

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 15574/2020

Date of Institution ... 03.12.2020

Date of Decision ... 18.01.2022

Rahat Ali, Ex-Police Constable, No. 573 and S/O Amir Sher R/O Village Naragi,  
Tehsil Razzarh, District Swabi. ... (Appellant)

**VERSUS**

Provincial Police Officer (PPO), Khyber Pakhtunkhwa, Central Police Office (CPO),  
Peshawar and two others. ... (Respondents)

Usman Khan Turlandi,  
Advocate

... For Appellant

Muhammad Adeel Butt,  
Additional Advocate General

... For respondents

**AHMAD SULTAN TAREEN** ...  
**ATIQU-UR-REHMAN WAZIR** ...

**CHAIRMAN**  
**MEMBER (EXECUTIVE)**

**JUDGMENT**

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

Brief facts of the

case are that the appellant was appointed as Constable vide order dated 09-04-2014. His appointment order, however was withdrawn vide order dated 22-10-2019. Feeling aggrieved, the appellant filed departmental appeal, which was rejected vide order dated 04-02-2020, thereafter, the appellant filed Writ Petition No. 1864-P/2020, which was converted into service appeal vide judgment dated 26-11-2020 and was referred to this Tribunal with prayers of the appellant that the impugned orders dated 22-10-2019 and 04-02-2020 may be set aside and the appellant may be re-instated in service with all back benefits.

02. Learned counsel for the appellant has contended that appellant was real brother of Shaheed Constable Nawaz Ali, but the appellant was not appointed.

against Shaheed brother quota, which is evident from the appointment order dated 09-04-2014; that as per policy notification dated 18-05-2007 issued by the respondents, another brother of the appellant namely Jehan Ali was recruited as PASI against 5% quota reserved for son/brothers of police Shuhada vide order dated 02-02-2016; that his appointment order was also withdrawn vide order dated 22-10-2019, which is contrary to law, rule and norms of natural justice, as one brother was martyred in line of duty, another was discharged and the appellant was also discharged due to the reason that he is not entitled for the benefit of Shaheed package knowing the fact that the appellant was never appointed against Shaheed quota but was erroneously linked up with the case; that the fact remains that the appellant neither applied for Shaheed quota nor was selected against that quota, rather he was selected on merit, hence withdrawal of his appointment order is illegal and without lawful authority and against the norms of natural justice; that the action and inaction of the respondents shows malafide, which is contrary to Article-4, 25 and 27 of the constitution; that the appellant has not been treated in accordance with law, as appointment order of the appellant was withdrawn without serving any notice or affording opportunity of defense to the appellant, hence substantive as well as procedural law has vehemently been violated; that doctrine of locus poenitentiae vigorously refrains from any adverse action on part of the respondents, once an act even illegal has taken its field cannot be taken back, which principle on the touchstone of instant case is applicable.

03. Learned Additional Advocate General for the respondents has contended that the appellant was enlisted as Constable in Police Department against Shuhada quota as per prevailing policy at the time; that after submission of revised succession certificate by widow of Shaheed Nawaz Ali, minor child of Shaheed Nawaz Ali was declared as heir to the Shaheed, hence appointment order of the appellant was withdrawn being illegal; that at the time of issuance of

succession certificate, the fact of a child in the womb of widow of Shaheed Nawaz Ali was concealed from the court as well as from the department for a long time and when the relationship of widow of Shaheed with her in-laws become strained, she came to know about the legal rights of her minor daughter and applied for revised succession certificate, which was accepted vide order dated 30-07-2019; that in presence of minor child of the Shaheed, brothers and sisters are not entitled for the relief as per standing order dated 02-02-2017; that the respondents treated the appellant in accordance with law and no discrimination has been done with the appellant.

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

05. Record reveals that brother of the appellant namely; Nawaz Ali being employee in the Police Department met martyrdom during performance of duties on 12-01-2014. For the purpose of compensation to the legal heirs of the Shaheed, a succession certificate was issued by the competent court of law on 02-04-2014, where widow, father and mother of Shaheed Nawaz Ali were declared as legal heirs of the Shaheed constable and Shaheed package (cash compensation) was distributed amongst them accordingly. In addition, as per notification dated 17-10-2003 as amended on 16-05-2007, 5% quota was also reserved for Shuhada sons and in absence of son; the real brothers were entitled to be appointed as PASI in place of Shaheed. Since Mr. Nawaz Ali being newly wedded had no offspring at that particular time, hence with no objection of his widow and in accordance with the policy, brother of the appellant namely Jehan Ali was appointed as PASI vide order dated 02-02-2016. Widow of Shaheed Nawaz Ali has given birth to a baby on 05-08-2014, who was named as Aneesa Begum. Widow of the Shaheed Nawaz Ali, came to know at a later stage, that minor Aneesa Begum, who born seven months after death of her father can also claim Shaheed Package (cash compensation), hence she approached the

competent court of law for revocation/ amendments in the succession certificate, which was accepted and previous succession certificate issued on 02-04-2014 (before birth of Aneesa begum) was cancelled and revised succession certificate was issued on 30-07-2019, thereby including the minor Aneesa begum in legal heirs of Shaheed Nawaz Ali. Accordingly, Shaheed package was re-collected from the legal heirs and was distributed afresh with due share to the minor, but simultaneously appointment order of Mr. Jehan Ali PASI was also withdrawn vide order dated 22-10-2019 under the plea that in presence of minor child of the Shaheed, his brother cannot be recruited.

06. On the other hand, the present appellant, who is also real brother of Shaheed Nawaz Ali, but who was appointed as constable on 09-04-2014, but his appointment order nowhere mentions that the appellant was appointed as constable against Shaheed quota, but unfortunately he was also linked up with the case after submission of revised succession certificate dated 30-07-2019 by widow of the deceased Nawaz Ali and appointment order of the appellant was also withdrawn vide order dated 22-10-2019

07. The issue surfaced when the respondents issued a notification dated 02-02-2017 that brother/sister of the Shaheed shall not be considered for appointment as ASI, where minor child of the Shaheed is available, even if the widow has given consent in this behalf because she is not entitled to forego right of the minor. Coupled with it was submission of revised succession certificate by widow of Shaheed Nawaz Ali, which made the appellant as well as his brother Jehan Ali liable for the action so taken by the respondents. Since the appellant was appointed as constable on 09-04-2014 and his appointment order does not mention that the appellant was appointed under Shaheed package, but since he was brother of Shaheed Nawaz Ali, hence he was dragged under the policy dated 02-02-2017, which too was retrospectively applied on appellant and the appellant was removed from service under the plea that he was not entitled for such relief

in presence of minor of the deceased. Available record would suggest that cash compensation to legal heirs as well as recruitment of Shaheed son/real brother were two parts of such compensation, which were simultaneously allowed as per policy. The cash compensation was proportionately distributed amongst father mother widow and minor (Aneesa Begum), whereas his real brother (Jehan Ali) was appointed as PASI as per law and rule with no irregularity committed to this effect, but not only Jehan Ali was discharged from service but the appellant was also discharged, which however was not warranted as he was not recruited against Shaheed quota. The issue erupted when widow of the deceased applied for revised succession certificate to make sure claim of her minor in cash compensation, which was done accordingly, but the respondents retrospectively applied the policy dated 02-02-2017 on both brothers with the stance that the appellant had concealed the minor (Aneesa Begum) for a longer time, facts however are otherwise. The appellant neither concealed any fact nor committed any irregularity, rather he was appointed on merit and not under Shaheed quota. The baby was born after seven months of death of Nawaz Ali and after submission of the first succession certificate 28-03-2014, who could only be made entitled for the cash compensation and the revised succession certificate was never intended for dislodging the appellant or his brother, but in the meanwhile new policy came into field and the respondents misinterpreted the revised succession certificate in light of a policy dated 02-02-2017, which was formulated much after his appointment. It is well settled legal proposition that policy/notification can be applied prospectively and not retrospectively.

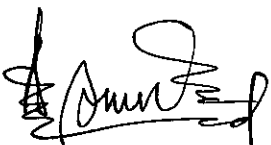
08. We have also observed that the appellant being a civil servant, was not supposed to be struck down with a single stroke of pen, rather he was required to be afforded appropriate opportunity of defense, which however was not warranted. Appointment of the appellant was made by competent authority by following the prescribed procedure, the appellant having no nexus with the mode


of selection process and he could not be blamed or punished for the laxities on part of the respondents. The order affecting the rights of a person had to be made in accordance with the principle of natural justice; order taking away the rights of a person without complying with the principles of natural justice had been held to be illegal. Government was not vested with the authority to withdraw or rescind an order if the same had taken legal effect and created certain legal rights in favor of the appellant. Reliance is place on 2017 PLC (CS) 585. In the instant case, appointment of the appellant was never illegal; rather it was made in accordance with law.

09. We are of the considered opinion that the appellant has not been treated in accordance with law and was illegally kept away from his lawful duty, as he was not appointed in the category of Shaheed package in the first place and secondly he was wrongly attached with the Shaheed package. Not only the appellant but another brother of the appellant also fell victim to the policy notified on 02-02-2017.

10. In view of the foregoing discussion, the instant appeal is accepted. The impugned orders dated 22-10-2019 and 04-02-2020 are set aside and the appellant is re-instated in service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED  
18.01.2022

  
(AHMAD SULTAN TAREEN)  
CHAIRMAN

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

ORDER

18.01.2022

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

Vide our detailed judgment of today, separately placed on file, the instant appeal is accepted. The impugned orders dated 22-10-2019 and 04-02-2020 are set aside and the appellant is re-instated in service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

18.01.2022



(AHMAD SULTAN TAREEN)  
CHAIRMAN



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

S.A No. 15574/2020

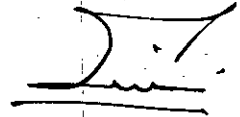
28.10.2021

Learned counsel for the appellant present. Mr. Fazle Subhan, Head Constable alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Learned counsel for the appellant requested that as Service Appeal bearing No. 15572/2020 has been adjourned for 18.01.2022, therefore, the appeal in hand be also fixed for the said date. Adjourned. To come up for arguments 18.01.2022 before the D.B.



(Mian Muhammad)  
Member (E)



(Salah-Ud-Din)  
Member (J)



21.06.2021

Father of the appellant and Mr. Kabirullah Khattak, Addl. AG alongwith Fazle Subhan, H.C for respondents No. 1 to 3 present

representative of the respondents has furnished written reply/comments on behalf of the respondents. The appeal is entrusted to Division Bench for hearing and disposal. To come up for argument on 03.09.2021

  
Chairman

03.09.2021

Due to summer vacations, the case is adjourned to 29.09.2021 for the same as before.

  
READER

29-9-21

DB is on tour case to come up?


For the same on Dated. 28-10-21

  
Reader

25.03.2021

Junior to counsel for the appellant present. Mr. Kabirullah Khattak learned Addl. AG for respondents present. None present on behalf of private respondent No.4.

Reply/comments on behalf of respondents not submitted. Learned Additional Advocate General is required to contact the respondents and facilitate the submission of reply/comments. Notice be issued to private respondent No.4 for submission of reply/comments. To come up for reply/comments on 29.04.2021 before S.B.

  
(Atiq Ur Rehman Wazir)  
Member (E)

29.04.2021

Due to demise of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 21.06.2021 for the same as before.

  
Reader


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)

19.02.2021

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

Neither written reply on behalf of respondent submitted nor representative of the department is present, therefore, learned Additional Advocate General is directed to contact the respondents and furnish written reply/comments on the next date of hearing. Adjourned to 25.03.2021 on which date file to come up for written reply/comments before S.B.

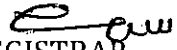

  
(Muhammad Jamal Khan)  
Member

Form-A

FORM OF ORDER SHEET

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

Case No. 15574/2020

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	03/12/2020	<p>The present appellant initially went in Writ-Petition before the Hon'ble Peshawar High Court Peshawar and the Hon'ble High Court vide its order dated 26.11.2020 treated the Writ Petition into an appeal and sent the same to this Tribunal for decision in accordance with law. The same may be entered in the Institution Register and put up to the worthy Chairman for further order please.</p> <p style="text-align: right;">               REGISTRAR         </p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>29/12/2020</u>.</p> <p style="text-align: right;">               CHAIRMAN         </p>

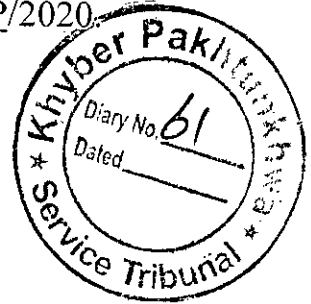
2-

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

In Ref: to Service Appeal No. 15574-P/2020.

In

WP No. 1864-P/2020.



**Rahat Ali, Ex-Constable Police.....VERSUS.....PPO & others.**

**SUBJECT:- APPLICATION FOR EARLY HEARING/FIXATION OF THE TITLED SERVICE APPEAL.**

**RESPECTFULLY SHEWETH:-**

- 1) That the appellant, initially had inadvertently filed writ petition bearing WP No. 1864-P/2020 before the august Peshawar High Court Peshawar which was subsequently converted into the instant service appeal and was transmitted to this august Tribunal for disposal, which was admitted to full hearing and comments were called upon of the respondents and hence the appeal is fixed for onward proceedings for 22/03/2021. It is worth to mention here that the comments of the respondents have already once procured/available on file, so there will be no need of further comments of the respondents.
- 2) That keeping in view the scenario of affairs it will be appropriate that the regular hearing of the appeal is to be fixed for an early/accelerated hearing in order to meet the ends of justice and in light of legal maxim of "Justice delayed justice denied".

It is, therefore, humbly prayed that the subject matter may very graciously be fixed for an early date, convenient to the Tribunal please.

APPLICANT

Muhammad Usman Khan  
Turlandi  
Advocate Peshawar.

Dated; 12/01/2021.

*De laid before  
8th along with the appeal  
in a date in 2nd/3rd week  
of February 2021. Notice  
Appellant shall bear  
the cost of service*  
13/1/21



*The*  
**PESHAWAR HIGH COURT**  
*Peshawar*

Ph: No. 091-9210149-58

No. 29707/805/2020/WP-MN

Dated. 01-December-2020

**From**

Deputy Registrar (J),  
Peshawar High Court,  
Peshawar.

**To**

✓  
The Khyber Pakhtunkhwa Service Tribunal, Peshawar.

**Subject:**

Writ Petition No. 1864/2020 Title: Rahat Ali VS Provincial Police Officer (PPO)

**Sir,**

I am directed to send herewith the titled case in original alongwith all annexures & copy of order of this Honourable Court dated 26.11.2020 for disposal.

Deputy Registrar (J)

**Encl:** As above.



**PESHAWAR HIGH COURT PESHAWAR**  
**FORM "A"**

**ORDER SHEET**

<i>Date of Order or Proceedings</i>	<i>Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary</i>
2	3
26.11.2020	<p><b><u>WP No. 1864-P/2020.</u></b></p> <p>Present:</p> <p>Mr. Mohammad Usman Khan Turlandi, Advocate for petitioner.</p> <p>Mr. Rab Nawaz Khan, AAG, for official respondents.</p> <p style="text-align: center;">*****</p> <p><b><u>ROOH-UL-AMIN KHAN, J.-</u></b> As per averment of the writ petition, the brother of petitioner namely Nawaz Ali being employee in the police department met martyrdom during performance of duties. The petitioner was appointed as constable vide order dated 9.4.2014 which was subsequently withdrawn and thereby the petitioner was absolved from the service, on the ground that Mst. Aneesa Begum minor daughter has been delared as legal heir of Shaheed constable Nawaz Ali who is entitled to receive share in shaheed packages and other service benefits.</p> <p>2. Admittedly the appointment order of petitioner was withdrawn and he was discharged from duty against which appeal filed before the Regional Police Officer Mardan was</p>

*Rooh-ul-Amin Khan*

also dismissed vide order dated 31.1.2020. Admittedly the petitioner is a civil servant and the incident of his discharge from service falls under Chapter-II of the Civil Servants Act which enumerated the terms and conditions of service of a civil servant, wherein jurisdiction of this Court is expressly barred under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973. When the learned counsel for petitioner was confronted with the above proposition, he candidly conceded and requested that this writ petition be converted into a service appeal and be sent to the proper forum i.e. Khyber Pakhtunkhwa Service Tribunal. The request is genuine, which is acceded to. The instant writ petition is converted into service appeal and transmitted to the Khyber Pakhtunkhwa Service Tribunal for decision in accordance with law subject to all legal objections from the other side.

*Announced on;*  
*26<sup>th</sup> of November, 2020*

*Rooh Ul Amin*  
**JUDGE**

*Ijaz Anwar*  
**JUDGE** 7



**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.**

" CHECK LIST "

1.	Case Title	<u>Rahat ALI</u> .....VERSUS..... <u>PPD &amp; others</u>		
2.	Case is duly signed.		Yes	No
3.	The law under which the case is preferred has been mentioned.		Yes	No
4.	Approved file cover is used.		Yes	No
5.	Affidavit is duly attested and appended.		Yes	No
6.	Case and annexures are properly paged and numbered according to index.		Yes	No
7.	Copies of annexures are legible and attested. If not, then better copies duly attested have annexed.		Yes	No
8.	Certified copies of all requisite documents have been filed.		Yes	No
9.	Certificate specifying that no case on similar grounds was earlier submitted in this court, filed.		Yes	No
10.	Case is within time.		Yes	No
11.	The value for the purpose of court fee and jurisdiction has been mentioned in the relevant column.		Yes	No
12.	Court fee in shape of stamp paper is affixed. [For writ Rs. 500, for other as required]		Yes	No
13.	Power of attorney is in proper form.		Yes	No
14.	Memo of addressed filed.		Yes	No
15.	List of books mentioned in the petition.		Yes	No
16.	The requisite number of spare copies attached [Writ petition-3, civil appeal (SB-2) Civil Revision (SB-1, DB-2)]		Yes	No
17.	Case (Revision/ Appeal/petition etc) is filed on a prescribed form.		Yes	No
18.	Power of attorney is attested by jail authority (for jail prisoner only)		Yes	No

It is certified that formalities/documentations as required in column 2 to 18 above, have been fulfilled.

Name:- \_\_\_\_\_  
 Signature:- \_\_\_\_\_  
 Dated:- \_\_\_\_\_

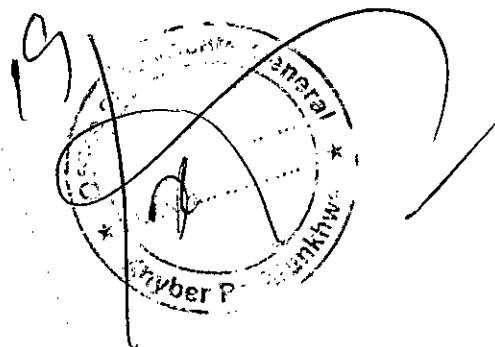
**FOR OFFICE USE ONLY**

Case:- \_\_\_\_\_  
 Case received on \_\_\_\_\_  
 Complete in all respect: Yes/ No, (If No, the grounds) \_\_\_\_\_  
 Date in court:- \_\_\_\_\_

Signature \_\_\_\_\_  
 (Reader)  
 Date:- \_\_\_\_\_

Countersigned:- \_\_\_\_\_  
 (Deputy Registrar)

By Computer From PSH  
 Peshawar High Court, Peshawar



①

**BEFORE THE PESHAWAR HIGH COURT PESHAWAR.**

In Ref: to AWP No. 15574-P/2020.

In

WP No. 1864-P/2020.

**Rahat Ali, Ex-Constable Police.....VERSUS.....PPO & others.**

**INDEX**

S.No.	DESCRIPTION OF DOCUMENTS	ANNEX	P.NO.
1.	Main Amended Writ Petition.		1-6
2.	Affidavit.		7
3.	Addresses of Parties.		8
4.	Copy First recruitment order dated 09-04-2014.	"A"	9
5.	Subsequent Naqalmd No. 20 dated 10-04-2014	"A/1"	10-11
6.	Copy of the appointment withdrawal order.	"B"	12-12/A
7.	Copy of the departmental appeal	"C"	13
8.	Copy of the final impugned order dated 31-01-2020	"D"	14-15
9.	Permission dated 01-10-2020 for withdrawal of WP	"E"	16-17

PETITIONER

Through;

RE-FILED TODAY

Deputy Registrar

19 OCT 2020

Dated; 14/10/2020.

Muhammad Usman Khan  
Turlandi  
Advocate Peshawar.

**OFFICE: Flat # C-1 Haji Murad Plaza, Opp: Bank of Punjab, Dalazak Road, Peshawar.**  
**Cell# 0333-9153699 \*\*\* 0300-5895841**

-FILED TODAY

Deputy Registrar

16 OCT, 2020

**IN THE PESHAWAR HIGH COURT, PESHAWAR.****OPENING SHEET FOR WRIT BRANCH**Date of Filing:- 18/10/2020  
District:- PeshawarCase Type: Writ Petition Nature of Original Proceedings: \_\_\_\_\_

Category Code 0 5 4 6

Review/Contempt of Court in respect of \_\_\_\_\_

Writ of: Heabus Corpus Prohibition Mandamus Qua Warranto Certiorari

Form	Date	interlocutory/ Final Order

Case pertains to  
SB  
DB

Petitioner(s) Name	<u>Rahat Ali Ex-Police Constable No. 573</u>
Mobile No	<u>0313-9699453</u>
Addresses	<u>Village Naragi, Tehsil Razzarh District Swabi</u>
CNIC No	<u>16204-0353479-5</u>
Email Address	

Counsel for Petitioner(s)	<u>Muhammad Usman Khan Turlandi</u>
Mobile No	<u>0333-9153699</u>
Addresses	<u>Flat # C-1, Murad Plaza, Dalazak Road, Peshawar</u>
CNIC No	<u>17301-6004404-9</u>
Email Address	<u>usmanturlandi@gmail.com</u>

Respondents	<u>Provincial Police officer KP, KP &amp; others</u>
Addresses	<u>Peshawar</u>

Original Order/ Action/ Inaction Complained of	
--	--

Prayer	<u>The final impugned order dated 04/02/2020 passed by the respondent No. 2, may be set aside whereby departmental representation of the petitioner was rejected/filed and the first impugned order dated 22/10/2019 passed by the respondent No. 3 was upheld whereby the enlistment order as constable dated 09/04/2014 in respect of the petitioner was withdrawn and in consequence thereof, the petitioner may very graciously be reinstated on his parent post with all consequential back benefits and all allied allowances.</u>
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Law/Rules/governing the original proceedings/ action/Inaction	<u>Article 199, Constitution of Islamic Republic of Pakistan, 1973</u>
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Signature:- 

RE-FILED TODAY

Deputy Registrar

19 OCT 2020

(2)

**BEFORE THE PESHAWAR HIGH COURT PESHAWAR.**

15574

In Ref: to AWP No. \_\_\_\_\_ -P/2020.

In

WP No. 1864-P/2020.

Rahat Ali, Ex-Police Constable, No. 573 and S/O Amir Sher R/O Village Naragi, Tehsil Razzarh, District Swabi.....**PETITIONER.**

**VERSUS**

- 1) Provincial Police Officer (PPO), Khyber Pakhtunkhwa, Central Police Office (CPO), Peshawar.
- 2) Regional Police Officer, Mardan Range Mardan.
- 3) District Police Officer (DPO) Swabi.....**RESPONDENTS.**


Amended Writ Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan 1973 as amended up-to date.

**PRAYERS IN WRIT PETITION:**

On acceptance of this amended petition, the final impugned order dated 04-02-2020 passed by the respondent No. 2 may be set-aside whereby departmental representation of the petitioner was rejected/filed and the first impugned order dated 22-10-2019 passed by the respondent No. 3 was upheld whereby the enlistment order as Constable dated 09-04-2014 in respect of the petitioner was withdrawn and in consequence thereof, the petitioner may very graciously be reinstated on his parent post with all consequential back benefits and all allied allowances.

**Respectfully Sheweth:**

- 1) That the petitioner is bonafide citizen of the Islamic Republic of Pakistan, Domiciled in the Province of Khyber Pakhtunkhwa and resident of village Narangi, Tehsil Razzarh, District Swabi and law abiding person having to enjoy every legal and constitutional rights duly protected by the command of the Constitution.

**-FILED TODAY**  
  
Deputy Registrar  
**16 OCT, 2020**

3

- 2) That the petitioner being educationally qualified, physically fit/sound and eligible in all respect and aspect as per requisite criteria was duly recruited/appointed as Constable (BPS-5) on regular basis and was allotted Constabulary No. 573 vide order date 09-04-2014 passed by the respondent No. 3 and since then, the petitioner was regularly serving and drawing his monthly pay and all other allied allowances as admissible for the post of Constable till the original first impugned order was passed. (Copy of the first recruitment/appointment order vide OB No. 487 dated 09-04-2014 and subsequent Naqalmaid No. 20 dated 10-04-2014 is annexure "A" & "A/1" respectively).
- 3) That on the arrival of revised Succession Certificate dated 30-07-2019, it was held by the respondent No. 3 that Mst: Aneesa Begum, minor has been declared as legal heir of Shaheed Constable Nawaz Ali and was entitle to receive share in Shaheed Package and other service benefits. The illogical conclusion, drawn to a bit of astound, and the first recruitment/appointment order of the petitioner as Constable dated 09-04-2014 (Annexure "A" & "A/1") was withdrawn illegally in quite random on whimsical/capricious and unpredictable grounds by the respondent No. 3. (Copy of the appointment withdrawal order is annexure "B")
- 4) That having been aggrieved of the discriminative policy and cruel treatment of the Respondent No. 3, the Petitioner submitted departmental representation, for the redressal of his grievances but to no avail which was rejected vide final impugned order dated 31-01-2020 passed by the respondent No. 2 and hence this petition. (Copy of the departmental appeal and the final impugned order dated 31-01-2020 is annexure "C & "D" respectively).
- 5) That the WP No. 1864-P/2020 was earlier filed before this august Court wherein some assertions were inadvertently vocaled having the credit to be omitted being misrepresentation on both factual and legal pedestal which could have had the capacity to led the court astray and

FILED TODAY  
Deputy Registrar  
16 OCT. 2020

hence this amended writ petition. (Copy of permission dated 01-10-2020 for withdrawal is annexure "E").

- 6) That while having been rebuffed the legitimate right by the Respondents and having no ear to his Departmental Representation, the Petitioner is constrained to approach this honorable constitutional court inter-alia on the following grounds.

**GROUND S:**

- A. Because no explanation, no Show-Cause notice have ever been served upon the petitioner and no regular enquiry has ever been conducted and hence both the impugned orders are illegal, unlawful, without lawful authority, arbitrary, void ab-initio, un-Constitutional, Un-Islamic, against the norms of natural justice and against the law on the subject.
- B. Because the Petitioner has never claimed any rights against shaheed son's quota and his appointment while going through a bird eye view at a glance through his appointment letter, it is very much crystal clarified that petitioner was purely appointed on merit and on permanent bases and has never been appointed against shaheed son's quota and his termination on such grounds is far from being akin to justice to be adjudged by this honorable court as such.
- C. Because the doctrine of Locus Poenitentiae vigorously inculcates the exclusion of any adverse reaction on part of the department once even an illegal act has taken its legal field which principle on the touchstone of instant case vehemently applicable as the petitioner took charge of his duty dated 10/04/2014 as constable and since then was performing his respective duties and drawing his monthly pay with all allied allowance till the first impugned order was passed dated 22-10-2014 and his lawful appointment has taken legal effect and brushing aside his lawful duties with a wave of hand is but mockery played on the acknowledged principle of Locus Poenitentiae.

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Deputy Registrar  
16 OCT 2020

- D. Because the Petitioner (Rahat Ali) has never been appointed against shaheed son's quota and for ready reference his appointment order may be observed, while the brother of Petitioner (Jehan Ali) was appointed as PASI against shaheed son's quota being real brother of shaheed (FC Nawaz Ali) and attribution of any alleged concealment of facts to the Petitioner by the department is not just at all.
- E. Because admittedly the appointment of the petitioner to the said post was made on permanent basis and his appointment/recruitment order is evident of the fact that the appointment was never made against any reserved quota and termination of his services on the edifice of being appointed on shaheed son's quota is but misrepresentation, fraud and devastating augmentation of false and frivolous self-assumptions and presumptions.
- F. Because the act of respondents is highly discriminatory and against the plain language of Article 4 and 25 of the Constitution of the Islamic Republic of Pakistan 1973.
- G. Because the respondents are bent upon to exceed their powers and jurisdiction by enjoying their own innovation and monopoly, creating problems for the entire family of the petitioner, by giving him discriminative treatment which is unwarranted by the law of the land.
- H. Because the impugned act of the respondents is highly unjust and against the principle of Natural Justice and if allowed to remain in field then the same would perpetuate more injustice and certainly result in complete deprivation of Constitutional rights of the petitioner.
- I. Because the Petitioner has never ever been treated in accordance with law and his qualification/right has unjustly and unwisely been neglected.
- J. Because no concealment of fact has ever been proved as against petitioner on cogent reliable grounds and the false pretend of concealment of facts attributed to the petitioner by the department have the demarcation of baseless allegations to be adjudged as such.
- K. Because the acts and orders of Respondents No.3 & 2 are illegal on factual as well legal footings and as such untenable.
- L. Because gross illegality has been attributable to the respondents for their biased malafide acts of withdrawal of appointment order of the petitioner.

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16 OCT. 2020

6

M. Because Petitioner has been discriminated and un-cherished rules of favoritism and nepotism is feeble on the face of the available evidence as such which is liable to be treated as such by this honorable court.

N. That further submission with the prior permission of this honorable court would be advanced at the time of hearing the petitioner at the bar.

It is therefore humbly prayed that on acceptance of the instant writ petition, this honorable court may very graciously be pleased to;

- A. Hold and declare the first impugned order passed by the respondent No.3 dated 22/10/2019 whereby the initial appointment order as constable dated 09/04/2014, was withdrawn and the subsequent final impugned order dated 04/02/2020 passed by the respondent No.2 whereby departmental representation of the petitioner was rejected/filed as illegal, unlawful, without lawful authority, discriminatory, unjustified, unconstitutional, un-Islamic, ineffective/inoperative upon the rights of the petitioner and be set aside.
- B. Further declare the status of the petitioner as permanent and regular employee, duly appointed as constable, Belt No. 573 and be deemed as such who was regularly serving the police department since 09/04/2014 till 22/10/2019 and be allowed all the consequential back benefits, incidental upon his regular and permanent services extended to the Respondent Department.
- C. Any other remedy which deemed fit and appropriate in the circumstances of the case and not specifically prayed for may also be extended in favour of the petitioner just to meet the ends of justice.

-FILED TODAY

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16 OCT 2020

Through;

PETITIONER

Muhammad Usman Khan

Turlandi

Advocate Supreme Court

**Note:-** No such like writ petition has ever been filed before this august court as per instruction of my client.

**List of Books.**

- i) Constitution of Pakistan 1973.
- ii) Civil Servant Act 1973.
- v) Any other law Books according to need.

Dated:- 14/10/2020.

Muhammad Usman Khan

Turlandi

Advocate Peshawar.



(7)

**Before the Peshawar high court Peshawar.**

In Ref: to AWP No. \_\_\_\_\_-P/2020.

Rahat Ali, Ex-Constable Police.....VERSUS.....PPO & others.

**AFFIDAVIT.**

I, Rahat Ali, Ex-Constable Police, No. 573 and S/O Amir Sher R/O Village Naragi, Tehsil Razzarh, District Swabi, do hereby solemnly affirm and declare on oath that the contents of the accompanying writ petition are true and correct to the best of my knowledge and belief and that nothing has been kept secret or concealed therein from this august court.



**DEPONENT:**

**IDENTIFIED BY:**


CNIC No. 16204-0353479-5  
Mob - 0313-9699453




Muhammad Usman Khan  
Turlandi  
Advocate Peshawar.

16362

Certified that the above was verified on solemn affirmation before me in office this 14 day of oct 2020 by Rahat ALI s/o Amir Sher of Swabi who was identified to me by M. Usman Khan Who is personally known to me.

  
Oath Commissioner  
Peshawar High Court Peshawar  
14/10/2020

**FILED TODAY**  
  
Deputy Registrar  
16 OCT 2020

(8)

**BEFORE THE PESHAWAR HIGH COURT PESHAWAR.**

In Ref: to AWP No. \_\_\_\_\_-P/2020.

In

WP No. 1864-P/2020.

**Rahat Ali, Ex-Constable Police.....VERSUS.....PPO & others.**

**MEMO OF ADDRESSES**

**PETITIONER.**

Rahat Ali, Ex-Constable Police, No. 573 and S/O Amir Sher R/O Village Naragi, Tehsil Razzarh, District Swabi.

**VERSUS**

**RESPONDENTS:**


- 1) Provincial Police Officer (PPO), Khyber Pakhtunkhwa, Central Police Office (CPO), Peshawar.
- 2) Regional Police Officer, Mardan Range Mardan.
- 3) District Police Officer (DPO) Swabi.

**PETITIONER**

Through:



Muhammad Usman Khan  
Turlandi  
Advocate Supreme Court.

**FILED TODAY**  
  
Deputy Registrar  
16 OCT 2020

~~ANNEXURE A~~

(17) (9)

POLICE DEPARTMENT.

SWABI DISTRICT

ENLISTMENT ORDER.

Mr. Rahat Ali S/O Amir Sher R/O Narangi Police Station  
Parpoli Tehsil Kazzar District Swabi is hereby enlisted as Constable on three  
years probation in B.P.S No. 5 RS:( 5400-260-13200) on permanent basis at the  
rate of Rs. 5400/- per month with effect from 08/04/2014 and allotted  
constabulary No. 573.

This order is issued in compliance with order of Provincial  
Police Officer, Khyber Pakhtunkhwa, Peshawar vide his office Endst: No. 5153  
82/E-IV dated 20.02.2014.

Height. 5-8" 1/2

Chest. 34" x 36"

Education. 10<sup>th</sup>


Date of birth. 08.01.1995


Blood group. (A+)

Age. Year 19 Month 03 Days 00.


O.B. No. 487

dated 04-06-2014.

  
District Police Officer,  
Swabi.

  
Advocate Supreme Court  
of Pakistan. No: 5045

ATTESTED TO BE  
TRUE (COP)

  
Sd/-  
08/04/2014

قلمی دستاویز  
No: 5045

ATTACHED TO BE  
EXHIBIT COPY

International Lawyer (Islam)  
Advocate Supreme Court  
of Pakistan, No: 5045

13-4-14

*[Signature]*

*[Signature]*

Sir

13-4-14

*[Signature]*

*[Signature]*

*[Signature]*

*[Signature]*

Handwritten notes in Urdu script, including the number 487 and the date 10/5.

487

10/5

*[Signature]*

ANNEXURE  
A/I

10

Better Copy

(11)

رد 2<sup>و</sup> پولیس اسٹیشن

تعلیمی ع 20 روزانہ کی 10 <sup>4</sup>/<sub>14</sub> صلح حوالی

سجاد احمد وقت 10:05 صبح <sup>4</sup>/<sub>14</sub> 10 درج سے کم کو اول

6187  
9-4-14 03 قسمی راجہ علی ولد ایدر مشیر ساکن لاری ضلع حیدر

میں تحریک ایلبروٹ کنٹینر کی تقریبی صورت نمونہ کی کاپی نمبر 373 الٹ

لگا کر ہے۔ لہذا مذکورہ ایلبروٹ بمقام پولیس اسٹیشن

حاضر المصلی حاضر کی ایڈورٹ درج روزانہ کی صورت

تعلیمی لغو غور تکمیل ایڈورٹ دفتر OAS صاحب حوالی  
ارسال کی جائیگی

حبیب مصلی

تعلیمی لگا کر اصل ہے

10-4-14

Muhammad Usman Khan  
Tribunals  
Advocate Supreme Court  
of Pakistan. No: 5045

(19)

~~ANNEXURE~~ ANNEXURE B

**ORDER.**

In the light of application of Mst. Nargis Begum widow of Shaheed Constable Nawaz Ali No. 1098, supported by copy of revised Succession Certificate bearing No. 53/5 of 2014 decided on 30.07.2019 issued by the Senior Civil Judge/Guardian Judge Swabi wherein Mst. Anessa Begum (Minor) was declared as legal heir of Shaheed Constable Nawaz Ali and was entitled to receive share in Shaheed package and other service benefits.

The fact of birth of Mst. Anessa Begum was concealed from this department till issuance of revised Succession Certificate above and according to policy, in presence of minor child, brother of Shaheed is not entitled for appointment in Shaheed quota even if the widow has given consent in this behalf because, she is not entitled to forego right of the minor.

Therefore in the light of above, the enlistment order in respect of Mr. Rahat Ali Constable No. 573 s/o Amir Sher r/o Narangi against the post of Constable on Shaheed quota is hereby withdrawn.

His name is hereby struck off from Police Force with immediate effect.

OB No 891

Dated 22.10/2019.

District Police Officer,  
Swabi.

**OFFICE OF THE DISTRICT POLICE OFFICER, SWABI.**

No. 9726-28 /EC, dated Swabi, the 22 /10 /2019.

Copies to all concerned.

ATTACHED TO DB  
KALI COPY

*[Signature]*  
Muhammad Usman Khan  
Associate Supreme Court  
Pakistan. No: 5045

*[Signature]*  
محمد اظہار اللہ  
ڈپٹی ڈی ایچ او  
سوابی  
No: 5045

To: -

The Regional Police Officer, Mardan Region.

~~24~~ (13)

~~Annexure~~ F<sub>4</sub>

Respected Sir,


ANNEXURE C

1. It is submitted that my real brother Nawaz Ali No. 1098 was martyred on 27.01.2014.
2. I have submitted application for appointment as Constable to CPO.
3. The Provincial Police Officer, forwarded my application to DPO Swabi for appointment through Endst: No. 5153-82/E-IV dated 20.02.2014.
4. The DPO Swabi issued my appointment order as Constable vide OB No. 487 dated 09.04.2014.
5. MST Nargis Begum widow of Shaheed Constable Nawaz Ali No. 1098 given statement on stamp paper that she has no objection on the appointment of Rahat Ali real brother of Shaheed Constable.
6. The DPO Swabi struck off my name from Police Force vide OB No. 891 dated 22.10.2019 in the light of CPO Police Policy Board decision on 02.02.2017 that brother/sister of Shaheed shall not be considered for appointment as ASI where minor child of the Shaheed is available even if the widow has given consent in this behalf because she is not entitled to forgo right of the minor.
7. The DPO Swabi order regarding struck off my name is illegal because I was appointed on 09.04.2014 as Constable and not ASI, the CPO Policy was issued on 02.02.2017. moreover, I was appointed on 09.04.2014 while Anisa Begum daughter of Nawaz Ali was born on 05.08.2014. Furthermore, the CPO Policy on 02.02.2017 is not applicable retrospective effect. According to Police Act-2017 quota for appointment of Shuhada sons has not been reserved.
8. It is therefore, requested that my struck off order from Police Force issued by DPO Swabi may kindly set aside and I may very kindly be reinstated in service with all back benefits.

Yours obediently

Rahat

(RAHAT ALI)  
Ex-Constable  
District Police Swabi

  
Advocate Supreme Court  
of Pakistan. No: 5048

ORDER.

(21) (14)

ANNEXURE D  
~~ANNEXURE~~

This order will dispose-off the departmental appeal preferred by Ex-Constable Rahat Ali No. 573 of Swabi District Police against the order of District Police Officer, Swabi, whereby his name was struck off from Police Service vide District Police Officer, Swabi OB: No. 891 dated 22.10.2019. The appellant was enlisted as Constable under Shaheed quota vide District Police Officer, Swabi OB: No. 487 dated 09.04.2014. Appellant Rahat Ali No. 573 is brother of Shaheed Constable Nawaz Ali martyred vide case FIR No. 28 dated 12.01.2014 u/s 302/324/353/34 PPC/7ATA PS Swabi. The widow of Shaheed Constable applied for the Succession Certificate and the court of Senior Civil Judge Swabi issued Succession Certificate bearing No. 53/5 of 2014 vide order dated 02.04.2014, wherein widow, father and mother of Shaheed Constable were declared as legal heirs and the Shaheed Package was distributed amongst the legal heirs in the light of above Succession Certificate. After a few months of the issuance of Succession Certificate, Aneesa Begum d/o Shaheed was born, but this fact had been concealed from the Police Department for a long time and when the relationship of widow of Shaheed with her in-laws become strained, she came to know about the legal rights of her minor daughter and applied for revised Succession Certificate in the court of Senior Civil Judge Swabi. The court accepted the application and issued revised Succession Certificate vide order dated 30.07.2019 and Aneesa Begum was declared as legal heir. Her share in Shaheed package was recovered from the other heirs and deposited in the court of Senior Civil Judge Swabi vide District Police Officer, Swabi Memo: No. 627/A, dated 15.10.2019.

The widow of Shaheed submitted an application alleging therein that her brother in-law had been enlisted on Shaheed quota against her free will. The matter was enquired into and it was found that appellant Rahat Ali was enlisted as Constable in Shaheed quota. According to the policy, in presence of minor child, brother/sister is not entitled for enlistment against Shaheed quota. In the light of application of widow of Shaheed, enlistment order of appellant Rahat Ali as Constable against Shaheed quota was withdrawn vide District Police Officer, Swabi OB No. 891 dated 22.10.2019.

Feeling aggrieved from the order of District Police Officer, Swabi, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 28.01.2020.

From the perusal of record and personal hearing of appellant, it came to light that the appellant concealed the fact of legal heirs of Shaheed in the shape of his (Shaheed) minor daughter. As a result of misrepresentation and deceit, the appellant succeeded in getting himself appointed as Constable in Police Department against Shaheed quota. It is worth to add here that appellant was enlisted as Constable vide order No. 487 dated 09.04.2014 on the basis of application filed by him (appellant), wherein, he had requested in a categorical manner, that he may be appointed as Constable against

*[Handwritten signature]*

URT

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*[Handwritten signature]*




23 (15)

Shahed quota. It merits a mention here that as per decision of Police Policy Board vide Order No. 1/2013 dated 19.12.2013 "Eligible applicants for the post of ASIs on Shuhada quota who are placed on waiting list will be offered recruitment on the posts of Constables. However, they will retain their entitlement against the post of ASI as and when the vacancy occurs within 5% quota specified for Shuhada wards".

Hence, the retention of appellant Rahat Ali No. 573 as Constable against the Shaheed quota will deprive the legal heir (Aneesa minor daughter) of Shaheed of her due right. Because, if the above named daughter of Shaheed after attaining puberty, does not qualify the criteria, prescribed for enlistment of wards of Shuhads as ASI, as enunciated in Standing Order No. 5/2014, she may face hardships for her appointment as Constable for the reason that the vacancy of Constable would have already been filled by the appointment of appellant, to which she is entitled. The lawful right of the Shaheed's legal heir will, therefore, be infringed, which is not only against the principles of Islam but also against the rules and policy of Khyber Pakhtunkhwa Police in vogue. Based on the appreciation of facts stated above, the order passed by the District Police Officer, Swabi does not warrant any interference.

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

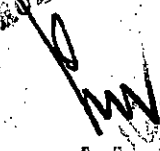
Order Announced.

  
Regional Police Officer,  
Mardan.

No. 1261 /ES, Dated Mardan the 04-02 /2020.

Copy forwarded to District Police Officer, Swabi for information and necessary w/r to his office Memo: No. 06/Insp: Legal dated 09.01.2020. His Service Record is returned herewith.

APPROVED TO BE  
TRUE COPY

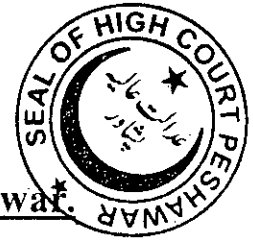
  
مخدوم مسعود  
ڈپٹی سیکریٹری  
پولیس  
نمبر: 5045



Muhammad Usman Khan  
Turlandi  
Advocate Supreme Court  
of Pakistan. No: 5045

16

3



Before the Peshawar high court Peshawar.

In Ref: to WP No. \_\_\_\_\_ -P/2020.

Rahat Ali, Ex-Police Constable, No. 573 and S/O Amir Sher R/O Village Naragi, Tehsil Razzarh, District Swabi.....PETITIONER.

VERSUS

- 1) Provincial Police Officer (PPO), Khyber Pakhtunkhwa, Central Police Office (CPO), Peshawar.
- 2) Regional Police Officer, Mardan Range Mardan.
- 3) District Police Officer (DPO) Swabi.
- 4) Mst: Nargas Widow of Nawaz Ali, Shaheed/martyred Police Constable, R/O Village Naragi, Tehsil Razzarh, District Swabi.....RESPONDENTS.

Writ Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan 1973 as amended up-to date.

PRAYERS IN WRIT PETITION:

On acceptance of this petition, this Honourable Court may very graciously:

- A) Hold and declare the first impugned order passed by the respondent No. 3 dated 22-10-2019 whereby the initial appointment order as Constable dated 09-04-2014, was withdrawn and the subsequent final impugned order dated 04-02-2020 passed by the respondent No. 2 whereby departmental representation of the petitioner was rejected/filed as illegal, unlawful, without lawful authority, discriminatory, unjustified, unconstitutional, un-Islamic, ineffective/inoperative upon the rights of the petitioner and be set-aside.
- B) Further declare the status of petitioner as permanent and regular employee, duly appointed as Constable, Belt No. 573 who is the real brother of Shaheed police employee and was regularly serving the Police department since 09-04-2014 till 22-10-2019 and by allowing all the consequential back benefits, be deemed as such.

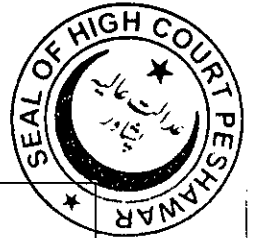
**ATTESTED**




**EXAMINER**  
Peshawar High Court

17

PESHAWAR HIGH COURT, PESHAWAR.

FORM OF ORDER SHEET



Date of Order or Proceeding	Order or other proceedings with Signature of Judge
2	3
01.10.2020	<p><b><u>W.P No. 1864-P of 2020.</u></b></p> <p><u>Present:</u> - Mr. Muhammad Usman Khan Turlandi, advocate for the petitioner.</p> <p>***</p> <p><b><u>WAQAR AHMAD SETH, CJ.</u></b>- At the very outset, learned counsel requests for withdrawal of the instant petition in order to file fresh/ amended one. May do so within a fortnight.</p> <p>Dismissed as withdrawn.</p> <p style="text-align: right;"> <b>CHIEF JUSTICE</b></p> <p style="text-align: right;"> <b>JUDGE</b></p> <p>Announced 01.10.2020</p> <p style="text-align: right;"> <b>CERTIFIED TO BE TRUE COPY</b></p> <p style="text-align: right;"><small>EXAMINER Peshawar High Court, Peshawar Authorised Under Article 87 of The Constitution of Pakistan, 1973</small> 17 OCT 2020</p>

No. 12803

Date of Presentation of Application 14/10/2020

No of Pages 3 p

Copying fee 52/-

Total 52/-

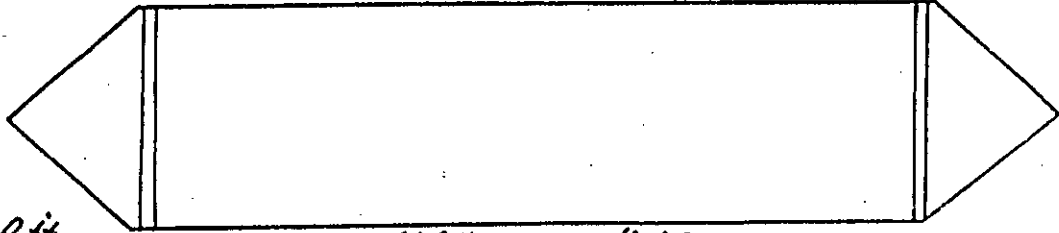
Date of Preparation of Copy 14/10/2020

Date of Delivery of copy 14/10/2020

Received By [Signature]

\*D.B\* Hon'ble Mr. Justice Waqar Ahmad Seth, CJ.  
Hon'ble Mr. Justice Muhammad Nasir Mahfooz, J.

# بعد الت عالیہ ایس ڈی کورٹ ایس ڈی



Petitioner: 2020ء منجانب

AWP No. 12020

WP No. 1864-P/2020

بنام  
سابقہ کنسٹیبل پولیس نمبر 573

PETITIONER.

مورخہ  
مقدمہ  
دعویٰ  
جرم

Respondent  
عنبر

## باعث تحریر آئندہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
آن مقام PHC کیلئے محمد عثمان خان ترلاندی  
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور  
بسورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بسورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ  
پروا ختم منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

ATTESTED  
&  
ACCEPTED

محمد عثمان خان ترلاندی  
ایس ڈی کورٹ ایس ڈی  
No. 5043

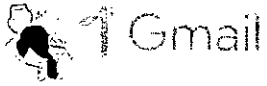
المقام 2020ء ماہ اکتوبر 2020ء

گاہ العہد

PHC بمقام کے لئے منظور ہے۔

FILED TODAY  
Deputy Registrar  
16 OCT 2020

Handwritten signature/initials.



Writ Br <phc.writbranch@gmail.com>

**WP No. 1864/2020 For submission of comments.**

1 message

Writ Br <phc.writbranch@gmail.com>

Thu, Sep 10, 2020 at 12:39 PM

To: AG <hamza.ayaz1974@gmail.com>, DAG <dagphc161@gmail.com>, "AIG Legal, CPO, Peshawar" <aiglegal11@gmail.com>, DSP Legal Peshawar <dsplegalpeshawar@gmail.com>, RPO Mardan <digmardan@gmail.com>, dposwabi@gmail.com

*Dear Sir/Madam,*

السَّلَامُ عَلَيْكُمْ ،

**URGENT COURT MATTER**

*Case file alongwith Order of this Honourable Court, is transmitted for information & necessary compliance at the earliest.*

*please acknowledge receipt of this Email.*

WRIT BRANCH (NOTICE SECTION)  
PESHAWAR HIGH COURT, PESHAWAR

2 attachments

wp1864-2020-9-9.pdf  
28K

WP1864P2020 RAHAT ALI VS PPO CF PG 23.pdf  
1322K

1/10

IN THE PESHAWAR HIGH COURT PESHAWAR



Inst # 18157

Early Hearing No. -P/2020

In in wp 1864/20

Rahat Ali Constable V /s PPO etc

Presented by Muhammad Usman Khan  
on behlaf of appellat/petitioner.

Entered in the relevant register.

Put up along with main case .....

Dated 11 JUN 2020

  
Reader

In the instant case early hearing application has been moved for the reasons mentioned therein. the case is in motion/notice.

If approved we may accelerate the case from 29/6/20 to  
..... (SB/DB)

Dated 11 JUN 2020

  
Countersigned

Dated 11 JUN 2020

  
Deputy Registrar

*put up for bail*

*13/6*

*Be fixed a/w at 1972/20 in July/August.*

*Reim*  
*15/6/20*

**Before the Peshawar high court Peshawar.**

CM No. \_\_\_\_\_-P/2020.

In

WP No. 1864 -P/2020.

**Rahat Ali, Ex- Constable.....Versus.....PPO & Others**

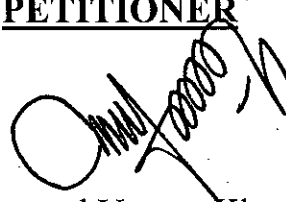
**I N D E X**

S.No.	Description of documents.	Annex	Page No.
01	CM for early hearing of the main case.	---	01
02	Affidavit.	---	02

Dated: - 11/06 /2020

**PETITIONER**

Through:-

  
Muhammad Usman Khan  
Turlandi  
Advocate Supreme Court.

**FILED TODAY**

  
Deputy Registrar

**11 JUN 2020**

Before the Peshawar high court Peshawar.

CM No. \_\_\_\_\_-P/2020.

In

WP No. 1864 -P/2020.

**Rahat Ali, Ex- Constable..... Versus..... PPO & Others**

**APPLICATION FOR FIXATION OF AN EARLY DATE OF HEARING IN  
THE ABOVE TITLED WRIT PETITION.**

**Respectfully Sheweth;**

Petitioner submits as under;-

1. That the above noted writ petition is pending in this Honourable Court and is fixed for 29/10/2020.
2. That two real brothers namely Rahat Ali and Jehan Ali were properly and duly enlisted in Police department as Constable and the other was PASI respectively in accordance with law and Government police in vogue and put their respective services for years whereas both the recruitment orders were withdrawn for no legal reason and as such both the writ petitions are pending adjudication. The sudden withdrawal of recruitment order, depriving two real brothers from services would amount to deprive them and their families from their livelihood and breathing more.


Since very short point of law is involved, hence both the connected cases require immediate fixation for an early date.

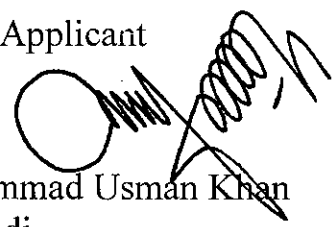
It is, therefore, requested that on acceptance of this application, an early date of hearing may kindly be fixed in the above noted Writ Petition just to meet the ends of justice.

Dated 11/06/2020

Applicant

Through;-

**FILED TODAY**  
  
Deputy Registrar  
11 JUN 2020

  
Muhammad Usman Khan  
Turlandi  
Advocate Supreme Court, of Pakistan



Before the Peshawar high court Peshawar.

CM No. \_\_\_\_\_-P/2020.

In

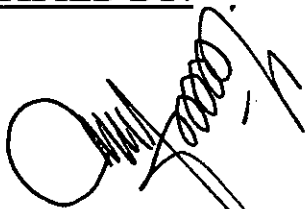
WP No. 1864 -P/2020.

**Rahat Ali, Ex- Constable..... Versus..... PPO & Others**

**AFFIDAVIT.**

I, Rahat Ali Ex-Constable, No. 573 of Swabi Police and son of Amir Sher R/O Narangi, Tehsil Razzarh and District Swabi, do hereby solemnly affirm and declare on oath that the contents of the accompanying writ petition are true and correct to the best of my knowledge and belief and that nothing has been kept secret or concealed therein from this august court.

**IDENTIFIED BY:**




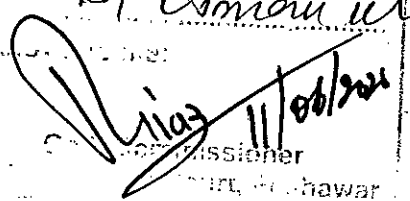
Muhammad Usman Khan  
Turlandi  
Advocate Peshawar.



**DEPONENT:**

CNIC No. 16204-0353479-5  
0313-9699453

**FILED TODAY**  
  
Deputy Registrar  
11 JUN 2020

No: <u>878</u>
Certified that the above was verified on solemnly affirmation before me in the year <u>2020</u> day of <u>Jan</u> at <u>Rahat Ali</u> s/o <u>Amir Sher</u> Tehsil <u>Swabi</u> District <u>Swabi</u> who was identified by <u>M. Usman Khan</u> who is personally known to me:  Commissioner Peshawar



Writ Br <phc.writbranch@gmail.com>

---

**WP NO. 1864/2020 For submission of comments.**

1 message

---

Writ Br <phc.writbranch@gmail.com>

Sat, Apr 25, 2020 at 12:37 PM

To: AG <hamza.ayaz1974@gmail.com>, DAG <dagphc161@gmail.com>, "AIG Legal, CPO, Peshawar" <aiglegal11@gmail.com>, DSP Legal Peshawar <dsplegalpeshawar@gmail.com>, RPO Mardan <digmardan@gmail.com>, dposwabi@gmail.com

*Dear Sir/Madam,*

السَّلَامُ عَلَيْكُمْ

## URGENT COURT MATTER


*Case file alongwith Order of this Honourable Court, is transmitted for information & necessary compliance at the earliest.*

*please acknowledge receipt of this Email.*

WRIT BRANCH (NOTICE SECTION)  
PESHAWAR HIGH COURT, PESHAWAR

---

**2 attachments**

 wp-1864 of 2020 (23.04.2020).pdf  
21K

 WP1864P2020 RAHAT ALI VS PPO CF PG 23.pdf  
1322K

**BEFORE THE PESHAWAR HIGH COURT PESHAWAR**

**CHECK LIST.**

<b>Rahat Ali Constable.....VS.....The PPO and Others.</b>		
1.	Case is duly signed.	YES <input checked="" type="checkbox"/> NO
2.	The law under which the case is preferred has been mentioned.	YES <input checked="" type="checkbox"/> NO
3.	Approved file cover is used.	YES <input checked="" type="checkbox"/> NO
4.	Affidavit is duly attested and appended.	YES <input checked="" type="checkbox"/> NO
5.	Case and annexure are properly paged/ numbered according to index.	YES <input checked="" type="checkbox"/> NO
6.	Copies of annexure are legible and attested. If not, then better copies duly attested have been annexed.	YES <input checked="" type="checkbox"/> NO
7.	Certified copies of all the requisite documents have been filed.	YES <input checked="" type="checkbox"/> NO
8.	Certificate specifying that no case on similar grounds was earlier submitted in this court, filed.	YES <input checked="" type="checkbox"/> NO
9.	Case is within time.	YES <input checked="" type="checkbox"/> NO
10.	The value for the purpose of court fee and jurisdiction has been mentioned in the relevant column.	YES <input checked="" type="checkbox"/> NO
11.	Court fee in shape of stamp paper is affixed.(for writ Rs.500, for other was required).	YES <input checked="" type="checkbox"/> NO
12.	Power of attorney is in proper form.	YES <input checked="" type="checkbox"/> NO
13.	Memo of addresses filed.	YES <input checked="" type="checkbox"/> NO
14.	List of books mentioned in the petition.	YES <input checked="" type="checkbox"/> NO
15.	The requisite number of spare copied attached.(Writ Petition-3 Nos, Civil Appeal (SB-1,DB-2) Civil Revision (SB-1,DB-2).	YES <input checked="" type="checkbox"/> NO
16.	Case (Revision/appeal/petition etc.) is filed on the prescribed form.	YES <input checked="" type="checkbox"/> NO
17.	Power of attorney is attested by jail authority (for jail prisoner only).	YES <input checked="" type="checkbox"/> NO

It is certified that formalities/documents as requires in column 2 to 18 above, have been fulfilled.

Signature. \_\_\_\_\_

Muhammad Usman Khan  
Turlandi  
Advocate Peshawar.

Date: /02/2020.

**FOR OFFICE USE ONLY.**

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

Case received. \_\_\_\_\_

Complete in all respect; Yes  /No (if Not the \_\_\_\_\_ grounds) \_\_\_\_\_

Date in court. \_\_\_\_ / \_\_\_\_ /2019

Signature. \_\_\_\_\_

(Reader)

Date \_\_\_\_ /12/ \_\_\_\_ /2019

Countersigned \_\_\_\_\_  
(Deputy Registrar)



2

**IN THE PESHAWAR HIGH COURT,  
PESHAWAR.**

Date of Filing:- 13/02/2020  
District:- Peshawar

**OPENING SHEET FOR WRIT BRANCH**

Case Type: Writ Petition Nature of Original Proceedings: \_\_\_\_\_

Category Code 

0	5	4	6		
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Review/Contempt of Court in respect of 

W. P No. 1188-P/2014
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Writ of: 

Heabus Corpus	Prohibition	Mandamus	Qua Warranto	Certiorari
------------------	-------------	----------	-----------------	------------

Form	Date	interlocutory/ Final Order

Case pertains to  
SB  
DB

Petitioner(s) Name	<u>Rahat Ali Ex-PASI</u>
Mobile No	<u>0313-9699453</u>
Addresses	<u>Narangi, Tehsil Razzarh &amp; District Swabi</u>
CNIC No	<u>16204-0353479-5</u>
Email Address	

Counsel for Petitioner(s)	<u>Muhammad Usman Khan Turlandi</u>
Mobile No	<u>0333-9153699</u>
Addresses	<u>Flat # C-1, Murad Plaza, Dalazak Road, Peshawar</u>
CNIC No	<u>17301-6004404-9</u>
Email Address	<u>usmanturlandi@gmail.com</u>

FILED TODAY

Respondents	<u>PPO KPK &amp; others</u>
Addresses	

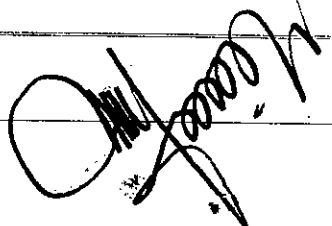
Deputy Registrar

03 MAR 2020

Original Order/ Action/ Inaction Complained of	
---	--

Prayer	<u>The final impugned order dated 31/01/2020 passed by the respondent No. 2 may be set aside whereby departmental representation of the petitioner was rejected/filed and the first impugned order dated 22-10-2019 passed by the respondent No. 3 was upheld whereby the enlistment order as constable dated 09/04/2014 in respect of the petitioner was withdrawn in consequence thereof, the petitioner may very graciously be reinstated on his post with all consequential back benefits and all allied allowances.</u>
--------	--

Law/Rules/governing the original proceedings/ action/Inaction	<u>Article 199, Constitution of Islamic Republic of Pakistan, 1973</u>
---	--

Signature:- 

**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.**

In Ref: to W.P No.: - 1864/P/2020.

**Rahat Ali, Ex-Constable Police.....VERSUS.....PPO & others.**

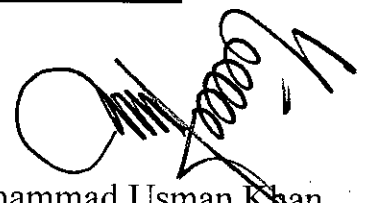
**INDEX**

S#	Description of the Documents	Annex	Pages
1.	Opening Sheet/Index		01-02
2.	Main Writ Petition	*	03-09
3.	Affidavit	*	10
4.	Addresses of Parties	*	11
5.	Copy of Succession Certificate dated 28-03-2014	"A"	12-13
6.	Copy of the Government policy dated 18/05/2007	"B"	14
7.	Copy of the appointment order dated 09-04-2014	"C"	15-17
8.	Copy of the Revised Succession Certificate dated 30-07-2019	"D"	18
9.	Copy of the impugned withdrawal order of appointment dated 22/10/2019.	"E"	19
10.	Copy of the subsequent Policy dated 02-02-2017.	"F"	20
11.	Copies of the departmental appeal.	"G"	21
12.	Copy of the final impugned Order dated 04/02/2020.	"H"	22-23
13.	Court Fee worth Rs. 500/-		24
14.	Vokalatnama		


Dated: - 28/02/2020.

**PETITIONER.**

Through:-



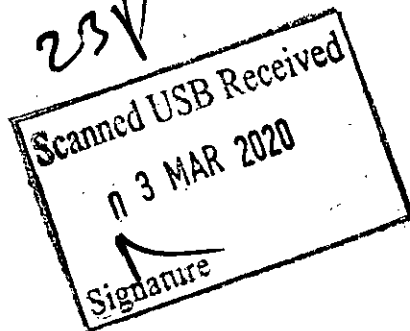
Muhammad Usman Khan  
Turlandi  
Advocate Supreme Court

&   
Tariq Aziz Khan Chamkani  
Advocate Peshawar.

FILED TODAY

Deputy Registrar

03 MAR 2020



OFFICE: Flat-C/I, Murad Plaza Dalazak Road, Peshawar City.  
Mobile # 333-9153699 \* \* \* 0300-5895841

3

**Before the Peshawar high court Peshawar.**

In Ref: to WP No. 1864-P/2020.

Rahat Ali, Ex-Police Constable, No. 573 and S/O Amir Sher R/O Village Naragi, Tehsil Razzarh, District Swabi.....**PETITIONER.**

**VERSUS**

- 1) Provincial Police Officer (PPO), Khyber Pakhtunkhwa, Central Police Office (CPO), Peshawar.
- 2) Regional Police Officer, Mardan Range Mardan.
- 3) District Police Officer (DPO) Swabi.
- 4) Mst: Nargas Widow of Nawaz Ali, Shaheed/martyred Police Constable, R/O Village Naragi, Tehsil Razzarh, District Swabi.....**RESPONDENTS.**

**Writ Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan 1973 as amended up-to date.**

**PRAYERS IN WRIT PETITION:**

On acceptance of this petition, this Honourable

Court may very graciously:

**FILED TODAY**  
**Deputy Registrar**  
**03 MAR 2020**

- A) Hold and declare the first impugned order passed by the respondent No. 3 dated 22-10-2019 whereby the initial appointment order as Constable dated 09-04-2014, was withdrawn and the subsequent final impugned order dated 04-02-2020 passed by the respondent No. 2 whereby departmental representation of the petitioner was rejected/filed as illegal, unlawful, without lawful authority, discriminatory, unjustified, unconstitutional, un-Islamic, ineffective/inoperative upon the rights of the petitioner and be set-aside.
- B) Further declare the status of petitioner as permanent and regular employee, duly appointed as Constable, Belt No. 573 who is the real brother of Shaheed police employee and was regularly serving the Police department since 09-04-2014 till 22-10-2019 and by allowing all the consequential back benefits, be deemed as such.

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**Respectfully Sheweth:**

- 1) That the petitioner is bonafide citizen of the Islamic Republic of Pakistan, Domiciled in the Province of Khyber Pakhtunkhwa and resident of village Narangi, Tehsil Razzarh, District Swabi and law abiding person having to enjoy and has every legal and constitutional rights duly protected by the command of the Constitution.
- 2) That the real brother of the Petitioner Namely Nawaz Ali while having been martyred in line of his respective duty on 12/01/2019, the widow of the Shaheed/Martyred Constable (Respondent No. 4) being issueless at that time, applied for grant of Succession Certificate and accordingly, the widow and the parents of Shaheed were declared as legal heirs vide order dated 28-03-2014, passed by the learned Senior Civil Judge Swabi and the Shaheed package was distributed amongst the declared legal heirs accordingly. (Copy of the Succession Certificate dated 28-03-2014 is annexure "A").
- 3) That the widow (Respondent No. 4) while having no objection on the recruitment of the petitioner and in furtherance of the policy promulgated by the Government of Khyber Pakhtunkhwa, vide Notification No. SO (Police)/HD/3-22/2007 dated 08/05/2007 whereas, in absence of son, the real brother of Shaheed/Martyred police employee may be recruited against 5% quota reserved for the sons of Police Shuhada, the Petitioner was recruited as constable vide order dated 09-04-2014 passed by the respondent No. 3.(Copy of the Government policy dated 18/05/2007 and appointment order dated 09-04-2014 is annexure "B" & "C" respectively).
- 4) That the petitioner was appointed as Constable and was allotted No. 573 vide D.D No. 20 dated 10-04-2014 and since then, the petitioner was regularly performing his respective duty and was regularly drawing his monthly pay and all other allied allowances for the post

FILED TODAY

Deputy Registrar

03 MAR 2020

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of Constable till 22-10-2019, the date of withdrawal of his appointment order.

- 5) That on 05-08-2014, the widow of Shaheed (Respondent No. 4) gave birth to a female baby (Mst: Aneesa Begum D/O Shaheed Constable Nawaz Ali) and in order to include her name in the Succession Certificate dated 28-03-2014 (Annexure "A"), again applied for revised Succession Certificate which was allowed vide order dated 30-07-2019 and hence, the Shaheed Package, already distributed amongst the three LRs, was withdrawn and again re-disbursed amongst the four LRs accordingly. (Copy of the revised Succession Certificate dated 30-07-2019 is annexure "D").
- 6) That on the arrival of revised Succession Certificate dated 30-07-2019, it was held by the respondent No. 3 that Mst: Aneesa Begum, minor has been declared as legal heir of Shaheed Constable Nawaz Ali and was entitle to receive share in Shaheed Package and other service benefits. The illogical conclusion, drawn to a bit of astound, the petitioner was absolved from his services and his first appointment order as Constable dated 09--04-2014 (Annexure "C"), was withdrawn on the pretext of extract from subsequent policy dated 02-02-2017 that the brother of Shaheed Constable would not be allowed to be recruited and as such the widow of a Shaheed Constable cannot forego the right of the minor. (Copy of the first impugned/withdrawal of the first appointment order, passed by the respondent No. 3 dated 22/10/2019 is and subsequent policy dated 02-02-2017 is annexure "E" & "F" respectively).
- 7) That having been aggrieved of the discriminative policy and cruel treatment of the Respondents, the Petitioner submitted departmental representation, for the redressal of his just grievances but to no avail being rejected vide final impugned order dated 04-02-2020 passed by the respondent No. 2 and hence this petition. (Copy of the

FILED TODAY  
Deputy Registrar  
03 MAR 2020



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departmental appeal and the final impugned order dated 04-02-2020 is annexure "G & "H" respectively).

- 8) That while having been rebuffed his legitimate right by the Respondents and having no ear to his Departmental Representation, the Petitioner is constrained to approach this honorable constitutional court inter-alia on the following grounds.

**GROUND S:**

- A) **Because** the petitioner was the real brother of Shaheed Constable Nawaz Ali who embraced shahadat in line of his respective duty whereas, the petitioner was recruited as Constable, allotted Belt No. 573 and since then, serving the police department with great zeal, zest and enthusiasm and no adverse remarks whatsoever has ever been assigned to him from any quarter.
- B) **Because** the Petitioner was highly deserved candidate for his due and legitimate right of appointment as Constable in furtherance to the policy supra and accordingly, he was recruited as Constable No. 573 vide order dated 09-04-2014 passed by the respondent No. 3.
- C) **Because** as per pre-requisite legal condition/ criteria given in the policy promulgated by the provincial government, the petitioner could never be denied his due appointment against the Post of Constable being qualified in all respect and aspect and particularly being the real brother of Shaheed/Martyred police employee, hence deferment of the Petitioner from his due appointment is illegal, unlawful, without lawful authority, without jurisdiction, Unconstitutional, Un-Islamic, against the law on the subject and against the natural justice.
- D) **Because** the respondent No. 3 has intentionally ignored the policy, promulgated by the Government of Khyber Pakhtunkhwa, which was running in the field at that time and only the said policy was applicable to the fate of the petitioner whereas he was recruited as Constable vide order dated 09-04-2014 passed by the respondent No. 3.
- E) **Because**, the subsequent Police Policy Board Order No. 66/2016 and Endorsement No. 194-239/PA/AIG Estt: Dated Peshawar the 02-02-2017 wherein some minor amendments were brought

FILED TODAY  
Deputy Registrar  
03 MAR 2020

regarding appointment of Shaheed's Brother/Sister as ASI having no retrospective effect, is not applicable to the case of the petitioner.

- F) **Because** the respondent No. 3 has committed gross illegality by giving retrospective effect to the subsequent policy Dated Peshawar the 02-02-2017 while passing the first impugned withdrawal order of initial appointment on the pretext that the brother of Shaheed Constable would not be allowed to be recruited and as such the widow of a Shaheed Constable cannot forego the right of the minor.
- G) **Because** in the light of the Notification/policy formulated and promulgated by the Government of Khyber Pakhtunkhwa, it is inalienable constitutional right of the petitioner to be deemed legally appointed as Constable and as such, should have been retained in service. Hence, in the present scenario, the respondent No. 3 fell into error by not accommodating the Petitioner as Constable and hence lawful/legitimate right of the Petitioner has been infringed without lawful justification.
- H) **Because** the present petitioner has been abstained from his due right of appointment which attracts the purview of surmises, conjecture and summit reluctant bemoan attitude on part of the respondents which is liable to be vehemently discouraged and declared as such.
- I) **Because** in light of the law, rules and policy promulgated by the government of Khyber Pakhtunkhwa, the Petitioner cannot be treated with a different yardstick particularly in light of Article 4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973 which ensures equality of citizens by mandating that all citizens are equal before law and are entitled to equal protection of law more so to give everyone his due.
- J) **Because** the action and inaction on part of the respondent No. 3 proclaims his own malafide which is contrary to Article 4, 25 and 27 of the Constitution.
- K) **Because** the respondent No. 3 has totally changed the entire criteria/formula set for the appointment of Shaheed's brother/sister and deprived the petitioner from his due legal right of appointment.
- L) **Because** the Petitioner has been recruited as constable dated 09/04/2014 While the impugned CPO policy was promulgated on 02/02/2017 having been later in time could not by any stretch

FILED TODAY  
Deputy Registrar  
03 MAR 2020

2

of imagination be extended to indulge Petitioner within its ambit to affect the fate of his service adversely on retrospective footings as such.

- M) **Because** the petitioner has not been dealt with in accordance with law and the terms and conditions figured in the Notifications/Policies, passed and formulated by the Government of Khyber Pakhtunkhwa on the subject matter, have very boldly been violated/ brushed-aside and bulldozed by the official respondent for the reason best known to them.
- N) **Because on** paving his illegal and illogical supposed eventuality discriminative way of withdrawing the services of the Petitioner the department having been failed to serve any notice whatsoever upon the petitioner prior to passing the impugned order and hence substantive as well as procedural law has vehemently been violated.
- O) **Because** That the doctrine of Locus Poenitentiae vigorously inculcates the exclusion of any adverse action on part of the department once even an illegal act has taken its field which principle on the touchstone of instant case vehemently applicable, as the impugned policy being later in time could not be permitted to retrospectively jeopardize the fate of the petitioner.
- P) **Because** Article 12 of the constitution of the Islamic Republic of Pakistan emphatically emphasized the Golden, acknowledged principle of universal renowned that no one could be jeopardized and punished for an act or omission retrospectively as adverse action would infer injustice even at the footings of equity and good conscience.
- Q) That further submissions will be advanced with the prior permission of this august court at the time of hearing the petitioner at the bar.

FILED TODAY

Deputy Registrar

03 MAR 2020

It is, therefore, most humbly prayed that on acceptance of this petition, this Honourable Court may very graciously:

- A) Hold and declare the first impugned order passed by the respondent No. 3 dated 22-10-2019 whereby the initial appointment order dated 09-04-2014, was withdrawn and the subsequent final impugned order dated 04-02-2020 passed by the respondent No. 2 whereby departmental representation of the petitioner was rejected/filed as illegal, unlawful, without

(9)

lawful authority, discriminatory, unjustified, unconstitutional, un-Islamic, ineffective/ inoperative upon the rights of the petitioner and be set-aside.

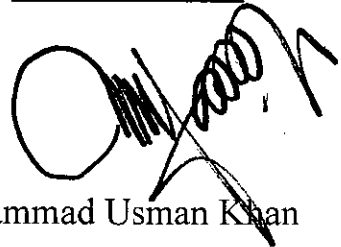
B) Further declare the status of petitioner as permanent and regular employee, duly appointed as constable being the real brother of Shaheed Police constable and by allowing all the consequential back benefits, be deemed as such.

C) Any other remedy, deemed fit and appropriate in the circumstances of the case may also be extended in favour of the petitioner just to meet the ends of justice.

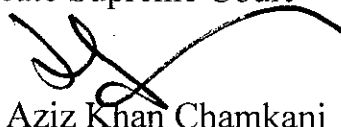
Dated: - 28/02/2020

PETITIONER

Through:-



Muhammad Usman Khan  
Turlandi  
Advocate Supreme Court  
&



Tariq Aziz Khan Chamkani  
Advocate Peshawar.

**Certificate:-**

*It is certify that no such like writ petition has earlier been filed by the Petitioner in this Honourable Court.*



Advocate.

**Note:-** *As per Notification dated 18<sup>th</sup> March, 2017 issued by the Worthy Registrar, Peshawar High Court, Peshawar, the grounds of Writ Petition along-with all appended annexures have been scanned in PDF format, while institution of this Writ Petition to avoid the certain requisitions of Scanning, this case may be treated accordingly.*



Advocate.

**List of Books:-**

1. Constitution of Islamic Republic of Pakistan 1973.
2. Case laws as per need.



Advocate.

FILED TODAY

Deputy Registrar

03 MAR 2020

10

**IN THE PESHAWAR HIGH COURT PESHAWAR.**

In Ref; to WP No. 1264/P of 2020.

Rahat Ali Constable.....**VERSUS**.....PPO KPK & Others.

**AFFIDAVIT.**

I, Rahat Ali Ex-Police Constable No. 573 Swabi Police and son of Amir Sher R/O Narangi, Tehsil Razzarh and District Swabi, do hereby solemnly affirm and declare on oath that the contents of the accompanying writ petition are true and correct to the best of my knowledge and belief and that nothing has been kept secret or concealed therein from this august court.

**IDENTIFIED BY:**



Muhammad Usman Khan  
Turlandi  
Advocate Peshawar.

Rahat  
**DEPONENT:**

CNIC No. 16204-0353479-5  
Mob - 0313-9699453

No:.....	<u>22182</u>
Certified that the above was verified on solemnly affirmation before me in office this <u>13</u> day of <u>Feb</u> <u>2020</u> <u>Rahat Ali</u> s/o <u>Amir Sher</u> (Swabi) who was identified by <u>M. Usman Khan</u> Who is personally known to me:	
<u>Amir Sher</u> Magistrate/Judicial Officer Peshawar High Court, Peshawar.	

**FILED TODAY**  
Deputy Registrar  
**03 MAR 2020**

Nadra Verified

(11)

**Before the Peshawar high court Peshawar.**

In Ref: to WP No. \_\_\_\_\_-P/2020.

Rahat Ali, Ex-Constable Police.....VERSUS.....PPO & others.

**MEMO OF ADDRESSES**

**PETITIONER.**

Rahat Ali, Ex-Constable Police, No. 573 and S/O Amir Sher R/O Village Naragi, Tehsil Razzarh, District Swabi.

**VERSUS**


**RESPONDENTS.**

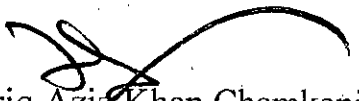
- 1) Provincial Police Officer (PPO), Khyber Pakhtunkhwa, Central Police Office (CPO), Peshawar.
- 2) Regional Police Officer, Mardan Range Mardan.
- 3) District Police Officer (DPO) Swabi.
- 4) Mst: Nargas Widow of Nawaz Ali, Shaheed/martyred Police Constable, R/O Village Naragi, Tehsil Razzarh, District Swabi.

**PETITIONER**

FILED TODAY  
Deputy Registrar  
03 MAR 2020

Through:-

  
Muhammad Usman Khan  
Turlandi  
Advocate Supreme Court

&  
  
Tariq Aziz Khan Chamkani  
Advocate Peshawar.

(18)

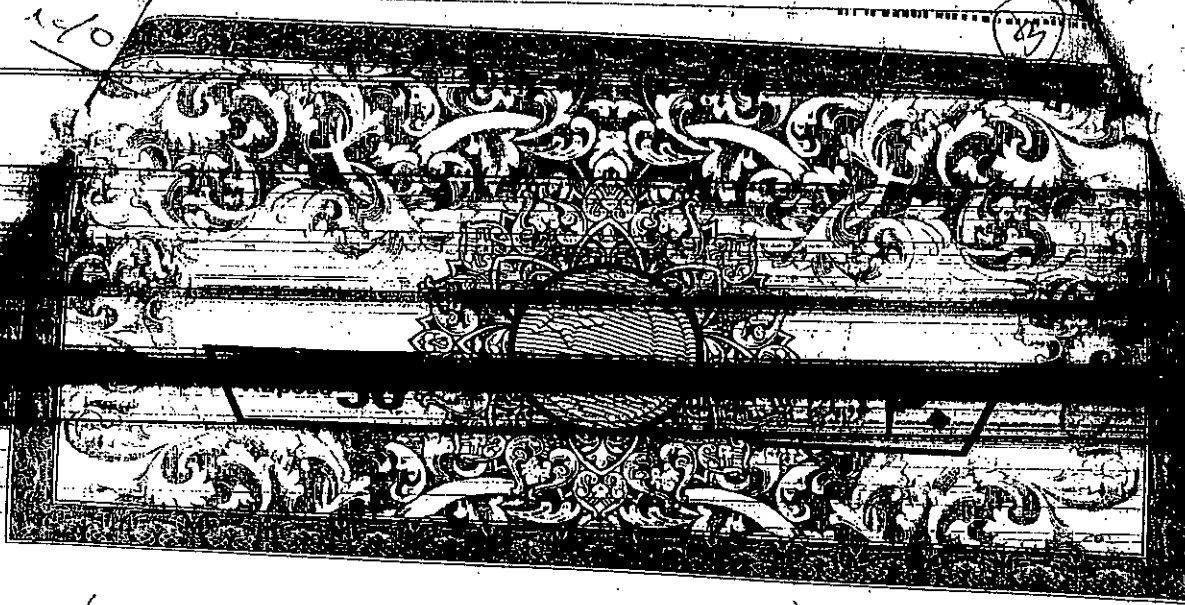
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Annex 11 D

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**IN THE COURT OF IRSHAD AHMAD KHAN**  
Senior Civil Judge/Guardian Judge, Swabi

Petition No. .... 53/5 of 2014  
Date of Institution ..... 27.02.2014  
Date of Decision ..... 28.03.2014

**SUPERINTENDENT**  
District 3 - Swabi  
28/3/2014  
District 3 - Sessions Judge  
Swabi  
(Petitioner)

**Mst. Nargus Begum Widow of Nawaz Ali (deceased)**,  
Resident of Village Naranji Mohallah Syed Khan Tehsil Razzar District Swabi.

**VERSUS**

**General Public at Large**..... (Respondents)

**TO WHOM IT MAY CONCERN**

Subject: -

**Succession Certificate In Favour Of Legal Heirs of Deceased  
Nawaz Ali S/o Amir Sher R/O village Naranji Mohallah Syed Khan  
Tehsil Razzar District Swabi.**

<b>To whom it may concern</b>	<b>Shaheed compensation amount. Other benefits and dues out standing against Police Department District Swabi Khyber Pukhtunkhwa.</b>	<b>Deceased Nawaz Ali S/O Amir Sher R/O Village Naranji Mohallah Syed Khan Tehsil Razzar District Swabi.</b>
-------------------------------	---	--

This succession certificate is granted in favour of Mst. Nargus Begum (Widow), Amir Sher S/O Izat Khan (Father), Mst. Sarvizay Bibi (Mother), of deceased Nawaz Ali S/O Amir Sher. These persons are the legal heirs of deceased above and they are entitled to receive their Shari shares in the amount/legacy of deceased named above.

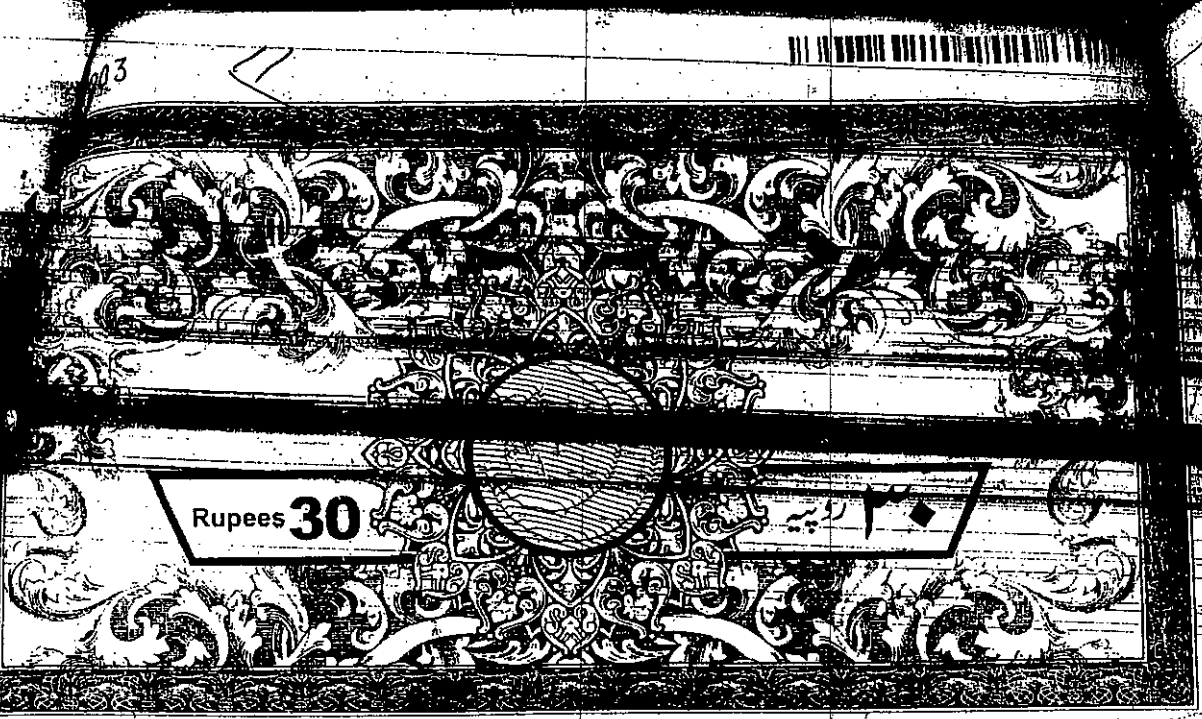
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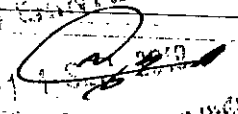
Shahed soo, so for her  
Entitlement is concerned

Handwritten notes and signatures at the bottom right corner.

(13)

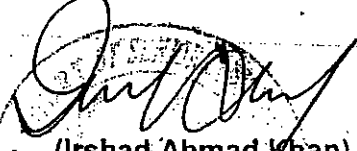


(..... Page 2 .....

  
 Senior Civil Judge  
 District Swabi

S.#	Name	Relationship	Date of birth	No of I.D Cards	Shares
1.	Mst Nargus Begum	Widow	18.08.1996	16204-0800461-2	As per law
2.	Amir Sher S/O Izat Khan	Father	01.07.1964	16202-0917701-3	As per law
3.	Mst. Sarvizay-Bibi W/O Amir Sher.	Mother	1970	16202-0867754-6	As per law

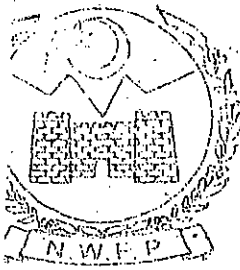
Issued under my hand and seal of the Court on 2<sup>nd</sup> Day of April, 2014.

  
 (Irshad Ahmad Khan)  
 Senior Civil Judge /Guardian Judge,  
 District Swabi

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is the legal owner of the shares concerned  
 Shahanad son, of Amir Sher  
 Entitled to the shares is concerned





GOVERNMENT OF N.W.F.P.  
HOME & T.A.S. DEPARTMENT.

90379/eb  
115

No. SO(Police)HD/3-22

Dated Peshawar, the 19/5/2007

NOTIFICATION

No.SO(Police)HD/3-22/2000 In partial modification of this department Notification of even No. dated 17/10/2003, the competent Authority i.e. Chief Minister, NWFP is pleased to approve the following substitution in the contents of notification.

The word "Shuhada Sons" may be read as "Shuhada Sons and in the absence of sons, the real brothers" wherever it appears in the said notification.

Secretary to Government of NWFP  
Home & Tribal Affairs Department

Encls: No. SO(Police)HD/3-22/2007

Dated 08/05/2007

Copy for information forwarded to:-

1. Secretary to Govt. of NWFP, E&A Department.
2. Secretary to Govt. of NWFP, Law Department.
3. Provincial Police Officer with reference to his letter No.6244/E-II dated 26/03/2007.
4. Accountant General, NWFP Peshawar.
5. Manager, Government Printing Press, Peshawar for publication in the next official gazette. He is requested to send at-least 10 copies of the same to office.

(MANZOOR HUSSA  
Section Officer (Police)  
Phone Office:-991-9211

OFFICE OF THE PROVINCIAL POLICE OFFICER,  
NWFP, PESHAWAR.

No. 18046-85 E-II, Dated Peshawar, the 30/5

Copy of above is forwarded for information and action to All Heads of Police Offices in NWFP.

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ABDUL MALIK  
Registrar  
for Provincial Police  
NWFP, Peshawar

محمد عثمان خان تراندي  
ایڈووکیٹ سپریم کورٹ آف پاکستان  
No: 5045

(15)  
POLICE DEPARTMENT.

"C"  
SWABI DISTRICT

ENLISTMENT ORDER.

Mr. Rahat Ali S/O Amir Sher R/O Narangi Police Station  
Perpoli Tehsil Razzar District Swabi is hereby enlisted as Constable on three  
years probation in B.P.S No. 5 RS:( 5400-260-13200) on permanent basis at the  
rate of Rs. 5400/- per month with effect from 08/04/2014 and allotted  
constabulary No. 573.

This order is issued in compliance with order of Provincial  
Police Officer, Khyber Pakhtunkhwa, Peshawar vide his office Endst: No. 5153  
82/E-IV dated 20.02.2014.

Height. 5-8" ½

Chest. 34" x 36"

Education. 10<sup>th</sup>


Date of birth. 08.01.1995

Blood group. (A+)


Age. Year 19 Month 03 Days 00.

O.B. No. 487

dated 04-04-2014.

  
District Police Officer,  
Swabi.

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عبدالرحمان ترائی  
01/04/2014

16

تاریخ ۱۰/۴/۱۴

پولیس مین

۱۰/۴/۱۴

۲۰۲۰ عا فری

سید افریقا و سنت ۱۰۱۵۵ ۱۰/۴/۱۴

۹۸۷ ۵۵ ۹-۴-۱۴

۳۷۳

۱۰/۴/۱۴

۱۰/۴/۱۴

۱۰/۴/۱۴

۱۰/۴/۱۴

Sir  
Jawad

Shirazi  
10-4-14

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MV  
محمد عثمان خان بلالہی  
ایڈووکیٹ  
No: 5045

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17

ردیف 2 یولین اشن

تقلید 20 روزنامه 10 <sup>4</sup>/<sub>14</sub> صلح صوابی

سجاد احمد وقت 10:05 صبح <sup>4</sup>/<sub>14</sub> 10:17 بجے کو

487  
9-4-14 03 مئی رافت علی ولد امیر شیر ساکن ناری صلح خدا

صلح حضرت ایلبرو کنٹینل کمری ہوٹل کنٹینل مگر 1373 الٹ

کنٹینل ہے۔ یہاں مذکورہ ایڈیٹورٹ محمد سادات یولین اشن

حاضر ام صلی حاضر کی یوزرٹ درجہ روزنامہ ہوٹل

تقلید لفر ضلع تکمیل ایف آر دفتر OAS صوابی  
ارسال کی جائیگی

صبا صلی

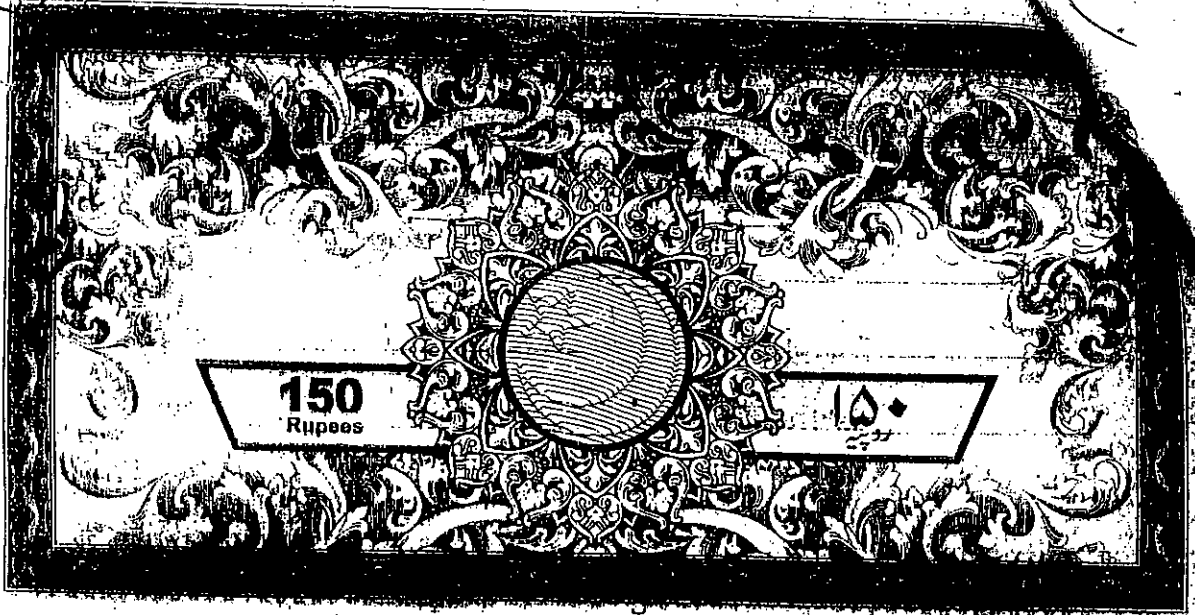
تقلید مطابق اصل ہے

10-4-14

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Annex 11-A



**IN THE COURT OF SENIOR CIVIL JUDGE/GUARDIAN JUDGE, SWABI**

Petition # 53/5 of 2014

Decided on 30-07-2019

Mst. Nargis widow of the deceased Nawaz Ali r/o Naranji, Tehsil Razar, District Swabi.....Petitioners

**VERSUS**

1.) Public at Large, 2). Amir Sher & 3). Mst. Sarvizay.....Respondents

**REVISED SUCCESSION CERTIFICATE U/S 373 ACT XXXIX, 1925**

"Issued in light of order dated 30.07.2019 passed in petition # 76/6 of 2019"

Whereas, you the above-named petitioner, have applied to this Court for the grant of succession certificate under the succession Act 1925, in respect of following debts/securities of deceased;

**Shaheed compensation amount, other service benefits/dues outstanding against Police Department District Swabi, Khyber Pakhtunkhwa**

On the basis of evidence recorded before this court, you the petitioner & respondents # 02 & 03 including Mst. Aneesa Begum, have been declared as the only legal heirs of the deceased. The application is accepted & succession certificate is hereby granted in favour of them in accordance with their Shari shares as detailed below:

S.No	NAME OF THE LEGAL HEIR	RELATION WITH DECEASED	SHARES
1	Mst. Nargis Begum	Widow	3/24
2	Mst. Aneesa Begum	Daughter (minor)	12/24
3	Amir Sher	Father	5/24
4	Mst. Sarvizay Bibi	Mother	4/24

This certificate is granted to the petitioner & respondents # 02 & 03 to empowers them to collect their above-mentioned Shari shares from the quarter concerned, whereas, share of minor Mst. Aneesa Begum be deposited in the court immediately for investment in some profitable scheme of government in her name. **Pension Rules of Department Concerned/Government, shall be observed while dealing the pension matter.**

Given under my signatures and seal of the court this 30<sup>th</sup> Day of July, 2019.

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*Muhammad Iqbal*  
**Muhammad Iqbal**

Senior Civil Judge/Guardian Judge, Swabi

مجلس أمناء جامعة الملك سعود  
الرياض - 11564

168  
27/7/4

18204-0600481-2

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*[Handwritten signature]*

ISSUED ON  
27/7/4  
HEAD OF  
SECRETARY

(19)

Annex "E"

**ORDER.**

In the light of application of Mst: Nargis Begum widow of Shaheed Constable Nawaz Ali No. 1098, supported by copy of revised Succession Certificate bearing No. 53/5 of 2014, decided on 30.07.2019 issued by the Senior Civil Judge/Guardian Judge Swabi wherein Mst: Ancesa Begum (Minor) was declared as legal heir of Shaheed Constable Nawaz Ali and was entitled to receive share in Shaheed package and other service benefits.

The fact of birth of Mst: Ancesa Begum was concealed from this department till issuance of revised Succession Certificate above and according to policy, in presence of minor child, brother of Shaheed is not entitled for appointment in Shaheed quota even if the widow has given consent in this behalf because, she is not entitled to forego right of the minor.

Therefore in the light of above, the enlistment order in respect of Mr. Rahat Ali Constable No. 573 s/o Amir Sher r/o Narangi against the said Constable on Shaheed quota is hereby withdrawn.

His name is hereby struck off from Police Force with immediate effect.

OB No 891

Dated 22.10/2019.

District Police Officer,  
Swabi.

**OFFICE OF THE DISTRICT POLICE OFFICER, SWABI.**

No. 9726-28 /EC, dated Swabi, the 22 /10 /2019.

Copies to all concerned.

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محمد عثمان خان تراندی  
ایڈووکیٹ  
پریس کورٹ آف پاکستان  
No: 5045

20



OFFICE OF THE  
THE INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
Central Police Office, Peshawar

POLICE POLICY BOARD

PPB Order No. 66/2016

Subject: Appointment of Shuhada brothers as ASIs

Reference this office Endst: No. 3085-3135 /DIG HQrs:/PA, dated 28.12.2016.

In light of the decision taken by the 26<sup>th</sup> Police Policy Board held on 1.12.2016, under the chairmanship of the Inspector General of Police, Khyber Pakhtunkhwa, Peshawar the following policy has been approved.

Deliberations were held on the issue of appointment of Shaheed brothers/ sisters as ASI and following were agreed upon :-

- 1) Brother/ sister of the Shaheed shall not be considered for appointment as ASI where minor child of the Shaheed is available, even if the widow has given consent in this behalf because she is not entitled to forego right of the minor.
2. In case widow is issueless and qualified to be recruited as ASI against shuhada quota she may forego her right in favour of shaheed brother/sister. However, in order to ensure her free will in this behalf, she will have to be accompanied by her blood relations and shall get her statement recorded in presence of the committee headed by RPO concerned.
3. If widow is issueless and is also otherwise disqualified to be recruited as ASI due to non-fulfillment of requisite criteria i.e age, education etc: the brother/sister of the shaheed will then be considered for recruitment as ASI.

All concerned are hereby directed to implement the decision in letter & spirit.

-Sd-

(NASIR KHAN DURRANT)  
Inspector General of Police  
Khyber Pakhtunkhwa Peshawar

No. 194-239 /PA/AIG Estt., dated Peshawar the 02/02/2017.

Copy of above is forwarded for information to the:-

1. All Addl: Inspectors General of Police in Khyber Pakhtunkhwa.
2. Capital City Police Officer Peshawar.
3. All DIsG of Police in Khyber Pakhtunkhwa.
4. All AIsG of Police in Khyber Pakhtunkhwa.
5. PSO to Provincial Police Officer Khyber Pakhtunkhwa Peshawar.
6. All District Police Officers in Khyber Pakhtunkhwa.
7. All Head of Police Offices in Khyber Pakhtunkhwa.
8. All Office Superintendent CPO Peshawar.

(Najeeb-ur-Rehman Bugvi)  
AIG/Establishment  
For Inspector General of Police  
Khyber Pakhtunkhwa Peshawar

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محمد عثمان خان  
ایڈیٹنگ آفیسر  
No: 5045



To: -



The Regional Police Officer, Mardan Region.

Annex "F"  
4

Respected Sir,

1. It is submitted that my real brother Nawaz Ali No. 1098 was martyred on 27.01.2014.
2. I have submitted application for appointment as Constable to CPO.
3. The Provincial Police Officer, forwarded my application to DPO Swabi for appointment through Endst: No. 5153-82/E-IV dated 20.02.2014.
4. The DPO Swabi issued my appointment order as Constable vide OB No. 487 dated 09.04.2014.
5. MST Nargis Begum widow of Shaheed Constable Nawaz Ali No. 1098 given statement on stamp paper that she has no objection on the appointment of Rahat Ali real brother of Shaheed Constable.
6. The DPO Swabi struck off my name from Police Force vide OB No. 891 dated 22.10.2019 in the light of CPO Police Policy Board decision on 02.02.2017 that brother/sister of Shaheed shall not be considered for appointment as ASI where minor child of the Shaheed is available even if the widow has given consent in this behalf because she is not entitled to forgo right of the minor.
7. The DPO Swabi order regarding struck off my name is illegal because I was appointed on 09.04.2014 as Constable and not ASI, the CPO Policy was issued on 02.02.2017. moreover, I was appointed on 09.04.2014 while Anisa Begum daughter of Nawaz Ali was born on 05.08.2014. Furthermore, the CPO Policy on 02.02.2017 is not applicable retrospective effect. According to Police Act-2017 quota for appointment of Shuhada sons has not been reserved.
8. It is therefore, requested that my struck off order from Police Force issued by DPO Swabi may kindly set aside and I may very kindly be reinstated in service with all back benefits.

Yours obediently

*Rahat Ali*

(RAHAT ALI)  
Ex-Constable  
District Police Swabi

(99)

Annex C

ORDER.

This order will dispose-off the departmental appeal preferred by Ex-Constable Rahat Ali No. 573 of Swabi District Police against the order of District Police Officer, Swabi, whereby his name was struck off from Police Service vide District Police Officer, Swabi OB: No. 891 dated 22.10.2019. The appellant was enlisted as Constable under Shaheed quota vide District Police Officer, Swabi OB: No. 487 dated 09.04.2014. Appellant Rahat Ali No. 573 is brother of Shaheed Constable Nawaz Ali martyred vide case FIR No. 28 dated 12.01.2014 u/s 302/324/353/34 PPC/7ATA PS Swabi. The widow of Shaheed Constable applied for the Succession Certificate and the court of Senior Civil Judge Swabi issued Succession Certificate bearing No. 53/5 of 2014 vide order dated 02.04.2014, wherein widow, father and mother of Shaheed Constable were declared as legal heirs and the Shaheed Package was distributed amongst the legal heirs in the light of above Succession Certificate. After a few months of the issuance of Succession Certificate, Aneesa Begum d/o Shaheed was born, but this fact had been concealed from the Police Department for a long time and when the relationship of widow of Shaheed with her in-laws become strained, she came to know about the legal rights of her minor daughter and applied for revised Succession Certificate in the court of Senior Civil Judge Swabi. The court accepted the application and issued revised Succession Certificate vide order dated 30.07.2019 and Aneesa Begum was declared as legal heir. Her share in Shaheed package was recovered from the other heirs and deposited in the court of Senior Civil Judge Swabi vide District Police Officer, Swabi Memo: No. 627/A, dated 15.10.2019.

The widow of Shaheed submitted an application alleging therein that her brother in-law had been enlisted on Shaheed quota against her free will. The matter was enquired into and it was found that appellant Rahat Ali was enlisted as Constable in Shaheed quota. According to the policy, in presence of minor child, brother/sister is not entitled for enlistment against Shaheed quota. In the light of application of widow of Shaheed, enlistment order of appellant Rahat Ali as Constable against Shaheed quota was withdrawn vide District Police Officer, Swabi OB No. 891 dated 22.10.2019.

Feeling aggrieved from the order of District Police Officer, Swabi, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 28.01.2020.

From the perusal of record and personal hearing of appellant, it came to light that the appellant concealed the fact of legal heirs of Shaheed in the shape of his (Shaheed) minor daughter. As a result of misrepresentation and deceit, the appellant succeeded in getting himself appointed as Constable in Police Department against Shaheed quota. It is worth to add here that appellant was enlisted as Constable vide order No. 487 dated 09.04.2014 on the basis of application filed by him (appellant), wherein, he had requested in a categorical manner, that he may be appointed as Constable against

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/s/

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Shaheed quota. It merits a mention here that as per decision of Police Policy Board vide order No. 1/2013 dated 19.12.2013 "Eligible applicants for the post of ASIs on Shuhada quota who are placed on waiting list will be offered recruitment on the posts of Constables. However, they will retain their entitlement against the post of ASI as and when the vacancy occurs within 5% quota specified for Shuhada wards".

Hence, the retention of appellant Rahat Ali No. 573 as Constable against the Shaheed quota will deprive the legal heir (Aneesa minor daughter) of Shaheed of her due right. Because, if the above named daughter of Shaheed after attaining puberty, does not qualify the criteria, prescribed for enlistment of wards of Shuhads as ASI, as enunciated in Standing Order No: 5/2014, she may face hardships for her appointment as Constable for the reason that the vacancy of Constable would have already been filled by the appointment of appellant, to which she is entitled. The lawful right of the Shaheed's legal heir will, therefore, be infringed, which is not only against the principles of Islam but also against the rules and policy of Khyber Pakhtunkhwa Police in vogue. Based on the appreciation of facts stated above, the order passed by the District Police Officer, Swabi does not warrant any interference.

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

Order Announced.



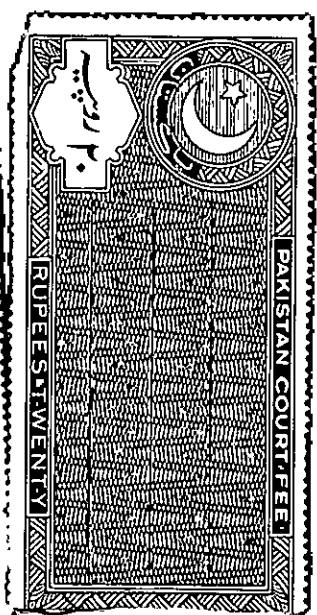
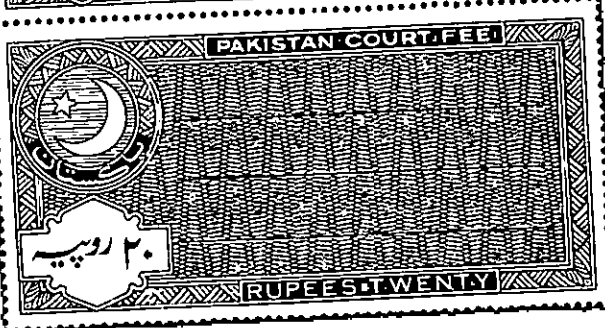
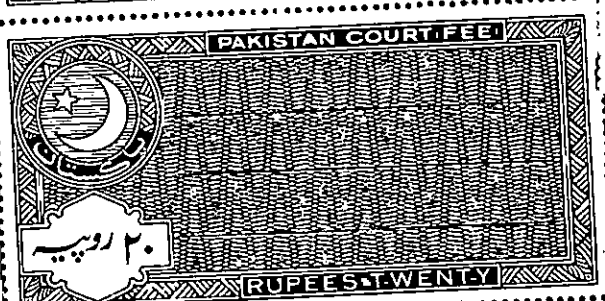
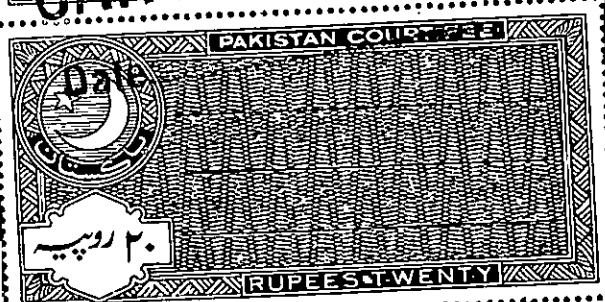
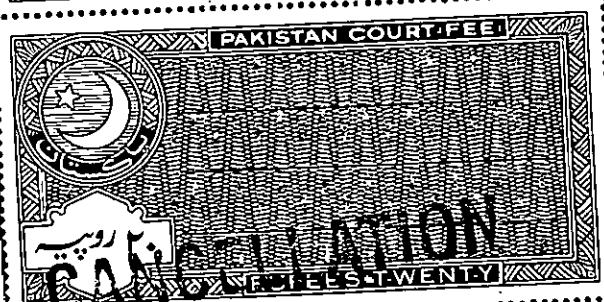
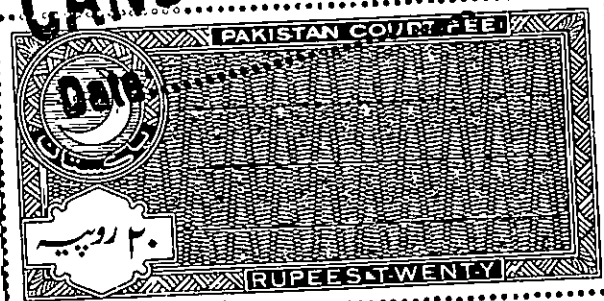
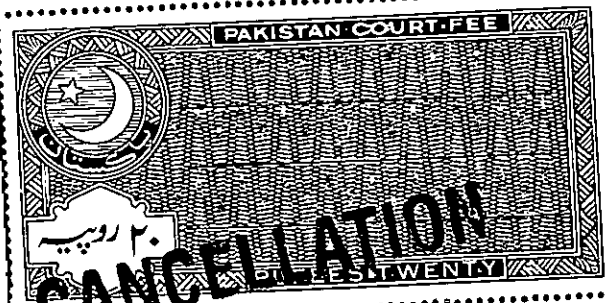
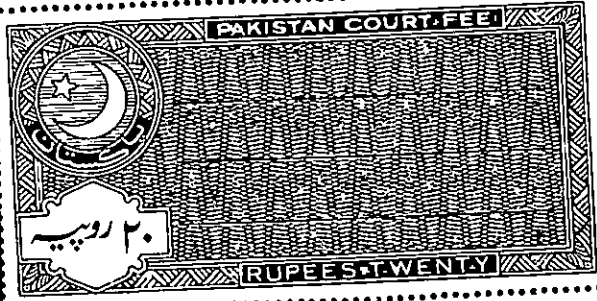
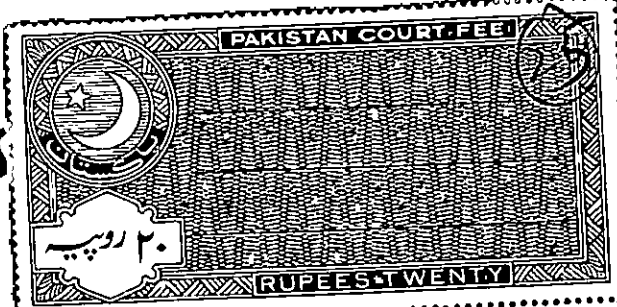
Regional Police Officer,  
Mardan.

No. 1261 /ES, Dated Mardan the 04-02 /2020.

Copy forwarded to District Police Officer, Swabi for information and necessary w/r to his office Memo: No. 06/Insp: Legal dated 09.01.2020. His Service Record is returned herewith.

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ایڈووکیٹ جنرل  
پاکستان  
No: 6046



FILED TODAY  
Deputy Registrar  
03 MAR 2020

محمد عثمان عثمان ترلاندی  
ایڈووکیٹ سپریم کورٹ آف پاکستان  
No: 5045

# وکالت نامہ

(25)

## بعدالت پشاور ہائی کورٹ پشاور

	S No	192
	BC No	bc-10-7472
	Sign	
	THIRTY RUPEES	

مورخہ WP No. 12020  
 مقدمہ  
 دعویٰ  
 جرم

2020ء منجانب سائل -  
 راج علی بنام PPO وکٹریزہ  
 سابقہ کنٹریبل پولیس بلتحرے آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطہ پیروی و جواب دہی وکل کاروائی متعلقہ  
 محمد عثمان خان ترلانندی  
 آن مقام PHC کیلئے ایڈووکیٹ سپریم کورٹ آف پاکستان  
 No: 5045

مقرر کر کے اقرار کیا جاتا ہے کہ وکیل موصوف کو مقدمہ کی کل کاروائی کا مکمل اختیار ہوگا۔ نیز  
 وکیل صاحب کو عرضی دعویٰ داخل کرنے، جواب دعویٰ، اپیل، نظر ثانی کا بھی اختیار حاصل ہوگا  
 نیز وکیل صاحب بصورت ڈگری برخلاف من اختیار دہندہ اپیل، نگرانی، نظر ثانی از عدالت ابتداء  
 تا عدالت انتہا یعنی سپریم کورٹ آف پاکستان دائر کر سکتا ہے وکیل موصوف بصورت عدم پیروی  
 کاروائی یکطرفہ یا ڈگری یکطرفہ کیخلاف درخواست دائر کر سکتا ہے اور وکیل موصوف میرے جانب

سے مقدمہ میں بصورت ڈگری چیک یا نقد روپیہ کی شکل میں وصولی کر سکے گا اور مزید یہ کہ وکیل  
 مقدمہ متذکرہ کی کل یا جزوی کاروائی کیلئے اپنی بجائے دیگر وکیل بھی اپنے ساتھ مقرر کر سکتا ہے جن  
 کو بھی وہ جملہ اختیار حاصل ہونگے جو کہ وکیل موصوف کو حاصل ہیں مجھے اس صورت میں تمام ساختہ  
 پرداختہ منظور و قبول ہوگا لہذا میں نے وکالت نامہ ہذا تحریر کر کے اس پر دستخط انشان انگشت ثبت کر دیا

FILED TODAY

Deputy Registrar

03 MAY 2020

ہے تاکہ سندر ہے۔

المرقوم 25

محمد عثمان خان ترلانندی  
 ایڈووکیٹ سپریم کورٹ آف پاکستان  
 No: 5045

کے لئے منظور ہے۔

بمقام PHC



Request (Petitioner)

**BEFORE THE PESHAWAR HIGH COURT PESHAWAR.**

*Writ Petition No. 1864-P/2020.*

Rahat Ali Ex-FC.....Petitioner.

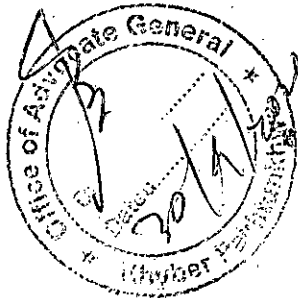
**VERSUS**

1. Inspector General of Police Khyber Pakhtunkhwa & others.....Respondents.

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1	Parawise Comments	—	01-03
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FILED TODAY  
Deputy Registrar  
30 SEP 2020



*Latool*  
*By Regal*

**BEFORE THE PESHAWAR HIGH COURT PESHAWAR.**

*Writ Petition No. 1864-P/2020.*

Rahat Ali Ex-Constable No. 573 s/o Amir Sher r/o village Narangi Tehsil Razzar Swabi.....Petitioner.

**VERSUS**

1. Inspector General of Police Khyber Pakhtunkhwa & others.....Respondents.

**PARAWISE COMMENTS BY RESPONDENTS.**

Respectfully Shewith,

**Preliminary Objections.**

1. That the petitioner is barred by his conduct to bring the instant writ petition before this Honorable Court.
2. That the petitioner failed in disclosing a valid cause of action before this Honorable Court.
3. That the petitioner is not vested with blanket immunity from the rules regulations, law, decision of the government, under the garb of fundamental rights.
4. That the petitioner has got adequate remedy in the civil/criminal courts therefore the writ petition is not maintainable under Article 199 of the Constitution 1973.
5. That the august court may refrain to entertain the instant petition as the present answering Respondents have not attributed any discrimination to the petitioner in violation of Article 4 & 25 of the constitution of the Islamic Republic of Pakistan enabling him entitled to invoke the constitutional jurisdiction of this Honorable Court.
6. That the instant Writ is premature at this stage.

**Reply on facts.**

1. Para No. 01 of petition pertains to personal information of petitioner, hence need no comments.
2. Para No. 02 of petition to the extent of Shahadat/Martyrdom of petitioner's brother namely Nawaz Ali vide FIR No. 28 dated 12.01.2014 u/s 302/324/353/34 PPC/7ATA PS Swabi is correct, however at the time of issuance of Succession Certificate, the fact of a child in the womb of widow of Shaheed was concealed from the Court as well as from the department for a long time and when the relationship of widow of Shaheed with her in-laws become strained, she came to

FILED TODAY  
  
Deputy Registrar  
30 SEP 2020

- know about the legal rights of her minor daughter and applied for revised Succession Certificate, which was accepted vide order dated 30.07.2019.
3. Para No. 03 of petition to the extent of recruitment of the wards of Shuhada's against Shaheed quota is correct, however, in presence of minor child of the Shaheed brothers/sisters are not entitled for enlistment against Shaheed quota. Moreover, widow has no right to forgo right of minor.
  4. The petitioner concealed the fact of one of the legal heirs i.e. minor daughter Aneesa Begum and got employment as a result of mis-representation/deceit as Constable against Shaheed quota.
  5. Para No. 05 of petition to the extent of birth of female baby (Mst: Aneesa Begum) and issuance of revised Succession Certificate is correct, however, petitioner concealed the birth of female child till issuance of revised Succession Certificate.
  6. Para No. 06 of petition is correct to the extent of issuance of revised Succession Certificate on the basis of which, Shaheed package already distributed amongst the legal heirs was withdrawn and against re-disbursed. However, in order to protect the rights of minor daughter, appointment order of petitioner against the post of Constable in Shaheed quota was withdrawn by respondent No. 3, while her share in Shaheed package was deposited in the Court of Senior Civil Judge, Swabi.
  7. The respondent treat the petitioner in accordance with the policy and no discrimination has been done with petitioner.
  8. That the petitioner has got no cause of action to invoke the constitutional jurisdiction of this Hon'ble Court.

**Reply on grounds.**

- A. Correct to the extent that petitioner is real brother of Shaheed Constable Nawaz Ali and recruited as Constable against Shaheed quota, however after issuance of revised Succession Certificate by the Court, wherein Mst: Aneesa Begum (minor) was declared as legal heir of Shaheed, whose share was deposited in the Court, while in order to protect rights of minor, petitioner's name was struck off from the Police Department (copy of standing order enclosed as Annexure "A").
- B. Incorrect. In presence of child of Shaheed, brother of Shaheed is not entitled for enlistment against Shaheed quota, however on account of concealment of facts/mis-representation, petitioner's name was struck off from Police Department.
- C. Incorrect. Petitioner was treated in accordance with law/rules/policy.
- D. Incorrect. Petitioner was treated according to the policy.
- E. Incorrect. The fact of birth of minor child was concealed from the department till issuance of revised Succession Certificate and petitioner as a result of mis-

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Deputy Registrar  
30 SEP 2020



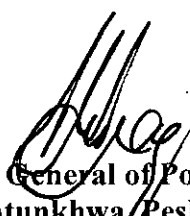
representation/deceit succeeded in getting himself appointed as Constable against Shaheed quota.


- F. Incorrect. The orders of respondents No. 3 & 2 are quite legal in accordance with the policy/rules.
- G. Incorrect. Reply already given vide paras above, however retention of petitioner as Constable against Shaheed quota will deprive the legal heir of Shaheed i.e. Aneesa Begum (minor) of her due right.
- H. Incorrect. The orders of respondents are legal in accordance with rules/policy.
- I. Incorrect. The petitioner was treated in accordance with the law.
- J. Incorrect. The order of respondent No. 3 is legal in accordance with the policy/rules.
- K. Incorrect. The respondents have protected the rights of legal heir i.e. Mst: Aneesa Begum (minor) and treated the petitioner in accordance with law.
- L. Incorrect. Reply already given vide para-E above.
- M. Incorrect. Reply already given vide paras above.
- N. Incorrect. Petitioner has been treated in accordance with law/rules/policy.
- O. Incorrect. Reply already given vide paras above.
- P. Incorrect. The orders of respondents are legal in accordance with the rules/policy.
- Q. That respondents will also raised additional grounds at the time of hearing


**PRAYERS**

Keeping in view the above stated facts it is humbly prayed that the petition may kindly be dismissed with cost being devoid of merits/legal force.

FILED TODAY  
Deputy Registrar  
30 SEP 2020

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

  
Deputy Inspector General of Police,  
Mardan Region-I, Mardan.  
(Respondent No. 2)

  
District Police Officer, Swabi.  
(Respondent No. 3)

4

**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR**

WP No.1864-P/2020

Rahat Ali Ex Constable No. 573

.....Petitioners

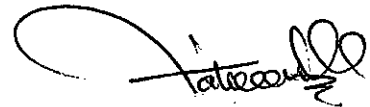
Versus

Inspector General of Police Khyber Pakhtunkhwa & others

.....Respondents

**AFFIDAVIT**

I, Faheem Khan Inspector Legal Swabi, do hereby solemnly affirm and declare on oath that the contents of the accompanying parawise comments are true and correct to the best of my knowledge and belief that nothing has been concealed from this Hon'ble Court.

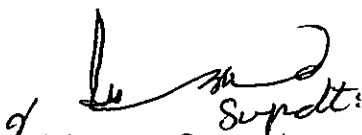


DEPONENT

13302-0379279-9

0301-8173738

Identified by



Advocate General  
Khyber Pakhtunkhwa,  
Peshawar.

No: 7105
Certified that the above was verified on solemnly affirmation before me on this 29 <sup>th</sup> day of Sep 2020 at Peshawar
s/o Inspector Legal Swabi
who was identified by A.G.
Who is personally known to me: Haz
30/9/20

FILED TODAY  
  
Deputy Registrar  
30 SEP 2020



Annexure - 8

OFFICE OF THE  
THE INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
Central Police Office, Peshawar

STANDING ORDER NO. 5/2014

The Option of Appointment as Constables of Shuhada  
Sons/Brothers Placed on the Waiting List for ASI Posts

This Standing Order is issued under Article 10(3) of Police Order 2002 in pursuance of the Police Policy Board decision taken in its 1<sup>st</sup> meeting held on 19<sup>th</sup> December 2013.

2. **Aim:-** Due to the high number of Police Shuhada, the seats of ASIs on the 5% quota allocated for Shuhada sons/brothers gets filled very quickly. Consequently, hundreds of candidates routinely wait for years for their turn to be appointed as ASIs. In most cases, candidates cross the upper age limit and hence become ineligible for appointment. It is therefore necessary that such candidates are provided an alternative opportunity.

3. **The option of appointment as Constables:-** Candidates placed on the approved waiting list for recruitment as ASIs against the 5% quota allocated for Shuhada sons/brothers shall be given the option of appointment as Constables till they could be appointed as ASIs on their turn as per the approved criteria and procedure.

4. **Appointment:-** Candidates who are willing to take the option under these provisions shall be appointed as Constables in their Districts of Domicile.

5. **Entitlement against the post of ASI:-** A candidate appointed as Constable under these provisions shall retain his entitlement/right against the post of ASI, in accordance with his merit position. This entitlement shall be mentioned in the appointment order issued under these provisions.

6. For recruitment of Shuhada sons/brothers as Constables under these provisions, the following relaxation shall apply:

- Condonation of 1 inch in height measurement;
- Condonation of 2 inches in chest measurement;
- Relaxation of 5 years in upper age limit.

7. There shall be no relaxation in the basic educational qualification in any case.

8. The merit position of candidate for the post of ASI on Shuhada quota shall be determined from the date of Shahadat of the Police officer concerned.

Approved  
14.12.13

(7)

A/1

9. **Power to remove difficulties:-** If any difficulty arises in giving effect to this order, the Provincial Police Officer may by notification make such provisions as deemed appropriate.
10. **Amendment:-** All previous Standing Orders on the subject, to the extent of the provisions of this order, shall stand amended.

(NASIR KHAN DURRANI)  
Provincial Police Officer  
Khyber Pakhtunkhwa  
Peshawar

No:- 364-427/GB dated Peshawar the 12<sup>th</sup> September 2014

Copy of the above is forwarded for information and necessary action to:

1. All Heads of Police Offices in Khyber Pakhtunkhwa;
2. PRO to PPO;
3. Registrar, CPO.

(MUBARAK ZEB) PSP  
DIG Headquarters  
Khyber Pakhtunkhwa  
Peshawar

Attended  
Jatani  
M. J. Legat

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

***Service Appeal No. 15574/2020.***

Rahat Ali Ex-Constable No. 573 s/o Amir Sher r/o village Narangi Tehsil  
Razzar Swabi.....Petitioner

**VERSUS**

Inspector General of Police Khyber Pakhtunkhwa & others.....Respondents

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①

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

***Service Appeal No. 15574/2020.***

Rahat Ali Ex-Constable No. 573 s/o Amir Sher r/o village Narangi Tehsil Razzar Swabi.....Appellant

**VERSUS**

Inspector General of Police Khyber Pakhtunkhwa & others.....Respondents

**PARAWISE COMMENTS BY RESPONDENTS.**

Respectfully Shewith,

**Preliminary Objections.**

1. That the appellant has got no cause of action and locus standi to file the present appeal.
2. That the appeal is bad due to misjoinder and nonjoinder of necessary parties.
3. That the appeal is barred by law & limitation.
4. That the appellant has not come to this Tribunal with clean hands.
5. That this Hon'ble Tribunal has got no jurisdiction to entertain the present appeal.
6. That the instant appeal is not maintainable in its present form.
7. That the appellant concealed the material facts from this Hon'ble Tribunal.
8. That the appellant has been estopped by his own conduct to file the appeal.

**Reply on facts.**

1. Para No. 01 of appeal pertains to personal information of appellant, hence need no comments.
2. Para No. 02 of appeal to the extent of Shahadat/Martyrdom of appellant's brother namely Nawaz Ali vide FIR No. 28 dated 12.01.2014 u/s 302/324/353/34 PPC/7ATA PS Swabi is correct, however at the time of issuance of Succession Certificate, the fact of a child in the womb of widow of Shaheed was concealed from the Court as well as from the department for a long time and when the relationship of widow of Shaheed with her in-laws become strained, she came to know about the legal rights of her minor daughter and applied for revised Succession Certificate, which was accepted vide order dated 30.07.2019.

3. Para No. 03 of appeal to the extent of recruitment of the wards of Shuhada's against Shaheed quota is correct, however, in presence of minor child of the Shaheed brothers/sisters are not entitled for enlistment against Shaheed quota. Moreover, widow has no right to forgo right of minor.
4. The appellant concealed the fact of one of the legal heirs i.e. minor daughter Aneesa Begum and got employment as a result of misrepresentation/deceit as Constable against Shaheed quota.
5. Para No. 05 of appeal to the extent of birth of female baby (Mst: Aneesa Begum) and issuance of revised Succession Certificate is correct, however, appellant concealed the birth of female child till issuance of revised Succession Certificate.
6. Para No. 06 of appeal is correct to the extent of issuance of revised Succession Certificate on the basis of which, Shaheed package already distributed amongst the legal heirs was withdrawn and against re-disbursed. However, in order to protect the rights of minor daughter, appointment order of appellant against the post of Constable in Shaheed quota was withdrawn by respondent No. 3, while her share in Shaheed package was deposited in the Court of Senior Civil Judge, Swabi.
7. The respondent treat the appellant in accordance with the policy and no discrimination has been done with appellant.
8. That the appellant has got no cause of action to file the above noted Service Appeal before this Hon'ble Tribunal.

**Reply on grounds.**

- A. Correct to the extent that appellant is real brother of Shaheed Constable Nawaz Ali and recruited as Constable against Shaheed quota, however after issuance of revised Succession Certificate by the Court, wherein Mst: Aneesa Begum (minor) was declared as legal heir of Shaheed, whose share was deposited in the Court, while in order to protect rights of minor, appellant's name was struck off from the Police Department (***Copy of Standing Order enclosed as Annexure "A"***).
- B. Incorrect. In presence of child of Shaheed, brother of Shaheed is not entitled for enlistment against Shaheed quota, however on account of concealment of facts/mis-representation, appellant's name was struck off from Police Department.
- C. Incorrect. Appellant was treated in accordance with law/rules/policy.
- D. Incorrect. Appellant was treated according to the policy.
- E. Incorrect. The fact of birth of minor child was concealed from the department till issuance of revised Succession Certificate and appellant


②


as a result of mis-representation/deceit succeeded in getting himself appointed as Constable against Shaheed quota.

- F. Incorrect. The orders of respondents No. 3 & 2 are quite legal in accordance with the policy/rules.
- G. Incorrect. Reply already given vide paras above, however retention of appellant as Constable against Shaheed quota will deprive the legal heir of Shaheed i.e. Aneesa Begum (minor) of her due right.
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- O. Incorrect. Reply already given vide paras above.
- P. Incorrect. The orders of respondents are legal in accordance with the rules/policy.
- Q. That respondents will also raised additional grounds at the time of hearing

**PRAYERS**

Keeping in view the above stated facts it is humbly prayed that the appeal may kindly be dismissed with cost being devoid of merits/legal force.

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

  
**Deputy Inspector General of Police,  
Mardan Region-I, Mardan.  
(Respondent No. 2)**

  
**District Police Officer, Swabi.  
(Respondent No. 3)**



(4)

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

**Service Appeal No. 15574/2020.**

Rahat Ali Ex-Constable No. 573 s/o Amir Sher r/o village Narangi Tehsil  
Razzar Swabi.....Appellant

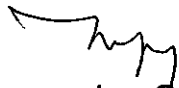
**VERSUS**

Inspector General of Police Khyber Pakhtunkhwa & others.....Respondents.

**AFFIDAVIT:-**

We the respondent No. 1 to 3 do hereby solemnly affirm and declare on oath that the contents of the written reply are correct/true to the best of our knowledge / belief and nothing has been concealed from the honorable Tribunal.

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

  
**Deputy Inspector General of Police,  
Mardan Region-I Mardan  
(Respondent No. 2)**

  
**District Police Officer Swabi,  
(Respondent No. 3)**



OFFICE OF THE  
THE INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
Central Police Office: Peshawar

**STANDING ORDER NO. 5/2014**

**The Option of Appointment as Constables of Shuhada  
Sons/Brothers Placed on the Waiting List for ASI Posts**

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2. **Aim:-** Due to the high number of Police Shuhada, the seats of ASIs on the 5% quota allocated for Shuhada sons/brothers gets filled very quickly. Consequently, hundreds of candidates routinely wait for years for their turn to be appointed as ASIs. In most cases, candidates cross the upper age limit and hence become ineligible for appointment. It is therefore necessary that such candidates are provided an alternative opportunity.

3. **The option of appointment as Constables:-** Candidates placed on the approved waiting list for recruitment as ASIs against the 5% quota allocated for Shuhada sons/brothers shall be given the option of appointment as Constables till they could be appointed as ASIs on their turn as per the approved criteria and procedure.

4. **Appointment:-** Candidates who are willing to take the option under these provisions shall be appointed as Constables in their Districts of Domicile.

5. **Entitlement against the post of ASI:-** A candidate appointed as Constable under these provisions shall retain his entitlement/right against the post of ASI, in accordance with his merit position. This entitlement shall be mentioned in the appointment order issued under these provisions.

6. For recruitment of Shuhada sons/brothers as Constables under these provisions, the following relaxation shall apply:

- a) Condonation of 1 inch in height measurement;
- b) Condonation of 2 inches in chest measurement;
- c) Relaxation of 5 years in upper age limit.

7. **There shall be no relaxation in the basic educational qualification in any case.**

8. The merit position of candidate for the post of ASI on Shuhada quota shall be determined from the date of Shahadat of the Police officer concerned.

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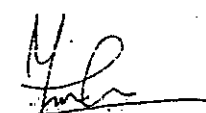
9. Power to remove difficulties:- If any difficulty arises in giving effect to this order, the Provincial Police Officer may by notification make such provisions as deemed appropriate.
10. Amendment:- All previous Standing Orders on the subject, to the extent of the provisions of this order, shall stand amended.

(NASIR KHAN DURRANI)  
Provincial Police Officer  
Khyber Pakhtunkhwa  
Peshawar

No:- 364-427/GB dated Peshawar the 12<sup>th</sup> September 2014

Copy of the above is forwarded for information and necessary action to:

1. All Heads of Police Offices in Khyber Pakhtunkhwa;
2. PRO to PPO;
3. Registrar CPO.

  
(MUBARAK ZEB) PSP  
DIG Headquarters  
Khyber Pakhtunkhwa  
Peshawar

①

**BEFORE THE PESHAWAR HIGH COURT PESHAWAR.**

In Ref: to AWP No. 15574-P/2020.

In

WP No. 1864-P/2020.

**Rahat Ali, Ex-Constable Police.....VERSUS.....PPO & others.**

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6.	Copy of the appointment withdrawal order.	"B"	12-12/A
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8.	Copy of the final impugned order dated 31-01-2020	"D"	14-15
9.	Permission dated 01-10-2020 for withdrawal of WP	"E"	16-17

PETITIONER

Through;

RE-FILED TODAY

Deputy Registrar

19 OCT 2020

Dated; 14/10/2020.

Muhammad Usman Khan  
Turlandi  
Advocate Peshawar.

**OFFICE: Flat # C-1 Haji Murad Plaza, Opp: Bank of Punjab, Dalazak Road, Peshawar.**

**Cell# 0333-9153699 \*\*\* 0300-5895841**

-FILED TODAY

Deputy Registrar

16 OCT 2020

# IN THE PESHAWAR HIGH COURT, PESHAWAR.

## OPENING SHEET FOR WRIT BRANCH

Date of Filing:- 18/10/2020  
District:- Peshawar

Case Type: Writ Petition

Nature of Original Proceedings: \_\_\_\_\_

Category Code

0 5 4 6

Review/Contempt of Court in respect of \_\_\_\_\_

Writ of:

Heabus  
Corpus

Prohibition

Mandamus

Qua  
Warranto

Certiorari

Form.	Date	interlocutory/ Final Order

Case pertains to  
SB  
DB

Petitioner(s) Name	<u>Rahat Ali Ex-Police Constable No. 573</u>
Mobile No	<u>0313-9699453</u>
Addresses	<u>Village Naragi, Tehsil Razzarh District Swabi</u>
CNIC No	<u>16204-0353479-5</u>
Email Address	

Counsel Petitioner(s) for	<u>Muhammad Usman Khan Turlandi</u>
Mobile No	<u>0333-9153699</u>
Addresses	<u>Flat # C-1, Murad Plaza, Dalazak Road, Peshawar</u>
CNIC No	<u>17301-6004404-9</u>
Email Address	<u>usmanturlandi@gmail.com</u>

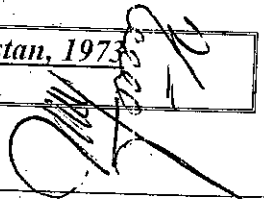
Respondents	<u>Provincial Police officer KP, KP &amp; others</u>
Addresses	<u>Peshawar</u>

Original Order/ Action/ Inaction Complained of	
---	--

Prayer	<u>The final impugned order dated 04/02/2020 passed by the respondent No. 2, may be set aside whereby departmental representation of the petitioner was rejected/filed and the first impugned order dated 22/10/2019 passed by the respondent No. 3 was upheld whereby the enlistment order as constable dated 09/04/2014 in respect of the petitioner was withdrawn and in consequence thereof, the petitioner may very graciously be reinstated on his parent post with all consequential back benefits and all allied allowances.</u>
--------	--

Law/Rules/governing the original proceedings/ action/Inaction	<u>Article 199, Constitution of Islamic Republic of Pakistan, 1973</u>
---	--

Signature:-



RE-FILED TODAY

Deputy Registrar

19 OCT 2020

(2)

**BEFORE THE PESHAWAR HIGH COURT PESHAWAR.**

15574

In Ref: to AWP No. \_\_\_\_\_-P/2020.

In

WP No. 1864-P/2020.

Rahat Ali, Ex-Police Constable, No. 573 and S/O Amir Sher R/O Village Naragi, Tehsil Razzarh, District Swabi.....**PETITIONER.**

**VERSUS**

- 1) Provincial Police Officer (PPO), Khyber Pakhtunkhwa, Central Police Office (CPO), Peshawar.
- 2) Regional Police Officer, Mardan Range Mardan.
- 3) District Police Officer (DPO) Swabi.....**RESPONDENTS.**

Amended Writ Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan 1973 as amended up-to date.

**PRAYERS IN WRIT PETITION:**

On acceptance of this amended petition, the final impugned order dated 04-02-2020 passed by the respondent No. 2 may be set-aside whereby departmental representation of the petitioner was rejected/filed and the first impugned order dated 22-10-2019 passed by the respondent No. 3 was upheld whereby the enlistment order as Constable dated 09-04-2014 in respect of the petitioner was withdrawn and in consequence thereof, the petitioner may very graciously be reinstated on his parent post with all consequential back benefits and all allied allowances.

**Respectfully Sheweth:**

- 1) That the petitioner is bonafide citizen of the Islamic Republic of Pakistan, Domiciled in the Province of Khyber Pakhtunkhwa and resident of village Narangi, Tehsil Razzarh, District Swabi and law abiding person having to enjoy every legal and constitutional rights duly protected by the command of the Constitution.

-FILED TODAY  
Deputy Registrar  
16 OCT. 2020

3

- 2) That the petitioner being educationally qualified, physically fit/sound and eligible in all respect and aspect as per requisite criteria was duly recruited/appointed as Constable (BPS-5) on regular basis and was allotted Constabulary No. 573 vide order date 09-04-2014 passed by the respondent No. 3 and since then, the petitioner was regularly serving and drawing his monthly pay and all other allied allowances as admissible for the post of Constable till the original first impugned order was passed. (Copy of the first recruitment/appointment order vide OB No. 487 dated 09-04-2014 and subsequent Naqalmad No. 20 dated 10-04-2014 is annexure "A" & "A/1" respectively).
- 3) That on the arrival of revised Succession Certificate dated 30-07-2019, it was held by the respondent No. 3 that Mst: Aneesa Begum, minor has been declared as legal heir of Shaheed Constable Nawaz Ali and was entitle to receive share in Shaheed Package and other service benefits. The illogical conclusion, drawn to a bit of astound, and the first recruitment/appointment order of the petitioner as Constable dated 09-04-2014 (Annexure "A" & "A/1") was withdrawn illegally in quite random on whimsical/capricious and unpredictable grounds by the respondent No. 3. (Copy of the appointment withdrawal order is annexure "B")
- 4) That having been aggrieved of the discriminative policy and cruel treatment of the Respondent No. 3, the Petitioner submitted departmental representation, for the redressal of his grievances but to no avail which was rejected vide final impugned order dated 31-01-2020 passed by the respondent No. 2 and hence this petition. (Copy of the departmental appeal and the final impugned order dated 31-01-2020 is annexure "C & "D" respectively).
- 5) That the WP No. 1864-P/2020 was earlier filed before this august Court wherein some assertions were inadvertently vocaled having the credit to be omitted being misrepresentation on both factual and legal pedestal which could have had the capacity to led the court astray and

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Deputy Registrar  
16 OCT. 2020

④

hence this amended writ petition. (Copy of permission dated 01-10-2020 for withdrawal is annexure "E").

- 6) That while having been rebuffed the legitimate right by the Respondents and having no ear to his Departmental Representation, the Petitioner is constrained to approach this honorable constitutional court inter-alia on the following grounds.

**G R O U N D S:**

- A. Because no explanation, no Show-Cause notice have ever been served upon the petitioner and no regular enquiry has ever been conducted and hence both the impugned orders are illegal, unlawful, without lawful authority, arbitrary, void ab-initio, un-Constitutional, Un-Islamic, against the norms of natural justice and against the law on the subject.
- B. Because the Petitioner has never claimed any rights against shaheed son's quota and his appointment while going through a bird eye view at a glance through his appointment letter, it is very much crystal clarified that petitioner was purely appointed on merit and on permanent bases and has never been appointed against shaheed son's quota and his termination on such grounds is far from being akin to justice to be adjudged by this honorable court as such.
- C. Because the doctrine of Locus Poenitentiae vigorously inculcates the exclusion of any adverse reaction on part of the department once even an illegal act has taken its legal field which principle on the touchstone of instant case vehemently applicable as the petitioner took charge of his duty dated 10/04/2014 as constable and since then was performing his respective duties and drawing his monthly pay with all allied allowance till the first impugned order was passed dated 22-10-2014 and his lawful appointment has taken legal effect and brushing aside his lawful duties with a wave of hand is but mockery played on the acknowledged principle of Locus Poenitentiae.

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(5)

- D. Because the Petitioner (Rahat Ali) has never been appointed against shaheed son's quota and for ready reference his appointment order may be observed, while the brother of Petitioner (Jehan Ali) was appointed as PASI against shaheed son's quota being real brother of shaheed (FC Nawaz Ali) and attribution of any alleged concealment of facts to the Petitioner by the department is not just at all.
- E. Because admittedly the appointment of the petitioner to the said post was made on permanent basis and his appointment/recruitment order is evident of the fact that the appointment was never made against any reserved quota and termination of his services on the edifice of being appointed on shaheed son's quota is but misrepresentation, fraud and devastating augmentation of false and frivolous self-assumptions and presumptions.
- F. Because the act of respondents is highly discriminatory and against the plain language of Article 4 and 25 of the Constitution of the Islamic Republic of Pakistan 1973.
- G. Because the respondents are bent upon to exceed their powers and jurisdiction by enjoying their own innovation and monopoly, creating problems for the entire family of the petitioner, by giving him discriminative treatment which is unwarranted by the law of the land.
- H. Because the impugned act of the respondents is highly unjust and against the principle of Natural Justice and if allowed to remain in field then the same would perpetuate more injustice and certainly result in complete deprivation of Constitutional rights of the petitioner.
- I. Because the Petitioner has never ever been treated in accordance with law and his qualification/right has unjustly and unwisely been neglected.
- J. Because no concealment of fact has ever been proved as against petitioner on cogent reliable grounds and the false pretend of concealment of facts attributed to the petitioner by the department have the demarcation of baseless allegations to be adjudged as such.
- K. Because the acts and orders of Respondents No.3 & 2 are illegal on factual as well legal footings and as such untenable.
- L. Because gross illegality has been attributable to the respondents for their biased malafide acts of withdrawal of appointment order of the petitioner.

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16 OCT 2020

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M. Because Petitioner has been discriminated and un-cherished rules of favoritism and nepotism is feeble on the face of the available evidence as such which is liable to be treated as such by this honorable court.

N. That further submission with the prior permission of this honorable court would be advanced at the time of hearing the petitioner at the bar.

It is therefore humbly prayed that on acceptance of the instant writ petition, this honorable court may very graciously be pleased to;

- A. Hold and declare the first impugned order passed by the respondent No.3 dated 22/10/2019 whereby the initial appointment order as constable dated 09/04/2014, was withdrawn and the subsequent final impugned order dated 04/02/2020 passed by the respondent No.2 whereby departmental representation of the petitioner was rejected/filed as illegal, unlawful, without lawful authority, discriminatory, unjustified, unconstitutional, un-Islamic, ineffective/inoperative upon the rights of the petitioner and be set aside.
- B. Further declare the status of the petitioner as permanent and regular employee, duly appointed as constable, Belt No. 573 and be deemed as such who was regularly serving the police department since 09/04/2014 till 22/10/2019 and be allowed all the consequential back benefits, incidental upon his regular and permanent services extended to the Respondent Department.
- C. Any other remedy which deemed fit and appropriate in the circumstances of the case and not specifically prayed for may also be extended in favour of the petitioner just to meet the ends of justice.

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16 OCT 2020

Through;

PETITIONER

Muhammad Usman Khan

Turlandi

Advocate Supreme Court

**Note:-** No such like writ petition has ever been filed before this august court as per instruction of my client.

**List of Books.**

- i) Constitution of Pakistan 1973.
- ii) Civil Servant Act 1973.
- v) Any other law Books according to need.

Dated:- 14/10/2020.

Muhammad Usman Khan

Turlandi

Advocate Peshawar.

7

Before the Peshawar high court Peshawar.

In Ref: to AWP No. \_\_\_\_\_ -P/2020.

Rahat Ali, Ex-Constable Police.....VERSUS.....PPO & others.

AFFIDAVIT.

I, Rahat Ali, Ex-Constable Police, No. 573 and S/O Amir Sher R/O Village Naragi, Tehsil Razzarh, District Swabi, do hereby solemnly affirm and declare on oath that the contents of the accompanying writ petition are true and correct to the best of my knowledge and belief and that nothing has been kept secret or concealed therein from this august court.

IDENTIFIED BY:

Muhammad Usman Khan  
Turlandi  
Advocate Peshawar.

DEPONENT:

CNIC No. 16204-0353479-5  
Mob - 0313-9699453

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Deputy Registrar  
16 OCT 2020

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Dependent that the contents were verified on solemn affirmation before me in office this 14<sup>th</sup> day of Oct 20<sup>th</sup> 2020 at Rahat Ali Swabi who was identified by M. Usman Khan who is personally known to me.

Commissioner  
Peshawar District Court  
14/10/2020

(8)

**BEFORE THE PESHAWAR HIGH COURT PESHAWAR.**

In Ref: to AWP No. \_\_\_\_\_-P/2020.

In

WP No. 1864-P/2020.

**Rahat Ali, Ex-Constable Police.....VERSUS.....PPO & others.**

**MEMO OF ADDRESSES**

**PETITIONER.**

Rahat Ali, Ex-Constable Police, No. 573 and S/O Amir Sher R/O Village Naragi, Tehsil Razzarh, District Swabi.

**VERSUS**

**RESPONDENTS:**

- 1) Provincial Police Officer (PPO), Khyber Pakhtunkhwa, Central Police Office (CPO), Peshawar.
- 2) Regional Police Officer, Mardan Range Mardan.
- 3) District Police Officer (DPO) Swabi.

**PETITIONER**

Through:



Muhammad Usman Khan  
Turlandi  
Advocate Supreme Court.

**FILED TODAY**  
  
Deputy Registrar

16 OCT 2020

ANNEXURE A

(17) (9)

POLICE DEPARTMENT.

SWABI DISTRICT

ENLISTMENT ORDER.

Mr. Rahat Ali S/O Amir Sher R/O Narangi Police Station  
Perpohli Tehsil Jazzar District Swabi is hereby enlisted as Constable on three  
years probation in B.P.S No. 5 RS:( 5-00-260-13200) on permanent basis at the  
rate of Rs. 5400/- per month with effect from 08/04/2014 and allotted  
constabulary No. 573.

This order is issued in compliance with order of Provincial  
Police Officer, Khyber Pakhtunkhwa, Peshawar vide his office Endst: No. 5153  
82/E-IV dated 20.02.2014.

Height. 5-8" 1/2

Chest. 34" x 36"

Education. 10<sup>th</sup>


Date of birth. 08.01.1995


Blood group. (A+)

Age. Year 19 Month 03 Days 00.


O.B. No. 487

dated 01-02 /2014.

  
District Police Officer,  
Swabi.

  
Advocate Supreme Court  
of Pakistan. No: 5045

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سید محمد علی  
08/04/2014

ANNEXURE A/I

10

10/4/14

10/4/14

10/4/14

10/4/14

سجاد افریقہ صحت 10:05 10/4/14 10/4/14  
487  
9-4-14  
373  
10/4/14

10/4/14  
10-4-14

Sir  
10-4-14

Advocate Supreme Court  
No. 5045

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10/4/14  
No. 5045

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(11) (16)

نمبر 20 پولیس اسٹیشن

تعلیم بر 20 روز نامہ 10/4/14 صلع حوالی

سجاد احمد وقت 10:05 صبح 10/4/14 درج سے نم کچوالہ

187/9-4-14 03 قسٹی رافت علی ولہ اور امیر شہیر ساکن کلائی صلع حوالہ

صلح حوالہ کی ایک کاپی پیش کی گئی ہے جس کی کاپی نمبر 1373 الٹ

کلیں ہے۔ لہذا مذکورہ ایک رپورٹ نمبر 10/4/14 پولیس اسٹیشن


حاضر ام علی حاضر کی رپورٹ درجہ روز نامہ کچوالہ

تعلیم بر لغرض تکمیل ایف آر ڈی دفتر OHS حوالہ

صلع حوالی

نقل علی ایف آر ڈی

10-4-14

  
Muhammad Usman Khan  
Advocate Supreme Court  
of Pakistan. No: 5045

(19)

~~ANNEXURE A~~  
ANNEXURE B

**ORDER.**

In the light of application of Mst. Nargis Begum widow of Shaheed Constable Nawaz Ali No. 1098, supported by copy of revised Succession Certificate bearing No. 53/5 of 2014 decided on 30.07.2019 issued by the Senior Civil Judge/Guardian Judge Swabi wherein Mst. Anessa Begum (Minor) was declared as legal heir of Shaheed Constable Nawaz Ali and was entitled to receive share in Shaheed package and other service benefits.

The fact of birth of Mst. Anessa Begum was concealed from this department till issuance of revised Succession Certificate above and according to policy, in presence of minor child, brother of Shaheed is not entitled for appointment in Shaheed quota even if the widow has given consent in this behalf because, she is not entitled to forego right of the minor.

Therefore in the light of above, the enlistment order in respect of Mr. Rshat Ali Constable No. 573 s/o Anair Sher r/o Narangi against the post of Constable on Shaheed quota is hereby withdrawn.

His name is hereby struck off from Police Force with immediate effect.

DB No 891

Dated 22.10/2019.

District Police Officer,  
Swabi.

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

No. 9726-28 /EC, dated Swabi, the 22 /10 /2019.

Copies to all concerned.

*[Signature]*  
Munir Ahmad Usman Khan  
Federal Supreme Court  
Islamabad, No: 5045

RECEIVED SC DB  
10/20/19  
*[Signature]*  
No: 5045



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(12-A)

**ORDER**

In the light of application of Mst: Nargis Begum widow of Shaheed Constable Nawaz Ali No. 1098, supported by a copy of revised Succession Certificate bearing No. 53/5 of 2014 decided on 30-07-2019 issued by the Senior Civil Judge/Guardian Judge Swabi wherein Mst Aneesa Begum (Minor) was declared as legal heir of Shaheed Constable Nawaz Ali and was entitled to receive share in Shaheed package and other service benefits.

The fact of birth of Mst Aneesa Begum was concealed from this Department till issuance of revised Succession Certificate above and according to Policy, in presence of minor child, the brother of Shaheed is not entitled for appointment in Shaheed quota even if the widow has given consent in this behalf because, she is not entitled to forego right of the minor.

Therefore in the light of above, the enlistment order in respect of Mr. Rahat Ali Constable No. 573 S/O Amir Sher R/O Narangi against the post of Constable on Shaheed quota is hereby withdrawn.

His name is hereby struck off from Police force with immediate effect.

OB No. 8791

Dated: 22-10 2019

Sd/-  
District Police Officer  
Swabi.


**OFFICE OF THE DISTRICT POLICE OFFICER SWABI.**

No. 9726-28/EC,

Dated Swabi, the 22-10-2019

Copies to all concerned.

Sd/-  
District Police Officer  
Swabi.

  
M. Iqbal Khan  
Tufan  
Advocate Supreme Court  
of Pakistan. No: 5045

To: -

The Regional Police Officer, Mardan Region.

~~2A/11~~ (13)

~~Annexure F~~

Respected Sir,

ANNEXURE C

1. It is submitted that my real brother Nawaz Ali No. 1098 was martyred on 27.01.2014.
2. I have submitted application for appointment as Constable to CPO.
3. The Provincial Police Officer, forwarded my application to DPO Swabi for appointment through Endst: No. 5153-82/E-IV dated 20.02.2014.
4. The DPO Swabi issued my appointment order as Constable vide OB No. 487 dated 09.04.2014.
5. MST Nargis Begum widow of Shaheed Constable Nawaz Ali No. 1098 given statement on stamp paper that she has no objection on the appointment of Rahat Ali real brother of Shaheed Constable.
6. The DPO Swabi struck off my name from Police Force vide OB No. 891 dated 22.10.2019 in the light of CPO Police Policy Board decision on 02.02.2017 that brother/sister of Shaheed shall not be considered for appointment as ASI where minor child of the Shaheed is available even if the widow has given consent in this behalf because she is not entitled to forgo right of the minor.
7. The DPO Swabi order regarding struck off my name is illegal because I was appointed on 09.04.2014 as Constable and not ASI, the CPO Policy was issued on 02.02.2017. moreover, I was appointed on 09.04.2014 while Anisa Begum daughter of Nawaz Ali was born on 05.08.2014. Furthermore, the CPO Policy on 02.02.2017 is not applicable retrospective effect. According to Police Act-2017 quota for appointment of Shuhada sons has not been reserved.
8. It is therefore, requested that my struck off order from Police Force issued by DPO Swabi may kindly set aside and I may very kindly be reinstated in service with all back benefits.

Yours obediently

*Rahat Ali*

(RAHAT ALI)  
Ex-Constable  
District Police Swabi

*[Signature]*  
Advocate Supreme Court  
of Pakistan. No. 5045

ORDER.

(27) (14)

~~ANNEXURE~~ D  
~~Annex~~ C-1

This order will dispose-off the departmental appeal preferred by Ex-Constable Rahat Ali No. 573 of Swabi District Police against the order of District Police Officer, Swabi, whereby his name was struck off from Police Service vide District Police Officer, Swabi OB: No. 891 dated 22.10.2019. The appellant was enlisted as Constable under Shaheed quota vide District Police Officer, Swabi OB: No. 487 dated 09.04.2014. Appellant Rahat Ali No. 573 is brother of Shaheed Constable Nawaz Ali martyred vide case FIR No. 28 dated 12.01.2014 u/s 302/324/353/34 PPC/7ATA PS Swabi. The widow of Shaheed Constable applied for the Succession Certificate and the court of Senior Civil Judge Swabi issued Succession Certificate bearing No. 53/5 of 2014 vide order dated 02.04.2014, wherein widow, father and mother of Shaheed Constable were declared as legal heirs and the Shaheed Package was distributed amongst the legal heirs in the light of above Succession Certificate. After a few months of the issuance of Succession Certificate, Aneesa Begum d/o Shaheed was born, but this fact had been concealed from the Police Department for a long time and when the relationship of widow of Shaheed with her in-laws become strained, she came to know about the legal rights of her minor daughter and applied for revised Succession Certificate in the court of Senior Civil Judge Swabi. The court accepted the application and issued revised Succession Certificate vide order dated 30.07.2019 and Aneesa Begum was declared as legal heir. Her share in Shaheed package was recovered from the other heirs and deposited in the court of Senior Civil Judge Swabi vide District Police Officer, Swabi Memo: No. 627/A, dated 15.10.2019.

The widow of Shaheed submitted an application alleging therein that her brother in-law had been enlisted on Shaheed quota against her free will. The matter was enquired into and it was found that appellant Rahat Ali was enlisted as Constable in Shaheed quota. According to the policy, in presence of minor child, brother/sister is not entitled for enlistment against Shaheed quota. In the light of application of widow of Shaheed, enlistment order of appellant Rahat Ali as Constable against Shaheed quota was withdrawn vide District Police Officer, Swabi OB No. 891 dated 22.10.2019.

Feeling aggrieved from the order of District Police Officer, Swabi, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 28.01.2020.

From the perusal of record and personal hearing of appellant, it came to light that the appellant concealed the fact of legal heirs of Shaheed in the shape of his (Shaheed) minor daughter. As a result of misrepresentation and deceit, the appellant succeeded in getting himself appointed as Constable in Police Department against Shaheed quota. It is worth to add here that appellant was enlisted as Constable vide order No. 487 dated 09.04.2014 on the basis of application filed by him (appellant), wherein, he had requested in a categorical manner, that he may be appointed as Constable against



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(23) (15)

Shaheed quota. It merits a mention here that as per decision of Police Policy Board vide Order No. 1/2013 dated 19.12.2013 "Eligible applicants for the post of ASIs on Shuhada quota who are placed on waiting list will be offered recruitment on the posts of Constables. However, they will retain their entitlement against the post of ASI as and when the vacancy occurs within 5% quota specified for Shuhada wards".

Hence, the retention of appellant Rahat Ali No. 573 as Constable against the Shaheed quota will deprive the legal heir (Aneesa minor daughter) of Shaheed of her due right. Because, if the above named daughter of Shaheed after attaining puberty, does not qualify the criteria, prescribed for enlistment of wards of Shuhads as ASI, as enunciated in Standing Order No. 5/2014, she may face hardships for her appointment as Constable for the reason that the vacancy of Constable would have already been filled by the appointment of appellant, to which she is entitled. The lawful right of the Shaheed's legal heir will, therefore, be infringed, which is not only against the principles of Islam but also against the rules and policy of Khyber Pakhtunkhwa Police in vogue. Based on the appreciation of facts stated above, the order passed by the District Police Officer, Swabi does not warrant any interference.

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

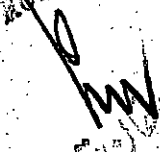
Order Announced.

  
Regional Police Officer,  
Mardan.

No. 1261 /ES, Dated Mardan the 04-02-2020.

Copy forwarded to District Police Officer, Swabi for information and necessary w/r to his office Memo: No. 06/Insp: Legal dated 09.01.2020. His Service Record is returned herewith.

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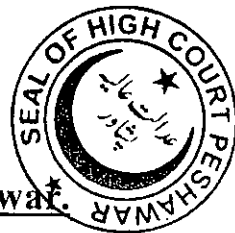


Muhammad Usman Khan  
Turlandi  
Advocate Supreme Court  
of Pakistan. No: 5045

ANNEXURE <sup>E</sup>

(16)

(3)



Before the Peshawar high court Peshawar.

In Ref: to WP No. \_\_\_\_\_ -P/2020.

Rahat Ali, Ex-Police Constable, No. 573 and S/O Amir Sher R/O Village Naragi, Tehsil Razzarh, District Swabi.....PETITIONER.

VERSUS

- 1) Provincial Police Officer (PPO), Khyber Pakhtunkhwa, Central Police Office (CPO), Peshawar.
- 2) Regional Police Officer, Mardan Range Mardan.
- 3) District Police Officer (DPO) Swabi.
- 4) Mst: Nargas Widow of Nawaz Ali, Shaheed/martyred Police Constable, R/O Village Naragi, Tehsil Razzarh, District Swabi.....RESPONDENTS.

Writ Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan 1973 as amended up-to date.

PRAYERS IN WRIT PETITION:

On acceptance of this petition, this Honourable Court may very graciously:

- A) Hold and declare the first impugned order passed by the respondent No. 3 dated 22-10-2019 whereby the initial appointment order as Constable dated 09-04-2014, was withdrawn and the subsequent final impugned order dated 04-02-2020 passed by the respondent No. 2 whereby departmental representation of the petitioner was rejected/filed as illegal, unlawful, without lawful authority, discriminatory, unjustified, unconstitutional, un-Islamic, ineffective/inoperative upon the rights of the petitioner and be set-aside.
- B) Further declare the status of petitioner as permanent and regular employee, duly appointed as Constable, Belt No. 573 who is the real brother of Shaheed police employee and was regularly serving the Police department since 09-04-2014 till 22-10-2019 and by allowing all the consequential back benefits, be deemed as such.

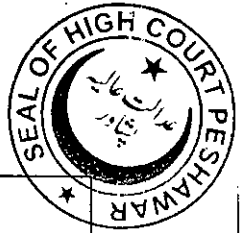
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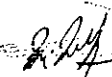

**EXAMINER**  
Peshawar High Court

(17)

PESHAWAR HIGH COURT, PESHAWAR.

FORM OF ORDER SHEET



Date of Order or Proceeding	Order or other proceedings with Signature of Judge
2	3
01.10.2020	<p><b><u>W.P No. 1864-P of 2020.</u></b></p> <p><u>Present:</u> - Mr. Muhammad Usman Khan Turlandi, advocate for the petitioner.</p> <p>***</p> <p><b><u>WAQAR AHMAD SETH, CJ.-</u></b> At the very outset, learned counsel requests for withdrawal of the instant petition in order to file fresh/ amended one. May do so within a fortnight. Dismissed as withdrawn.</p> <p style="text-align: right;"> <b>CHIEF JUSTICE</b></p> <p style="text-align: right;"> <b>JUDGE</b></p> <p><b>Announced</b> 01.10.2020</p> <p style="text-align: right;"> <b>CERTIFIED TO BE TRUE COPY</b></p> <p style="text-align: right;"><small>EXAMINER Peshawar High Court, Peshawar Authorised Under Article 87 of The Constitution of Pakistan</small> 14 OCT 2020</p>

No. 12803

Date of Presentation of Application: 14/10/2020

No of Pages: 13

Copying fee: 52/-

Total: 52/-

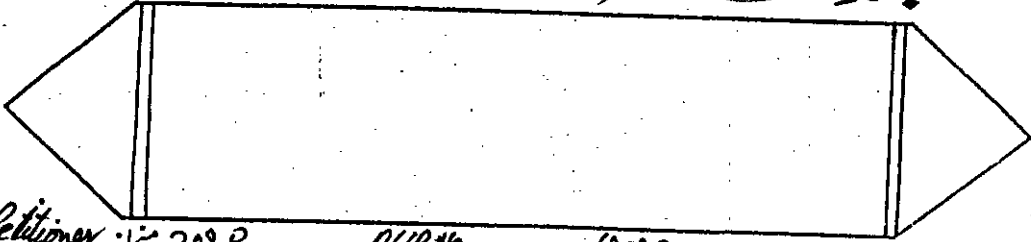
Date of Preparation of Copy: 14/10/2020

Date of Delivery of copy: 14/10/2020

Received By: [Signature]

\*D.B\* Hon'ble Mr. Justice Waqar Ahmad Seth, C.J.  
Hon'ble Mr. Justice Muhammad Nasir Mahfooz, J.

# بعد الت عالیہ ایس آر ہائے کورٹ ایس آر



Petitioner 2020ء منجانب

AHP No. 12020

Respondents  
غیر

بنام  
573  
سابقہ کنسٹیبل پولیس  
PETITIONER.

WP No. 1864-P/2020

موزخہ  
مقدمہ  
دعویٰ  
جرم

## باعث تحریر آئینکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ  
آن مقام PHC کیلئے محمد عثمان خان ترلانڈی  
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک درو پیسار عرضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی براندگی اور منسوخی  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ  
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
مذکور کریں۔ لہذا وکالت نامہ لکھدیا کہ سند ہے۔

ATTESTED  
&  
ACCEPTED

محمد عثمان خان ترلانڈی  
No. 573

2020ء ماہ اکتوبر 2020ء

المقام

کے لئے منظور ہے۔

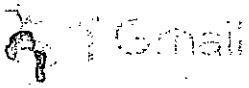
FILED TODAY

Deputy Registrar

16 OCT 2020

PHC

بمقام



Writ Br <phc.writbranch@gmail.com>

**WP No. 1864/2020 For submission of comments.**

1 message

Writ Br <phc.writbranch@gmail.com>

Thu, Sep 10, 2020 at 12:39 PM

To: AG <hamza.ayaz1974@gmail.com>, DAG <dagphc161@gmail.com>, "AIG Legal, CPO, Peshawar" <aiglegal11@gmail.com>, DSP Legal Peshawar <dsplegalpeshawar@gmail.com>, RPO Mardan <digmardan@gmail.com>, dposwabi@gmail.com

*in the name of Allah*

السَّلَامُ عَلَيْكُمْ

**URGENT COURT MATTER**

*Case file alongwith Order of this Honourable Court, is transmitted for information & necessary compliance at the earliest.*

*please acknowledge receipt of this Email.*

PHC BRANCH (NOTICE SECTION)  
PHC NEAR JUDGE COURT, PESHAWAR

2 attachments

- wp1864-2020-9-9.pdf  
28K
- WP1864P2020 RAHAT ALI VS PPO CF PG 23.pdf  
1322K

1/10



**IN THE PESHAWAR HIGH COURT PESHAWAR**

Inst # 18157

Early Hearing No. -P/2020

In in wp 1864/20

Rahat Ali Constable V /s PPO etc

Presented by Muhammad Usman Khan  
on behalf of appellant/petitioner.

Entered in the relevant register.

Put up along with main case .....


Dated 11 JUN 2020

  
Reader

In the instant case early hearing application has been moved for the reasons mentioned therein. the case is in motion/notice.

If approved we may accelerate the case from 29/X/20 to ..... (SB/DB)

Dated 11 JUN 2020

  
Countersigned

Dated 11 JUN 2020

  
Deputy Registrar

*put up for bail  
15/6*

*Be filed in wp 1864/20 in July/August.*

*Reim  
15/6/2020*

**Before the Peshawar high court Peshawar.**

CM No. \_\_\_\_\_-P/2020.

In

WP No. 1864 -P/2020.

**Rahat Ali, Ex- Constable.....Versus.....PPO & Others**

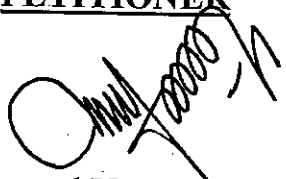
**INDEX**

S.No.	Description of documents.	Annex	Page No.
01	CM for early hearing of the main case.	---	01
02	Affidavit.	---	02

Dated: - 11/06 /2020

**PETITIONER**

Through:-

  
Muhammad Usman Khan  
Turlandi  
Advocate Supreme Court.

**FILED TODAY**

  
Deputy Registrar

11 JUN 2020

Before the Peshawar high court Peshawar.

CM No. \_\_\_\_\_-P/2020.

In

WP No. 1864 -P/2020.

**Rahat Ali, Ex- Constable..... Versus..... PPO & Others**

**APPLICATION FOR FIXATION OF AN EARLY DATE OF HEARING IN  
THE ABOVE TITLED WRIT PETITION.**

**Respectfully Sheweth;**

Petitioner submits as under;-

1. That the above noted writ petition is pending in this Honourable Court and is fixed for 29/10/2020.
2. That two real brothers namely Rahat Ali and Jehan Ali were properly and duly enlisted in Police department as Constable and the other was PASI respectively in accordance with law and Government police in vogue and put their respective services for years whereas both the recruitment orders were withdrawn for no legal reason and as such both the writ petitions are pending adjudication. The sudden withdrawal of recruitment order, depriving two real brothers from services would amount to deprive them and their families from their livelihood and breathing more.

Since very short point of law is involved, hence both the connected cases require immediate fixation for an early date.

It is, therefore, requested that on acceptance of this application, an early date of hearing may kindly be fixed in the above noted Writ Petition just to meet the ends of justice.

Dated 11/06/2020

Applicant

Through;-

FILED TODAY

Deputy Registrar

11 JUN 2020

Muhammad Usman Khan  
Turlandi  
Advocate Supreme Court, of Pakistan

Before the Peshawar high court Peshawar.

CM No. \_\_\_\_\_-P/2020.

In

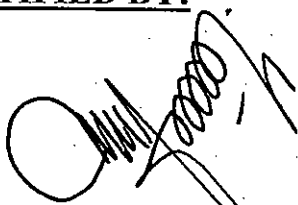
WP No. 1864 -P/2020.

**Rahat Ali, Ex- Constable..... Versus..... PPO & Others**

**AFFIDAVIT.**

I, Rahat Ali Ex-Constable, No. 573 of Swabi Police and son of Amir Sher R/O Narangi, Tehsil Razzarh and District Swabi, do hereby solemnly affirm and declare on oath that the contents of the accompanying writ petition are true and correct to the best of my knowledge and belief and that nothing has been kept secret or concealed therein from this august court.

**IDENTIFIED BY:**




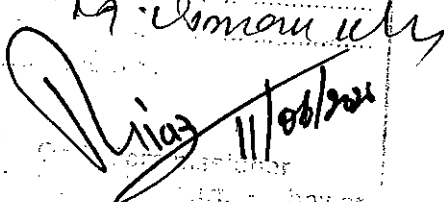
Muhammad Usman Khan  
Turlandi  
Advocate Peshawar.



**DEPONENT:**

CNIC No. 16204-0353479-5  
0313-9699453

**FILED TODAY**  
  
Deputy Registrar  
11 JUN 2020

No:	878
Certified that the above was verified on solemnly affirmation before me on the	
day of	Jun 2020
at	Rahat Ali
who was identified by	Amir Sher
Who is present	19. Usman Khan
	
	11/06/2020

2

**IN THE PESHAWAR HIGH COURT,  
PESHAWAR.**

Date of Filing:- 13/02/2020  
District:- Peshawar

**OPENING SHEET FOR WRIT BRANCH**

Case Type: Writ Petition Nature of Original Proceedings: \_\_\_\_\_

Category Code 0 5 4 6

Review/Contempt of Court in respect of W. P No. 1188-P/2014

Writ of: Heabus Corpus Prohibition Mandamus Qua Warranto Certiorari

Form	Date	interlocutory/ Final Order

Case pertains to  
SB  
DB

Petitioner(s) Name	<u>Rahat Ali Ex-PASI</u>
Mobile No	<u>0313-9699453</u>
Addresses	<u>Narangi, Tehsil Razzarh &amp; District Swabi</u>
CNIC No	<u>16204-0353479-5</u>
Email Address	

Counsel for Petitioner(s)	<u>Muhammad Usman Khan Turlandi</u>
Mobile No	<u>0333-9153699</u>
Addresses	<u>Flat # C-1, Murad Plaza, Dalazak Road, Peshawar</u>
CNIC No	<u>47301-6004404-9</u>
Email Address	<u>usmanturlandi@gmail.com</u>

FILED TODAY

Respondents	<u>PPO KPK &amp; others</u>
Addresses	

Deputy Registrar

03 MAR 2020

Original Order/ Action/ Inaction Complained of	
--	--

Prayer	<u>The final impugned order dated 31/01/2020 passed by the respondent No. 2 may be set aside whereby departmental representation of the petitioner was rejected/filed and the first impugned order dated 22-10-2019 passed by the respondent No. 3 was upheld whereby the enlistment order as constable dated 09/04/2014 in respect of the petitioner was withdrawn in consequence thereof, the petitioner may very graciously be reinstated on his post with all consequential back benefits and all allied allowances.</u>
--------	--

Law/Rules/governing the original proceedings/ action/Inaction	<u>Article 199, Constitution of Islamic Republic of Pakistan, 1973</u>
---	--

Signature:-

**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.**

In Ref: to W.P No.: - 1864/P/2020.

**Rahat Ali, Ex-Constable Police.....VERSUS.....PPO & others.**

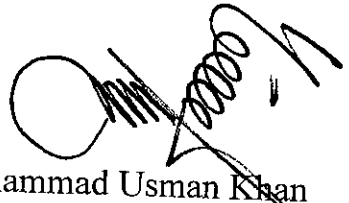
**INDEX**

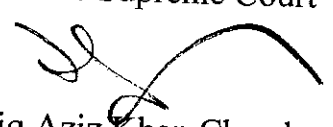
S#	Description of the Documents	Annex	Pages
1.	Opening Sheet/Index		01-02
2.	Main Writ Petition	*	03-09
3.	Affidavit	*	10
4.	Addresses of Parties	*	11
5.	Copy of Succession Certificate dated 28-03-2014	"A"	12-13
6.	Copy of the Government policy dated 18/05/2007	"B"	14
7.	Copy of the appointment order dated 09-04-2014	"C"	15-17
8.	Copy of the Revised Succession Certificate dated 30-07-2019	"D"	18
9.	Copy of the impugned withdrawal order of appointment dated 22/10/2019.	"E"	19
10.	Copy of the subsequent Policy dated 02-02-2017.	"F"	20
11.	Copies of the departmental appeal.	"G"	21
12.	Copy of the final impugned Order dated 04/02/2020.	"H"	22-23
13.	Court Fee worth Rs. 500/-		24
14.	Vokalatnama		

Dated: - 28/02/2020.

**PETITIONER.**

Through:-

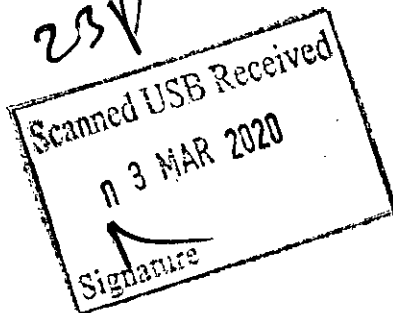
  
Muhammad Usman Khan  
Turlandi  
Advocate Supreme Court

&   
Tariq Aziz Khan Chamkani  
Advocate Peshawar.

FILED TODAY

Deputy Registrar

03 MAR 2020



OFFICE: Flat-C/I, Murad Plaza Dalazak Road, Peshawar City.  
Mobile # 333-9153699 \* \* \* 0300-5895841

3

**Before the Peshawar high court Peshawar.**

In Ref: to WP No. 1864-P/2020.

Rahat Ali, Ex-Police Constable, No. 573 and S/O Amir Sher R/O Village Naragi, Tehsil Razzarh, District Swabi.....**PETITIONER.**

**VERSUS**

- 1) Provincial Police Officer (PPO), Khyber Pakhtunkhwa, Central Police Office (CPO), Peshawar.
- 2) Regional Police Officer, Mardan Range Mardan.
- 3) District Police Officer (DPO) Swabi.
- 4) Mst: Nargas Widow of Nawaz Ali, Shaheed/martyred Police Constable, R/O Village Naragi, Tehsil Razzarh, District Swabi.....**RESPONDENTS.**

**Writ Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan 1973 as amended up-to date.**

**PRAYERS IN WRIT PETITION:**

On acceptance of this petition, this Honourable

Court may very graciously:

FILED TODAY

Deputy Registrar

03 MAR 2020

- A) Hold and declare the first impugned order passed by the respondent No. 3 dated 22-10-2019 whereby the initial appointment order as Constable dated 09-04-2014, was withdrawn and the subsequent final impugned order dated 04-02-2020 passed by the respondent No. 2 whereby departmental representation of the petitioner was rejected/filed as illegal, unlawful, without lawful authority, discriminatory, unjustified, unconstitutional, un-Islamic, ineffective/inoperative upon the rights of the petitioner and be set-aside.
- B) Further declare the status of petitioner as permanent and regular employee, duly appointed as Constable, Belt No. 573 who is the real brother of Shaheed police employee and was regularly serving the Police department since 09-04-2014 till 22-10-2019 and by allowing all the consequential back benefits, be deemed as such.

(4)

**Respectfully Sheweth:**

- 1) That the petitioner is bonafide citizen of the Islamic Republic of Pakistan, Domiciled in the Province of Khyber Pakhtunkhwa and resident of village Narangi, Tehsil Razzarh, District Swabi and law abiding person having to enjoy and has every legal and constitutional rights duly protected by the command of the Constitution.
- 2) That the real brother of the Petitioner Namely Nawaz Ali while having been martyred in line of his respective duty on 12/01/2019, the widow of the Shaheed/Martyred Constable (Respondent No. 4) being issueless at that time, applied for grant of Succession Certificate and accordingly, the widow and the parents of Shaheed were declared as legal heirs vide order dated 28-03-2014, passed by the learned Senior Civil Judge Swabi and the Shaheed package was distributed amongst the declared legal heirs accordingly. (Copy of the Succession Certificate dated 28-03-2014 is annexure "A").
- 3) That the widow (Respondent No. 4) while having no objection on the recruitment of the petitioner and in furtherance of the policy promulgated by the Government of Khyber Pakhtunkhwa, vide Notification No. SO (Police)/HD/3-22/2007 dated 08/05/2007 whereas, in absence of son, the real brother of Shaheed/Martyred police employee may be recruited against 5% quota reserved for the sons of Police Shuhada, the Petitioner was recruited as constable vide order dated 09-04-2014 passed by the respondent No. 3. (Copy of the Government policy dated 18/05/2007 and appointment order dated 09-04-2014 is annexure "B" & "C" respectively).
- 4) That the petitioner was appointed as Constable and was allotted No. 573 vide D.D No. 20 dated 10-04-2014 and since then, the petitioner was regularly performing his respective duty and was regularly drawing his monthly pay and all other allied allowances for the post

FILED TODAY  
Deputy Registrar  
03 MAR 2020



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of Constable till 22-10-2019, the date of withdrawal of his appointment order.

- 5) That on 05-08-2014, the widow of Shaheed (Respondent No. 4) gave birth to a female baby (Mst: Aneesa Begum D/O Shaheed Constable Nawaz Ali) and in order to include her name in the Succession Certificate dated 28-03-2014 (Annexure "A"), again applied for revised Succession Certificate which was allowed vide order dated 30-07-2019 and hence, the Shaheed Package, already distributed amongst the three LRs, was withdrawn and again re-disbursed amongst the four LRs accordingly. (Copy of the revised Succession Certificate dated 30-07-2019 is annexure "D").
- 6) That on the arrival of revised Succession Certificate dated 30-07-2019, it was held by the respondent No. 3 that Mst: Aneesa Begum, minor has been declared as legal heir of Shaheed Constable Nawaz Ali and was entitle to receive share in Shaheed Package and other service benefits. The illogical conclusion, drawn to a bit of astound, the petitioner was absolved from his services and his first appointment order as Constable dated 09--04-2014 (Annexure "C"), was withdrawn on the pretext of extract from subsequent policy dated 02-02-2017 that the brother of Shaheed Constable would not be allowed to be recruited and as such the widow of a Shaheed Constable cannot forego the right of the minor. (Copy of the first impugned/withdrawal of the first appointment order, passed by the respondent No. 3 dated 2/2/10/2019 is and subsequent policy dated 02-02-2017 is annexure "E" & "F" respectively).
- 7) That having been aggrieved of the discriminative policy and cruel treatment of the Respondents, the Petitioner submitted departmental representation, for the redressal of his just grievances but to no avail being rejected vide final impugned order dated 04-02-2020 passed by the respondent No. 2 and hence this petition. (Copy of the

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Deputy Registrar  
03 MAR 2020

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departmental appeal and the final impugned order dated 04-02-2020 is annexure "G & "H" respectively).

- 8) That while having been rebuffed his legitimate right by the Respondents and having no ear to his Departmental Representation, the Petitioner is constrained to approach this honorable constitutional court inter-alia on the following grounds.

**GRUNDS:**

- A) **Because** the petitioner was the real brother of Shaheed Constable Nawaz Ali who embraced shahadat in line of his respective duty whereas, the petitioner was recruited as Constable, allotted Belt No. 573 and since then, serving the police department with great zeal, zest and enthusiasm and no adverse remarks whatsoever has ever been assigned to him from any quarter.
- B) **Because** the Petitioner was highly deserved candidate for his due and legitimate right of appointment as Constable in furtherance to the policy supra and accordingly, he was recruited as Constable No. 573 vide order dated 09-04-2014 passed by the respondent No. 3.
- C) **Because** as per pre-requisite legal condition/ criteria given in the policy promulgated by the provincial government, the petitioner could never be denied his due appointment against the Post of Constable being qualified in all respect and aspect and particularly being the real brother of Shaheed/Martyred police employee, hence deferment of the Petitioner from his due appointment is illegal, unlawful, without lawful authority, without jurisdiction, Unconstitutional, Un-Islamic, against the law on the subject and against the natural justice.
- D) **Because** the respondent No. 3 has intentionally ignored the policy, promulgated by the Government of Khyber Pakhtunkhwa, which was running in the field at that time and only the said policy was applicable to the fate of the petitioner whereas he was recruited as Constable vide order dated 09-04-2014 passed by the respondent No. 3.
- E) **Because**, the subsequent Police Policy Board Order No. 66/2016 and Endorsement No. 194-239/PA/AIG Estt: Dated Peshawar the 02-02-2017 wherein some minor amendments were brought

FILED TODAY  
Deputy Registrar  
03 MAR 2020

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regarding appointment of Shaheed's Brother/Sister as ASI having no retrospective effect, is not applicable to the case of the petitioner.

- F) **Because** the respondent No. 3 has committed gross illegality by giving retrospective effect to the subsequent policy Dated Peshawar the 02-02-2017 while passing the first impugned withdrawal order of initial appointment on the pretext that the brother of Shaheed Constable would not be allowed to be recruited and as such the widow of a Shaheed Constable cannot forego the right of the minor.
- G) **Because** in the light of the Notification/policy formulated and promulgated by the Government of Khyber Pakhtunkhwa, it is inalienable constitutional right of the petitioner to be deemed legally appointed as Constable and as such, should have been retained in service. Hence, in the present scenario, the respondent No. 3 fell into error by not accommodating the Petitioner as Constable and hence lawful/legitimate right of the Petitioner has been infringed without lawful justification.
- H) **Because** the present petitioner has been abstained from his due right of appointment which attracts the purview of surmises, conjecture and summit reluctant bemoan attitude on part of the respondents which is liable to be vehemently discouraged and declared as such.
- I) **Because** in light of the law, rules and policy promulgated by the government of Khyber Pakhtunkhwa, the Petitioner cannot be treated with a different yardstick particularly in light of Article 4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973 which ensures equality of citizens by mandating that all citizens are equal before law and are entitled to equal protection of law more so to give everyone his due.
- J) **Because** the action and inaction on part of the respondent No. 3 proclaims his own malafide which is contrary to Article 4, 25 and 27 of the Constitution.
- K) **Because** the respondent No. 3 has totally changed the entire criteria/formula set for the appointment of Shaheed's brother/sister and deprived the petitioner from his due legal right of appointment.
- L) **Because** the Petitioner has been recruited as constable dated 09/04/2014 While the impugned CPO policy was promulgated on 02/02/2017 having been later in time could not by any stretch

FILED TODAY  
Deputy Registrar  
03 MAR 2020

(8)

of imagination be extended to indulge Petitioner within its ambit to affect the fate of his service adversely on retrospective footings as such.

- M) **Because** the petitioner has not been dealt with in accordance with law and the terms and conditions figured in the Notifications/Policies, passed and formulated by the Government of Khyber Pakhtunkhwa on the subject matter, have very boldly been violated/ brushed-aside and bulldozed by the official respondent for the reason best known to them.
- N) **Because on** paving his illegal and illogical supposed eventuality discriminative way of withdrawing the services of the Petitioner the department having been failed to serve any notice whatsoever upon the petitioner prior to passing the impugned order and hence substantive as well as procedural law has vehemently been violated.
- O) **Because** That the doctrine of Locus Poenitentiae vigorously inculcates the exclusion of any adverse action on part of the department once even an illegal act has taken its field which principle on the touchstone of instant case vehemently applicable, as the impugned policy being later in time could not be permitted to retrospectively jeopardize the fate of the petitioner.
- P) **Because** Article 12 of the constitution of the Islamic Republic of Pakistan emphatically emphasized the Golden, acknowledged principle of universal renowned that no one could be jeopardized and punished for an act or omission retrospectively as adverse action would infer injustice even at the footings of equity and good conscience.
- Q) That further submissions will be advanced with the prior permission of this august court at the time of hearing the petitioner at the bar.

FILED TODAY

Deputy Registrar

03 MAR 2020

It is, therefore, most humbly prayed that on acceptance of this petition, this Honourable Court may very graciously:

- A) Hold and declare the first impugned order passed by the respondent No. 3 dated 22-10-2019 whereby the initial appointment order dated 09-04-2014, was withdrawn and the subsequent final impugned order dated 04-02-2020 passed by the respondent No. 2 whereby departmental representation of the petitioner was rejected/filed as illegal, unlawful, without

(9)

lawful authority, discriminatory, unjustified, unconstitutional, un-Islamic, ineffective/ inoperative upon the rights of the petitioner and be set-aside.

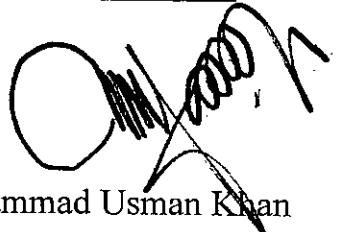
B) Further declare the status of petitioner as permanent and regular employee, duly appointed as constable being the real brother of Shaheed Police constable and by allowing all the consequential back benefits, be deemed as such.

C) Any other remedy, deemed fit and appropriate in the circumstances of the case may also be extended in favour of the petitioner just to meet the ends of justice.


Dated: - 28/02/2020

Through:-

PETITIONER



Muhammad Usman Khan  
Turlandi  
Advocate Supreme Court  
&



Tariq Aziz Khan Chamkani  
Advocate Peshawar

**Certificate:-**

*It is certify that no such like writ petition has earlier been filed by the Petitioner in this Honourable Court.*



Advocate.

**Note:-** *As per Notification dated 18<sup>th</sup> March, 2017 issued by the Worthy Registrar, Peshawar High Court, Peshawar, the grounds of Writ Petition along-with all appended annexures have been scanned in PDF format, while institution of this Writ Petition to avoid the certain requisitions of Scanning, this case may be treated accordingly.*



Advocate.

**List of Books:-**

1. Constitution of Islamic Republic of Pakistan 1973.
2. Case laws as per need.



Advocate.

FILED TODAY

Deputy Registrar

03 MAR 2020

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**IN THE PESHAWAR HIGH COURT PESHAWAR.**


In Ref; to WP No. 1864/P of 2020.

Rahat Ali Constable.....**VERSUS**.....PPO KPK & Others.

**AFFIDAVIT.**

I, Rahat Ali Ex-Police Constable No. 573 Swabi Police and son of Amir Sher R/O Narangi, Tehsil Razzarh and District Swabi, do hereby solemnly affirm and declare on oath that the contents of the accompanying writ petition are true and correct to the best of my knowledge and belief and that nothing has been kept secret or concealed therein from this august court.


**IDENTIFIED BY:**



Muhammad Usman Khan  
Turlandi  
Advocate Peshawar.

Rahat  
**DEPONENT:**

CNIC No. 16204-0353479-5  
Mob - 0313-9699453

No:.....	<u>22182</u>
Certified that the above was verified on solemnly affirmation before me in the presence of this	
day of	<u>Feb 2020</u>
s/o	<u>Rahat Ali</u>
who was found at	<u>Swabi</u>
Who is personally known to me:	<u>M. Usman Khan</u>
 M. Usman Khan Peshawar High Court Peshawar.	

**FILED TODAY**  
Deputy Registrar  
03 MAR 2020

Nadia Verified

(11)

**Before the Peshawar high court Peshawar.**

In Ref: to WP No. \_\_\_\_\_ -P/2020.

Rahat Ali, Ex-Constable Police.....VERSUS.....PPO & others.

**MEMO OF ADDRESSES**

**PETITIONER.**

Rahat Ali, Ex-Constable Police, No. 573 and S/O Amir Sher R/O Village Naragi, Tehsil Razzarh, District Swabi.

**VERSUS**


**RESPONDENTS.**

- 1) Provincial Police Officer (PPO), Khyber Pakhtunkhwa, Central Police Office (CPO), Peshawar.
- 2) Regional Police Officer, Mardan Range Mardan.
- 3) District Police Officer (DPO) Swabi.
- 4) Mst. Nargas Widow of Nawaz Ali, Shaheed/martyred Police Constable, R/O Village Naragi, Tehsil Razzarh, District Swabi.

**PETITIONER**

FILED TODAY  
Deputy Registrar  
03 MAR 2020

Through:-

  
Muhammad Usman Khan  
Turlandi  
Advocate Supreme Court  
&

  
Tariq Aziz Khan Chamkani  
Advocate Peshawar.

(48)

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Annex "D"

140

25



**IN THE COURT OF IRSHAD AHMAD KHAN**

Senior Civil Judge/Guardian Judge, Swabi

Petition No. .... 53/5 of 2014

Date of Institution ..... 27.02.2014

Date of Decision ..... 28.03.2014

**Mst. Nargus Begum Widow of Nawaz Ali (deceased)**  
Resident of Village Naranji Mohallah Syed Khan Tehsil Razzar District Swabi.

**SUPERINTENDENT**  
District & Sessions Judge Swabi

**VERSUS**

**General Public at Large** ..... (Respondents)

**TO WHOM IT MAY CONCERN**

Subject: -

**Succession Certificate In Favour Of Legal Heirs of Deceased Nawaz Ali S/o Amir Sher R/O village Naranji Mohallah Syed Khani Tehsil Razzar District Swabi.**

To whom it may concern	Shaheed compensation amount. Other benefits and dues out standing against Police Department District Swabi Khyber Pukhtunkhwa.	Deceased Nawaz Ali S/O Amir Sher R/O Village Naranji Mohallah Syed Khani Tehsil Razzar District Swabi.
------------------------	--	--

This succession certificate is granted in favour of Mst. Nargus Begum (Widow), Amir Sher S/O Izat Khan (Father), Mst. Sarvizay Bibi (Mother), of deceased Nawaz Ali S/O Amir Sher. These persons are the legal heirs of deceased above and they are entitled to receive their Shari shares in the amount/legacy of deceased named above.

*[Handwritten Signature]*

(Continued on page 2)

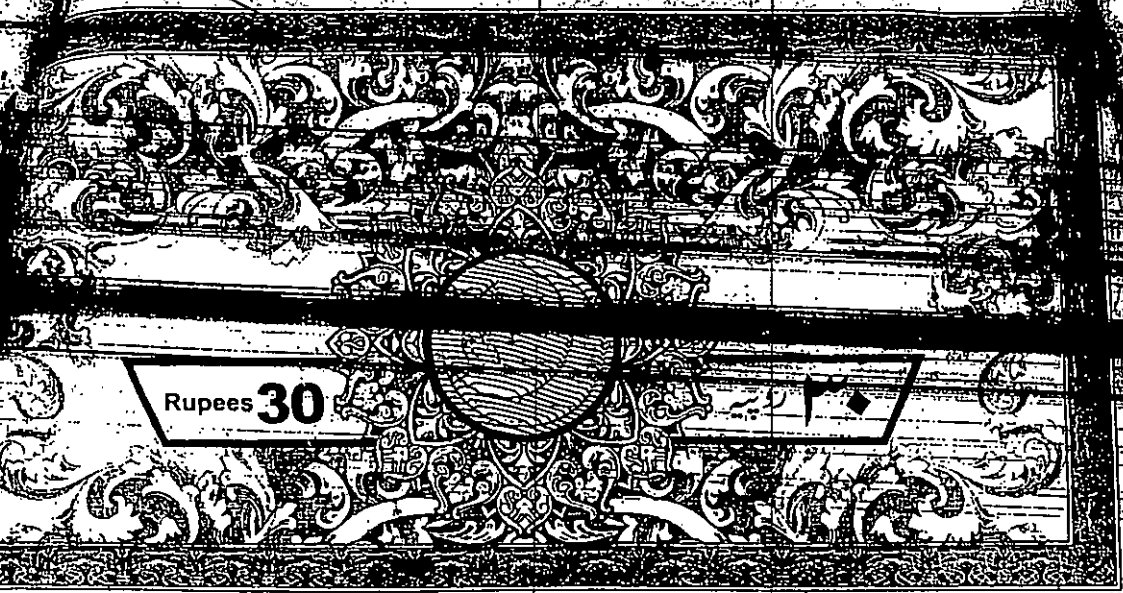
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*Shahida s/o, so for her  
Entitlement is concerned*

*[Handwritten initials]*



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(Page 2)

Stamp: 2014  
District Swabi

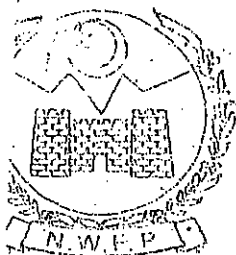
S.#	Name	Relationship	Date of birth	No. of I.D. Cards	Shares
1.	Mst Nargus Begum	Widow	18.08.1996	16204-0600461-2	As per law
2.	Amir Sher S/O Izat Khan	Father	01.07.1964	16202-0917701-3	As per law
3.	Mst. Sarvizay-Bibi W/O Amir Sher.	Mother	1970	16202-0867754-6	As per law

Issued under my hand and seal of the Court on 2<sup>nd</sup> Day of April, 2014.

*(Signature)*  
 (Irshad Ahmad Khan)  
 Senior Civil Judge /Guardian Judge,  
 District Swabi

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*is the legal issue u u  
 shared son, so for her  
 entitlement is concerned*



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GOVERNMENT OF N.W.F.P.  
HOME & T.A.S. DEPARTMENT

90374/eb  
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No. SO(Police)HD/3-22

Dated Peshawar, the 15 5 / 2007

NOTIFICATION

No.SO(Police)HD/3-22/2000 In partial modification of this department's Notification of even No. dated 17/10/2003, the competent Authority i.e. Chief Minister, NWFP is pleased to approve the following substitution in the contents of notification.

The word "Shuhada Sons" may be read as "Shuhada Sons and in the absence of sons, the real brothers" wherever it appears in the said notification.

Secretary to Government of NWFP  
Home & Tribal Affairs Department

Encls: No.SO(Police)HD/3-22/2007

Dated 08/05/2007

Copy for information forwarded to:-

1. Secretary to Govt. of NWFP, E&A Department.
2. Secretary to Govt. of NWFP, Law Department.
3. Provincial Police Officer with reference to his letter No.6244/E-II dated 26/03/2007.
4. Accountant General, NWFP Peshawar.
5. Manager, Government Printing Press, Peshawar for publication in the next official gazette. He is requested to send at-least 10 copies of the same to office.

(MANZOOR HUSSA  
Section Officer (Police  
Phone Office:-091-9216

OFFICE OF THE PROVINCIAL POLICE OFFICER,  
NWFP, PESHAWAR.

No. 19046-85 E-II, Dated Peshawar, the 30 / 5 / 07

Copy of above is forwarded for information and action to All Heads of Police Offices in NWFP.

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ABDUL WAHID  
Registrar  
for Provincial Police  
NWFP, Peshawar

محمد عثمان خان بلوچ  
ایڈوکیٹ پیسٹریئم کورٹ آف پاکستان  
No: 5045

(15)

"C"

POLICE DEPARTMENT.

SWABI DISTRICT

ENLISTMENT ORDER.

Mr. Rahat Ali S/O Amir Sher R/O Narangi Police Station Peritoli Tehsil Kazzar District Swabi is hereby enlisted as Constable on three years probation in B.P.S No. 5 RS:( 5400-260-13200) on permanent basis at the rate of Rs. 5400/- per month with effect from 08/04/2014 and allotted constabulary No. 573.

This order is issued in compliance with order of Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar vide his office Endst: No. 5153 82/E-IV dated 20.02.2014.

Height. 5-8" 1/2

Chest. 34" x 36"

Education. 10<sup>th</sup>

Date of birth. 08.01.1995

Blood group. (A+)

Age. Year 19 Month 03 Days 00.

O.B. No. 487

dated 01-06 /2014.

District Police Officer,  
Swabi.

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(16)

پولیس نمبر

تقریباً 22 جون 1914ء

10/4/14

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نمبر 10105 10/4/14

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MW  
No. 5046

Better Copy

(17)

رد 20 یولیس الٹن

تعلیمہ 20 روز نامہ 10/14/4  
ضلع حوالی

سجاد احمد وقت 10:05 صبح 10/14/4 درج ہے نم کو الٹ

487  
9-4-14 03 قسمی رافت علی ولہ اور میر شیر ساکن ناری ضلع حوالہ

میں بحیثیت ایگریکولچرل ٹیچر کی ہو کر کنٹریکٹ پر 1373 الٹ  
لگا گیا ہے۔ لہذا مذکورہ ایگریکولچرل ٹیچر سہیل یولیس الٹن  
حاضر ام علی حاضر علی پورٹ درجہ روز نامہ کو الٹ  
تعلیمہ لکھنؤ ضلع حوالہ ایف اے دفتر OAS حوالہ  
ارسال کی جائیگی

حدا صالی

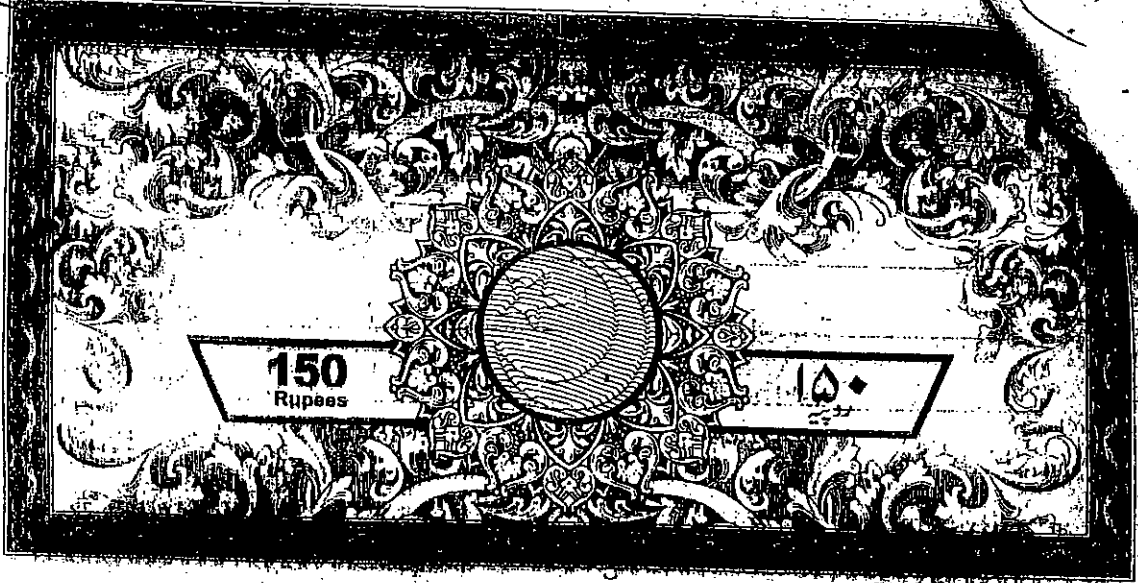
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Annex 11-A



**IN THE COURT OF SENIOR CIVIL JUDGE/GUARDIAN JUDGE, SWABI**

Petition # 53/5 of 2014

Decided on 30-07-2019

Mst. Nargis widow of the deceased Nawaz Ali r/o Naranji Tehsil Razar, District Swabi.....Petitioners

**VERSUS**

1.) Public at Large, 2). Amir Sher & 3). Mst. Sarvizay.....Respondents

**REVISED SUCCESSION CERTIFICATE U/S 373 ACT XXXIX, 1925**

\*Issued in light of order dated 30.07.2019 passed in petition # 76/6 of 2019\*

Whereas, you the above-named petitioner, have applied to this Court for the grant of succession certificate under the succession Act 1925, in respect of following debts/securities of deceased;

Shaheed compensation amount, other service benefits/dues outstanding against Police Department District Swabi, Khyber Pakhtunkhwa


On the basis of evidence recorded before this court, you the petitioner & respondents # 02 & 03 including Mst. Aneesa Begum, have been declared as the only legal heirs of the deceased. The application is accepted & succession certificate is hereby granted in favour of them in accordance with their Shari shares as detailed below:

Sr	NAME OF THE LEGAL HEIR	RELATION WITH DECEASED	SHARES
1	Mst. Nargis Begum	Widow	3/24
2	Mst. Aneesa Begum	Daughter (minor)	12/24
3	Amir Sher	Father	5/24
4	Mst. Sarvizay Bibi	Mother	4/24

This certificate is granted to the petitioner & respondents # 02 & 03 to empowers them to collect their above-mentioned Shari shares from the quarter concerned, whereas, share of minor Mst. Aneesa Begum be deposited in the court immediately for investment in some profitable scheme of government in her name. *Pension Rules of Department Concerned/Government, shall be observed while dealing the pension matter.*

Given under my signatures and seal of the court this 30<sup>th</sup> Day of July, 2019.

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**Muhammad Iqbal**  
 Senior Civil Judge/Guardian Judge, Swabi

(19)

Annex "E"

**ORDER.**

In the light of application of Mst. Nargis Begum widow of Shaheed Constable Nawaz Ali No. 1098, supported by copy of revised Succession Certificate bearing No. 53/5 of 2014 decided on 30.07.2019 issued by the Senior Civil Judge/Guardian Judge Swabi wherein Mst. Ancesa Begum (Minor) was declared as legal heir of Shaheed Constable Nawaz Ali and was entitled to receive share in Shaheed package and other service benefits.

The fact of birth of Mst. Ancesa Begum was concealed from this department till issuance of revised Succession Certificate above and according to policy, in presence of minor child, brother of Shaheed is not entitled for appointment in Shaheed quota even if the widow has given consent in this behalf because, she is not entitled to forego right of the minor.

Therefore in the light of above, the enlistment order in respect of Mr. Rahat Ali Constable No. 573 s/o Amir Sher r/o Narangi against the post of Constable on Shaheed quota is hereby withdrawn.

His name is hereby struck off from Police Force with immediate effect.

OB No. 891

Dated 22.10/2019.

District Police Officer,  
Swabi.

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

No. 9726-28 /EC, dated Swabi, the 22 /10 /2019

Copies to all concerned.

ATTACHED TO DB  
TRANSCOPY

محمد علی خان ترلائی  
ایڈیٹر  
No: 5045

90



OFFICE OF THE  
THE INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
Central Police Office, Peshawar

POLICE POLICY BOARD

PPB Order No. 66/2016

Subject: Appointment of Shuhada brothers as ASIs

Reference this office Endst: No. 3085-3135 /DIG HQrs:/PA, dated 28.12.2016.

In light of the decision taken by the 26<sup>th</sup> Police Policy Board held on 1.12.2016, under the chairmanship of the Inspector General of Police, Khyber Pakhtunkhwa, Peshawar the following policy has been approved.

Deliberations were held on the issue of appointment of Shaheed brothers/ sisters as ASI and following were agreed upon :-

- 1) Brother/ sister of the Shaheed shall not be considered for appointment as ASI where minor child of the Shaheed is available, even if the widow has given consent in this behalf because she is not entitled to forego right of the minor.
2. In case widow is issueless and qualified to be recruited as ASI against shuhada quota she may forego her right in favour of shaheed brother/sister. However, in order to ensure her freewill in this behalf, she will have to be accompanied by her blood relations and shall get her statement recorded in presence of the committee headed by RPO concerned.
3. If widow is issueless and is also otherwise disqualified to be recruited as ASI due to non-fulfillment of requisite criteria i.e age, education etc: the brother/sister of the shaheed will then be considered for recruitment as ASI.

All concerned are hereby directed to implement the decision in letter & spirit.

-Sd-

(NASIR KHAN DURRANI)  
Inspector General of Police  
Khyber Pakhtunkhwa Peshawar

No. 194 - 239 /PA/AIG Estt., dated Peshawar the 02/10/2017.

Copy of above is forwarded for information to the:-

1. All Addl: Inspectors General of Police in Khyber Pakhtunkhwa.
2. Capital City Police Officer Peshawar.
3. All DIsG of Police in Khyber Pakhtunkhwa.
4. All AIsG of Police in Khyber Pakhtunkhwa.
5. PSO to Provincial Police Officer Khyber Pakhtunkhwa Peshawar.
6. All District Police Officers in Khyber Pakhtunkhwa.
7. All Head of Police Offices in Khyber Pakhtunkhwa.
8. All Office Superintendent CPO Peshawar.

(Najeeb-ur-Rehman Bugvi)  
AIG/Establishment  
For Inspector General of Police  
Khyber Pakhtunkhwa Peshawar

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2017

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To: -

The Regional Police Officer, Mardan Region.

Annex "Fu"

Respected Sir,

1. It is submitted that my real brother Nawaz Ali No. 1098 was martyred on 27.01.2014.
2. I have submitted application for appointment as Constable to CPO.
3. The Provincial Police Officer, forwarded my application to DPO Swabi for appointment through Endst: No. 5153-82/E-IV dated 20.02.2014.
4. The DPO Swabi issued my appointment order as Constable vide OB No. 487 dated 09.04.2014.
5. MST Nargis Begum widow of Shaheed Constable Nawaz Ali No. 1098 given statement on stamp paper that she has no objection on the appointment of Rahat Ali real brother of Shaheed Constable.
6. The DPO Swabi struck off my name from Police Force vide OB No. 891 dated 22.10.2019 in the light of CPO Police Policy Board decision on 02.02.2017 that brother/sister of Shaheed shall not be considered for appointment as ASI where minor child of the Shaheed is available even if the widow has given consent in this behalf because she is not entitled to forgo right of the minor.
7. The DPO Swabi order regarding struck off my name is illegal because I was appointed on 09.04.2014 as Constable and not ASI, the CPO Policy was issued on 02.02.2017. moreover, I was appointed on 09.04.2014 while Anisa Begum daughter of Nawaz Ali was born on 05.08.2014. Furthermore, the CPO Policy on 02.02.2017 is not applicable retrospective effect. According to Police Act-2017 quota for appointment of Shuhada sons has not been reserved.
8. It is therefore, requested that my struck off order from Police Force issued by DPO Swabi may kindly set aside and I may very kindly be reinstated in service with all back benefits.

Yours obediently

*Rahat*  
(RAHAT ALI)  
Ex-Constable  
District Police Swabi

ANNEX 'C'

22

ORDER

This order will dispose-off the departmental appeal preferred by Constable Rahat Ali No. 273 of Swabi District Police against the order of District Police Officer Swabi, whereby his name was struck off from Police Service vide District Police Officer Swabi OB: No. 891 dated 22.10.2019. The appellant was enlisted as Constable under Shabeeb quota vide District Police Officer Swabi OB: No. 487 dated 09.04.2014. Appellant Rahat Ali No. 273 is brother of Shabeeb Constable Nawaz Ali martyred vide case FIR No. 28 dated 12.01.2014 in 302324/2374 P.W. Swabi. The widow of Shabeeb Constable applied for the Succession Certificate and the court of Senior Civil Judge Swabi issued Succession Certificate bearing No. 232 of 2014 vide order dated 02.04.2014, wherein widow, father and mother of Shabeeb Constable were declared as legal heirs and the Shabeeb package was distributed among the legal heirs in the light of above Succession Certificate. After a few months of the issuance of Succession Certificate, Anessa Begum do Shabeeb was born, but this fact had been concealed from the Police Department for a long time and when the relationship of widow of Shabeeb with her in-laws become strained, she came to know about the legal rights of her minor daughter and applied for revised Succession Certificate in the court of Senior Civil Judge Swabi. The court accepted the application and issued revised Succession Certificate vide order dated 30.07.2019 and Anessa Begum was declared as legal heir. Her share in Shabeeb package was recovered from the other heirs and deposited in the court of Senior Civil Judge Swabi vide District Police Officer Swabi Memo: No. 627A, dated 12.10.2019.

The widow of Shabeeb submitted an application alleging therein that her brother in-law had been enlisted on Shabeeb quota against her free will. The matter was enquired into and it was found that appellant Rahat Ali was enlisted as Constable in Shabeeb quota. According to the policy, in presence of minor child, brother/sister is not entitled for enlistment against Shabeeb quota. In the light of application of widow of Shabeeb, enlistment order of appellant Rahat Ali as Constable against Shabeeb quota was withdrawn vide District Police Officer Swabi OB: No. 891 dated 22.10.2019.

Feeling aggrieved from the order of District Police Officer Swabi, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 28.01.2020.

From the perusal of record and personal hearing of appellant, it came to light that the appellant concealed the fact of legal heirs of Shabeeb in the shape of his (Shabeeb) minor daughter. As a result of misrepresentation and deceit, the appellant succeeded in getting himself appointed as Constable in Police Department against Shabeeb quota. It is worth to add here that appellant was enlisted as Constable vide order No. 487 dated 09.04.2014 on the basis of application filed by him (appellant), wherein he had requested in a categorical manner, that he may be appointed as Constable against

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Shaheed quota. It merits a mention here that as per decision of Police Policy Board vide order No. 1/2013 dated 19.12.2013 "Eligible applicants for the post of ASIs on Shuhada quota who are placed on waiting list will be offered recruitment on the posts of Constables. However, they will retain their entitlement against the post of ASI as and when the vacancy occurs within 5% quota specified for Shuhada wards".

Hence, the retention of appellant Rahat Ali No. 573 as Constable against the Shaheed quota will deprive the legal heir (Aneesa minor daughter) of Shaheed of her due right. Because, if the above named daughter of Shaheed after attaining puberty, does not qualify the criteria, prescribed for enlistment of wards of Shuhads as ASI, as enunciated in Standing Order No. 5/2014; she may face hardships for her appointment as Constable for the reason that the vacancy of Constable would have already been filled by the appointment of appellant, to which she is entitled. The lawful right of the Shaheed's legal heir will, therefore, be infringed, which is not only against the principles of Islam but also against the rules and policy of Khyber Pakhtunkhwa Police in vogue. Based on the appreciation of facts stated above, the order passed by the District Police Officer, Swabi does not warrant any interference.

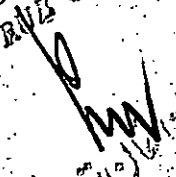
Keeping in view the above, I, Sher Akbar, PSP S.St Regional Police Officer, Mardan, being the appellate authority, finds no substance in the appeal, therefore, the same is rejected and filed being devoid of merit.

Order Announced.

  
Regional Police Officer,  
Mardan.

No. 1261 /ES, Dated Mardan the 04-02-2020.

Copy forwarded to District Police Officer, Swabi for information and necessary w/r to his office Memo: No. 06/Insp: Legal dated 09.01.2020. His Service Record is returned herewith.

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No: 5045

29  
CANCELLATION

Date:.....

FILED TODAY  
Deputy Registrar  
03 MAR 2020

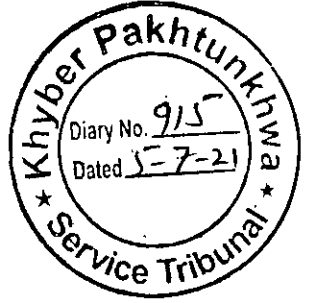
CANCELLATION

Date:.....

محمد عثمان خان ترائی  
ایجوکیشنل سیکرٹری  
No: 5045

D

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



In Ref: to Service Appeal No. 15574/2020.

Put up to the court with relevant app. - ab.  
5/7/2021  
Dander  
Rahat Ali Ex-Police Constable, No. 573.....VS.....PPO & others.

**Rejoinder on behalf of the Appellant in Service Appeal No. 15574/ of 2020 to the comments, filed by the respondents.**

**RESPECTFULLY SHEWETH;**

The Appellant humbly submits as under: s

**REPLY TO THE PRELIMINARY OBJECTIONS:**

- a) Incorrect. The Appellant has a genuine cause of action and locus standi to file the instant appeal within the ambit of law on the subject.
- b) Incorrect. Appeal is competent and all necessary/proper parties have properly been arrayed therein.
- c) Appeal is well within time; question of limitation is out of question.
- d) Incorrect. Appellant came to this court with bonafide intention and clean hands and nothing have been concealed from this honorable court.
- e) Incorrect. The appellant being a civil servant was directed by the august Peshawar High Court to approach this august Tribunal for the redressal of his grievances.
- f) Incorrect. The appeal is maintainable within the four corners of prevalent law and hence the Appellant has a good prima facie arguable case and he is sanguine for attaining the relief as prayed for.
- g) Incorrect. Nothing floating on the face of adduced and available evidence which could be adjudged to be concealed from this honorable court.
- h) Incorrect. No rule of estoppel applied as the appellant has not committed such an act which could become hurdle in the way of seeking his relief from this honorable court.

**PARAWISE COMMENTS****ON FACTS:**

1. No comments therefore no reply.
2. Incorrect. No one is responsible for the Act/omission of the other. Petitioner is not responsible for any alleged concealment of the baby in the womb even her mother may not know it, so no question of constructive liability on part of the Appellant arise. More-so appointment of the appellant (Rahat Ali), is not based on any shaheed quota and hence no concealments of facts have to be attributed to the Appellant.
3. Incorrect. Para-3 is frivolous having no relevancy to the fate of the case of the appellant as the appellant has never been appointed against any reserve quota.
4. Incorrect. Adequately dealt with in Para No.2
5. Incorrect. Detail reply has been given in preceding Para-2 & 3 above.
6. Incorrect. Detail reply has been given in preceding Para-2 & 3 above.
7. Incorrect. The respondents have never treated the appellant in accordance with law and the impugned withdrawal of appointment order of the appellant was passed in utter disregard to the then prevailing law and rules and was void abi-nitio. The appellant was appointed in police department on open merit. His appointment order is self-explanatory which has never been made against Shaheed brother's quota. Had he been appointed against Shaheed brother's quota, then he would have been recruited as ASI and not a Constable under the policy in vogue.
8. Incorrect. The Appellant has a genuine cause of action and locus standi to file the instant appeal within the ambit of law on the subject.

**REPLY ON GROUNDS:-**

- A. Incorrect. The appellant was appointed in police department on open merit. His appointment order is self-explanatory which has never been made against Shaheed brother's quota. Had he been appointed against Shaheed brother's quota, then he would have been recruited as ASI and not a

Constable under the policy in vogue. No regular enquiry has ever been conducted and the impugned order has been passed in quite vacuum in violation of fundamental rights, natural justice, and the law of the land on the subject.

- B. Incorrect. This Para being a stereo-type is reproduced which is totally irrelevant whereas Rahat Ali has never been appointed against shaheed son's quota.
- C. Incorrect. Appellant has never ever been treated in accordance with law and his qualification/right has unjustly and unwisely been neglected.
- D. Incorrect. Appellant has never been treated in accordance with policy.
- E. Incorrect. No concealment of fact has ever been proved as against Appellant on cogent reliable grounds and have the demarcation of baseless allegations. More-so alleged concealment of facts if any, would be irrelevant for the reason that the appellant has never been appointed against shaheed son's quota.
- F. Incorrect. The acts and orders of Respondents No.3 & 2 are illegal on factual as well legal footings and as such untenable.
- G. Incorrect. Detailed reply has already been given in Para No. 7 above.
- H. Incorrect. Gross illegality has been attributable to the respondents for their biased malafide acts of withdrawal of appointment order of the petitioner.
- I. Incorrect. The petitioner has not been treated in accordance with law.
- J. Incorrect. The order of Respondent No. 3 doesn't hold field on the premises of promulgated law, rules and regulations.
- K. Incorrect. Detailed reply has already been given in Para No. 7 above.
- L. Incorrect. Detailed reply has already been given in Para No. E above.
- M. Incorrect. Reply has already been given in Para 2 of the facts in the instant rejoinder.
- N. Incorrect. Detailed reply has already been given in Para No. 7 above. Detailed reply has already been given in Para No. A & B above.
- O. Incorrect. Appellant has been discriminated and un-cherished rules of favoritism and nepotism are feeble to.
- P. Incorrect. The orders of the Respondents are mockery played on law, rules, regulations and policy of the government as such.
- Q. Further submissions will be advanced at the time of hearing the petitioner at the bar.

4

**PRAYER:-**

In view of the above facts, circumstances and averments, it is most humbly in the best interest of justice prayed that on acceptance of instant rejoinder the comments of the respondent be set at naught and the appellant may kindly be reinstated in service with all consequential back benefits just to meet the ends of justice.

*Rahat*  
**PETITIONER**

Through;

**Muhammad Usman Khan  
Turlandi  
Advocate Peshawar  
Cell # 0333-9153699**

Dated: 05 /07/2021.

**AFFIDAVIT:-**

I, Rahatli EX-Constable, NO.573 of Swabi Police and son of Amir Sher R/O Narangi, Tehsil Razzarh and District Swabi, do hereby solemnly affirm and declare on oath that the contents of the accompanying rejoinder are true and correct to the best of my knowledge and belief and nothing has been kept secret or concealed therein from this august court.

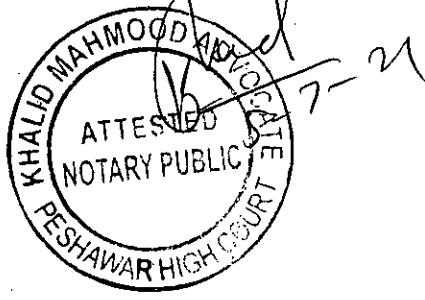
**IDENTIFIED BY:**

*[Handwritten signature]*

**Muhammad Usman Khan  
Turlandi  
Advocate Peshawar.**

*Rahat*  
**DEPONENT:**

(Rahat Ali Ex-Constable)  
CNIC NO. 16204-03453479-5





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

In Ref; to Service Appeal No. 15594/2020.

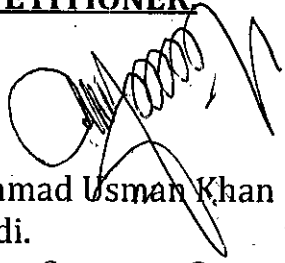
Rahat Ali Ex-FC.....VS.....PPO & others.

**INDEX**

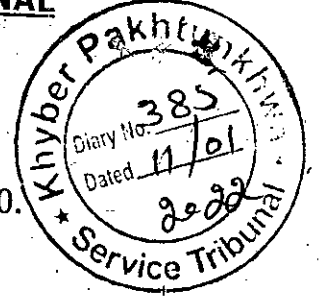
<b><u>S.No.</u></b>	<b><u>Description of documents.</u></b>	<b><u>Annexure</u></b>	<b><u>Page No.</u></b>
01	Index/Rejoinder.		01-02
02	Affidavit.		03

**PETITIONER**

Through;

  
Muhammad Usman Khan  
Turlandi.  
Advocate Supreme Court.  
Mobile# 0333-9153699.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**



In Ref; to Service Appeal No. 15594/2020.

Rahat Ali Ex-FC.....VS.....PPO & others.

**Parawise reply to the Comments of the respondents 4.**

**Respectfully Sheweth:**

Reply to the preliminary objections:

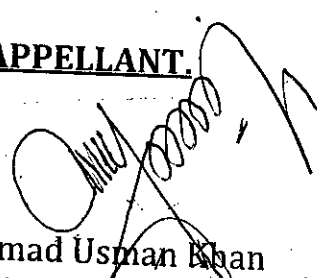
- 1) Para-1 needs no reply.
- 2) Para-1 needs no reply.
- 3) Para-1 needs no reply.
- 4) Para-4 is legal one whereas the respondent No. 4 has never shown her personal interest to be indulged in the matter in hand. It would be pertinent to mention here that the appellant (Rahat Ali, Ex-FC) was appointed as such in Police department on merit and not against any reserve quota so the respondent No. 4 will have nothing to do and cannot object such appointment of the appellant already made on merit.
- 5) Detailed reply has been given in Para-4 above. However it is added that the appellant has impliedly shown her willingness on such reinstatement of the appellant by this august Tribunal.

It is, therefore, humbly prayed that on acceptance of this rejoinder the prayers of the appellant, furnished in the service appeal may very graciously be accepted and the grievances of the appellant may be redressed in accordance with law accordingly.

**APPELLANT.**

Through;

Dated: 10/01/2022

  
Muhammad Usman Khan  
Turlandi.  
Advocate Supreme Court.

**KP Service Tribunal**  
**BEFORE THE PESHAWAR HIGH COURT PESHAWAR.**

In Ref; to Service Appeal No. 15594/2020.

Rahat Ali Ex-FC.....VS.....PPO & others.

**AFFIDAVIT.**

I, Muhammad Usman Khan Turlandi Advocate Peshawar, counsel for the appellatant, do hereby solemnly affirm and declare on oath that the contents of the accompanying Rejoinder are true and correct to the best of my knowledge and belief and that nothing has been kept secret or concealed therein from this august Tribunal.

**DEPONENT:**



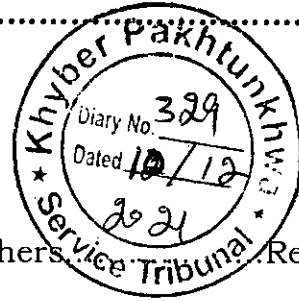
Muhammad Usman Khan  
Turlandi  
Advocate Peshawar.

18/01/22 DB

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 15594/2020 Rahat Ali Ex-FC .....Appellant

VERSUS



Inspector General of Police Khyber Pakhtunkhwa & others Respondents

Subject: **REPLY ON BEHALF OF RESPONDENT NO. 4.**

Respectfully Shewith,

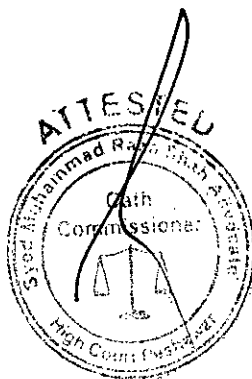
The respondent submits as under:-

6. That answering respondent is pardanasheen lady and widow of Shaheed Police Constable Nawaz Ali s/o Ameer Sher r/o Narangi Tehsil Razzar District Swabi.
7. That answering respondent has been made party in the above noted Service Appeal.
8. That answering respondent belongs to poor family and could not afford the expenses of counsel.
9. That the reply already submitted by the Police Department may please be considered as reply of answering respondent.
10. That answering respondent will have no objection if above noted Service Appeal is decided by this Hon'ble Tribunal on available record.

**Mst: Nargas widow of Nawaz Ali  
Shaheed Police Constable r/o  
Narangi Tehsil Razzar District  
Swabi.**

**AFFIDAVIT:-**

I the respondent No. 4 do hereby solemnly affirm and declare on oath that the contents of the written reply are correct/true to the best of my knowledge/belief and nothing has been concealed from the honorable Tribunal.



**Mst: Nargas widow of Nawaz Ali  
Shaheed Police Constable r/o  
Narangi Tehsil Razzar District  
Swabi.**

**Respondent No. 4**

**BEFORE THE KHYBER PAKHTUKHWA SERVICE TRIBUNAL**  
**PESHAWAR.**



In Ref: to Service Appeal No. 15574 /2020.

Rahat Ali Ex-Constable.....VERSUS.....PPO & others.

*Put up to worthy chair-man  
with relevant papers.*

Next date of hearing is fixed dated 18-01'-2022.

*Rev. du*  
**Subject: Application for early/accelerated fixation of the titled service appeal.**

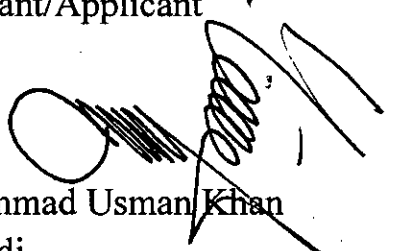
**Respectfully Sheweth:**

- 1) That the above titled Service Appeal is pending adjudication before this august Tribunal which is fixed for final/regular hearing dated 18-01-2022.
- 2) That astonishingly, after rendering 4/5 years continued services by the appellants/applicants, illegally and illogically, the first appointment order in respect of two real brothers were simultaneously withdrawn and hence large family including school going infants and old-aged dependable parents were kept deprived from their bread & butter.
- 3) That admittedly this august Tribunal is heavily burdened down of day to day routine rush of work but keeping in view the miserable condition of two dependable families who are facing a very short question of law & fact for their survival in a shortest possible time, determinable by this august Tribunal, would certainly minimize their graveness and would also meet the ends of justice.

It is, therefore, humbly prayed that on acceptances of this application, the final/regular hearing dated 18-01-2022 may very graciously be fixed for an early/accelerated date, convenient to this august Tribunal please.

Appellant/Applicant

Through

*NFA*  
  
Muhammad Usman Khan  
Turlandi  
ASC at Peshawar.

Dated: 02/11-2021.