


ORDER
02.01.2023


Nemo for the appellant. Mr. Naseer-ud-Din Shah, Assistant Advocate General for official respondents No. 1 to 3 present.

The appeal in hand was called on for hearing after various intervals, however none appeared on behalf of the appellant till the closing time, 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
02.01.2023


(Mian Muhammad)
Member (E)


(Salah-Ud-Din)
Member (J)

SCANNED
KPST
Peshawar

31.08.2022

Clerk of learned counsel for the appellant present.
Mr. Kabirullah Khattak, Additional Advocate General for
official respondents No. 1 to 3 present.

Learned Member (Judicial) Ms. Rozina Rehman is
on leave, therefore, arguments could not be heard.
Adjourned. To come up for arguments on 14.11.2022
before the D.B.



(Salah-ud-Din)
Member (Judicial)

14.11.2022

Clerk of counsel for the appellant present.

Muhammad Jan learned District Attorney for respondents
present.

Learned Member (Judicial) is on leave, therefore,
arguments could not be heard. Adjourned. To come up for
arguments on 02.01.2023 before D.B



(Fareeha Paul)
Member (E)

SCANNED
KFST
Peshawar

12.01.2022

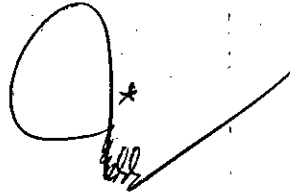
Due to non-availability of the concerned DB, the case is adjourned to 28.04.2022 for the same before D.B.


Reader

28.04.2022

Nemo for the appellant. Mr. Naseer-ud-Din Shah, Assistant Advocate General 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 22.06.2022 before the D.B.



(Mian Muhammad)
Member (E)



(Salah-ud-Din)
Member (J)

22.06.2022

Nemo for parties.

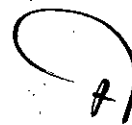
Naseer Ud Din Shah learned Assistant Advocate General present.

Despite directions, parties were not put on notice for the reasons best known to concerned Moharrir. The matter be brought into the knowledge of learned Chairman for necessary action against the concerned. Notices be issued to both the parties for the date fixed. To come up for arguments on 31.08.2022 before D.B.

Counsel was informed telephonically while local respondent was put on notice except private respondents. On previous date Counsel was also informed telephonically. The main reason is the lack of postal tickets.



(Fareeha Paul)
Member(E)




(Rozina Rehman)
Member (J)

20.01.2021

Junior counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate General alongwith Fayyaz H.C for respondents present.

Representative of respondents submitted written reply/comments. To come up for rejoinder, if any, and arguments on 12.04.2021 before D.B.


(Rozina Rehman)
Member (J)


12.4.21


Due to COVID 19, the case is adjourned to 28.7.21 for the same.

28.07.2021

Clerk of counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Clerk of counsel for the appellant stated that learned counsel for the appellant is unable to attend the Tribunal today due to strike of Lawyers. Adjourned. To come up for arguments before the D.B. on 22.09.2021.


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


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

22.09.2021

Counsel for appellant present.

Muhammad Adeel Butt learned A.A.G for respondents present.

Former made a request for adjournment. Request is accorded. To come up for arguments on 12.01.2022 before D.B.


(Rozina Rehman)
Member (J)


Chairman

22.07.2020

Junior counsel for appellant is present. Notices to respondents could not be issued due to public holidays on account of COVID-19, therefore, fresh notices be issued to the respondents for submission of written reply/comments. To come up for written reply/comments on 14.09.2020 before S.B.


(MUHAMMAD JAMAL KHAN)
MEMBER

14.09.2020

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

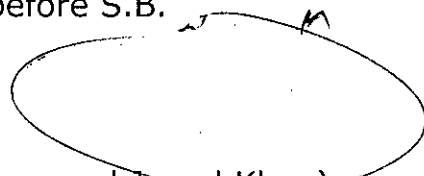
Learned AAG seeks time to furnish reply/comments on behalf of the respondents. Adjourned to 03.11.2020 on which date the requisite reply/comments shall positively be furnished.


Chairman

03.11.2020

Nemo for appellant. Mr. Kabirullah Khattak, Additional Advocate General is present.

Written reply on behalf of private respondent No. 4 has been submitted through daily Diary No. 723 dated 15.09.2020 which is made part of record. Written reply on behalf of official respondents No. 1 to 3 not submitted nor any representatives on their behalf are present, therefore, notices be issued to them for submission of written reply/comments. File to come up for written reply/comments on 20.01.2021 before S.B.


(Muhammad Jamal Khan)
Member (Judicial)

18.03.2020

Appellant with counsel present. Preliminary arguments heard.

The appellant (Inspector) has filed the present service appeal against the order dated 11.07.2019 whereby he was awarded minor punishment of stoppage of two annual increments for a period of two years with cumulative effect and against the order dated 04.10.2019 through which his departmental appeal was rejected.

Submissions made by the learned counsel for the appellant, 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 written reply/comments. To come up for written reply/comments on 07.05.2020 before S.B.

SCANNED
KPST
Peshawar

Appellant Deposited
Security & Process Fee
18/3/20

Member

07.05.2020

Due to COVID19, the case is adjourned to 22.07.2020 for the same as before.


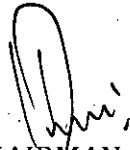

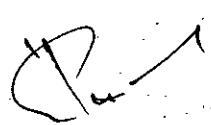
Reader

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1515/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	12/11/2019	<p>The appeal of Mr. Irshad Ali presented today by Saifullah Mohmand Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR 12/11/19</p>
2-	14/11/19.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>18/12/19.</u></p> <p> CHAIRMAN</p>
	18.12.2019	<p>Counsel for the appellant present.</p> <p>Learned counsel requests for adjournment due to his indisposition today. Adjourned to 29.01.2020 before S.B.</p> <p> Chairman</p>
29.01.2020		<p>Appellant in person present. Due to general strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for preliminary hearing on 18.03.2020 before S.B.</p> <p> Member</p>

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

Service Appeal No 1515/2019

Mr. Irshad Ali, Inspector

V E R S U S

Inspector General of Police, K.P,K Peshawar & others

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I N D E X

S. No	Description of documents	Annexure	Pages
1	Service Appeal		105
2	Affidavit. Copy of Daily Diary No,12 dated 27.04.2019		06
3	Copy of Daily Diary No,12 dated 27.04.2019	"A"	7
4	Copy of order of Judicial Magistrate.	"B"	8
5	Copy of FIR No.419 dated 12.06.2019 U/S 365-B PPC Police Station Pabbi	"C"	9
6	Copy of Statement of Abductee u/s 164 Cr.P.C	"D"	10
7	Copy of remarks of Respondent No.3	"E"	11-12
8	Copy of impugned order No.3201-03/PA dated 11.07.2019	"F"	13
12	Copy of departmental appeal	"G"	14-15
13.	Copy of impugned order No.11725/ES dated 04.10.2019 communicated on dated 10.10.2019	"H"	16
14.	Wakalat Nama		17


Appellant

Through


(SAIF ULLAH MOHMAND

Advocate, Peshawar.

Dated: - 09.11.2019

1
①

BEFORE THE CHAIRMAN SERVICE TRIBUNAL, K.P.K,
PESHAWAR.

Service Appeal No 1515 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1609

Dated 12-11-2019

Mr. Irshad Ali, Inspector, Station House Officer, Police Station
Akora, District Peshawar.

.....Appellant

V E R S U S

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Mardan.
3. District Police Officer, Nowshera.
4. Mr. Tassarwar Iqbal, Assistant Superintendent of Police, Cantt,
Nowshera.

..... Respondents

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APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974,
AGAINST THE IMPUGNED ORDER DATED 11.07.2019
AND ORDER DATED 04.10.2019, WHEREBY THE
DEPARTMENT APPEAL OF THE APPELLANT WAS
REJECTED VIDE ORDER DATED 04.10.2019.

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PRAYER-IN-APPEAL:-

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ON ACCEPTANCE OF INSTANT APPEAL, THE
IMPUGNED ORDER DATED 11.07.2019 AND
ORDER DATED 04.10.2019, MAY KINDLY BE
SET ASIDE AND THE RESPONDENTS MAY
GRACIOUSLY BE DIRECTED TO RESTORE
THE ANNUAL INCREMENTS WITH ALL
BACK BENEFITS IN FAVOUR OF THE
APPELLANT.

Filed to-day

Registrar
12/11/19

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Respectfully Sheweth:-

1. That the appellant serving in Police department as Inspector, presently deputed as Station House officer (SHO), Police Station Akora Khattak, District Nowshera.
2. That the appellant enjoys unblemished service record. During the entire service, performance of the appellant was up-to the entire satisfaction of his superior officers. During duties his performance remained good and there was not a single complaint against him regarding his duties or otherwise.
3. That on dated 27.04.2019, when appellant was serving as SHO Police Station, Pabbi District Nowshera, One Mr. Ghazi Khan S/O Gul Zaman R/O Mohib Banda, came to Police Station and reported the matter to the effect that his daughter namely Mst. Mehwish aged about 15/16 years went missing on 26.04.2019, he searched for her but to no avail. Consequently his reported was duly incorporated in Shape of Daily Diary vide No.12 dated 27.04.2019. (Copy of Daily Diary No.12 dated 27.04.2019 is attached herewith as **Annexure "A"**).
4. That as the above-mentioned complainant neither charged any culprit by name nor suspected anyone for the commission of offence of abduction / kidnaping and also the bare perusal of the contents of his report created doubt in a prudent mind, hence an enquiry under section 156 (3) of Criminal Procedure Code, was initiated into the matter, in order to dig out real facts and for this purpose the Enquiry was entrusted to SI Akmal Khan, who after fulfilment of all codal formalities and after taking proper approval from the concerned court of Judicial Magistrate, initiated the said enquiry. (Copy of order of concerned Magistrate is attached herewith as **Annexure "B"**).
5. That during the course of enquiry, Call Data Record (CDR) was obtained and several suspects were associated with the enquiry proceedings. Ultimately after sifting facts from the fictions, a case

vide FIR No.419 under Section 365-B PPC was registered on dated 12.06.2019 in Police Station Pabbi, nominated accused namely Nadeem was arrested on the very same day and the alleged abductee was also recovered. (Copy of FIR is attached herewith as **Annexure "C"**).

6. That on dated 17.06.2019 the above-mentioned abductee approached the local court of Judicial Magistrate and recorded her statement under section 164 Cr.P.C, wherein she categorically denied the allegations of her abduction rather stated that being sui juris she had contracted a valid Nikah with the nominated accused with her own sweet will. (Copy of the Statement U/S 164 Cr.P.C is attached herewith as **Annexure "D"**).
7. That in the meanwhile brother of the alleged abductee filed an application before the respondent No.3, for impartial investigation into the matter, who without looking into the facts and circumstances of the case and without perusing the progress of the case, directed the initiation of departmental enquiry against the appellant for delay in lodging the FIR. (Copy of remarks of Respondent No.3 is attached herewith as **Annexure "E"**).
8. That consequently Respondent No.5 was appointed as enquiry Officer, who on conclusion of his enquiry submitted the same before the respondent No.3 wherein he recommended for imposing minor punishment of forfeiture of approved service for one year.
9. That on the basis of said enquiry, respondent No.3 vide his order No. 3201-03/PA dated 11.07.2019 awarded the appellant minor punishment of stoppage of 2 annual increments for a period of two years with cumulative effect. (Copy of Office Order No.3201-03/PA dated 11.07.2019 is attached herewith as **Annexure "F"**).
10. That against the said impugned order appellant filed his departmental appeal to the Respondent No.2, being next higher in authority but the same was rejected by the said respondent vide his

(4)

Office order No.11725/ES on dated 04.10.2019, which was communicated to the appellant on dated 10.10.2019. (Copies of departmental appeal, impugned order No.11725 dated 04.10.2019 is are attached herewith as **Annexure "G" & "H"** respectively).

11. That being highly aggrieved from the above-mentioned both the impugned orders dated 11.07.2019 and dated 04.10.2019, the appellant having no other efficacious remedy available to him but to approach this Hon'ble Tribunal on the following grounds inter-alia.

GROUNDS: -

- A. That the impugned order dated 11.07.2019 and dated 04.10.2019 are illegal, unlawful against the established norms of natural justice, hence untenable and liable to be set aside.
- B. That the non-registration of the FIR was neither deliberate nor any malafide intention was involved in it but as evident from the perusal of the report, the complainant neither charged any culprit by name nor suspected anyone for the commission of offence of abduction / kidnapping, hence the allegations were required to be enquired thoroughly, therefore, his report was duly incorporated in shape of Daily Diary and enquiry was initiated.
- C. That during the enquiry proceeding under section 156(3) Cr.P.C, the Investigation staff collected sufficient evidence vis-a-vis CDR data of several suspects were collected and ultimately real culprit was arrested and abductee was also recovered, hence awarding punishment to the appellant on sole ground of lodging the FIR at belated stage is unjust and improper.
- D. That proceeding conducted in the case referred to above would clearly show that appellant has got no ill-will or dishonest intention in lodging the proper FIR, rather the same were carried out under the law for the purpose of sifting the facts from fiction.

5

- E. That FIR which stands for First Information Report does not mean that the same should be in a specific shape rather any report which is lodged with police at first instance can be treated as FIR, hence the report in shape of Daily Diary can validly be considered as FIR in the eyes of law.
- F. That in cases of abduction, the initial reports are lodged in Shape of Daily Diaries as the culprits are usually not known to the complainant party at the first instance, hence such like cases the accused are charged after due search through proper FIR.
- G. That the Appellant craves permission of this Honourable Tribunal to raise any other ground at the time of arguments.

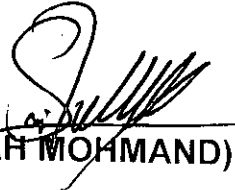
It is, therefore, respectfully prayed that on acceptance of this Service Appeal, the impugned order No.3201-03/PA dated 11.07.2019 and Order No. 11725/ES dated 04.10.2019, kindly be set aside and the respondents may graciously be directed to restore the annual increment of the appellant with all back benefits

Any other relief, which this Honourable Court deemed just and proper, may also be granted to the Appellants not specifically prayed for herein.


Appellant

Dated:-08.11.2019

Through:


(SAIF ULLAH MOHMAND)
Advocate, Peshawar

BEFORE THE CHAIRMAN SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR.

Service Appeal No _____/2019

Mr. Irshad Ali, Inspector

VERSUS

Inspector General of Police, K.P.K Peshawar & others


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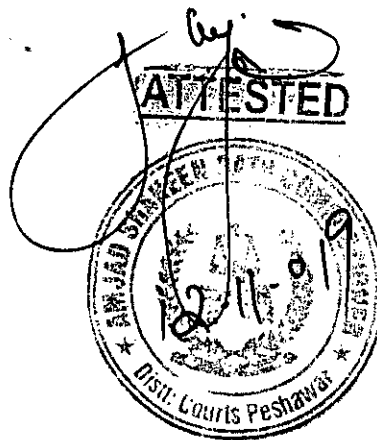
AFFIDAVIT

I, Irshad Ali, Inspector, Station House Officer, Police Station Akora Khattak, District Nowshera, do hereby solemnly affirm and declare on oath the contents accompanying appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Identified by

Deponent


Saif Ullah Mohmand
Advocate, Peshawar



نقل در 19 دوز ناچ 27/4

مطلع نوشیتر

در 19 لورد کے غازی خان ملہ ملہ سال 54/55 سال میں جب ہانڈہ خانہ میں
 لوقت 15:00 بجے موضع 4/19 کے گاؤں میں لورد کے رہائشی دفتر
 آگ مچا کر موشوں پر 1/10 سال جو دسویں جماعت میں پڑھتی تھیں
 رات کو آتش اوتھانے دوسری منزل میں کتا پھرتی پڑھتی تھیں جو
 عشاء دیکھ کر خود میں موجود تھیں یہی رات کی سوکر جمع آگے
 کر دی گئی تو دفتر آگ موشوں گھم خود میں موجود تھیں تھیں
 رشتہ داران نے ان تلاش کیستہ ہزارہہ کٹر کسی کٹر کی دیویات
 نہیں ہوئی گا اہل میں پر کوئی کٹر و شبہ نہیں ہے لورد کے
 جا رہے تھے یہی اور کٹر لورد اس طرح ہزارہہ موش خانہ 30
 سال لورد کے تالیف کی اور کٹر لورد کے ساتھ جب کٹر لورد
 دنیا میں پورے کٹر لورد کے ساتھ کٹر لورد کے ساتھ اور لورد کے
 نے کٹر لورد کے ساتھ کٹر لورد کے ساتھ کٹر لورد کے ساتھ
 موشوں پر 1/10 سال کٹر لورد کے ساتھ کٹر لورد کے ساتھ
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 نقل در علیہ مرتبہ کٹر لورد کے ساتھ کٹر لورد کے ساتھ

نقل در علیہ مرتبہ



Attested.

صفحة نو شہرہ

(8)

تھانہ میں

Annex B بحوالہ عدد 12 از روزنامہ "آواز" 27 اپریل 1966ء نمبر 1566

پرائمری اسکول، غازی خان، قریب کنگریاں، ضلع میانوالی، سندھ

پتہ: قلعہ

درخواست برائے اجازت (جی 1566) نمبر

ص - حال

بحوالہ عدد 12 از روزنامہ "آواز" میں درجہ اولیٰ میں سے دوسرے خود مختار

مختار ہو گا۔ 15/4/66ء کو خود مختار کی اجازت کی گئی تھی۔ چونکہ

اس میں دوسری میں آئی ہے۔

مختار اور اصل حقائق مندرجہ بالا کے لیے منظور کیا گیا ہے (جی 1566) نمبر

مختار کی اجازت۔ 1566 نمبر کی اجازت سے مختار

مختار ہے

Seemab Waher Siddiqui

S.H.O./P.S./M.B. 29-4-66

29/4/66

Forwarded

Seemab Waher Siddiqui

S.H.O./P.S./M.B. 30-4-66

allow, with the
attention to
the 14/4/66 with
07

Seemab Waher Siddiqui
Judicial Magistrate-II
Nowshera

Attested


10

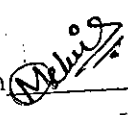

Statement of Mst.Mehwish daughter of Ghazi Khan wife of Nadeem Khan aged about 18 years resident of village Mohib Banda Tehsil Pabbi Distt; Nowshera, on oath.



Annex D

Stated that one day I was going to the house of my paternal uncle Liaqat Ali son of Gul Zaman resident of village Mohib Banda. I was intoxicated by someone in my way to the house of my paternal uncle by someone and was picked up from the thoroughfare and in front of house of my paternal uncle. I was taken to an abandoned area by said persons and was kept there for four days. Abductors told me that they have abducted me just to disgrace my father. Abductors then let me off whereby I took shelter in the house of one Nadeem son of Abdul Muhammad resident of Jamodar Mardan. Family members of the house were very much kind and respectables. They provided me shelter in their house. Since I was living in the house of Nadeem son of Abdul Muhammad resident of Jamodar Mardan therefore I contracted Nikah with him with my consent and free sweet will, I was then sent to women Crises Centre Mardan upon my request by this court. My father Ghazi Khan son of Gul Zaman is present before court therefore I want to go with my father with my free consent and sweet will however my father may be bound down regarding my safety and shelter.


R.O & A.C
17.06.2019


Akbar Ali Mohmand,
SCJ (J)/Judicial Magistrate-1,
Nowshera.

Mst.Mehwish 
Mark of Identification: Leprosy marks on
Hands and eyes. 

IDENTIFIED BY
Mahosh son of Ghazi Khan
(brother of Mst. Mehwish) 
CNIC # 17201-5373127-7. 

Certified under section 164 Cr.P.C


Akbar Ali Mohmand,
SCJ (J)/Judicial Magistrate-1,
Nowshera.


Attested.

17/06/2019
1966/6/15
192
00
110
116
118



OFFICE OF THE
DISTRICT POLICE OFFICER,
NOWSHERA.

TEL: 0923-9220102, FAX: 0923-9220103
Email: ccdl.nowsheraok@gmail.com

2019

Annex E

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

11

11.12
30-05-19

No. /C-Cell dated Nowshera the 21/05/2019.

Subject: REQUEST FOR IMPARTIAL INVESTIGATION AND ENQUIRY PS PABBI, NOWSHERA (COMPLAINT CODE: 2019/05-1915).

Memo: Kindly refer to your office letter No.PPO/PAS/2019/05-2034, dated 08-05-2019.

1. It is submitted that the subject complaint lodged by Mahosh Khan s/o Ghazi Khan r/o Muhib Banda, district Nowshera regarding missing of his sister Mst: Mehwish aged 15/16 years. In this regard, a report has been entered vide DD # 12 dated 27/04/2019 PS Pabbi by the father of applicant.

2. Moreover, an enquiry u/s 156 (3) Cr.PC was initiated. During the course of enquiry, several mobile numbers were obtained from the brother of the missing girl and CIDRs were obtained. Several suspects were interrogated but in vain. Different Eidhi Centers and hospitals also were addressed regarding the incident. Efforts are underway for the early recovery of missing girl and to ascertain facts of the incidents.

Submitted please.

District Police Officer,
Nowshera.

No. 470 /C-Cell

Copy of above is forwarded to the Deputy Inspector General of Police, Mardan Region-I, Mardan w/r to his office Dy: No. 920/C-Cell dated 07-05-2019, for favor of information please.

District Police Officer,
Nowshera.

DPB Nowshera
Investigatory Progress report
has the case so far not been
registered after the complainant report
abduction of his sister. Despite report
considerable time, neither Lahore of
& registering case nor has been able to
recover the case. A case be registered forthwith, abduction
to be recovered at the earliest
and PTO

✓
Ahsan

(12)

The SHO be protected against departmentally for non-registration of FIR and failure of working out the case. The SDO is expected to effectively supervise the investigators. The progress in case / investigation and outcome of the departmental proceedings against the SHO to be communicated to this office at the earliest.

Manoj
B/S

SPOD Pabbi / SHO Pabbi
For compliance of working
RPOs resource / direct out

31/05/2019

PA
Issue charge sheet
31/05/19

Attested.

Annex F

13

2

NOWSHERA DISTRICT

POLICE DEPARTMENT

ORDER


This order will dispose off a departmental enquiry initiated under Khyber Pakhtunkhwa Police Rules, 1975 against Inspector Irshad Khan, he while posted as SHO PS Pabbi, Mahesh Khan r/o Mohib Banda, district Nowshera had reported at PS Pabbi regarding the missing of his daughter namely Mst. Mehwish aged 15/16 years vide DD No. 12 dated 27.04.2019, but he neither registered FIR, nor recovered the abductee despite laps of one month.

On account of which, he was proceeded against departmentally through Mr. Tassawar Iqbal, ASP Cantt Nowshera, who after fulfilment of legal formalities, submitted his report to undersigned vide his office Endst. No. 631/Str. dated 28.06.2019, wherein the allegation regarding delay in FIR registration was proved against the delinquent officer and suggested him for minor punishment of forfeiture of approved service for one year.

In the light of above, he is hereby awarded minor punishment of stoppage of 02 annual increments for a period of two years with cumulative effect, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules-1975.


OB No. 751

Dated 13/7/2019


District Police Officer,
Nowshera

No. 3201-03/PA, dated Nowshera, the 11/07/2019.
Copy for information and necessary action to the:

1. Pay Officer.
2. Establishment Clerk.
3. FMC with its enclosures (19 sheets).


Attested.

To,

14
The Deputy Inspector General of Police,
Mardan Region-I, Mardan.

Annex G

Subject: DEPARTMENTAL APPEAL

Respected Sir,

1. That the appellant is serving as Inspector/SHO Police Station, Pabbi District: Nowshera (Now SHO Akora Khattak) and on 27-04-2019 at about 1500 hours one Mr. Ghazi Khan s/o Gul Zaman r/o Mohib Banda came to Police Station, Pabbi and reported to the effect that his daughter namely Mst: Mehwash aged about 15/16 years went missing on 26-04-2019, he searched for her but to no avail. His report was duly entered into daily diary vide No. 12 dated 27-04-2019.
2. That in order to dig-out real facts, enquiry into the matter was initiated because from the bald reading of contents of his report prima-facie no offence was made out. Therefore, enquiry was entrusted to SI Akmal Khan who after fulfilment of codal formalities, initiated enquiry after taking proper approval from the competent court.
3. That during the course of enquiry, Call Data Record was obtained and several suspects were associated with the enquiry.
4. That after sifting facts from the fictions, a case vide FIR No. 419 dated 12-06-2019 u/s 365 PPC Police Station, Pabbi was registered, accused Nadim was arrested on the same day and the alleged abductee was recovered.
5. That the above named abductee recorded her statement before the concerned court wherein she categorically denied her abduction rather stated that being sui-juris she contracted a valid marriage with the afore-referred accused with her own sweet will.
6. That on account of non-registration of FIR, the appellant was proceeded against departmentally through ASP Nowshera Cantt. during the course of enquiry the appellant submitted full-fledged reply but the same was paid no heed. Where-after, the competent authority awarded the appellant the subject punishment. which is totally against the norms of natural justice. (Punishment order is attached)
7. That as discussed earlier, that non-registration at the very first instance was neither deliberate nor willful rather the report being

f
Attended

based on suspicion was required to be enquired thoroughly, therefore, his report was duly penned in the daily diary and enquiry was initiated. (15)

8. That after collecting evidence, FIR was registered, during the course of investigation the alleged abductee was recovered and accused was arrested forthwith. Therefore, all legal and codal formalities were fulfilled but even then the appellant was awarded the above mentioned punishment for his no fault.
9. That the appellant has been awarded the subject punishment on account of registration of FIR on the sole ground of registration of FIR at a belated stage which has not legal value because as discussed earlier, after collection of evidence enquiry was concluded and FIR was registered. Therefore, the appellant is totally innocent because no malafide or ill-will could be found on the part of appellant.

It is therefore, requested that on acceptance of above submissions, the punishment order whereby the appellant was awarded minor punishment of stoppage of 02 annual increments with cumulative effect may very kindly be set aside.

Your's Obediently,


Irshad Ali Inspector/SHO
Police Station, Akora
District Nowshera.


Attested.

ORDER.

16

Annex H

This order will dispose-off the departmental appeal preferred by Inspector Irshad Khan of Nowshera District Police against the order of District Police Officer, Nowshera, whereby he was awarded Minor punishment of Stoppage of two annual increments for a period of two years with cumulative effect vide OB No. 751 dated 12.07.2019.

Brief facts of the case are that, the appellant, while posted as SHO Police Station Pabbi, one Ghazi Khan r/o Mohib Banda, District Nowshera had reported at Police Station Pabbi regarding the missing of his daughter namely Mst: Mehwish aged 15/16 years vide DD No. 12 dated 27.04.2019, but he neither registered FIR, nor recovered the abductee despite laps of one month.

On account of which, he was proceeded against departmentally through Mr. Tassawar Iqbal, the then ASP Contt Nowshera. The Enquiry Officer after fulfillment of legal formalities, submitted his report to District Police Officer, Nowshera, wherein the allegation regarding delay in registration of FIR was proved against the delinquent officer and suggested him for minor punishment of forfeiture of approved service for one year.

In the light of above, he was awarded minor punishment of stoppage of 02 annual increments for a period of two years with cumulative effect by the District Police Officer, Nowshera vide his office endorsement No. 3201-03/PA dated 11.07.2019.

He was called in orderly room held in this office on 01.10.2019 for defending himself. He was heard in person but did not produce any solid ground to prove his innocence. Hence his departmental appeal for restoration of two annual increments for a period of two years is hereby rejected.

OFFICE ANNOUNCED

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

No. 11725/ES,

Dated Mardan the 04/10/2019.

Copy forwarded to District Police Officer, Nowshera for information and necessary w/r to his office Memo: No. 4365/PA dated 13.09.2019. His Service Record is returned herewith.




(****)

No. 1875/PA
dt 7/10/19

*EC/PMC
For reaction*

[Signature]
DROPSR

[Signature]
Attested.

31957	  
ایڈویکیٹ:	
بار کونسل ایسوسی ایشن نمبر: Bcto 8072	<p>پشاور بار ایسوسی ایشن، خیبر پختونخواہ</p>
رابطہ نمبر: 0233-9077177	

Chairman Service Tribunal K-P.K.

بعدالت جناب:

مخانب:	دعویٰ:
Mr. Hshad Ali, Inspector.	Appeal
بنام	علت نمبر:
Inspector General K-P.K.	مورخہ:
	جرم:
	تھانہ:

باعث تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ
 آن مقام کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے لپقتر کا اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخست منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

Mr. Hshad

12/11/19
 PESHAWAR BAR ASSOCIATION
 KHYBER PAKHTUNKHWA

المقام کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فوٹوکاپی ناقابل قبول ہوگی۔



From The Superintendent of Police,
City Division, Lahore.

To The Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

No. 5013-PA

Dated 12-9-2020

Subject:- **APPEAL No. 1515/2019, IRSHAD ALI Vs. IGP KPK, Police.**

Memorandum

Kindly refer to the subjected noted above..

2. It is submitted that the requisite Parawise comments on the appeal filed by Inspector Irshad Ali is attached herewith for kind perusal and further necessary action, please.

Put up to the court with
relevant appeal.

Qasim
16/9/2020

(TASSAWAR IQBAL) PSP
Superintendent of Police,
City Division, Lahore.
Former Assistant Superintendent of Police,
Cantt Nowshera.

BEFORE THE KHYBER PAKHTUNKHA SERVICE TRIBUNAL,
PESHAWAR

In re: APPEAL NO. 1515/2019

MUHAMMAD Irshad Ali VS. IGP KPK, POLICE.

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHA,
SERVICE TRIBUNAL ACT, 1974.

PARAWISE COMMENTS ON BEHALF OF ASSISTANT
SUPERINTENDENT OF POLICE, CANTT NOWSHERA,
(RESPONDENT NO. 04).

Respectfully Sheweth:-

PARAWISE COMMENTS.

Para No.1 Calls for no comments.

Para No.2 Being matter of service record of the appellant, hence calls for no comments.

**Para No.3
& 4**

This para is the version of the appellant hence calls for no comments. However, it is submitted that he was responsible to register the FIR of kidnapping of girl namely Mehwish aged 15/16 years, but he did not register the case in time intentionally.

Para No.5 Matter of record hence calls for no comments.

Para No.6 Matter of record hence calls for no comments.

**Para No. 7
to 9.**

It is submitted that during the course of enquiry proceedings the appellant held guilty of the charges leveled against him. He was punished by Respondent No. 03 vide his office order No. 3201-03/PA dated 11.07.2019 quite in accordance with law and procedure.

Para No. 10 This para does not relates to the answering respondent.

Para No.11 This para does not relate to the answering respondent.

GROUND

- A)** Denied being incorrect. It is submitted that the impugned punishment of Stoppage of increment for 02 years awarded to the appellant by respondent No. 3, under the law, rule and procedure and not otherwise.
- B &C)** These paras are the version of the appellant hence calls for no comments.
- D)** Calls for no comments.
- E)** Calls for no comments.
- F)** This para is the version of the appellant hence calls for no comments.
- G)** Calls for no comments.

Last para is the prayer of the appellant hence calls for no comments.

In view of the above submissions, the instant appeal filed by the appellant before this Honorable PST is absolutely baseless, unfounded and without any substance which deserves to be rejected, please.

**Superintendent of Police,
City Division, Lahore.
Former Assistant Superintendent of Police,
Cantt, Nowshera.
(Respondent No. 4)**

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

Service Appeal No. 1515/2019

Mr. Irshad Ali, Inspector, Station House Officer, Police Station, Akora,
District Nowshera.

.....Appellant

V E R S U S

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Mardan Region-I, Mardan.
3. District Police Officer, Nowshera.
4. Mr. Tassarwar Iqbal, Assistant Superintendent of Police, Cantt: Nowshera.

.....Respondents

REPLY ON BEHALF OF RESPONDENTS No.1,2,3&4

Respectfully Sheweth: -

PRELIMINARY OBJECTIONS

1. That the appellant has got no cause of action.
2. That the appeal is badly barred by law & limitation.
3. That the appellant has been estopped by his own conduct to file the instant appeal.
4. That the appeal is not maintainable in its present form.
5. That the appellant has not come to the Honourable Tribunal with clean hands.
6. That the appeal is bad for mis-joinder and non-joinder of necessary parties.

On Facts

1. Correct to the extent that appellant is serving in Police department as Inspector, however, currently he is performing his duties at Special Branch due to his transfer.
2. Each and every Police Officer/Official is bound to perform his duties upto the entire satisfaction of his high-ups.
3. That on 27-04-2019, when appellant was serving as SHO Police Station, Pabbi District Nowshera, a person namely Ghazi Khan s/o Gul Zaman r/o Mohib Banda reported at Police Station Pabbi regarding missing of his daughter namely Mehwish aged about 15/16 years. Appellant rather to lodge proper FIR entered the report into daily diary and initiated enquiry u/s 156(iii) Cr.P.C. Appellant was duty bound to promptly register an FIR as soon as the matter was reported, but FIR was registered on 12-06-2019.
4. Incorrect. It is immaterial that whether a complainant charges someone or not. Police (SHO) is duty bound to register FIR in case any cognizable offence is reported to him.

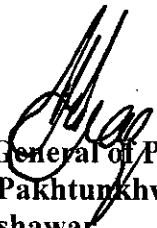
5. As explained above, appellant was duty bound to promptly register FIR when complainant reported the matter to him. Initially FIR could have been lodged against unknown accused, but rather to register FIR appellant initiated enquiry u/s 156(iii) Cr.P.C which is against the norms of law.
6. That though the alleged abductee later on appeared before the competent court and recorded her statement 164 Cr.P.C wherein she stated that she had not been abducted rather left her parent's house with her own sweet will but at the time when complainant reported the matter this fact was not known. So he was duty bound to register FIR instantly against unknown accused, but he failed to do so.
7. That an application/complaint was submitted by brother of the alleged abductee namely Mahosh s/o Ghazi Khan through Police Access Service (PAS) wherein he requested for impartial investigation and enquiry. Report on the said request was submitted to Inspector General of Police, Khyber Pakhtunkhwa and copy of the same was forwarded to Deputy Inspector General of Police, Mardan Region-I, Mardan. The then Deputy Inspector General of Police, Mardan found the report unsatisfactory and directed respondent No. 03 for initiation of departmental proceeding against the appellant. (Copy of letter alongwith remarks is annexed as annexure "A").
8. That respondent No. 04 was entrusted with the departmental enquiry against appellant who after fulfillment of all legal and codal formalities, recommended the appellant for punishment of forfeiture of service for one year.
9. Correct to the extent that appellant was awarded minor punishment of 02 annual increments for a period of 02 years with cumulative effect by respondent No. 03. (Copy of order is annexed as annexure "B").
10. Correct to the extent that appellant moved departmental appeal before the appellate authority i.e respondent No. 02 however, the same was rejected on cogent and valid ground. (Copy of order is annexed as annexure "C").
11. That the appeal of the appellant is liable to be dismissed on the following grounds: -

GROUNDS

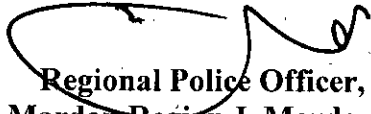
- A. Incorrect. Orders passed by the competent authority dated 11-07-2019 and by the appellate authority dated 04-10-2019 are in accordance with law, facts and principles of the natural justice, hence, liable to be maintained.
- B. That plea of the appellant, regarding non registration of FIR on the ground that nobody had been charged by the complainant, is not plausible. He was under obligation to promptly register FIR when was approached by the complainant.

- C. That plea taken by appellant is not plausible, because rather to initiate enquiry he could have registered FIR, which he failed to do.
- D. Para already explained hence, no comments.
- E. Incorrect. Giving daily diary the same weightage as FIR is not plausible. Considering both one and the same is not only incorrect but also misleading.
- F. Incorrect. As explained in the preceding paras, SHO is duty bound to register FIR as and when cognizable offence is reported to him.
- G. That the respondents also seek permission of this Honourable Tribunal to advance additional grounds at the time of arguments.


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




**Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.
Respondent No.1**



**Regional Police Officer,
Mardan Region-I, Mardan.
Respondent No. 02**



**District Police Officer,
Nowshera.
Respondent No. 3**



**Assistant Superintendent of Police,
Nowshera Cantt:
Respondent No. 04**

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

Service Appeal No. 1515/2019

Mr. Irshad Ali, Inspector, Station House Officer, Police Station, Akora,
District Nowshera.

.....Appellant

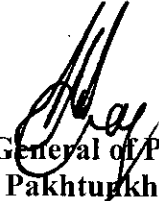
V E R S U S

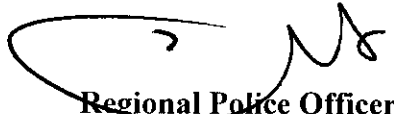
1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Mardan Region-I, Mardan.
3. District Police Officer, Nowshera.
4. Mr. Tassarwar Iqbal, Assistant Superintendent of Police, Cantt: Nowshera.

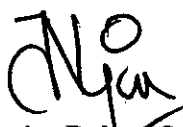
.....Respondents


AFFIDAVIT

We the respondents No. 1,2,3&4 do hereby solemnly affirm and declare on Oath that the contents of reply to the appeal are true and correct to the best of our knowledge and belief and nothing has been concealed from the Honourable tribunal.


Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.
Respondent No.1


Regional Police Officer,
Mardan Region-I, Mardan.
Respondent No. 02


District Police Officer,
Nowshera.
Respondent No. 3


Assistant Superintendent of Police,
Nowshera Cantt:
Respondent No. 04

(A)

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

11.12.19
30-05-19

No. /C-Cell dated Nowshera the 21/05/2019.

Subject: REQUEST FOR IMPARTIAL INVESTIGATION AND ENQUIRY PS PABBI, NOWSHERA (COMPLAINT CODE: 2019/05-1915).

Memo: Kindly refer to your office letter No.PPO/PAS/2019/05-2034, dated 08-05-2019.

1. It is submitted that the subject complaint lodged by Mahosh Khan s/o Ghazi Khan r/o Muhib Banda, district Nowshera regarding missing of his sister Mst: Mehwish aged 15/16 years. In this regard, a report has been entered vide DD # 12 dated 27/04/2019 PS Pabbi by the father of applicant.

2. Moreover, an enquiry u/s 156 (3) Cr,PC was initiated. During the course of enquiry, several mobile numbers were obtained from the brother of the missing girl and CDRs were obtained. Several suspects were interrogated but in vain. Different Eidhi Centers and hospitals also were addressed regarding the incident. Efforts are underway for the early recovery of missing girl and to ascertain facts of the incidents.

Submitted please.

District Police Officer,
Nowshera.

No. 470 /C-Cell

Copy of above is forwarded to the Deputy Inspector General of Police, Mardan Region- Mardan w/r to his office. Dy: No. 920/C-Cell dated 07/05/2019, for favor of information please.

District Police Officer,
Nowshera.

DPB Nowshera
Un satisfactory proper report
has the case so far not been
registered after the complainant report
abduction of his sister. Despite lapse of
considerable time, neither local police is
making any case nor has been able to
recover the alleged abducted
A case to be registered forthwith, ab-
and PTO

(B)

NOWSHERA DISTRICT

POLICE DEPARTMENT

ORDER

This order will dispose off a departmental enquiry initiated under Khyber Pakhtunkhwa Police Rules, 1975 against Inspector Irfad Khan, he while posted as SHO PS Pabbi, Mahesh Khan r/o Mohib Banda, district Nowshera had reported at PS Pabbi regarding the missing of his daughter namely Mst. Mehrwish aged 15/16 years vide DD No. 12 dated 27.04.2019, but he neither registered FIR, nor recovered the abductee despite lops of one month.

On account of which, he was proceeded against departmentally through Mr. Tassawar Iqbal, ASP Cantt Nowshera, who after fulfillment of legal formalities, submitted his report to undersigned vide his office Endst. No. 631/St. dated 28.06.2019, wherein the allegation regarding delay in FIR registration was proved against the delinquent officer and suggested him for minor punishment of forfeiture of approved service for one year.

In the light of above, he is hereby awarded minor punishment of stoppage of 02 annual increments for a period of two years with cumulative effect, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules-1975.

OB No 751
Dated 12/7/2019


District Police Officer,
Nowshera

No. 3201-03 P/A, dated Nowshera, the 11/07/2019,
Copy for information and necessary action to the:

1. Pay Officer.
2. Establishment Clerk.
3. FMC with its enclosures (19 sheets).



ORDER.

16

This order will dispose-off the departmental appeal preferred by Inspector Irshad Khan of Nowshera District Police against the order of District Police Officer, Nowshera, whereby he was awarded Minor punishment of Stoppage of two annual increments for a period of two years with cumulative effect vide OB No. 751 dated 12.07.2019.

Brief facts of the case are that, the appellant, while posted as SHO, Police Station Pabbi, one Ghazi Khan r/o Mohib Banda, District Nowshera had reported at Police Station Pabbi regarding the missing of his daughter namely Ms. Mehwish aged 15/16 years vide DD No. 12 dated 27.04.2019, but he neither registered FIR, nor recovered the abducted despite laps of one month.

On account of which, he was proceeded against departmentally through Mr. Tassawar Iqbal, the then ASP Cantt Nowshera. The Enquiry Officer after fulfillment of legal formalities, submitted his report to District Police Officer, Nowshera, wherein the allegation regarding delay in registration of FIR was proved against the delinquent officer and suggested him for minor punishment of forfeiture of approved service for one year.

In the light of above, he was awarded minor punishment of stoppage of 02 annual increments for a period of two years with cumulative effect by the District Police Officer, Nowshera vide his office endorsement No. 3201-03/PA dated 11.07.2019.

He was called in orderly room held in this office on 01.10.2019 for defending himself. He was heard in person but did not produce any solid ground to prove his innocence. Hence his departmental appeal for restoration of two annual increments for a period of two years is hereby rejected.

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

No. 11725/ES.

Dated Mardan the 04/10/2019.

Copy forwarded to District Police Officer, Nowshera for information and necessary w/r to his office Memo: No. 4365/PA dated 13.09.2019. His Service Record is returned herewith.

EC/PMC
For Mardan

BRPOSE

No. 1875/PA
dt 7/10/19

J