

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.9411/2020

Date of Institution ... 24.08.2020
Date of Decision ... 27.01.2022

Nasar Ali S/O Jehangir Shah R/O Toru Nawan Killi Tehsil &
District Mardan, Ex-Constable Police Department, Khyber
Pakhtunkhwa, District Mardan.

... (Appellant)

VERSUS

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

... (Respondents)

Javid Iqbal,
Advocate

... For appellant.

Muhammad Adeel Butt,
Additional Advocate General

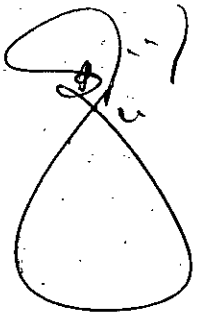
... For respondents.

Ahmad Sultan Tareen
Rozina Rehman

... Chairman
... Member (J)

JUDGMENT

Rozina Rehman, Member(J): Brief facts of the case are that
appellant while posted at Police Station City was proceeded against
departmentally on the allegations that he alongwith FC Ayaz being in
drunken condition, beat two workers in an under construction building
and in this regard, report was entered vide D.D No.21 dated
17.02.2018. Consequently appellant was dismissed from service.
Being aggrieved, he filed departmental appeal which was rejected, he,
therefore, filed Service Appeal No.1399/2018 which appeal was
accepted vide judgment dated 31.07.2019 and appellant was
reinstated in service for the purpose of de-novo inquiry. In pursuance
to the judgment of this Tribunal, appellant was reinstated and de-novo

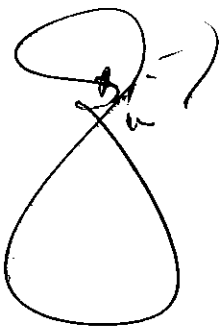


inquiry was conducted. Consequently, appellant was once again dismissed from service vide order dated 17.02.2020. He then filed departmental appeal which was also dismissed, hence, the present service appeal.

2. We have heard Javid Iqbal Advocate learned counsel for appellant and Muhammad Adeel Butt, learned Additional Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

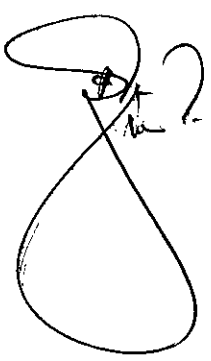
3. Javid Iqbal Advocate, learned counsel for appellant contended with vehemence that the impugned orders are illegal and void ab initio as appellant was not treated according to law and rules. He contended appellant was discriminated and was condemned unheard; that no charge sheet and statement of allegations were communicated to the appellant and no proper inquiry was conducted into the matter. He contended that even the de-novo inquiry is silent in respect of the statement of the aggrieved persons/victims despite the fact that in the previous round of litigation, this fact had been highlighted. He, therefore, requested for the acceptance of the instant service appeal.

4. Conversely, learned AAG submitted that a complaint was submitted by Noman Hussain and Muhammad Hussain complaining therein that Constable Nasar Ali in drunken position harassed two workers namely Muhammad Rizwan and Muhammad Sarwar who were working in an under construction building. That on account of aforementioned allegations, appellant was properly issued charge sheet with statement of allegations and inquiry was entrusted to DSP Sheikh Maltoon. He contended that during the course of inquiry, appellant was contacted time and again to appear before the inquiry officer but he neither appeared nor submitted reply, however, after



fulfillment of all legal and codal formalities, ex-parte action was taken and the official was recommended for major punishment. He contended that as per directions of Service Tribunal, appellant was reinstated in service and proper de-novo inquiry was conducted. The appellant was summoned and heard in person by the competent authority in Orderly Room. He was referred to Medical Board but he didn't comply with the order of authority. Consequently, he was awarded major punishment of dismissal from service after observing all codal formalities.


5. From the record it evident that vide Naqal Mad No.21 of Daily Dairy dated 17.02.2018 of Police Station City, District Mardan one Noman Hussain reported the matter in shape of a written complaint against Constables Nasar Ali i.e. the present appellant and Ayaz that they being intoxicated unnecessarily harassed two workers namely Abdur Rehman and Muhammad Rizwan, who were working in an under construction building. Accordingly, departmental proceedings were conducted and appellant was dismissed from service vide order dated 20.08.2018. His Departmental appeal was also dismissed, however, his service appeal was accepted and he was reinstated in service for the purpose of de-novo inquiry. In pursuance of the judgment of this Tribunal, he was reinstated in service on 30.09.2019. He was allotted Constabulary Number and Mushtaq Ahmad SP Operations Mardan was appointed as Inquiry Officer. It is not denied that he was departmentally proceeded against on the strength of a complaint of one Noman Hussain who leveled allegations against the appellant and one another namely Constable Ayaz for unnecessarily harassing/ beating two workers namely Abdur Rehman and Muhammad Rizwan who were working in an under construction building and that both the constables

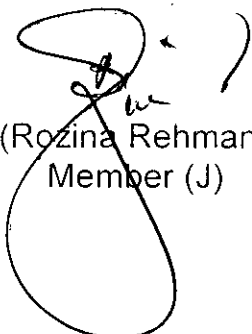
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were drunk. The entire record is silent in respect of statement of complainant and victims. This fact had been mentioned in the earlier round of litigation but the respondents failed to record their statements even at the stage of de-novo inquiry. The record is silent in respect of charge sheet with statement of allegations and show cause notice. Copies of the charge sheet and statement of allegations are available on file being annexed with the comments are without the signature of the authority/DPO rather these documents are in the shape of a blank proforma. The present appellant was not given any opportunity of cross-examination. There is nothing on file which could show that the other constable Ayaz was also proceeded against departmentally and was dismissed from service. The appellant was discriminated and was given step motherly treatment. So far as his appearance before Medical Board is concerned, the same is irrelevant now at this stage as the alleged occurrence took place on 17.02.2018, whereas, order for his appearance before the Medical Board was passed in the year 2020.

6. In the light of above discussion, the instant appeal is accepted by setting aside the impugned order and the appellant is reinstated in service. The intervening period shall be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
27.01.2022


(Ahmad Sultan Tareen)
Chairman


(Rozina Rehman)
Member (J)

Order
27.01.2022

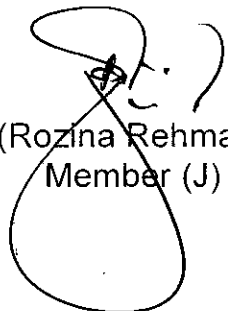
Appellant present through counsel.

Muhammad Adeel Butt, learned Additional Advocate General for respondents present.

Vide our judgment of today of this Tribunal placed on file, the instant appeal is accepted by setting aside the impugned order and the appellant is reinstated in service. The intervening period shall be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
27.01.2022


(Ahmad Sultan Tareen)
Chairman


(Rozina Rehman)
Member (J)

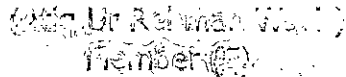
23.11.2021

Appellant in person present.

Mr. Javid Ullah, Assistant Advocate General for the respondents present.

The Worthy Chairman is on tour to D.I. Khan, therefore, order could not be announced. To come up for order on 24.01.2022 before D.B.




(Mr. Javid Ullah)
Member (J)

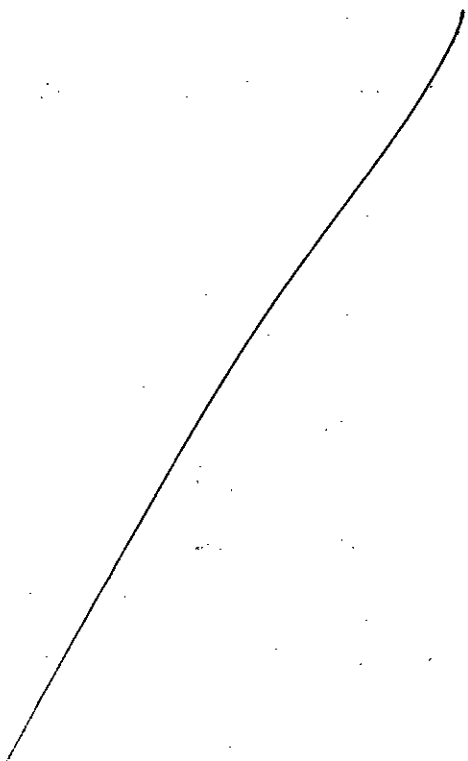

(Rozina Rehman)
Member (J)

24.01.2022

Appellant in person and Mr. Javidullah, Asstt. AG for the respondents present.

Mrs. Rozina Rehman, Learned Member (Judicial) is on leave, therefore, orders could not be announced. To come up for orders on 27.01.2022 before the D.B.


Chairman



15.09.2021

Appellant with counsel present.

Javid Ullah learned Assistant A.G alongwith Khyal Roz Inspector for respondents present.

Arguments heard. To come up for order on 05.10.2021 before D.B.



(Rozina Rehman)
Member (J)

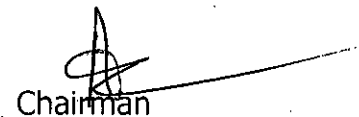


Chairman

05.10.2021

Counsel for the appellant and Mr. Javaidullah, Asstt. AG for the respondents present.

Learned Member Judicial (Mrs. Rozina Rehman) is on tour to Swat, therefore, order could not be announced. To come up for order on 21.10.2021 before the D.B.




Chairman

21.10.2021

Nemo for appellant.

Javid Ullah, learned Assistant Advocate General for respondents present.

Case was called but none appeared on behalf of appellant, therefore, case is adjourned to 01.11.2021 for orders before D.B.



(Rozina Rehman)
Member (J)




Chairman

12.01.2021

Appellant is present in person. Mr. Kabirullah Khattak, Additional AG for the respondents is also present.

Neither written reply on behalf of respondent submitted nor representative of the department is present, therefore, learned Additional Advocate General is directed to contact the respondents and furnish written reply/comments on the next date of hearing. Adjourned to 17.02.2021 on which date file to come up for written reply/comments before S.B.


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

17.02.2021

Junior to senior counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Khyal Roz, Inspector (Legal) for the respondents are also present.

Representative of the department submitted written reply/comments on behalf of respondents No. 1 to 3 which is placed on record. Adjourned to 26.05.2021 on which date file to come up for rejoinder and arguments before D.B.


(Muhammad Jamal Khan)
Member


26.05.2021

Appellant in person present.

Mr. Adeel But learned Additional Advocate General alongwith Khyal Roz Inspector for respondents present.

Former submitted rejoinder, which is placed on file and requested for adjournment that his counsel is busy before Hon'ble High Court.

Adjourned to 15/9/21 for arguments before D.B.


(Atiq Ur Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

21.09.2020

Counsel for the appellant present.

Contends that the denovo enquiry culminated^{ing} into major penalty of dismissal from service against the appellant was not conducted in a manner prescribed by rules as well as previous judgment of this Tribunal passed on 31.07.2019. It was also argued that though the competent authority as well as appellate authority, while deciding the case of appellant, kept in consideration the past conduct of the appellant which was not called for. That, the appellant was not provided with any opportunity to defend himself nor any of the alleged witnesses were ever produced during the departmental proceedings to record their statements.

Subject to all just exceptions, instant appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 23.11.2020 before S.B.

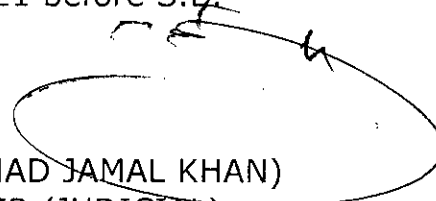
Appellant Deposited
Security & Process Fee


Chairman

23.11.2020

Learned counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Khayal Roz, Inspector, for the respondents are also present.

Written reply on behalf of respondents not submitted. Representative of the department seeks further time for submission of written reply/comments. Time given. File to come up for written reply/comments on 12.01.2021 before S.B.


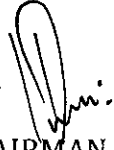

(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 9411 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	24/08/2020	<p>The appeal of Mr. Nasar Ali presented today by Mr. Javed Iqbal 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>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>21/09/2020</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

BEFORE THE HONOURABLE COURT SERVICE TRIBUNAL
KHYBER PAKHTUN KHWA PESHAWAR.

Service appeal NO. _____ /2020

Nasar Ali s/o Jehangir Shah r/o Toru Nawan Killi
Tehsil and District, Mardan.

.....Appellant.

Versus.

1. Inspector General of Police Khyber Pukhtun khwa Peshawar.
2. Deputy Inspector General of Police, Mardan Region-I Mardan
3. District Police Officer, Ma-rdan.

....Respondent.

I N D E X.

Sr NO.	Description of Documents.	Annexure.	Page Number.	
			From	To
1.	Memo of Appal	-	1	4
2.	Application for condonation.	-	-	5
3.	Affidavit.	-	-	6
4.	DD Report NO.21 dt:17.02.2018	A	-	7
5.	DPO Order dated 20.08.2018	B	-	8
6.	R.Departmental appeal to DIG, MR,I,Mardan dated 1010.18	C	-	9
7.	Service tribunal Judgement.	D	10	12
8.	DPO order of dismissal dated 17.02.2020	E	-	13
9.	Appeal to DIG M.R,I,Mardan	F	14	16
10.	Order of rejection of DIG M.R, Mardan.	G	17	18
11.	Affidavit by the complainant regarding compromise.	H	-	19
12.	Wakalat nama.	-	-	-

Dated: 24.08.2020

Appellant Nasar Ali
(NASAR ALI)

Through: (JAVED IQBAL)
Advocate Distt: Bar, Marda



BEFORE THE HONOURABLE COURT SERVICE TRIBUNAL

Khyber Pakhtunkhwa Peshawar.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 8966

Service appeal NO. 9411 /2020

Dated 24-8-2020

Nasir Ali s/o Jehangir Shah r/o Toru Nawan Killi
Tehsil and District, Mardan, Ex. Constable Police
Departmental KPK District, Mardan.

(...;Appellant)

Versus

1. Inspector General of Police KPK, Peshawar.
2. Deputy Inspector General of Police Mardan
Region-I, Mardan.
3. District Police Officer, District Mardan
(...Respondants).

SERVICE APPEAL U/S 4 OF SERVICE TRIBUNAL ACT
1974 FINAL APPELLANT ORDER DATED 27.07.2020
passed by respondent 2 against the order of
respondent 3 on 17.02.2020 whereby the
appellant was dismissed from Service, which
is legally against the law and Facts.

PRAYER.

On acceptance of this appeal order dated
27.07.2020 and order dated 27.07.2020 may kindly
be set aside and appellant may please be reinstated in
Service with all back benefits. Any other relief
deem fit may also be graciously granted.

Respected Sheweth:-

Sir,

Appellant submit as under:-

Filed to-day

Registrar

24/8/2020

3. That appellant while posted at Police Station City as F.C. was departmentally proceeded exparte against on the allegation that the appellant alongwith F.C. Ayaz NO. 3067 in drunken condition condition be_at up two persons namely Sarwar and Muhammad Rizwan who were working in under construction bulding vide DD report NO. 21 dated 17.02.2018 Police Station City as Annexure "A".
2. That after departmental enquiry which was carried out exparte by Mr.Saifullah Khan DSP/Sheikh Maltoon the appellant was dismissed from service by respondent 3 vide the attached order as Annexure "B".
3. That the appellant moved an appeal to respondent 2 against the said order of dismissal under rule 11-A of KPK Police Rule 1974 which was rejected(Copy attac-heed, as Annexure "C"
4. That after failure departmental appeal the appellant moved a Service appeal in the Court of learned Service Tribunal which was accepted and a denove enquiry was directed by the Court vide the attached judgment Copy dated as Annexure "D".
5. That consequent upoj the learned Court order the appellant was reinstated and the denove enquiry was conducted by Mr. Mushtaq Ahmad SP/Operation and after his finding the appellant was dismissed from Service by DPO, Mardan vide his order dated 17.02.2020 as annexure "E" vide the appo.
6. That the appellant moved an appeal to respondent 2

Against the said order through application dated

20.06.2020 as annexure "F" but the same was also dismissed vide order dated 27.07.2020 as annexure "G".

7. That both the order dated 17.2.2020 and 27.07.2020 passed by respondent 3 and 2 are not maintainable under the law inter-alia with following and other grounds which with the permission of the learned Court may be advanced at the time of Court proceeding.

GROUNDS.

1. That the order dated 17.2.2020 and 27.2.2020 passed by respondent 3 and 2 are void arbitrary and illegal in abinitio.
2. That the de-novo enquiry has been conducted in utter dis-regard of the Court order.
3. That during de-novo enquiry no Show-Cause Notice about the said allegation has been given, nor any charge sheet served.
4. That at the time of de-novo enquiry the appellant was neither called nor any evidence in presence of the appellant was recorded.
5. That in spite of learned court observation no victim of the alleged occurrence has been examined. However one Nouman who has made the report appeared before the enquiry officer has submitted an affidavit to the effect that he does not want any proceeding in the matter, while the attached copy of affidavit as annexure "H".
6. That during the enquiry no written order was given to the appellant for medical examination nor proper procedure

was adopted for medical checkup by the enquiry officer even other wise the medical checkup was not issue in the enquiry.

7. That the time of enquiry the appellant was busy with POLIO TEEM in campaign, in all enquiry proceeding was made in back door without ~~the~~ informing the appellant about the order of dismissal. Subsequently the appellant himself obtained ~~his~~ copy on his own efforts.
8. That ~~during~~ the reinstatement period only two months salary was paid while the appellant perform his duty for about 10 months.
9. That the appellant has ca used high discrimination and prejudiced as ~~the~~ appellant was dismissed from service without following rules and regulation while no action was taken against the other colleague of the appellant.
10. That last but not least no final show cause notice was given to the appellant and it is mandatory under the law, while dismissing from Service.

It is therefore humbly prayed that on acceptance of this appeal order dated 17.02.2020 and 27.08.2020 may kindly be set-aside and the appellant may please be reinstated in Service with back benefits. Any other relief deemed fit may also be graciously granted.

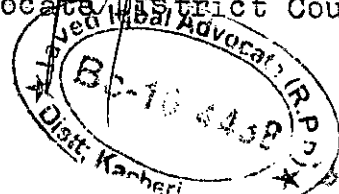
Dated: 24.08.2020.

Yours Obediently

Appellant Nasar Ali
Nasar Ali
Ex. Constable NO.1879

Through:

(JAVED IQBAL)
Advocate District Court, Mardan.



BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.

C.M. NO. _____/2020

Nasar Ali. Appellant.

VS

Inspector General of Police KPK Peshawar etc.
...(Respondents)

APPLICATION FOR CONDONATION OF DELAY OF APPEAL TO
DEPUTY INSPECTOR GENERAL OF POLICE MARDAN REGION-I
MARDAN.


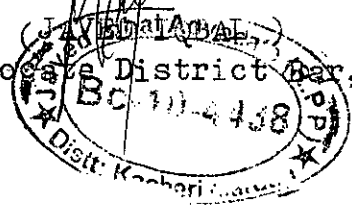
Sir,

Applicant humbly submits as under:-

1. That aforementioned appeal is filed today.
2. That the dismissal order dated 17.2.2020 has been not delivered to the appellant through proper means and the copy of order of dismissal was obtained on its own efforts and was received late on 17.06.2020 due to Corona epidemic.
3. That time of appeal to Dy:Inspector General of Police Mardan Region-I, Mardan is to be reckoned from date of reception i.e. 17.06.2020 thus appeal to Dy:Inspector General of Police, Mardan Region-I, Mardan is within time.

It is therefore requested that delay if any may please be condoned.

Dated: 24.08.2020


Advocate District Bar, Mardan.


(6)

BEFORE THE HONOURABLE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR.

C.M NO. _____/2020

Nasar Ali.Appellant

Versus.

1. Inspector General of Police KPK Peshawar.
2. Deputy Inspector Generale of Police Mardan Region-I, Mardan.
3. District Police Officer, Mardan.

. . . . Respondents.

AFFIDAVIT.

I, Mr. Nasar Ali s/o Jehangir r/o Nawan Killi Toru Tehsil and District, Mardan (Appellant) do hereby solemnly affirm and declare on Oath taht the contents of the application are true and correct to the best of my knowledge and belief: nothing has been concealed therein.

Dated: 24.08.2020

Deponent Nasar Ali
(NASAR ALI)

Through Council.

(ADVOCATE IQBAL)
Advocate Distt. Bar, Mardan.
138
Distt. Kacheri Mardan.

نمبر 21 = (فرمان 3/18) 17/2

تعمیراتی

صلاح الدین

جمال اللہ کی حیثیت 13:30 صبح 17/2/18 درجہ حمید حسین جمال حسن

21 = N
رہنما

ولدہ محمد حسین بانی نیک نام بنکار روڈ وہاں ملازمین تھا اگر ایک ٹریڈیو

دخوات رضوان کی والدین نامہ 1879- ایاز 3067 ہمراہ لاکر پیر دو کی طلبہ

محمد حسین عبدالرحمن ولد خیر علی۔ محمد رضوان ولد محمد سرور جو نہر شہت مسردو

زیر تعمیر بلڈنگ میں کام کرتے ہیں۔ پیر دو کی طلبہ ان کے مار پیٹا اور بیگم انعام

اور دونوں مسردوں کو زبردستی زبردستی کیا اور یہ بھی ظلم کیا کہ پیر دو کی طلبہ ان

کے ترقی حالت میں تھے اور دونوں کی طلبہ ان مخالف قانونی کارروائی سے روک رہے تھے

سرکار کے معاملات میں DSP سٹی ہاؤس اور جناب سپریم کورٹ میں نوٹس

جیل لایا۔ ہاؤس میں سپریم کورٹ میں نوٹس کے بعد پیر دو کی طلبہ

کو کوڑا مارا جس سے پیر دو کی طلبہ نے سپریم کورٹ میں نوٹس دیا

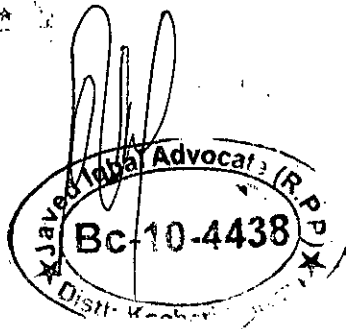
کی طلبہ ان کو سپریم کورٹ میں نوٹس دیا جس سے پیر دو کی طلبہ

جہاں رہ رہے تھے وہاں سے

نمبر 21
نقل بحفاظت
17/2/18



Attestation





OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

Tel. No. 0937-9230109 & Fax No. 0937-9230111
Email: dpo_mardan@yahoo.com

2018

No. 5014-1/2018

Dated 21/8/2018

ORDER ON ENQUIRY OF CONSTABLE NASIR NO. 1879

This order will dispose-off a departmental enquiry under Police Rules 1975, initiated against the subject official, under the allegations that while posted at Police Station City, (Now PS Lund Khwar), proceeded against departmentally through Mr. Saifullah Khan (DSP/Sheikh Maltoon vide this office Disciplinary Action No. 106/17/D.A-P.R-1975 dated 26.02.2018, complaining therein that Constable Nasir in drunk position, unnecessary harassed/beaten two workers namely Muhammad Rizwan & Muhammad Saadwar, who were working in under construction building vide DD report No. 21 dated 17.02.2018 PS City, lodged by SI Jamalullah Khan, who after fulfilling necessary process, submitted his Finding Report to this office vide his office letter No. 148/SMT dated 02.04.2018, recommending the alleged official for ex-parte action in the shape of Major Punishment, in the light of his non-appearance before him (Enquiry Officer), despite of repeated information.

Final Order

From the perusal of Finding Report of Enquiry Officer, I am of the considered opinion that non-appearance of Constable Nasir before the Enquiry Officer manifests that he was nothing to offer in his defense, which is a gross misconduct on his part, therefore, awarded him Major Punishment of Dismissal from Service with immediate effect, in exercise of the power vested in me under Police Rules 1975.

OB No. 2553
Dated 20/8/2018.

District Police Officer,
Mardan.

Copy forwarded for information & action to-

1. The SDPO Takht-Bhni.
2. The RI Police Lines Mardan.
3. The P.O. I.C. (Police Office) Mardan.
4. The OSI (Police Office) Mardan with () Sheets.

Attested



9

19

13

O R D E R.

This order will dispose-off the departmental appeal preferred by Ex-Constable Nasir Ali No. 1879 of Mardan District Police against the order of District Police Officer, Mardan, wherein he was awarded Major punishment of dismissal from service vide District Police Officer, Mardan OB No. 1593 dated 20.08.2018.

Brief facts of the case are that the appellant while posted to Police Station City, Mardan was in drunk position, unnecessarily harassed/beaten two workers namely Abdur Rehman & Muhammad Rizwan, who working in an under construction building reported vide DD No. 21 dated 17.02.2018 Police Station City lodged by SI Jamal Ullah was proceeded departmentally. Mr. Saif Ullah Khan DSP/Sheikh Maltoon, Mardan was deputed as Enquiry Officer who after fulfilling necessary process submitted his finding report and recommended him for ex-parte action for Major Punishment as he failed to appear before the Enquiry Officer despite repeated summons. Therefore, the District Police Officer, Mardan awarded him Major punishment of dismissal from service vide his office OB: No. 1593 dated 20.08.2018.

He was called in orderly room held in this office on 03.10.2018 and heard him in person. The appellant did not produce any cogent reason for his innocence. Besides, the appellant was also dismissed from service due to his absence from duty in the year 2014. Therefore, I find no grounds to intervene into the order passed by District Police Officer, Mardan. Appeal is rejected.

ORDER ANNOUNCED

Muhammad Ali Khan

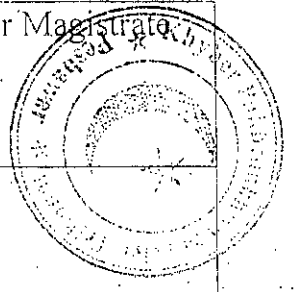
(MUHAMMAD ALI KHAN)PSP
Regional Police Officer,
Mardan.

No. 6296 /ES, Dated Mardan the 10/10 /2018.

Copy to District Police Officer, Mardan for information and necessary action w/r to his office Memo: No: 733/LB. dated 25.09.2018. The Service Record is returned herewith.

(*****)
Attest

[Signature]
*Javed Appel Advocate (R.P.S.)
BC-10-4438
Distt. Kohistan Mardan*



Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
<p align="center"><u>BEFORE THE KYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> Service Appeal No. 1399/2018</p> <p align="center">Date of Institution 06.11.2018 Date of Decision 31.07.2019</p> <p>Nasir Ali S/o Jehangir Shah R/o Toru Nawan Killi Tehsil & District Mardan. Ex-Constable Police Department Khyber Pakhtunkhwa, District Mardan.</p> <p align="right">Appellant</p> <p align="center">Versus</p> <p>1. Inspector General of police Khyber Pakhtunkhwa, Peshawar. 2. Deputy Inspector General of Police, Mardan Region-I, Mardan. 3. District Police Officer District Mardan.</p> <p align="center">Respondents</p> <p>Mr. Muhammad Hamid Mughal-----Member(J) Mr. Ahmad Hassan -----Member(E)</p> <p align="center"><u>JUDGMENT</u></p> <p><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> Learned counsel for the appellant present Mr. Zia Ullah learned Deputy District Attorney present.</p> <p>2. The appellant (Ex-Constable) has filed the present service appeal being aggrieved against the order dated 20.08.2018 whereby he was dismissed from service and against the order dated 10.10.2018 through which his departmental appeal against the above mentioned order dated 20.08.2018, was rejected.</p> <p>3. Learned counsel for the appellant argued that the appellant</p>		

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31.07.2019

EC-10-4438

Distt. Kachhri Mardan

ATTESTED

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MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar.

while posted at Police Station City as FC was proceeded against departmentally on the allegation that he in drunk position unnecessarily beat two (02) person namely Abdur Rehman and Muhammad Rizwan who were working in under construction building. Further argued that the departmental inquiry was carried out ex-parte; that the appellant was neither served any charge sheet with summary of allegation nor any Show Cause Notice was issued to him; that the appellant is innocent and was not provided opportunity to defend the charges leveled against him; that the inquiry officer has not collected any evidence in proof of accusation/charge.

4. On the other hand learned Deputy District Attorney while resisting the present service appeal, argued that the appellant misbehaved with the poor workers to the extent of torturing them and during departmental inquiry he was found guilty of misconduct; that the appellant deliberately absented himself and avoided appearance before the inquiry officer.

5. Arguments heard. File perused.

6. Charge against the appellant is that he in a drunk condition unnecessarily harassed/beat two (02) workers namely Abdur Rehman and Muhammad Rizwan who were working in an under construction building. The alleged incident was reported vide DD No.21 dated 17.02.2018 and the appellant was proceeded departmentally. In his inquiry/finding report, the inquiry officer recommended ex-parte action against the appellant for the reason

31.7.2019
 a
 ATTESTED

Khairpur
 Service Tribunal
 Peshawar

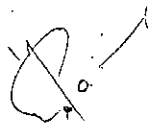
that the appellant willfully/deliberately avoided the service of charge sheet/statement of allegation upon him and did not appear before the inquiry officer to attend his case. Be that as it may be, the inquiry officer has not troubled himself to collect any evidence/proof in support of the charge leveled against the appellant. Inquiry officer did not bother to even record the statements of the victims.

7. In view of above, the punishment/impugned orders are set aside and the appellant is reinstated in service for the purpose of de-novo inquiry strictly in accordance with law/rules. The issue of back benefits shall be subject to the outcome of de-novo inquiry. The present service appeal is accepted in the above noted terms. Parties are left to bear their own costs. File be consigned to the record room.

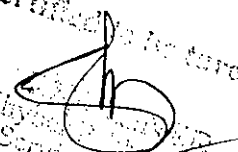


(Ahmad Hassan)
Member

ANNOUNCED
31.07.2019



(Muhammad Hamid Mughal)
Member

Certified true copy

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Number of Pages of Appellate Order 08-08-19
 Number of Volumes 1200
 Copying For 16-00
 Urgent _____
 Total 76-00
 Name of Copyist [Signature]
 Date of Completion of Job 27-08-19
 Date of Delivery of Copy 27-08-19

13

6



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

2020

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

No. 865-69/PA.

Dated 18.12.2020

ORDER ON DE-NOVO ENQUIRY OF CONSTABLE NASIR ALI NO.1054

This order will dispose-off a departmental (de-novo) enquiry under Police Rules 1975, initiated against the subject official, under the allegations that while posted at Police Station City (now Police Lines Mardan), had been dismissed from service by the then DPO Mardan vide OB No.1593 dated 20-08-2018, issued vide order No.5016-19/PA dated 24-08-218, on account of that he while in drunken position, un-necessary beaten/harassed two workers namely Muhammad Rizwan and Muhammad Sarwar, who were working an under construction building vide DD No.21 dated 17-02-2018 PS City, lodged by SI Jamal Ullah.

After rejecting departmental appeal by the then Worthy RPO Mardan, he knocked the door of Honorable Khyber Pakhtunkhwa Service Tribunal in the shape of Service Appeal No.1399/2018, where his case was argued at length & this office punishment order was set aside vide Verdict/Judgment dated 31-07-2019 with directions to hold a de-novo enquiry into the matter.

In compliance, Constable Nasir was re-instated in service for the purpose of de-novo enquiry vide this office OB No.2035 dated 30-09-2019, issued vide order/endorsement No.5934-39/EC dated 30-09-2019 and allotted Constabulary No.1054 vide OB No.2200 dated 11-10-2019 with conducting the desired enquiry through Mr. Mushtaq Ahmad SP/Operations Mardan, who (E.O) after fulfilling necessary process, submitted his Findings to this office, recommending the alleged official for major punishment.


Final Order

Constable Nasir Ali was heard in O.R on 10-12-2019 and referred to Medical Board for blood test to check and verify that he is still using drugs or otherwise, so he was called for the purpose by Medical Authorities twice i.e. on 16-01-2020 & 06-02-2020, but he didn't comply with, resultantly his case was filed vide MS DHQ Hospital Mardan office letter No.1538/M-6 (A) dated 08-02-2020.

Keeping in view the above discussion, the allegations leveled against Constable Nasir Ali have been proved, therefore awarded him major punishment of dismissal from service with immediate effect, in exercise of the power vested in me under P.R-1975.


OB No. 356

Dated 17/12/2020.


(SAJJAD KHAN) PSP
District Police Officer
Mardan

Copy forwarded for information & n/action to:-

1. The Deputy Inspector General of Police Internal Accountability K.P Peshawar with reference to his good office letter No.3322/CPC/IAB dated 04-11-2019, please.
2. The Regional Police Officer Mardan, please.
3. The DSP/HQrs: Mardan.
4. The P.O & E.C (Police Office) Mardan.
5. The OSI (Police Office) Mardan with () Sheets.


Advocate (R.P.C.)
BC-1 J-4438
Distt: Kohistan

(14)

To

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

Subject: APPEAL AGAINST THE ORDER OF WORTHY DISTT:
POLICE OFFICER, MARDAN DATED 17.02.2018
VIDE WHICH THE APPELLANT WAS DISMISSED
FROM SERVICE.

Respected Sir,

It is submitted as under:-

FACTS.

That the appellant while posted in Police Station City, Mardan as F.C. alongwith F.C. Ayaz was departmentally proceeded Ex. Parte for harrasing two workers namely Muhammad Rizwar and Muhammad Sarwar drunken condition during general duty vide daily diary report NO. 21 dated 17.02.2018. After departmental enquiry which was made exparte the applicant was dismissed from his service vide the order of learned District Police Officer, vide OB NO. 1593 dated 17.02.2018 .After failure of departmental appeal the applicant made a Service appeal in service tribunal KPK Peshawar which was accepted and the department was directed for the de-nove enquiry vide service tribunal judgement dated 31.07.2019. Consequent upon the Court order with out any evidence the appellant was dismissed from Service vide the order of learned District Police Officer Mardan dated 17.02.2018 vide OB NO. 356, hence this appeal for re-instatement in Service.

GROUNDS FOR APPEAL.

1. That the order of the learned District Police Officer, Mardan is against the law and facts on record.
2. That it is enough strange that in first enquiry, the appellant was ex.parte proceed against inspite of the fact that the appellant was performing his duty after suffering fifteen days quarter guard.
3. That during de-nove enquiry the appellant was also performing his duty and the order of dismissal was communicated after three months and the appellant was given only two months pay in contrary to the facts that the appellant has served 10 Months duty.
4. That during the de-nove enquiry no worker mentioned in the report has been examined.
5. That no action has been taken against my other colleague namely FC Ayaz while the applicant has been twice dismissed from service due to department rivalry with ASI Jamalullah so the appellant case has been highly prejudiced & discriminated due to negative report of the said ASI.
6. That the whole enquiry proceeding has been carried out without association of the appellant.
7. That the appellant has been dismissed from the service

on the allegations which is not mentioned either in charge-sheet nor Show-Cause Notice as the appellant never refused to be medically examined as being suspected of drug addit.

8. That one Nuaman the main Character of the report has submitted an affidavit to the enquiry officer who has withdrawn his allegation and effected compromise with the appellant.(Copy attached).
9. That no final Show-Cause Notice has been given to the appellant while awarding the major punishment of dismissal which is mandatory under the law.
10. That the appellant has no source of income and the whole family is depends upon the appellant. The Corona endemic and un-employment has brought his family to the verge of starvation to death.

In view of the above it is earnestly prayed the impugned order of learned District Police Officer, Mardan may kindly be set aside and the appellant be re-instated in service to meet the end of Justice.

Dated: 20.06.2020

Yours Obediently

Nasir Ali
(NASIR ALI)

Ex.Constable NO. 1054
Police Station Rustam
District, Mardan.

Mob:NO. 0315-9594451

ORDER.

This order will dispose-off the departmental appeal preferred by Ex-Constable Nasir Ali No. 1879 of Mardan District Police against the order of District Police Officer, Mardan, whereby he was awarded Major punishment of dismissal from service vide District Police Officer, Mardan OB No. 356 dated 17.02.2020. De-novo enquiry proceedings were initiated against the delinquent Officer on account of allegations that he while posted at Police Station City, Mardan had been dismissed from service by the then District Police Officer, Mardan vide OB No.1593 dated 20.08.2018, on the allegations that he, being in drunken state had beaten/harassed two laborers namely Muhammad Rizwan and Muhammad Sarwar for their no fault, who were working in an under construction building. Report in this regard was duly penned down vide daily diary No.21 dated 17.02.2018 of Police Station City by SI Jamal Ullah Khan. During de-novo enquiry proceedings, the appellant was provided ample opportunities to defend himself but he failed to justify his innocence. Besides, the enquiry Officer has also held that the appellant is a habitual drug/ice/liquor addict who also bore a dubious character. Hence, recommended him for major punishment of dismissal from service.

The delinquent Officer was heard in Orderly Room on 10.12.2019 by the District Police Officer, Mardan, who referred the appellant to Medical Board for blood test to check and verify as to whether the appellant is still using drugs or otherwise. The Medical Board called the appellant twice for the purpose i.e. on 16.01.2020 and 06.02.2020, but he did not appear. Resultantly his case was filed vide Medical Superintendent District Headquarter, Hospital, Mardan office letter No.1538/M-6 (A) dated 08.02.2020. Therefore, the District Police Officer, Mardan vide order No. 865-69/PA dated 18.02.2020 has awarded the appellant major punishment of dismissal from service.

Feeling aggrieved from the order of District Police Officer, Mardan, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 22.07.2020.

From the perusal of the enquiry file and service record of the appellant coupled with other material, it has been found that allegations against the appellant have been proved beyond any shadow of doubt. Because, the appellant was initially proceeded against departmentally on the allegations that he while posted at Police Station City, Mardan had beaten/harassed two laborers namely Muhammad Rizwan and Muhammad Sarwar for their no fault, who were working in an under construction building.

Proper departmental enquiry proceedings were initiated against him.

Attested

[Signature]
 Javed Iqbal Advocate (P.P.)
 BC-104438
 Distt. Kesheri Malakand


18

dismissal from service because during the enquiry proceedings he did not bother to join the enquiry proceedings despite repeated summons.

Therefore, the District Police Officer, Mardan awarded him Major punishment of dismissal from service vide his office OB: No. 1593 dated 20.08.2018. After availing departmental remedy, the appellant approached Khyber Pakhtunkhwa Service Tribunal by filing service appeal which was accepted vide order dated 31.07.2019 with the direction to the department to conduct de-novo enquiry proceedings against the appellant. In light of direction of Khyber Pakhtunkhwa Service Tribunal, the de-novo enquiry proceedings were initiated. During the course of which ample opportunities were provided to the appellant but he miserably failed to produce even a single iota of evidence in his defense. Therefore, he was awarded major punishment of dismissal from service which is commensurate with the gravity of misconduct of appellant. Besides the above, the appellant was previously dismissed from service vide order dated 07.11.2014 who was later on re-instated into service by the then Regional Police Officer, Mardan through order endorsement No. 8565/ES dated 29.12.2014. The previous as well as present conduct of the delinquent Officer is totally unbecoming of a disciplined Police Officer. Moreover, the appellant approached this forum at a belated stage without advancing any cogent reason regarding such delay and also failed to present any cogent justification in his defense. Therefore, order passed by the competent authority does not warrant any interference.

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 time barred.

Order Announced.

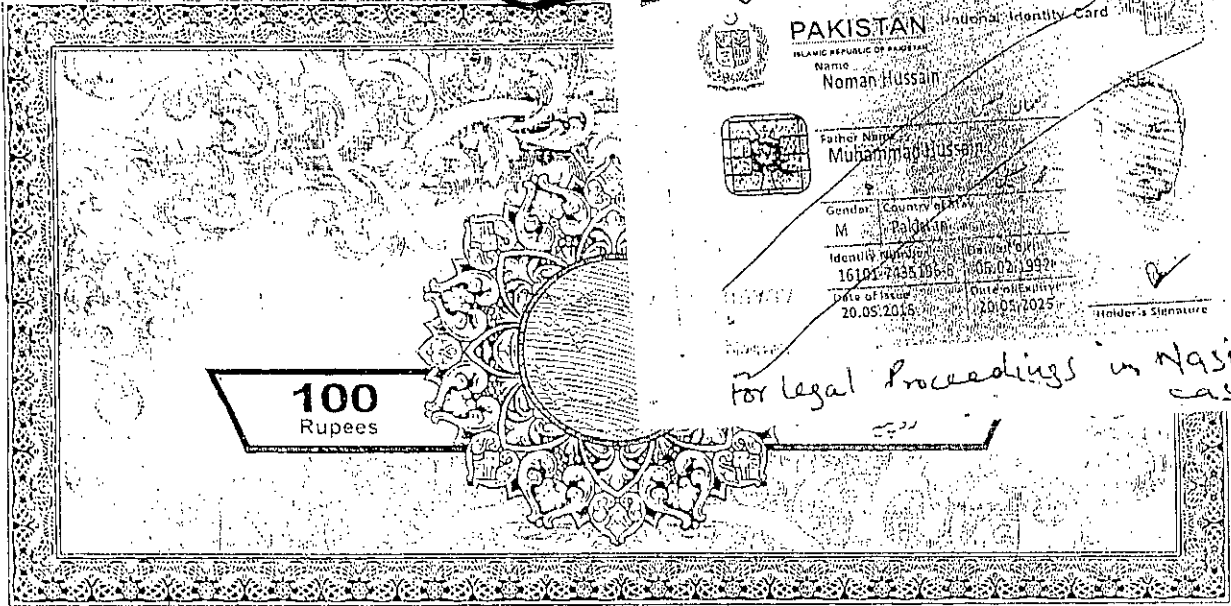

Regional Police Officer,
Mardan.

No. 4656 /ES, Dated Mardan the 27/07 /2020.

Copy forwarded to District Police Officer, Mardan for information and necessary w/r to his office Memo: No: 200/LB dated 06.07.2020. His service record is returned herewith.

(*****)

برائے رائی نامہ نامہ ناسیر خان کونسل



بیان حلف

میں نے نواز حسین ولد محمد حسین سندھ ہائی کورٹ میں حلف کیا ہے کہ میں نے
 کہ میں نے جو حصہ $\frac{17}{18}$ جو امر روزنامہ کے حصے $\frac{17}{18}$ کنٹریبل
 نامہ امر آباد سٹاک کے حوالے سے مردانہ رپورٹ کی ہے۔ اس
 حصے میں میرا کنٹریبل نامہ کیا تھا اور رضوان نامہ پر حلف ہے۔ اور
 دلیری فتح ہے۔ اور میرا حصہ خدوت عزیز کا حصہ ہے
 خواہاں نہیں۔ اگر اس خدوت زنگر اس فتح پر حصہ
 اور داخل دفتر ہو جائے۔ تو میرا حصہ اس پر کوئی اعتراض نہیں
 لیکن بیان حلف سزا کر کے ہے۔ $\frac{14}{19}$

16104-7435196-8

Advocate
 Iqbal Bhattoo
 Advocate
 District Court

نواز حسین

14/5

Advocate Iqbal Bhattoo (P.P.C.)
 Bc-10-4438
 Distt: Karachi

بعدالت خا۔ حرمین سروسز ایڈووکیٹس بار

مورخہ - 20-08-2024ء منجانب: مام علی -
 مقدمہ بعنوان مام علی - بنام 19P وٹیزہ -
 مقدمہ نمبر _____ رجوعہ _____
 نوعیت مقدمہ _____
 مقدمہ علت نمبر _____ مورخہ _____
 جرم _____ تھانہ _____

50
روپے

باعث تحریر آنکہ



مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام 1 اور کیلئے جاوید احمد ایڈووکیٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل مقررہ کو راضی نامہ کرنے و تقرر ی ثالث و فیصلہ برحلف دینے عرضی دعویٰ، جواب دعویٰ، اقبال دعویٰ، جواب الجواب، عذر داری، درخواست زیر دفعہ (2) 12 ض د، درخواست بمراد برآمدگی و سربراہی مقدمہ، درخواست بمراد منسوخی کاروائی و ڈگری بکطرفہ دائر کرنے جواب، جواب الجواب وغیرہ درخواست کاروائی اجراء دائر کرنے و وصولی چیک و رقم اور درخواست از ہر قسم کی تصدیق زراس پر دستخط وغیرہ کرنے کا اختیار ہوگا۔ اپیل، اپیل دراپیل، نگرانی، نظر ثانی، رٹ و عذر داری وغیرہ دائر کرنے کا بھی اختیار ہوگا۔ اور بصورت ضرورت مذکورہ کے عمل یا جزوی کاروائی کے واسطے وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اس کا ساختہ برداشت منظور و قبول ہوگا اور دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی پر وکیل موصوف مقام دورہ پر ہو یا حد سے باہر ہو یا بیمار ہو یا کوئی ضروری کام ہو۔ تو وکیل صاحب پابند نہ ہونگے کہ پیروی مقدمہ مذکورہ کریں لہذا وکالت نامہ لکھ دیا تاکہ سند رہے۔

المرقوم: 24-08-20

مقام _____ کے لئے منظور ہے۔

نوٹ: اس نکات نامہ کو نوکالی یا قابل قبول ہوگی۔

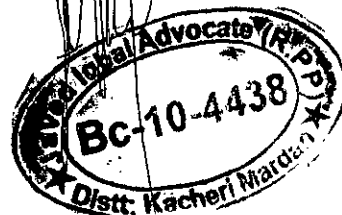
Advocate I.D: Be-10 4438

Bar Council

Bar Association

Contact #:

19P
Mardan
03319224274



Attested
&
Accepted

مام علی ولد جلیغریہ کابن نوان کل کوریو

C کورٹ

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

Service Appeal No. 9411/2020.

Nasir Ali s/o Jehangir Shah r/o Toru Nawan Killi Tehsil and District, Mardan, Ex
Constable Police Department KPK District Mardan.....Appellant.

VERSUS.

1. Inspector General of Police KPK, Peshawar.
2. Deputy Inspector General of Police Mardan Region-I, Mardan.
3. District Police Officer, MardanRespondents.

Para-wise comments by respondents:-

Respectfully Sheweth,

PRELIMINARY OBJECTIONS

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

REPLY ON FACTS.

1. Correct to the extent of posting of appellant at Police Station City, while rest of Para is incorrect because a complaint was submitted by Noman Hussain and Muhammad Hussain, complaining therein that Constable Nasir No.1054/1879 in drunken position, harassed/beaten two workers namely: Muhammad Rizwan & Muhammad Sarwar, who were working in under construction building and report was entered into Daily Diary vide No. 21 dated 17.02.2018 PS City, by SI Jamalullah Khan. On account of aforementioned allegations, the appellant was properly issued charge sheet with statement of allegations and enquiry was entrusted to Mr. Saifullah Khan the then DSP/Sheikh Maltoon. During the course of enquiry, the appellant was contacted time and again to appear before the enquiry officer but neither he appeared before the enquiry officer nor submitted his reply. However, after fulfillment of all legal and codal formalities, the Enquiry

Officer took ex-parte action & recommended the delinquent official for awarding Major Punishment. However, in the light of recommendations of Enquiry Officer, the competent authority awarded major punishment of Dismissal from Service to appellant, which does commensurate with the gravity of misconduct of the appellant (Copies of DD Report, Charge Sheet & Statement of allegations are annexed as "A, B & C").


2. Para already explained needs no comments.
3. Correct to the extent that the appellant preferred departmental appeal which was also decided on merit because the appellant was provided full-fledged opportunity of defending himself by the appellate authority but he bitterly failed to produce any cogent reason in his defense. Therefore, the same was rejected (Copy of rejection order is attached as annexure "D").
4. Correct, the appellant approached the Honourable Service Tribunal Khyber Pakhtunkhwa, Peshawar through service appeal No. 1399/2018. The Honourable Tribunal accepted appeal vide judgment dated 31.07.2019 and punishment/impugned orders were set aside and the appellant was reinstated in service for the purpose of de-novo inquiry strictly in accordance with law/rules. However, the issue of back benefits was left to the outcome of de-novo inquiry.
5. Correct, as per directions of the Honorable Service Tribunal the appellant was reinstated in Service for the purpose of conducting Denovo departmental enquiry. The Denovo Enquiry was entrusted to Mr. Mushtaq Ahmad the then SP Operations/Headquarters Mardan. The Enquiry Officer after fulfilling all legal and codal formalities, recommended the appellant for awarding major punishment. Therefore, the appellant was summoned and heard in person in orderly room by the competent authority. He was referred to Medical Board for blood test to check and verify that whether he is still using drugs or otherwise, so he was called for the purpose by Medical Authorities twice i.e on 16.01.2020 & 06.02.2020, but he did not comply with, resultantly his case was filed vide MS DHQ Hospital Mardan office letter No. 1538/M-6(A) dated 08.02.2020. Hence the competent authority awarded a major punishment of dismissal from service to the appellant, which does commensurate with the gravity of misconduct of the appellant (Copy of MS letter is annexed as "E").
6. Correct to the extent that the appellant preferred departmental appeal which was also decided on merit because he was provided full-fledged opportunity of defending himself by the appellate authority but he bitterly failed to produce any cogent reasons in his defense. Therefore, the same was rejected and filed, being time barred (Copy of rejection order is attached as annexure "F").
7. Incorrect. Both the orders of competent authorities are maintainable being legal and lawful. The appellant being a member of disciplined force has committed misconduct and held liable under the rules/law and his appeal is liable to be dismissed on the following grounds amongst the others.

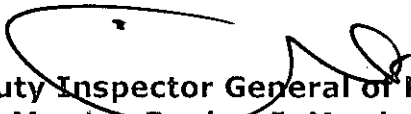
REPLY ON GROUNDS:-

1. Incorrect. Both the orders are lawful, based on facts and in accordance with law/rules, hence, plea of the appellant is denied.
2. Incorrect. Denovo Enquiry has been conducted in accordance with the norms of justice and law on the subject.
3. Incorrect. The appellant was issued Charge Sheet with statement of allegations. Hence, plea of the appellant is not plausible.
4. Incorrect. Plea taken by the appellant is totally devoid of substance as he has duly submitted his reply and joined the enquiry proceedings. Besides the appellant himself has admitted his guilt in a categorical manner by patching up the matter with the complainant (Copy of Denovo Enquiry is attached as annexure "G").
5. Para already explained needs no comments.
6. Incorrect. The appellant was duly referred to Medical Board vide District Police Officer, Mardan office letter No. 7607/EC dated 18.12.2019 addressed to Medical Superintendent of DHQ, Mardan. The concerned authorities held Standing Medical Boards, but the appellant on 02 consecutive dates failed to appear (Both letter are annexed as "H" & "I").
7. Incorrect hence, denied. As replied above.
8. Plea taken by the appellant is not plausible, needs no comments.
9. Para explained earlier needs no comments.
10. Para already explained hence, no comments.

PRAYER:-

Keeping in view the above, stated facts and rules, it is humbly prayed that appeal of appellant, being baseless & devoid of merits, may kindly be dismissed with costs please.


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


**Deputy Inspector General of Police,
Mardan Region-I, Mardan**
(Respondent No. 02)


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

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

Service Appeal No. 9411/2020.

Nasir AliAppellant.

VERSUS.

Inspector General of Police KPK, Peshawar etcRespondents.

Reply to the application for condonation of delay:-

Respectfully Sheweth,


PRELIMINARY OBJECTIONS

1. That applicant has no cause of action to file the instant application.
2. That the application is barred by law.

REPLY ON FACTS

1. That the appeal filed by the applicant before this Honorable Tribunal may kindly be dismissed being a badly time-barred.
2. Incorrect. Plea taken by the appellant is not plausible, because he failed to collect his order within time and tailored the instant story just to cover the limitation issue.
3. Incorrect. Stance of the applicant is baseless and he has preferred departmental appeal to the appellate authority with a delay of 124 days after his dismissal. Moreover, plea taken by the applicant is whimsical / concocted rather fanciful hence, liable to be set at naught. As the apex court of Pakistan has held that the question of limitation cannot be considered a "technicality" simpliciter as it has got its own significance and would have substantial bearing on merits of the case.

Keeping in view the above submission, it is humbly prayed that application of the applicant regarding condonation of delay may very kindly be dismissed please.


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


**Regional Police Officer,
Mardan.**
(Respondent No. 02)


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

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

Service Appeal No. 9411/2020.


Nasir Ali s/o Jehangir Shah r/o Toru Nawan Killi Tehsil and District, Mardan, Ex
Constable Police Department KPK District Mardan.....Appellant.

VERSUS.

1. Inspector General of Police KPK, Peshawar.
2. Deputy Inspector General of Police Mardan Region-I, Mardan.
3. District Police Officer, MardanRespondents.

COUNTER AFFIDAVIT.

We, the respondents do hereby declare and solemnly affirm on oath that the contents of the Para-wise comments in the service appeal cited as subject are true and correct to the best of our knowledge and belief and nothing has been concealed from this Honourable Tribunal.


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

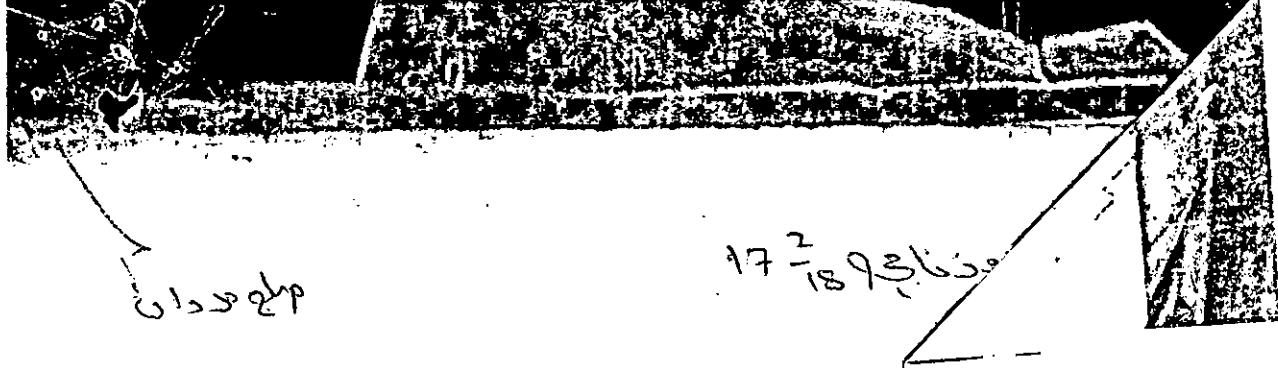
(Respondent No. 01)


**Deputy Inspector General of Police,
Mardan Region-1, Mardan**

(Respondent No. 02)


**District Police Officer,
Mardan**

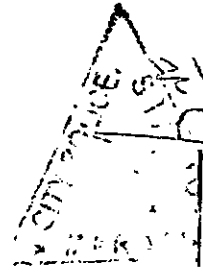
(Respondent No. 03)



روزنامہ 17² 189

ملاح عددان

یہ مہمان نواز ہیں اور ان کو دیکھنا کہہ سکتے ہیں
 کہ ایک تجربہ دار دوست کا خیال
 ہم دو مانیلا کے لیے سیانہ عبدالرحمن کے والد
 کو بخشے۔ دردور زیر تعمیر بلڈنگ میں
 اپنی اود بیچ کر آگیا۔ اور دردور کے والد کو
 دردور مانیلا کے نشہ کی حالت میں
 ایک مادیات کے لیے اس کے ساتھ ہے۔ یہ
 نام SP ماہر آپریشن کے نوٹس میں لیا
 تاکہ کہ کریمت دردور مانیلا کو توڑا
 SP آپریشن ماہر دردور مانیلا کو توڑا
 تمام پر یہ لاکھ ہونے کے ساتھ
 تادیب کے احکامات کے ساتھ ہونا
 ہونا



CHARGE SHEET UNDER KPK POLICE RULES 1975

I, Dr. Mian Saeed Ahmed District Police Officer, Mardan as competent authority charge you **Constable Nasir No. 1879**, as follows.

That you **Constable Nasir No. 1879**, while posted at Police Station City, Mardan. On application submitted by one Numan Hussain and Muhammad Hussain no Bicket No. 1879 on 17.02.2018 two workers namely Muhammad Rizwan and Muhammad Sarwar were working in under construction building. You (Constable Nasir) was came in drunken beaten and unnecessary harassed them. The same situation was entered By SI Jamalullah Khan of Police Station City vide DD No. 21 dated 17.02.2018. and you are recommended to proceed against you administratively by the undersigned.

This amounts to grave misconduct on your part, warranting departmental action against you, as defined in section - 6 (1) (a) of the KPK Police Rules 1975.

- By reason of the above, you appear to be guilty of misconduct under section - 02 (iii) of the KPK Police Rules 1975 and has rendered yourself liable to all or any of the penalties as specified in section - 04 (i) a & b of the said Rules.
1. You are therefore, directed to submit your written defense **within seven days** of the receipt of this charge sheet to the enquiry officer.
 2. Your written defence if any, should reach to 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, an ex-parte action shall follow against you.
 3. Intimate whether you desired to be heard in person.

(Dr. Mian Saeed Ahmed) PSP
District Police Officer,
Mardan

**OFFICE OF THE
DISTRICT POLICE OFFICER
MARDAN**

Tel: 0937-9230109
Fax: 0937-9230111
Email: dpomardan650@gmail.com
Facebook: District Police Mardan
Twitter: @dpomardan

125 /R/D.A-P.R-1975.

26-02 /2017,

DISCIPLINARY ACTION UNDER KPK POLICE RULES – 1975

I, Dr. Mian Saeed Ahmed District Police Officer, Mardan as competent authority am of the opinion that Constable Nasir No. 1879, rendered himself liable to be proceeded against as he committed the following acts/omission within the meaning of section-02 (iii) of KPK Police Rules 1975.

STATEMENT OF ALLEGATIONS

That Constable Nasir No. 1879, while posted at Police Station City, Mardan. An application submitted by one Numan Hussain and Muhammad Hussain r/o Bicket Gunj, that on 17.02.2018 two workers namely Muhammad Rizwan and Muhammad Sarwar were working in under construction building. He (Constable Nasir) was came in drunken beaten them and unnecessary harassed them. The same situation was entered By SI Jamalullah Khan of PS City vide DD No. 21 dated 17.02.2018, and he (Constable Nasir) is recommended to proceed against departmentally by the undersigned.

2. For the purpose of scrutinizing the conduct of the said official with reference to the above allegations _____ is appointed as Enquiry Officer.

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

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

(Dr. Mian Saeed Ahmed) PSP
**District Police Officer,
Mardan**

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

No. _____ /R. dated Mardan the _____ /2017.

Copy of above is forwarded to the:

1. _____ for initiating proceedings against the accused official / Officer namely Constable Nasir No. 1879, under Police Rules, 1975.
2. Constable Nasir No. 1879, with the directions to appear before the Enquiry Officer on the date, time and place fixed by the enquiry officer for the purpose of enquiry proceedings.



3

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

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpo_mardan@yahoo.com

2018

No. 50/6-19/PA

Dated 24/8/2018

ORDER ON ENQUIRY OF CONSTABLE NASIR NO.1879

This order will dispose-off a departmental enquiry under Police Rules 1975, initiated against the subject official, under the allegations that while posted at Police Station City, (Now PS Lund Khwar), Proceeded against departmentally through Mr. Saifullah Khan DSP/Sheikh Maltoon vide this office Disciplinary Action No.106/R/D.A-P.R-1975 dated 26.02.2018, complaining therein that Constable Nasir in drunk position, unnecessary harassed/beaten two workers namely Muhammad Rizwan & Muhammad Sarwar, who were working in under construction building vide DD report No. 21 dated 17.02.2018 PS City, lodged by SI Jamalullah Khan, who after fulfilling necessary process, submitted his Finding Report to this office vide his office letter No.148/SMT dated 02.04.2018, recommending the alleged official for ex-parte action in the shape of Major Punishment, in the light of his non-appearance before him (Enquiry Officer), despite of repeated information.

Final Order

From the perusal of Finding Report of Enquiry Officer, I am of the considered opinion that non-appearance of Constable Nasir before the Enquiry Officer manifests that he was nothing to offer in his defense, which is a gross misconduct on his part, therefore, awarded him Major Punishment of Dismissal from Service with immediate effect, in exercise of the power vested in me under Police Rules 1975.

OB No. 2553

Dated 20/8 2018.

*District Police Officer,
Mardan.*

Copy forwarded for information n/action to-

1. The SDPO Takht-Bhai.
2. The RI Police Lines Mardan.
3. The P.O + E.C (Police Office) Mardan.
4. The OSI (Police Office) Mardan with (5) Sheets.

DEPARTMENTAL ACTION AGAINST CO.

ASIR NO.1879

No. 3567/18A
4-7-18

Memo:

Kindly refer to your office diary No.106/R, dated 26.02.2018.

FINDING REPORT:-

It was alleged that Constable Nasir No. 1879, while posted at Police Station City, Mardan, an application submitted by one Numan Hussain and Muhammad Hussain r/o Bicket Gunj, that on 17.02.2018 two workers namely Muhammad Rizwan and Muhammad Sarwar were working in under construction building. He (constable Nasir) was came in drunken beaten them and unnecessary harassed them. The same situation was entered by SI Jamal Ullah Khan of PS City vide DD No.21 dated 17.02.2018 and he (constable Nasir) is recommended to proceed against departmentally by the undersigned.

Charge sheet with statement of allegations was issued to the alleged official and the inquiry was entrusted to the undersigned for proper probe.

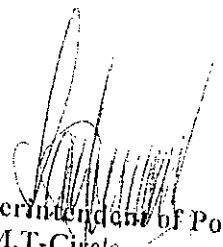
Initiating the Inquiry proceedings Muharrar of Police station City Mardan, Incharg Control room Mardan contacted through telephonic calls, parwan's and certain letters for summoning the defaulter official who in return informed that official is still absent from his official duties. The MASI further informed that the defaulter official could not be contacted on his given phone numbers. Besides, The official was lastly informed vide letter No.133/SMT dated 29.03.2018 through concerned posting place and incharge control room mardan but he failed to appear before undersigned until now.

All this means that the official is willfully/deliberately concealing himself from serving charge sheet plus statement of allegation upon him and did not appear into this office to defend his case by showing plausible/solid reason for his absence which shows that the official is no more interested in his service/job as his negligence.

Keeping in view the above facts and circumstances, it is recommended that an ex-parte action may be taken against the defaulter Constable Nasir No.1879 and give him Major punishment, if agreed.

No. 1278 /SMT

Dated. 02/04 /2018.


Deputy Superintendent of Police,
S.M.T-Circle.

PR
DPS/MAN

ORDER.

This order will dispose-off the departmental appeal preferred by Ex-Constable Nasir Ali No. 1879 of Mardan District Police against the order of District Police Officer, Mardan, wherein he was awarded Major punishment of dismissal from service vide District Police Officer, Mardan OB No. 1593 dated 20.08.2018.

Brief facts of the case are that the appellant while posted to Police Station City, Mardan was in drunk position, unnecessarily harassed/beaten two workers namely Abdur Rehman & Muhammad Rizwan, who working in an under construction building reported vide DD No. 21 dated 17.02.2018 Police Station City lodged by SI Jamal Ullah was proceeded departmentally. Mr. Salf Ullah Khan DSP/Sheikh Maltoon, Mardan was deputed as Enquiry Officer who after fulfilling necessary process submitted his finding report and recommended him for ex-parte action for Major Punishment as he failed to appear before the Enquiry Officer despite repeated summons. Therefore, the District Police Officer, Mardan awarded him Major punishment of dismissal from service vide his office OB: No. 1593 dated 20.08.2018.

He was called in orderly room held in this office on 03.10.2018 and heard him in person. The appellant did not produce any cogent reason for his innocence. Besides, the appellant was also dismissed from service due to his absence from duty in the year 2014. Therefore, I find no grounds to intervene into the order passed by District Police Officer, Mardan. Appeal is rejected.

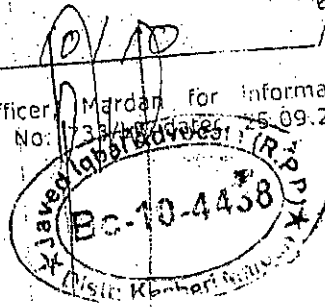
ORDER ANNOUNCED

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

No. 6796 /ES, Dated Mardan the 10/10 /2018.

Copy to District Police Officer, Mardan for information and necessary action w/r to his office Memo: No. 1731/ES dated 25.09.2018. The Service Record is returned herewith.

(*****)





(2) ✓

OFFICE OF THE MEDICAL SUPERINTENDENT
DISTRICT HEADQUARTERS HOSPITAL MARDAN
 Ph # 0937-9230145 Fax # 9230226

No. 1538 /M-6(A)

Dated 02 /2020.

To

The District Police Officer
Mardan.

Subject:- **MEDICAL ASSESSMENT/CHECK UP**
 Memo:

Reference your letter No. 7607/EC dated 18.12.2019 & this office letter No. 439/M-6(A) dated 11.1.2020 & No. 1413/M-6(A) dated 04.2.2020 on the subject noted above

It is to inform you that Constable Nasir Ali did not appear before the standing medical board on two consecutive medical board dateds i.e. on 16.1.2020 & 06.2.2020 & remained absent.

Report is submitted for your kind information & further necessary action & his case has been filed.

Disputed
Disputed



Medical Superintendent
D.H.Q. Hospital Mardan

PA/OSI/EC ✓
for further action

DPD, Mardan

ORDER.

This order will dispose-off the departmental appeal preferred by Ex-Constable Nasir Ali No. 1879 of Mardan District Police against the order of District Police Officer, Mardan, whereby he was awarded Major punishment of dismissal from service vide District Police Officer, Mardan OB No. 356 dated 17.02.2020. De-novo enquiry proceedings were initiated against the delinquent Officer on account of allegations that he while posted at Police Station City, Mardan had been dismissed from service by the then District Police Officer, Mardan vide OB No.1593 dated 20.08.2018, on the allegations that he being in drunken state had beaten/harassed two laborers namely Muhammad Rizwan and Muhammad Sarwar for their no fault, who were working in an under construction building. Report in this regard was duly penned down vide daily diary No.21 dated 17.02.2018 of Police Station City, by SI Jamal Ullah Khan. During de-novo enquiry proceedings, the appellant was provided ample opportunities to defend himself but he failed to justify his innocence. Besides, the enquiry Officer has also held that the appellant is a habitual drug/ice/liquor addict who also bore a dubious character. Hence, recommended him for major punishment of dismissal from service.

The delinquent Officer was heard in Orderly Room on 10.12.2019 by the District Police Officer, Mardan, who referred the appellant to Medical Board for blood test to check and verify as to whether the appellant is still using drugs or otherwise. The Medical Board called the appellant twice for the purpose i.e. on 16.01.2020 and 06.02.2020, but he did not appear. Resultantly his case was filed vide Medical Superintendent District Headquarter, Hospital, Mardan office letter No.1538/M-6 (A) dated 08.02.2020. Therefore, the District Police Officer, Mardan vide order No. 865-69/PA dated 18.02.2020 has awarded the appellant major punishment of dismissal from service.

Feeling aggrieved from the order of District Police Officer, Mardan, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 22.07.2020.

From the perusal of the enquiry file and service record of the appellant coupled with other material, it has been found that allegations against the appellant have been proved beyond any shadow of doubt. Because, the appellant was initially proceeded against departmentally on the allegations that he while posted at Police Station City, Mardan had beaten/harassed two laborers namely Muhammad Rizwan and Muhammad Sarwar for their no fault, who were working in an under construction building.

Proper departmental enquiry proceedings were initiated against him.

18

dismissal from service because during the enquiry proceedings he did not bother to join the enquiry proceedings despite repeated summons.

Therefore, the District Police Officer, Mardan awarded him Major punishment of dismissal from service vide his office OB: No. 1593 dated 20.08.2018. After availing departmental remedy, the appellant approached Khyber Pakhtunkhwa Service Tribunal by filing service appeal which was accepted vide order dated 31.07.2019 with the direction to the department to conduct de-novo enquiry proceedings against the appellant. In light of directions of Khyber Pakhtunkhwa Service Tribunal, the de-novo enquiry proceedings were initiated. During the course of which ample opportunities were provided to the appellant but he miserably failed to produce even a single iota of evidence in his defense. Therefore, he was awarded major punishment of dismissal from service which is commensurate with the gravity of misconduct of appellant. Besides the above, the appellant was previously dismissed from service vide order dated 07.11.2014 who was later on re-instated into service by the then Regional Police Officer, Mardan through order endorsement No. 8565/ES dated 29.12.2014. The previous as well as present conduct of the delinquent Officer is totally unbecoming of a disciplined Police Officer. Moreover, the appellant approached this forum at a belated stage without advancing any cogent reason regarding such delay and also failed to present any cogent justification in his defense. Therefore, order passed by the competent authority does not warrant any interference.

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 time barred.

Order Announced.


Regional Police Officer,
Mardan.

No. 4656 /ES, Dated Mardan the 27/07 /2020.

Copy forwarded to District Police Officer, Mardan for information and necessary w/r to his office Memo: No. 200/LB dated 06.07.2020. His service record is returned herewith.

(*****)



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

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

2020

No. 865-69/PA

Dated 18/12/2020

ORDER ON DE-NOVO ENQUIRY OF CONSTABLE NASIR ALI NO.1054

This order will dispose-off a departmental (de-novo) enquiry under Police Rules 1975, initiated against the subject official, under the allegations that while posted at Police Station City (now Police Lines Mardan), had been dismissed from service by the then DPO Mardan vide OB No.1593 dated 20-08-2018, issued vide order No.5016-19/PA dated 24-08-2018, on account of that he while in drunken position, un-necessary beaten/harassed two workers namely Muhammad Rizwan and Muhammad Sarwar, who were working an under construction building vide DD No.21 dated 17-02-2018 PS City, lodged by SI Jamal Ullah.

After rejecting departmental appeal by the then Worthy RPO Mardan, he knocked the door of Honorable Khyber Pakhtunkhwa Service Tribunal in the shape of Service Appeal No.1399/2018, where his case was argued at length & this office punishment order was set aside vide Verdict/Judgment dated 31-07-2019 with directions to hold a de-novo enquiry into the matter.

In compliance, Constable Nasir was re-instated in service for the purpose of de-novo enquiry vide this office OB No.2035 dated 30-09-2019, issued vide order/endorsement No.5934-39/EC dated 30-09-2019 and allotted Constabulary No.1054 vide OB No.2200 dated 11-10-2019 with conducting the desired enquiry through Mr. Mushtaq Ahmad SP/Operations Mardan, who (E.O) after fulfilling necessary process, submitted his Findings to this office, recommending the alleged official for major punishment.

Final Order

Constable Nasir Ali was heard in O.R on 10-12-2019 and referred to Medical Board for blood test to check and verify that he is still using drugs or otherwise, so he was called for the purpose by Medical Authorities twice i.e. on 16-01-2020 & 06-02-2020, but he didn't comply with, resultantly his case was filed vide MS DHQ Hospital Mardan office letter No.1538/M-6 (A) dated 08-02-2020.

Keeping in view the above discussion, the allegations leveled against Constable Nasir Ali have been proved, therefore awarded him major punishment of dismissal from service with immediate effect, in exercise of the power vested in me under P.R-1975.

OB No. 356

Dated 17/12/2020.

(SAJJAD KHAN) PSP
District Police Officer
Mardan

Copy forwarded for information & n/action to:-

1. The Deputy Inspector General of Police Internal Accountability K.P Peshawar with reference to his good-office letter No.3322/CPO/IAB dated 04-11-2019, please.
2. The Regional Police Officer Mardan, please.
3. The DSP/HQrs: Mardan.
4. The P.O & E.C (Police Office) Mardan.
5. The OSI (Police Office) Mardan with (?) Sheets.

Office of the Inspector General of Police
Khyber Pakhtunkhwa, Peshawar.

3026-29/CPO/IAB/C&E, dated Peshawar the 19/09/2019

To: ✓ The District Police Officer,
Mardan

Subject: DENOVO DEPARTMENTAL ENQUIRY AGAINST
EX-CONSTABLE NASIR ALI NO.1879

Memo:

Please refer to your office order 387/LB dated 13.09.2019, on the subject cited above.

2. Denovo departmental enquiry against Ex-Constable Nasir Ali No. 1879 may be conducted through Mr. Mushtaq Ahmad, Addl:SP (District Complaint Officer) Mardan and final outcome be communicated to this office, on or before 05.10.2019, before issuance of formal order, for the perusal of Worthy IGP.

3. Being a court matter the proceedings shall be completed within the limitation period to avoid further legal complications.

[Signature]
Assistant Inspector General of Police
Complaint & Enquiry
Khyber Pakhtunkhwa,
Peshawar

No:- 3026-29 /CPO/IAB/C&E

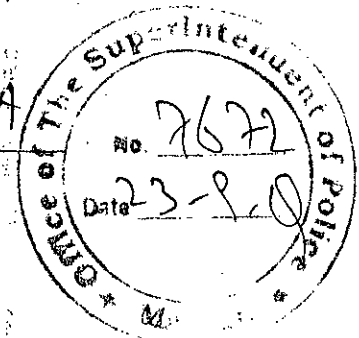
Copy of above is forwarded for information to the:-

1. Regional Police Officer, Mardan
2. Mr. Mushtaq Ahmad, Addl:SP (District Complaint Officer) Mardan.
3. The PSO to IGP.

✓
Sp Ops + DSP/ Legal + PA

For necessary action

[Signature]
DPO Mardan



D

FINDINGS.

In compliance of direction issued vide office Memo: No. 3026-29/CPO/IAB dated 19.09.2019 followed by dairy No. 7672/OS/GB dated 23.09.2019, Denovo departmental enquiry against Ex-Constable Nasir No. 1879 was initiated. The charges against him are as under:-

“Constable Nasir No. 1879 while posted at Police Station City Mardan an application submitted by one Numan Hussain and Muhammad Hussain r/o Bicket Gunj, that on 17.02.2018 two workers namely Muhammad Rizwan and Muhammad Sarwar were working in under construction building. He (constable Nasir) came in drunken beaten them and unnecessary harassed them. The same situation was entered by SI Jamalullah Khan of PS City vide DD No. 21 dated 17.02.2018”

During course of enquiry the defaulter official was called in the office. He was heard at length. Relevant record requisitioned, perused. He was provided sufficient opportunity of defense to his own satisfaction. He presented his written statement along-with stamp paper in which he stated that one the day of occurrence, some construction material and sand were laying in scattered condition which has caused blockage of the main road. He asked the concerned workers to collect the sand and material from the road so that unnecessary blockage could be avoided but despite of repeated directions they did not do so rather they became violent and started quarrelling. The defaulter official further stated that vide above mentioned DD report, both workers lodged report due to which he was send/confined in quarter guard for 15 days and later on he was dismissed from service. He further added that he performed his duty honestly and there is no reality in the compliant made against him. The defaulter official further presented a stamp paper/compromise deed bearing signature of complainant to the effect that vide DD report Mad No. 21 dated 17.02.2018 he (complainant) has lodged report but now he has effected compromise with constable Nasir and he is no more pursuing his report/compliant. He further prayed for his re-instatement in service. (Statement & Stamp paper placed on file for kind perusal)

Conclusion:

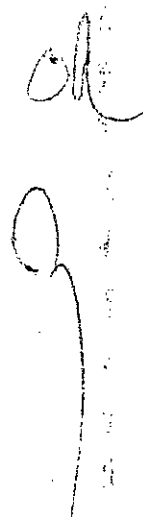
From perusal of available record, statement and circumstances, it transpires that vide DD report Mad No. 21 dated 17.02.2018 PS City, he along with constable Ayaz 3067 in drunken condition went to an under construction building and physically assaulted upon two workers namely Muhammad Rizwan and Muhammad Sarwar. In light of above mentioned complaint, he was subjected to a proper departmental proceeding but despite repeated summons from concerned quarters he failed to ensure his appearance before the enquiry officer; hence an ex-parte action was taken against him consequently he was dismissed from service. His service record further shows that he was earlier dismissed from service due to absence. During enquiry it further transpired that he is habitual drug/ICE/liquor addict and bears a bad character in general. During the course of cross examination he could not present any evidence to prove his innocence. In the aforementioned circumstances grant of any relief would deem to encourage him for doing such like misconduct in future. Furthermore it will earned a bad name for the entire force.

Recommendation:

Foregoing in view of the above, the allegations levelled against him is proved. His retention in police force may lead to any untoward situation in future. It is therefore recommended that Ex-Constable NASTY No. 1379 may be awarded Major Punishment under Police Rules 1975.

Submitted please.


Superintendent of Police
Operations & Headquarters
Mardan



Refer to
for...
to...
the...
stamp.

EC

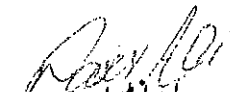
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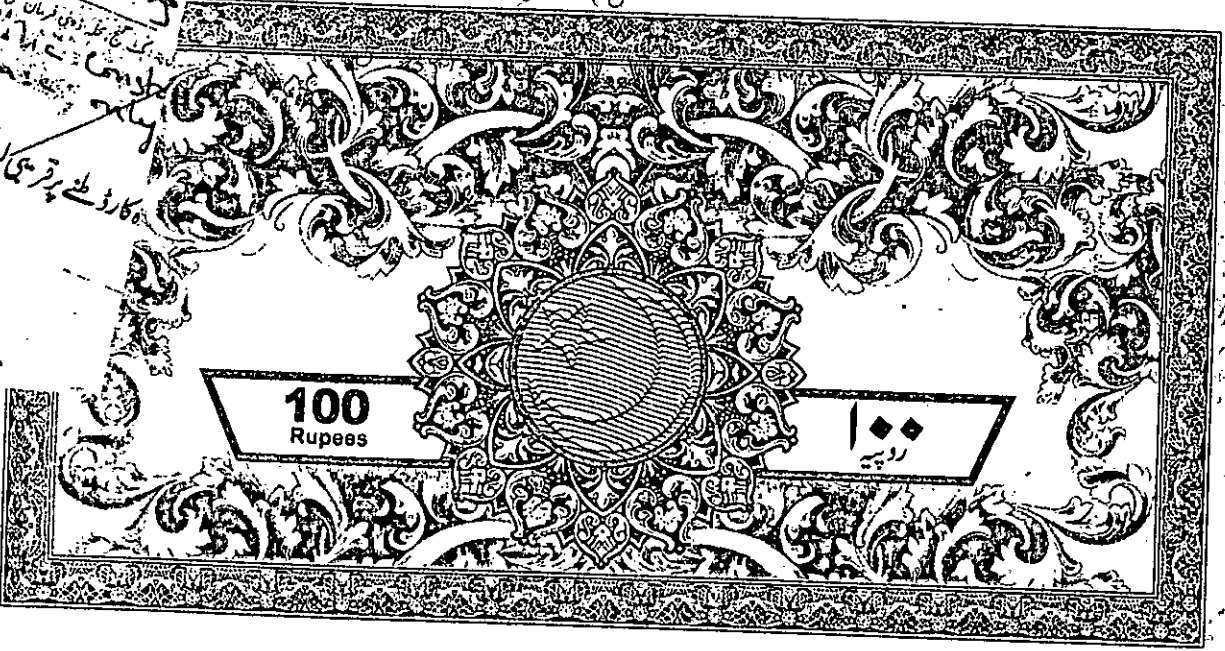
بحوالہ از سر نو ڈیپارٹمنٹل انکوائری بابت الزامات

کہ بدوران تعیناتی تھانہ شی بہراہ کانٹھیل مورخہ 2-2-2018-17 بہراہی ایاز کانٹھیل بدوران گشت میں نے
ہمراہی ام کے ساتھ نشہ کی حالت میں دو اشخاص سرور اور محمد رضوان جو کہ ایک زیر تعمیر عمارت میں کام کر رہے تھے بری
طرح مارا پیٹا اور ان کے ساتھ بدتمیزی کی کہ اس سلسلے میں معروضات حلقاً لکھتا ہوں کہ دراصل وقوعہ کے روز متذکرہ
مزدوران نے سڑک پر بجری بچھائی تھی اور جس سے سڑک پر رکاوٹ بنی تھی ان کو ہٹانے کے لیے کہا گیا واپسی کے
دوران جب ہم آئے تو بجری سڑک پر جوں کی توں پڑی تھی ہم نے ان کو دوبارہ ہٹانے کے لیے کہا لیکن اس دوران
ان کا مالک نعمان آیا ہم نے اس کو بھی بجری ہٹانے کے لیے کہا لیکن انہوں نے ہمیں افسران بالا کا حوالہ دے کر بجری
پڑی رہنے پر اصرار کیا ہمارے بار بار کہنے کے باوجود وہ نہ مانا اور ہمارے ساتھ مشقت و گریبان ہونے لگا ہم نے بھی
حفاظتی اختیاری کے تحت اسے مضبوطی سے پکڑے رکھا اس اثناء میں وہاں کے چند لوگ آ کر ان کو چھڑا کر لے گئے
جن کا بدلہ اس نے ہمارے خلاف ایک غلط اور بیہودہ الزامات لگا کر متعلقہ روزنامچہ رپورٹ
21 مورخہ 2-2-2018 درج کرائی ہمارے خلاف یکطرفہ کارروائی ہو کر مجھے 15 دن کا وارنٹ گارڈ دیا گیا بعد
میں میرا تبادلہ لونڈ خوڑ کیا گیا وہاں پر میں اپنی ڈیوٹی نہایت ایمانداری اور خلوص سے انجام دیتا رہا اس کے باوجود مجھے
سنے بغیر نوکری سے فارغ کر دیا گیا جو کہ بعد میں عدالت نے مجھے بحال کر کے دوبارہ انکوائری کرنے کی ہدایت کی
جبکہ میرے دوسرے ساتھی کو نوکری پر بحال کر رکھا تھا اور اس کے خلاف کوئی کارروائی نہیں ہوئی میرے خلاف جو
الزامات لگائے گئے وہ غلط اور بے بنیاد ہیں اس میں کوئی شہادت موجود نہیں اور نہ متذکرہ افراد میرے خلاف
شہادت دینے کے لیے تیار ہیں اسی بناء پر رپورٹ کنندہ میرے خلاف درج رپورٹ واپس لینے کے لیے تیار ہے
اور حلف نامہ رپورٹ کنندہ منسلک ہے

اندریں بالا وجوہات کی بنیاد پر آپ افسران بالا سے درخواست کی جاتی ہے کہ میرے خلاف لگائے ہوئے الزامات
کو غلط قرار دے کر مجھے اس سے بری الذمہ کرنے کا حکم صادر فرمایا جائے جس کے لیے میں تاحیات ممنون و مشکور
رہوں گا اور آپ کی صحت اور کامیابی کے لیے تاحیات دعا گو رہوں گا

العارض


ناصر علی کانٹھیل 1879



بیان حلی

میں سے لغمان صہبہ ولد محمد صہبہ سند بیکٹ و گنج مردان حلقہ بیانہ گریڈ اول

کہ میں نے حوض $17 \frac{2}{18}$ بجوالہ روزنامہ ایک حوض $17 \frac{2}{18}$ کنٹریبلوں

نامہ امر آباد سٹاف کے تقاضے سے مردان دیوبند کی تھی۔ اس

سلسلے میں میرا کنٹریبل نامہ کیا تھا رضی نامہ یوحیہ کا ہے۔ کہ

دل بدی فتم ہوا۔ اور میں نے خدیف مزید کارروائی کرنے

خواہاں نہیں۔ اگر اس خدیف زنگور امری فتم ہو جائے

اور داخل دفتر میر جاتے۔ تو مجھے اس پر کوئی اعتراض نہیں

لیجئے بیان صہبہ سزا کرے۔ $14 \frac{10}{19}$

اکم 16104-7435198

لغمان صہبہ

(Signature)

Commissioner
Fazal Ghaffar
Advocate
Punjab

14/5



OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email dpo_mardan@yahoo.com

2019

No. 7607/EC
To:

Dated 18/12/2019

The Medical Superintendent,
District Headquarter Hospital,
Mardan.

Subject:
Memo:

MEDICAL ASSESMENT/CHECK UP.

Constable Nasir Ali of this district police was dismissed from service on allegations of drugs addicted etc. He was re-instated in service with the purpose of conducting de-novo enquiry.

It is requested that a medical board may be constituted to verify/check that either constable Nasir Ali is still using drugs or otherwise by going him through concerned blood tests.

Date & time be fixed for his medical assessment and information of the incumbent.

District Police Officer
Mardan

ek



OFFICE OF THE MEDICAL SUPERINTENDENT
DISTRICT HEADQUARTERS HOSPITAL MARDAN
Ph # 0937-9230145 Fax # 9230226

No. 1538 /M-6(A)

Dated 01/2 /2020.

To
The District Police Officer
Mardan,

Subject:- MEDICAL ASSESSMENT/CHECK UP
Memo:

Reference your letter No. 7607/EC dated 18.12.2019 & this office letter No. 439/M-6(A) dated 11.1.2020 & No. 1413/M-6(A) dated 04.2.2020 on the subject noted above.

It is to inform you that Constable Nasir Ali did not appear before the standing medical board on two consecutive medical board dateds i.e. on 16.1.2020 & 06.2.2020 & remained absent.

Report is submitted for your kind information & further necessary action & his case has been filed.

Medical Superintendent
D.H.Q. Hospital Mardan

PA/OSI/EC

For further information

DRP, Mardan



Disputed / Dismissed
ec

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

Service Appeal No. 9411/2020.


Nasir Ali s/o Jehangir Shah r/o Toru Nawan Killi Tehsil and District, Mardan, Ex
Constable Police Department KPK District Mardan.....Appellant.


VERSUS.

1. Inspector General of Police KPK, Peshawar.
2. Deputy Inspector General of Police Mardan Region-I, Mardan.
3. District Police Officer, MardanRespondents.

AUTHORITY LETTER.

Mr. Khyal Roz Inspector Legal, (Police) Mardan is hereby authorized to appear before the Honourable Service Tribunal, Khyber Pakhtunkhwa, Peshawar in the above captioned service appeal on behalf of the respondents. He is also authorized to submit all required documents and replies etc. as representative of the respondents through the Addl: Advocate General/Govt. Pleader, Khyber Pakhtunkhwa Service Tribunal, Peshawar.


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


**Deputy Inspector General of Police,
Mardan Region-I, Mardan**
(Respondent No. 02)


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

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR.

In Service NO. 94/1/ PESHAWAR.

Nasir Ali. Appellant.

VERSUS.

Inspector General of Police KP, Peshawar and others.
..... Respondents.

Rejoinder on behalf of appellant.

Respectfully Sheweth:-

All the preliminary objection raised by the respondents are incorrect and not accordance with law and rules rather the respondents are estopped due to their own conduct to raise any objection at the stage of appeal .

FACTS.

1. It is admitted to the extent aht previous departmental enquiry carried out by the enquiry officer was set aside by this honourable Court vide judgement dated 31.07.2019 which has been attached with original appeal as Annexure "D".
2. Para 2 needs no comments.
3. Para 3 has been already explained in above Para 1.
4. Para relates to the facts and has not denied by the respondents.
5. Para 5 is incorrect. The denove enquiry has been

not conducted as per direction of this honourable Court while the medical report was not an issue of the alleged mis-conduct. Besides this, no proper procedure has been adopted for medical examination of the appellant.

6. Para 6 is not true. All the merits has been ignored while deciding the departmental appeal by respondent.
7. Para 7 is incorrect. The both orders are arbitrary and without any legal evidence.

REJOINDER OF REPLY ON GROUNDS:

Para 1. Para 1 is not true. Both the orders are nonjudicial, void and not according to the law.

Para 2. It is also not correct. No evidence has been brought during de novo enquiry, to sustain the charges.

Para 3. It is incorrect. No copy of charge-sheet etc has been supplied to the appellant while conducting de novo enquiry against the appellant.

Para 4. Incorrect. The factor of compromise is redeeming factor and the superior Court has given proper weight in every Civil and Criminal Case.

Para 5. It requires no comments.

Para 6. Incorrect. The medical examination was not a part of the alleged mis-conduct even otherwise the proper procedure has been not adopted for medical check up of the appellant.

Para 7, 8, 9 & 10. has been not denied with cogent and solid evidence by the respondent and as such balance of convenience is tilted toward appellant.

It is therefore, prayed that the appeal lodged by the appellant in this honourable Court may kindly be accepted with back benefit in greater interest of Justice.

Dated: 25.05.2021

Appellant Nasir
(Nasir Ali)
Mob: NO. 0313-9594318

Through:-

(Javed Iqbal)
Advocate District Courts,
Mardan.

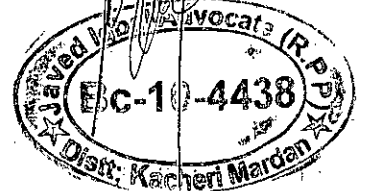
AFFIDAVIT.

I, Nasir Ali, the appellant do hereby state and solemnly affirm and declare that the contents of appeal and this rejoinder are true and correct, while objection raised in written reply are incorrect and untrue.

Appellant Nasir
(Nasir Ali)
Mob: NO. 0313-9594318

Through Council

ATTESTED.



BEFORE THE HONOURABLE SERVICE TRIBUNAL KP PESHAWAR.

Service appeal NO. 9411/20

Nasir Ali. Appellant.

Versus.

Inspector General of Police K.F, Peshawar.

...Respondent.

Rejoinder to the application for condonation of delay.

The preliminary objection raised by the respondent has got no worth in the eyes of law and are not worth consideration due to their void and unlawful orders.

Rejoinder of reply on facts:-

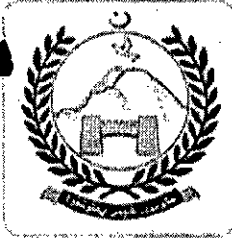
1. The delay to departmental appeal is not the fault of the appellant. There are many judgements of the superior Court that the time of limitation is no hurdle while deciding the appeal on merits by the concerned Court.
2. Incorrect. The order of dismissal was not supplied in time by the concerned authority and it was obtained by the appellant late due to corona disease.
4. Incorrect. That as explained above the dismissal order was not delivered in time to the appellant and it was not easy for the appellant to get the attested copy of order of dismissal in period of lock-down of corona epidemic.



Appellant Nasir

(Nasir Ali)
Mob: NC.0313-9594368

Through Counsel.



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 612 /ST

Dated: 3-3- /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
Mardan.

Subject: JUDGMENT IN APPEAL NO. 9411/2020 MR. NASAR ALI.

I am directed to forward herewith a certified copy of Judgement dated 27.01.2022 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR