

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
(Camp Court, D.I.Khan)

Appeal No. 5779/2020

Date of Institution ... 01.06.2020

Date of Decision ... 22.11.2021

Qayum Nawaz son of Liaqat Ali, Ex-constable No. 1003, Caste Chughtai, R/O Muryali Mor, Tehsil and District, Dera Ismail Khan.
... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs Department Khyber Pakhtunkhwa, Peshawar and three others.
...(Respondents)

Present.

Mr. Sadam Hussain Zakori,
Advocate

... For appellant.

Mr. Muhammad Rasheed,
Deputy District Attorney,

... For respondents.

MR. AHMAD SULTAN TAREEN
MR. SALAH-UD-DIN,

... CHAIRMAN
... MEMBER(J)

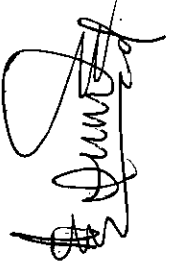
JUDGMENT

AHMAD SULTAN TAREEN, CHAIRMAN:- The appellant through the appeal prescribed above in the heading has invoked the jurisdiction of this Tribunal seeking relief based on the prayer copied herein below:-

"It is, therefore, requested to set aside the impugned orders and to reinstate the appellant in his service with all his back benefits."

2. The facts of the case giving rise to the present appeal precisely include that the appellant while serving as Constable having belt No. 1003 under control of respondents with about 19 years of mature service, when posted at Police Sation Kirri Khaisor, D.I.Khan, was proceeded against under the Efficiency & Discipline Rules; and consequently, major penalty of dismissal

from service was imposed upon him. According to the statement of allegations attached with the charge sheet, there was only allegation against him that he while posted at P.S/Kirri Khaisore D.I.Khan, was reported vide Mad No. 18 dated 05.02.2018 of P.S/Kirri Khaisor as absent from lawful duties w.e.from 05.02.2018 till date i.e. 14.06.2018 without any leave/ permission from the high-ups. An enquiry was conducted into the said charge and report was submitted by the enquiry officer with findings that there was no valid reason with the Constable Qayum Nawaz about his absence and he did not appear before the enquiry officer intentionally. A final show cause notice was given to the appellant in furtherance of the said enquiry report who submitted his reply to the competent authority. Ultimately, he was awarded with major punishment of dismissal from service by order dated 31.10.2018 since date of his absence i.e. 05.02.2018, issued by respondent No. 4. The departmental appeal against the said order was filed before respondent No. 3 being higher authority which was also dismissed, upholding the order of the competent authority. Revision Petition was submitted to the respondent No. 2 which was also rejected. Consequently, the appellant filed the present appeal with prayer as noted above.



3. Notices of the appeal were given to the respondents. They joined the proceedings and submitted their written reply with several legal and factual objections, refuting the claim of the appellant and asserted for dismissal of appeal with cost being meritless.

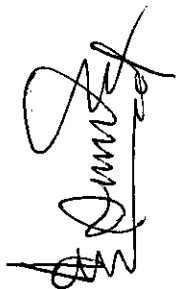
4. We have heard arguments and perused the record.

5. Learned counsel for the appellant argued that the entire disciplinary proceedings conducted against the appellant are against the due process of law. The appellant was condemned unheard and the competent authority without determination as to legality of the enquiry report proceeded vide impugned order setting therein the ground of punishment beyond the scope of charge sheet and statement of allegations served upon the appellant. The

charge of absence against the appellant was not proved in accordance with law. Thus, the appellant was not liable to be punished on such unfounded ground. The mentioning in the impugned order about involvement of the appellant in criminal case being beyond the scope of charge sheet, was not workable for consideration to award punishment to the appellant. Moreover, the appellant was acquitted from the charge by the competent court of law after facing the trial. He prayed for acceptance of the appeal with the relief set up in the prayer.

6. It was argued on behalf of the respondents that the appellant was lawfully proceeded against on account of his wilful absence. He was found involved in criminal case involving moral turpitude and his mere involvement in such a case was sufficient to make him unfit for police service. The competent authority decided to impose the major penalty upon him after due consideration of the material collected through proper enquiry. Learned Deputy District Attorney concluded his arguments with the submission that the appeal being meritless and time barred is not maintainable and is liable to be dismissed with cost.

7. As far as the ground of disciplinary proceedings conducted against the appellant is concerned, it is rooted in the charge of his wilful absence from duty since 05.02.2018 onward till the order dated 31.10.2018 as to his dismissal from service. The copy of enquiry report submitted by Deputy Superintendent of Police Saddar Circle D.I.Khan was annexed with the appeal as well as comments of the respondents. Accordingly, he was served with notice of the disciplinary proceedings on 02.07.2018 through Naib SRC requiring him to submit his reply before the DSP Circle (Enquiry Officer). The enquiry officer based his findings about absence of the appellant on his information received from Police Station Kirri Khaisor and counted the period of absence as about four months. In pursuance to said information, the enquiry officer expressed



his opinion in the manner that the period of absence of said constable is too much and he remained absent without leave and permission of the high-ups having no plausible reason of his such absence. The enquiry officer further noted that this was the reason that said constable despite repeated notices did not submit reply to the charge sheet before the DSP Saddar Circle. With aforementioned observations, the enquiry officer concluded that Constable Qayum Nawaz No. 1003 having no plausible reason of his absence, does not appear intentionally before the enquiry officer for enquiry. So, proceeding ex-parte against the appellant, the enquiry officer recommended major penalty against him. The said enquiry report with its given facade is nothing more than an ornamental exercise. According to order sheets of the enquiry proceedings annexed with the enquiry report, appellant purportedly received the charge sheet on 19.06.2018 and he was asked to submit the reply before the DSP Saddar Circle. Order sheet dated 19.06.2018 as well as two other order sheets one prior and the other later in date seem to have been recorded by the Reader of the enquiry officer/(DSP Sadar Circle). Due to admitted contact in-between Reader of the enquiry officer and the appellant, the enquiry officer was supposed to apprise the competent authority that the appellant despite notice did not turn up to show cause of his absence. Both the Competent Authority and the Inquiry Officer were ignorant of the fact that the ground of wilful absence does not make part of the grounds provided for punishment in Police Rules, 1975. Needless to say that a police officer including constable are civil servants of the province within the meaning of definition of civil servants under Section 2(b) of the Khyber Pakhtunkhwa Civil Servant Act, 1973. If the special rules in force for the police service are deficient to provide the ground for disciplinary action on the ground of wilful absence against a civil servant, then the general/E&D Rules will become applicable in such a case. Rule 9 of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011

provides a self-contained procedure for action on account of wilful absence as well as the penalty in pursuance to the action taken there-under. Accordingly, it is provided that in case of wilful absence from duty by a government servant for seven days or more days, a notice shall be issued by competent authority through registered acknowledgement on his home address directing him to resume duty within fifteen days of the issuance of the notice. If the same is received back as undelivered or no response is received from the absentee within the stipulated time, a notice shall be published in at least two newspapers directing him to resume duty within fifteen days of the publication of that notice, failing which an ex-parte decision shall be taken against that absentee. On expiry of the stipulated period given in the notice, major penalty of removal from service may be imposed upon such government servant. The disciplinary proceedings based on the charge sheet and statement of allegations followed by the enquiry report by DSP Saddar Circle do not disclose the compliance of Rule 9 ibid. Needless to say that no proper notice as required under Rule 9 ibid was given through registered post and served upon the appellant. If we presume the charge sheet and statement of allegations as notice of wilful absence with further presumption that the same were received by him as per note of the Reader of DSP Saddar Circle, the further course of action was to proceed for publication of the same notice in two newspapers as provided in Rules 9 ibid, when the appellant did not turn up. However, the respondents omitted to proceed as such. So, the action of the respondent department on purported wilful absence of the appellant is not tenable under the facts and law. The disciplinary proceedings conducted in the particular manner were unbefittingly relied upon by the competent authority for imposition of major penalty and similarly by the appellate authority and the revisional authority in case of the appellant for its upholding the impugned order in appeal and revision. So, all the orders including the impugned order



awarding major punishment of dismissal from service and the appellate revisional order are liable to be set aside.

8. We are not oblivious of the reply of the respondents about second enquiry on allegations of recovery of narcotics and registration of criminal case conducted by Superintendent of Police (Rural) D.I.Khan. Suffice it to say that the said second enquiry report as annexed with the reply of the respondents discloses from the very outset that it was completed in pursuance to directives of the DPO, D.I.Khan (respondent No. 4). The allegations as described in the said enquiry report reveal that the appellant while posted at P.S Kirri Khaisor D.I.Khan was booked in a criminal case vide FIR No. 517 dated 27.05.2018 under Section 9-B CNSA of P.S Cantt on account of recovery of 15 grams Shisha/Ice and 315 grams Chars from his personal possession. The statement of proceedings in the said enquiry report reveals that the appellant was traced and summoned with great difficulty. The charge sheet and summary of allegations were served upon him; he was heard in detail; he submitted his written reply; he was asked the question regarding his absence which he replied. His reply is appended which is self-explanatory. The case file of FIR No. 517 datd 27.05.2018 registered against the accused constable was studied thoroughly by the enquiry officer i.e. S.P (Rural) D.I.Khan. He summoned and heard in detail the IO, the SHO and marginal witnesses of the recovery memo and recorded their fresh statements and the same were placed on file. After recording other things from here and there in his enquiry report, the enquiry officer came with a conclusion as copied below:-

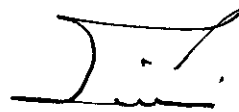
"There are more than sufficient irrefutable substantial documentary, circumstantial and ocular evidences on the enquiry file which prove that Constable Qayyum Nawaz No. 1003 is a habitual narcotics-seller. The recovery of 15 gram of Amphetamine (Ice or Shesha in local parlance) and 315 grams Chars from his direct possession vide case FIR No. 517, dated 27.05.2018, registered u/s 9- in Police Station Cantt, D.I.Khan, has been

proved. Being involved in this obnoxious social evil, he is earning a bad name for police department for which we claim zero tolerance."

9. In pursuance to the above conclusion, the enquiry officer recommended that major punishment of dismissal from police service may be awarded to the appellant. Additionally, he recommended that a copy of the enquiry report may be sent to S.P Investigation, D.I.Khan with the directives to consider it a part of investigation and append it with judicial file of the case for the kind perusal of the concerned court of trial, if agreed.

10. The said enquiry report alongwith dismissal order, appellate order and copy of FIR have been annexed with the reply of the respondents but the charge sheet and summary of allegations purported to have been served upon the appellant by the enquiry officer, were not annexed with the reply. So, the presumption of absence of any such charge sheet and summary of allegations is viable. No need to say anything more about the second enquiry report when the accused was acquitted of the charge of recovery of narcotics at trial on account of the case registered vide FIR No. 517 dated 27.05.2018 u/s 9-B CNSA Police Station, Cantt, D.I.Khan.

11. For what has gone above, the appeal at hands is accepted by setting aside the impugned orders and the appellant is reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

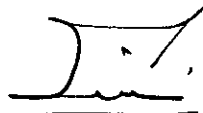
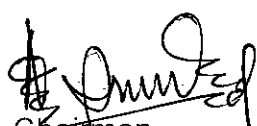


(SALAH-UD-DIN)
Member(J)
(Camp Court, D.I.Khan)



(AHMAD SULTAN TAREEN)
Chairman
(Camp Court, D.I.Khan)

ANNOUNCED
22.11.2021

| S.No. of proceedings | Date of Order or proceedings. | Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary. |
|----------------------|-------------------------------|---|
| 1 | 2 | 3 |
| | 22.11.2021 | <p align="center"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.</u></p> <p align="center">(Camp Court, D.I.Khan)</p> <p align="center"><u>Present</u></p> <p>Mr. Sadam Hussain Zakori, Advocate ... For appellant</p> <p>Mr. Muhammad Rasheed, Deputy District Attorney ... For respondents Alongwith Khalil Khan, S.I(Legal)</p> <p>Vide our detailed judgment of today, the appeal at hands is accepted by setting aside the impugned orders and the appellant is reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.</p> <div style="display: flex; justify-content: space-around; align-items: flex-end;"> <div style="text-align: center;">  (Salah-ud-Din) Member(J) Camp Court, D.I.Khan </div> <div style="text-align: center;">  Chairman Camp court, D.I.Khan </div> </div> <p><u>ANNOUNCED</u> 22.11.2021</p> |

27.10.2021

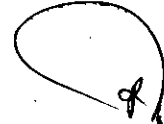
Appellant with counsel present.

Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith
Mr. Khalil Khan S.I (Legal) for respondents present.

Learned counsel for the appellant requested for adjournment;
granted. To come up for arguments on ~~22.11~~ 2021 before D.B at
Camp Court, D.I. Khan.



(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)
CAMP COURT, D.I KHAN



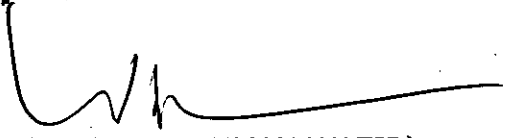
(ROZINA REHMAN)
MEMBER (J)
CAMP COURT, D.I KHAN

Due to COVID-19 therefore to
come up for the same on 28/9/21

On
Readr

28.09.2021 Learned counsel for the appellant present. Mr. Usman Ghani,
District Attorney alongwith Mr. Khalil Khan, SI (Legal) for the respondents
present.


Representative of the respondents submitted Parawise reply, which
is placed on file. To come up for rejoinder, if any and arguments before
the D.B at Camp Court, D.I Khan on 27.10.2021.


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)
CAMP COUR D.I KHAN

23.12.2020

Appellant in person and Muhammad Jan alongwith Khalil Khan SI legal for respondents present.

Written reply/comments on behalf of respondents was not submitted. Representative of respondents seeks time to file written reply/comments. To come up for written reply/comments on 23.12.2020 before S.B at Camp Court, D.I. Khan.


(Atiq-Ur-Rehman Wazir)
Member (E)
Camp Court, D.I. Khan

23.12.2020

Due to Covid-19, case is adjourned to 23.02.2021 for the same as before.



Reader.

23.02.2021

Appellant in person present.

Riaz Khan Paindakhel learned Assistant AG alongwith Khalil SI for respondents present.

Reply/comments on behalf of respondents not submitted. Representative of respondents requested for time to submit reply/comments. Granted. To come up for reply/comments on 24.05.2021 before S.B at Camp Court, D.I Khan.


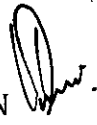
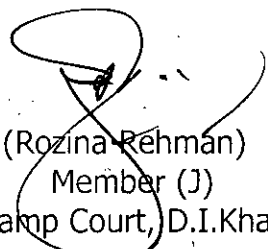

(Atiq ur Rehman Wazir)
Member (E)
Camp Court, D.I Khan

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 5770 5779 /2020

| 1S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|--------|---------------------------|---|
| 1 | 2 | 3 |
| 1- | 15/06/2020 | <p>The appeal of Mr. Qayyum Nawaz resubmitted today by Mr. Saddam Hussain Zakori Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p> |
| 2- | 14.9.2020 | <p>This case is entrusted to touring S. Bench at D.I.Khan for preliminary hearing to be put up there on <u>24.9.2020</u></p> <p> CHAIRMAN</p> |
| | 24.09.2020 | <p>Counsel for appellant present. Preliminary arguments heard. File perused.</p> <p>Points raised need consideration. Admitted to regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to respondents for written reply/comments. To come up for written reply/comments on 23.11.2020 before S.B at Camp Court, D.I.Khan.</p> <p> (Rozina Rehman) Member (J) Camp Court, D.I.Khan</p> |

Appellant Deposited Security & Process Fee
30/9/20


appeal of Mr. Qayyum Nawaz son of Liaqat Ali Ex-Constable Ex Constable No. 1003 District Police D.I.Khan received today i.e. on 01.06.2020 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Copies of departmental appeal and revision petition mentioned in the memo of appeal are not attached with the appeal which may be placed on it.
- 2- Two more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal

No. 1161 /S.T,

Dt. 01/6 /2020.


Mr. Sadam Hussain Zakori Adv. D.I.Khan


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Note: The above mentioned objections are hereby removed.



**BEFORE THE PROVINCIAL SERVICE TRIBUNAL,
KHYBERPAKHTUNKHWA**

Appeal No. 5770 of 2020

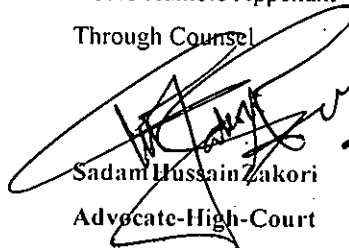
Qayyum Nawaz *VERSUS* Government of KP and others

APPEAL U/S 4 OF KP CIVIL SERVANT ACT, 1973

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Yours Humble Appellant
Through Counsel


Sadam Hussain Zakori
Advocate-High-Court

21/03/2020

①

**BEFORE THE PROVINCIAL SERVICE TRIBUNAL,
KHYBERPAKHTUNKHWA**

Service Tribunal Appeal No: 5770 of 2020
Qayyum Nawaz **VERSUS** Government of KP & Others

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1973 KP

**APPLICATION FOR CONDONATION OF DELAY IN FILING
OF THE INSTANT APPEAL**

Respectfully Sheweth,

That the appellants humbly submits as below;

1. That the appellants is going to institute the above titled appeal before this honourable Tribunal today.
2. That the impugned Office Order No. S/379-85/20 dated 07.01.2020 of the respondent No.2 was handed over to the appellants on 03.03.2020 for which the appellants was under statutory duty to institute the instant appeal within next 30 days i.e., up till 03.04.2020. However, due to the COVID-19 pandemic the entire country went into lockdown and the mundane affairs of the state were badly affected. The Honourable Peshawar High Court also declared holidays for all its subordinate courts and tribunals on 23.03.2020. Now The Honourable Peshawar High Court has once again ordered that all the subordinate courts and tribunals will once again re-open for the litigants for all purposes from 01.06.2020. Due to this fact the instant appeal of the appellants is within time.

Hence, it is requested to consider the instant appeal of the appellants within the statutory period and condone the delay occasioned in filing the instant appeal which was beyond the control of the appellants.

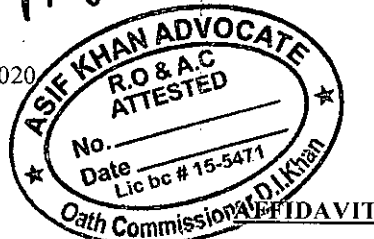
*Attested
Asif Khan*

Qayyum Nawaz

Your humble Appellant
Qayyum Nawaz

Ex-Constable, No.1003
Dera Ismail Khan

Dated 21/03 / 2020



Through Counsel
Sadam Hussain Zakori
Sadam Hussain Zakori
Advocate High Court

I Qayyum Nawaz do hereby solemnly affirm and declare that the contents of this Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Tribunal and this is the lone Appeal on the subject.

Qayyum Nawaz

Deponent

(1)

BEFORE THE PROVINCIAL SERVICE TRIBUNAL,
KHYBERPAKHTUNKHWA

Service Tribunal Appeal No: 5779 5770 of 2020

Khyber Pakhtukhwa
Service Tribunal

Diary No. 4173

Dated 01-6-2020

Qayyum Nawaz S/O Liaqat Ali, Ex-Constable, No.1003, Caste Chughtai, R/o
Muryali Mor, Tehsil & District Dera Ismail Khan

(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar
2. Inspector General of Police, (IGP) Khyber Pakhtunkhwa, Peshawar
3. Regional Police Officer, (RPO), Dera Ismail Khan Range, District Dera Ismail Khan
4. District Police Officer, (DPO), Office District Dera Ismail Khan

(Respondents)

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974

KP AGAINST THE BELOW ORDERS

Filed to-day

Registrar

1. Of The Respondent No.2 Office Order No. S/379-85/20 dated 07.01.2020
Vide Which The Revision Petition Of The Appellant Was Rejected
2. Of The Respondent No.3 Office Order No.1215/Es Dated 13.03.2019
Vide Which The Departmental Appeal Of The Appellant Was Rejected
3. Of The Respondent No.4 Office Order No.1513 Dated 31.10.2018

Note: THE IMPUGNED OFFICE ORDER OF THE RESPONDENT NO.2 WAS
HANDED OVER TO THE APPELLANT ON 03.03.2020 HENCE THE
INSTANT APPEAL IS WITHIN NEXT 30 DAYS OF THE STATUTORY
PERIOD

Re-submitted to
and filed.
Registrar 15/6/2020

Respectfully Sheweth,

BRIEF FACTS:

1. That the addresses of the parties written above for the purpose of services may be deemed sufficient.
2. That the appellant was initially appointed as Constable in the department of the respondents and was posted at Dera Ismail Khan having nineteen(19) years of mature service.
3. That the appellant was lastly posted at Police Station Kirri Khaisor, Dera Ismail Khan, as Constable, No.1003.
4. That there were two allegations levelled against the appellant by the respondent department i.e., absent from duty since 05.02.2018 till dismissal from service Dated 31.10.2019, and registration of FIR #517 DATED 27.05.2018 u/S 9(b)CNSA Police Station Cantt: DIKhan. Copy of the FIR #517 DATED 27.05.2018 u/S 9(b)CNSA Police Station Cantt: DIKhan is attached as Annexure-A.
5. That the appellant was acquitted of the said FIR on 10.08.2019. Copy of the Judgment & Order of Acquittal of the ASJ-VI, DIKhan Dated 10.08.2019 is attached as Annexure-B.
6. That the respondent No.4 charge sheeted the appellant under the allegation of absent from duty and also issued statement of allegation for the same, only. Copies of Charge Sheet and statement of allegation are attached as Annexure-C.
7. That the Deputy Superintendent of Police, Saddar Circle, DIKhan without providing any opportunity of personal hearing, right of cross-examination, recording of my written statement etc submitted its inquiry report in the office of the respondent No.4. Copy of the inquiry officer report in relationship of absent from duty is attached as Annexure-D.
8. That, thereafter, the respondent No.4 in the light of the said inquiry officer report issued final show cause notice to the appellant. The appellant submitted his reply within the given time. Copy of the final show cause notice of the respondent No.4 and its reply are attached as Annexure-E&F, respectively.
9. That, however, despite of the facts the respondent No.4 issued the impugned order Dated 31.10.2018 of the dismissal from service of the appellant. Copy of the dismissal order Dated 31.10.2018 of the respondent No.4 is attached as Annexure-G.
10. That feeling aggrieved, the appellant preferred an appeal to the respondent No.3 against the order Dated 31.10.2018. However, the respondent No.3 vide its impugned order Dated 15.03.2019 filed the appeal of the appellant. Copy of the respondent No.3 order Dated 15.03.2019 is attached as Annexure-H.

11. That, once again feeling aggrieved, the appellant preferred a Revision Petition before the respondent No.2. However, the Revision Petition of the appellant met the same fate and was rejected on 07.01.2020. However, the said order was intimated to the appellant on 03.03.2020. Copy of the Respondent No.2 order Dated 07.01.2020 received on 03.03.2020 is attached as Annexure-I.

12. That feeling aggrieved by the order Dated 07.01.2020 and the other impugned orders the appellant is now left with no other option but to invoke the jurisdiction of this Honourable Tribunal inter alia on the following grounds;

GROUND:

1. That the impugned orders are against the law and facts hence, not tenable in the eyes of law
2. That no charge sheet and statement of allegation is provided to the appellant in relationship of the above mentioned FIR.
3. That both the inquiries are conducted not by independent officers, but were subordinate to the respondent No.4 which is against the law and natural justice.
4. That the enquiry officer who was deputed for the purpose of allegation of absent from duty never examined any official of the Police Station Kirri Khaisor, Tehsil Paharpur, District DIKhan, who could produce the relevant record of the PS and depose and exhibit the same nor was thus the appellant given the right of cross-examination. Hence, fair trial and due process was not given to the appellant which was my vested and fundamental right enshrined in the Constitution of Pakistan, 1973.
5. That the inquiry officer who was deputed for the purpose of allegations of absent from duty didn't allow the appellant an opportunity of personal hearing. The appellant was only called upon by the said enquiry officer but was directed to sit outside his office and was never associated during the proceedings.
6. That the inquiry officer who was deputed for the purpose of allegations of absent from duty has allegedly mentioned in his enquiry report that the appellant was twice summoned for the proceedings of the inquiry. However, according to him I allegedly didn't appear, and has twice referred to Naib-SRC report, but not once his statement is recorded to this effect to substantiate his stance.
7. That no charge sheet or statement of allegation was ever served upon the appellant in relationship to the above cited FIR. Even, the enquiry officer never summoned the appellant in this connection and entire proceeding was conducted in the appellant's absentia.
8. That according to the Police Rules, 1975, amended in 2014, there are two kinds of proceedings against an employee, i.e., 1). Summary Police

Proceedings. 2). General Police Proceedings. As per the said rules it was mandatory upon the competent authority to first make a specific order as to what kind of proceedings it is going to adopt so that the accused mind is clear about the same. However, no such order is ever made by the respondent No.4, and it is the celebrated principle of law that any deviation from law would render the most sacred proceedings null and void. Hence, the entire edifice would crumble to the ground and the entire proceeding is nullity in the eyes of law.

9. That the respondent No.4 in his impugned order of dismissal from service Dated 31.10.2018 has mentioned in clear and unambiguous language the words "Orderly Room". As per the said rules an employee who is called for in Orderly Room can't be awarded major punishment of any kind.
10. That the appellant has never absented from duty and the allegation of absent from duty is baseless and the appellant is already acquitted from the above mentioned FIR and that was the reason the appellant in his reply to the Final Show Cause Notice requested the respondent No.4 to postpone the decision till the final outcome of the said FIR by the competent Judicial Forum.
11. That even otherwise, the respondent No.4, being the competent authority, in his Final Show Cause Notice, attached as Annexure-E, has not expressly mentioned the kind of Major Punishment. Hence, Major Punishment of dismissal from service could not be given to the appellant without taking on guard the appellant.
12. That it is by now time and again held by the Superior Courts of the land that an employee can't be awarded major penalty of dismissal from service on the basis of wilful absentism, rather could only be awarded minor penalties.
13. That even otherwise, even if the allegation of absent from duty of the appellant was proved to be correct yet the appellant had lot of earned leaves to his name and those leaves could have been adjusted towards the same. Throughout my long career of nineteen(19) years I have never remained absent from duty not there is any allegation of miss conduct against the appellant. This speaks volumn about the great career of the appellant.
14. That the appellant had nineteen years of long career to his badge and with one slip of pen the respondents have ruined the entire career. The appellant has served the department and the citizens of this country at the stake of his life and has been in life danger situations many times in his career.
15. That appellant was entitled to fair trial under the article 10A of the Constitution of Pakistan, 1973 and other statutory and case laws which was never provided to him. In case this Honourable Tribunal comes to the conclusion that the instant appeal is time barred then the appellant also seeks the condonation of delay which was occasioned due to the revision petition filed before the respondent No.2 and the submission of the order Dated 07.01.2020 of the respondent No.2 to the appellant on 03.03.2020 and due to this fact the instant appeal may kindly be considered within time.
16. That the facts mentioned above may please be considered sufficient grounds for the acceptance of the instant appeal, however, the counsel of the appellant may please be allowed to raise additional grounds for the success of the instant appeal.

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HENCE, IT IS, THEREFORE, REQUESTED TO SET ASIDE THE IMPUGNED ORDERS AND TO REINSTATE THE APPELLANT IN HIS SERVICE WITH ALL HIS BACK BENEFITS.

Qayyum Nawaz 21/02/2020

Your humble Appellant
Qayyum Nawaz

Ex-Constable, No 1003
Dera Ismail Khan

Sadam Hussain Zakori
Through Counsel
Sadam Hussain Zakori
Advocate High Court

Dated 21/03/2020

*Attested
Asif Khan*



AFFIDAVIT

I Qayyum Nawaz do hereby solemnly affirm and declare that the contents of this Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Tribunal and this is the lone Appeal on the subject.

Qayyum Nawaz

Deponent

CERTIFIED AT D.I.KHAN

That the parawise content of the instant appeal are true and correct and it is the lone petition on the subject matter

Qayyum Nawaz 21/03/2020

Qayyum Nawaz....(Appellant)

7

**BEFORE THE PROVINCIAL SERVICE TRIBUNAL,
KHYBERPAKHTUNKHWA**

Appeal No. _____ of 2020

Qayyum Nawaz VERSUS Government of KP and others

APPEAL U/S 4 OF KP CIVIL SERVANT ACT, 1973

MEMO OF ADDRESS

**Qayyum Nawaz S/O Liaqat Ali, Ex-Constable, No.1003, Caste Chughtai, R/o
Muryali Mor, Tehsil & District Dera Ismail Khan**

(Appellant)

VERSUS

- 1. Government of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar**
- 2. Inspector General of Police, (IGP)Khyber Pakhtunkhwa, Peshawar**
- 3. Regional Police Officer, (RPO), Dera Ismail Khan Range, District Dera Ismail Khan**
- 4. District Police Officer, (DPO), Office District Dera Ismail Khan**

(Respondents)



Your humble Appellant

(Qayyum Nawaz)


Through Counsel

Sadam Hussain Zakori

Advocate High Court

Dera Ismail Khan

Dated 21/03 / 2020

ابتدائی اطلاعی رپورٹ FIR

مؤرخہ ۳۱

Annexure A (فائل) ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زبردفعہ ۱۵۴ مجموعہ ضابطہ فوجداری

منسلق دیلی چھادی

تاریخ وقت وقوعہ ۲۶/۵/۱۳۷۵ وقت ۱۲-۴۵-۴

| | | |
|---|--|-----------------------------------|
| 1 | تاریخ وقت رپورٹ کی ۲۶/۵/۱۳۷۵ | تاریخ وقت وقوعہ ۲۶/۵/۱۳۷۵ |
| 2 | نام و سکونت اطلاع دہندہ مستفیض | محمد سعید خان (HP) پیکٹ |
| 3 | مختصر کیفیت جرم (معدومہ) حال اگر کچھ لیا گیا ہو | CNSA (b) 9 |
| 4 | جائے وقوعہ (معدومہ) درست کلمہ شارع عام نہ نہ د خانہ مسلم منار کی درٹ جانب جنوب برہانہ علی پور کوٹہ سرگودھا ضلع | |
| 5 | نام و سکونت مزم عیسویس ٹورز روڈ ایف اے اے علی ٹورس اے ایم ٹی اے چھادی کٹرہ منار کی درٹ | |
| 6 | کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرے | رہنما علی ٹورس اے ایم ٹی اے چھادی |

ابتدائی اطلاع نیچے درج کروندہ:
 محمد سعید خان (HP) پیکٹ سے تعلق رکھنے والے ایک شخص نے ۲۶/۵/۱۳۷۵ کو ۱۲-۴۵-۴ بجے کوٹہ سرگودھا ضلع کے ایک علاقے میں ایک عمارت کے سامنے ایک گاڑی پار کرنے کے دوران اس گاڑی کی کلاں لٹا دی اور اس سے پتھر پھینکا اور گاڑی کو نقصان پہنچا۔ یہ شخص خود کو کوٹہ سرگودھا کے رہنے والے بتا رہا ہے۔ اس شخص کے خلاف ایک مقدمہ درج ہے۔ اس شخص کے خلاف ایک مقدمہ درج ہے۔ اس شخص کے خلاف ایک مقدمہ درج ہے۔ اس شخص کے خلاف ایک مقدمہ درج ہے۔

گزارش کے مطابق
 1 He/Cantt
 ۲۶-۵-۱۳۷۵
 ۱۹-۷-۱۳۷۵
 ۱۹/۷

9

Annexure 'B'

JUDGMENT DELIVERED BY

SHAKIR ULLAH KHAN
ADDITIONAL SESSIONS JUDGE-VI,
D.I.KHAN

In sessions case No.52/VII of 2018
Put in Court on 12.11.2018

By STATE

Through complainant

Fahim Mumtaz Khan, S.H.O

Against
Accused

Qayyum Nawaz son of Liaqat Ali, caste Chughtai, aged about 45/46 years, resident of Muryali Turn, D.I.Khan

In

Case F.I.R No.517 dated 27.05.2018
Under Section 9-B of CNSA
Police Station Cantonment, D.I.Khan.

State represented by: Mr. Zafar Ali Khan, APP for the State

Accused represented by

Mr. Farooq Akhtar, Advocate

Decided on Saturday 10th August, 2019

SHAKIR ULLAH KHAN
ADDITIONAL SESSIONS JUDGE-VI
D.I. KHAN

1. Complainant Faheem Mumtaz Khan recovered and took into possession 15 grams ice and 315 grams chars from the personal possession of accused

25/9/19

12/11/18
18/11/18
S.E.O. 15

[Handwritten signature]

10

named above and booked him vide case F.I.R No.517 dated 25.07.2018 under Section 9-B of CNSA of Police Station Cantonment, D.I.Khan.

2. Brief facts of the prosecution case are that complainant during search and strike operation in the area, at the relevant date and time, when reached the spot, a person who on seeing the police party, tried to slipped away, but was overpowered tactfully. The said person disclosed his name as Qayyum Nawaz and from his right hand a plastic envelope having ice was recovered, which on weighment came to 15 grams. On further search another plastic envelope was also recovered from armpit having chars, which on weighment came to 315 grams. The accused arrested. Hence, ibid F.I.R.

3. After interrogation and investigation, challan was submitted and accused was summoned, who appeared and provisions of Section 265-C Cr.P.C complied with. Charge was framed, to which he did not plead guilty and claim trial.

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SHAHIR ULLAH
Adv. Barr. & Sessions Judge-VI
Dera Ismail Khan

2 | Page
3/9/18

4. In order to prove the case Prosecution produced and examined PWs against the accused. The gist of the prosecution evidence as deposed by each of the PWs is as under:

PW-1 is Muhammad Jameel constable-8348, deposed that he is marginal witness of recovery memo Ex PW 1/1, vide which the Investigating Officer took into possession one plastic envelope containing ice (when weighed it was 15 grams) and contraband of chars (when weighed it was 315 grams), which was taken into possession by the S.H.O concerned at the spot. One gram ice was separated and sealed into parcel-1 for analysis while remaining 14 grams was sealed into parcel-2, five grams chars was separated and sealed into parcel-3 while the remaining 310 was sealed into parcel-4 by affixing the

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MADRAS JUDICIAL OFFICE
MADRAS DISTRICT & SESSIONS JUDGE-VI
Dera Ismail Khan

monogram of ZA of inner and outer side of the all the four parcels. After the arrival of Incharge Investigation Police Station Cantonment, he had also shown in the site plan at point No.4, prepared by the Investigating Officer. His statement under Section 161 Cr.P.C was also recorded by the Investigating Officer at the spot. He was accompanied with the S.H.O throughout the proceeding (from personal search to arrest and all proceedings). He is eyewitness of the occurrence.

PW-2 is of Tanveer Ahmad ASI/Inv who deposed that Copy of F.I.R was handed over to him, who proceeded to the spot and prepared site plan on the pointation of S.H.O which is Ex.PW-2/1. S.H.O was present on spot. The S.H.O showed him the parcels already

MAJID ULLAH KHAN
Judge District & Sessions Judge-VI
Dera Ismail Khan

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sealed by him and handed over
accused to him. He recorded the
statement of S.H.O and the PWs. He
returned back to Police Station and
interrogated the accused. On the
following day he produced the accused
before Illaqa Magistrate for physical
custody vide his application Ex.PW-
2/2. Custody was refused the accused
was sent to Jail and he recorded the
statement of accused under section
161 Cr.P.C. after received of FSL
report he placed it on file and Ex.PW-
2/3. After completion of investigation
he handed over the case file to S.H.O.
PW-3 is Muhammad Amin-
1103, who deposed that on receipt of
murasila, sent by complainant Faheem
Mumtaz Khan, S.H.O, brought by
constable Muhammad Nadeem-131,
he correctly incorporated its contents



Handwritten notes and stamps in the bottom left corner, including a circular stamp with text that is partially illegible.

5/19/19

19

into F.I.R which is correct and correctly bears his signature and is Ex PA.

PW-4 is Faheem Mumtaz, S.H.O, who deposed that he was on search and strike operation along with other police party including lady constable and on reaching the place of occurrence, he found a person who on seeing them, tried to escape but was overpowered. On his search a plastic shopper was recovered from his right hand which include 15 grams ICE. On further body search, plastic shopper was recovered from his pit arm pocket, which contained chars weighing 315 person. On cursory interrogation, the accused facing trial stated that he has purchased the ICE from one Ahamd Fraz son of Sarfraz. He drafted murasila on the spot,



SHARIF ULLAH KHAN
Sd/- Distt. & Sessions Judge-VI
Dera Ismail Khan

25/9/18

(19)

which is Ex.PW 4/1, which is correct and correctly bears his signature. He arrested the accused and issued his card of arrest which is Ex.PW 4/2. He prepared the recovery memo i.e., Ex.PW 1/1 vide which he separated 01 gram of ICE for the purpose of FSL and sealed the same into parcel-1 while the remaining 14 into parcel-2. He also separated 5 grams of chars and sealed into parcel-1 while the remaining 310 sealed into parcel-2 by affixing monograms of ZA. He also obtained signature of marginal witnesses on site plan. Murasila was sent to Police Station for registration of F.I.R through constable Muhammad Nadeem 131. At the arrival of Investigating Officer on the spot, he handed over the accused, the contrabands and the concerned



~~STATE OF PUNJAB
JUDICIAL DEPARTMENT
COURT OF DISTRICT & SESSIONS JUDGE
Lahore~~

documents to him. Investigating Officer also prepared site plan on his pointation. After completion of investigation, he submitted complete challan, the same placed on file. He was examined by the Investigating Officer on the spot.

5. Thereafter, learned APP for the State closed prosecution evidence.
6. Statement of accused facing trial was recorded under Section 342 Cr.P.C wherein he professed innocence, however, he neither wished to be examined on Oath under Section 340 (2) Cr.P.C nor wished to produce defence witnesses.
7. Arguments heard and record perused.
8. The findings of this Court are as follows:
 - (i) It contended when complainant along with other police officials reached at the spot the accused tried to move but he was tactfully controlled. He disclosed his name and was then searched.

DR. J. S. K. RAM
District & Sessions Judge, N.Y.
Datta Jansel Khan

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25/9/18

Amphetamine/ice of 15 gram was recovered from plastic envelop in his right hand and 350 gram cannabis/charas recovered from plastic envelop in his arm pit pocket.

(ii) PW-1 witness of recovery memo stated that the place was heavy populated. The Investigating Officer reached after 20 minutes of occurrence. PW/Investigating Officer stated that he reached at the spot at 02:30 pm. The SHO was not present at the spot. The SHO did not handed over parcel rather shown to him. He did not open the parcel for his satisfaction. He did not scribed the application to the Forensic Science Laboratory. PW-4 complainant stated that he did not mentioned PW-1 in murasila. The murasila was not in his hand writing rather written on his dictation. He could not the name of person who wrote it. There were difference in writings of murasila and card of arrest. He could not tell the time of arrival of Investigating Officer at the spot. No private person was associated to the recovery memo. The place of occurrence was

SAJID ULLAH
District & Sessions Judge-VI
Dera Ismail Khan

5/9/19

thickly populated. No sale purchase test was conducted. He could not tell who sent and took the sample to the Forensic Science Laboratory and who was in custody of it during that period. The abbreviation of his name was FM rather ZA.

(iii) So, no direct or circumstantial evidence is as such to connect the accused with the commission of offence. Alleged recoveries of narcotic substance are not proved against him. There are material contradictions in the statements of prosecution witnesses who are not worthy of reliance. Safe custody of sample/s before sending for analysis is also not established. Parcel/s of recovered narcotic are sealed with the monogram without clarification or explanation of whom it is related. There is delay in sending Probability exists that the accused is falsely implicated in the parcel/s to Forensic Science Laboratory. The existing evidence does not link the accused with the commission of offence. The mode and manner of arrest of accused and recoveries without

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SAHIB ULLAH KHAN
Saddi Distt. & Sessions Judge-VI
Dera Ismail Khan

(19)

independent witness/s are doubtful. Only one doubt in criminal case, like the one in the present case, has always been considered enough for giving benefit to the accused.

It is, therefore, concluded on the basis of aforementioned factual and legal position of the case, that there are contradictions on major issues between the PWs. As the prosecution has failed to prove its case beyond reasonable doubt then the benefit of doubt is to be extended to the accused.

Hence, the accused namely **Qayum Nawaz** is acquitted from the charges leveled against him. He is on bail so his sureties are discharged from their liabilities. The case property be kept intact till the expiry of period of appeal/revision and then disposed of according to law.

Announced:
Saturday 10th August, 2019

10-08-19

Shakir Ullah Khan
Additional Sessions Judge-VI,
D.I.Khan.

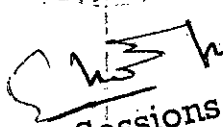
Additional Sessions Judge-VI
Dera Ismail Khan

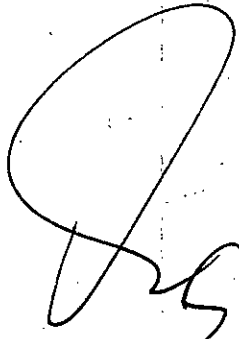
5/9/19

10315
General No. _____
Application received on 5-9-19
Date of Comm. 5-9-19
Date of R. 4000
No. of V. None
Copy. to None
Urgent or None
T. None
R. None
C. None
S. None
5/9/19

CERTIFICATE:

Certified that this judgment consists of 11 pages, each page has been read and signed by me after making necessary corrections.


Additional Sessions Judge-VI,
D.I.Khan


5/9/18



ORDER
Saturday 10th August, 2019

Handwritten notes: "S2/VII" and a circled number "24".

Accused Qayyum Nawaz is present on bail.
APP for the State also present.

Arguments heard and record gone through.

Vide my detailed judgment of today, placed on file, consisting of 11 pages, the accused facing trial acquitted from the charges levelled against him. He is on bail so, his sureties are discharged from the liabilities of the bail bonds. Case property, be destroyed but after the expiry of period of appeal/revision. Record be transmitted back while file of this Court be consigned to the record room after its completion and compilation.

Announced:
Saturday 10th August, 2019

Handwritten signature and date "10.08.19".

Shakir Ullah Khan
Additional Sessions Judge-VI,
D.I.Khan

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Annexure 'C'

CHARGE SHEET

Whereas, I am satisfied that a formal enquiry as contemplated by Khyber Pakhtunkhwa Police Rules 1975 amended-2014 is necessary and expedient.

AND WHEREAS, I am of the view that the allegation if established would call for a major penalty as defined in rules-4(i)(B) of the aforesaid rules.

AND THEREFORE, as required by Police Rules 6(1) of the aforesaid rules, I DISTRICT POLICE OFFICER Dera Ismail Khan hereby charge you Constable Qayyum Nawaz No.1003 with the misconduct on the basis of the statement attached to this Charge Sheet.

AND, I, hereby direct you further under rules 6(i)(B) of the said rules to put in written defence within 7-days of receipt of this Charge Sheet as to why the proposed action should not be taken against you and also state at the same time whether you desire to be heard in person or otherwise.

AND, in case, your reply is not received within the prescribed period, without sufficient cause, it would be presumed that you have no defence to offer and that Ex-parte proceeding will be initiated against you.

District Police Officer,
& Dera Ismail Khan

F02

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DISCIPLINARY ACTION

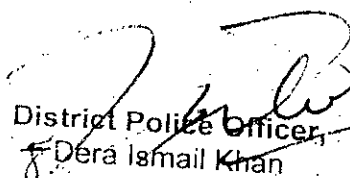
I, DISTRICT POLICE OFFICER, Dera Ismail Khan as a competent authority am of the opinion that you Constable Qayyum Nawaz No.1003 have rendered yourself liable to be proceeded against and committed the following acts/omissions within the meaning of the Khyber Pakhtunkhwa Police Rules: 1975 amended-2014.

STATEMENT OF ALLEGATION


You while posted at PS/Kirri Khaisore DI Khan, vide Mad No.18 dated 05.02.2018 of PS/Kirri Khaisore, absented yourself from lawful duties w.e.from 05.02.2018 till date without any leave/permission from the high-ups. This act on your part amounts to gross misconduct which is punishable under the rules.

Hence the statement of allegation:

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegation M. J. Saddad Dera Ismail Khan is appointed as enquiry officer to conduct proper departmental enquiry under Police Rules 1975 amended-2014.
3. The enquiry officer shall in accordance with the provision of the ordinance, provide reasonable opportunity of the hearing to the accused, record its findings and make, within ten days of the receipt of this order recommendations as to punishment or other appropriate action against the accused.
4. The accused and a well conversant representative of the department shall join the proceedings on the date time and place fixed by the enquiry officers.


 District Police Officer,
 Dera Ismail Khan

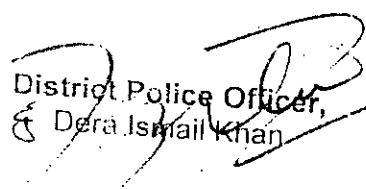
14 / - 06 - /2018



No. 2092-93 /EC Dated DI Khan the

Copy to: -

1. OSP / Saddad Dera Ismail Khan. The enquiry officer for initiating proceeding against the defaulter under the provision of Khyber Pakhtunkhwa Police Rules 1975 amended-2014, with the direction to complete the enquiry within 10-days. Enquiry papers containing _____ pages are enclosed.
2. Constable Qayyum Nawaz No.1003 with the direction to appear before the E.O on the date, time and place fixed by the E.O, for the purpose of enquiry proceeding.


 District Police Officer,
 Dera Ismail Khan

(24)

Annexure D

ضلع ڈیرہ اسماعیل خان

محکمانہ انکوائری

از دفتر SDPO صدر سرکل

برخلاف۔ کنسٹیبل قیوم نواز نمبر 1003

جناب عالی!

حسب آمدہ چارج شیٹ سٹینٹ آف ایلکیشن نمبر 93/EC-2092 مورخہ 14/06/018 جناب DPO صاحب نے بغرض انکوائری مارک فرمائی۔ کنسٹیبل قیوم نواز نمبر 1003 پر یہ الزام عائد کیا گیا ہے کہ بدوران پوسٹنگ تھانہ کڑی خیوور بدوران ڈیوٹی وہ غیر حاضر ہوا جس کی غیر حاضری نمبر 18 مورخہ 05/02/018 تھانہ کڑی خیوور درج روزنامچہ کی گئی۔ مذکورہ کنسٹیبل بلا رخصت و اجازت افسران بالا مورخہ 05/02/018 سے بدستور غیر حاضر چلا آ رہا ہے۔ مذکورہ کو باقاعدہ چارج شیٹ کرتے ہوئے جناب DPO صاحب نے DSP/Saddar کو انکوائری مارک فرمائی۔ انکوائری مورخہ 19/06/018 کو بذریعہ ڈاک موصول ہوئی۔ انکوائری کی بابت نائب SRC سے مورخہ 26/06/018 کو معلومات کی گئیں کہ کنسٹیبل قیوم نواز نمبر 1003 نے چارج شیٹ وصول کی ہے یا نہیں تو اس نے جواباً بتلایا کہ مذکورہ نے چارج شیٹ وصول کی ہے اور اسے کہا گیا ہے کہ جواب چارج شیٹ DSP صدر سرکل جمع کرائے۔ مذکورہ نے چارج شیٹ جمع نہ کرایا۔ دوبارہ مورخہ 02/07/018 کو بذریعہ نائب SRC مذکورہ کنسٹیبل کو اطلاع یابی کرائی گئی کہ جواب چارج شیٹ نزد DSP صدر سرکل جمع کرائے۔

غالیجاہ!

کنسٹیبل قیوم نواز نمبر 1003 کی عرصہ غیر حاضری کے متعلق تھانہ کڑی خیوور سے معلومات کی گئیں جنہوں نے بتلایا کہ مذکورہ کی غیر حاضری تقریباً 4 ماہ بنتی ہے۔ کنسٹیبل مذکورہ کی غیر حاضری کی مدت بہت زیادہ ہے۔ اور وہ بلا رخصت و اجازت افسران بالا غیر حاضر رہا ہے۔ مذکورہ کے پاس اتنی زیادہ غیر حاضری کا کوئی معقول عذر نہیں ہے۔ جس کی بناء پر مذکورہ کنسٹیبل بار بار اطلاع یابی کے باوجود بھی جواب چارج شیٹ دیدہ وانشہ طور پر DSP صدر سرکل کو جمع نہیں کراتا۔

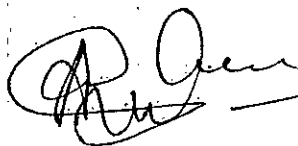
نتیجہ انکوائری۔

کی گئی انکوائری سے یہ نتیجہ اخذ کیا جاتا ہے کہ کنسٹیبل قیوم نواز نمبر 1003 کے پاس اپنی غیر حاضری کا کوئی جائز عذر نہیں جو وہ دیدہ وانشہ طور پر زبردستی کو انکوائری کے لئے پیش نہیں ہوتا ہے۔

لہذا مذکورہ کنسٹیبل کے خلاف یکطرفہ کارروائی کرتے ہوئے، MAJOR PUNISHMENT کی سفارش کی جاتی ہے۔ انکوائری رپورٹ گزارش ہے۔

نمبر 778/DSP-Saddar

تاریخ 17.7.18



ڈپٹی سپرنٹنڈنٹ آف پولیس صدر سرکل

ڈیرہ اسماعیل خان

(29)

Annexure 'E'

FINAL SHOW CAUSE NOTICE

I, **DISTRICT POLICE OFFICER**, DI Khan as competent authority under the Khyber Pakhtunkhwa Police Rules 1975 amended-2014, do hereby served you **Constable Qayyum Nawaz No.1003** as follow.

1. (i) That consequent upon the completion of enquiry conducted against you by the Enquiry Officer for which you were given opportunity of hearing vide this office communicator No. 2092-93/EC, dated 14.06.2018.
- (ii) On going through the findings and recommendations of the enquiry officer, the material on record and other connected papers including your defence before the Enquiry Officer.

I am satisfied that you have committed the following acts/omissions specified of the said rules.

You while posted at PS/Kirri Khaisore DI Khan, vide Mad No.18 dated 05.02.2018 of PS/Kirri Khaisore, absented yourself from lawful duties w.e.from 05.02.2018 till date without any leave/permission from the high-ups.

2. As a result thereof, **I, DISTRICT POLICE OFFICER**, DI Khan as competent authority have tentatively decided to impose upon you the penalty of Major punishment of the said rules.
3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you.
4. If no reply to this notice is received within 7-days of its deliver, in the normal course of circumstances, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.
5. The copy of finding of the enquiry officer is enclosed.


District Police Officer,
Dera Ismail Khan

26

Annexure F

To,

The District Police Officer,
Dera Ismail Khan.
The competent authority.

Subject-

REPLY TO THE FINAL SHOW CAUSE NOTICE.

Respected Sir,

I have received the final show cause notice issued by your good-self, wherein I have been directed to submit my reply within seven days, to which my reply is as under:-

- 1) (i) That the inquiry was conducted against me, wherein I have submitted my reply to the charge sheet but no opportunity of personal hearing was given to me, as I was only called in the office and was never associated during the proceedings and was asked to sit outside the room.
- (ii) That my basic request was that pending trial of the case F.L.R. No.571, inquiry against me may be adjourned sine die, as I have denied my involvement in the said criminal case, which is yet to be proved in the trial before competent Court and prior to that any action against me will amount to conviction prior to trial, as if I am acquitted of the charges leveled against me then how my dismissal from service can be rectified, therefore, I am still requesting your good-self to keep pending the proceedings against me till the decision of the trial of the case to meet the ends of justice.

That your good-self satisfaction from the record that I have conducted the following acts/omissions specified of the said rule are premature and prior to the conclusion of trial before competent Court.




27

That the alleged recovery of narcotics from me vide case F.I.R No.571 dated 27.05.2018 under Section 9 (b) CNSA, Police Station Cantt., D.I.Khan is in the process of trial and no result whatsoever has come out as yet, therefore, prior to the decision, holding me to be involved in the criminal act is against natural justice and law.

- 2) Sir, your tentative decision to impose major punishment upon me is respectfully not in accordance with law, because I am accused of an offence and being favorite child of the law the pendulum should tilt towards me, as the competent Court has not yet found me guilty of the charges leveled against me, so why departmentally a major penalty is being imposed upon me and my request to keep pending the departmental proceedings till decision of the competent Court seems to be just in accordance with law because tomorrow my dismissal may not be reverted in case I am acquitted of the charges.
- 3) That as I have requested the penalty should not be imposed upon me till the decision of the competent Court, which is the only legal and logical reply on my behalf because the charges are yet to be proved against me.
- 4) That I also request for personal hearing to meet the ends of justice.

It is, therefore, humbly prayed that departmental proceedings against me be either filed or be kept pending till the decision of the competent Court in the interest of justice.

Dated 16.07.2018.

Your Humble

(Qayum Nawaz)
Constable No.1003,
Police Line, D.I.Khan.

1003

Walter

AYUM

27-06-19

ORDER

This order is aimed to dispose-off two departmental enquiries/proceedings against Constable Qayyum Nawaz No.1003 of this District Police on the following charges:-

- 1) That he while posted at PS/Kirri Khaisore, vide DD No.18, dated 05.02.2018, absented himself from lawful duties w.e.from 05.02.2018 to date without any leave/permission from the high ups.
- 2) That he while posted at PS/Kirri Khaisore DI Khan, the local Police of PS/Cantt DI Khan recovered 315-grams Charas and 15-grams Ice from his possession and registered a case vide FIR No.517, dated 27.05.2018 u/s 9(B)CNSA.Police Station Cantt: DI Khan.

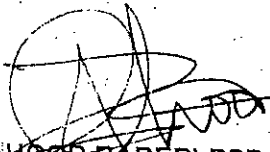
The defaulter constable was served with charge sheets/statements of allegations separately. An enquiry was conducted into the matter through Mr. Afsar Khan SDPO/Saddar Circle DI Khan and Mr. Salim Riaz SP/Rural Division DI Khan under Police Rules-1975 ammended-2014. The Enquiry Officers submitted in their finding reports in which they are stated that the charges of misconduct stand proved against the delinquent above named official and recommended for Major Punishment of Dismissal from Police Services.

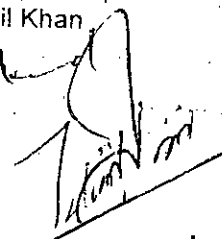
He was also served with Final Show Cause Notices and reply of one Final Show Cause received which was examined thoroughly and found unsatisfactory. The reply of another Final Show Cause Notice has not been received so far. He was not appeared in the Orderly Room due to his absence.

From the perusal of the relevant records, findings of the Enquiry Officers, i am satisfied that the charges of misconduct stand proved against him beyond any shadow of doubt.

In the light of above, I, ZAHOOR BABER, PSP, District Police Officer, Dera Ismail Khan, an exercise of power conferred upon me under Police Rules-1975 with amended 2014, award Constable Qayyum Nawaz No.1003 "Major Punishment of Dismissal from the Police Service" from the date of absence i.e. 05.02.2018.

ORDER ANNOUNCED
OB No. 1513
Dated. 31-10-2018


(ZAHOOR BABER) PSP
District Police Officer,
Dera Ismail Khan

Attest


598

Application processed on 26-11-2018

Copying fee deposited on _____

Justification fees for copying of _____

Cost of copies _____

Search fee _____

Intelligent fee _____

Cost of copies _____

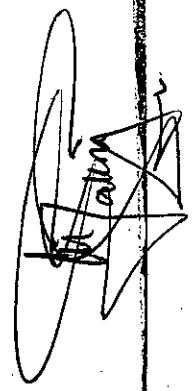
Case completed on 12-11-2018

Case forwarded on 15-11-2018

Case of _____ For Appd

Constable Qayyum Nawaz No. 1003

12 DSP/ Legal 26/11/18



✓

محرمات جناب عزت مآب راجنل پبلیس آفسر صاحب ڈیڑہ ایسٹ خان رنج ڈیڑہ ایسٹ خان

درخواست بصورت اسل کے میں سائل کو بطور کیس کا اسٹیل

بجالی فرما دینے سے سائل کی سروس سے ڈس مینسڈ کرنے

کا حکم نمبر 31/10/2018 از اڈا D.P.O صاحب ڈیڑہ ایسٹ خان

منسوخ فرما کر دائری فرما جانے

جناب عالی اسائل حسب ذیل عرض رسالی ہے

1) یہ کہ میں سائل آپ جناب کے زیر انتظام محکمہ پبلیس ڈیڑہ ایسٹ خان میں بطور کانسٹیبل نمبر 1003

اپنے فرائض از مورخہ 19/04/1999ء اپنے فرائض سرانجام دیا اور سائل پیر از مورخہ 05/02/2018

سے 19/06/2018 تک غیر حاضر رہنے اور FIR نمبر 517 مورخہ 27/05/2018 زبردنیات

بمقام کمانڈر جنرل کی بنیاد پر قبل از اس جاری شدہ مورخہ 06/06/2018 اور کبڈز ال فائل نمبر 987/CNSA

دینے کے بعد مورخہ 31/10/2018 کو D.P.O صاحب نے سائل کو سروس سے ڈس مینسڈ کرنے

کا حکم جاری فرما دیا ہے۔ (تفصیل جاری شدہ فائل نمبر اور Dismiss آرڈر کی توثیق ہے)

2) یہ کہ سائل ایک غریب شخص ہے جو کہ اپنے فرائض دیا شہزادی سے سرانجام دیا اور مورخہ 22 سالہ

سروس میں افسران بالا کو کسی شکایت کا موقع نہ دیا اور بحیرہ انتہائی عبوری نمبر حاضر رہی جبکہ

F.I.R نمبر 517 مذکورہ بحیرہ ذاتی بغض عناد بدینتی کی بنیاد پر درج کی گئی ہے اور سائل تاحال عدالت سے

سنز یافتہ نہ ہے۔

3) یہ کہ میں سائل کا موقف باوجود حاضر ہونے کہ انکو انری آفسیور نے نہ سنا سائل نے چارج شدہ اور فائل نمبر 987/CNSA

کے باقاعدہ جوابات دئے جو کہ Dismiss آرڈر میں جوابات نہ دینے اور انکو انری آفسیور کے سامنے پیش نہ کرنے

DPD 1871
For comments AP

Regional Police Officer
Usra Inayat Khan
543

کئی وجوہات بیان کی گئی ہیں حالانکہ سائل سے توقف کیا ہی نہ گیا بلکہ اور سائل کے جواب
سننے کے وقت سے سائل کو محروم رکھا گیا ہے۔ (تعمول تحریری جوابات کف میں)

(۶) یہ کہ سائل کا ملذوم حکم کیس کے علاوہ کوئی مسلمہ روزگار نہ ہے سائل ایک معزز اور کثرت
ظاہران سے تعلق رکھتا ہے اور سائل کبھی کسی جبراً نہ سرگرمی میں ملوث نہ رہا ہے

(۷) یہ کہ حضور والا کو اس سلسلہ میں وسیع تر اختیارات حاصل ہیں

کیونکہ اسٹریٹجی کے منظر پر اسلئے اس سائل کو بحال فرماتے ہوئے DP ۵ صواب

ڈیپریٹمنٹ کے حکم مورخہ ۱۵/۱۱/۲۰۱۸ بارے میں سائل کی سرویس Dismissal منسوخ

فرمائیں جو کہ بحسن اکتفا ہے

المقوم مورخہ ۲۹/۱۱/۲۰۱۸

اکتیب
قیوم نواز کانسٹیبل نمبر ۱۰۰۳ محمد کوکس ڈیپریٹمنٹ خاں

Qayyum
Nawaz

29/11/2018



20 29

Annexure H

OFFICE OF THE
REGIONAL POLICE OFFICER
DERA ISMAIL KHAN
REGION

No. 1214 /ES, Dated DI Khan the 13/03/2019

DY No. 693/EC
15-03-2019

ORDER

My this order will dispose-of the departmental appeal preferred by Ex Constable Qayyum Nawaz, No. 1003 of District DI Khan wherein he has prayed for setting aside the order of major punishment of Dismissal from service imposed upon him by DPO DI Khan vide OB No. 1513 dated 31.10.2018 after found him guilty of the following allegations:-

- 1) That he while posted at Police Station Kirri Khesore DIKhan, absented himself from performance of duty without any leave or reasonable cause w.e. from 05.02.2018 till the date of dismissal order i.e. 31.10.2018 (268 days)
- 2) That the local police of Police Station Cantt DIKhan recovered 315-grams Charas and 15-grams Ice from his possession and registered case vide FIR No. 517 dated 27.05.2018 U/S 9(B)CNSA of Police Station Cantt DIKhan.

His service record, inquiry papers and comments were received from DPO DIKhan which was perused and it was found that separate enquiries in the above cases were conducted by Mr. Saleem Riaz, SP Saddar Division DI Khan & Mr. Afsar Khan, DSP Saddar Circle DI Khan, who submitted their findings reports stating therein that the allegations of high handedness stand proved and recommended him for awarding major punishment, hence, in the light of recommendations of Enquiry Officers, the Competent Authority has passed the punishment order dated 31.10.2018.

Aggrieved from the impugned order passed by DPO DIKhan, the appellatant submitted the instant appeal on 30.11.2018 which was sent to DPO DIKhan for comments and to provide his service record vide this office memo: No. 4027/ES dated 30.11.2018. The DPO DIKhan has submitted the comments and service record of the appellatant vide his office memo: No. 4466/EC dated 19.12.2018, wherein the appeal of the appellatant was properly defended on cogent grounds.

During perusal of his service record, it was found that the appellatant has served Police Force for about 19 years. He was awarded minor punishment of Fine for one time & major punishment under consideration.

The undersigned also provided him opportunity of personal hearing. Therefore I, **FEROZE SHAH**, PSP, Regional Police Officer, DIKhan, in exercise of powers vested in me under Rule 11 clause 4(a) of Khyber Pakhtunkhwa Police Rules, 1975 (amended 2014) find no substance in his appeal and uphold the punishment order passed by DPO DIKhan. His appeal is hereby filed.

ORDER ANNOUNCED

Feroze Shah
(FEROZE SHAH)PSP
REGIONAL POLICE OFFICER
DERA ISMAIL KHAN

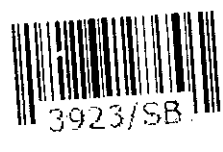
No. 1215 /ES

Copy of above is submitted to the DPO DI Khan for information & necessary action with reference to his office memo: No. 4466/EC dated 19.12.2018 alongwith 01-Service Roll & 01-Inquiry File of the appellatant.

OB/EC/af/c
for information
Feroze Shah
Distt: Police Officer
Dera Ismail Khan

619
22/03/19
Feroze Shah
(FEROZE SHAH)PSP
REGIONAL POLICE OFFICER
DERA ISMAIL KHAN
Ex Constable Nawaz
Qayyum Nawaz
1003
19.03.2019
21.03.2019
For Approval

خبرنامه انٹرنیشنل آف ایس ایچ جی



معلومات و ایشیا کی خبریں

پاجی

گزارشیں خبریں پیش رفتہ کبریٰ تصور صلح ڈگری اسٹینڈل

پوری دنیا کی ریاستوں کے ساتھ ساتھ خبریں جاری کی جائیں گی

پوری دنیا سے خبریں لیں گے۔ اس دوران اس وقت تک کہ

پوری دنیا سے خبریں لیں گے۔ اس دوران اس وقت تک کہ

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0346-949-0934

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04/04/2019



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

/20, dated Peshawar the 07/01/2020.

39

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Ex-FC Qayyum Nawaz No. 1003. The petitioner was dismissed from service w.e.f 05.02.2018 by District Police Officer, DIKhan vide OB No. 1513, dated 31.10.2018 on the allegations of absence from duty w.e.f 05.02.2018 till date of dismissal from service i.e. 31.10.2018 for a period of 268 days and the local Police of Police Station Cantt: DIKhan recovered 315-grams Charas and 15-gram Ice from his possession and registered a case vide FIR No. 517, dated 27.05.2018 u/s 9 (B)CNSA Police Station Cantt: DIKhan. His appeal was filed by Regional Police Officer, DIKhan vide order Endst: No. 1214/ES, dated 13.03.2019.

Meeting of Appellate Board was held on 27.06.2019 wherein petitioner was heard in person. During hearing petitioner contended that he is innocent and his case is under process in the court.

The petitioner has been released on bail in case FIR No. 517, dated 27.05.2018 u/s 9(B)CNSA Police Station Cantt: DIKhan by the court of Addl: Session Judge-IV, Dera Ismail Khan vide judgment dated 29.05.2018. His case is under trial in the court. The Board recommends that criminal proceedings and departmental proceedings are two separate matters. Therefore, the Board decided that his petition is hereby rejected.

This order is issued with the approval by the Competent Authority.

Office of the DPO/D.I.Khan
Dy. 179 EC,
Dt. 22-01-2020

(ZAIB ULLAH KHAN)
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No. 8/379-85/20.

Copy of the above is forwarded to the:

1. Regional Police Officer, DIKhan. One Service Roll and one Fauji Missal of the above named Ex-FC received vide your office Memo: No. 2796/ES, dated 31.05.2019 is returned herewith for your office record.
2. District Police Officer, DIKhan.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

No. 237 ES dt. 17-1-2020
Copy to DPO/DIKhan for information and action. The appellant may also be informed accordingly.
Ref. this office No. 2590/ES dt. 17/05/2019 & your office memo. No. 2587/EC dt. 22/05/2019.
DPS

Regional Police Officer
Dera Ismail Khan

~~OB/EC/OHC~~

OB 597

Dt. 28-02-20

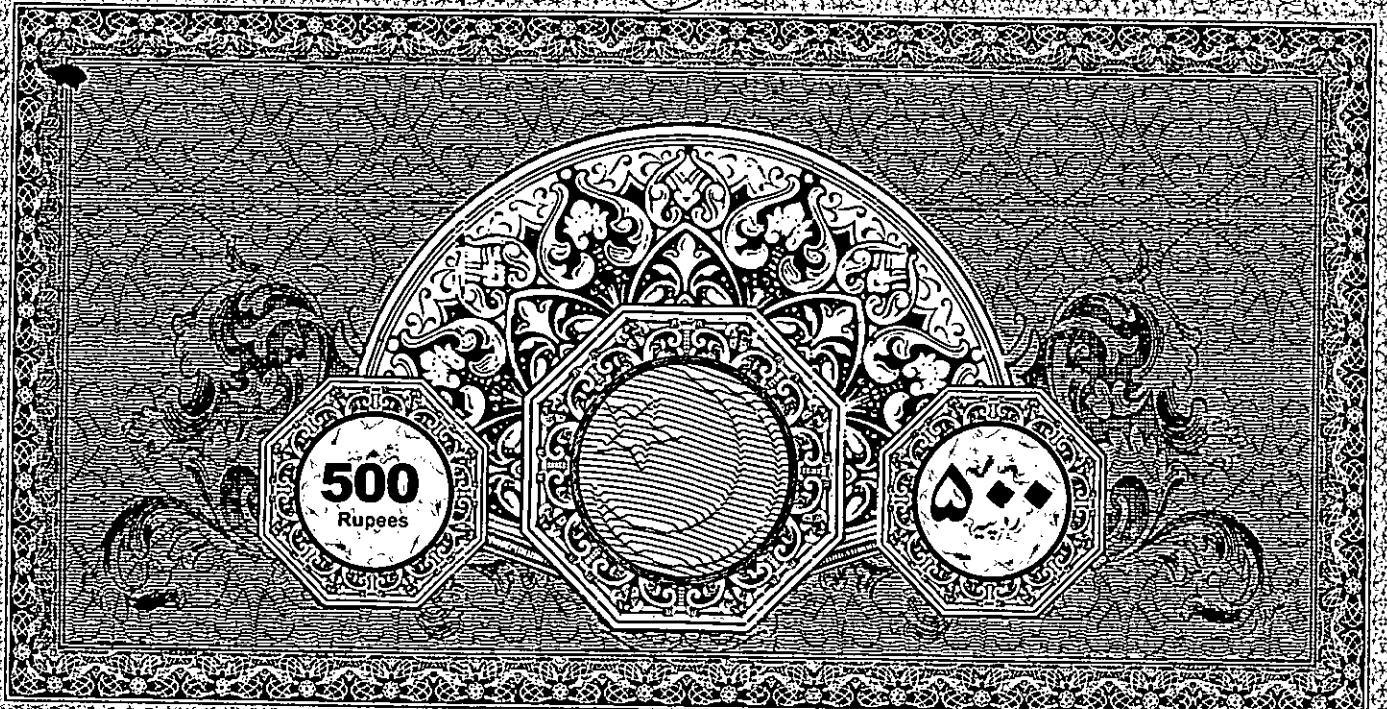
DPO/DIKhan

37

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|---------------------------------|-----------------|
| Register No. | 37 |
| a) Application received on | |
| b) Copying fee received on | 3-2-2020 |
| c) Judgment recd for copying on | |
| d) No. of sheets copies | |
| e) Name of applicant | L. Qayyum Nawaz |
| f) Search No. | |
| g) Urgent fee | No. E. 1003 |
| h) Name of copyist | |
| i) Copy completed on | 13-2-2020 |
| j) Copy delivered on | 7-2-2020 |
| k) Cause of delay | by Appt |

7F

3



PAKISTAN COURT FEE

Before The KP Service Tribunal, Peshawar

Qayyum Nawaz Vs. Govt of KP & others

Appeal

Pa Court Fee

Qayyum Nawaz

29/05/2020

Qayyum Nawaz (Appellant)

مولاہ و ملاقات علیہ 500 3882

29/5/2024

29/5/2020

Mahib Ullah Khan
Cashier Mander
D.I. Khan

TREASURY D.I. KHAN
05 MAR 2024
PAID



SADAM HUSSAIN ZAKORI

Advocate
bc-14-4591
Date of issue: November 2017
Valid upto: November 2020



ADVOCATE HIGH COURT

Acting Secretary
KP Bar Council

VAKALAT NAMA

(Power of attorney)

Before the Honourable KP Service Tribunal, Peshawar

Rayyum Nawaz

Plaintiff/Applicant/Appellan
t/Petitioner/Complainant
Decree-holder

Govt of KP & others

VERSUS

Defendant/Respondent/Accused
Judgment-debtor

Offence/Suit/Appeal/Application/Writ Appeal u/s 4 of KP Civil Servant Act, 1973

FOR: Rayyum Nawaz (Appellant)

I/We hereby appoint **SADAM HUSSAIN ZAKORI ADVOCATE HIGH COURT, DIKHAN** according to the following terms & conditions:-

1. As my / our counsel in the above mentioned case with power to appear, plead and act marking and presenting applications to the Court by signing and verifying pleadings, by withdrawing and receiving document and money from Court or from the opposite party in the above said case. By doing all other legal acts and legal proceedings as I / we were present personally.
2. The fee paid or agreed upon to my / our counsel shall be entitled to retain costs payable by the other side.
3. No part of fee is refundable in any case whatsoever and my / our counsel shall be entitled to retain costs payable by other side.
4. I / we make our own arrangements for attending the Court on every hearing and to inform him. My / our counsel shall not be responsible for any loss caused to me through my / our failure to so inform him.
5. I / we shall make special arrangements for travel in case my / our hearing is held in any outstation. All expenses shall be borne by me / us and my / our counsel is not liable to incur any of the said expenses.
6. I / we undertake to appear in the above matter before the Court, my / our counsel shall not be held responsible in case the matter is dismissed / disposed off ex-party due to my / our failure to appear / attend the case.
7. I / we also undertake to pay his full professional fees before the conclusion of the case. In case his full fee is not paid the counsel can withdraw his vakalatnama from the above matter.
8. My / our counsel is also authorized to engage and appoint any other pleader or counsel whenever my / our counsel thinks to do so.

DATED: 21/03/2019

Accepted By:

SADAM HUSSAIN ZAKORI
ADVOCATE HIGH COURT, D.I.KHAN
Mob# 0341-9283883

Signature / thumb impression of Client

Rayyum Nawaz (Appellant)

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

Service Appeal No. 5779/2020

Qayyum Nawaz s/o Liaqat Ali, Ex-Constable No. 1003, Caste Chughtai r/o Muryali Mor,
Tehsil & District Dera Ismail Khan ... (Appellant)

Versus

Govt: of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs Department,
Khyber Pakhtunkhwa, Peshawar & others ... (Respondents)

PARAWISE REPLY BY RESPONDENTS NO. 1,2,3 & 4.

PRELIMINARY OBJECTIONS

1. That the appellant has got no cause of action.
2. That the appeal is bad for misjoinder/non-joinder of necessary parties.
3. That the appeal is badly barred by law & limitation.
4. That the appellant has not come to the Honourable Tribunal with clean hands.
5. That the appellant is estopped due to his own conduct.
6. That the appellant has concealed the material facts from the Honourable Tribunal.

BRIEF FACTS

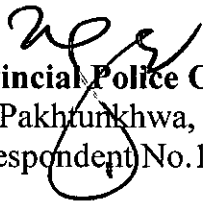
1. Pertains to record, needs no comments.
2. Pertains to record, needs no comments.
3. Pertains to record, needs no comments.
4. Correct to the extent that two separate departmental enquiries were initiated against appellant on the following allegations.
 - i. Absence from duty since 05.02.2019 till dismissal from service dated 31.10.2019.
 - ii. Registration of Case FIR No. 517 dated 27.05.2018 u/s 9(B)CNSA PS/Cantt DIKhan, wherein 315 grams Charas and 15 Grams Ice were recovered from the possession of appellant.
5. Pertains to record. The acquittal was due to benefit of doubt and not honorary. Moreover departmental and judicial proceeding are separate proceedings and may result differently.
6. That two separate departmental enquiries were conducted on the allegations mentioned in Para-4 above.
7. Correct to the extent that 1st enquiry on the allegations of absence from duty was conducted by SDPO Saddar DIKhan whereas 2nd enquiry on the allegations of recovery of Narcotics and registration of criminal case was conducted by SP Rural DIKhan. Wherein all the opportunities of defence and cross-examination were awarded to appellant. **Copies Annexure "A & B"**.
8. Pertains to record.
9. The allegations of gross misconduct i.e. long absence from duty i.e. absence since 5.2.18 till dismissal and recovery of contrabands were established, therefore appellant was dismissed from service vide order dated 31.10.2019. **Copy Annexure "C"**.
10. Correct to the extent of rejection of departmental appeal on the basis of agent material proof.
11. Correct to the extent of rejection Revision Petition.
12. That the instant appeal is badly time barred and meritless, therefore liable to be dismissed on the following grounds:-


GROUND

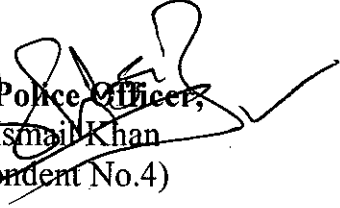
1. Incorrect. All the proceeding were conducted in accordance with Facts and Rules.
2. Incorrect. Proper charge sheet was issued and appellant submitted written reply dated 26.06.2018. Copy of Charge Sheet, Summary of Allegations and reply are Annexure "D, E, F"
3. Incorrect. The enquiries were conducted in accordance with law & rules and the allegations were proved against the appellant during probe.
4. The appellant remained absent from 05.02.2018 till dismissed from service dated 31.10.2019 and failed to join the enquiry.
5. Incorrect. As stated above in Para-4 of reply on grounds of appeal.
6. As stated in Para-4 reply on Grounds of appeal.
7. Incorrect. Proper charge sheet alongwith summary of allegations was issued and appellant submitted reply which were already Annexure "D, E & F".
8. Incorrect. In summary proceedings there is no need of enquiry officer where in instant case proper charge sheet was issued and enquiry officer nominated/deputed.
9. Incorrect. Appellant was summoned from personnel hearing as per Rules before passing impugned order.
10. Incorrect. Appellant was charge sheet from two separate allegations i.e. absence from duty since 05.02.2018 till dismissal dated 31.10.2019 and involvement in criminal case with recovery of Narcotics.
11. Incorrect.
12. The para is misconceived.
13. There were allegations of absence from more than one and a half year, moreover he was involved in Narcotics case, a menace against society and brought bad name to the department.
14. Incorrect. As sated above. Repetition of same allegation.
15. Incorrect. The appellant deliberately failed to join the departmental enquiries. The remaining Para is also incorrect.
16. The Respondents also seek permission to produce additional documents/ evidence at the time of arguments.

PRAYER

In view of above, it is humbly prayed that on acceptance of Parawise Comments the instant appeal may kindly be dismissed being badly time barred and meritless.


Provincial Police Officer
Khyber Pakhtunkhwa, Peshawar
(Respondent No.1&2)


Regional Police Officer
Dera Ismail Khan
(Respondent No.3)


District Police Officer,
Dera Ismail Khan
(Respondent No.4)

BEFORE THE HONOURABLE KHYBER SERVICE TRIBUNAL
PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 5779/2020


Qayyum Nawaz s/o Liaqat Ali, Ex-Constable No. 1003, Caste Chugtai
r/o Muryali Mor, Tehsil & District Dera Ismail Khan ... (Appellant)


Versus

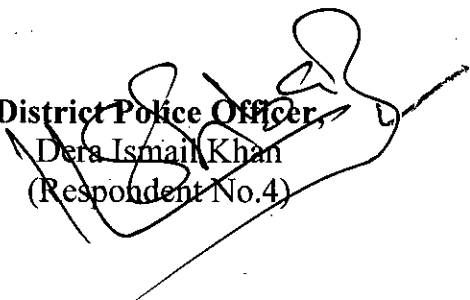
Govt: of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs Department,
Khyber Pakhtunkhwa, Peshawar & others ... (Respondents)

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS

We, the respondents do hereby solemnly affirm and declare on oath that the contents, of Comments/Written reply to Appeal are true & correct to the best of our knowledge and nothing has been concealed from this Honourable Tribunal.


Provincial Police Officer
Khyber Pakhtunkhwa, Peshawar
(Respondent No.1&2)


Regional Police Officer
Dera Ismail Khan
(Respondent No.3)


District Police Officer,
Dera Ismail Khan
(Respondent No.4)

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

Service Appeal No. 5779/2020


Qayyum Nawaz s/o Liaqat Ali, Ex-Constable No. 1003, Caste Chughtai
r/o Muryali Mor, Tehsil & District Dera Ismail Khan ... (Appellant)


Versus

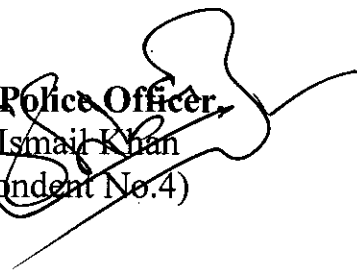
Govt: of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs Department,
Khyber Pakhtunkhwa, Peshawar & others ... (Respondents)

A U T H O R I T Y

We, the respondents do hereby authorised Inspector/Legal, DIKhan to appear before the Service Tribunal Khyber Pakhtunkhwa, Peshawar, on our behalf, He is also authorised to produce/ withdraw any application or documents in the interest of Respondents and the Police Department.


Provincial Police Officer
Khyber Pakhtunkhwa, Peshawar
(Respondent No.1&2)


Regional Police Officer
Dera Ismail Khan
(Respondent No.3)


District Police Officer,
Dera Ismail Khan
(Respondent No.4)

برخلاف۔ کنسٹیبل قیوم نواز نمبر 1003

جناب عالی!

حسب آمدہ چارج شیٹ سٹیٹمنٹ آف الگیشن نمبر 2092-93/EC مورخہ 14/06/018 جناب DPO صاحب نے بغرض انکوائری مارک فرمائی۔ کنسٹیبل قیوم نواز نمبر 1003 پر یہ الزام عائد کیا گیا ہے کہ بدوران پوسٹنگ تھانہ کڑی خیسور بدوران ڈیوٹی وہ غیر حاضر ہوا جس کی غیر حاضری نمبر 18 مورخہ 05/02/018 تھانہ کڑی خیسور درج روزنامہ کی گئی۔ مذکورہ کنسٹیبل بلا رخصت و اجازت افسران بالا مورخہ 05/02/018 سے بدستور غیر حاضر چلا آ رہا ہے۔ مذکورہ کو باقاعدہ چارج شیٹ کرتے ہوئے جناب DPO صاحب نے DSP/Saddar کو انکوائری مارک فرمائی۔ انکوائری مورخہ 19/06/018 کو بذریعہ ڈاک موصول ہوئی۔ انکوائری کی بابت نائب SRC سے مورخہ 26/06/018 کو معلومات کی گئیں کہ کنسٹیبل قیوم نواز نمبر 1003 نے چارج شیٹ وصول کی ہے یا نہیں تو اس نے جواباً بتلایا کہ مذکورہ نے چارج شیٹ وصول کی ہے اور اسے کہا گیا ہے کہ جواب چارج شیٹ DSP صدر سرکل جمع کرائے۔ مذکورہ نے چارج شیٹ جمع نہ کرایا۔ دوبارہ مورخہ 02/07/018 کو بذریعہ نائب SRC مذکورہ کنسٹیبل کو اطلاع یابی کرائی گئی کہ جواب چارج شیٹ نزد DSP صدر سرکل جمع کرائے۔

عالیجاہ!

کنسٹیبل قیوم نواز نمبر 1003 کی عرصہ غیر حاضری کے متعلق تھانہ کڑی خیسور سے معلومات کی گئیں جنہوں نے بتلایا کہ مذکورہ کی غیر حاضری تقریباً 4 ماہ بنتی ہے۔ کنسٹیبل مذکورہ کی غیر حاضری کی مدت بہت زیادہ ہے۔ اور وہ بلا رخصت و اجازت افسران بالا غیر حاضر رہا ہے۔ مذکورہ کے پاس اتنی زیادہ غیر حاضری کا کوئی معقول عذر نہیں ہے۔ جس کی بناء پر مذکورہ کنسٹیبل بار بار اطلاع یابی کے باوجود بھی جواب چارج شیٹ دیدہ دانستہ طور پر DSP صدر سرکل کو جمع نہیں کراتا۔

نتیجہ انکوائری۔

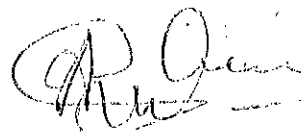
کی گئی انکوائری سے یہ نتیجہ اخذ کیا جاتا ہے کہ کنسٹیبل قیوم نواز نمبر 1003 کے پاس اپنی غیر حاضری کا کوئی جائز عذر نہیں جو وہ دیدہ دانستہ طور پر زبردستی کو انکوائری کے لئے پیش نہیں ہوتا ہے۔

لہذا مذکورہ کنسٹیبل کے خلاف یکطرفہ کارروائی کرتے ہوئے، MAJOR PUNISHMENT کی سفارش کی جاتی

ہے۔ انکوائری رپورٹ گزارش ہے۔

نمبر 718/DSP-Saddar

تاریخ 17-7-18



ڈپٹی سپرنٹنڈنٹ آف پولیس صدر سرکل

ڈیرہ اسماعیل خان

محکمہ انکوائری بر خلاف کتبہ قبولی وارڈ 1003

| مختصر خلاصہ | تاریخ کاروائی | بحوالہ چارج شیٹ نمبر | S.No |
|--|---------------|----------------------|------|
| <p>141</p> <p>محکمہ انکوائری برعین کاروائی حتمی ہوئی جو اب چارج شیٹ حتمی ہوئی۔ راجد کمار کا درجہ اعلیٰ سے اسی چارج شیٹ</p> <p><i>[Signature]</i> R 1050-Suddas</p> | 19.6.18 | 2092-93/ 14.6.18 | -1 |
| <p>اسرار SRC سے حدود کھانگی صورت پیدا کیے مذکورہ صورت 1916 کو چارج شیٹ حتمی کی گئی۔ اس کو چارج شیٹ جو اب چارج شیٹ SRC حتمی کر کے</p> <p><i>[Signature]</i> R 1050-Sddx</p> | 26.6.18 | | 2 |
| <p>اسرار برقیہ نائب SRC اطلاع پائی کہ اس کے لئے جو اب چارج شیٹ حتمی کر کے</p> <p><i>[Signature]</i> R 1050-Sddx</p> | 2-7-18 | | |



1
OFFICE OF THE
SUPERINTENDENT OF POLICE,
RURAL DIVISION, DERA ISMAIL KHAN

No. 1384/SP(R.) Dated D.I.Khan the

27/6/2018.

To: The District Police Officer,
Dera Ismail Khan

Subject: DISCIPLINARY ACTION AGAINST CONSTABLE QAYYUM
NAWAZ NO. 1003.

Memo: Kindly refer to the order for enquiry issued vide Endst: No. 2019-201/C. dated
06.06.2018.

Respected Sir,

In pursuance of your kind directives, the undersigned completed enquiry in the
above cited case. Its stepwise detail is given below:

ALLEGATIONS:

Constable Qayyum Nawaz No. 1003 while posted at PS Kirri Khaisore D.I.Khan,
the local police of PS Cantt D.I.Khan, recovered 15-grams Shesha Ice and 315-grams Chars from
his personal possession and registered a case vide FIR No. 517, dated 27.05.2018 u/s 9-BCNSA
Police Station Cantt. This act on his part amounts to gross misconduct, negligence & lack of
interest towards the performance of official duty which is punishable under the rules.

LETTER FROM SP INVESTIGATION:

The Worthy SP Investigation, D.I.Khan, addressed a letter to Worthy DPO,
D.I.Khan, vide his office No. 6546/Inv. dated 28.05.2018, and Daily Crime Dairy dated 28.06.2018
for initiating a departmental proceeding against the accused Constable. Copy of the letter and Daily
Crime Dairy is attached which is self-explanatory.

SUSPENSION ORDER:

The Worthy DPO, D.I.Khan, issued a suspension order regarding the accused
Constable Qayyum Nawaz No.1003 and closed him to Police Lines, D.I.Khan, vide Endst: No.
2027-294/C. dated 06.06.2018. (Copy attached).

ABSENTIA OF CONSTABLE Qayyum Nawaz NO. 1003:

He remained absent from his lawful duty w.e.from 05.02.2018 to 15.06.2018 i-e for
a period of 04 months and 10 days from PS Kirri Khaisore and again remained absent vide DD
No.81 dated 19.06.2018 till 22.06.2018, from Police Lines for 03 days without any leave or
permission or intimation. Hence, during this time he was contacted once and again to join the
enquiry process but in vain.

STOPPAGE OF PAY:

In this context, his salary was stopped vide OB No. 284, dated 22.02.2018 (copy
attached).

Officer for
of Khyber
irection to
5 pages
ar before the
se of enquiry

Police Officer,
Dera Ismail Khan

PROCEEDINGS:

The accused Constable Qayyum Nawaz was traced and summoned with great difficulty. The Charge Sheet and summary of allegations were served upon him; he was heard in detail; he submitted his written reply; he was asked a question regarding his absence which he replied. His reply is appended which is self-explanatory. The case file of FIR No. 517, dated 27.05.2018, registered u/s 9-BCNSA in PS Cantt against the accused Constable, was studied thoroughly. The IO, the SHO and the marginal witnesses of the recovery memo were also summoned and heard in detail. Their afresh statements were got recorded and placed on file. Copies of all the relevant documents have been placed on file. His previous service record was obtained and placed on file, too.

LIST OF PROOFS INCRIMINATING CONSTABLE QAYYUM NAWAZ NO. 1003:

- 1) FIR No. 517, dated 27.05.2018, u/s 9-BCNSA, PS Cantt.
- 2) Recovery memo, testified by 03 marginal witnesses, showing the recovery of 15 gram of Amphetamine (Ice or Shesha) and 315grams Chars. from the direct possession of Constable.
- 3) Afresh statements of marginal witnesses -- Constable Mohammad Nadeem No. 131 and Mohammad Jamil No. 8348 -- of the recovery memo.
- 4) Statement of the SHO, Faheem Mumtaz, of PS Cantt.
- 5) The FSL report No.13542/FSL, dated 19.06.2018 confirmed that the material recovered from the possession of Qayyum Nawaz was Amphetamine (called Ice or Shesha in local parlance) and Chars.
- 6) Statement of the IO/ASI Tanveer Ahmad.
- 7) Site plan of the place of occurrence.
- 8) Card of arrest in respect of Constable Qayyum Nawaz.
- 9) FIR No.516, dated 27.05.2018, u/s 4-PO/9-ACNSA PS Cantt against accused Mohammad Asif.

PREVIOUS SERVICE RECORD OF CONSTABLE QAYYUM NAWAZ NO. 1003:

| | | |
|--------------------|---|----------------------|
| Date of Enlistment | : | 24.04.1999 |
| Total Service | : | 19 year and 02 month |
| Recruit Course | : | Passed |
| Education | : | B.A |
| Good Entries | : | 02 |
| Bad Entries | : | 01 Minor Punishments |
| Major Punishment | : | Nil |
| Leave without pay | : | 25 days |

STATEMENT OF ACCUSED CONSTABLE Qayyum Nawaz NO. 1003:

He denied the allegations levelled against him in case FIR No. 517, dated 27.05.2018, u/s 9-BCNSA, PS Cantt, D.I.Khan. He contended that he would prove in the court that the FIR registered against him was wrong and false. His statement is annexed and self-explanatory. However, in a separate brief statement (attached), he accepted his absence for 04 months and 10 days from his official duties, without any leave or permission from the high-ups.

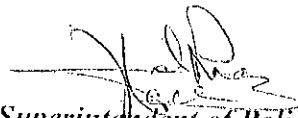
CONCLUSION:

There are more than sufficient irrefutable substantial documentary, circumstantial and ocular evidences on the enquiry file which prove that Constable Qayyum Nawaz No. 1003 is a habitual narcotics-seller. The recovery of 15 gram of Amphetamine (Ice or Shesha in local parlance) and 315 grams Chars from his direct possession vide case FIR No. 517, dated 27.05.2018, registered u/s 9-BCNSA in Police Station Cantt, D.I.Khan, has been proved. Being involved in this obnoxious social evil, he is earning a bad name for police department for which we claim zero tolerance.

RECOMMENDATIONS:

- Keeping the above facts and figures in view it is recommended that:*
- (i) *Constable Qayyum Nawaz No. 1003 may please be awarded a "Major Punishment of dismissal from the police services".*
 - (ii) *A copy of this enquiry may please be sent to Worthy SP Investigation, D.I.Khan, with the directives to consider it a part of investigation and append it to the judicial file of the case for the kind perusal of the concerned court of trial, if agreed.*

Enclosed (4) papers


 Superintendent of Police,
 Rural Division,
 Dera Ismail Khan

ادرس سید

گفتگو

15/6/18

07/6/18

جارج سید نے 2016-2019 کو 6/6 جاری کیا ہے
 جس کا عنوان انٹرویو برائے کینیڈا کے قومی نواز ہے 1503
 آج کو 7/6 کو فائل ہوئی جو پر باقاعدہ انٹرویو کا
 کارڈ گزارا گیا ہے۔ یہاں پر کینیڈا کے قومی نواز
 قومی اطلاع سے کینیڈا کے قومی نواز 1503 کو مطلع کیا
 گیا ہے۔ ان کا جواب سید کو فائل کرنے کے بعد جاری کیا گیا ہے۔

15/6/18

1

31/6/18

جارج سید نے 15/6 کو سید کو فائل کیا ہے۔

2

14/6/18

جارج سید نے 14/6 کو سید کو فائل کیا ہے۔
 یہ سید کو فائل کیا گیا ہے۔
 سید نے 14/6 کو سید کو فائل کیا ہے۔
 سید نے 14/6 کو سید کو فائل کیا ہے۔

3

14/6/18

جارج سید نے 13/6 کو سید کو فائل کیا ہے۔
 سید نے 13/6 کو سید کو فائل کیا ہے۔
 سید نے 13/6 کو سید کو فائل کیا ہے۔
 سید نے 13/6 کو سید کو فائل کیا ہے۔

4

14/6/18

جارج سید نے 14/6 کو سید کو فائل کیا ہے۔

5

13/6/18

کتابت 6/18/18 18/6/18 عبدالقادر کے حقیقت نامہ
کتابت آفتاب پبلیشرز

19/6/18

7
کتابت 6/18/18 18/6/18 عبدالقادر کے حقیقت نامہ
کتابت آفتاب پبلیشرز
کتابت 6/18/18 18/6/18 عبدالقادر کے حقیقت نامہ
کتابت آفتاب پبلیشرز

20/6/18

8
کتابت 6/18/18 18/6/18 عبدالقادر کے حقیقت نامہ
کتابت آفتاب پبلیشرز

22/6/18

9
کتابت 6/18/18 18/6/18 عبدالقادر کے حقیقت نامہ
کتابت آفتاب پبلیشرز

23/6/18

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کتابت 6/18/18 18/6/18 عبدالقادر کے حقیقت نامہ
کتابت آفتاب پبلیشرز

24/6/18

11
کتابت 6/18/18 18/6/18 عبدالقادر کے حقیقت نامہ
کتابت آفتاب پبلیشرز

25/6/18

12
کتابت 6/18/18 18/6/18 عبدالقادر کے حقیقت نامہ
کتابت آفتاب پبلیشرز

(2)

19/6/18 13542 FSL

پولیس سٹیشن ڈی.آئی. خان

211

202

پولیس

Attested
[Signature]
Superintendent of Police
Rural Division, D.I. Khan

(3)
27/11/13
1003
کے لئے جاری ہے

24/11/13
(75)

27/11/13
کے لئے جاری ہے

24

(Signature)
Superintendent of Police
Rural Division, D.I. Khan

ابتدائی اطلاعی رپورٹ

(فائل) ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ ۱۵۲ مجموعہ ضابطہ نو جداری

موزوں نمبر 4m

ضلع داد

تھانہ

تاریخ وقت ۲۷/۱۲/۲۰۲۵ وقت ۱۲:۴۵ بجے (517)

36

| | | |
|---|--|------------------------------------|
| 1 | تاریخ وقت رپورٹ کی ۲۷/۱۲-۲۵ | تاریخ وقت ۲۷/۱۲-۲۵ |
| 2 | نام و سکونت اطلاع دہندہ مستغیث | مفتی محمد زاہد 4m کراچی |
| 3 | مختصر کیفیت جرم (معدومہ) حال اگر کچھ لیا گیا ہو | CNSA (6) 9 |
| 4 | گاہک کی شناخت | گاہک کی شناخت |
| 5 | نام و سکونت ملزم (معدومہ) اگر وارث یا قریبی رشتہ دار یا قریبی دوست یا رشتہ دار کے نام پر ملزم کے پاس کوئی چیز ہو | برسیدگی پر اسے نہیں دیا گیا |
| 6 | کارروائی جو تفتیش سے متعلق کی گئی اگر اطلاع درج کرنے میں تاخیر ہو تو وجہ بیان کرے | تفتیش سے متعلق کی گئی تاخیر کی وجہ |

ابتدائی اطلاع نیچے درج کروا کر مندرجہ ذیل کے سلسلہ سے اطلاع دینا ہے۔

کراچی، ضلع داد، تھانہ 4m میں سے تفتیش کو لینے کے سلسلہ سے اطلاع دینا ہے۔

گاہک کی شناخت: گاہک کی شناخت کے لیے تفتیش کو لینے کے سلسلہ سے اطلاع دینا ہے۔

مختصر کیفیت جرم (معدومہ) حال اگر کچھ لیا گیا ہو: مختصر کیفیت جرم (معدومہ) حال اگر کچھ لیا گیا ہو۔

گاہک کی شناخت: گاہک کی شناخت کے لیے تفتیش کو لینے کے سلسلہ سے اطلاع دینا ہے۔

نام و سکونت ملزم (معدومہ) اگر وارث یا قریبی رشتہ دار یا قریبی دوست یا رشتہ دار کے نام پر ملزم کے پاس کوئی چیز ہو: نام و سکونت ملزم (معدومہ) اگر وارث یا قریبی رشتہ دار یا قریبی دوست یا رشتہ دار کے نام پر ملزم کے پاس کوئی چیز ہو۔

کارروائی جو تفتیش سے متعلق کی گئی اگر اطلاع درج کرنے میں تاخیر ہو تو وجہ بیان کرے: کارروائی جو تفتیش سے متعلق کی گئی تاخیر کی وجہ۔

گزارش تفتیش

1 The Court

27-5-18

ORDER

This order is aimed to dispose-off two departmental enquiries/proceedings against Constable Qayyum Nawaz No.1003 of this District Police on the following charges:-

1) That he while posted at PS/Kirri Khaisore, vide DD No.18, dated 05.02.2018, absented himself from lawful duties w.e.from 05.02.2018 to date without any leave/permission from the high ups.

2) That he while posted at PS/Kirri Khaisore DI Khan, the local Police of PS/Cantt DI Khan recovered 315-grams Charas and 15-grams Ice from his possession and registered a case vide FIR No.517, dated 27.05.2018 u/s 9(B)CNSA Police Station Cantt: DI Khan.

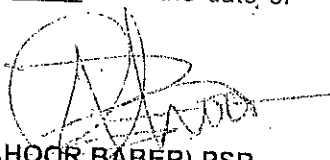
The defaulter constable was served with charge sheets/statements of allegations separately. An enquiry was conducted into the matter through Mr. Afsar Khan SDPO/Saddar Circle DI Khan and Mr. Salim Riaz SP/Rural Division DI Khan under Police Rules-1975 ammended-2014. The Enquiry Officers submitted in their finding reports in which they are stated that the charges of misconduct stand proved against the delinquent above named official and recommended for Major Punishment of Dismissal from Police Services.

He was also served with Final Show Cause Notices and reply of one Final Show Cause received which was examined thoroughly and found unsatisfactory. The reply of another Final Show Cause Notice has not been received so far. He was not appeared in the Orderly Room due to his absence.

From the perusal of the relevant records, findings of the Enquiry Officers, i am satisfied that the charges of misconduct stand proved against him beyond any shadow of doubt.

In the light of above, I, ZAHOOR BABER, PSP, District Police Officer, Dera Ismail Khan, an exercise of power conferred upon me under Police Rules-1975 with amended 2014, award Constable Qayyum Nawaz No.1003 "Major Punishment of Dismissal from the Police Service" from the date of absence i.e. 05.02.2018.

ORDER ANNOUNCED
OB No. 1513
Dated 31-10-2018


(ZAHOOR BABER) PSP
District Police Officer,
Dera Ismail Khan

CHARGE SHEET

Whereas, I am satisfied that a formal enquiry as contemplated by Khyber Pakhtunkhwa Police Rules 1975 amended-2014 is necessary and expedient.

AND WHEREAS, I am of the view that the allegation if established would call for a major penalty as defined in rules-4(i)(B) of the aforesaid rules.

(43) AND THEREFORE, as required by Police Rules 6(1) of the aforesaid rules, I DISTRICT POLICE OFFICER Dera Ismail Khan hereby charge you Constable Qayyum Nawaz No.1003 with the misconduct on the basis of the statement attached to this Charge Sheet.

AND, I, hereby direct you further under rules 6(i)(B) of the said rules to put in written defence within 7-days of receipt of this Charge Sheet as to why the proposed action should not be taken against you and also state at the same time whether you desire to be heard in person or otherwise.

AND, in case, your reply is not received within the prescribed period, without sufficient cause, it would be presumed that you have no defence to offer and that Ex-parte proceeding will be initiated against you.

District Police Officer,
Dera Ismail Khan

DISCIPLINARY ACTION

I, DISTRICT POLICE OFFICER, Dera Ismail Khan as a competent authority am of the opinion that you Constable Qayyum Nawaz No.1003 have rendered yourself liable to be proceeded against and committed the following acts/omissions within the meaning of the Khyber Pakhtunkhwa Police Rules 1975 amended-2014.

STATEMENT OF ALLEGATION

4/2/18
You while posted at PS/Kirri Khaisore DI Khan, vide Mad No.18 dated 05.02.2018 of PS/Kirri Khaisore, absented yourself from lawful duties w.e.from 05.02.2018 till date without any leave/permission from the high-ups. This act on your part amounts to gross misconduct which is punishable under the rules.

Hence the statement of allegation.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegation _____ Dera Ismail Khan is appointed as enquiry officer to conduct proper departmental enquiry under Police Rules 1975 amended-2014.

3. The enquiry officer shall in accordance with the provision of the ordinance, provide reasonable opportunity of the hearing to the accused, record its findings and make, within ten days of the receipt of this order recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date time and place fixed by the enquiry officers.

District Police Officer,
Dera Ismail Khan

No. _____ /EC Dated DI Khan the _____ /2018
Copy to: -

1. _____ Dera Ismail Khan. The enquiry officer for initiating proceeding against the defaulter under the provision of Khyber Pakhtunkhwa Police Rules 1975 amended-2014, with the direction to complete the enquiry within 10-days. Enquiry papers containing _____ pages are enclosed.
2. Constable Qayyum Nawaz No.1003 with the direction to appear before the E.O on the date, time and place fixed by the E.O, for the purpose of enquiry proceeding.

District Police Officer,
Dera Ismail Khan

نہج کلہ

قائد کی صورت و نشان در بارہ کاروان

44

بنیاد عالیہ در صورتی میں کہ پیشین 1003 عوالیہ 15

روزنامہ 15/5 50 نشانہ کی صورت میں 15/5

جلد آریا کے پیشین در کور کی خاصیت ہوتے کا
کوئی امکان بھی نہیں ہے

یہاں امرتا میں پیشین در کور کو لائن میں لکھا گیا

کاروانی کے لئے لکھی جا رہی ہے یا اجراء

نوٹ دیکھ رہی ہے خاصیت میں وہاں کو لائن میں لکھا گیا

جسٹس
MK/XX
06-06-18

SIR,
Farwahaleel

Issue charge sheet

Nils 110

SH/XX
06-06-18

836

07-8-6-18

کتاب کا نام

عقلمندان کا عقلمندان

مفتی محمد رفیع

(185)

مفتی محمد رفیع صاحب مدظلہ العالی نے اپنی کتاب "عقلمندان کا عقلمندان" میں 17200 صفحات پر تقریباً 25 لاکھ سے زائد الفاظ تحریر فرمائے ہیں۔ اس کتاب میں عقلمندان کا عقلمندان کا مفہوم اور اس کا ارتقاء بیان کیا گیا ہے۔

مفتی صاحب نے اس کتاب میں عقلمندان کا مفہوم اور اس کا ارتقاء بیان کیا ہے۔ اس کتاب میں عقلمندان کا مفہوم اور اس کا ارتقاء بیان کیا ہے۔ اس کتاب میں عقلمندان کا مفہوم اور اس کا ارتقاء بیان کیا ہے۔

مفتی صاحب نے اس کتاب میں عقلمندان کا مفہوم اور اس کا ارتقاء بیان کیا ہے۔ اس کتاب میں عقلمندان کا مفہوم اور اس کا ارتقاء بیان کیا ہے۔ اس کتاب میں عقلمندان کا مفہوم اور اس کا ارتقاء بیان کیا ہے۔

مفتی صاحب نے اس کتاب میں عقلمندان کا مفہوم اور اس کا ارتقاء بیان کیا ہے۔ اس کتاب میں عقلمندان کا مفہوم اور اس کا ارتقاء بیان کیا ہے۔ اس کتاب میں عقلمندان کا مفہوم اور اس کا ارتقاء بیان کیا ہے۔

17200

عقلمندان کا عقلمندان

17200-185

05-06-18

DISCIPLINARY ACTION

I, DISTRICT POLICE OFFICER, Dera Ismail Khan as a competent authority am of the opinion that you Constable Qayyum Nawaz No.1003 have rendered yourself liable to be proceeded against and committed the following acts/omissions within the meaning of the Khyber Pakhtunkhwa Police Rules 1975 amended-2014.

STATEMENT OF ALLEGATION

You while posted at PS/Kirri Khaisore DI Khan, vide Mad No.18 dated 05.02.2018 of PS/Kirri Khaisore, absented yourself from lawful duties w.e.from 05.02.2018 till date without any leave/permission from the high-ups. This act on your part amounts to gross misconduct which is punishable under the rules.

Hence the statement of allegation.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegation DSP Saddad Dera Ismail Khan is appointed as enquiry officer to conduct proper departmental enquiry under Police Rules 1975 amended-2014.

3. The enquiry officer shall in accordance with the provision of the ordinance, provide reasonable opportunity of the hearing to the accused, record its findings and make, within ten days of the receipt of this order recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date time and place fixed by the enquiry officers.

[Signature]
District Police Officer,
Dera Ismail Khan

No. 2092-93 /EC Dated DI Khan the
Copy to:-

14/06/2018

1. DSP Saddad Dera Ismail Khan. The enquiry officer for initiating proceeding against the defaulter under the provision of Khyber Pakhtunkhwa Police Rules 1975 amended-2014, with the direction to complete the enquiry within 10-days. Enquiry papers containing _____ pages are enclosed.
2. Constable Qayyum Nawaz No.1003 with the direction to appear before the E.O on the date, time and place fixed by the E.O, for the purpose of enquiry proceeding.

Received
Qayyum Nawaz
1003
19/06
2018

[Signature]
District Police Officer,
Dera Ismail Khan

FINAL SHOW CAUSE NOTICE

I, DISTRICT POLICE OFFICER, DI Khan as competent authority under the Khyber Pakhtunkhwa Police Rules 1975 amended-2014, do hereby served you Constable Qayyum Nawaz No.1003 as follow.

137

1. (i) That consequent upon the completion of enquiry conducted against you by the Enquiry Officer for which you were given opportunity of hearing vide this office communicator No. 2092-93/EC, dated 14.06.2018.

(ii) On going through the findings and recommendations of the enquiry officer, the material on record and other connected papers including your defence before the Enquiry Officer.

I am satisfied that you have committed the following acts/omissions specified of the said rules.

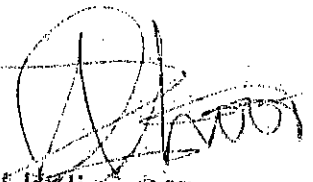
You while posted at PS/Kirri Khaisore DI Khan, vide Mad No.18 dated 05.02.2018 of PS/Kirri Khaisore, absented yourself from lawful duties w.e.from 05.02.2018 till date without any leave/permission from the high-ups.

2. As a result thereof, I, DISTRICT POLICE OFFICER, DI Khan as competent authority have tentatively decided to impose upon you the penalty of Major punishment of the said rules.

3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you.

4. If no reply to this notice is received within 7-days of its deliver, in the normal course of circumstances, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

5. The copy of finding of the enquiry officer is enclosed.


District Police Officer,
Dera Ismail Khan

Received
Qayyum
Nawaz
1003
2018

FINAL SHOW CAUSE NOTICE


I, DISTRICT POLICE OFFICER, DI Khan as competent authority under the Khyber Pakhtunkhwa Police Rules 1975 amended-2014, do hereby served you Constable Qayyum Nawaz No.1003 as follow.

1. (i) That consequent upon the completion of enquiry conducted against you by the Enquiry Officer for which you were given opportunity of hearing vide this office communicator No. 2019-20/EC, dated 06.06.2018.
- (ii) On going through the findings and recommendations of the enquiry officer, the material on record and other connected papers including your defence before the Enquiry Officer.

I am satisfied that you have committed the following acts/omissions specified of the said rules.

That you while posted at PS/Kirri Khaisore DI Khan, the local Police of PS/Cantt DI Khan recovered 315-grams Charas and 15-grams Ice from your possession and registered a case vide FIR No.517, dated 27.05.2018 u/s 9(B)CNSA Police Station Cantt DI Khan.

2. As a result thereof, I, DISTRICT POLICE OFFICER, DI Khan as competent authority have tentatively decided to impose upon you the penalty of Major punishment of the said rules.
3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you.
4. If no reply to this notice is received within 7-days of its deliver, in the normal course of circumstances, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.
5. The copy of finding of the enquiry officer is enclosed.


District Police Officer,
Dera Ismail Khan

Received
copy of
2018
1003
11.5.2018
Qayyum
1003

To,

The District Police Officer,
Dera Ismail Khan.
The competent authority.

Subject- REPLY TO THE FINAL SHOW CAUSE NOTICE.


Respected Sir,

I have received the final show cause notice issued by your good-self, wherein I have been directed to submit my reply within seven days, to which my reply is as under:-

- 1) (i) That the inquiry was conducted against me, wherein I have submitted my reply to the charge sheet but no opportunity of personal hearing was given to me, as I was only called in the office and was never associated during the proceedings and was asked to sit outside the room.
- (ii) That my basic request was that pending trial of the case F.I.R No.571, inquiry against me may be adjourned sine die, as I have denied my involvement in the said criminal case, which is yet to be proved in the trial before competent Court and prior to that any action against me will amount to conviction prior to trial, as if I am acquitted of the charges leveled against me then how my dismissal from service can be rectified, therefore, I am still requesting your good-self to keep pending the proceedings against me till the decision of the trial of the case to meet the ends of justice,

That your good-self satisfaction from the record that I have conducted the following acts/omissions specified of the said rules are premature and prior to the conclusion of trial before competent Court.

in as
ou the
aforesaid
delivered, in the
you have no
shall be taken

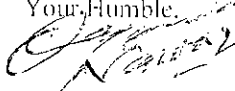

District Police Officer
Dera Ismail Khan

That the alleged recovery of narcotics from me vide case F.I.R No.571 dated 27.05.2018 under Section 9 (b) CNSA. Police Station Cantt. D.I.Khan is in the process of trial and no result whatsoever has come out as yet. therefore. prior to the decision. holding me to be involved in the criminal act is against natural justice and law.

- 2) Sir, your tentative decision to impose major punishment upon me is respectfully not in accordance with law, because I am accused of an offence and being favorite child of the law the pendulum should tilt towards me. as the competent Court has not yet found me guilty of the charges leveled against me. so why departmentally a major penalty is being imposed upon me and my request to keep pending the departmental proceedings till decision of the competent Court seems to be just in accordance with law because tomorrow my dismissal may not be reverted in case I am acquitted of the charges.
- 3) That as I have requested the penalty should not be imposed upon me till the decision of the competent Court, which is the only legal and logical reply on my behalf because the charges are yet to be proved against me.
- 4) That I also request for personal hearing to meet the ends of justice.

It is, therefore, humbly prayed that departmental proceedings against me be either filed or be kept pending till the decision of the competent Court in the interest of justice.

Dated 16.07.2018.

Your Humble

(Qayumb Nawaz)
Constable No.1003.
Police Line, D.I.Khan.



29

Annexure 4

OFFICE OF THE
REGIONAL POLICE OFFICER
DERA ISMAIL KHAN
REGION

No. 1214 /ES, Dated DI Khan the 13/03/2019

ORDER

DY No. 693/EC
15-03-2019

This order will dispose of the departmental appeal preferred by Ex Constable Qayyum Nawaz, No. 1003 of District DI Khan wherein he has prayed for setting aside the order of major punishment of Dismissal from service imposed upon him by DPO DI Khan vide OB No. 1513 dated 31.10.2018 after found him guilty of the following allegations:-

- 1) That he while posted at Police Station Kirri Khesore DI Khan, absented himself from performance of duty without any leave or reasonable cause w.e. from 05.02.2018 till the date of dismissal order, i.e. 31.10.2018 (268 days)
- 2) That the local police of Police Station Cantt DI Khan recovered 315-grams Charas and 15-grams Ice from his possession and registered case vide FIR No. 517 dated 27.05.2018 U/S 9(B)CNSA of Police Station Cantt DI Khan.

His service record, inquiry papers and comments were received from DPO DI Khan which was perused and it was found that separate enquiries in the above cases were conducted by Mr. Saleem Riaz, SP Saddar Division DI Khan & Mr. Afsar Khan, DSP, Saddar Circle DI Khan, who submitted their findings reports stating therein that the allegations of high handedness stand proved and recommended him for awarding major punishment, hence, in the light of recommendations of Enquiry Officers, the Competent Authority has passed the punishment order dated 31.10.2018.

Aggrieved from the impugned order passed by DPO DI Khan, the appellant submitted the instant appeal on 30.11.2018 which was sent to DPO DI Khan for comments and to provide his service record vide this office memo: No. 4027/ES dated 30.11.2018. The DPO DI Khan has submitted the comments and service record of the appellant vide his office memo: No. 4466/EC dated 19.12.2018, wherein the appeal of the appellant was properly defended on cogent grounds.

During perusal of his service record, it was found that the appellant has served Police Force for about 19 years. He was awarded minor punishment of Fine for one time & major punishment under consideration.

The undersigned also provided him opportunity of personal hearing. Therefore I, FEROZE SHAH, PSP, Regional Police Officer, DI Khan, in exercise of powers vested in me under Rule 11 clause 4(a) of Khyber Pakhtunkhwa Police Rules, 1975 (amended 2014) find no substance in his appeal and uphold the punishment order passed by DPO DI Khan. His appeal is hereby filed.

ORDER ANNOUNCED

Feroze Shah
(FEROZE SHAH)PSP
REGIONAL POLICE OFFICER
DERA ISMAIL KHAN

No. 1215 /ES

Copy of above is submitted to the DPO DI Khan for information & necessary action with reference to his office memo: No. 4466/EC dated 19.12.2018 alongwith 01-Service Roll & 01-Inquiry File of the appellant.

OB/EC/AHC
For information
Dist: Police Officer
Dera Ismail Khan

Feroze Shah
(FEROZE SHAH)PSP
REGIONAL POLICE OFFICER
DERA ISMAIL KHAN
Constable
Qayyum Nawaz
No. 1003
13-03-2019



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 2492 / ST

Dated: 15/12 /2021

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

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

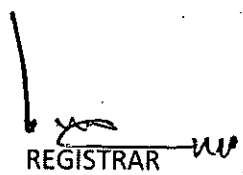
To

The District Police Officer,
Government of Khyber Pakhtunkhwa,
D.I Khan.

Subject: JUDGMENT IN APPEAL NO. 5779/2020, MR. QAYUM NAWAZ.

I am directed to forward herewith a certified copy of Judgement dated 22.11.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR