz Khan Paindakheil learned Assistant Advocate General for respondents present.

Lawyers are on general strike, therefore, case is adjourned to 06.01.2021 for arguments, before D.B at Camp Court Swat.



(Atiq ur Rehman Wazir)
Member (E)
Camp Court, Swat

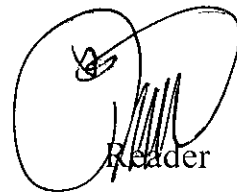


(Rozina Rehman)
Member (J)
Camp Court, Swat

Due to corona virus tour
to camp court Swat has
been cancelled. To come up
for the same on 02/06/20


Reader

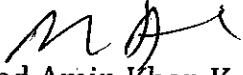
02.06.2020 Due to COVID-19, the case is adjourned. To come up for the
same on 05.08.2020, at camp court Swat.


Reader

Service Appeal No. 992/2019

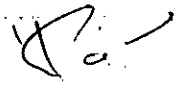
07.01.2020

Junior counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Muhammad Ishaq, Head Constable for the respondents present. Written reply on behalf of respondents not submitted. Representative of the department requested for adjournment. Adjourned to 03.02.2020 for written reply/comments before S.B at Camp Court Swat.


(Muhammad Amin Khan Kundi)
Member
Camp Court Swat


03.02.2020

Appellant in person present. Written reply not submitted. Khawas Khan S.I, representative of the respondent department present and seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 02.03.2020 before S.B at Camp Court, Swat.


Member
Camp Court, Swat

02.03.2020

Learned counsel for the appellant present. Mr. Usman Ghani learned District Attorney alongwith Khawas Khan S.I (Legal) present and submitted written reply/comments. Adjourn. To come up for rejoinder if any and arguments on 07.04.2020 before D.B at Camp Court, Swat.


Member
Camp Court, Swat.

07.11.2019

Junior counsel for the appellant present and submitted application for adjournment on the ground that learned senior counsel for the appellant is busy in Model Court and unable to attend the Service Tribunal today. Application is placed on record. Adjourned to 05.12.2019 for preliminary hearing before S.B at Camp Court Swat.



(Muhammad Amin Khan Kundi)
Member
Camp Court Swat

05.12.2019

Learned counsel for the appellant present. Preliminary arguments heard.

The appellant (Constable) has filed the present service appeal against the order dated 13.11.2018 whereby the appellate authority while taking lenient view set aside the major punishment of his removal from service, reinstated him in service and awarded him punishment of stoppage of 02 increments with cumulative effect.

Points urged need consideration. The present service appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for reply/comments. To come up for written reply/comments on 07.01.2020 before S.B at Camp Court, Swat.

Appellant Deposited
Security & Process Fee

9/12/19






Member
Camp Court, Swat

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. - 992/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	30/07/2019	<p>The appeal of Mr. Irfan Ali presented today by Mr. Shabir Ahmad Khan Advocate, may be entered in the Institution Register and put up to the Worthy Chairman for proper order please</p> <p style="text-align: right;"> REGISTRAR 30/7/19</p>
2-	16-8-19	<p>This case is entrusted to touring S. Bench at Swat for preliminary hearing to be put up there on <u>9-10-19</u></p> <p style="text-align: right;"> CHAIRMAN</p>
09.10.2019		<p>Appellant in person present and requested for adjournment on the ground that his counsel is not available today. Adjourned to 07.11.2019 for preliminary hearing before S.B at Camp Court Swat.</p> <p style="text-align: right;"> (Muhammad Amin Khan Kundi) Member Camp Court Swat</p>

BEFORE SERVICE TRIBUNAL KHYBER
PUKHTUNKHWA AT PESHAWAR

Service Appeal no 992/ 2019

Constable Irfan Ali No.2722 Versus Provincial Police Officer and others

SERVICE APPEAL

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9	Copy of order of respondent No.2	"G"	21
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Appellant

Through Counsel


Shabir Ahmad Khan (Dawlat Khel)

Advocate High Court

Office address:

Hamza Law chamber, Near Azad Medicine

Company post office road Mingora Swat.

Cell: 0341-566-0333/0333-949-9466

1

BEFORE SERVICE TRIBUNAL KHYBER
PUKHTUNKHWA AT PESHAWAR

Service Appeal no 992 2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1102

Dated 30/7/2019

Constable Irfan Ali No.2722 posted at Police station Saidu
Sharif Swat(Appellanat)

Versus

1. Provincial Police Officer Khyber Pakhtunkhwa at CPO Peshawar
2. Regional police Officer Malakand Range-III at Saidu Sharif Swat.
3. District Police Officer Swat at Gul Kada Swat.

.....(Respondents)

Filed to-day

W. A. U.
Registrar
30/7/19

SERVICE APPEAL U/S 4 OF THE KHYBER
PUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST THE IMPUGNED ORDER OF
RESPONDENT NO 2 DATED 13/11/2018, WHEREBY
THE RESPONDENT NO 2 AWARDED
PUNISHMENT OF STOPPAGE OF TWO
INCREMENTS WITH CUMALATIVE EFFECT AND
PERIOD OF ABSENCE SPENT OUT OF SERVICE
IS COUNTED AS SERVICE WITHOUT Pay,
AGRIEVED FROM THE SAID ORDER THE
APPELLANT PREFERRED REVISION PETITION
BUT THE SAME WAS ALSO FILED BY THE
RESPONDENT NO 1

Respectfully sheweth:

Facts arising to the present appeal as under:

- 1) That the appellant was initially recruited as a constable into police and till now the appellant performing his duty with great zeal and enthusiasm.
- 2) That on 24/10/2016 Sub inspector Ali Bad shah arrested an Accused namely Tariq Hussain S/O amir Mashal R/O Mohallah Afsar Abad Saidu Sharif Swat and Lodged FIR vide No.1062 under section 9-c CNSA ,P.S Mingora. (Copy of FIR is Annexed as Annexure "A")
- 3) That during the proceedings the appellant was present with SI Ali Bad shah and he cited name of the appellant as eye witness/recovery witness on recovery memo. (copy of recovery memo is Annexed as Annexure "B")
- 4) That after fulfilling the legal formalities the SHO Mingora through DPP swat submitted a complete Challan to concern court for put in court and trial. The case was entrusted to additional session judge/ special judge /IZQ swat for disposal.
- 5) That after framing of charge the appellant was summoned by the court and the appellant recorded his statement as PW-1 on 15-12-2107, after recording the statement of the appellant as a PW-1 the learned ASJ II swat on 26-6-2018 acquitted the accused U/S 265 k Cr.PC.(statement of the appellant is annexed as annexure "C" and order of acquittal is annexed as annexure "D")
- 6) After the acquittal of accused the respondent No.3 issued a charge sheet to the appellant with the allegations which are as under :

"Whereas, a case was registered against an accused vide FIR No. 1062 dated 24-10-2016 U/s 9-c CNSA police station Mingora and he has produced by prosecution as Pw-1 .during cross examination, he

deliberately concealed the facts and negated the version of FIR. The trial court acquitted the accused from all the charges in the light of his contradictory statement which is a sheer violation of discipline and is punishable".(copy of charge sheet is annexed as annexure "E")

- 7) That an enquiry was initiated and entrusted to ADDI: SP Swat ,after conducting one way enquiry/ proceedings the enquiry officer submitted his findings report to respondent No.3. The respondent No.3 without any prior opportunity of hearing ordered of removal from service with immediate effect.(copy of order of removal is Annexed as annexure "F")
- 8) That aggrieved from the order of respondent No.3 the appellant preferred departmental appeal before the respondent No.2 which was accepted and the respondent No.2 set aside the impugned order of respondent No.3 dated 3-08-2018 ,but awarded the punishment of stoppage of two increments with cumulative effect .the period of absence and he spent out of service is counted as leave without pay.(copy of order of respondent No.2 is annexed as annexure "G")
- 9) That aggrieved from the order of respondent No.2 revision petition was filed by the appellant before the respondent No.1 but the same was filed by the respondent No.1. Hence the instant service appeal on the following grounds:(copy of order of Respondent No.1 is Annexed as annexure "H")

Grounds:-

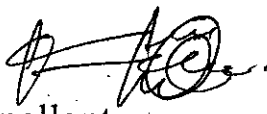
- a) That the enquiry officer ran one way traffic and made dishonest and baseless improvements in his findings report which clearly shows the malafide intention and biasness of the enquiry officer as well as the other respondents.

- b) That no proper opportunity of being fairly hearing was given to the appellant by respondents and the appellant has been illegally dismissed by the respondent No.3 and the respondent No.3 awarded the said punishment which is against the law, service rules and norms of justice.
- c) That the allegations leveled against the appellant are baseless, frivolous, and not sustainable and untenable under the law and rules on the subject.
- d) That the universal canon of natural justice has been set aside and no ample opportunity of presenting the delinquent stance /version has been given to the appellant.
- e) That the impugned order is unreasonable ,arbitrary and is liable to be set aside.
- f) That the appellant was not treated accordance with law and rules on the subject and the impugned order has been passed away in flagrant violation of law and rules tainted with mala-fide intention and is therefore not sustainable and is liable to be set aside.
- g) That during the course of inquiry the appellant recorded his statement before the inquiry officer and presented his stance/defense but it was completely ignored by the respondents.
- h) That the appellant was not a sole witness in the above cited case but there was a lot of incriminating evidences/ witness but no opportunity of producing evidence has been given by the ASJ II swat so how a contradictory statement has been determined by the respondents.
- i) That the prosecution did not preferred appeal against the said order of ASJ II swat ,owing to this fact that the prosecution had a lot of incriminating evidence against the accused.

- 5
- j) That there was no ill will of the appellant with the said accused and the statement has been properly recorded by the appellant and no negligence had there on the part of the appellant.
- k) That the other important points will be raised during the course of arguments with the kind permission of this honorable court.

Therefore, it is humbly prayed that
That by acceptance of the instant
Service appeal the impugned
Order of respondents may kindly
Be set aside to the extent of
Punishment awarded as mentioned
above.

Any other relief which may appropriate
In the circumstances may also be
Awarded to the appellant not specifically
Prayed for.


Appellant

Through counsel


Shabir Ahmad Khan (Dawlat khel)
Advocate High Court

6

BEFORE SERVICE TRIBUNAL KHYBER
PUKHTUNKHWA AT PESHAWAR

Service Appeal no _____ 2019

Constable Irfan Ali

Versus

Provincial Police Officer and others

SERVICE APPEAL

Affidavit

I Irfan Ali district Swat do hereby states on oath that all the contents of the instant appeal are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this honorable tribunal.



Deponet

Irfan Ali



7

BEFORE SERVICE TRIBUNAL KHYBER
PUKHTUNKHWA AT PESHAWAR

Service Appeal no _____ 2019

Constable Irfan Ali

Versus

Provincial Police Officer and others

SERVICE APPEAL

Memo of Adresses

Addresses of the appellant:

Constable Irfan Ali No.2722R/O posted at Police station
Saidu Sharif Swat

Addresses of respondents:

1. Provincial Police Officer Khyber Pakhtunkhwa at CPO
Peshawar
2. Regional police Officer Malakand Range-III at saidu
Sharif Swat.
- 3) District Police Officer Swat at Gul Kada Swat

Appellanat Irfan Ali

Through Counsel *(Signature)*

Shabir Ahmad Khan (Dawlat kheel)

Advocate High Court

قائم نمبر ۲۴-۱۵ (۱)

ابتدائی اطلاع رپورٹ

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



ملنگورہ
AUMEX
ضلع سوات

30

تاریخ وقت رپورٹ	1062	تاریخ وقت 24/10/2016
نام و سکونت اطلاع دہندہ مستفیث	15602-88209537	نام علی بادشاہ عدیت ای سکونت چھابہ ملنگورہ
تفصیل جرم (موردہ) حال اگر کچھ بدل گیا ہو۔		
جائے وقوعہ فاصلہ تھانہ سے اور سمت		اقبال بلازہ 3 اعلیٰ کمان دو سہری منٹرن الخیر ایجنسی کے باہر فاصلہ 2/3 فرلانڈ اور تھانہ
نام و سکونت ملزم	15602-09820621-1	(1) نام طارق حسین ولدت اور منشا سکونت 3 اعلیٰ کمان دو سہری ملنگورہ CNIC نمبر _____ موبائل نمبر 03139079191
		(2) نام _____ ولدت _____ سکونت _____ موبائل نمبر _____ CNIC نمبر _____
		(3) نام _____ ولدت _____ سکونت _____ موبائل نمبر _____ CNIC نمبر _____
کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو		بہرہ رسیدگی کے واسطے مقدمہ جڈا قائم کیا جاتا ہے۔
نام سے روانگی کی تاریخ وقت		بہرہ رسیدگی کے واسطے

ابتدائی اطلاع نیچے درج کرو۔ آپ قریبی علاقہ کے خانب علی بادشاہ ای عدیت
 و منشیات پیدائشی پولیس درجہ 222 میں درج ہوئے ہیں۔ بخیر و امن گذشتہ دو روزانہ پتہ پڑی اس لئے
 کاروبار کر رہے۔ اہل خانہ اور قالوئی کارروالی کے خاصہ آکر لو ملزم کو ایجنسی کے باہر یا کر قالو کر کے
 جامعہ لاسٹی آئی۔ اور ساتھ ہی قریب میں باس اسٹاپ میں نیلا بلاٹ کھیلے ہیں بندہ جس پر آمد
 پھر قریب میں باس اسٹاپ اور نیلا بلاٹ کھیلے ہیں۔ پھر چرس میں سے پانچ گرام چرس بندہ پارسل بنا
 پر دو پارسل کھالے چرس اور نیلا بلاٹ کھیلے ہیں اور 1010 گرام بندہ پارسل نمبر 2 سرکہ بہرگی گئی۔
 ملزم کو قریب میں بالابا کر دیکھا گیا اور اسٹاپ لٹور و جنتوں ہرولے فرد قدم لولید میں کئی
 ظہری مقدمہ بدست کیسٹل ظفر اللہ 222 ارسال کیا ہے۔ لفٹیں ایڈیشن سٹاف کو حوالہ
 اہل خانہ کے واسطے کراہت ہے۔ علی بادشاہ ای عدیت ملنگورہ درجہ 2415 ہمارے والی تھانہ
 2- کیا جاتا ہے۔ افسرانہ اطلاع دی جاتی ہے۔ پوچھ گچھ کر کے

Asi. PS. Mingora
24.10.16

Attested to be True Copy
Shahir Ahmad Khan (Dardat Khel)
Advocate High Court
& Federal Shariat Court

ANUGA

B

خانہ فقورہ فردھوہ

مذکورہ سورت

46

کو الہ فقہر عد 1062 فرخ $\frac{10}{016}$ 24 جرم 9ccnsA خانہ فقورہ

تیا آنہ طارق حسین ولد آفرین مشال ساکن محلہ آفر آئید سید شریف

ASST. S.W. (P) District Jail, Anugraha
انگریزی میں لکھی گئی ہے۔
ASST. S.W. (P) District Jail, Anugraha

صاحب خان

روبرو جوانان ذیل فقہر عنوان جرم بالا میں

قصر سے جیس نندرا لڈ سٹک کھیلے نندرا سٹک سے بر آفر ہو

وزن کئے (1015) گرام نکلی فجلہ جیس میں 3/4 گرام جاس

نندرا بارسل نندرا کفرض کزیہ FSL اور بقایا جیس 1010 گرام

نندرا بارسل نندرا کفرض بارسل یا لے 3/4 عدد حوائج ایس

بروٹ فرد فقہر کو پس کے فرد فقہر ہتھی ہر وقت سبوت

گوانان سے کھیلے ہوئے

P.A.

Si. PS. Minpura
24-10-016

~~Handwritten signature~~

گواہانہ عرفان 2722 خانہ فقورہ

Rakhanu

گواہانہ رشید رحمن علی 2722 خانہ فقورہ

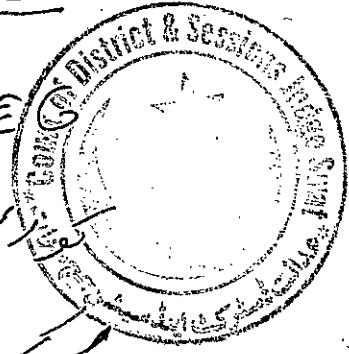
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بیان عرفان علی کنیل نمبر 2722 نماز منگورہ
حال میوزیم گارٹھ سوات

PW-1

15.12.17

سہر خلف بیان کیا کہ بوقت وقوعہ میں اور کنیل امان علی
 نے 2165 ڈیوٹی پر موجود تھے کہ بدوران پتہ برابر
 نیات میں کنیل کی اطلاع پر علی بادشاہ آئی کر سائی
 کے وقوعہ ڈاکٹر ایڈولف اور نون پولیس نے ملزم طارق صیق
 کو الحمرہ ایجنسی سے باہر قابو میں کر کے ملزم کی تلاش
 کی اور ملزم کی پتہ ملزم کے قریب پڑا ہوا ہاسٹل کی
 تلاش کی اور ہاسٹل میں پلا سٹک کی نیلی ٹیبل
 میں بند پر سیاہی لکھی کہ ایڈولف نے پراسرار
 کے جوڑے 15 گرام نکلیں، ہم چرس میں سے
 5 گرام چرس بھرنا تمیزہ FSL علیحدہ بندہ
 پارسل بنا کر کے جیک بٹن چرس 1010 گرام
 بندہ پارسل بنی کر کے پارسل پر 3/3 مواہر اسم
 A-B لگائے اس نسبت فرد مقبوضہ ملزم مرتبہ
 کی جوڑے E & PW 11 صیف پر لکھو گواہ حاشیہ



میرا دستخط درست طور پر ثبت ہے۔ اس کے
 علاوہ یہ قائم برآمدگی چرس بلا سکیڈ

(14)

(2)

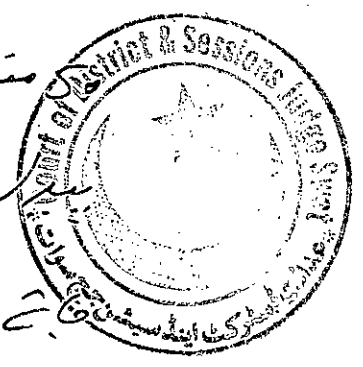
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پہرہیں نشانہ نہیں لگاؤ اور ۷ سپر

PW-1
(1627)

مخائب ملزم ہزار سیر وکیل خود

الحلایع لکھن سہرا - خان چوک مینٹور ۲ میں ملے تھے۔
 آسٹو فٹ ہم پیدل گشت کر رہے تھے۔ الحلایع چار بجے
 منٹک یا چار بجے ۵ منٹ پہرے ملے تھے۔ جائے وقوعہ
 پہرے گتے تھے۔ جائے وقوعہ فریباً ۵ بجے پہنچے تھے۔
 جائے وقوعہ پہنچے ملازم کو گرفتار کیا۔ یہ درست ہے
 کہ سڈ کر ۲ بلڈنگ میں ۱۴/۱۵ کمرہ جائے/دلانات
 موجود ہے۔ ہم سب پولیس والے ملزم کو گرفتار
 کر کے لے گئے تھے۔ بقا ایٹم لارورڈ تنازعہ میں
 عمل میں لائے گئے۔ از خود کہہ موقع پہرے لارورڈ
 سپر تھے۔ موقع سے باسکٹ قنفذ پولیس میں لائے
 تھے۔ جیسے علم نہ ہے کہ باسکٹ کے سینٹ کوئی فرد
 مقبول تھا تیار کی گئی تھی کہ سینٹ۔ اسی وقت - پلازہ
 سینٹ سے پیرسٹیوٹ لوٹ موجود تھے۔ از خود
 کیا کہ پیرسٹیوٹ لوٹ گورنر دینے سکے چار سپر

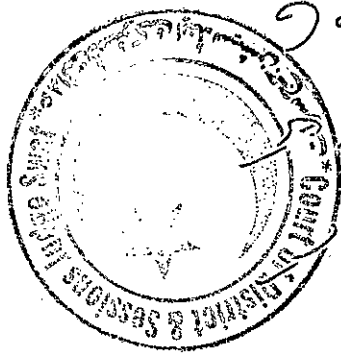


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محمد علی
 District & Sessions Judge
 Rawalpindi

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PW-1
(5629)

لے جاتے ہوئے اس پلاسٹک کے تھیلے میں لے کر
 ان خود کیا کہ پورا چرس اس کے پاس لے کر
 مجھے علم نہ تھا کہ چرس کے ساتھ 540 گرام بھی لیا گیا۔
 خانم برآمدگی میں ملزم کا نام طارق عزیز لکھا گیا۔
 ان خود کیا کہ ملزم کا نام طارق حسین ہے، میں نے
 تقاضا کیا کہ وہ بیان بتائیں میں دیا تھا۔ تقاضا میں
 حضور صاحب نے سنہ بنا سکتا کیونکہ مجھے یاد نہیں
 مجھے علم نہ تھا کہ میں نے اسے دستخط کئے تھے۔ پر
 کیا کہ فرزند پر دستخط کیا ہے۔ فرزند پر دستخط میں
 نے تقاضا کیا تھا۔ یہ غلط ہے کہ چرس مال خانہ
 سے لے کر جھوٹی گھوڑی پر ملزم سے منسوب کی گئی ہے۔
 یہ غلط ہے کہ میں جھوٹی گھوڑی سے ریل سٹیوں۔



سنا کر درست نہیں کیا۔

(محمد زینب خان)
 Assistant S.D.O.

15.12.17

(8)

Annex
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(14)

IN THE COURT OF Rahat Ullah,
ADDITIONAL SESSIONS JUDGE-II/IZO SWAT

Case No. 57/CNSA
Date of Institution: 5-11-2016
Date of decision: 26-6-2018

State through Ali Badshah SI PS Mingora, Swat

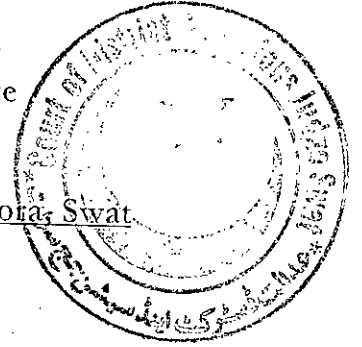
V E R S U S

Tariq Hussain S/o Amir Mashal R/o Afsar Abad, Mingora Swat.

State Counsel APP Mr. Mukhatiyar
Counsel for Accused Habib Khan Advocate

Case FIR # 1062 dated 24-10-2016 u/s 9(C) CNSA P.S Mingora, Swat

OR 19
26-6-2018



1. Accused Tariq Hussain is facing trial in this court under section 9 (C) Control of Narcotics Substances Act, 1997 (CNSA) for possessing 1015 gm charas.

2. The story as described in the FIR is reproduced verbatim as hereunder:

مستغیث مندرجہ خانہ نمبر 2 نے برخلاف ملزم طارق حسین سکھہ آفسر آباد سیدو شریف میں مخیر نے اطلاع دی کہ ملزم چرس کی خرید و فروخت کا کاروبار کر رہا ہے۔ تصدیق اور قانونی کارروائی کے خاطر ملزم کو ایجنسی کے باہر قابو کر کے چامہ تلاشی عمل میں لائی گئی اور ساتھ ہی قریب میں باسکٹ میں نیلا پلاسٹک تھیلہ میں بند چرس برآمد ہو کر جو وزن کرنے پر 1210 گرام نکلی۔ منجملہ چرس میں سے پانچ گرام چرس علیحدہ بند بہ پارسل نمبر 01 جبکہ بقایا چرس 1010 سریمپر پارسول نمبر 2 کر کے، ملزم کو مرتکب جرم قرار پا کر گرفتار کر کے، مراسلہ بغرض قائمی مقدمہ بدست کانسٹیبل ظفر اللہ نمبر 222 تھانہ مینگورہ ار سال کیا گیا۔ جس کی اساس پر ملزم کے خلاف مقدمہ ہذا دائر کیا گیا۔

3. After completion of investigation, complete challan was submitted against accused. Formal charge was framed against accused

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under section 9(C)CNSA to which he pleaded not guilty and claimed trial. After that prosecution was directed to produce evidence in support of the charge leveled against the accused. Prosecution produced Irfan Ullah constable and his statement was recorded as PW-1. In light of the recorded statement counsel for accused submitted an application under section 265 K Cr.PC on 26-10-2018, notice of which was given to prosecution. Upon which arguments heard and record perused.

4 Learned counsel for the accused argued that false case has been planted by the complainant against the accused/petitioner; that the accused/petitioner is innocent and falsely charged in the present case. He next argued that it is a baseless and concocted case that the local police had fabricated the story just to show their efficiency to their high ups. He concluded his arguments by submitting that the story of prosecution was doubtful and accused/petitioner deserved acquittal.

5 Learned APP for State submitted that recovery of 1015 grams charas had been effected from personal possession of accused. He maintained that FSL report is positive. He concluded his arguments by submitting that evidence should be concluded and after that fate of the prosecution case be decided.

Arguments heard and record perused.

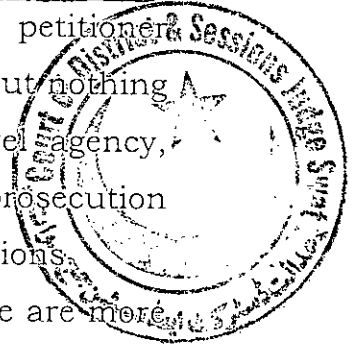
On perusal of the available record and hearing the valuable arguments of the learned counsel for the accused petitioner and APP for the State, the instant court reached to the following points to be determined for the disposal of the present application under section 265 K Cr.PC, which are mentioned as below;

- Whether any specification has been made that what type of agency was there i.e was it a travel agency or shopping mall etc.
- Was this agency the ownership of the present accused.
- Was the alleged basket lying inside the agency.
- Were there any other employees in the said agency.
- Was any personal recovery made from the accused.

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- Were there material contradictions in the statement of a witness to the recovery memo ExPW1/1.
8. The main allegations leveled against the present accused are that he was involved in narcotics business and on spy information, the alleged place of occurrence was raided by the complainant along with other police officials, the accused was arrested, his body search was made but nothing was recovered and from nearby, an alleged basket was recovered, wherein, inside the basket, the alleged contraband was recovered and the ownership of which was attributed to the present accused petitioner but according to the available evidence nothing was found to the fact that this alleged agency was the ownership of present accused petitioner and more so, the available record was keenly perused but nothing was found to the effect, that whether was it a travel agency, shopping mall or other business related spot. So, the prosecution badly failed to at least clarify the above mentioned questions.
 9. Normally it so happens that in any type of agency, there are more than one employee but no evidence has been collected to the effect that who were other employees in the said agency and the most interesting aspect of the present case is that the alleged basket was lying outside the agency, so if suppose the whole evidence is allowed to be recorded then the question is that how the prosecution would prove the fact that who was the owner of the alleged basket.
 10. So far, the statement of PW-1, who is the marginal witness of recovery memo ExPW1/1, is concerned wherein during chief examination he stated that the recovery memo was prepared at the spot but during cross examination it was stated that the same was prepared inside the PS, so in light of this admission what is left to the prosecution to prove against the accused petitioner. Therefore, this court is of the firm view that if the prosecution is allowed to produce the whole remaining evidence then again there is no chance of conviction of accused therefore, while continuing with the present case it would be amount to wastage of the precious time of the court.



ایڈیشنل سیشن جج
 ڈسٹرکٹ کورٹ
 ڈسٹرکٹ سندھ
 حیدرآباد

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8 The above are the points which would definitely be raised at the end of the trial and the main scheme of section 265K Cr.PC is to look into the available record and if in case there is no chance of the conviction of the accused, he may be acquitted of the charge leveled against him despite the fact that the trial may not have concluded.

9 Keeping in view the above discussion I would, therefore, invoke my jurisdiction u/s 265-K of Cr.PC and would order acquittal of accused in this case. He is on bail, his bail bonds stands cancelled and his sureties are discharged from the liability of bail bonds. Case property shall remain intact till the expiry of period fixed for appeal/revision, where after it be disposed of in accordance with law. File be consigned to RR after compilation.

Announced
26-6-2018

Rahat Ullah
Additional Sessions Judge/
Izafi Zilla Qazi-II, Swat



ابڈیشنل سیشن جج 1
ضلع قاضی دوم سوات

10907

No.

Date of Presentation of Application 13.06.18

Date on which de

No of Words 10-p

Urgent Fee

Name of Applicant Abdul Wahid

Signature

Copying Fee 120/-

Date of Delivery 13.06.2018

ATTESTED TO BE TRUE COPY

7
District & Sessions Judge
Zilla Qazi, Swat
13.6.18

DISCIPLINARY ACTION

Annex
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I, Syed Ashfaq Anwar, PSP District Police Officer, Swat as competent authority, is of the opinion that he Constable Irfan Ali No. 2722 while posted to Police Station Mingora has rendered himself liable to be proceeded against departmentally as he has committed the following acts/omissions as defined in Rule 2 (ii) of Police Rules 1975 with amendments 2014 vide Notification No.3859/Legal, dated 27-08-2014 of the Inspector General of Police, Khyber Pakhtunkhwa, Peshawar, as per Provincial Assembly of Khyber Pakhtunkhwa Notification No. PA/Khyber Pakhtunkhwa/ Bills/ 2011/44905 dated 16/09/2011 and C.P.O, K.P.K Peshawar Memo: No. 3037-62/Legal, dated 19/11/2011.

STATEMENT OF ALLEGATIONS

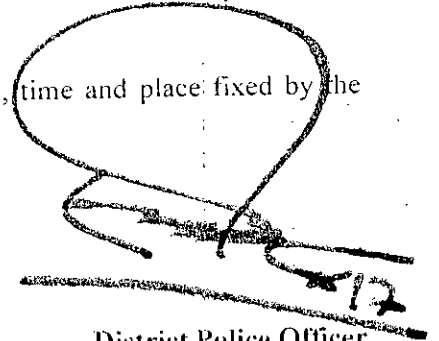
It has been reported that he while posted to Police Station Mingora committed the following act / acts, which is / are gross misconduct on his part as defined in Rules 2 (iii) of Police Rules 1975.

Whereas, a case was registered against an accused vide FIR No. 1062 dated 24-10-2016 u/s 9C-CNSA Police Station Mingora and he has produced by prosecution as PW-1. During cross examination, he deliberately concealed the facts and negated the version of FIR. The trial court acquitted the accused from all charges in light of his contradictory statement which is a sheer violation of discipline and is punishable.

2. For the purpose of scrutinizing the conduct of the said officer with reference to the above allegations, Add: SP Swat is appointed as Enquiry Officer.

3. The enquiry officer shall conduct proceedings in accordance with provisions of Police Rules 1975 and shall provide reasonable opportunity of defense and hearing to the accused officer, record its findings and make within twenty five (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused officer.

4. The accused officer shall join the proceedings on the date, time and place fixed by the enquiry officer.



District Police Officer
Swat

No. 76 /PA, Dated Gulkada the, 11/07 2018.

Copies of above to:-

1. Add: SP, Swat for initiating proceeding against the accused Officer/ Official namely Constable Irfan Ali No. 2722 under Police Rules, 1975.

2. Constable Irfan Ali No. 2722

With the direction to appear before the Enquiry Officer on the date, time and place fixed by the Enquiry Officer for the purpose of enquiry proceeding.

Attested to be True Copy

Shabir Ahmad Khan (Dawat Khel)
Advocate High Court
& Federal Shariat Court

CHARGE SHEET

I, Syed Ashfaq Anwar, PSP District Police Officer, Swat being competent authority, hereby charge you, Constable Irfan Ali No. 2722 while posted to Police Station Mingora as follows;

You committed the following act/acts, which is gross misconduct on your part as defined in Rules 2 (iii) of Police Disciplinary Rules 1975 with amendments 2014 vide Notification No.3859/Legal, dated 27-08-2014 of the General of Police, Khyber Pakhtunkhwa, Peshawar:

Whereas, a case was registered against an accused vide FIR No. 1062 dated 24-10-2016 u/s 9C-CNSA Police Station Mingora and you were produced by prosecution as PW-1. During cross examination, you deliberately concealed the facts and negated the version of FIR. The trial court acquitted the accused from all charges in light of your contradictory statement which is a sheer violation of discipline and is punishable. Thus you are issued this charge sheet and statement of allegations.

2. By reasons of the above, you appear to be guilty of misconduct and rendered yourself liable to all or any of penalties specified in Rule-4 of the Disciplinary Rules 1975.

3. You are, therefore, required to submit your written reply within seven (07) days of the receipt of this Charge Sheet to the Enquiry officer.

4. Your written reply, if any, should reach the Enquiry Officer 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.

5. Intimate as to whether you desire to be heard in person or not.

6. A statement of allegations is enclosed.

No. 76 /PA,

Dated: 11-07 2018.

District Police Officer
Swat

Attested to be True Copy

Shabir Ahmad Khan (Dawlat Khel)
Advocate High Court
& Federal Shariat Court

Amroa

26

F

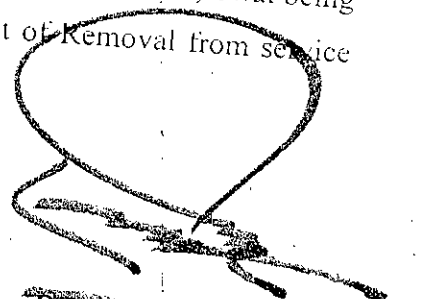
ORDER

This order will dispose of Departmental Enquiry against Constable Irfan Ali No. 2722 of this District Police. He while posted to Police Station Mingora blatantly violated discipline in case FIR No. 1062 dated 24-10-2016 u/s 9C-CNSA Police Station Mingora. In the same case he was produced by Prosecution as PW-1. During cross examination he deliberately concealed the facts and negated the version of FIR. The Trial Court acquitted the accused from all charges in light of his contradictory statement.

He was issued charge sheet and statement of allegations vide this office No. 76/PA, dated 11-07-2018 and Addl: SP Swat was appointed as Enquiry Officer to conduct proper departmental enquiry against the delinquent Constable. The Enquiry Officer after carrying out proper enquiry submitted his findings. The Enquiry report revealed that the defaulter Constable has recorded contradictory statement which led to acquittal of the accused. The Constable under enquiry was called in Orderly Room and heard in person but he failed to produce any cogent reason to rebut the allegations leveled against him.

The delinquent official has recorded contradictory statement which benefited the accused and led to his acquittal. By doing so he has failed to fulfill his responsibility as Police officer and acted against the dictates of Police discipline which warrants punishment. Hence, in exercise of the powers vested in the undersigned under Rules 2 (iii) of Police Disciplinary Rules - 1975, I Syed Ashfaq Anwar, PSP, District Police Officer, Swat being competent authority, am constrained to award him major punishment of Removal from service with immediate effect.

Order announced.


District Police Officer
Swat

O.B. No. 127
Dated: 38.18

Copies to:-

- 1. Addl: SP Swat
 - 2. Establishment Clerk
- For necessary action, please:

Attested to be True Copy

Shahir Ahmad Khan (Dawlat Khel)
Advocate High Court
& Federal Shariat Court

District Police Officer
Swat

Annex
G

91



**OFFICE OF THE
REGIONAL POLICE OFFICER, MALAKAND**

AT SAIDU SHARIF SWAT.

Ph: 0946-9240381-83 & Fax No. 0946-9240390

Email: digmalakand@yahoo.com

ORDER:

This order will dispose off appeal of Ex-Constable Irfan Ali No. 2722 of Swat District for reinstatement in service.

Brief facts of the case are that Ex-Constable Irfan Ali No. 2722 while posted to Police Station Mingora blatantly violated discipline in case FIR No. 1062 dated 24/10/2016 u/s 9C-CNSA Police Station Mingora. In the same case he was produced by Prosecution as PW-1. During cross examination he deliberately concealed the facts and negated the version of FIR. The Trial Court acquitted the accused from all charges in light of his contradictory statement. Consequently he was issued Charge Sheet coupled with statement of allegations and Addl: SP Swat was appointed as Enquiry Officer. The Enquiry Officer after carrying out proper departmental enquiry submitted his finding report holding the defaulter Constable guilty for recording contradictory statement which based for acquittal of the accused. The Constable under enquiry was called in Orderly Room by DPO Swat and heard him in person but he failed to produce any cogent reason to rebut the allegations leveled against him. Therefore being found guilty of charges the District Police Officer, Swat removed him from service under Rules 2 (iii) of Police Disciplinary Rules- 1975 vide his office OB No. 127 dated 03/08/2018.

He was called in Orderly Room on 07/11/2018 and heard him in person. The appellant explained his poor family background. Therefore, taking a lenient view the order passed by District Police Officer, Swat is set aside and he is hereby reinstated in service. However, he is awarded the punishment of stoppage of two increments with cumulative effect. The period of absence and he spent out of service is counted as leave without pay.

Order announced.

(MUHAMMAD SAEED) PSP
Regional Police Officer,
Malakand, at Saidu Sharif Swat
Naq
7/11

No. 10020 /E,

Dated 13-11- /2018.

Copy to District Police Officer, Swat for information and necessary action with reference to his office Memo: No. 15779/E, dated 30/08/2018. His Service Roll and Fauji Missal are returned herewith for record in your office.

Crmed 8-Roll - F-Missal

Attested to be True Copy

Shahir Ahmad Khan (Dawlat Khel)
Advocate High Court
& Federal Shariat Court

محکمہ صحت و انسپکشن جنرل آف پولیس صدر ایجنسی لاہور

Annex

ی عالی! گزارش بیماری ہے کہ مسائل کو پولیس میں منتقل

تینٹیل اپنی ڈیوٹی نہایت خوش اسلوبی اور اعلیٰ درجی سے سرانجام دے رہا ہے۔ مسائل کو صاف ڈی پی او مبلغ سوات کے حوالہ اور ڈی پی او 127 سوات کو سرحد سے یہ عورتوں کے مسائل کے حوالہ آر پی او صاحب نے من مسائل کو لوگری کے حوالہ یعنی انگریزی نمبر E 100201 اور 2018 کو دوبارہ حال کیا اور اس کے ساتھ ساتھ مسائل سے دو نگرینٹ with cumulative effort شفاف کیا جس پر مسائل کے شواہد پر نسبت الترتیب چونکہ مسائل تینٹیل ڈیوٹی کرتا ہے اور زیادہ تر سکورٹی کے ڈیوٹی سرانجام دے رہا ہے اس لیے مسائل کے شواہد انتہائی کم پڑی ہے۔ مسائل ایجنسی کے گروہ سے تعلق رکھتا ہے اور گھر کے سناری زبرداری من مسائل پر ہے۔

سید بدریہ در خواست مسائل انتہائی کم مسائل کے دو نگرینٹ حال یا عاری طور پر بند کرنے کا حکم صادر فرمائیں۔

نو مسائل تاحیات رکھا گئے ہیں گا۔

العارضہ آپ کا نام عرفان

تینٹیل
عرفان
صدر ایجنسی لاہور
27-03-2019

Attested to be True Copy

Shabir Ahmad Khan (Dawat Khel)
Advocate High Court
& Federal Shariat Court

S/o,

Forwarded please.



I.C Security District Court DIST: S.W.F

EC
To [Signature]



Annex I

23

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHAYBER PAKHTUNKHWA
Central Police Office, Peshawar
No. SI 1996
11-8-19
184910

For: The Regional Police Officer, Swat

Subject: APPLICATION

Memo:

Please refer to your office Memo: No. 5515-16/F, dated 09.05.2019.

The Competent Authority has examined and filed the application submitted by Constable Jiran Ali No. 2722 of Swat District against the punishment of stoppage of two increments with cumulative effect awarded vide RPO/Malakand order Indst: No. 10020/F, dated 13.11.2018, being badly time barred.

The applicant may please be informed accordingly.

(SYED ANIS-U-HASSAN)
Registrar,
For Inspector General of Police
Khayber Pakhtunkhwa,
Peshawar.

No 6473/15
dt. 11-08-19

EC/DPO Swat
For information

Inform the Comm
According to
15/6/19

1/3 SWAT
District Office

Mt M/Alcorn M-

EC

Attested to be True Copy
Shahid
Shahid Ahmad Khan (Bawaj Khe)
Advocate High Court
& Federal Shariat Court

FMC
For record please

**BEFORE SERVICE TRIBUNAL KHYBER PUKHTUNKHWA
AT PESHAWAR**

WAKALT NAMA


Title:

Constable Irfan Ali versus IGP and others

I/we do hereby appoint **SHABIR AHMAD KHAN (Dawlat khel)** Advocate High Court in the above cited case/ suit/ appeal/ revision/ petition to do all or any of the following acts, deeds and things:

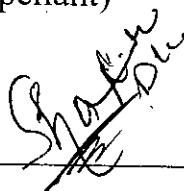
- 1) To appear, act and plead for me/us in the above cited case/ suit/ appeal/ revision/ petition in this court/tribunal and which the same may tried or heard, and any other proceedings arising out of or connected therewith.
- 2) To sign and verify and file , case/ suit/ appeal/ revision/ petition , affidavits etc. as may be deemed necessary or advisable by them for the conduct , prosecution or defense of the said case at all its stages.
- 3) To receive payment of, and issue receipt for, all money that may be or become due and payable to me/us during the course of proceeding.
- 4) To do any act necessary or ancillary to the above acts , deed and things.
- 5) To appoint any other counsel to do any/all of the acts, deeds and things.
- 6) I/We shall appear in the court/tribunal on every date of hearing for assistance and if due to my/our non- appearance, any adverse judgment/ order/decree is passed, he will not be held responsible.

IN WITNESS whereof I/We have signed this Waklat Nama hereunder , the contents of which have been read/ explained to me/us and fully understood by me/us this.



Const: Irfan Ali (Appellant)

Attested and Accepted by:



SHABIR AHMAD KHAN (Dawlat khel)

Advocate High Court

Dated:29-07-2019

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 992/2019

Constable Irfan Ali No.2722 posted at Police Station Saidu Sharif Swat

..... Appellant

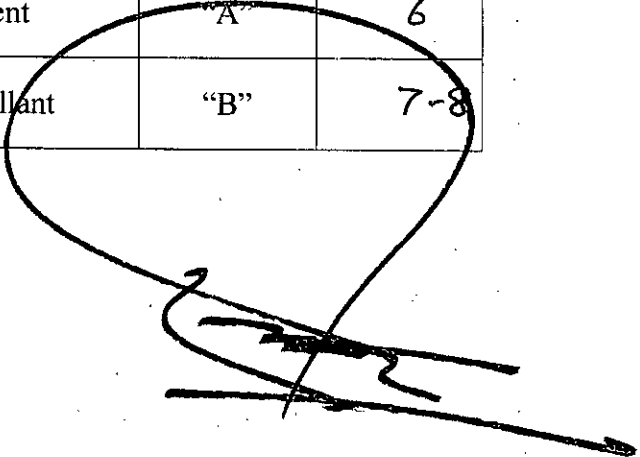
VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, at CPO Peshawar.
2. Regional Police Officer Malakand at Saidu Sharif, District Swat
3. District Police Officer Swat.

...Respondents

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S.No:	Description of Documents	Annexure	Page
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2	Affidavit	-	4
3	Authority Letter	-	5
4	Copy of list of punishment	"A"	6
5	Copy of statement of appellant	"B"	7-8


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

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 992/2019

Constable Irfan Ali No.2722 posted at Police Station Saidu Sharif Swat

..... Appellant

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, at CPO Peshawar.
2. Regional Police Officer Malakand at Saidu Sharif, District Swat
3. District Police Officer Swat.

....Respondents

PARAWISE REPLY BY RESPONDENTS

Respectfully Shewith,

PRELIMINARY OBJECTIONS.

1. That the appeal is badly barred by Law & limitation.
2. That the appellant has got no Cause of action and locus standi to file the present appeal.
3. That the appeal is bad due to misjoinder and nonjoinder of necessary parties.
4. That the appellant has not come to the Tribunal with clean hands.
5. That the instant appeal is not maintainable in its present form.
6. That the appellant has concealed the material facts from this Hon'ble Tribunal.
7. That the respondent No.02 has taken lenient view by modification of the major punishment into minor punishment, hence the appeal is tenable in its present form.

FACTS:

- 1) Correct to the extent the appellant was recruited as Constable in Police Department, however he was awarded 14 minor punishments for willful absence from official duty. List of punishment enclosed as annexure "A".
- 2) Pertains to record, hence needs no comments.
- 3) Pertains to record, hence needs no comments.
- 4) Pertains to record, hence needs no comments.
- 5) Incorrect. The accused was acquitted by the Court in light of contradictory statement recorded by the appellant in the criminal Court.
- 6) Pertains to record, hence needs no comments.

- 7) Incorrect. Proper departmental enquiry was conducted against the appellant. He was issued Charge Sheet coupled with statement of allegations and Addl: SP Swat was deputed as Enquiry Officer. He was provided all the opportunities of self defence and personal hearing during the course of enquiry.
- 8) Pertains to record, hence needs no comments.
- 9) Correct to the extent that Revision Petition of the appellant was filed by Respondent No.01 being badly time barred. The appellant has wrongly challenged the legal and valid orders of the respondents before the honorable Tribunal through unsound reasons/grounds.

GROUND:

- a) Incorrect. There is no malafide intention on the part of Enquiry Officer. All the codal formalities have been observed during the course of enquiry under the law/rules.
- b) Incorrect. All the opportunities of personal hearing and self defence have been provided to the appellant during the course of enquiry and he was dismissed from service after completing all codal formalities under the law/rules.
- c) Incorrect. The allegations leveled against the appellant have been proved during proper departmental enquiry conducted by the Addl: SP Swat, wherein he was personally heard and opportunity of self defence has also provided to the appellant during enquiry.
- d) Incorrect. As stated above, the appellant has dismissed from service after completing all codal formalities. Opportunities of self defence and personal hearing have been provided to the appellant during the course of enquiry.
- e) Incorrect. Orders of the respondents are reasonable, legal and in accordance with law/rules.
- f) Incorrect. The appellant was treated in accordance with law/rules and all the codal formalities have been fulfilled during the course of enquiry as per law. No violations of law/rules have been made by the respondents in their orders.
- g) Incorrect. The appellant has wilfully recorded contradictory statement in the criminal Court during Trial. Furthermore he has admitted the charges of contradictory statement in his statement recorded by the Enquiry Officer. Copy enclosed as annexure "B".

- h) Correct to the extent that the appellant and seizing officer were the witnesses of the case. Usually before entering into the witness box, all the witnesses used to refresh their memories from the record and then record their statements but appellant has testified wrong answer to the question put up by defence counsel which benefited the accused and gross misconduct on his part.
- i) Appellant being material witness, has destroyed the prosecution case due to his contradictory and favorable statement toward the accused, therefore lodging of appeal would have no legal value and futile exercise.
- j) Incorrect. As stated above, the appellant has wilfully recorded contradictory statement and benefited the accused.
- k) That the respondents may be allowed to add more grounds at the time of arguments.

PRAYER:

Keeping in views the above facts and circumstances, it is humbly prayed that the appeal of appellant being devoid of legal force may kindly be dismissed with costs.

Anwar Khan

**Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar
(Respondent No.01)**

[Signature]
**Regional Police Officer,
Malakand at Saidu Sharif Swat
Regional Police Officer
Malakand Region
(Respondent No.02)**

[Signature]
**District Police Officer Swat
(Respondent No.03)**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 992/2019

Constable Irfan Ali No:2722 posted at Police Station Saidu Sharif Swat

..... Appellant

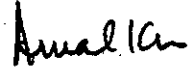
VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, at CPO Peshawar.
2. Regional Police Officer Malakand at Saidu Sharif, District Swat
3. District Police Officer Swat.


....Respondents

AFFIDAVIT

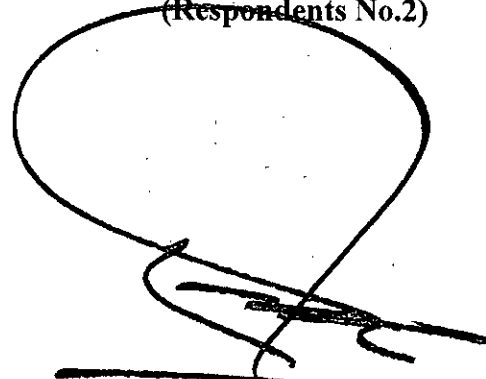
We, the above respondents do hereby solemnly affirm on oath and declare that the contents of the appeal are correct/true to the best of our knowledge/ belief and nothing has been kept secret from the honorable Tribunal.



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



Regional Police Officer,
Malakand at Saidu Sharif (Officer)
**Regional Police Officer
Malakand-Region
(Respondents No.2)**



**District Police Officer, Swat
(Respondents No.3)**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 992/2019

Constable Irfan Ali No.2722 posted at Police Station Saidu Sharif Swat

..... Appellant

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, at CPO Peshawar.
2. Regional Police Officer Malakand at Saidu Sharif, District Swat
3. District Police Officer Swat.

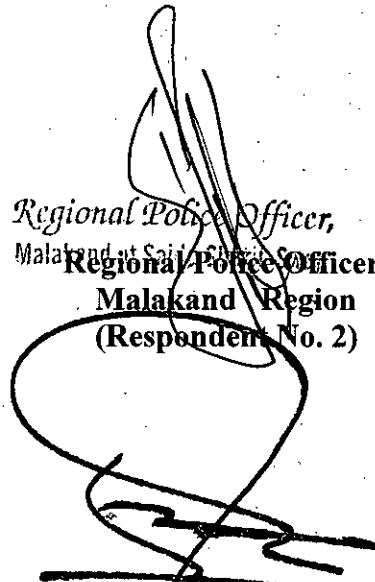
....Respondents

AUTHORITY LETTER

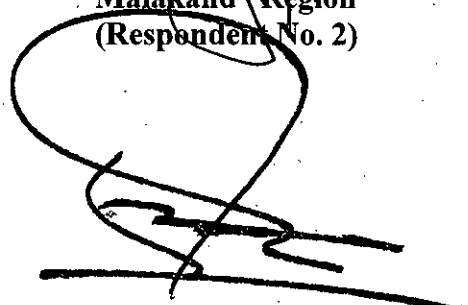
We, the above respondents do hereby authorize Mr. Mir Faraz Khan DSP/Legal Swat & Mr. Khawas Khan SI Legal to appear before the Tribunal on our behalf and submit reply etc in connection with titled Service Appeal.



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



**Regional Police Officer,
Malakand at Saidu Sharif Swat
Malakand Region
(Respondent No. 2)**



**District Police Officer Swat
(Respondent No. 3)**

**Bad Entries/Minor Punishment detail of Constable Irfan Ali Swat
Police**

Sr.No	Misconduct	Nature of punishment
01	Absented from duty w.e.f 20/04/2010 to 24/04/2010.	Without pay
02	01/07/2010 to 13/07/2010	Without pay
03	16/07/2010 to 23/07/2010	Without pay
04	29/09/2012 to 02/10/2010	Without pay
05	05/05/2011 to 04/05/2011	Without pay
06	27/12/2016 to 08/01/2017	Without pay
07	17/12/2016 to 24/12/2016	Without pay
08	26/05/2017 to 27/05/2017	Without pay
09	17/07/2017 to 19/07/2017	Without pay
10	29/04/2017 to 04/08/2017	Without pay
11	22/10/2017 to 24/10/2017	Without pay
12	26/10/2017 to 19/11/2017	Without pay
13	20/03/2018 to 22/03/2018	Without pay
14	17/12/2018 to 01/01/2019	Without pay


Establishment Clerk

بیان از ان مقام علی 2722 مضمون نویسی میں ہے۔

بیان کیا کہ میں 2010 کو جب کہ میں میں بھیت لگی ہوئی ہو گا ہوں۔

سال 2016 میں میں قحان منگورہ میں لعلیات تھا۔ فرم 24/10/16 کو علی باجاری قحان منگورہ کے ساتھ ڈیوٹی پر تھا۔ میں طارق حسین نامی شخص کے قبضے میں ہیں برآمد ہو کر جس کے خلاف ریجنل

نمبر 1062 فرم 24/10/16 جم CNVA-C و قحان منگورہ قحان لا

فرم میں دستخط کیے۔ اسے مقدمہ میں فراہم کیا گیا ہے۔

صوت میں کتب طلبی کر جیوں پر قبضے کی سوا کرتے ہیں۔

انہی قبضے کے مناسبت سے اجماع جوابات دیتے۔ واقع میں

قبل ازیں کہیں کہی مقدمہ میں گواہی نہیں کہتی۔ پہلی مقدمہ میں

تھیں رہے تھے۔ اگر میں میں گواہی کے لئے

میں دیرہ ڈالنے میں ملک ماقوم کا رہنے کے تیار کی گئے۔

اندہ قحان پر ہو گا۔ اور ایسا شہرہ ہے وہی میرا ماہو

کوہ ڈکیشن میں کیا تھا۔ کہ سچا رہتا ہے کہ ہے۔

مقام علی 2722

۲۱۰