

05.09.2022


Due to leave of the Worthy Chairman, the Bench is incomplete. Case to come up for the same on 03.11.2022 before the D.B.

  
Reader

3rd Nov. 2022

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Learned counsel for the appellant seeks adjournment in order to further prepare the brief. Adjourned. To come up for arguments on 28.11.2022 before the D.B.

  
(Fareeha Paul)  
Member (E)

  
(Kalim Arshad Khan)  
Chairman

28/11/22

Deleted from list to come up for the same on 8/2/23




13.09.2021

Appellant present through counsel.

Asif Masood Ali Shah learned Deputy District Attorney for respondents present.

Former submitted rejoinder with a request for adjournment. Request is accorded. To come up for arguments on 30.11.2021 before D.B.

  
(Rozina Rehman)  
Member (J)


  
Chairman

30.11.2021

Appellant in person present.

Mr. Muhammad Adeel Butt, learned Additional Advocate General alongwith Mr. Khyal Roz Inspector for respondents present.

Former made a request for adjournment as his counsel is not available today. Adjourned. To come up for arguments on 01.02.2022 before D.B.


  
(Atiq ur Rehman Wazir)  
Member (E)

  
(Rozina Rehman)  
Member (J)

31.01.2022

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Abdul Basir, Inspector (Legal) for respondents present.

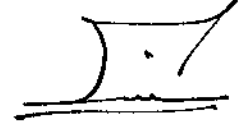
Due to paucity of time arguments could not be heard. To come up for arguments on 28.02.2022 before the D.B.

  
(Atiq-Ur-Rehman Wazir)  
Member (E)

  
Chairman

22.03.2021

Appellant in person present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Khalid Mehmood, Head Constable for the respondents present and requested for further time for submission of written reply/comments. Adjourned. To come up for written reply/comments on 25.05.2021 before S.B.



(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

25.05.2021

Counsel for the appellant and Mr. Khial Roz, Inspector (Legal) for respondents No. 1 to 3 alongwith Mr. Kabirullah Khattak, Addl. AG for the respondents present.

Respondents No. 1 to 3 have furnished their joint parawise comments. As far as respondents No. 4 & 5 are concerned, they in view of particular position of the matter in dispute are not necessary parties and appear to have been arrayed just as a matter of formality. Learned AAG when confronted with the position has added that even if respondents No. 4 & 5 are asked to file the reply, they will file no different reply to the reply as filed by respondents No. 1 to 3. So, there is no need to wait for reply of respondents No. 4 & 5. To come up for arguments on 13.09.2021 before the D.B.



Chairman

29.10.2020

Appellant present in person.

Lawyers are on general strike, therefore, case is adjourned to 29.12.2020 for preliminary hearing, before S.B.



(Rozina Rehman)  
Member (J)

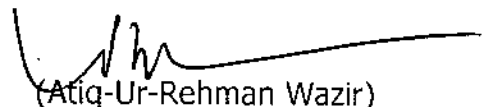
29.12.2020

Learned counsel for the appellant present.

Preliminary arguments heard.

Points raised need consideration. The appeal is admitted to regular hearing subject to all just exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 22.03.2021 before S.B.

**Appellant Deposited  
Security & Process Fee**






(Atiq-Ur-Rehman Wazir)  
Member (E)

# FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- **7813** /2020


1S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	14/07/2020	<p>The appeal of Mr. Miandad resubmitted today by Malik Haroon Iqbal Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>11/09/2020</u></p> <p> CHAIRMAN</p> <p>Appellate &amp; Process Fee _____</p>
11.09	2020	<p>Counsel for the appellant present. Requests for adjournment in order to further prepare the brief. Adjourned to 17.11.2020 before S.B.</p> <p> Chairman</p>

The appeal of Mr. Mian Dad Ex-Constable No. 2727 MR received today i.e. on 06.07.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copies of show cause notice and its reply mentioned in para-9 of the memo of appeal (Annexure-C/I) are not attached with the appeal which may be placed on it.
- 2- Annexure-E of the appeal is illegible which may be replaced by legible/better one.
- 3- Annexures of the appeal may be attested.
- 4- Wakalat nama be filled up.

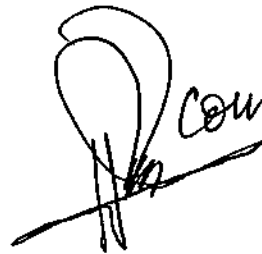
No. 1389 /S.T,

Dt. 07-07 /2020.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Malik Haroon Iqbal Adv.Pesh.

*Sic  
Note in same case  
Re submitted After complain  
P.P. Fix before the court  
No. 55 Show cause not to me in this time*

  
Counsel.

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

Service Appeal No. **7813** /2020

Mian Dad, Ex. Constable No. 2727-MR..... Appellant

VERSUS

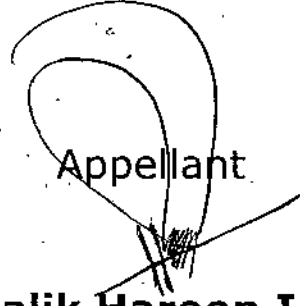
Inspector General of Police and others .... Respondents

**I N D E X**

S.No	Description of Documents	Annex	Pages
1.	Grounds of Appeal		1- 9
2.	Affidavit		10
3.	Addresses of parties		11
4.	Copy of appointment letter	A	12-
5.	Copy of Order in Bail Application	B	13-16
6.	Copies of charge sheet	C	17
7.	Copy of Reply	D	18-20
8.	Copy of inquiry report dated 09.03.2020	E	21-23
9.	Copy of final show cause notice and reply	F & F/1	24-29
10.	Copy of the order dated 30.04.2020 of respondent No. 3	G	30

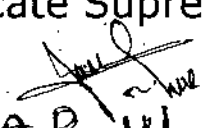
11.	Copy of grounds of appeal	H	31-34
12.	Copy of impugned order dated 24.06.2020	I	35-36
13.	Wakalat Nama		37

Through

Appellant  


**Malik Haroon Iqbal**  
Advocate Supreme Court.

Dated 03.7.2020

  
**ISRAR UL HAQ**  
ADVOCATE



(11)

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

Service Appeal No. 2813 /2020

Mian Dad, Ex. Constable No. 2727-MR

Son of Sardaraz Khan

R/o Kati Ghari District Mardan.

..... Appellant

VERSUS

1. Inspector General of Police / Provincial Police Chief,  
Central Police Office (CPO), Khyber Road,  
Peshawar.
2. Regional Police Officer, Mardan Police Line District  
Mardan, Khyber Pakhtunkhwa.
3. District Police Officer, Mardan Police Line District  
Mardan, Khyber Pakhtunkhwa.
4. Govt. of Khyber Pakhtunkhwa through Chief  
Secretary, Civil Secretariat, Peshawar.
5. Secretary Home and Tribal Affairs, Civil  
Secretariat, Khyber Road, Peshawar.

..... Respondents

APPEAL UNDER SECTION 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT,  
1974 AGAINST THE IMPUGNED ORDER OF  
RESPONDENT NO. 2 BEARING NO. 3888  
DATED, 24.06.2020 WHEREBY APPEAL /  
DEPARTMENTAL PRESENTATION OF THE  
APPELLANT WAS DISMISSED, WHICH WAS  
FILED BY THE APPELLANT AGAINST THE  
ORDER OF RESPONDENT NO. 3, BEARING NO.  
OB. 714 DATED 29.04.2020 BY VIRTUE OF  
WHICH, THE MAJOR PUNISHMENT OF  
DISMISSAL FROM SERVICE WAS IMPOSED  
ON THE APPELLANT.

**Prayer in Appeal:**

On acceptance of this Appeal, the impugned Order dated 24.06.2020 and Original Order OB No. 714 dated 29.04.2020 may kindly be aside and the appellant may please be re-instated into service with all back benefits.

Respectfully Sheweth:

1. That the appellant was inducted and appointed in the police force and was appointed as Police Constable on 07/05/2009 (**Copy of appointment letter is attached as Annexure "A"**).
2. That after joining the police force, the appellant rendered unblemished services in the police department in accordance to the satisfaction of high ups
3. That the appellant was lastly posted and was attached to police station Jabar Mardan and was busy in polio duty as per instructions of concern SHO.
4. That suddenly on 18.12.2019, when appellant was on duty, respondent No. 2 summoned the appellant to his office and locked him in the quarter guard in the police lines Mardan.
5. That on 26.12.2019, inspector Hazrat Ali of Police Station City Mardan arrested the appellant in connection with FIR No ~~1303~~ dated 29.12.2019 of P. S. City Mardan registered under Sections 381-A / 419 / 420 / 468 / 471 / 148 / 149 PPC.

6. That the appellant was not named in the FIR but was implicated on mere suspicion and on the strength of statement of co-accused recorded under 161 Cr. PC.
7. That the appellant was allowed bail by the Hon'ble Peshawar High Court vide Cr. Misc No. 80-P/2020. **(Copy of Order is attached as Annexure "B")**.
8. That despite the fact there was no iota evidence in possession of the departmental authorities but still the departmental authorities decided to proceed against the appellant under police Rules 1975.
9. That charge sheet, show cases notice were issued to appellant by respondent No. 3. **(Copies attached as Annexure "C" & "C/1")**.
10. That the charged sheet and show cause notice were properly replied by the appellant on dated 13.03.2020. **(Copy of Reply is attached as Annexure "D")**.
11. That dissatisfied with the reply of the show caused notice, inquiry was ordered and the

inquiry officer recommended the appellant for imposition of major punishment. **(Copy of inquiry report dated 29.03.2020 is annexed "E").**

12. That the final show caused notice was also issued by respondent No. 3 which was replied properly. **(Copy of final show caused notice and reply is attached as annexure "F" & "F/1").**

13. That respondent No. 3 on the strength of inquiry report passed order OB No. 714 dated 29.04.2020 and sent it vide dispatch No. 2276-81/PA dated 30.04.2020 whereby major penalty of dismissal from service was awarded to the appellant. **(Copy of the order of respondent No. 3 is attached as Annexure "G").**

14. That feeling dissatisfied with the dismissal from service order, the appellant filed departmental appeal on dated 04.05.2020 before the respondent No. 2. **(Copy of grounds of appeal is attached as Annexure "H").**

15. That respondent no. 2 vide Order No. 3888/ES dated 24.06.2020 rejected the appeal of the

appellant. **(Copy of order dated 24.06.2020 is attached as annexure "I")**.

16. That feeling aggrieved of impugned order dated 24.06.2020 of respondent No. 2 and dismissal from service order OB No. 714 dated 29.04.2020, the appellant is constraint to file the instant appeal on the following grounds inter alia:

**GROUND:**

A. That the impugned appellate Order No. 3888/ES dated 24.06.2020 of respondent No. 2 by virtue of which the department appeal / presentation of appellant was rejected and order OB No. 714 dated 29.04.2020 of respondent No. 3 whereby the appellant was dismissed from service by imposing major penalty of dismissal from service are coram non judice, illegal, without jurisdiction and lawful authority, against the principles of natural justice, without any rhymes <sup>and</sup> reasons, hence liable to set aside.

B. That impugned order are illegal and unjust and in violation of rules and law applicable to the matter.

- C. That the appellant rendered unblemished services in the police force without any criminal history and without any involvement in any kind of illegal activities but still awarded major penalty of dismissal from service.
- D. That the name of the appellant not figured in the FIR neither any kind of recovery or discovery on his pointation but still proceeded against by respondents No. 2 & 3.
- E. That the appellant has been implicated on mere suspicion on strength of the statement U/S 161 Cr. PC of co-accused constable which statement is yet to be proved by the prosecution in the trial which is nor commenced neither concluded.
- F. That the evidential value of the 161 Cr. PC statement of co-accused would be seen by the learned trial court seized up of the matter and without waiting for the result of the criminal trial / decision, the respondents illegally and through an unlawful order dismissed the appellant from service and also rejected his appeal in violation of the law and rules applicable to the matter.

G. That admittedly there is no conviction recorded till date against the appellant in any case.

H. That the inquiry officer by examining the witnesses of the criminal case has in fact pre-empted in the power of the learned trial court due to which great miscarriage of justice has been caused to the case of appellant.

I. That there is no truth in the allegations mentioned in the impugned orders.

J. That no proper inquiry has been conducted against the appellant neither any opportunity of defence or cross-examination of witnesses was afforded to the appellant which is in violation of principle enshrined in law that no one should be condemned unheard (*audi alteram partem*).

K. That the order of dismissal from service and appellant order is against the principles of natural justice, equity and fair play and is a colourful exercise of powers by respondents/department.

L. That any other grounds would be adduced by the appellant during arguments on the instant appeal with permission of this Hon'ble Tribunal.



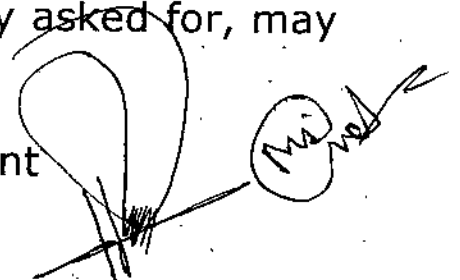
19

It is, therefore, most humbly prayed that on acceptance of this appeal the impugned Order of respondent No. 3 dated 24.06.2020 and Order of respondent no. 2 dated 29.04.2020 may kindly be set aside and the appellant may please be reinstated in the service with all back benefits.

Any other relief not specifically asked for, may also be granted.

Through

Appellant



**Malik Haroon Iqbal**  
Advocate Supreme Court.

**ISRAR ULLAH HAQ**  
ADVOCATE

Dt, 03.7.2020

**CERTIFICATE**

Certified that as per instructions of my client, that this is the first Service Appeal on the subject before this Honourable Tribunal.



ADVOCATE

(10)

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

Service Appeal No. \_\_\_\_\_/2020

Mian Dad, Ex. Constable No. 2727-MR

..... Appellant

VERSUS

Inspector General of Police and others ..... Respondents

**AFFIDAVIT**

I, Mian Dad, Ex. Constable No. 2727-MR Soh of Sardaraz Khan R/o Kati Ghari District Mardan, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

*(Signature)*

Deponent

CNIC: 16101-9459146-5

Cell:

*4-7-2020* 83455700496

*(Signature)*  
Identified by:

**Malik Haroon Iqbal**  
Advocate Supreme Court.



(11)

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

Service Appeal No. \_\_\_\_\_/2020

Mian Dad, Ex. Constable No. 2727-MR..... Appellant

VERSUS

Inspector General of Police and others ..... Respondents

**ADDRESSES OF PARTIES**

**APPELLANT**

Mian Dad, Ex. Constable No. 2727-MR

Son of Sardaraz Khan R/o Kati Ghari District Mardan

**RESPONDENTS**

1. Inspector General of Police / Provincial Police Chief,  
Central Police Office (CPO), Khyber Road,  
Peshawar.
2. Regional Police Officer, Mardan Police Line District  
Mardan, Khyber Pakhtunkhwa.
3. District Police Officer, Mardan Police Line District  
Mardan, Khyber Pakhtunkhwa.
4. Govt. of Khyber Pakhtunkhwa through Chief  
Secretary, Civil Secretariat, Peshawar.
5. Secretary Home and Tribal Affairs, Civil  
Secretariat, Khyber Road, Peshawar.

Appellant

Through

**Malik Haroon Iqbal**  
Advocate Supreme Court.

ENLISTMENT ORDER

(12) Annexure A

Name Mian Dad Khan  
Andazog Khan r/o Kati Gadi  
Katlang District Mardan is hereby enlisted as constable time  
three years probation with effect from: 07.05.09  
otted constabulary NO. 2727

Height 5-10

Chest 33 x 35

Education 10th

Date of birth 17.01.1990

O.B. NO. 1048

Dates 17-6-09

*[Signature]*  
District Police Officer,  
Mardan

*[Signature]*  
Counsel

4  
for, tr

(A) Annex "B" (13)

**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR**

Cr. Misc (BA) No. \_\_\_\_\_/2020

Mian Dad S/O Sardaraz Khan  
R/O Kati Ghari District Mardan



**V**ersus

The State ----- Respondent

**Case FIR No. 1303, Dated: 19-12-2019**  
**Registered U/S: 381-A/411/419/420/468/471/473/412/148/149 PPC**  
**Police Station: City (Mardan)**

**PETITION U/S 497 CR.P.C. FOR RELEASE OF**  
**THE PETITIONER ON BAIL TILL THE FINAL**  
**DECISION OF THE CASE**

**Respectfully Sheweth:**

A) **T**hat, the subject case was registered by the police against the arrested accused vide FIR No. 1303 dated 19-12-2019 U/S. 381-A/411/412/419/420/468/471/473/148/149 PPC at PS City, Mardan

*FIR with better copy is annexed-"A"*

B) **T**hat, the police, on strength of inadmissible police statement of the arrested accused, nominated the petitioner and on his arrest send him behind the bars.

C) **T**hat, on dismissal of his bail application by the learned JMJC, Mardan, the petitioner applied for the same relief to the worthy Court of Sessions, which too was declined by the learned ASJ, Mardan vide order dated 22-01-2020.

**Copy of bail application is annexed-"B"**  
**Impugned order is annexed-"C"**

**N**ow, the petitioner begs leave to seek the same relief from this august Court, inter-alia, on the following grounds;



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*Judgment Sheet*

**IN THE PESHAWAR HIGH COURT,  
PESHAWAR**  
(Judicial Department)

**Cr.M BA No.80-P/2020  
Mian Dad Vs the State**

Date of hearing: 07.02.2020

Mr. Shabir Hussain Gigyani, Advocate, for the petitioner.

Mr. Muhammad Nisar Khan, AAG, for the State.

**JUDGMENT**

\*\*\*\*\*

**AHMAD ALI, J.** Through the instant petition, the accused-petitioner (Mian Dad), seeks his post arrest bail in case FIR No.1303 dated 19.12.2019 under sections 381-A/411/419/420/468/471/473/412/148/149-PPC, P.S. City (Mardan).

2. Allegation against the present petitioner is that he and his co-accused (mentioned in the FIR) are involved in car theft/snatching and in tampering their chassis numbers. The FIR ibid was registered against the accused, hence the petition in hand.

3. Arguments of learned counsel for the parties heard and record perused.

4. Without dilating upon the merits of the case, which may prejudice the trial proceedings, suffice it to say that the offences under Sections 418/420/471 are bailable whereas the rest of sections of law carry punishment less than ten

~~NY~~

**ATTESTED**  
**EXAMINER**  
Peshawar High Court

years which do not fall within the prohibitory clause of Section 497 Cr.P.C and in such like cases grant of bail is a rule and refusal thereof is an exception.

5. Besides, the present accused-petitioner was neither directly charged in the instant case nor was arrested on the spot, rather he was named by the co-accused and a stolen motorcar has been shown recovered from his possession, therefore, he can be charged, at the most, under section 411 PPC, punishment for which does not fall within the prohibitory clause as hinted above.

6. Even otherwise, active involvement of the petitioner in the offences, in the given circumstances of the case, also requires further probe as provided under Sub-Section (2) of Section 497 Cr.P.C. Besides, the vicarious liability is also the job of Trial Court which could be in better position to see his involvement in the case after recording of pro and contra evidence. The petitioner is behind the bars since his arrest and there is nothing on record regarding his previous involvement in such like offences. Investigation to his extent is also complete; therefore, his further incarceration in jail will serve no useful purpose.

7. Moreover, it has been held time and again by the august Supreme Court that bail does not mean acquittal of accused but only change of custody from Government agencies to the sureties, who on furnishing bonds take

**ATTESTED**  
**EXAMINER**  
Peshawar High Court

responsibility to produce the accused whenever and wherever required to be produced. Reliance could be placed on case reported in 2008 SCMR 807 "Haji Muhammad Nazir Vs State".

8. In view of the above, the present bail petition is, thus, allowed and the accused petitioner, named above, is admitted to bail provided he furnishes bail bonds in the sum of Rs.200,000/- with two sureties, each in the like amount to the satisfaction of learned Illaqa/Duty Judicial Magistrate, who shall ensure that the sureties are local, reliable and men of means.

9. Above are the detailed reasons of short order of even date.

Announced:  
07.02.2020

JUDGE

Anjad, PS SB Mr. Justice Ahmad Ali

CERTIFIED TO BE TRUE COPY

Authorised by the Registrar, District Court, District of Faisalabad, Punjab, Pakistan. Order No. 100/2019

02 MAR 2020

2888

No. \_\_\_\_\_

Date of Presentation of Application \_\_\_\_\_

No of Pages \_\_\_\_\_

Copying Fee \_\_\_\_\_

Total \_\_\_\_\_

Date of Preparation of Copy \_\_\_\_\_

Date of Delivery of copy \_\_\_\_\_

Received by \_\_\_\_\_





OFFICE OF THE  
DISTRICT POLICE OFFICER,  
MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111  
Email: dpo\_mardan@yahoo.com

2019

17

CHARGE SHEET

I, SAJJAD KHAN (PSP), District Police Officer Mardan, as competent authority, hereby charge Constable Mian Dad No.2727, while posted at PS Jabbar (Now under suspension Police Lines Mardan), as per attached Statement of Allegations.

1. By reasons of above, you appear to be guilty of misconduct under Police Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in Police Rules, 1975.
2. You are, therefore, required to submit your written defense within 07 days of the receipt of this Charge Sheet to the Enquiry Officer, as the case may be.
3. Your written defense, if any, should reach the Enquiry Officers within the specified period, failing which, it shall be presumed that you have no defense to put-in and in that case, ex-parte action shall follow against you.
4. Intimate whether you desired to be heard in person.

(SAJJAD KHAN) PSP  
District Police Officer  
Mardan

Annex a D 4

BEFORE THE WORTHY DISTRICT POLICE OFFICER MARDAN

18

Subject: REPLY TO THE CHARGE SHEET AND STATEMENT OF ALLEGATIONS NO. 575-PA DATED 31-12-2019

BRIEF FACTS OF THE INCIDENT:

Respected Sir,

1. It is submitted that in the month of December 2019, petitioner remained posted at Police Station Jabbar and was deputed for Polio Duty. On 18/12/2019 petitioner was summoned by your Honour to the office and was locked up in the quarter guard of Police Lines Mardan on the same day.
2. That on 26/12/2019 Inspector Hazrat Ali, Oii PS city came to Police Lines Mardan and get him out from the quarter guard. The said inspector arrested the petitioner in Case FIR No. 1303 dated 19/12/2019 Under Section 381-A 419, 420 PPC PS City Mardan. This fact is evident from the Case Diary No. 7 dated 26/12/2019 and Card of arrest issued on 26/12/2019, placed on file.
3. That Inspector Hazrat Ali told the petitioner that the arrested accused Hazir Ali & Sajjad has disclosed during interrogation that petitioner is his co-partner and involved with them in such like cases. On the basis of statements of the above accused recorded U/S 161 cr.p.c petitioner was arrested in the case.
4. That on 27/12/2019 petitioner was suspended from service vide OB No. 2777 and the same day produced in the court. His Police custody was demanded but the court refused the police custody of the petitioner. The petitioner was sent to jail. Later on the petitioner released on bail by the Honourable High Court Peshawar.
5. That after release on bail, the petitioner immediately made his arrival back at Police Lines Mardan and assumed his charge of duty.

ISSUANCE OF CHARGE SHEET

On 10/02/2020, while posted at Police Lines Mardan, petitioner was handed over the subject charge sheet with the following allegations:

“Whereas, Constable Mian Dad No. 2727, while posted at PS Jabbar (now under suspension Police Lines Mardan), has been charged in a case vide FIR No. 1303 dated 19-12-2019 U/S 381-A/419/420/468/471/473/411/412 /148/149 PPC PS City.

- i. In response to the charge sheet, petitioner further submit that he is innocent and has been falsely implicated in the instant case. Simply on the basis of co-accused statement (inadmissible evidence) petitioner was declared as accused by the IO. Neither any recovery of any kind of vehicle has been effected from his possession, nor any kind of evidence has been brought on case file against him to connect him with the commission of offence.
- ii. That vide case diary No. 5 dated 23/12/2019 inspector Hazrat Ali has mentioned that only in the light of the statement of co-accused (Hazir Ali & Sajjad) petitioner was held as accused in the instant case, without any further supporting evidence.
- iii. That instead of 18/12/2020, the detainment of the petitioner in the quarter guard was shown on 20/12/2019 vide DD No. 45 in the daily diary of Police Lines Mardan. The case diary No. 8 dated 26/12/2019 and card of arrest issued on 26/12/2019 indicates, that on 26/12/2019 petitioner was released from the quarter guard by Inspector Hazrat Ali and was arrested in the instant case on the same day.
- iv. That from the case file on the instant case it is crystal clear that petitioner remained in quarter guard from 20/12/2019 to 26/12/2019 and never remained in the custody of SI Mohsin Fawad SHO PS City during this period.
- v. When it is documentarily proved, that petitioners remained in quarter guard w.e.f 18/12/2019 to 26/12/2019 and was not properly arrested in the instant case, then how the alleged recovery of motor car No. LEC-4561, FSM-261 FSM, LEF-4035 was shown from the possession of the petitioner on 19/12/2019 and 20/12/2019 respectively. A false and concocted story was prepared against the petitioner and petitioner was blamed for the above mentioned 03 motor cars, which detail explanation is as under:

**Motor Car No. 4561 LEC**

According to the statement of arrested accused Hazir Ali recorded U/S 161 cr.p.c vide case diary No. 6 dated 24/12/2009, he sold the said motorcar through the petitioner to ASI Sabir Khan. It is evident from the recovery memo dated 19/12/2019 that at the potation of accused Hazir Ali, the said motorcar was shown to be recovered from the petitioner but the place of recovery has not been mentioned

in the recovery memo. There is no evidence on case file to support this version of IO.

a) Motor Car No. 261 FSM

This motorcar has been allegedly shown to be recovered at the pointation of the accused Hazir Ali from the petitioner but again the place of recovery has not been mentioned in the recovery memo dated 20/12/2019, placed on file. According to the statement of accused Hazir Ali vide case diary No. 6 dated 26/12/2019, he has sold the said motorcar to PC Bilal through petitioner. There is no evidence in support of this statement on case file.

b) Motor Car No. 4035 LEE

This motorcar has been allegedly shown to be recovered at the pointation of accused Hazir Ali from the possession of the petitioner on 20/12/2019. In the recovery memo the place of recovery has not been mentioned. According to accused Hazir Ali he has sold the same car to SI Saifullah. To this effect the sale deed dated 05/11/2019 between Hazir Ali & SI Saifullah has been drafted and place on file as a proof.

vi. The recovery of 03 motorcars mentioned above is false, factious and never effected from the possession of the petitioner. The transaction between Hazir Ali & the concerned purchasers is their own subject matter, to which the petitioner has got no concern. It would not be out of place to mention here, that the 03 motorcars for which the petitioner has been blamed have not been mentioned in the case registered vide FIR No. 3103 dated 19/12/2019 U/S 381-A, 419, 420 PS City of the instant case.

vii. While granting bail to the petitioner the Honorable High Court Peshawar has made the following observations:

"That petitioner is not directly charged in the FIR and was not arrested in the spot. The petitioner was named co-accused in their statements recorded U/S 161 cr.p.c. No stolen motorcar has been recovered from the possession of the petitioner. The case is pending trial and the trial court could be in better position to see the involvement of petitioner in the case after recording pro and contra evidence. (Copy of order of High Court is enclosed)

viii. That there is no a single iota of evidence against the petitioner to connect him with the commission of offence. There is no possibility of the

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conviction of accused in the instant case. The petitioner is totally unaware about the reasons behind his involvement in the instant case. Ultimately the petitioner will be acquitted. The case is pending trial. The fate of the case has yet to be decided from the court. It would in the interest of justice that this departmental inquiry should kept pending till to the final judgment of the trial court.

ix. That the petitioner has been enlisted as Constable in Police Department on 05 05 2009 and has never been involved in any criminal case. The petitioner cannot imagine to involve himself in such like nefarious activities.

Keeping in view the above facts and circumstances, it is humbly requested that the Charge Sheet may kindly be filed please and the petitioner may be reinstated in service from the date of suspension.

28 / 1 / 2020

Yours Obediently,

Constable Miandad  
No. 2727 MR  
Police Lines, Mardan.  
Cell: 0345-5700496

72  
Annex E  
21  
DEPARTMENTAL ENQUIRY AGAINST CONS: MIAN DAD NO.2727.

Refer to your office diary No.575/PA, dated 31.12.2019.

The instant Inquiry has been initiated against Constable Mian Dad No.2727, who is suspended and proceeded departmentally being involved in a criminal case. Charge sheet and statement of allegation were issued by the competent authority and the undersigned was nominated as investigating officer.

GATION:-

That he while posted at PS Jabbar charged in a criminal case vide FIR No.1303/19.12.2019 U/s 381A/419/420/468/471/473/411/412/148/149 PPC PS City.

PROCEEDINGS:-

For completion of enquiry proceedings copy of charge sheet and statement of allegation were handed over to the defaulter who replied in stipulated period. Statements of the following officials were also recorded.

1. Insp: Muhsin Fuwad SHO PS City
2. Insp Hazrat Ali / OII of PS City
3. SI Wajid Ali OII PS saddar
4. SI Saif U rehman OII PS Nowshera
5. ASI Shafiq Ahmed PP Umar Abad
6. HC Wajid PS Katlang
7. ASI Asif Khan PS City
8. Const: Zia Ullah No.1081 PS City
9. Const: Miftah No.1549 PS City
10. Const: Zahir Shah No.2055 PS City

The defaulter constable Mian Dad spurned the allegation and deposed in his statement that he was called by the Moharrar Police Lines on 17.12.19 and was locked up in Quarter Guard. On 26.12.19 the IO get him out from the Quarter Guard and was arrested in the subject case. He was suspended by the DPO Mardan on 27.12.19 and was produced before the court for Police custody which was regretted and he was sent to Judicial Lock up. Later on he managed bail from High Court Peshawar. He joined his duty on 10.02.2020 at Police Lines Mardan. He produced the following grounds as evidence in support of his version.

- a. That he was charged on the statement of Co-Accused Hazrat Ali and Sajjad in the said FIR.
- b. That he was put in Quarter guard on 17.12.19 till 26.12.19 then how the IO recovered 04 motor cars from his possession on 19.12.19 and 20.12.19 as he was not in custody of IO.
- c. That Motor Car No.4561/LEC was sold through him to IHC Sabir Khan and was recovered from his possession but place of recovery has not been shown in recovery memo.
- d. That Motor Car No. 261/PSM was sold through him to FC Bilal and was recovered from his possession but place of recovery has not been shown in recovery memo.
- e. That Motor Car No.4035/LEF was sold through him to SI Saifulah and was recovered from his possession but place of recovery has not been shown in recovery memo.
- f. That the recovery of 03 Motor Cars mentioned above are falsely, factious and never effected from his possession

STATEMENT OF OII INSP HAZRAT ALI:-

The OII Hazrat Ali called to office and his statement was recorded wherein he stated that he is investigating officer of the subject case. Constable Mian Dad was arrested on 17.12.19, being found involved in the above subject criminal case and was produced before the court for police custody but the court regretted and was sent to Judicial lock up. The SHO had recovered 03 Motor Cars from his possession and he failed to explain his legal position regarding these Motor Cars. His bail application was turned down by the senior Civil Judge as well as by the Session Judge and later on the Peshawar High court Peshawar accepted his bail application. However the case is under further investigation.

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STATEMENT OF INSP MOHSIN FAWAD:-

SHO inspector Muhsin Fawad stated in his statement that he while Alaqa Gusht information that motor car No.EX-213/Islamabad which has been stolen from Abbotabad of Place of occurrence and the accused Hazir Ali and others are busy in tempering of its number so he rushed to the spot and found the accused Hazir Ali and others in tempering the number of said motor car. Moreover 04 other vehicles found in suspicious condition which were recovered from their possession. During interrogation the accused disclosed that constable Mian Dad who is performing duty at MT Staff and constable Mian Dad posted at PS Jabbar are other colleagues and involved in such criminal activities. 04 motor cars were recovered from the custody of Mufeed Khan and 03 Motor cars were recovered from the possession of constable Mian Dad at their pointation and were taken on recovery memo in the presence of witness.

STATEMENT OF IHC SABIR KHAN:-

IHC Sabir Khan stated in his statement that he bought car No.4561/LEC with superdari documents from constable Mian Dad in lieu of Rs. 2,20,000/- but later on the said car care was returned to Mian Dad and the amount is still outstanding.

STATEMENT OF SI SAIFULLAH:-

SI Saifullah Khan stated in his statement that he contacted to one Farhan for motor car, he showed the Car No.LEF/4035 which he bought from ASI Hazir on a stamp paper with superdari documents in lieu of Rs:380,000 but the registration fault of car therefore the car was obtained through Farhan and the amount is still outstanding.

STATEMENT OF FC BILAL:-

FC Bilal stated that he bought car No.261/FSM with superdari documents from constable Mian Dad in lieu of Rs. 3,90,000/- but later on the said car care was returned to Mian Dad and the amount is still outstanding.

STATEMENT OF WITNESSES OF RECOVERY MEMO:-

ASI Asif Khan, Const: Miflah No.1549, Const: Zahir Shah No.2055 stated in their statements that all the above cars were recovered from the possession of Constable Mian Dad and taken on recovery memo in their presence.

CRIMINAL CASE FILE RECORD:-

Copies of following relevant documents of criminal case FIR No.1303 dated 19.12.2019 U/s 381A/419/420/468/471/473/411/412/148/149 PPC of PS City were also procured from the investigation officer and were placed on file:

- a. Copy of FIR No.1303 dated 19.12.19 PS City.
- b. Copy of case diary No.01 part 02 serial No.01.
- c. Copy of recovery memo of vehicle Car No.B-1449/Charsadda, Car No.759-AHL, Car No.4561/LEC and Car No.18-LRL.
- d. Copy of recovery memo of vehicle Car No.1739-LWQ, Car No.1210-LKM, Car No.366-LEE, Car No.0577-LWQ, Car No.261-FSM, Car No.7010-LRE, Car No.8495-LZO, Car No.0323-LH and Car No.4035-LEF.
- e. Copy of recovery memo Car No. LEF-1538, Car No.LZO-7776, Car No.B-5272,Suzuki Pick up No.h-6287.
- f. Copy of recovery memo Car No.LEC-310
- g. Copy of card of arrest U/s 62 CrPc.
- h. Copy of DD No.45 dated 20.12.19 and DD No. 26 dated 26.12.19

CROSS EXAMINATION:-

A session of cross examination has been made in the office of undersigned and the alleged constable was given opportunity of self defense and its proceedings have been recorded which is placed on file.

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After going through the statements and record, I come to the conclusion that it is the defaulter constable has not been charged directly in the FIR, but during course of the investigation it came to the surface that Motor Car No.4561/LEC, Motor Car No.261/FSM and Motor Car No.261/F have been recovered from his possession in the presence of witnesses. Moreover, he was acting as a quarter guard after recovery of stolen/tempered Cars from his possession on 20.12.2019 vide report for DD.No. 45 dated 20.12.2019 Police Line Mardan.

CONCLUSION:-

Keeping in view the above facts and circumstances, the alleged constable is found guilty. The allegation mentioned in the charge sheet has been stand proved without any shadow of doubt. Therefore he is recommended for Major Punishment.

d( 4 ) Sheets

115 /SMT

09-03-2020

(Inquiry Officer)

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

Issue F.S.M.

DP

DP/mon  
09/3/20





P  
(24) Annel F.  
**OFFICE OF THE  
DISTRICT POLICE OFFICER,  
MARDAN**

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



No. 27 /PA

Dated 11/13/2020

**FINAL SHOW CAUSE NOTICE**

Constable Mian Dad No.2727, while posted at PS Jabbar (now under suspension Police Lines Mardan), has been charged in a case vide FIR No.1303 dated 19-12-2019 U/S 381-A/419/420/468/471/473/411/412/148/149 PPC PS City.

During the course of Departmental Enquiry, conducted by Mr. Tayyab Jan SDPO Sheikh Maltoon vide his office letter No.115/SMT dated 09-03-2020, in pursuance of this office Statement of Disciplinary Action/Charge Sheet No.575/PA dated 31-12-2019, holding responsible you of gross misconduct & recommended for major punishment.

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

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

Your reply shall reach this office within 07 days of receipt of this Notice, failing which; it will be presumed that you have no explanation to offer.

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

Received by \_\_\_\_\_

Dated: \_\_\_/\_\_\_/2020

(SAJJAD KHAN) PSP  
District Police Officer  
Mardan

Copy to RI Police Lines Mardan. (Attention Reader) to deliver this Notice upon the alleged official & the receipt thereof shall be returned to this office within (05) days positively for onward necessary action.

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Annex F/11

BEFORE THE WORTHY DISTRICT POLICE OFFICER MARDAN

Subject: REPLY TO THE FINAL SHOW CAUSE NOTICE NO. 27 / PA DATED 11-03-2020

Respected Sir,

Your Honour had issued Charge Sheet & statement of allegation No. 575/PA dated 31/12/2019 to the petitioner with the following allegation:

“Whereas, Constable Mian Dad No. 2727, while posted at PS Jabbar (now under suspension Police Lines Mardan), has been charged in a case vide FIR No. 1303 dated 19-12-2019 U/S 381-A/419/420/468/471/473/411/412 /148/149 PPC PS City.

1. It is submitted that in the light of above charge sheet a departmental enquiry was initiated against the petitioner and Mr. Tayyeb Jan SDPO Sheikh Maltoon was nominated as E.O. The petitioner submitted his detailed reply to the charge sheet but was not considered. The E.O. submitted his enquiry finding before your Honour and recommended the petitioner for the award of major punishment. In the light of the enquiry finding, your Honour had issued the subject FINAL SHOW CAUSE NOTICE to the petitioner. (Copy of FSC is enclosed).
2. That the detailed and comprehensive reply in response to the charge sheet is reproduced below for your kind perusal:

BRIEF FACTS OF THE INCIDENT:

Respected Sir,

1. It is submitted that in the month of December 2019, petitioner remained posted at Police Station Jabbar and was deputed for Polio Duty. On 18/12/2019 petitioner was summoned by your Honour to the office and was locked up in the quarter guard of Police Lines Mardan on the same day.
2. That on 26/12/2019 Inspector Hazrat Ali, Oii PS city came to Police Lines Mardan and get him out from the quarter guard. The said inspector arrested the petitioner in Case FIR No. 1303 dated 19/12/2019 Under Section 381-A 419, 420 PPC PS City Mardan. This fact is evident from the Case Diary No. 7 dated 26/12/2019 and Card of arrest issued on 26/12/2019, placed on file.
3. That Inspector Hazrat Ali told the petitioner that the arrested accused Hazir Ali & Sajjad has disclosed during interrogation that petitioner is his co-partner and involved with them in such like

(26)

cases. On the basis of statements of the above accused recorded U/S 161 cr.p.c petitioner was arrested in the case.

4. That on 27/12/2019 petitioner was suspended from service vide OB No. 2777 and the same day produced in the court. His Police custody was demanded but the court refused the police custody of the petitioner. The petitioner was sent to jail. Later on the petitioner released on bail by the Honourable High Court Peshawar.
5. That after release on bail, the petitioner immediately made his arrival back at Police Lines Mardan and assumed his charge of duty.

#### ISSUANCE OF CHARGE SHEET

On 10/02/2020, while posted at Police Lines Mardan, petitioner was handed over the subject charge sheet with the following allegations:

“Whereas, Constable Mian Dad No. 2727, while posted at PS Jabbar (now under suspension Police Lines Mardan), has been charged in a case vide FIR No, 1303 dated 19-12-2019 U/S 381-A/419/420/468/471/473/411/412 /148/149 PPC PS City.

- i. In response to the charge sheet, petitioner further submit that he is innocent and has been falsely implicated in the instant case. Simply on the basis of co-accused statement (inadmissible evidence) petitioner was declared as accused by the IO. Neither any recovery of any kind of vehicle has been effected from his possession, nor any kind of evidence has been brought on case file against him to connect him with the commission of offence.
- ii. That vide case diary No. 5 dated 23/12/2019 inspector Hazrat Ali has mentioned that only in the light of the statement of co-accused (Hazir Ali & Sajjad) petitioner was held as accused in the instant case, without any further supporting evidence.
- iii. That instead of 18/12/2020, the detainment of the petitioner in the quarter guard was shown on 20/12/2019 vide DD. No. 45 in the daily diary of Police Lines Mardan. The case diary No. 8 dated 26/12/2019 and card of arrest issued on 26/12/2019 indicates, that on 26/12/2019 petitioner was released from the quarter guard by Inspector Hazrat Ali and was arrested in the instant case on the same day.
- iv. That from the case file on the instant case it is crystal clear that petitioner remained in quarter guard from 20/12/2019 to 26/12/2019 and never

remained in the custody of SI Mohsin Fawad SHO PS City during this period.

v. When it is documentarily proved, that petitioners remained in quarter guard w.e.f 18/12/2019 to 26/12/2019 and was not properly arrested in the instant case, then how the alleged recovery of motor car No. LEC-4561, FSM-261 FSM, LEF-4035 was shown from the possession of the petitioner on 19/12/2019 and 20/12/2019 respectively. A false and concocted story was prepared against the petitioner and petitioner was blamed for the above mentioned 03 motor cars, which detail explanation is as under:

**Motor Car No. 4561 LEC**

According to the statement of arrested accused Hazir Ali recorded U/S 161 cr.p.c vide case diary No. 6 dated 24/12/2009, he sold the said motorcar through the petitioner to ASI Sabir Khan. It is evident from the recovery memo dated 19/12/2019 that at the potation of accused Hazir Ali, the said motorcar was shown to be recovered from the petitioner but the place of recovery has not been mentioned in the recovery memo. There is no evidence on case file to support this version of IO.

**a) Motor Car No. 261 FSM**

This motorcar has been allegedly shown to be recovered at the pointation of the accused Hazir Ali from the petitioner but again the place of recovery has not been mentioned in the recovery memo dated 20/12/2019, placed on file. According to the statement of accused Hazir Ali vide case diary No. 6 dated 26/12/2019, he has sold the said motorcar to FC Bilal through petitioner. There is no evidence in support of this statement on case file.

**b) Motor Car No. 4035 LEF**

This motorcar has been allegedly shown to be recovered at the pointation of accused Hazir Ali from the possession of the petitioner on 20/12/2019. In the recovery memo the place of recovery has not been mentioned. According to accused Hazir Ali he has sold the same car to SI Saifullah. To this effect the sale deed dated 05/11/2019 between Hazir Ali & SI Saifullah has been drafted and place on file as a proof. The same sale deed has also been endost by the enquiry office in the enquiry finding.

vi. The recovery of 03 motorcars mentioned above is false, factious and never effected from the possession of the petitioner. The transaction between Hazir Ali & the concerned purchasers is their own subject matter, to which

the petitioner has got no concern. It would not be out of place to mention here, that the 03 motorcars for which the petitioner has been blamed have not been mentioned in the case registered vide FIR No. 3103 dated 19/12/2019 U/S 381-A, 419, 420 PS City of the instant case.

vii. While granting bail to the petitioner the Honorable High Court Peshawar has made the following observations:

"That petitioner is not directly charged in the FIR and was not arrested in the spot. The petitioner was named co-accused in their statements recorded U/S 161 cr.p.c. No stolen motorcar has been recovered from the possession of the petitioner. The case is pending trial and the trial court could be in better position to see the involvement of petitioner in the case after recording pro and contra evidence. (Copy of order of High Court is enclosed)

viii. That there is no a single iota of evidence against the petitioner to connect him with the commission of offence. There is no possibility of the conviction of accused in the instant case. The petitioner is totally unaware about the reasons behind his involvement in the instant case. Ultimately the petitioner will be acquitted. The case is pending trial. The fate of the case has yet to be decided from the court. It would in the interest of justice that this departmental inquiry should kept pending till to the final judgment of the trial court.

ix. That the petitioner has been enlisted as Constable in Police Department on 05/05/2009 and has never been involved in any criminal case. The petitioner cannot imagine to involve himself in such like nefarious activities.

**REPLY TO THE SUBJECT FINAL SHOW CAUSE NOTICE**

1. The brief facts of the case vide FIR No. 1303 dated 19-12-2019 U/S 381-A/468/471/473/411/412/148/149 PPC PS City is already given in the detail reply to the charge sheet.
2. That the recovery of 03 motorcars mentioned above is false, factious and never effected from the possession of the petitioner.
3. That transaction between Hazir Ali & the concerned purchasers in their own subject matter, to which the petitioner has got to concern.
4. That the alleged recovery of 03 motor cars for which the petitioner has been blamed have not been mentioned in the case registered vide FIR No. 3103 dated 19/12/2019 U/S 381-a; 419, 40 PS city of the instant case.

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

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

Annex  
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2020

No. 2276-81/PA

Dated 30/4/2020

**ORDER ON ENQUIRY OF CONSTABLE MIAN DAD NO.2727**

This order will dispose-off a Departmental Enquiry under Police Rules 1975, initiated against the subject official, under the allegations that while posted at PS Jabbar (now under suspension Police Lines Mardan), was placed under suspension and closed to Police Lines vide this office OB No.2777 dated 27-12-2019, issued vide order/endorsement No. 7796-7801/OSI dated 30-12-2019, on account of charging in a case vide FIR No.1303 dated 19-12-2019 U/S 381-A/ 419/420/468/471/473/411/412/148/149 PPC PS City & Proceeded against departmentally through Mr. Tayyab Jan, the then SDPO Sheikh Maltoon vide this office Statement of Disciplinary Action/Charge Sheet No.575/PA dated 31-12-2019, who (E.O) after fulfilling necessary process, submitted his Finding Report to this office vide his office letter No.115/SMT dated 09-03-2020, recommending the alleged official for major punishment.

In this connection, he was served with a Final Show Cause Notice under K.P Police Rules-1975, issued vide this office No.27/PA dated 11-03-2020, to which, his reply was received and found un-satisfactory.

**Final Order**

Constable Mian Dad was heard in O.R on 28-04-2020, but he failed to satisfy the undersigned, therefore, awarded him major punishment of dismissal from service with immediate effect, in exercise of the power vested in me under Police Rules-1975.

OB No. 714  
Dated 29/04/2020.

(SAJJAD KHAN) PSP  
District Police Officer  
Mardan

Copy forwarded for information & n/action to:-

- 1) The Additional Inspector General of Police, Internal Accountability Branch KP Peshawar with reference to CPO Peshawar letter No.261/CPO/IAB dated 06-02-2020, please.
- 2) The Regional Police Officer Mardan with reference to his good office No.395/R dated 10-02-2020, please.
- 3) The SP Investigation Mardan with reference to his office letter No.3088/GB/Inv: dated 24-12-2019.
- 4) The DSP/HQrs Mardan.
- 5) The P.O & E.C (Police Office) Mardan.
- 6) The OSI (Police Office) Mardan with ( ) Sheets.

o/c

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**BEFORE THE DEPUTY INSPECTOR GENERAL OF POLICE  
MARDAN REGION – 1 MARDAN**

**Subject: APPEAL AGAINST THE ORDER OF D.P.O MARDAN, ISSUED VIDE O.B NO. 714 DATED 29-04-2020, WHEREBY THE APPELLANT WAS AWARDED MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE.**

Respected Sir,

The D.P.O Mardan had issued the Charge Sheet & statement of allegation No. 575-PA/CTD dated 31/12/2019 to the appellant with the following allegation:

**“Whereas, You Constable Miandad No. 2727, while posted at PS Jabbar has been charged in a case vide FIR No. 1303 dated 19-12-2019 u/s 381A/411/419/420/468/471/473/412/148/149 PPC PS city of District Mardan and the local police of PS city arrested you on the same date”.**

1. It is submitted that during the month of December 2019 the appellant remained posted at Police Station Jabbar and was deputed for Polio duty. On 18/12/2019 the appellant was summoned by D.P.O Mardan to his office and was locked up in the Quarter Guard of Police Lines Mardan on the same day.
2. That on 26/12/2019 Inspector Hazrat Ali, Oii PS city came to Police Lines Mardan and get him out from the quarter guard. The said inspector arrested the Appellant in Case FIR No. 1303 dated 19/12/2019 Under Section 381-A 419, 420 PPC PS City Mardan. This fact is evident from the Case Diary No. 7 dated 26/12/2019 and Card of arrest issued on 26/12/2019, placed on file.
3. That Inspector Hazrat Ali told the appellant that the arrested accused Hazir Ali & Sajjad has disclosed during interrogation that appellant is his co-partner and involved with them in such like cases. On the basis of statements of the above accused recorded U/S 161 cr.p.c appellant was arrested in the case.
4. That on 27/12/2019 appellant was suspended from service vide OB No. 2777 and the same day produced in the court. His Police custody was demanded but the court refused the police custody of the appellant. The appellant was sent to jail. Later on the appellant released on bail by the Honourable High Court Peshawar.

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5. That after release on bail, the appellant immediately made his arrival back at Police Lines Mardan and assumed his charge of duty.

#### **ISSUANCE OF CHARGE SHEET**

On 10/02/2020, while posted at Police Liens Mardan, appellant was handed over with the subject charge sheet. In the light of the subject charge sheet the departmental enquiry was initiated against Mr. Tayyeb Jan DSP Sheikh Maltoon was nominated as enquiry Officer. The appellant produced a detailed and comprehensive reply dated 28/01/2020 in response to the charge sheet before the E.O, but was not considered. (Copy of reply dated 28/01/2020 to the charge sheet as Annexed as Annexure – A)

#### **ISSUANCE OF FINAL SHOW CAUSE NOTICE**

That the Enquiry Officer submitted his enquiry finding before the D.P.O Mardan and recommended the appellant for the award of major punishment. In the light of the enquiry finding, the D.P.O Mardan issued final Show Cause Notice No. 27-PA dated 11/03/2020 to the appellant. In response to the FSCN the appellant again submitted a detailed reply dated 13/03/2020 but was not considered. (copy of reply dated 13/03/2020 as annexed as Annexure – B)

#### **PERSONAL HEARING**

On 28/04/2020 the appellant was heard in OR. The appellant categorically explained the actual facts before the D.P.O Mardan that he is innocent and has been falsely implicated in the criminal case the version of the appellant was not attended. The appellant was awarded major punishment of dismissal from service Vide O.B No. 714 dated 29/04/2020 HENCE THE PRESENT APPEAL. (Copy of O.B No. 714 dated 29/04/2020 is enclosed).

#### **GROUND OF APPEAL**

- i. The appellant is innocent and has been falsely implicated in the criminal case.
- ii. The appellant is not named in the FIR. Simply he has been involved in the case by the statement of co-accuse HC Hazir Ali recorded U/S 161crpc.
- iii. Infact no recovery of any kind of vehicle has been affected from the possession of the appellant.
- iv. Neither any recovery has been affected from his possession nor any kind of evidence has been brought on case file against him to connect the appellant with the commission of offence.
- v. The appellant remained in quarter guard w.e.f 17/12/2019 to 26/12/2019 and was not properly arrested in the instant case, then how the alleged recovery of 03 vehicle was effected from his possession on 19/12/2019 and 20/12/2019 respectively. A false and concocted story was prepared against the appellant



and the appellant was blamed for the recovery of 03 motorcars, which detail explanation is already given in the reply to the charge sheet and FSCN.

- vi. That there is no single iota of evidence against the appellant to connect him with the commission of offence. There is no possibility of the conviction of accused in the instant case. The appellant is totally unaware about the reasons behind his involvement in the instant case.
- vii. That while granting bail to the petitioner the Honourable Peshawar High Court Peshawar has made the following observations:  

“That the appellant is not charged in the FIR by name. The SHO Mohsin Fawad while recovering the cars in question have charged other person for the commission of offence hence the vicarious liability on the part of the appellant is yet to be determined during trial stage of after recording pro and contra evidence. Further more in none of the FIRs so placed on file the appellant is charged”.
- viii. The fate of the case has yet to be decided from the court. The competent authority was required to keep pending the departmental enquiry till to the final judgment of the trial court after recording pro and contra evidence as directed by HIGH COURT PESHAWAR but unfortunately the appellant was also deprived from this fundamental right.
- ix. The alleged recovery of the vehicles shown in the FIR is fake and bogus. All the motorcars which have been allegedly shown to be recovered from the possession of the appellant were properly obtained by superdari by the competent court of law. These vehicles were in the custody of the different people (almost police official) and later on collected by the SHO Mohsin Fawad from the concerned persons which were lastly shown as recovery in the instant case. All the relevant documents pertaining to the above 03 vehicles are already in the possession of the concerned people.
- x. The alleged departmental enquiry conducted against the appellant is not according to the law and rules. The appellant was not given any opportunity of defence or cross examination upon the witnesses. And hence an EX-PARTE action was taken against him.
- xi. That during the alleged investigation no any prosecution witness from the public was associated and the entire proceeding of investigation were conducted in the presence of police witnesses, which makes the matter doubtful.
- xii. YOUR HONOUR the appellant can swear upon the Holy Quran that no any kind of recovery of motorcar was affected from his possession.

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- xiii. The appellant was enlisted as Constable in Police Department on 05/05/2009 and since then, the appellant perform with zeal and efficiency the appellant was never punished throughout the entire period of service which is evident from the shining service record of the appellant.
- xiv. The appellant is married with 02 kids and old parents. All the family is depend upon the Police Service of the appellant.

**Keeping in view the above facts and circumstances, it is humbly requested that on the acceptance of the instant appeal, the order of D.P.O Mardan may kindly be set-aside and the appellant be reinstated in service from the date of dismissal please.**

Dated: 04/05/2020

Yours Obediently,

MIANDAD  
Ex- Constable  
No. 2727-MR  
District Mardan.

Cell: 0345-5700496

Annex, 16-6-2020, OK, 35

**ORDER.**

This order will dispose-off the departmental appeal preferred by **Ex-Constable Miandad No. 2727** of Mardan District Police against the order of District Police Officer, Mardan, whereby he was awarded major punishment of dismissal from service vide OB: No. 714 dated 29.04.2020. The appellant was proceeded against departmentally on the allegations that he while posted at Police Station Jabbar, was placed under suspension and closed to Police Lines, Mardan on account of involvement in a case FIR No. 1303 dated 19.12.2019 u/s 381A/419/420/468/471/473/411/412/148/149PPC Police Station City, Mardan.

Proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and Sub Divisional Police Officer, Sheikh Maltoon, Mardan was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities submitted his findings wherein he found the delinquent Official guilty of misconduct and recommended him for major punishment.

He was issued Final Show Cause Notice to which his reply was received and found unsatisfactory. He was also provided opportunity of self defense by summoning him in the Orderly Room held in the office of District Police Officer, Mardan on 28.04.2020. But he failed to advance any cogent reason in his defense. Hence, he was awarded major punishment of dismissal from Service vide OB: No. 714 dated 29.04.2020.

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

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations leveled against the appellant have been proved beyond any shadow of doubt. Besides, case property in shape of stolen cars has been recovered from the active possession of the appellant which clearly shows the nexus of appellant with the commission of offence. Moreover, the involvement of appellant in this heinous criminal case is clearly a stigma on his conduct. Hence, the retention of appellant in Police Department will stigmatize the prestige of entire Police Force as instead of fighting crime, he has himself indulged in criminal activities. He could not

sent any cogent justification to warrant interference in the order passed by the competent authority.

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

Order Announced.

  
Regional Police Officer,  
Mardan.

No. 3888 /ES, Dated Mardan the 24-06-2020.

Copy forwarded to District Police Officer, Mardan for information and necessary w/r to his office Memo: No. 145/LB dated 04.06.2020. His service record is returned herewith.

(\*\*\*\*\*)

36

بعدالت

نام

دعویٰ یا جرم

منجانب

تاریخ

باعث تحریر آنکہ

تھانہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جواہدی

## ملک ہارون اقبال ایڈووکیٹ سپریم کورٹ آف پاکستان

کو بمقام \_\_\_\_\_ کیلئے بدیں شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور بروقت پکارے جانے کا مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر پیشی پر من مظہر حاضر نہ ہو اور مقدمہ غیر حاضری کی وجہ سے کسی طور پر میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام کچہری کے کسی اور جگہ یا کچہری کے مقررہ اوقات سے پہلے یا پیچھے یا بروز تعطیل یا ہڑتال پیروی کرنے کے ذمہ دار نہ ہوں گے اگر مقدمہ علاوہ صدر مقام کچہری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا ہڑتال کے اوقات کے آگے پیچھے پیش ہونے پر من مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اسکے واسطے کسی معاوضہ کے ادا کرنے یا معائنہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پرداختہ صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا۔ اور صاحب موصوف کو درخواست ضمانت متفرق درخواست، اپیل و نگرانی فوجداری وغیرہ اور عرضی دعویٰ و جواب دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل و نگرانی ہر قسم کی درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجرا کرانے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور سپردداشتی و راضی نامہ کو فیصلہ برخلاف کرنے، اقبال دعویٰ دینے اور دوڑا کرنے کا بھی اختیار ہوگا، اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری، یکطرفہ درخواست احکم انتہائی یا قریبی یا گرفتاری قبل از اجراء ڈگری بھی موصوف کو بشرط ادائیگی علیحدہ معائنہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا اس کے کسی جزو کی کاروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے کسی دوسرے وکیل یا پیرسٹر کو بجائے اپنے یا اپنے ہمراہ مقرر کریں اور ایسے مشیر قانون کو ہر امر میں وہی اور ویسے اختیارات حاصل ہوں گے جیسے کے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا وہ صاحب موصوف کا حق ہوگا اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ بھی صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا یہ مختیار نامہ لکھ دیا تاکہ سند رہے۔

مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

دعا اور فرماں لکھنے کے واسطے

Attested & Accepted

Malik Haroon Iqbal  
Advocate  
Supreme Court Of Pakistan

دفتر: فلیٹ نمبر 5 سی تیسری منزل

کراچی مارکیٹ خیبر بازار پشاور (پاکستان)

فون: 0333-9639536, 0300-5941733, 091-2552552

# وکالت نامہ

37

سروس کنزیولر شہاد

بعدالت

کارپولس و عسک

بنام

صبا امداد

دعویٰ یا جرم

منجانب

ایف آئی آر

باعث تحریر آنکہ

تھانہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوابدہی

## ملک ہارون اقبال ایڈووکیٹ سپریم کورٹ آف پاکستان

کوبمقام لسا حور کیلئے بدیں شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص روبرو عدالت حاضر ہوتا رہوں گا۔ اور بروقت پکارے جانے کا مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر پیشی پر من مظہر حاضر نہ ہو اور مقدمہ غیر حاضری کی وجہ سے کسی طور پر میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام پچھری کے کسی اور جگہ یا پچھری کے مقررہ اوقات سے پہلے یا پیچھے یا بروز تعطیل یا ہڑتال پیروی کرنے کے ذمہ دار نہ ہوں گے اگر مقدمہ علاوہ صدر مقام پچھری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا ہڑتال کے اوقات کے آگے پیچھے پیش ہونے پر من مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اسکے واسطے کسی معاوضہ سے ادا کرنے یا معائنہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پرداختہ صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا۔ اور صاحب موصوف کو درخواست ضمانت متفرق درخواست، اپیل و نگرانی فوجداری وغیرہ اور عرضی دعویٰ و جواب دعویٰ اور درخواست اجراء ڈگری و نظر ثانی اپیل و نگرانی ہر قسم کی درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرنے اور ہر قسم کارروپیہ وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور سپرد ثالثی و راضی نامہ کو فیصلہ برخلاف کرنے، اقبال و دعویٰ دینے اور وڈرا کرنے کا بھی اختیار ہوگا، اور بصورت اپیل کو برآمدگی مقدمہ یا منسوخی ڈگری، یکطرفہ درخواست حکم امتناعی یا ترقی یا گرفتاری قبل از اجراء ڈگری بھی موصوف کو بشرط ادا ایسی علیحدہ معائنہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا اس کے کسی جزوی کارروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے کسی دوسرے وکیل یا پیرسٹر کو بجائے اپنے یا اپنے ہمراہ مقرر کریں اور ایسے مشیر قانون کو ہر امر میں وہی اور ویسے اختیارات حاصل ہوں گے جیسے کے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا وہ صاحب موصوف کا حق ہوگا اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ بھی صاحب موصوف کے برخلاف نہیں ہوگا۔

لہذا یہ مختیار نامہ لکھ دیا تاکہ سند رہے۔

مورخہ 17/7/2020 مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

Attested & Accepted

Malik Haroon Iqbal  
Advocate  
Supreme Court Of Pakistan

*(Signature)*

دفتر:- فلیٹ نمبر 5 سی تیسری منزل

کراچی مارکیٹ خیبر بازار پشاور (پاکستان)

فون: 0333-9639536, 0300-5941733, 091-2552552

صبا امداد کے ذریعے فراہم کیا گیا ہے

C

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

**Service Appeal No. 7813/2020**

Mian Dad Ex-Constable No. 2727 s/o Sardaraz Khan r/o Kati Garhi District Mardan  
.....Appellant

**VERSUS**

The Inspector General of Police Khyber Pakhtunkhwa, Peshawar and others  
.....Respondents

**Para-wise comments by respondents:-**

**Respectfully Sheweth,**

**PRELIMINARY OBJECTIONS**

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

**REPLY ON FACTS**

1. Correct to the extent that the appellant was recruited as constable in Police Department.
2. Incorrect plea taken by the appellant is not plausible because his performance was not satisfactory and his service record is tainted with bad entries (Copy of list of bad entries is attached as Annexure "A").
3. Para pertains to record needs no comments.
4. Incorrect. Stance taken by the appellant is not plausible, because he was detained in quarter guard as per the directions of respondent No. 03 (DD report is attached as annexure "B").
5. Incorrect. The appellant in order to save his skin in terms of his involvement in vehicle theft, propounded the instant story. However, the appellant being involved in a criminal case vide FIR No. 1303 dated 19.12.2019 u/s 381-A/ 419/ 420/ 468/ 471/ 473/ 411/ 412/148/149 PPC Police Station City was arrested by the local Police of Police Station City (Copy of FIR is annexed as "C").
6. Incorrect. Stance taken by the appellant is totally devoid of merit because during the course of investigation 03 stolen/tempered Motor Cars have been recovered from the active possession of appellant. Therefore, the entire story of the appellant is concocted as the appellant instead of fighting crime, himself indulged in criminal activities.
7. Plea taken by the appellant is bereft of any substance because criminal and departmental proceedings are two different entities which can run parallel and the fate of criminal case will have no effects on the departmental proceedings. Besides, release on bail does not mean acquittal from the charges rather the same is released from the custody.
8. Incorrect. Plea taken by the appellant is not plausible, because he was involved in a criminal case vide FIR No. 1303 dated 19.12.2019 u/s 381-A/ 419/ 420/ 468/ 471/

473/ 411/ 412/148/149 PPC Police Station City, due to which the appellant was proceeded as per Police Rules 1975.

9. Correct to the extent that the appellant was issued charge sheet and statement of allegations as he was involved in heinous criminal case wherein 03 stolen/tempered motor cars have been recovered from the active possession of the appellant, which clearly establishes the nexus of the appellant with the commission of offence.
10. Correct, reply of the appellant was received but found unsatisfactory.
11. Incorrect. Proper enquiry was initiated against the appellant, during the course of enquiry the appellant was provided fulfilled opportunity to produce evidence/grounds in his defense but he failed to justify his innocence. However, after fulfillment of all legal and codal formalities, the Enquiry Officer recommended the appellant for Major punishment.
12. Correct, reply of the appellant was received but found unsatisfactory.
13. Incorrect. Plea taken by the appellant is not plausible, because after enquiry Final Show Cause Notice was issued to the appellant to which his reply was received but found un-satisfactory and he was also summoned and heard in orderly room on 28.04.2020, but this time too, the appellant failed to justify his innocence therefore, he was awarded major punishment of dismissal from service, which does commensurate with the gravity of misconduct of the appellant.
14. Correct to the extent that the appellant preferred departmental appeal and the appellate authority after paying due consideration, summoned and heard the appellant in Orderly Room held on 16.06.2020 but he bitterly failed to justify his innocence.
15. Para already explained needs no comments.
16. That appeal of the appellant is liable to be dismissed on the following grounds amongst the others.

**REPLY ON GROUNDS:**

- A. Incorrect. Order passed by the competent authority as well as appellate authority are legal, lawful hence, liable to be maintained.
- B. Incorrect. Para explained earlier needs no comments.
- C. Incorrect. Plea taken by the appellant is totally ill-based, because he was involved in a criminal case vide FIR No. 1303 dated 19.12.2019 u/s 381-A/ 419/ 420/ 468/ 471/ 473/ 411/ 412/148/149 PPC Police Station City. However, his performance was not satisfactory and his service record is tainted with bad entries (Bad entries list is already annexed).
- D. Incorrect. Stance taken by the appellant is totally devoid of merit because during the course of investigation 03 stolen/tempered Motor Cars have been recovered from the active possession of the appellant.
- E. Incorrect. Para already explained needs no comments.
- F. Plea taken by the appellant is bereft of any substance because criminal and departmental proceedings are two different entities which can run parallel and the fate of criminal case will have no effects on the departmental proceedings.
- G. Incorrect. Plea taken by the appellant is not plausible because no conviction against the appellant does not exonerate him from his wrong deeds.



H. Incorrect. Para explained earlier needs no comments.

I. Incorrect. Para already explained needs no comments.

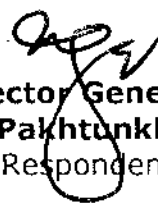
J. Incorrect. Stance taken by the appellant is totally devoid of merit because he has been properly proceeded against departmentally by issuing him Charge Sheet with Statement of Allegations and enquiry was entrusted to Mr. Tayyab Jan the then SDPO Sheik Maltoon Mardan. The enquiry officer during the course of enquiry provided fulfilled opportunity to the appellant to produce evidence/grounds in his defense but in fiasco, however, after fulfilling all legal and codal formalities, held the appellant responsible of misconduct. Therefore, after enquiry the competent authority has issued Final Show Cause Notice to the appellant to which his reply was received but found un-satisfactory and he was also summoned and heard in orderly room on 28.04.2020, but this time too, the appellant failed to justify his innocence hence, he was awarded major punishment of dismissal from service, which does commensurate with the gravity of misconduct of the appellant (Copies of Charge Sheet with Statement of allegations and Final Show Cause Notice are annexed as "D", "E" & "F").

K. Incorrect the appellant has been treated in accordance with law, rules, policy & norms of natural justice. Hence plea of the appellant is devoid of any merit.

L. The respondents also seek permission of this honorable tribunal to adduce additional grounds at the time of arguments.

**PRAYER:-**

Keeping in view the above facts narrated facts it is most humbly prayed that the appeal of the appellant being badly barred by law and limitation may kindly be dismissed with costs please.

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

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

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

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

**Service Appeal No. 7813/2020**

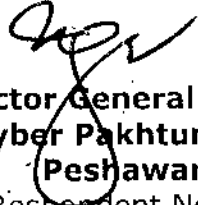
Mian Dad Ex-Constable No. 2727 s/o Sardaraz Khan r/o Kati Garhi District Mardan  
.....Appellant

**VERSUS**


The Inspector General of Police Khyber Pakhtunkhwa, Peshawar and others  
.....Respondents

**COUNTER AFFIDAVIT.**

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

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

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

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

passed A-I examination  
 vide Comdt. PTC HAU  
 Notification No-581-83/s  
 dt: 7-2-13.

OB No: 513      DPO/MB  
 20-2-13      ✓

ORDER:-

Awarded a minor punishment by  
 stoppage his one increment  
 with cumulative effect with  
 immediate effect.

OB No. 1693  
 5/8/19

YR  
 DPO/Mardan

90 pmt. BME

Pat B. 14400/-

Acf. 4 600/-

Net B 13800/-

J-no 364

MS 18/11  
 20/11/13

14. COMMENDATORY ENTRIES -- Contd.

ORDER

Being Charged in case vide FIR  
NO. 1303. dated: 19-12-2019. U/S 381-A  
419/420/468/471/473/411/412/148/149.  
PPC ps city hereby placed under  
suspension with immediate effect.

OBNO: 2777  
dt: 27-12-2019

DPO Mardan.

ORDER:-

Awarded major punishment of dismissal  
from service with immediate effect

OBNO, 714  
29-04-2020

YK  
DPO/Mardan

ORDER

Being the appellate authority, find  
no substance in the appeal, therefore the  
same is rejected and filed being decided  
of merit. vide OIG/Mardan No. 3888/ES dt 24-  
2020

DPO/Mardan

TER ROLL OF

15. CENSURES AND PUNISHMENTS.

Punishment two days Quarter Guard  
for his undicipline

OB No-1446  
29-4-10

me  
DP/AMR

**16. LEAVE, ABSENCE AND BREAKS IN SERVICE.**  
 All Periods not counting as "approved service" to be entered in red ink.

1.		2.			3.	4.
Date		Extent			No. Of District Order	Description of leave i.e privilege hospital, sick leave or of absence, or forfeiture of approved service.
To	Years	Months	Days			
			(3)	1402	9-4-11	Leave w/o pay - DPo/MR
			(1)	1598	22-4-11	- do - DPo/MR
			(30)	483	20-2-13	E/Leave - DPo/MR
			(15)	1095	12-5-14	E/Leave - DPo/MR.
			(1)	1944	18-9-14	Leave w/o pay - DPo/MR
			(1)	2575	26-12-14	- do - DPo/MR
			(02)	1618	26-7-19	- do - DPo/MR
			(01)	1649	29-7-19	- DO - DPo/MR
			(01)	1756	17/8/19	- DO - DPo/MR
			(02)	1888	11/09/019	- do - DPo/MR
			(21)	2073	30/09/019	- E/Leave - DPo/MR
			(07)	2764	26/12/019	- Leave w/o pay - DPo/MR

پولیس لائن

نقلہ 45 روزنامہ 20<sup>12</sup>/<sub>2019</sub>

بندش کوائرنگ / فیض محمد خان / الوقت 7:45 بجے مورخہ 20<sup>12</sup>/<sub>2019</sub> درج ذیل ہے اس وقت

کنسٹیبلانہ نمبر 2493 سٹیٹین مآبیہ بیٹا پولیس لائن میانہ دار 2727 تقسیمہ  
ریفریفیشن کورس پولیس لائن حسب الحکم جناب DPO بہاولپور بندش کوائرنگ

کرت ان ڈیوٹی گاڑی نمبر جمائلیہ 47 کوئلہ انی کرت کی بدایت کی ہے  
نقلہ عدلیہ مندرجہ بالا کی خدمت میں ارسال کی جا رہی ہے۔

سنا عالی  
نقلہ عدلیہ

MAS Police Line 20  
Mardan

ATTESTED

RI / Lino / Mardan

6/3/2020

Handwritten signature and stamp







①

18

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

Tel No. 0937-9230109 & Fax No. 0937-9230111  
Email: dpo\_mardan@yahoo.com

2019

No. 575 /PA

Dated 31 / 12 / 2019

**DISCIPLINARY ACTION**

I, **SAJJAD KHAN (PSP)**, District Police Officer Mardan, as competent authority am of the opinion that **Constable Mian Dad No. 2727**, himself liable to be proceeded against, as he committed the following acts/omissions within the meaning of Police Rules 1975.


**STATEMENT OF ALLEGATIONS**

Whereas, **Constable Mian Dad No. 2727**, while posted at PS Jabbar (now under suspension Police Lines Mardan), has been charged in a case vide FIR No.1303 dated 19-12-2019 U/S 381-A/419/420/468/471/473/411/412/148/149 PPC PS City.

For the purpose of scrutinizing the conduct of the said accused official with reference to the above allegations, **Mr. Tavyab Jan SDPO/Sheikh Maltoon is nominated as Enquiry Officer.**

The Enquiry Officer shall, in accordance with the provision of Police Rules 1975, provides reasonable opportunity of hearing to the accused Police Officer, record/submit his findings and make within (30) days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused Official.

**Constable Mian Dad** is directed to appear before the Enquiry Officer on the date + time and place fixed by the Enquiry Officer.

  
(SAJJAD KHAN) PSP  
District Police Officer  
Mardan

*Call this  
defaulter*

*[Signature]*  
01/01/2020

*[Handwritten notes]*



OFFICE OF THE  
DISTRICT POLICE OFFICER,  
MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111  
Email: dpo\_mardan@yahoo.com

2019

CHARGE SHEET

I, SAJJAD KHAN (PSP), District Police Officer Mardan, as competent authority, hereby charge Constable Mian Dad No.2727, while posted at PS Jabbar (Now under suspension Police Lines Mardan), as per attached Statement of Allegations.

1. By reasons of above, you appear to be guilty of misconduct under Police Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in Police Rules, 1975.

2. You are, therefore, required to submit your written defense within 07 days of the receipt of this Charge Sheet to the Enquiry Officer, as the case may be.

3. Your written defense, if any, should reach the Enquiry Officers within the specified period, failing which, it shall be presumed that you have no defense to put-in and in that case, ex-parte action shall follow against you.

4. Intimate whether you desired to be heard in person.

(SAJJAD KHAN) PSP  
District Police Officer  
Mardan



OFFICE OF THE  
DISTRICT POLICE OFFICER,  
MARDAN

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

2020

No. 27 /PA

Dated 11/13/2020

**FINAL SHOW CAUSE NOTICE**

Constable Mian Dad No.2727, while posted at PS Jabbar (now under suspension Police Lines Mardan), has been charged in a case vide FIR No.1303 dated 19-12-2019 U/S 381-A/419/420/468/471/473/411/412/148/149 PPC PS City.

During the course of Departmental Enquiry, conducted by Mr. Tayyab Jan SDPO Sheikh Maltoon vide his office letter No.115/SMT dated 09-03-2020, in pursuance of this office Statement of Disciplinary Action/Charge Sheet No.575/PA dated 31-12-2019, holding responsible you of gross misconduct & recommended for major punishment.

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

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

Your reply shall reach this office within 07 days of receipt of this Notice, failing which; it will be presumed that you have no explanation to offer.

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

Received by [Signature]

Dated: 11/13/2020

(SAJJAD KHAN) PSP  
District Police Officer  
Mardan

Copy to RI Police Lines Mardan (Attention Reader) to deliver this Notice upon the alleged official & the receipt thereof shall be returned to this office within (05) days positively for onward necessary action.



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

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

2020

No. 2276-81 /PA

Dated 30/4/2020

**ORDER ON ENQUIRY OF CONSTABLE MIAN DAD NO.2727**

This order will dispose-off a Departmental Enquiry under Police Rules 1975, initiated against the subject official, under the allegations that while posted at PS Jabbar (now under suspension Police Lines Mardan), was placed under suspension and closed to Police Lines vide this office OB No.2777 dated 27-12-2019, issued vide order/endorsement No. 7796-7801/OSI dated 30-12-2019, on account of charging in a case vide FIR No.1303 dated 19-12-2019 U/S 381-A/ 419/420/468/471/473/411/412/148/149 PPC PS City & Proceeded against departmentally through Mr. Tayyab Jan, the then SDPO Sheikh Maltoon vide this office Statement of Disciplinary Action/Charge Sheet No.575/PA dated 31-12-2019, who (E.O) after fulfilling necessary process, submitted his Finding Report to this office vide his office letter No.115/SMT dated 09-03-2020, recommending the alleged official for major punishment.

In this connection, he was served with a Final Show Cause Notice under K.P Police Rules-1975, issued vide this office No.27/PA dated 11-03-2020, to which, his reply was received and found un-satisfactory.

**Final Order**

Constable Mian Dad was heard in O.R on 28-04-2020, but he failed to satisfy the undersigned, therefore, awarded him major punishment of dismissal from service with immediate effect, in exercise of the power vested in me under Police Rules-1975.

OB No. 719  
Dated 29/04/2020.

(SAJJAD KHAN) PSP  
District Police Officer  
Mardan

Copy forwarded for information & n/action to:-

- 1) The Additional Inspector General of Police, Internal Accountability Branch KP Peshawar with reference to CPO Peshawar letter No.261/CPO/IAB dated 06-02-2020, please.
- 2) The Regional Police Officer Mardan with reference to his good office No.395/R dated 10-02-2020, please.
- 3) The SP Investigation Mardan with reference to his office letter No.3088/GB/Inv: dated 24-12-2019.
- 4) The DSP/HQrs Mardan.
- 5) The P.O & E.C (Police Office) Mardan.
- 6) The OSI (Police Office) Mardan with 60 Sheets.

OK  
DPOMDN

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**DEPARTMENTAL ENQUIRY AGAINST CONS: MIAN DAD NO.2727**

Kindly refer to your office diary No.575/PA, dated 31.12.2019.


The instant Inquiry has been initiated against Constable Mian Dad No.2727, who was suspended and proceeded departmentally being involved in a criminal case. Charge sheet and statement of allegation were issued by the competent authority and the undersigned was nominated as enquiry officer.

**ALLEGATION:-**

That he while posted at PS Jabbar charged in a criminal case vide FIR No.1303 dated 19.12.2019 U/s 381A/419/420/468/471/473/411/412/148/149 PPC PS City.

**PROCEEDINGS:-**

For completion of enquiry proceedings copy of charge sheet and statement of allegation were handed over to the defaulter who replied in stipulated period. Statements of the following officials were also recorded.

- 
1. Insp: Muhsin Fawad SHO PS City
  2. Insp Hazrat Ali / OII of PS City
  3. SI Wajid Ali OII PS saddar
  4. SI Saif U rehman OII PS Nowshera
  5. ASI Shafiq Ahmed PP Umar Abad
  6. HC Wajid PS Katlang
  7. ASI Asif Khan PS City
  8. Const: Zia Ullah No.1081 PS City
  9. Const: Miftah No.1549 PS City
  10. Const: Zahir Shah No.2055 PS City

The defaulter constable Mian Dad spurned the allegation and deposed in his statement that he was called by the Moharrar Police Lines on 17.12.19 and was locked up in Quarter Guard. On 26.12.19 the IO get him out from the Quarter Guard and was arrested in the subject case. He was suspended by the DPO Mardan on 27.12.19 and was produced before the court for Police Custody which was regretted and he was sent to Judicial Lock up. Later on he managed bail from high Court Peshawar. He joined his duty on 10.02.2020 at Police Lines Mardan. He produced the following grounds as evidence in support of his version.

- a. That he was charged on the statement of Co-Accused Hazrat Ali and Sajjad in the said FIR.
- b. That he was put in Quarter guard on 17.12.19 till 26.12.19 then how the IO recovered 04 motor cars from his possession on 19.12.19 and 20.12.19 as he was not in custody of IO.
- c. That Motor Car No.4561/LEC was sold through him to IHC Sabir Khan and was recovered from his possession but place of recovery has not been shown in recovery memo.
- d. That Motor Car No. 261/FSM was sold through him to FC Bilal and was recovered from his possession but place of recovery has not been shown in recovery memo.
- e. That Motor Car No.4035/LEF was sold through him to SI Saifullah and was recovered from his possession but place of recovery has not been shown in recovery memo.
- f. That the recovery of 03 Motor Cars mentioned above are falsely, factious and never effected from his possession

**STATEMENT OF OII INSP HAZRAT ALI:-**

The OII Hazrat Ali called to office and his statement was recorded wherein he stated that he is investigating officer of the subject case. Constable Mian Dad was arrested on 26.12.19, being found involved in the above subject criminal case and was produced before the court for Police custody but the court regretted and was sent to Judicial lock up. The SHO had recovered 03 stolen Motor Cars from his possession and he failed to explain his legal position regarding these motor cars. His bail application was turned down by the senior Civil Judge as well as by the Session court and later on the Peshawar High court Peshawar accepted his bail application. However the case is under investigation.

A ✓ X ✓  
12/6

**STATEMENT OF INSP MOHSIN FAWAD:-**

SHO inspector Muhsin Fawad stated in his statement that he while Alaqa Gusht received an information that motor car No.EX-213/Islamabad which has been stolen from Abbotabad and present at Place of occurrence and the accused Hazir Ali and others are busy in tempering of its chassis number so he rushed to the spot and found the accused Hazir Ali and others in tempering the chassis number of said motor car. Moreover 04 other vehicles found in suspicious condition which were recovered from their possession. During interrogation the accused disclosed that constable Mufeed Khan who is performing duty at MT Staff and constable Mian Dad posted at PS Jabbar are also their colleagues and involved in such criminal activities. 04 motor cars were recovered from the possession of Mufeed Khan and 03 Motor cars were recovered from the possession of constable Mian Dad on their pointation and were taken on recovery memo in the presence of witness.

**STATEMENT OF IHC SABIR KHAN:-**

IHC Sabir Khan stated in his statement that he bought car No.4561/LEC with superdari documents from constable Mian Dad in lieu of Rs. 2,20,000/- but later on the said car care was returned to Mian Dad and the amount is still outstanding.

**STATEMENT OF SI SAIFULLAH:-**

SI Saifullah Khan stated in his statement that he contacted to one Farhan for motor Car, he showed the Car No.LEF/4035 which he bought from ASI Hazir on a stamp paper with supardari documents in lieu of Rs:380,000 but the registration fault of car therefore the car was returned through Farhan and the amount is still outstanding.

**STATEMENT OF FC BILAL:-**

FC Bilal stated that he bought car No.261/FSM with superdari documents from constable Mian Dad in lieu of Rs. 3,90,000/- but later on the said car care was returned to Mian Dad and the amount is still outstanding.

**STATEMENT OF WITNESSES OF RECOVERY MEMO:-**

ASI Asif Khan, Const: Miftah No.1549, Const: Zahir Shah No.2055 stated in their statements that all the above cars were recovered from the possession of Constable Mian Dad and taken on recovery memo in their presence.

**CRIMINAL CASE FILE RECORD:-**

Copies of following relevant documents of criminal case FIR No.1303 dated 19.12.2019 U/s 381A/419/420/468/471/473/411/412/148/149 PPC of PS City were also procured from the investigation officer and were placed on file.

- a. Copy of FIR No.1303 dated 19.12.19 PS City.
- b. Copy of case diary No.01 part 02 serial No.01.
- c. Copy of recovery memo of vehicle Car No.B-1449/Charsadda, Car No.759-AHL, Car No.4561/LEC and Car No.18-LRL.
- d. Copy of recovery memo of vehicle Car No.1739-LWQ, Car No.1210-LKM, Car No.366-LEE, Car No.0577-LWQ, Car No.261-FSM, Car No.7010-LRE, Car No.8495-LZO, Car No.0323-LH and Car No.4035-LEF.
- e. Copy of recovery memo Car No. LEF-1538, Car No.LZO-7776, Car No.B-5272,Suzuki Pick up No.h-6287.
- f. Copy of recovery memo Car No.LEC-310
- g. Copy of card of arrest U/s 62 CrPc.
- h. Copy of DD No.45 dated 20.12.19 and DD No. 26 dated 26.12.19

**CROSS EXAMINATION:-**

A session of cross examination has been made in the office of undersigned and the alleged constable was given opportunity of self defense and its proceedings have been recorded which is placed on file.

CONCLUSION:-

After going through the statements and record, I come to the conclusion that it is correct that the defaulter constable has not been charged directly in the FIR, but during course of inquiry it come to the surface that Motor Car No.4561/LEC, Motor Car No.261/FSM and Motor Car No.4035/LEF have been recovered from his possession in the presence of witnesses. Moreover, he was put in quarter guard after recovery of stolen/tempered Cars from his possession on 20.12.2019 which is evident for DD No. 45 dated 20.12.2019 Police Line Mardan.

RECOMENDATION:-

Keeping in view the above facts and circumstances, the alleged constable is found guilty and the allegation mentioned in the charge sheet has been stand proved without any shadow of doubt, therefore he is recommended for Major Punishment.

Enclosed( 42 ) Sheets  
No. 115 /SMT  
Dated. 09-03-2020

*Handwritten initials and marks*

(Inquiry Officer)  
Deputy Superintendent of Police,  
S.M.T-Circle.

Issue F. SEN

DPG mon  
09/3/20

→ Heard in OR  
→ Cont. not satisfied  
→ Dismissed & Service  
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(DPH)

Annex

10K  
16-6-2020

35

ORDER.

This order will dispose-off the departmental appeal preferred by Ex-Constable Miandad No. 2727 of Mardan District Police against the order of District Police Officer, Mardan, whereby he was awarded major punishment of dismissal from service vide OB: No. 714 dated 29.04.2020. The appellant was proceeded against departmentally on the allegations that he while posted at Police Station Jabbar, was placed under suspension and closed to Police Lines, Mardan on account of involvement in a case FIR No. 1303 dated 19.12.2019 u/s 381A/419/420/468/471/473/411/412/148/149PPC Police Station City, Mardan.

Proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and Sub Divisional Police Officer, Sheikh Maltoon, Mardan was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities submitted his findings wherein he found the delinquent Official guilty of misconduct and recommended him for major punishment.

He was issued Final Show Cause Notice to which his reply was received and found unsatisfactory. He was also provided opportunity of self defense by summoning him in the Orderly Room held in the office of District Police Officer, Mardan on 28.04.2020. But he failed to advance any cogent reason in his defense. Hence, he was awarded major punishment of dismissal from Service vide OB: No. 714 dated 29.04.2020.

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

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations leveled against the appellant have been proved beyond any shadow of doubt. Besides, case property in shape of stolen cars has been recovered from the active possession of the appellant which clearly shows the nexus of appellant with the commission of offence. Moreover, the involvement of appellant in this heinous criminal case is clearly a stigma on his conduct. Hence, the retention of appellant in Police Department will stigmatize the prestige of entire Police Force as instead of fighting crime, he has himself indulged in criminal activities. He could not

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sent any cogent justification to warrant interference in the order passed by the competent authority.

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

Order Announced.

2  
Regional Police Officer,  
Mardan.

No. 3888 /ES, Dated Mardan the 24-06-2020.

Copy forwarded to District Police Officer, Mardan for information and necessary w/r to his office Memo: No. 145/LB dated 04.06.2020. His service record is returned herewith.

(\*\*\*\*\*)

36

36

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

**Service Appeal No. 7813/2020**

Mian Dad Ex-Constable No. 2727 s/o Sardaraz Khan r/o Kati Garhi District Mardan  
.....Appellant

**VERSUS**

The Inspector General of Police Khyber Pakhtunkhwa, Peshawar and others  
.....Respondents

**AUTHORITY LETTER.**

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

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

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

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

①

**BEFORE THE KHYBER PUKHUNKHWA SERVICE  
TRIBUNAL, PESHAWAR**

Service Appeal No \_\_\_\_\_/2020

**Mian dad**

**.....APPELLANT**

**VERSUS**

**I.G.P, Khyer Pukhtunkhwa and others .....RESPONDENTS**

**RE-JOINDER TO THE COMMENTS OF RESPONDENTS**

**RESPECTFULLY SHEWETH,**

**PRELIMINARY OBJECTIONS.**

The preliminary objections are vague, illegal and are not sustainable in the eyes of law. The respondents on the basis of frivolous and baseless allegations have registered case which is not in accordance to spirit of law. The vehicles in question were already released on superdari to different lawful owners as per order of learned Judicial Magistare, Mardan, learned Addl Sessions Judge and a few by order of Worthy Peshawar High Court, Peshawar and they were enjoying there usufruct and possession. The respondent authority with malafide and ulterior motives has acted illegally arrested the appellant illegally and detained him illegal confinement without any due process of law and Rules applicable. All the vehicles were already booked in different FIR and were given on superdari lawful owners. Some were subsequently sold out in the market subject to terms of superdari, those were taken into possession by SHO of concern PS, and SECOND FIR was registered which is totally unwarranted and illegal in the eyes of law as per dicta laid by Supreme Court of Pakistan in a case reported in PLD 2018 SC 595 ( larger bench ) held that after registration first FIR for an offence, no second FIR is permissible. But in this case second FIR No 1303 dated

19/12/2019 u/s 381 A read 419, 420 etc PPC at PS City Mardan was registered which is itself illegal and unwarranted, hence no proceedings can be taken on strength of this FIR against appellant in which no conviction is recorded till date.

Further no chance of hearing, no chance to cross examine the witnesses was provided. During the whole course of inquiry process appellant remained in jail, hence the inquiry officer was not an impartial person.

The appeal has been competently filed before this Hon'able Tribunal and this learned Tribunal has the jurisdiction to decide the same.

#### PARAWISE REPLY.

1. Para No.1 of the appeal is admitted, hence needs no comments.
2. Reply to Para No.2 is incorrect and are without any proof.
3. Para No 3 of the appeal is correct and reiterated.
4. Reply to Para No.4 is incorrect and with no plausible explanation of illegal detention for so many days.
5. Reply to Para No.5 is incorrect and arrest and FIR was unwarranted under the law. The vehicles were not of theft properties, neither any proof in this respect is placed with reply, but were on superdari to lawful owners, taken into possession and a false case has been planted against the present appellant. No second FIR can be lodged as per dicta of apex Court PLD 2018 SCc 595, hence contents of para no 5 is reiterated.
6. Reply to Para No.6 is incorrect and are without any proof., all vehicles were released on superdari by Court, e.g, Vehicle **No 45 61**, Motor Car was released by learned Addl Sessions Judge, Mardan (Miss Rozina Rehman ) on dated 4/02/2015 (Copy of order annexed as R/1),

and Vehicle No **4035** LEF Motor car was released on superdari by worthy Peshawar High Court, Peshawar on dated 01/12/2015 (Copy of order annexed as R/2) and

Similarly Vehicle No **261 FSM**, Motor Car was released by the order of judicial Magistrate, Lahore ( Swabi ) on dated 9/9/2006, (Copy of order annexed as R/3).

- 7. Reply to Para No.7 is incorrect and is without any plausible defence, by respondents, since FIR is illegal and unwarranted under law, further there is no conviction till date, more-so the inquiry proceedings are not conducted in accordance with law, hence dismissal is also illegal and needs to re instatement by acceptance of appeal..
- 8. - 14, Reply to para No 8-14 is incorrect and without any plausible defense or explanation, no proper inquiry was held that too without waiting for the result of criminal case, during whole proceedings the appellant was not properly associated, cross to witnesses was not allowed, and defense of appellant was not considered by all forums of inquiry, appeal or otherwise; hence interference is warranted under the law, hence contents of para no 5 is reiterated.
- 15. Contents of para no 15 of appeal is reiterated.
- 16. Incorrect, the appeal may kindly be accepted as per grounds of appeal.

**Re-joinder to grounds.**

a- k Reply to Para No. a - k , by respondents is wholly incorrect, misleading and material facts has been suppressed while giving the reply, custody of appellant was illegal, and much earlier to FIR, show cause was properly replied, there was no need to charge sheet, or issue statements of allegations to appellant, inquiry proceedings were an eye wash, and was neither according to law, nor any opportunity of cross examination to witnesses was provided to appellant during the one side inquiry, so for the defense of appellant is concerned, it was straight forward rejected, hence contents of para no a -k are correct and reiterated.

l. legal

It is therefore, most humbly prayed that on acceptance of this re-joinder, the appeal of the Appellant may please be accepted and the appellant may please be re-instated into service with all back benefits.

Any other remedy, which is not specially asked for, may also be granted in favor of Appellant.

**APPELLANT.**

Through

**MALIK HAROON IQBAL,**  
ADVOCATE SUPREME COURT

DATED: 13/9/2021

(4)

**BEFORE THE KHYBER PUKTOONKHWA SERVICE  
TRIBUNAL, PESHAWAR**

Service Appeal No \_\_\_\_\_/2020

**Mufeed Muhammad**

**.....APPELLANT**

**VERSUS**

**I.G.P, Khyer Pukhtunkhwa and others**

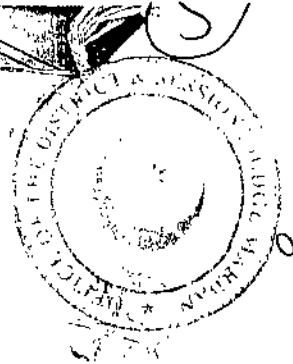
**.....RESPONDENTS**

**Affidavit:**

I, Mufeed Muhammad Son of Hidayat Gul, R/o village Gujrat, Tehsil & District, Mardan do hereby solemnly affirm and declare on oath that contents of re-joinder is correct and true to the best of knowledge and belief and nothing kept secret.

DEPONENT

Annex R1



لے لیا گیا ہے

سجاد خان ولد محمد رفیق صاحب سائنس کا طالب علم ہے جس کا پتہ ہے

449  
9-10-14  
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مدرسہ اسلامیہ رفیق صاحبہ سائنس کا طالب علم ہے جس کا پتہ ہے

25/11/14  
456-LCC-2007  
مدرسہ اسلامیہ رفیق صاحبہ سائنس کا طالب علم ہے جس کا پتہ ہے

1  
مدرسہ اسلامیہ رفیق صاحبہ سائنس کا طالب علم ہے جس کا پتہ ہے

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مدرسہ اسلامیہ رفیق صاحبہ سائنس کا طالب علم ہے جس کا پتہ ہے

3  
مدرسہ اسلامیہ رفیق صاحبہ سائنس کا طالب علم ہے جس کا پتہ ہے

مدرسہ اسلامیہ رفیق صاحبہ سائنس کا طالب علم ہے جس کا پتہ ہے

Certified To Be True Copy  
08 SEP 2021  
Examiner Copying Branch  
Session Court Mardan

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قلمداد از امرات شریعہ فیضیہ (18/11/14) 29/11/14



No. of Order or Proceedings

Date of order of proceedings

Order of other proceedings with signature magistrate and that of parties or counsel where necessary

28-11-14

CR

16/11/14 vs 16/11/14

\_\_\_\_\_ taken out from the petition box. After checking the same found correct. Put up before the Court for further order, please.

(SUPERINTENDENT)  
Sessions Court, Mardan.

28-11-14

Entrusted to the court of Additional District & Sessions Judge - VI, Mardan for disposal.

District & Sessions Judge,  
Mardan.

Or ..... 1  
29.11.2014

Revision petition received from the court of learned Sessions Judge Mardan. It be registered.

Notice and record for 11-12-14

(Rozina Rehman)  
Addl. Sessions Judge - VI,  
Mardan

Or ..... 01  
11.12.2014

Counsel for petitioner present.

Record not received.

Be requisitioned for 18/12/14

Certified To Be True Copy

08 SEP 2021

Examiner Copying Branch  
Session Court Mardan

(Rozina Rehman)  
Addl. Sessions Judge - VI,  
Mardan



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L-601

11

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IN THE COURT OF ROZINA REHMAN  
ADDITIONAL SESSIONS JUDGE-VI, MARDAN

**Criminal Revision Petition No. 28/Cr.R**

Date of Institution..... 29.11.2014

Date of Decision..... 04.02.2015.

Sajjad Khan S/O Muhammad Farooq Shah R/O House No. 28 Sector (A) Sheikh  
Maltoon Town District Mardan .....(Petitioner)

The State.....

-VERSUS-

.....(Respondent)

**JUDGMENT**

This criminal revision petition has been filed to call in question the order passed by the learned Judicial Magistrate at Mardan on 25.11.2014, whereby application filed by petitioner for return of motorcar bearing registration No. L.E.C-4561 was rejected.

2. Brief facts of the case are that vide Naqal Mad No.24 of daily diary dated 09.10.2014 a motorcar bearing registration No. L.E.C-4561 was taken into possession from one Sajjad Khan who disclosed to have purchased the same from one Muhammad Saleem, therefore, car was taken into possession on suspicion U/S 523/550 Cr.P.C. An inquiry was initiated and after getting the F.S.L report, opinion from Prosecution Branch was obtained and accordingly F.I.R No. 449 was registered against Muhammad Saleem who is still at large. The petitioner then submitted an application for the return of Motorcar, which was declined.

3. Feeling aggrieved from the said order, instant revision was filed on the grounds that findings of the learned Judicial Magistrate are against law and facts and that the relevant documents were not taken into consideration. Learned counsel argued that petitioner is a bonafide purchaser of the vehicle and that the vehicle is not required for further investigation. He submitted that applicant is the sole claimant of the vehicle, who was in possession of all the relevant documents including sale deed.

4. Conversely learned S.P.P for state argued that order of the learned Judicial Magistrate is sound and well reasoned. He argued that chassis number of the car was filled with weld material in view of the report of chemical examiner, therefore, application was rightly rejected.

Certified To Be True Copy

08 SEP 2015

Examiner Copying Branch  
Session Court Mardan

Handwritten signature and date: 04/2/15

5. Admittedly petitioner Sajjad Khan was driving the vehicle at relevant time and thus vehicle was recovered from his possession. There is no claimant. The petitioner produced sale deed vide which the vehicle was purchased by him from one Muhammad Saleem. All the documents prima facie have shown petitioner to be owner of vehicle in question at least in absence of any rival claimant. Nothing is available on record to show that vehicle is a stolen property or is involved in any criminal case. Report of Motor Registration Authority supports the version of petitioner. Only on allegation of having a tempered chassis number custody of vehicle to a person claiming himself to be the bonafide purchaser, could not be refused. Reliance is placed on 2011-YLR-377. Accordingly petition is allowed and custody/superdari of vehicle is given to the petitioner till decision of case on his furnishing sureties bonds in the sum of Rs.5,00,000/- with two sureties each in the like amount to the satisfaction of this court, with further direction to the petitioner not to sell or transfer the same till decision of case.

File be consigned to Record Room after its completion and compilation.

**ANNOUNCED.**  
04.02.2015

*(Signature)*  
(Rozina Rehman)  
Addl: Sessions Judge-VI  
Mardan.

**CERTIFICATE**

Certified that this judgment consists of **02** pages, each page has page been read, checked, signed and corrected by me wherever it was necessary.

*(Signature)*  
Addl: Sessions Judge-VI,  
Mardan.

Certified To Be True Copy  
08/SEP 2021  
Examiner Copying Branch  
Session Court Mardan

Annex R/2 (10)

(1)

BEFORE THE HON. ABLE PESHAWAR HIGH COURT PESHAWAR

20811/15

(6)

Cr: Misc Superdari Petition No. 152P of 2015.

Abdul Rehman Butt S/O Muhammad Hussain R/O House no: 176-10, Kashmir Road, Peoples Colony, Gujranwala



.....Petitioner.

VERSUS

1)-Haleem Shah S/O Sikandar shah R/O Jamrud Khyber Agency

2)-The State

.....Respondents.

FIR No.380, Dated:27/03/2015, U/S-9-© CNSA,419/420 P.S: Havatabad, Peshawar.

PETITION U/S /561-A R/W SECTION 516-A CR.P.C. 32/33/74 CNSA 1997, FOR *QUASHMENT OF ORDERS OF LEARNED ASJ/XIV, PESHAWAR DATED: 16/09/2015, WHEREBY THE PETITION FOR THE RETURN / RELEASE OF VEHICLE/MOTORCAR BEARING REGISTRATION NO: LEF-07-4035-, ALONG WITH ACCESSORIES SUPERDARI WAS DISMISSED.*

Prayer:-

On acceptance of this petition the order of the learned ASJ-XIV Peshawar vides Dated: 16/09/2015, may kindly be quashed and the vehicle/motorcar bearing registration No: lef-07-4035-, along with Accessories May Graciously Be Returned/Release to the Petitioner.

FILED TODAY  
Deputy Registrar  
20 OCT 2015

ATTESTED  
EXAMINER  
Peshawar High Court

Respectfully Sheweth: -

1. That the above mentioned vehicle has been taken in to possession by the Local police officials from the possession of respondent.No.1, in the above-mentioned case and is still lying in the Police Station since the registration of the above mentioned case. (Copy of FIR is annexed A)..

- (11)
- (2)
- (7)
2. That petitioner applied for the return of vehicle/motorcar bearing registration No: lef-07-4035 in the court of Learned Addl; Session's Judge XIV Peshawar but his plea was not considered and turned down vide impugned order Dated: 16/09/2015.  
(Copy of Petition and order is attached as Annexure "B" & "C" respectively).
3. That the petitioner now approaches this Hon'able court for the returned/release of vehicle/motorcar bearing registration No: lef-07-4035 in question on the following grounds amongst others.

### G R O U N D S

- A. That the petitioner is the legal, genuine and real owner of the vehicle in question and there is no rival claimant of the vehicle in question.
- B. That there is no evidence on record to show that the vehicle in question was either used by the respondent No.1 for the commission of offence with the knowledge of the petitioner or the petitioner having any common intention with the respondent No 1 in the alleged transportation of narcotics in the vehicle in question, as the petitioners has not been arrayed as accused in the above mentioned case.
- C. That the petitioner is the bone of id purchaser and register owner of the vehicle (copy of the ownership attached as annexed D)
- D. That the vehicle was given to respondent No 1, as known to me, for the purpose that the vehicle will be attached with the NLC on rent bases because the Haleem shah having Good term with the NLC contractor.
- E. That investigation in the instant case has been completed and the motorcar in question is no more required for further investigation, even according to prosecution story the recovery of the contraband has not been affected from the secret cavities of the vehicle in question.
- F. That the vehicle in question is the only source of income for the petitioners and his entire family of the petitioners.
- G. That if the motorcar in question is not returned to the petitioners he will suffer irreparable loss.
- H. That the motorcar in question is lying in an open condition in the PS with out proper care and if not returned it will be deteriorated.
- I. That the petitioner undertakes that whenever the court concerned ordered to produce the vehicle in question the petitioner will produce the same accordingly.
- J. That on permission of this Honorable Court the petitioners may urged the other grounds if any, at the time of arguments.

M<sup>91</sup>  
**ATTESTED**  
EXAMINER  
Peshawar High Court

It is, therefore, most humbly prayed that on acceptance of this Petition the vehicle in question may kindly be returned/ released to the petitioner, to meet the ends of justice..

Dated; 20/08/2015.

Through:-

FILED TODAY  
Deputy Registrar  
20 OCT 2015

(Gul Daraz Khan)  
Advocate High Peshawar

Petitioner  
(Noor Alam Khan)  
Advocate Supreme Court,  
PESHAWAR

12

20

JUDGMENT SHEET  
IN THE PESHAWAR HIGH COURT, PESHAWAR  
(Judicial Department)

Cr.M(QP) 152-P/2015.

JUDGMENT

Date of hearing 1.12.2015

Petitioner by: Noor Alam Khan Advocate.

Respondent /State by: Syed Sikandar Hayat Shah  
AAG



MUHAMMAD DAUD KHAN, J.- Through instant petition, the petitioner seeks quashment of impugned order dated 16.9.2015 passed by learned Additional Sessions Judge-XIV, Peshawar whereby the the petition of petitioner for return of vehicle/Motorcar bearing Registration No.LEF-07-4035, alongwith accessories, seized in case FIR No.380 dated 27.3.2015, u/s 9-C CNSA/ 419/420 PPC, P.S. Hayat Abad, on superdari was dismissed.

2. According to the prosecution case, the local police took into possession the vehicle in question while leaving by accused Haleem Shah and Gulzar who decamped from the spot. On search of the said vehicle, four packets of heroin weighing 4 Kgs 800 grams, were recovered. Consequently, the vehicle

*Handwritten signature/initials*

*M. Q.*  
**ATTESTED**  
EXAMINER  
Peshawar High Court

13

(24)

alongwith contraband were taken into possession and a case vide FIR mentioned above was registered against the accused.

3. Arguments heard and record perused.

4. Perusal of record reveals that the petitioner who is claiming his ownership on the basis of registered documents available on file, is neither an accused in the instant case nor the recovery was made in his presence. There is nothing on record to suggest that the alleged contraband were being transported by the accused with the active connivance of petitioner or he was in conscious knowledge of using the vehicle for transportation of the narcotics, which fact could better be determined at trial by the trial Court after recording prosecution evidence. Section 74 of CNSA, which regulates the grant of temporary custody of the conveyance seized in narcotics case does not prohibit its release to its own not in any way connected with the crime. Reliance is placed on the case titled, "Allah Ditta Vs The State" (2010 SCMR 1181). Besides, the accused Haleem Shah is already on bail and there is no other rival claimant of the vehicle in question nor

m/ans

May  
**ATTESTED**  
EXAMINER  
Peshawar High Court

14

*(Handwritten initials)*

there is anything available on record which could depict that the same has been used in the commission of any offence by the petitioner or with his active connivance and conscious knowledge. At present, the petitioner has made out a good case for return of the vehicle on superdari, parked in the custody of local police in open sky and there is every apprehension of deterioration of its condition being parked in the open sky. As such, the instant petition is allowed and the vehicle in question alongwith accessories be returned to the petitioner subject to furnishing surety bonds to the tune of Rs.7,00,000/ (Seven Lac) with two sureties each in the like amount to the satisfaction of trial Court concerned, who shall ensure that the sureties are local, reliable and men of means. Inventory of the vehicle be prepared and placed on judicial file. The petitioner is also bound to produce the same as and when required/directed by the Court.

*Eddy Muhammad Daud*

JUDGE

No. 6382  
 Date of Presentation of Application 11/9/2021  
 No of Pages 5-7  
 Copying fee 20/-  
 Total 20/-  
 Date of Preparation of Copy 11/9/2021  
 Date of Delivery of Copy 11/9/2021  
 Received By *(Signature)*

VERIFIED TO BE TRUE COPY  
 EXAMINER  
 Government High School, ...  
 11 SEP. 2021

دراں کے لئے درخواستیں جمع کروانے کے لئے...

SHO detail

Judge/Judicial Magistrate

Class/Post

435/06  
PEHO  
مقامی عدالت کی کارروائی

مقامی عدالت کی کارروائی

FSM  
201  
درخواستیں جمع کروانے کے لئے...

ضابطہ کے تحت...

FSM  
201  
درخواستیں جمع کروانے کے لئے...

3/4 PEHO

درخواستیں جمع کروانے کے لئے...

درخواستیں جمع کروانے کے لئے...

درخواستیں جمع کروانے کے لئے...

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(16)

سابقہ فیوچر  
PS WAZIRI COLONY  
LAHORE

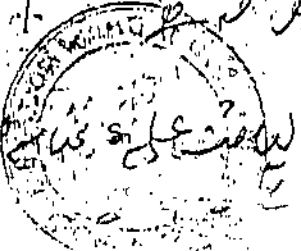
ضابطہ

College Jinnah  
Opposite  
1971

گزارش نمبر 261  
3/4 435/06  
کڑی نمبر 405510

ضابطہ

405510  
603397



540 is directed to submit  
detail report regarding  
Engine no. and chassis no.

7  
4

9/08-29/06

ضابطہ

گزارش نمبر 261  
3/4 435/06  
کڑی نمبر 405510  
603397

ORDER

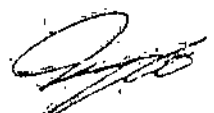
Present: Petitioner in person.  
Inspector legal for state.

The petitioner has applied for superdary of  
Car NO. 261/FSM Toyota Corolla Engine  
NO. 405510 and chassis NO. 603397 which is  
case property in case FIR NO. 435/06, Octano  
U/s 374 PCHO registered at police station  
Wandat Colony Lahore.

Arguments heard. Record signed

3. The petitioner has produced Identity card and an authority letter which is in the favour of petitioner. There is no other claimant at this stage, therefore, the said vehicle is hereby given to petitioner on superdara subject to furnish surety bond in the sum of Rs. 7,00,000/ (Seven lacs) with one lacs surety in the like amount to the satisfaction of the court with direction to produce the same as and when required by the court. The S.H.O concerned is directed to hand over the said vehicle to petitioner after due verification.

Announced.  
09:09.06.




D/... JUDGE MAGISTRATE, 1ST CLAS  
Civil Judge, Judicial Magistrate,  
1st Class Model Town Lahore

خدمت عالیہ سرگودھا



Put up to the worthy chair-man with relevant appeal.

۳۰/۱۱/۲۰۲۱

7813/20

۲۸/۹/۲۱

Ready

NPA

04/11/2021

سید محمد عرفان شاہ

آئی ایم ایف آر ایف

30/11/2021

سید محمد عرفان شاہ

سید محمد عرفان شاہ

آئی ایم ایف آر ایف

سید محمد عرفان شاہ

28/9/21

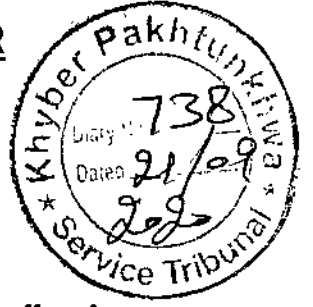
سید محمد عرفان شاہ



ash

سید محمد عرفان شاہ

**BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR**



In Re: Service Appeal No.7813 of 2020

Miandad.....Applicant/ Appellant

**V E R S U S**

IGP, KPK and others.....Respondents

*Put up to the court with relevant app.*

**Application for early hearing in the titled service appeal**

*21/9/2020*

*Be adjusted for hearing in third/last week of October 2020.*

**Respectfully Sheweth:**

*Respectfully*

1. That the above titled service appeal was lastly fixed on 11.09.2020 and now is fixed for 17.11.2020.
2. That the titled case is at preliminary arguments stage in which valuable rights of applicant/ appellant are involved in the instant service appeal.
3. That the date fixed by this Hon'ble Tribunal is too long, hence, the present application for early hearing.

**IT IS, THEREFORE,** respectfully prayed that on acceptance of the instant application, the titled service may please be fixed as soon as possible in the best interest of justice.

*[Signature]*  
Applicant/ Appellant

Through

**Malik Haroon Iqbal**  
Advocate Supreme Court

And

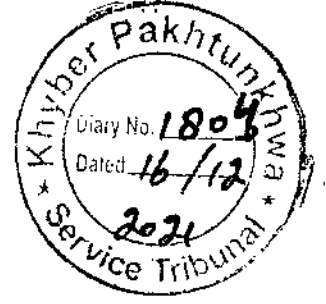
**Abbas Khan Mohmand**  
Advocate High Court

Dated: 21.09.2020

DBI

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE**

**TRIBUNAL, PESHAWAR**



Put up to the court  
before an writ appeal

CM No.        / 2021

IN        17/12/21

Service Appeal No. 7813 / 2021

Mian Dad .....Petitioner

VERSUS

IG KPK etc. ....Respondents

NFA  
21/12/21

**APPLICATION FOR EARLY HEARING  
THE TITLED SERVICE APPEAL**

**Respectfully Sheweth:**

1. That the above titled Service Appeal is pending adjudication before this Honourable Court and is fixed for 01.02.2022.
2. That the appellant has a strong case in his favour, and the case has been adjourned so many times due to the act of the respondents and due to which, the appellant suffers a lot and requests through the instant application that the instant appeal may kindly be fixed at an early date.
3. That there is no legal bar in accepting the instant application rather it will serve the ends of justice.

It is, therefore, most humbly prayed that the Application, the titled case may kindly be fixed at an early date, in the best interest of justice.

Dated: 16.12.2021

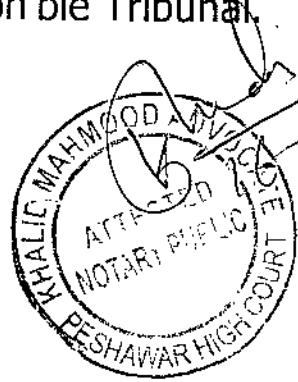
میان داد  
Applicant/Appellant

(In person)

**Mian Dad**

**AFFIDAVIT**

I, do hereby solemnly affirm and declare on oath that the contents of the accompanying Application for Early Hearing are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



میان داد  
DEPONENT