

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 6881/2020

Date of Institution ... 08.07.2020

Date of Decision ... 02.02.2022

Jamshed Khan S/o Sabar Din R/o House No. 377, Phase-II Armour Colony,
Nowshera, Tehsil & District Nowshera.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat,
Peshawar and others.

... (Respondents)

Muhammad Ibrar Khan Afridi,
Advocate

... For Appellant

Muhammad Adeel Butt,
Additional Advocate General

... For respondents

AHMAD SULTAN TAREEN
ATIQU-UR-REHMAN WAZIR

...
...

CHAIRMAN
MEMBER (EXECUTIVE)

JUDGMENT

ATIQU-UR-REHMAN WAZIR MEMBER (E):-

Brief facts of the

case are that the appellant, while serving as SHO of a police station, was proceeded against on the charges of misconduct. The appellant was suspended from service vide order dated 03-03-2020 and departmental proceedings were initiated against him. Because of disciplinary proceedings, the appellant was reinstated in service but was awarded with minor punishment of stoppage of two increments with cumulative effect vide order dated 13-04-2020. Feeling aggrieved, the appellant filed departmental appeal dated 16-04-2020, which was rejected vide order dated 24-06-2020, hence the instant service appeal with prayers that the impugned orders dated 13-04-2020 and 24-06-2020 may be set aside and the appellant may be exonerated of the charges leveled against him.

02. Learned counsel for the appellant has contended that the impugned orders are against law, facts and norms of natural justice, therefore not tenable and liable to be set aside; that the allegations in the charge sheet have no footings to stand on and have no proof either oral or documentary; that no illegality, whatsoever, had been committed by the appellant nor any violation of law and procedure was committed, hence the allegations are not sustainable in the eyes of law; that the allegation so leveled are doubtful, upon which proceedings were initiated as no one was associated with the inquiry, nor any aggrieved person was examined, hence the same is not tenable in the eye of law; that there is no charge of misconduct, inefficiency or violation of any rule was brought on surface and inquiry committee was not authorized to recommend minor punishment in view of his exoneration of the charges; that the allegation so leveled and the recorded findings have no consequential or penal implications and the appellant cannot be made/held responsible for any omission; that the appellant was discriminated as the appellant never abused or misused his authority, hence the respondents having no authority to take action against the appellant; that the explanation submitted by the appellant supported by documentary proof has not been taken into consideration, which is illegal and against law.

03. Learned Additional Advocate General for the respondents has contended that there were credible information that the appellant while posted as SHO, has links with foreign cloth smugglers and on the basis of the same allegation, the appellant was suspended from service and a fact finding inquiry was conducted, which recommended the appellant for proper departmental proceedings, hence departmental inquiry was conducted against the appellant and upon recommendation of the inquiry officer, the appellant was awarded with minor punishment of stoppage of two increments with cumulative effect and the appellant was re-instated in service.


04. We have heard learned counsel for the parties and have perused the record.


05. Placed on record is charge sheet statement of allegation containing the allegation of links of the appellant with foreign cloth smugglers and in order to ascertain the factual position, proper inquiry was conducted against the appellant but the inquiry officer in his findings had admitted that the charges of his links with smugglers could not be proved, despite he was recommended for minor punishment, which however was illegal, as the official once exonerated from the charges cannot be penalized. Main task of the inquiry officer was to prove such allegations with solid evidence, but the inquiry officer badly failed to prove such allegations, hence the inquiry officer preferred to punish the appellant only based on presumptions; facts however, had to be proved and not presumed. Reliance is placed on 2002 PLC (CS) 503 and 2008 SCMR 1369.

06. In view of the foregoing, the instant appeal is accepted. The impugned order dated 13-04-2020 is set aside to the extent of stoppage of two increments with cumulative effect and his increments are restored with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

02.02.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN


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


ORDER
02.02.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondent present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the instant appeal is accepted. The impugned order dated 13-04-2020 is set aside to the extent of stoppage of two increments with cumulative effect and his increments are restored with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
02.02.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN


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

24.11.2021

Proper D.B is not available, therefore, case is adjourned to 2 / 2 / 2022 for the same as before.

~~S~~
Reader

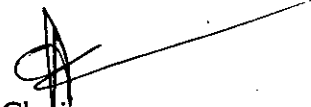
05.11.2021 Appellant present through counsel.

Javid Ullah, learned Assistant Advocate General for respondents present.

Request for adjournment was made on behalf of appellant. Request is accorded. To come up for arguments on 24.11.2021 before D.B.



(Rozina Rehman)
Member (J)




Chairman

21.12.2020

Counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate General present.


Respondents No.2 to 5 submitted their comments. Reply on behalf of respondent No.1 is still awaited. Counsel for appellant submitted an application for deletion of respondent No.1 from the panel of respondents being unnecessary. Application is allowed. Office is directed to do the needful. To come up for rejoinder, if any, and arguments on 16.03.2021 before D.B.


(Rozina Rehman)
Member (J)

16.03.2021

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

Former requests for adjournment in order to further prepare the brief. Adjourned to 27.04.2021 for hearing before the D.B.


(Mian Muhammad)
Member (E)


Chairman

27.4.21

Due to COVID-19, the case is adjourned to 17.8.2021 for the same.


Reader

17.08.2021

Since 17.08.2021 has been declared as Public holiday on account of Moharram, therefore, case is adjourned to 28.09.2021 for the same as before.

28.9.21

Due to non availability to the concerned Bench the case is adjourned to 5-11-2021


Reader


Reader

05.10.2020

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

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

Adjourned to 26.11.2020 before S.B.


Chairman

26.11.2020

Junior counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Fayyaz, Head Constable, on behalf of respondents No. 2 to 5, are also present.

Representative of respondents No. 2 to 5 submitted written reply on behalf of the said respondents which is placed on file. Neither written reply on behalf of respondent No. 1 is submitted nor any representative on his behalf is present, therefore, learned Additional Advocate General is directed to ensure presence of representative of the said respondents and submit reply on the next date positively. File to come up for written reply/comments on behalf of respondent No. 1 on 21.12.2020 before S.B.


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

04.08.2020

Counsel for the appellant Mr. Muhammad Ibrar Khan Afridi, Advocate is present. Preliminary arguments heard. Learned counsel for the appellant argued that the appellant was serving in Police Department and he was suspended from service vide order dated 03.03.2020 on the allegation of having links with foreign cloth smugglers. It was argued that a preliminary/facts finding inquiry was conducted and on the basis of which charge sheet and statement of allegations was issued to the appellant to which the appellant submitted his reply and denied the allegation leveled against him and thereafter, departmental inquiry was also conducted against the appellant on 25.03.2020 in which the enquiry officer recommended minor punishment of stoppage of two increment with accumulative period of his service. It was further argued that on the basis of said departmental inquiry, final show-cause notice was issued to the appellant to which the appellant also submitted his reply and denied all the allegations leveled against him but despite that the appellant was awarded minor punishment of stoppage of two increments with accumulative effect and reinstated the appellant into service with immediate effect vide impugned order dated 13.04.2020. Feeling aggrieved from the impugned order dated 13.04.2020, the appellant filed departmental appeal on 16.04.2020 which was rejected and filed vide order dated 24.06.2020 hence, the instant service appeal. Learned counsel for the appellant further argued that no statement in support of CDR was recorded. Moreover, neither any aggrieved person was examined by the inquiry officer nor the allegations leveled against the appellant were proved, therefore, the impugned order is illegal and liable to be set-aside.

The contentions raised by learned counsel for the appellant need consideration. The instant appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notice be issued to the respondents for written reply/comments for 05.10.2020.

Appellant Deposited
Process Fee
13/8/20



(MIAN MUHAMMAD)
MEMBER (E)

Form-A

FORM OF ORDER SHEET

Court of _____

Case No.- 6881 /2020

1S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	08/07/2020	<p>The appeal of Mr. Jamshed Khan presented today by Mr. Muhammad Ibrar Khan Afridi Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2-</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>04/08/2020</u></p> <p style="text-align: right;"> CHAIRMAN</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR**

Service Appeal No. 6881 /2020

Jamshed Khan. **APPELLANT**

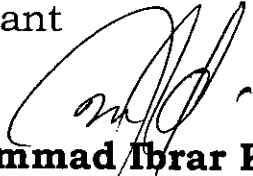
VERSUS

Govt. of Khyber Pakhtunkhwa & others. **RESPONDENTS**

I N D E X

S.No.	Description of Documents	Annex	Pages
1.	Service Appeal		1-7
2.	Affidavit		8
3.	Addresses of the Parties		9
4.	Copy of the Order dated 03.03.2020	A	10
5.	Copy of the Reply	B	11-12
6.	Copy of the Facts Finding Report dated 10.03.2020	C	13
7.	Copy of the Disciplinary Action with Charge Sheet	D	14-15
8.	Copy of the Reply	E	16
9.	Copy of the Departmental Inquiry	F	17-18
10.	Copies of the Final Show Cause Notice and Reply whereof	G	19-20
11.	Copy of the Order dated 13.04.2020	H	21
12.	Copy of the Departmental Appeal	I	22
13.	Copy of the Order dated 24.06.2020	J	23-24
14.	Wakalatnama		25

Appellant
Through



Muhammad Ibrar Khan Afridi
Advocate High Court
Cell: 0333-9589103

Dated: 08.07.2020

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR**

Service Appeal No. 6881 /2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 6317

Dated 08/7/2020

Jamshed Khan S/o Sabar Din

R/o House No.377, Phase-II, Armour Colony,

Nowshera, Tehsil & District Nowshera. **APPELLANT**

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
- ✓2. Inspector General of Police, Khyber Pakhtunkhwa, Police Lines, Civil Secretariat, Peshawar.
- ✓3. Regional Police Officer, Mardan.
4. Deputy Inspector General of Police, Mardan Region-I, Mardan.
- ✓5. District Police Officer, Nowshera. **RESPONDENTS**

Filed to-day

Registrar

8/7/20

**APPEAL U/S 4 OF THE SERVICES
TRIBUNAL ACT, 1974 KHYBER
PAKHTUNKHWA AGAINST THE ORDER
DATED 24.06.2020, VIDE WHICH
APPEAL OF THE APPELLANT AGAINST
THE ORDER DATED 13.04.2020 WAS
DISMISSED, AND AGAINST THE ORDER
DATED 13.04.2020 VIDE WHICH MINOR**

**PUNISHMENT OF "STOPPAGE OF TWO
(02) INCREMENTS WITH COMMUTATIVE
EFFECT" WAS IMPOSED UPON
APPELLANT.**

PRAYER-IN-APPEAL:

**On acceptance of instant appeal, the
orders dated 24.06.2020 & 13.04.2020
may please be set aside and the
appellant may be exonerated from the
charges leveled against him.**

Respectfully Sheweth:

Brief Facts:

1. That the appellant is serving in Police Department, since 1991. During his entire service, he remained efficient, loyal, dutiful and satisfactory upto the marks of his high-ups.
2. That the respondents initiated a Departmental inquiry against the appellant on the basis of false allegations that the appellant has links with foreign cloth smugglers.

3. That the respondents' office through order No.763-71 dated 03.03.2020 suspended the appellant on the above mentioned false allegations. **(COPY OF THE ORDER DATED 03.03.2020 IS ATTACHED AS ANNEXURE "A")**.
4. That the appellant duly replied through his written statement by denying all the allegations and explained the same. **(COPY OF THE REPLY IS ATTACHED AS ANNEXURE "B")**.
5. That preliminary facts finding report No.476/ST, dated 10.03.2020 was submitted by the respondents with the request that proper departmental proceedings may kindly be initiated against the appellant. **(COPY OF THE FACTS FINDING REPORT DATED 10.03.2020 IS ATTACHED AS ANNEXURE "C")**.
6. That on the basis of preliminary facts finding report disciplinary action was proceeded against the appellant vide No.17/PA, dated 13.03.2020 and a charge sheet was issued. **(COPY OF THE DISCIPLINARY ACTION WITH CHARGE SHEET IS ATTACHED AS ANNEXURE "D")**.
7. That the appellant duly replied through his written statement by denying all the allegations leveled against him. **(COPY OF THE REPLY IS ATTACHED AS ANNEXURE "E")**.

8. That the respondents conducted departmental inquiry against the appellant on 25.03.2020 in which the competent authority recommended minor punishment i.e. stoppage of two (02) increments with accumulative period of his service. **(COPY OF THE DEPARTMENTAL INQUIRY IS ATTACHED AS ANNEXURE "F")**.
9. That on the basis of said departmental inquiry final show cause notice was issued to the appellant regarding to impose punishment which was duly replied by the appellant and denied all the allegations. **(COPIES OF THE FINAL SHOW CAUSE NOTICE AND REPLY WHEREOF ARE ATTACHED AS ANNEXURE "G")**.
10. That the reply of appellant as turned town through order dated 13.04.2020 and the appellant was awarded minor punishment of stoppage of two increments with accumulative effect and re-instated in service with immediate effect under Khyber Pakhtunkhwa Police Rules, 1975. **(COPY OF THE ORDER DATED 13.04.2020 IS ATTACHED AS ANNEXURE "H")**.
11. That feeling aggrieved from the above mentioned order appellant submitted departmental appeal dated

16.04.2020 to the concerned authority. **(COPY OF THE DEPARTMENTAL APPEAL IS ATTACHED AS ANNEXURE "I")**.

12. That on the above mentioned appeal, the respondents passed an order dated 24.06.2020 in which the appeal of appellant was rejected. **(COPY OF THE ORDER DATED 24.06.2020 IS ATTACHED AS ANNEXURE "J")**.

13. That feeling aggrieved from the order the appellant approaches this Hon'ble Tribunal, on the following grounds, inter alia;

G R O U N D S:

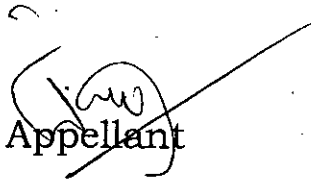
- A. That the order of the respondents is illegal, against law, against the facts of the case hence, the same is liable to be set-aside.
- B. That the allegations mentioned in charge sheet have no footing to stand on and have no proof oral or documentary.
- C. That no illegality whatsoever committed by the appellant nor any violation of law and procedure was committed, hence the allegations are not sustainable in the eyes of law.

- D. That the allegations so leveled are doubtful upon which proceedings were initiated as no one was associated the inquiry, no aggrieved person was examined, hence the same is not tenable in the eyes of law.
- E. That there is no charge of misconduct, inefficiency or violation of any rules was brought on the surface and Inquiry Committee was not authorized to hold responsible the appellant for minor penalty.
- F. That the allegations so mentioned and the recorded findings have no consequential or penal implications and the appellant cannot be made/held responsible for any omissions.
- G. That the allegations leveled against the appellant and their findings which are totally irrelevant and without jurisdiction and only lame excuse for punishing the appellant.
- H. That appellant was discriminated as there is no misuse of authority no illegality, irregularity or misconduct, hence the respondents having no authority to take action against the appellant.

- I. That the explanation tendered by the appellant supported by the documentary proof has not been considered by the competent authority, which is illegal and against the law.
- J. That the past record of the appellant is clean, transparent, satisfactory and was never charged for minor omissions, hence cannot be held liable.

It is, therefore most humbly prayed that on acceptance of this appeal, the orders dated 24.06.2020 & 13.04.2020 may please be set aside and the appellant may please be exonerated from the charges leveled against him.

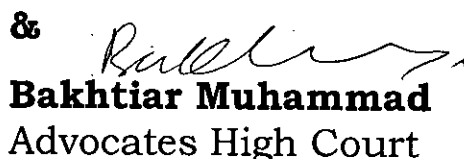
Any other relief, not specifically asked for may also be granted in favour of the appellant.


Appellant

Through

Muhammad Ibrar Khan Afridi


Manik Shah

& 
Bakhtiar Muhammad
Advocates High Court

Dated: 08.07.2020

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2020

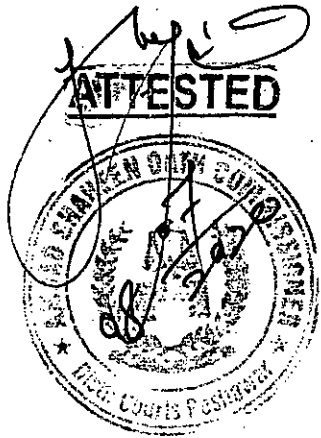
Jamshed Khan. **APPELLANT**

VERSUS

Govt. of Khyber Pakhtunkhwa & others. **RESPONDENTS**

A F F I D A V I T

I, Jamshed Khan S/o Sabar Din R/o House No.377, Phase-II, Armour Colony, Nowshera, Tehsil & District Nowshera, do hereby solemnly affirm and declare on oath that the contents of the accompanying Service Appeal are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Tribunal.




DEPONENT
 CNIC: 17201-2103344-7
 Cell: 0333-4141494

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2020

Jamshed Khan. **APPELLANT**

VERSUS

Govt. of Khyber Pakhtunkhwa & others. **RESPONDENTS**

ADDRESSES OF THE PARTIES

APPELLANT:

Jamshed Khan S/o Sabar Din
R/o House No.377, Phase-II, Armour Colony,
Nowshera, Tehsil & District Nowshera

RESPONDENTS:


1. Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Inspector General of Police, Khyber Pakhtunkhwa, Police Lines, Civil Secretariat, Peshawar.
3. Regional Police Officer, Mardan.
4. Deputy Inspector General of Police, Mardan Region-I, Mardan.
5. District Police Officer, Nowshera.


Appellant

Through

Muhammad Ibrar Khan Afridi


Manik Shah

&

Bakhtiar Muhammad
Advocates High Court

Dated: 08.07.2020

10

Annex A

2020

**OFFICE OF THE
DISTRICT POLICE OFFICER,
NOWSHERA**

Tel No. 0923-9220102 & Fax No. 0923-9220103
Email Dpo_nowsherakpk@yahoo.com

ORDER

The following Police Officer/Officials are hereby placed under suspension and closed to Police Lines, Nowshera with immediate effect on account of close links with foreign made cloth smugglers, as reportedly the smugglers supplied the foreign made cloth to a hub situated in village Wattar (territorial jurisdiction of PS Nowshera Kalan), wherefrom the same were smuggled to different places:-

1. SI Jamshid Khan, SHO PS Nowshera Kalan.
2. SPO Shah Hussain No.247, Gunner SHO PS Nowshera Kalan.
3. SPO Asif No.174, Gunner SHO PS Nowshera Kalan.
4. SPO Menhaj No.259, Gunner SHO PS Nowshera Kalan.

DSP Akora is hereby nominated to conduct fact finding enquiry in to the aforementioned allegations and submit his report to the undersigned within three days positively.

OB 247

DT 03/03/2020


District Police Officer,
Nowshera

OFFICE OF THE DISTRICT POLICE OFFICER, NOWSHERA

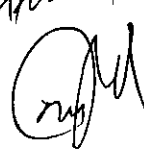
No 763-71 /PA, Dated Nowshera the 03/03/2020.

Copy for information to the:-

- 1 Deputy Inspector General of Police Mardan Region-I Mardan.
- 2 ASP Cantt Nowshera.
- 3 DSP HQrs Nowshera.
- 4 DSP Akora.
- 5 Pay Officer.
- 6 EC
- 7 OHC
- 8 FMC
- 9 I/C Control Room Nowshera

By No 451

to/SDPO
via Circle

Attested


ضلع عالی

والٹر کیمپٹن 763 - چارمیر جی ایم ایس 763
3-3-20

12
ہر کم میٹر نیا دار کینڈا 44 سی فورس 19
حاضرہ سنیما لائیو علیقہ اختیار میں جلالیہ سٹیٹم افراد کے خلاف کیمپ
نگ کر کے ان کے خلاف کارروائی کی۔ جی ایم ایس ایف کے خلاف ڈی آر سی

تھانہ عزیز کا علیقہ وسیع علیحدہ لودگنی کے نام سے ابنا کے ساتھ (5)
چیک کیا گیا۔ صبح 7 بجے تک علیقہ چک کرنا اور دو سڑکیوں کی سہولت
میں بنا کر منتقل کر کے لائیو سنیما لائیو کی حالت میں

چلانا تک سمجھوں کہ سابقہ اللہ کا تعلق ہے۔ تو اسے جاہت جہاں
بھی جانے کوشش کیڑا گاڑوں میں سہولت دے تاکہ بلا تاخیر ان کے
خلاف کارروائی کی جائے۔ لائیو لوسیور کا کیمپ کوشش کے نام سے 23
کریے۔ ان کا لکھا روڈ بھی ڈی آر سی

آج تک کسی اسمگلر سے بلڈ اسٹریٹ یا بلو اسٹریٹ والہ نہیں کر کے
سیراویٹس میں غیر کسی بھی جگہ چک کرے جاسکتا ہے

اپنے قلم و لہجہ میں لگن و حیرت ہمیشہ افراد کی سرکوبی کی کوشش کی
فرم اور اسمگلروں کے ٹھکانے معلوم کرنے کی حور دھویا کی ہے البتہ سہولت

آنے پر ان کے خلاف فرور کارروائی کی جائے۔
اسمگلروں سے ملنے پر ان کے ٹھکانوں پر دستہ بستی کرنا تاکہ

جائے گا۔ علقہ وتر میں کیم کے گودام کا تعلق ہے۔ اس
میں بھی کئی عسکر نہیں تھا۔ اگر کبھی معلوم ہوئی تو فوراً
خلاف کاروں کو گرفتار

دورانِ تصفیاتی ایک گنزدان سے مل کر ان کا اور سرکار کے کئی ذیلی مفاد کا
کام نہیں لیا ہے۔

گورنمنٹ کے لئے لڑا جا میں کئی سبکیاں ہیں۔ جس سے ضرورتوں
اور سرکار کے حکم لفظ کا وہاں ہر جگہ متعلقہ تھا اور

Handwritten signature
Police Line
0326-1044444.

Attested
Handwritten signature
S/O Akova
Handwritten signature



OFFICE OF THE

(13)
Annex "C"

SUB-DIVISIONAL POLICE OFFICER, ALORA CIRCLE

PH: 0929-551619, E-Mail: sdpo_alora@yahoo.com

No. 476 /ST, Dated: 10/03/2020.

PRELIMINARY FACTS FINDING REPORT:

The undersigned was deputed to submit the facts finding report through letter No.763-71/P. dated 03.03.2020 by the Worthy District Police Officer Nowshera.

STATEMENT OF ALLIGATION:-

The following Police Officers/Officials are hereby placed under suspension and closed to Police Lines, Nowshera with immediate effect on account of close links with foreign made cloth smugglers, a reportedly the smugglers supplied the foreign made cloth to a hub situated in village Wattar (territorial jurisdiction of PS Nowshera Kalan), wherefrom the same were smuggled to different places:

- 1. SI Jamshaid Khan (SHO Nowshera Kalan)
- 2. SPO Shah Hussain No.247, (Gunner to SHO Nowshera Kalan)
- 3. SPO Asif No. 174, (Gunner to SHO Nowshera Kalan)
- 4. SPO Minhaj No. 259. (Gunner to SHO Nowshera Kalan)

FINDINGS.

From the above detail an enquiry conducted into the matter. During the inquiry the undersigned also recorded the statements of aforesaid Police Officials in which they denied all the charged allegations. (Statements are enclosed)

During the course of inquiry, CDRs of their Mobile numbers were obtained and thoroughly investigated, in which found that, they have not direct links with clothes smugglers, maybe the SHO or his companions' have hidden mobile to contact them (smugglers) or use another source to contact them.

During the inquiry it has also been learned that, they had (smugglers) made a hub in village Wattar (jurisdiction of PS Nowshera Kalan). where they were collect the clothes and then smuggled other places from there.

It is worth to mentioning that, the clothes loading unloading is impossible without the consent of SHO and his companions. It show that the will of SHO were included in this. The SHO and his team are also involved with smugglers. Thus SHO and his companions are found guilty.

RECOMMENDATIONS:-

Keeping in view the above Circumstances, therefore it is requested that, a proper departmental proceeding may kindly be initiated against the SI Jamshaid Khan, SPO Shah Hussain No. 247, SPO Asif No. 174 and SPO Minhaj No. 259.

Report is submitted for your kind review please

DSP Pabbi is authorised to conduct an inquiry and for responsibility of the report.

[Handwritten signature]

Deputy Superintendent of Police,
Alora Circle

(14)
Area "D"

DISCIPLINARY ACTION

I, Kashif Zulfiqar, PSP, District Police Officer, Nowshera as competent authority am of the opinion that SI Jamshed Khan has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning of Police Rules, 1975

STATEMENT OF ALLEGATIONS

Whereas, SI Jamshed Khan, while posted as SHO Police Station Nowshera Kalan, placed under suspension and closed to Police Lines on account of links with foreign cloth smugglers, as reportedly the smugglers supplied the foreign made cloth to a hub/godown situated in village Wattar (territorial jurisdiction of Police Station Kalan), wherefrom the same was smuggled to different places. To ascertain facts, a preliminary enquiry was conducted through Mr. Ayaz Mehmood, SDPO Akora, who during the course of enquiry held SI Jamshed Khan and his gunners SPO Shah Hussain No. 247, SPO Asif No. 174 and SPO Minh No. 259 responsible of misconduct and recommended that the SI Jamshed Khan, the then, SHO PS Nowshera Kalan and his gunners mentioned above may be proceeded against departmentally, which amounts to grave misconduct on his part and rendered him liable for major/minor punishment under Khyber Pakhtunkhwa Police Rules, 1975.

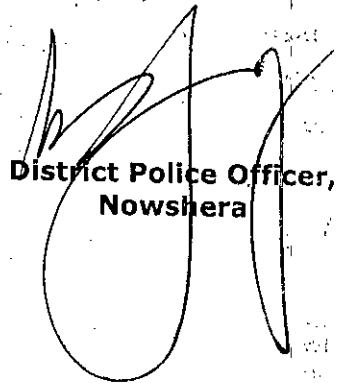
For the purpose of scrutinizing the conduct of the said accused official with reference to above allegations, Mr. Khalid Khan, DSP Pabbi is hereby nominated as Enquiry Officer.

The Enquiry Officer shall in accordance with the provision of Police Rules, 1975, provide reasonable opportunity of hearing to the defaulter official, record his findings and make immediate recommendations as to punish or other appropriate action against the defaulter official.

SI Jamshed Khan is directed to appear before the Enquiry Officer on the date, time and place fixed by the Enquiry Officer.

No. 17 /PA,
Dated 13/03/2020.

attested



District Police Officer,
Nowshera

CHARGE SHEET

1. I, **Kashif Zulfiqar, PSP** District Police Officer, Nowshera, as competent authority, hereby charge **SI Jamshed Khan** as per Statement of Allegations enclosed.
2. By reasons of above, you appear to be guilty of misconduct under Police Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in Police Rules, 1975.
3. You are, therefore, required to submit your written defense within **07 days** of the receipt of this Charge Sheet to the Enquiry Officer, as the case may be.
4. Your written defense, 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 whether you desire to be heard in persons.



District Police Officer,
Nowshera

حوالہ چارج شیٹ نمبری 17/PA صفحہ 2022-03-13 صورت صورت میں نہ مہرا خانیہ
حیثیت SHO صفحہ 30 کو ٹھکانہ نوشہرہ محلوں میں چلے گئے تھے چارج سنبھالنے سے پہلے عدالت رخصت
میں جرائم پیشہ افراد کی مختلف قسم کی تہمتوں کے بارے میں خدشہ کا دورانیہ کی جو ٹھکانہ نوشہرہ سرکاری کارڈ
موجود ہے۔ ٹھکانہ نوشہرہ کا عدالت رسیج رپورٹیں دلچسپ اور بار بار ہے، ان کیساتھ ہی جو تہمتیں ہیں۔
جمع سے شام تک عدالت رسیج رپورٹیں اور عدالت کے سامنے مناسبتیں دلچسپ اور سرکاری مادی جاتی ہے،
جہاں تک سنگھوں کیساتھ جو رابطہ کا تعلق ہے، اس میں ثابت جہاں بھی نان گنیم پیڈ تہمتوں
سلسلے آتا ہے۔ بلکہ ناخبرانہ خدشہ کا دورانیہ کہ ہے، انہوں نے رپورٹوں کا پیرا پیرا کوئی کام نہیں
جس کا ریکارڈ ٹھکانہ میں موجود ہے۔ اس کے ساتھ ہی سنگھوں سے بالواسطہ یا بلاواسطہ رابطہ نہیں
کرتا ہے، میرا مسائل بڑھتی بھی جاتی ہے۔ یہ تہمتیں عرصہ میں صرف جرائم پیشہ
افراد کی رپورٹوں کی کوشش کی ہے، نہ کہ سنگھوں کے ٹھکانے صلح کرنے کی دھمکی دینے کی ہے۔ اللہ
سے کہنے پر ان کی مختلف مالوں کا دورانیہ کہ ہے، سنگھوں سے ملنا دینے کے ٹھکانوں کی چشم
لگی ہے کہ مال لے کر جاتا ہے، جہاد اللہ ہے،

جہاں تک عدالت رسیج میں تہمتوں کے گروہم کا تعلق ہے، اس میں بھی جج
کوئی علم ہے نہ تھا۔ اگر جج معلومات پہنچے تو فوراً کے خدشہ کا دورانیہ اور ٹھکانہ
یہ تہمتوں سے ماسوائے کارسکر کے کوئی ذاتی مفاد کا کام نہیں لیا ہے، جو ہر گز
الزام اللزومات میں کوئی سیما نہیں ہے۔ یہ ہے قصور ہوں۔ اس کے ساتھ ہی
بصیرت سے کاروائی کے داخل دفتر زمانہ جاری ہے

Police Line

Handwritten signature

POLICE DEPARTMENT

DISTRICT NOWSHERA.

DEPARTMENTAL ENQUIRY AGAINST SI JAMSHED KHAN THE THEN SHO PS NOWSHERA KALAN.

This is departmental enquiry against SI Jamshed Khan the then SHO PS Nowshera Kalan, while posted as SHO PS Nowshera Kalan placed under suspension and closed to Police Lines on account of links with foreign cloth smugglers, reportedly the smugglers supplied the foreign made cloth to a hub/godown situated in village Wattar (territorial jurisdiction of PS Nowshera Kalan), wherefrom the same was smuggled to different places.

To ascertain facts, a preliminary enquiry was conducted through Mr. Ayub Mehmood SDPO Akora who during the course of enquiry, held SI Jamshed Khan and his gunners SPO Shah Hussain No. 247, SPO Asif No. 174 and SPO Minhaj No. 2 responsible of misconduct and recommended that SI Jamshed Khan the then SHO PS Nowshera Kalan and his gunners mentioned in above may be proceeded against departmentally which amounts to grave misconduct on his part and rendered him liable for minor/major punishment under Khyber Pakhtunkhwa Police Rules, 1975.

PROCEEDINGS:-

For the purpose of scrutinize, the conduct of the said defaulter SI Jamshed Khan to the above allegations undersigned is hereby appointed as an Enquiry Officer to conduct departmental enquiry under Police Rules, 1975. The defaulter SI Jamshed Khan was summoned and the charge sheet/disciplinary action of the above allegations was served upon him. He submitted his reply. In response to the charge sheet/disciplinary action which is enclosed herewith.

STATEMENT OF SI JAMSHED KHAN THE THEN SHO PS NOWSHERA KALAN.

He stated in his statement that on 30-12-2019 he was posted as SHO PS Nowshera Kalan. As SHO of PS Nowshera Kalan, he arrested several accused smugglers with foreign cloth of huge amounts and handed the same to Customs Authorities. He has no concerned/contact with smugglers. As far godown in village Wattar is concerned, he categorically denied from the loading and unloading of foreign cloth in village Wattar. He further requested for the filing of the enquiry.

NDINGS:-

From the perusal of conducted enquiry and recorded statement, it transpired that the allegations leveled against defaulter SI Jamshed Khan the then SHO PS Nowshera Kalan regarding the involvement/contact with smugglers could not be proved from the attached CDR. However, being a senior Police Officer, it was his responsibility to stop the smuggling and keep himself aware about this but he failed to do so. Its shows lacuna on his part. Hence, he is recommended for minor punishment i.e stoppage of 02-increaments with accumulative period of his service if so agreed please.

Encl= (25) Sheets

[Signature]
Deputy Superintendent of Police,
Pabbi Circle.

No. 284 /S
Dated 25/03/2020

*Agreed with the findings
of I.O / FSCN be issued -*

[Large Signature]

[Signature]

(19) Annex 'G'

FINAL SHOW CAUSE NOTICE

Whereas, you SI Jamshed Khan, while posted as SHO Police Station; Nowshera Kalan, placed under suspension and closed to Police Lines on account of links with foreign cloth smugglers, as reportedly the smugglers supplied the foreign made cloth to a hub/godown situated in village Wattar (territorial jurisdiction of Police Station Kalan), wherefrom the same was smuggled to different places. To ascertain facts, a preliminary enquiry was conducted through Mr. Ayaz Mehmood, SDPO Akora, who during the course of enquiry held you responsible of misconduct and recommended you for departmental action.

On account of which, you were proceeded against departmentally through Mr. Khalid Khan, the then DSP Pabbi, who after fulfillment of legal formalities submitted his report to undersigned, wherein he highlighted that it was your responsibility to stop/curb the smuggling, but failed, which shows lacuna on your part and recommended you for awarding punishment.

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

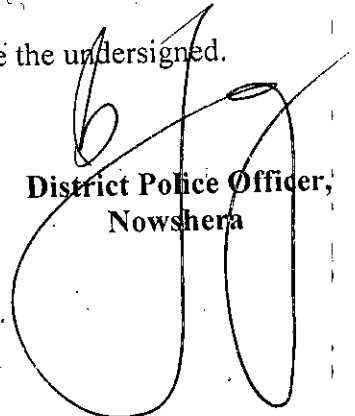
Hence, I, Kashif Zulfiqar, PSP, District Police Officer, Nowshera, in exercise of the powers vested in me under Rules 5(3) (a) & (b) of the Khyber Pakhtunkhwa Police Rules 1975, call upon you to Show Cause finally as to why the proposed punishment should not be awarded to you.

Your reply shall reach this office within **07 days** of the receipt of this notice, failing which, it will be presumed that you have no defense to offer.

You are at liberty to appear for personal hearing before the undersigned.

No. 82 /PA,
Dated 13/04/2020.




District Police Officer,
Nowshera

Authorities. He has no concerned/contact with smugglers. As far godown in village Wattar is concerned, he categorically denied from the loading and unloading of foreign cloth in village Wattar. He further requested for the filing of the enquiry.

طیاب علیا

مخارج مائیں شوگانز وائیں لاری 82/PA صرفہ 2022/131041 صرفہ صوم
 کہ مہر آبادہ بحیثیت 540 صرفہ 2012 30 رضائے وائیں مائیں بر صلی لئی خارج
 سمیٹا جی ہی ملازمہ اصیبار میں ہر ائمہ میں افراد کیلوف گھرا لئی ان کے صرف
 کارروائی کی جو تھانہ قدر کر کے ریلوے کے ریلوے کے تھانہ زیادہ سے ملازمہ وائیں
 وگھانے آئے ہیں۔ ان کے ساتھ ہی جو مگے ہیں۔ پھر سے تاج تک علاقہ حیدر آباد اور
 عوام کے مسائل سننا مشعل ڈیوٹی سربراہی جاری ہے۔ جہاں تک مسئلوں
 کے ساتھ رابطہ کا تعلق ہے۔ تو اس بلایت جہاں گھرا مان کسٹم میں دیگر مسائل آ رہے
 بلا قاضی کے ساتھ صرف کارروائی کی ہے۔ اس بلایت لاکھوں روپوں کا کسٹم
 حکام کو دیا ہے۔ جن کا ریلوے کے تھانہ میں موجود ہے۔ تاکہ کسی بھی مسئلے سے
 ملو اسٹیم ملو بلا واسطہ رابطہ نہیں کیا ہے۔ ہر عوامی مسئلے میں کسی بھی حکم
 کو حل نہ کیا ہے۔ اپنے عہدے میں ہر عوامی مسئلے آ رہے ہیں۔ اس کے ساتھ
 کی ہے۔ یہ کہ مسئلوں کے گھٹانے کے لئے جو دودھ دھوئی گئی ہے اس سے
 آئے ہیں ان کیلوف کا تعلق کارروائی ہے۔ مسئلوں سے گھٹانے کے لئے
 صوم ڈیوٹی کے ساتھ ہی بنیاد رکھی ہے۔

جہاں تک علاقہ وائیں گھرا کے گھرا کے تعلق ہے۔ اس لئے میں کسی بھی
 کوئی مسئلہ نہ ہمارے اگر بھی فعلیات ہوگی تو فوراً ان کے خلاف کارروائی کرتا
 میں ہے۔ خصوصاً جو اس کے ساتھ ہے کہ میں نے اس کے ساتھ ہی
 کارروائی کے داخل دفتر خالی ہے۔

Not satisfied with the reply
 He is awarded punishment already conveyed

Blue Hue
 13-4-2022
 Attached

(21)

Anex "H"
DISTRICT NOWSHERA

POLICE DEPARTMENT

ORDER

This order will dispose off a departmental enquiry initiated under Khyber Pakhtunkhwa Police Rules-1975, against SI Jamshed Khan under the allegations that he while posted as SHO Police Station, Nowshera Kalan, placed under suspension and closed to Police Lines on account of links with foreign cloth smugglers, as reportedly the smugglers supplied the foreign made cloth to a hub/godown situated in village Wattar (territorial jurisdiction of Police Station Kalan), wherefrom the same was smuggled to different places. To ascertain facts, a preliminary enquiry was conducted through Mr. Ayaz Mehmodd, SDPO Akora, who during the course of enquiry held him responsible of misconduct and recommended that he may be proceeded against departmentally.

On account of which, he was proceeded against departmentally through Mr. Khalid Khan, the then DSP Pabbi, who after fulfillment of legal formalities submitted his report to undersigned vide his office Endst: No.284/S dated 25.03.2020, wherein he highlighted that it was his responsibility to stop/curb the smuggling, but failed, which shows lacuna on his part and recommended him for minor punishment of stoppage of two (02) increments with cumulative effect.

He was issued final Show Cause Notice, to which, he submitted his reply which was perused by the undersigned and found unsatisfactory.

The undersigned agreed with the recommendations of inquiry officer and Jamshed Khan is hereby awarded minor punishment of stoppage of two (02) increments with cumulative effect and reinstated him service with immediate effect, in exercise of powers vested in me under Khyber Pakhtunkhwa Police Rules-1975.

OB No. 311
Dated 13/04 2020

No. 1135-39 /PA, dated Nowshera, the 13/04 2020.
Copy for information and necessary action to the:

1. Regional Police Officer, Mardan.
2. Pay Officer.
3. Establishment Clerk.
4. FMC with its enclosures (49 pages).
5. Official concerned.

[Signature]
District Police Officer
Nowshera

[Signature]

WM
He is already

[Signature]

13-4-2020

بھخور جناب ڈپٹی انسپکٹر جنرل آف پولیس مردان ریجن

اپیل برائے معافی / ختم کرنے سزا

جناب عالی!

گزارش ہے کہ میری تعیناتی کے دوران بحیثیت SHO پولیس اسٹیشن نوشہرہ کلان جناب DPO صاحب کی طرف سے مورخہ 03/03/2020 کو Suspension Order جاری کیا گیا۔ جس میں سائل کے خلاف الزام بیان ہوا کہ من سائل کے کپڑے کے اسمگلروں کے ساتھ روابط ہیں۔

بابت درج بالا الزام سائل کو مورخہ 13/03/2020 کو چارج شیٹ کیا گیا اور جناب خالد خان DSP بھی کو انکوائری سونپی گئی۔ من سائل نے چارج شیٹ کا جواب جمع کیا۔ جس میں من سائل نے تمام الزامات سے انکاری رہا۔ اسی طرح جب انکوائری افسر نے انکوائری کی تو اس نے بھی اپنی Findings میں سائل کے کپڑے کے مہینہ اسمگلروں کے ساتھ روابط ثابت نہ ہونے کا لکھا ہے۔ مگر اس نے من سائل کو Minor Punishment of stoppage of two(2) increments With Cumulative کی سفارش اس بنیاد پر کی کہ چونکہ میں علاقے کا SHO تھا اس لیے مجھ پر ذمہ داری ڈال ڈی گئی۔

من سائل عرض گزار ہے کہ بحیثیت SHO اور پولیس افسر جب کبھی بھی مجھے اسمگلنگ کے بارے میں اطلاع ملی تو میں نے ہمیشہ ایسے لوگوں کے خلاف کارروائی کی جس کا باقاعدہ ریکارڈ موجود ہے۔

جہاں تک علاقے میں اسمگل شدہ کپڑوں کے گوداموں کا تعلق ہے تو اسی سلسلے میں معروض ہوں کہ میرے علاقہ دائرہ اختیار میں کسی قسم کے گوداموں کی موجودگی نہیں پائی گئی۔

لہذا معروض ہوں کہ چونکہ من سائل کے خلاف الزام ثابت روابط اسمگلر ان کسی طرح بھی نہ تو ثابت ہوئی اور نہ ہی من سائل نے اس قسم کے عناصر سے کبھی تعلق رکھا ہے۔ لیکن اس کے باوجود من کو 2 سالانہ اینٹریمنٹ روکھنے کی سزا دی گئی۔ جس سے سائل کو ذہنی کوفت کا سامنا ہے انتہائی عاجزی سے درخواست کی جاتی ہے کہ سائل کی سزا ختم کرنے کا حکم صادر فرمایا جائے۔

العارض

تابع فرمان SI جمشید خٹک P408 متعینہ پولیس لائن نوشہرہ

0316 1044444

16/4/2020

[Signature]

[Signature]

Sir
Forwarded to
Co. NDR
16/4/2020

Sir
Forwarded to
Hon
Ri- NDR
16/4/2020

(23)

Anex "J"

ORDER.

This order will dispose-off the departmental appeal preferred by Sub Inspector Jamshed Khan No. 408/P of Nowshera District Police against the order of District Police Officer, Nowshera, whereby he was awarded minor punishment of Stoppage of two years increments with cumulative effect vide OB: No. 311 dated 13.04.2020. The appellant was proceeded against departmentally on the allegations that he while posted as SHO Police Station, Nowshera Kalan, was placed under suspension and closed to Police Lines on account of links with foreign cloth smugglers, as reportedly the smugglers supplied the foreign made cloth to a godown situated in village Watter (territorial jurisdiction of Police Station Kalan) wherefrom the same was smuggled to different places.

To ascertain facts, a preliminary enquiry was conducted through Mr. Ayaz Mehmood, Sub Divisional Police Officer, Akora, who during the course of enquiry held him responsible of misconduct by recommending him for initiation of proper departmental enquiry.

Therefore, proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and Sub Divisional Police Officer, Pabbi was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities submitted his findings highlighting therein that it was his responsibility to stop/curb the smuggling, but he failed. This showed his non professional attitude on his part and recommended him for minor punishment of stoppage of two increments with cumulative effect.

He was issued Final Show Cause Notice to which his reply was received and found unsatisfactory. Hence, the District Police Officer, Nowshera awarded him minor punishment of Stoppage of two years increments with cumulative effect vide OB: No. 311 dated 13.04.2020.

Feeling aggrieved from the order of District Police Officer, Nowshera, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 16.06.2020.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations against the appellant have been proved beyond any shadow of doubt. Because, the appellant being a

Handwritten signature and initials, possibly 'M.A.' and '2/Ref'.

(24)

responsible Officer as SHO failed to discharge his duties properly despite the fact that he had knowledge of cloth smuggling in his area of responsibility. Moreover, the appellant failed to present any cogent justification which could warrant interference in the order passed by the competent authority.

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

Order Announced.


Regional Police Officer,
Mardan.

No. 3880 /ES, Dated Mardan the 24-06-2020.


Copy forwarded to District Police Officer, Nowshera for information and necessary w/r to his office Memo: No. 1334/PA dated 06.05.2020. His service record is returned herewith.

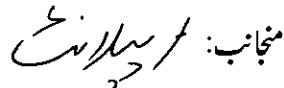
(*****)



25

50	35533			
ایڈوکیٹ: 		پشاور بار ایسوسی ایشن، خیبر پختونخوا		
بار کونسل ایسوسی ایشن نمبر: 11-12-35				
رابطہ نمبر: 03339589103				

بعدالت جناب: 

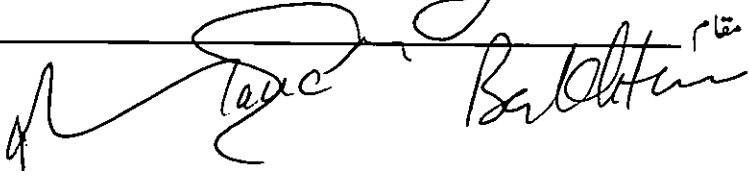
منجانب: 	دعویٰ: Service Appeal
محمد خان بنام حکومت	علت نمبر: /
	مورخہ: 8-7-20
	جرم: /
	تھانہ: /

باعت تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ
 آن مقام کے لیے محمد الہار انصاری ہوائی سہاہ کو وکیل مقرر
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف 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 یکطرفہ 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 تقرر کا اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانہ 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

المرقوم: 8/7/20

Accepted

مقام: 

نوٹ: اس وکالت نامہ کی فونو کاپی نام قابل قبول ہوگی۔

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

Service Appeal No. 6881/2020

Jamshid Khan s/o Sabar Din,
r/o House No. 377, Phase-II, Armour Colony,
Nowshera, Tehsil & District Nowshera.

.....Appellant

V E R S U S

1. Govt: of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
3. Regional Police Officer, Mardan Region-I, Mardan.
4. Deputy Inspector General of Police, Mardan Region-I, Mardan.
5. District Police Officer, Nowshera.

.....Respondents

REPLY ON BEHALF OF RESPONDENTS No.1,2,3&4,5

Respectfully Sheweth: -

PRELIMINARY OBJECTIONS

1. That the appellant has got no cause of action.
2. That the appeal is badly time-barred.
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.

On Facts

1. Initial part of the para pertains to service record of the appellant hence, needs no comments while regarding rest of the para it is stated that each and every Police Officer/Official is bound by law to perform his duty with honesty and upto the entire satisfaction of his high-ups.
2. Incorrect. There was credible information that appellant while posted as SHO Police Station, Nowshera Kalan, had links with foreign cloth smugglers, as these smugglers supplied foreign made cloth to godowns situated in village Wattar (territorial jurisdiction of Police Station, Nowshera Kalan) wherefrom the same was smuggled to different places and on the basis of said allegations, facts finding enquiry, against the appellant, was conducted through SDPO Akora Khattak who recommended the appellant for proper departmental proceeding. Hence, departmental enquiry, against the appellant, was conducted through the then SDPO Pabbi, who after fulfillment of all legal and codal formalities recommended the appellant for

minor punishment of stoppage of 02 increments with cumulative effect. On the recommendation of enquiry officer, appellant was awarded minor punishment of stoppage of 02 annual increments with cumulative effect. (Copies of departmental enquiry is annexed as annexure "A").

3. Correct to the extent that appellant was placed under suspension vide order 763-71/PA, dated 03-03-2020.
4. That appellant submitted his reply however, the same was not found convincing.
5. Para already explained hence, needs no comments.
6. Para already explained hence, needs no comments.
7. That appellant submitted reply to the charge sheet but the same was not found convincing/satisfactory.
8. Correct to the extent that departmental enquiry was conducted against the appellant and enquiry officer recommended the appellant for minor punishment of stoppage of 02 annual increments with cumulative effect.
9. That before passing punishment order, appellant was issued final show cause notice to which he submitted his reply but the same was found unsatisfactory.
10. Correct to the extent that appellant was awarded minor punishment of stoppage of 02 increments with cumulative effect. As the appellant was under suspension therefore, he was re-instated into service.
11. Correct to the extent that appellant filed departmental appeal before the appellate authority which was rejected.
12. Para already explained hence, no comments.
13. That the appeal of the appellant is liable to be dismissed on the following grounds: -

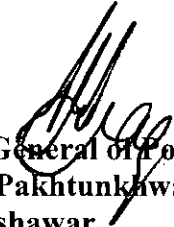
GROUND

- A. Incorrect. That orders of the replying respondents are in accordance with law, rules hence, liable to be maintained.
- B. Incorrect. As mentioned in the preceding paras allegations against the appellant were based on cogent evidence.
- C. Para already explained hence, no comments.
- D. Incorrect. As there was credible information regarding links of the appellant with foreign cloth smugglers, upon which facts finding enquiry was conducted. The enquiry officer recommended the appellant for departmental proceeding hence, departmental enquiry was conducted against the appellant. The enquiry officer after fulfillment of all legal and codal

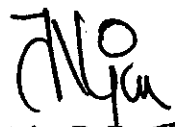
formalities recommended the appellant for minor punishment of stoppage of 02 annual increments with cumulative effect.

- E. Para already explained hence, no comments.
- F. Para already explained hence, no comments.
- G. Para already explained hence, no comments.
- H. Incorrect. Appellant has not been discriminated rather was proceeded against departmentally by fulfilling all legal and codal formalities.
- I. Incorrect. Explanation and reply submitted by appellant were neither supported by documentary proof nor were found satisfactory.
- J. Incorrect. Past conduct of any officer/official or clean record does not exonerate any officer/official from his future wrong doings or misconduct.

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.02**


**Regional Police Officer,
Mardan Region-I, Mardan.
Respondent No. 03&04**


**District Police Officer,
Nowshera.
Respondent No. 05**

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

Service Appeal No. 6881/2020

Jamshid Khan s/o Sabar Din,
r/o House No. 377, Phase-II, Armour Colony,
Nowshera, Tehsil & District Nowshera.

.....Appellant


V E R S U S


1. Govt: of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
3. Regional Police Officer, Mardan Region-I, Mardan.
4. Deputy Inspector General of Police, Mardan Region-I, Mardan.
5. District Police Officer, Nowshera.


.....Respondents

AFFIDAVIT

We the respondents No. 2,3,4&5 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.02**


**Regional Police Officer,
Mardan Region-I, Mardan.
Respondent No. 03&04**


**District Police Officer,
Nowshera.
Respondent No. 05**

POLICE DEPARTMENT

DISTRICT NOWSHERA.

DEPARTMENTAL ENQUIRY AGAINST SI JAMSHED KHAN THE THEN SHO PS NOWSHERA KALAN.

This is departmental enquiry against SI Jamshed Khan the then SHO PS Nowshera Kalan, while posted as SHO PS Nowshera Kalan placed under suspension and closed to Police Lines on account of links with foreign cloth smugglers, as reportedly the smugglers supplied the foreign made cloth to a hub/godown situated in village Wattar (territorial jurisdiction of PS Nowshera Kalan), wherefrom the same was smuggled to different places.

To ascertain facts, a preliminary enquiry was conducted through Mr. Ayaz Mehmood SDPO Akora who during the course of enquiry, held SI Jamshed Khan and his gunners SPO Shah Hussain No. 247, SPO Asif No. 174 and SPO Minhaj No. 259 responsible of misconduct and recommended that SI Jamshed Khan the then SHO PS Nowshera Kalan and his gunners mentioned in above may be proceeded against departmentally which amounts to grave misconduct on his part and rendered him liable for minor/major punishment under Khyber Pakhtunkhwa Police Rules, 1975.

PROCEEDINGS:-

For the purpose of scrutinize, the conduct of the said defaulter SI Jamshed Khan to the above allegations undersigned is hereby appointed as an Enquiry Officer to conduct departmental enquiry under Police Rules, 1975. The defaulter SI was summoned and the charge sheet/disciplinary action of the above allegations was served upon him. He submitted his reply. In response to the charge sheet/disciplinary action which is enclosed herewith.

STATEMENT OF SI JAMSHED KHAN THE THEN SHO PS NOWSHERA KALAN.


He stated in his statement that on 30-12-2019 he was posted as SHO in PS Nowshera Kalan. As SHO of PS Nowshera Kalan, he arrested several accused/smugglers with foreign cloth of huge amounts and handed the same to Custom Authorities. He has no concerned/contact with smugglers. As far godown in village Wattar is concerned, he categorically denied from the loading and unloading of foreign cloth in village Wattar. He further requested for the filing of the enquiry.

② A3
⑤

FINDINGS:-

From the perusal of conducted enquiry and recorded statement, it transpired that the allegations leveled against defaulter SI Jamshed Khan the then SHO PS Nowshera Kalan regarding the involvement/contact with smugglers could not be proved from the attached CDR. However, being a senior Police Officer, it was his responsibility to stop the smuggling and keep himself aware about this but he failed to do so. It shows lacuna on his part. Hence, he is recommended for minor punishment i.e stoppage of 02-increaments with accumulative period of his service if so agreed please.

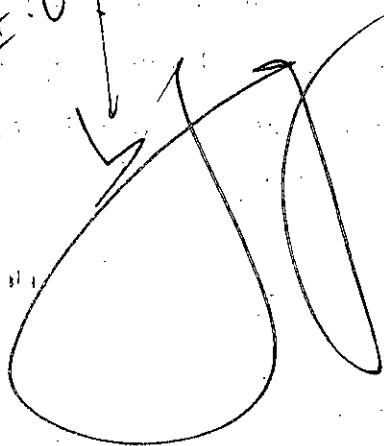
Encl= (25) Sheets


Deputy Superintendent of Police,
Pabbi Circle.

No. 284 /S

Dated 25/03/2020

Agreed with the findings
of I.O / FSCN be issued -



Before the Khyber Pakhtunkhwa Service Tribunal
Peshawar.

Jamshed Khan vs Govt of KP
and others.

Application for deletion of
Respondent No 1 being unne-
cessary Party.

Respectfully sheweth!

- 1) That the above title Service Appeal is pending adjudication before this H. Court which is fixed for today.
- 2) That at the time of filing appeal the Respondent No 1, has been arrayed in the columns of respondents, Now the appellant/applicant wants to delete the same being unnecessary Party.

It is therefore requested that Respondent No 1 may please be deleted from the columns of Respondents being unnecessary Party.

date: 21-12-20

Applicant/Appellant

Jam
Ghosh

21/12

Before the Khyber Pakhtunkhwa Service Tribunal
Peshawar.

Jamshed Khan vs Govt of KP
and others.

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It is more requested that respondent no 1 may please be deleted from the column of Respondents being unnecessary party.

date: 21-12-20

Applicant/Appellant

Jamshed Khan

(Signature)

Before the Khyber Pakhtunkhwa Service Tribunal
Peshawar.

Jamshed Khan vs Govt of KP
and others.

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from the column of Respondents
being unnecessary party.

date: 21-12-20

Jay
Applicant/appellant
Yash

(Signature)

Before the Khyber Pakhtunkhwa Service Tribunal
Peshawar

Jamshed Khan vs Govt of KP
and others.

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date: 21-12-20

Jam
Applicant/appellant

Yash

Yash

Before the Khyber Pakhtunkhwa Service Tribunal
Peshawar

Jamshed Chau vs Govt of KP
and others.

Application for deletion of
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respondent no 1 may please be deleted
from the column of Respondents
being unnecessary party.

date: 21-12-20

Applicant/appellant

Jam
Shah

Jam
Shah



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 829 /ST

Dated: 31-3-2022

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

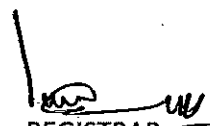
To

The District Police Officer,
Government of Khyber Pakhtunkhwa
Nowshera.

Subject: JUDGMENT IN APPEAL NO. 6881/2020 MR. JAMSHAIK KHAN.

I am directed to forward herewith a certified copy of Judgement dated 02.02.2022 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR

KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR