

14.09.2022

Learned counsel for the appellant present. Mr. Atta-Ur-Rehman, Inspector (Legal) alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments. Last opportunity given. Adjourned. To come up for arguments on 29.11.2022 before D.B.



(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)

29.11.2022

Learned counsel for the appellant present. Mr. Atta-ur-Rehman, Inspector (Legal) alongwith Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant sought time for preparation of arguments. Adjourned. To come up for arguments on 25.01.2023 before the D.B.



(Mian Muhammad)
Member (Executive)



(Salah-Ud-Din)
Member (Judicial)

SCANNED
BY
Peshawar

25-1-23

Proper DB is not available

The case is adjourned to 4-5-23


Reader

29.04.2022

Counsel for the appellant present. Syed Naseer Ud Din Shah, Assistant Advocate General alongwith Mr. Atta Ur Rehman, Inspector for respondents present.

Learned counsel for the appellant seeks adjournment on the ground that he has not met preparation for arguments. Adjourned. To come up for arguments before the D.B on 18.07.2022.

19.2

(Mian Muhammad)
Member(E)

(Salah Ud Din)
Member(J)

18.07.2022

Appellant present through counsel.

Muhammad Adeel Butt, learned Additional Advocate General alongwith Atta ur Rehman Inspector for respondents present.

A request for adjournment was made on behalf of learned counsel for appellant as he has not prepared the brief. Adjourned. To come up for arguments on 14.09.2022 before D.B.

(Fareeha Paul)
Member(E)

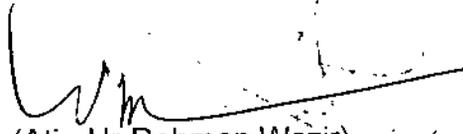
(Rozina Rehman)
Member (J)

21.10.2021

Junior to counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate General alongwith Khyal Roz Inspector for respondents present.

Request for adjournment was made on behalf of appellant as senior counsel is not available; Opportunity is granted. To come up for arguments on 01.02.2022 before D.B.



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

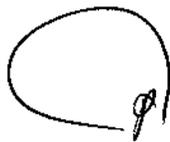


(Rozina Rehman)
Member (J)

01.02.2022

Clerk of learned counsel for the appellant present. Mr. Abdul Baseer, Inspector (Legal) alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy before D.B-I of this Tribunal. Adjourned. To come up for arguments on 29.04.2022 before the D.B.



(Rozina Rehman)
Member (J)



(Salah-ud-Din)
Member (J)

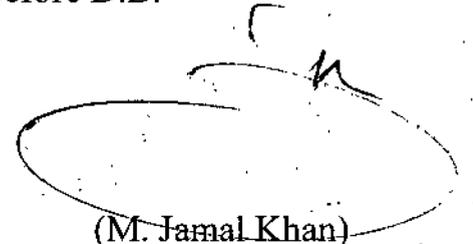
04.01.2021

Mr. Taimoor Ali Khan, Advocate counsel for the appellant present. Additional AG alongwith Mr. Khayal Roz, ASI for respondents present.

The learned counsel for the appellant requested for adjournment. The request is acceded to and the case is adjourned to 29.03.2021 for arguments before D.B.



(Mian Muhammad)
Member(E)



(M. Jamal Khan)
Member(J)

29.03.2021

The concerned D.B is not available today, therefore, the appeal is adjourned to 29.06.2021 for the same.



Reader

29.06.2021

Mr. Taimur Ali Khan, Advocate, for the appellant present. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Khayal Roz Inspector (Legal) for the respondents present.

We being Members of Larger Bench, remained busy in hearing arguments in the appeals fixed before the Larger Bench, therefore, arguments in the instant appeal could not heard. Adjourned. To come up for arguments before the D.B on 21.10.2021



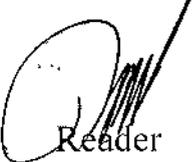
(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

10.06.2020

Bench is incomplete as one learned Member (J) is on leave. Therefore, the case is adjourned. To come up for the same on 24.08.2020 before D.B.



Reader

24.08.2020

Due to summer vacation case to come up for the same on 28.10.2020 before D.B.

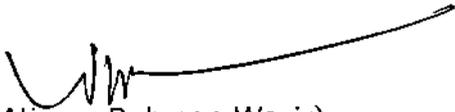


Reader

28.10.2020

Junior to counsel for the appellant and Addl. AG alongwith Zaheer Muhammad, PSI for the respondents present.

The Bar is observing general strike, therefore, the matter is adjourned to 04.01.2021 for further proceedings before the D.B.



(Atiq-ur-Rehman Wazir)
Member



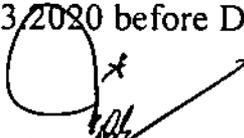
Chairman

16.12.2019 Learned counsel for the appellant and Mr. Riaz Paindakheil learned Assistant Advocate General alongwith Atta ur Rehman Inspector present. Learned counsel for the appellant submitted rejoinder which is placed on file and seeks adjournment. Adjourn. To come up for arguments on 14.02.2020 before D.B.


Member


Member

14.02.2020 Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Learned counsel for the appellant seeks adjournment. Adjourned To come up for arguments on 25.03.2020 before D.B.


Member


Member

25.03.2020 Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 10.06.2020 before D.B.


Reader

03.04.2019

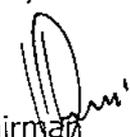
Appellant with counsel and Addl: AG alongwith Mr. Atta Ur Rehman, SI for respondents present. Written reply not submitted. Requested for adjournment. Adjourned. Case to come up for written reply/comments on 03.05.2019 before S.B.


(Ahmad Hassan)
Member

03.05.2019

Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Attaur Rahman Inspector (Legal) for the respondents present.

Reply on behalf of respondents No. 1, 2 & 3 received which is placed on file. To come up for arguments on 18.07.2019 before the D.B. The appellant may submit rejoinder within a fortnight, if so advised.


Chairman

18.07.2019

Learned counsel for the appellant present. Mr. Usman Ghani learned District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 07.10.2019 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

8.10.2019

Due to tour of Honble

Members to camp court

Since the case is adjourned

AO 16-12-2019


Reader

22.02.2019

Counsel for the appellant present.

Argued that the appellant was acquitted in two cases registered against him while in the third one he was released on bail by the court of competent jurisdiction.

The appellant was not put under suspension till conclusion of trial as required under CSR-1947 therefore, the departmental proceedings were without lawful authority. It was further stated that the appellant was not issued a show cause notice before imposition of major penalty of dismissal from service. He was also not provided with the chance of hearing during the departmental proceedings.

In view of the above, the appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 03.04.2019 before S.B.


Appellant deposited
Security & Process Fee

Chairman 

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1495/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	17/12/2018	<p>The appeal of Mr. Salman resubmitted today by Mr. Taimur Ali Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	24/12/18.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>21/01/2019.</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	21.01.2019	<p>No one present on behalf of appellant. Due to general strike of the bar, the case is adjourned. To come up for preliminary hearing on 22.02.2019 before S.B.</p> <p style="text-align: right;"> Member</p>

The appeal of Mr. ~~Suleman~~ Ex-Constable No.3270 Police Line Mardan received today i.e. on 28.11.2018 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellatant.
- 2- Annexures of the appeal may be attested.
- 3- Annexures of the appeal may be flagged.
- 4- Copy of impugned order is not attached with the appeal which may be placed on it.
- 5- Copy of departmental appeal and its rejection order are not attached with the appeal which may be placed on it.
- 6- Annexures referred to in the memo of appeal are not attached with the appeal which may be placed on it.
- 7- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 2298 /S.T,

Dt. 29-11 /2018.

[Signature]
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Taimur Ali Khan Adv. Pesh.

Respected Sir,

That the instant appeal would be submitted within 15 days as per direction your direction which comes to end today. but the instant appeal cannot submitted within the stipulated period due to some documents therefore it is requested to extend one week time for submission of instant appeal.

[Signature]
Taimur Ali Khan
Adv

13/12/18

Allowed.

[Signature]
13/12/18.

Respected Sir

- 1- Removed
- 2- Removed
- 3- Removed
- 4- Copy of impugned order is attached at page-13
- 5- Copy of departmental appeal at page 14. and rejection order at page-17
- 6- Removed
- 7- Removed

६१/११/१८-११२२२२

Resubmitted after compliance
11-12-18

Offr.

17/12/18

६१/११/१८

११/११/१८

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1495/2018

Salman

V/S

Police Deptt:

INDEX

S.No.	Documents	Annexure	P. No.
1.	Memo of Appeal	-----	01-03
2.	Copy of FIRs	A,B&C	04-06
3.	Copy of acquittal order	D	07-08
4.	Copy of charge sheet and reply to charge sheet	E&F	09-12
5.	Copy of dismissal order	G	13
6.	Copy of departmental appeal	H	14-16
7.	Copy of rejection order	I	17
8.	Vakalat Nama	-----	18

APPELLANT

THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,


&
ASAD MAHMOOD
(ADVOCATE HIGH COURT)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2018

Salman, Ex-Constable, No.3270,
Police Lines, Mardan.

(APPELLANT)

VERSUS

1. The Provincial Police Officer, KPK, Peshawar.
2. The Regional Police Officer, Mardan Region, Mardan.
3. The District Police Officer, Mardan.

(RESPONDENTS)

**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974
AGAINST THE ORDER DATED 01.11.2018, WHEREBY THE
DEPARTMENT APPEAL OF THE APPELLANT HAS BEEN
REJECTED AGAINST THE ORDER DATED 15.08.2018,
WHEREIN THE APPELLANT WAS DISMISSED FROM
SERVICE FOR NO GOOD GROUNDS.**

PRAYER:

**THAT ON THE ACCEPTANCE OF THIS APPEAL, THE
ORDER DATED 01.11.2018 AND 15.08.2018 MAY BE SET
ASIDE AND THE APPELLANT MAY BE REINSTATED INTO
SERVICE WITH ALL BACK AND CONSEQUENTIAL
BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST
TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY
ALSO, BE AWARDED IN FAVOUR OF APPELLANT.**

RESPECTFULLY SHEWTH:

FACTS:

1. That the appellant joined the police force in the year 2011 and completed all his due training etc and also have good service record throughout.
2. That the appellant, while posted in police Lines Mardan, was charged in case FIR No.1318 dated 30.12.2017 u/s 381-A PS Mingora, District, Swat, in case FIR No.18 dated 09.01.2018 u/s 381-A PS Rahim Abad and in case FIR No. 1016 dated 29.12.2017 u/s 381-A PS Rahim Abad on which the appellant was suspended. **(Copies of FIRs are attached as annexure-A,B&C)**
3. That the appellant was bailout in the criminal cases and also acquitted in one of the FIR No.1061 dated 29.12.2017 u/s 381-A/34 PPC P.S Rahim Abad, Swat vide order dated 28.04.2018 by the competent court of law. **(copy of order dated 28.04.2018 is attached as annexure-D)**
4. That on the basis of above mentioned reason, charge sheet was issued to the appellant. The appellant submitted the detail reply to the charge sheet in which he denied the allegations and gave real facts about the situation. **(Copies of charge sheet and reply to charge sheet are attached as Annexure-E&F)**
5. That inquiry was conducted against the appellant in which no proper opportunity of defence was provided to the appellant as neither statements were recorded in the presence of the appellant nor gave him opportunity of cross examination, even the inquiry report was not provided to the appellant.
6. That on the basis above reason, the appellant was dismissed from service under police rules 1975 vide order dated 15.08.2018 without issuing show cause notice to the appellant. **(Copy of order dated 15.08.2018 is attached as Annexure-G)**
7. That against the impugned dismissal order, the appellant filed departmental appeal, which was rejected on 01.11.2018 **(Copies of departmental appeal and rejection order are attached as Annexure-H&I)**
8. That now the appellant come to this august tribunal on the following grounds amongst others.

GROUND:

- A) That the impugned order dated 01.11.2018 and 15.08.2018 are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.

- B) That inquiry was not conducted against the appellant in prescribed manner as neither the statements were recorded in the presence of the appellant nor gave him opportunity of cross examination, which is violation of law and rules therefore the impugned orders are liable to be set aside.
- C) That no show cause notice was issued to the appellant before passing the impugned order of dismissal from service which is violation of rules and norms of justice.
- D) That the suspension of the appellant should be kept intact till the conclusion of trial pending against him by the responded department, but the appellant was dismissed by the respondent department without waiting to the conclusion of trial pending against the appellant, which is violation of CSR-194.
- E) That the appellant was bailout in all cases and also acquitted in one of the case which shows that the appellant is innocent and was punished for no fault on his part.
- F) That the appellant has not given chance of personal hearing which is against the norms of justice and fair play.
- G) That the appellant was not treated in accordance with law and rules and has been condemned unheard throughout.
- H) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.


APPELLANT

Salman

THROUGH:


(TAIMUR ALI KHAN)

ADVOCATE HIGH COURT,


(ASAD MAHMOOD)

ADVOCATE HIGH COURT,

D. O.

IN THE COURT YASIR HUSSAIN
JUDICIAL MAGISTRATE-II/ILLAQA QAZI, SWAT

57 / 103

State vs Suliman & others.
FIR No. 1061 u/s 381A/34 PPC
P.S Rahimabad Swat.

17/2/18 131



Order.....06
28-04-2018

APP for the State present. Accused namely Suliman on bail present. Complainant in person also present. Accused namely Amir Gul and Janas produced from jail on Zamima Bay.

Today, at the very outset, the complainant namely Ahmad Karim s/o Said Umar r/o Qambar Swat stated at the bar that he has partially patched up the matter with the accused outside the court with the intervention of elders of the locality and pardoned them in the name of Allah Almighty. Further stated that he has got no objection if the accused is acquitted in the instant case because he does not want to prosecute him anymore. To this effect his statement is recorded today in the court and placed on file. Photo copy of Compromise is Ex PA CNIC of the complainant i.e. 1133.

100/2/18

[Signature]

Record reveals that accused namely Suliman s/o Anwar Sher r/o Chok Kot Ismail Zai Ghari Kapora Mardan, Janas s/o Ali Burhan r/o Fatima Par Hoti, Amir Gul s/o Farid Gul r/o Mardan, Ishliq Ahmad s/o Omar Akram r/o Mardan, Sajjad alias Zubair Baqir s/o Farooq Shah and Ali Zar s/o Shehzada r/o Mardan are facing trial in case FIR No. 1061 dated 29/12/2017 under Sections 381A/34 PPC of P.S Rahimabad, District Swat.

The complainant and accused Suliman have entered into compromise. The compromise seems genuine and in the best interest of both the parties. Therefore, the compromise is accepted and the

accused defendant is awarded after finding trial is discharged of the charges leveled against him on the basis of compromise. He is on bail, so his sureties stand discharged from the liability of bail bonds. Case property if any be disposed of according to law. However, the case of the prosecution shall proceed to the extent of rest of the accused.

File to come up for framing of formal charge of the above named accused on 10/5/18 NBW be issued against rest of the accused.

Announced
28-04-2018

YASIR HUSSAIN
JUDICIAL MAGISTRATE-II/
Ilqari Qazi, Swat.
28/4/2018

10330
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FCB
26-6-18

APD
24/5/18
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10/5/18

APD
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0-7
24/5/18

Dist. J. Swat
26/6/18

E (9)

CHARGE SHEET UNDER KPK POLICE RULES 1975

I, Muhammad Khuram Rashid District Police Officer, Mardan as competent authority hereby charge you Constable Salman No. 3270, as follows.

That you Constable Salman No. 3270, while suspended at Police Lines, Mardan was charged in case FIR No. 1318 dated 30.12.2017 u/s 381-A PS Mingora, District Swat, in case FIR No. 18 dated 09.01.2018 u/s 381-A/34 PS Rahim Abad and in case FIR No. 1061 dated 29.12.2017 u/s 381-A/34 PS Rahim Abad, District Swat. You are recommended for departmental action by SP/Investigation, Mardan, vide his office Letter No. 568/GB/Inv: dated 31.01.2018 and vide office Letter No. 879/GB/Inv: dated 02.02.2018, respectively. Hence, you are liable to proceed against departmentally.

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

1. By reason of the above, you appear to be guilty of misconduct under section - 02 (iii) of the KPK Police Rules 1975 and has rendered yourself liable to all or any of the penalties as specified in section - 04 (i) a & b of the said Rules.
2. You are therefore, directed to submit your written defense within seven days of the receipt of this charge sheet to the enquiry officer.
3. Your written defence if any, should reach to the enquiry officer within the specified period, failing which, it shall be presumed that you have no defense to put-in and in that case, an ex-parte action shall follow against you.
4. Intimate whether you desired to be heard in person.

(Muhammad Khuram Rashid) PSP
District Police Officer,
Mardan

Before the DPO Mardan.

F (10)

Subject: Reply to the charge sheet + statement of allegations.
No 357-R dated 18.11.2018.

Respected Sir,

Your honour had issued the subject charge sheet to the petitioner with the following allegations, which handed over to the petitioner on 11.5.2018.

That you Constable Salman No 3270, while posted at Police lines Mardan was charged in Case FIR No 1318 dated 30.12.017 u/s 381-A PS Mingora Swat. Case FIR No 18 dated 9.1.018 u/s 381-A PS Rahim آباد. Case FIR No 1061 dated 29.12.017 u/s 381-A PS Rahim آباد District Swat. He is recommended for departmental action by SP investigation Mardan vide his office letter no 562/A.B. dated 31.1.2018 and vide letter no 559/A.B. dated 2.2.2018 respectively. (copy enclosed).

(1) It is submitted that in the month of December 2017, petitioner remained posted at SP Casulty mmc. DSP Falak Nawaz was in the charge of Security of mmc at that time. On the verbal direction of DSP Falak Nawaz, petitioner performed his duty with him as private driver.

(2) That on 21.12.2017, petitioner was present on duty at mmc Hospital. It was about 0830 hours that DSP Luoman Ichan SDO/Pabbi, Mr Adil Iqbal PS Pabbi along with 03 constables came to mmc Hospital. DSP Falak Nawaz was not available and the above officials met with Mr Ijaz I/c SP Casulty mmc Mardan.

(3) That DSP Luoman Ichan disclosed that some Car-Quitting Cases have been reported at PS Pabbi and in order to trace out these cases my (petitioner) services are required in the shape of some fruitful information. DSP Luoman was already known to the petitioner as he (petitioner) served with him as gunner in the year 2015 at PS Toru Mardan. DSP Luoman brought the petitioner to PS Pabbi and handed over to Inspector Shad Ali SHO PS Pabbi. SHO Shad Ali kept the petitioner in his Quarter for 05 days. During this period SHO

Shad Ali told the petitioner that as he (petitioner) belongs to Car-Lifter gang, therefore he should contact the culprits of the occurrence, otherwise he will be arrested in these cases. The petitioner showed that he is innocent and knew nothing about the car-lifting cases occurred in the jurisdiction of PS Pabbi.

4) During illegal confinement at PS Pabbi DPO / Nowshera Mr. Darim Khan also visited PS Pabbi and interrogated the petitioner. He also directed the petitioner to comply the direction of SHO / PS / Pabbi.

5) During confinement at PS Pabbi the relatives of the petitioner frequently visited PS Pabbi and met with SHO / Shad Ali requesting him for the release of the petitioner. SHO, Shad Ali turned down the request of the relatives of the petitioner time and again. The father of the petitioner filed a Complaint u/s 22-A before the Session Judge NSR and High Court Peshawar respectively. (Copies of Complaint 22-A are enclosed)

6) That petitioner was kept in illegal confinement at PS Pabbi till 8.1.2018 and to this effect Complaint u/s 22-A was filed by the father of the petitioner against the following officials:

- 1) DPO / Nowshera
- 2) Mr. Luoman DSP / Pabbi
- 3) INSP. Shad Ali SHO PS Pabbi

7) that on 10.1.2018 Si Noor Daraz SHO PS Shergah came to PS Pabbi and brought the petitioner to PS Shergah and kept him in the lock-up. SHO PS Shergah arrested the petitioner in some untraced car lifting case and sent him to Central Jail Mandan.

8) It would not be out of place to mention here that DPO / Nowshera has been recently transferred from District Swat and in his place Mr. Darim is the then DPO / NSR has been transferred as DPO / Swat. In order to take revenge from the petitioner regarding his Complaint u/s 22-A, the police officials mentioned at para 6 above approached to DPO / Swat and misquid him that petitioner is notorious car-lifter and involved in the car-lifting cases of District Swat. on the recommendation of District Police NSR. The Swat police came behind the petitioner to Central Jail Mandan and brought the petitioner to Swat, where his arrest was shown

In the cases mentioned in the Charge Sheet one or the other The Petitioner was falsely implicated in these cases, which detail is as under

A) Case FIR 1318 dated 30.12.017 u/s 381-A Ps Mungoro Swat
In this case the petitioner has been released on bail by the court of Civil Judge Swat on 10.2.2018. Complainant of the case stated he made compromise and pardoned the petitioner hence the matter has been patched up. (Court documents are enclosed)

B) Case FIR No 18 dated 9.1.2018 u/s 381-A Ps Rahim Akbar
In this case petitioner has been released on bail by civil judge Swat as no evidence presented against the petitioner during Police Custody.

C) Case FIR No 1061 dated 29.12.017 u/s 381-A Ps Rahim Akbar
In this case petitioner has been released on bail. Complainant normally Ahmad stated before the court that he charged the petitioner on more suspicious and that petitioner is innocent in the case. Petitioner has already been acquitted in the case. (Written Affidavit of the Complainant is enclosed)

9) The petitioner has been arrested in these inter-caste cases due to malafidelity of police officials mentioned at para 6 above. The petitioner has been reinstated as constable in Police department in 2011. During service petitioner was neither dealt departmentally nor punished which is evident from the Shining Service record of the petitioner.

10) The petitioner is married with total parents. The livelihood of his family is depend upon the police service of the petitioner. The petitioner has been married absent on 21.12.017 by Asst Joz J/c PP Family more till date followed by suspension from service.

Keeping in view the above facts and circumstances, it is humbly requested that the Charge Sheet may kindly be filed and re-instated in service from the date of Suspension phase.

Dated. 15.5.2018

Yours obediently

SB
Constable Lalman No 3270
Police Lines Marlay



(5) OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

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



Dated 16/07/2018

No. 4868-72/PA

ORDER ON ENQUIRY OF CONSTABLE SALMAN NO.3270

This order will dispose-off a Departmental Enquiry under Police Rules 1975, initiated against the subject official, under the allegations that while posted at Police Lines (now under suspension Police Lines), proceeded against departmentally through Mr. Janas Khan SP/Investigation Mardan vide this office Disciplinary Action No.337/R/D.A-P.R.1975 dated 18.04.2018 on account of charging in the following cases:-

- 1) FIR No. 1061 dated 29.12.2017 U/S 381-A/54 PS Rahim Abad (Swat)
- 2) FIR No.1318 dated 30.12.2017 U/S 381-A PS Mingora (Swat)
- 3) FIR No. 18 dated 09.01.2018 U/S 381-A/54 PS Rahim Abad (Swat)

The Enquiry Officer, after fulfilling necessary process, submitted his Finding Report to this office vide his Office letter No.900/PA/Inv: dated 03.07.2018, highlighting that the allegations levelled against the alleged official have been proved & recommended him for Major Punishment,

Final Order

Constable Salman was heard in O.R on 13.08.2018, but failed to present any plausible reasons in his defense, therefore, awarded him Major Punishment of Demission from Police Force in the light of proved allegations/misconduct with immediate effect, in exercise of the power vested in me under Police Rules 1975.

OB No. 1557
Dated 15/8 2018.

District Police Officer,
Mardan

Copy forwarded for information & n/action to:-

- 1. The SP/Investigation, Swat w/r to his office letter No.568/GB/Inv: dated:31.07.2018
- 2. The DE/IO, Mardan
- 3. The DE/IO, Mardan
- 4. The DE/IO, Mardan
- 5. The DE/IO, Mardan
- 6. The DE/IO, Mardan

H 14

BEFORE THE DEPUTY INSPECTOR GENERAL OF POLICE
MARDAN REGION -1 MARDAN

Subject: APPEAL AGAINST THE ORDER O.R NO. 1557 DATED 15-08-2018 OF DISTRICT POLICE OFFICER MARDAN, WHERE BY THE APPELLANT WAS AWARDED MAJOR PUNISHMENT OF "DISMISSEL FROM SERVICE".

R/Sir

It is submitted that:

1. The DPO Mardan has allegedly Issued charge sheet No.337/R Dated 18-04-18 to the Appellant with the following allegations:-
" That you Constable Salman No.3270, while posted at PS Line Mardan was charged in : Case FIR No.1061 dated 29-12-2017 U/S 381-A/34 PS Rahim Abad (Swat),Case FIR No.1318 dated 30-12-2017 U/S 381-A PS Mingora (Swat) and case FIR No.18 dated 09-01-2018 U/S 381-A/34 PS Rahim Abad (Swat).He is recommended for departmental action by SP (Inv)Mardan."(Copy enclosed)
2. In the light of charge sheet, a departmental inquiry was initiated against the appellant.Mr Janas Khan SP (Inv)Mardan was appointed as enquiry officer .During the course of enquiry, the appellant produced a detailed and comprehensive reply in response to the charge sheet.The reply dated 15-05-2018 was not considered and submitted his finding report to the office of the DPO Mardan against the appellant, mentioning therein that the allegations have been proved and recommended the appellant for major punishment. (Copy of the appellant reply dated 15-05-2018 in response to the charge sheet is enclosed).
3. In the light of the enquiry finding the DPO Mardan awarded major punishment of dismissal from service to the appellant and dismissed him from service vide OB No.1557 dated 15-08-2018.(Copy enclosed).

BRIEF FACTS BEHIND THE ISSUANCE OF THE CHARGE SHEET:

1. It is submitted that the appellant was enlisted as constable in Police Deptt on 6-04-2011.During the month of December,2017 the appellant remained posted at PP Casualty in MMC:DSP Falak Nawaz was incharge of security of MMC at that time.On the verbal direction of DSP Falak Nawaz,the appellant performed his duty with him as private driver.
2. That on 21-12-2017 petitioner was present on duty at MMC.It was about 0830 hrs that DSP Luqman Khan SDPO/Pabbi,ASI Adil Khan of PS Pabbi alongwith 03 constables came to MMC hospital.DSP Falak Nawaz was not available and the official met with ASI Ijaz i/s PP casualty MMC.
3. That DSP Luqman Khan disclosed that some car lifting cases have been reported at PS Pabbi and in order to trace out these cases my (appellant) services are required in the shape of some fruitful informations.DSP Luqman Khan was already known to the appellant as the appellant has already served with him as gunner in the year 2015 at PS Toru Mardan. Later on the appellant came to know that on 21-12-2017 at 1700 hra the appellant was marked absent by ASI Ijaz i/s PP Casualty Mardan.
4. That the DSP luqman Khan brought the appellant to PS Pabbi and handed over to Inspector Shad Ali SHO PS Pabbi.SHO Shad Ali kept the appellant in his quarter for 05 days.During this period SHO Shad Ali told the appellant that he (appellant) belongs to a car lifter gang,therefor he shoud contacts the culprits who committed such offences in the jurisdiction of PS Pabbi.He also told the appellant that in case of failure the appellant will be arrested in these cases.The appellant showed that he is innocent and

5. During the illegal confinement in PS Pabbi, Mr. Qasim Khan DPO Nowshera also visited PS Pabbi and interrogated the appellant. The said DPO also directed the appellant to comply the direction of SHO Pabbi.
6. That during confinement at PS Pabbi the relatives of the appellant frequently visited PS Pabbi and met with SHO Shad Ali requesting him for the release of the appellant. SHO Shad Ali turned down the request of the relatives time and again. The father of the appellant filed a complaint U/S 22-A before the session Judge Nowshera and High Court Peshawar against the following officials respectively. The appellant was kept in illegal confinement at PS Pabbi till 8-01-2018.
- Mr. Qasim Khan DPO Nowshera
 - Mr. Luqman Khan DSP Pabbi.
 - Mr. Shad Ali SHO PS Pabbi.
7. That on 10-01-2018 SI Noor Daraz Khan SHO PS Sher Garh came to PS Pabbi and brought the appellant to PS Shergarh where he was kept in the lock up. SHO PS Sher Garh arrested the appellant in some untraced car lifting cases and sent him to central jail Mardan.
8. It would not be out of place to mention here that at that time Mr. Qasim Khan DPO Nowshera was recently transferred from District Swat to Distt Nowshera and his place Mr. Wahid Mehmood DPO Nowshera was transferred as DPO Swat. In order to take revenge from the appellant, regarding the Complaint u/s 22-A Mr. Qasim Khan DPO Nowshera approached to DPO Swat and misguided him that appellant is notorious car lifter and is reportedly involved in car lifting cases of Distt Swat. On the request of Mr. Qasim Khan DPO Nowshera, The Swat Police came behind the appellant to central jail Mardan and brought him to Swat where he was arrested in some untraced cases one after the other. These cases are already mentioned in the charge sheet.

Details of Car lifting cases wherein the appellant was allegedly implicated:

- a. Case FIR NO.1061 dated 29-12-2017 u/s 381-A PS Rahim Abad:

In this case the appellant was released on bail by the Court of Civil Judge Swat dated 10-02-2018. Complainant of the case Ahemd Karim has stated before the court that he has charged the appellant on mere suspicion and the appellant is innocent in the case. In this case the appellant was acquitted by the Court of Judicial Magistrate Swat vide court order dated 28-04-2018. (Copy of court order enclosed)

- b. Case FIR NO.1318 dated 30-12-2018 u/s 381 --A PS Mingora.

In this case the appellant has been released on bail by the court of Civil Judge Swat vide court order 10-02-2018. Complainant of the Ishaq has made compromise and pardoned the appellant being innocent in the case. Hence the matter has been patched up. (Court docs are enclosed)

- c. Case FIR NO.18 dated 09-01-2018 u/s 381-A PS Rahim Abad:

In this case the appellant has been released on bail by the court of Civil Judge Swat as no any kind of evidence was brought against him during Police custody.

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GROUNDS OF APPEAL:

1. The appellant is innocent and has been falsely implicate in these car lifting cases. Being member of the disciplined force the appellant cannot imagine to involve himself in such like nefarious activities.
2. The appellant was arrested by the malifidity of Mr. Qasim Khan the then DPO Nowshera through Swat Police. This was the act of revenge of Mr. Qasim Khan from the appellant for the reason that the appellant had filed a complaint u/s 22-A in the court of Distt and session Judge Nowshera which details has already mentioned above.
3. That in one case the appellant has been acquitted in the court and in remaining two cases complainant of the cases have pardoned the appellant being innocent in the cases and hence the fate of these cases.
4. That the appellant during the entire service of period was neither dealt departmentally nor punished. This fact is evident from the shining service record of the appellant.
5. That the Appellant was not given any opportunity of "PERSONAL HEARING" by the competent authority at the time of passing of impugned punishment Order, which is contrary to the Police rules 1975, hence great injustice was extended.
6. That the Appellant was not given "FINAL SHOW CAUSE NOTICE" by the competent authority, which was the necessary requirement as per relevant rules and thus the illegal Order was passed.

Keeping In view of the facts and circumstances mentioned above, it is humbly requested that the Appeal of the Appellant may kindly be accepted and the impugned Order passed by DPO Mardan may kindly be set aside by re-instating the appellant from the date of dismissal, please.

Yours Obediently,

(Ex. Constable Salman No. 3270)
District Police Mardan
(Now Dismissed from service)

Dated: October, 2018.

7 (17)

ORDER.

This order will dispose-off the departmental appeal preferred by **Ex-Constable Salman No. 3270** of Mardan District against the order of District Police Officer, Mardan, wherein he was awarded Major punishment of Dismissal from service vide his office OB No. 1557 dated 15.08.2018.

Brief facts of the case are that the appellant while posted at Police Lines, proceeded against departmentally through Mr. Janas Khan Superintendent of Police Investigation, Mardan vide District Police Officer, Mardan office Disciplinary Action No.337/R/D.A-P.R1975 dated 18.04.2018 on account of charging in the following cases:-

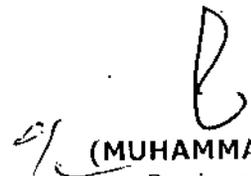
1. FIR No. 1061 dated 29.12.2017 U/S 381-A/34 PS Rahim Abad (Swat)
2. FIR No.1318 dated 30.12.2017 U/S 381-A PS Mingora (Swat)
3. FIR No. 18 dated 09.01.2018 U/S 381-A/34 PS Rahim Abad (Swat)

The Enquiry Officer, after fulfilling necessary process, submitted his Findings highlighting that the allegations leveled against him and the alleged official has been proved and recommended him for Major Punishment.

He was heard in Orderly Room on 13.08.2018, but failed to present any plausible reasons in his defense, therefore, awarded him Major Punishment of Dismissal from Police Force in the light of proved allegations/misconduct.

He was called in orderly room held in this office on **30.10.2018** and heard him in person. The appellant did not produce any cogent reason in his defence/innocence. Therefore, I find no grounds to intervene into the order passed by District Police Officer, Mardan. **Appeal is rejected.**

ORDER ANNOUNCED.


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

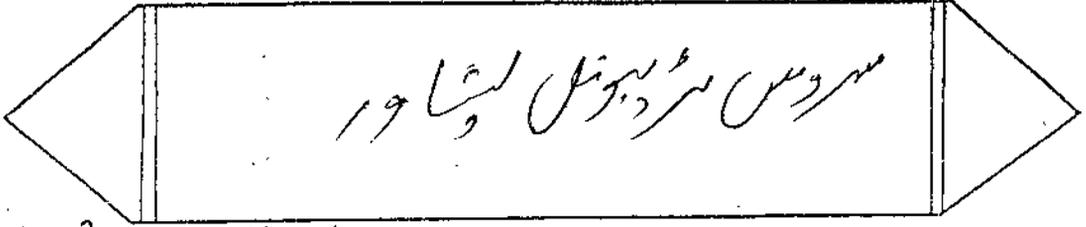
No. 7005 /ES, Dated Mardan the 01/11 /2018.

Copy to District Police Officer, Mardan for information and necessary action w/r to his office Memo: No. 801/LB dated 17.10.2018. The Service Record is returned herewith.

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بعد الت



سماں 2مہ بنجاب (ایڈوکیٹس)
سماں بنام محکمہ دیویش

موزخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کاروائی متعلقہ
آن مقام لٹا سرورس کے لیے (جمہور عدلیہ) خان اور اسد محمود اور دیگر
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک دروپیہ 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 برادگی 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 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 اختیار حاصل ہوں گے اور اس کا ساختہ
پرداختہ منقولہ قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانبہ التوائے مقدمہ کے سبب سے وہوگا۔
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

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ماہ

الرقوم

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کے لئے منظور ہے۔

بمقام

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BEFORE THE HONOURABLE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR.

Service Appeal No. 1495/2018.

Salman Ex-Constable No. 3270.....Appellant.

VERSUS.

District Police Officer, Mardan

& others.....Respondents.

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:-

1. That the appellant has not come to this Honourable Tribunal with clean hands.
2. That the appellant has got no cause of action.
3. That the appellant has concealed material facts from this Honourable Tribunal.
4. That the appellant is estopped by his own conduct, by law to bring the instant appeal.
5. That the present appeal is bad in its present form hence not maintainable and liable to be dismissed.
6. That the appeal is bad due to non-joinder of necessary parties and mis-joinder of unnecessary parties.
7. That the instant appeal is barred by law & limitation.

REPLY ON FACTS.

1. Correct to the extent of appellant's enrolment in the year 2011, however, to the later part of this Para his service record speaks otherwise. **(Copy of red/bad entries are attached as annexure-A)**
2. Correct, hence, no comments.
3. Pertains to record. However, the appellant was discharged of the alleged offence on the grounds of compromise and this fact has been agitated by the inquiry officer as his discharge in the criminal case is not on merit. **(Copy of inquiry is attached as Annexure-B)**
4. Incorrect. Proper inquiry as per law has been conducted with completion of all codal formalities. Hence, denied.
5. Incorrect. All codal formalities has been complied with and the appellant is given opportunity of personal hearing at all fora of the departmental proceedings.
6. Pertains to record.
7. Incorrect. The appellant holds no grounds, legal or moral, to stand here on in this Honourable Tribunal.
8. The appellant has got no cause of action to file instant appeal.

REPLY ON GROUNDS:-

- A. Incorrect, the impugned orders are legal and according to facts, norms of justice and material on record.
- B. Incorrect, proper inquiry as per rules/law is conducted by providing opportunity of self-defence.
- C. Incorrect. All codal formalities are complied with, resultantly, the appellant is awarded penalty which he deserved under rules/law.

incorrect. There is sufficient material on record upon which he is found guilty by the inquiry officer, hence, denied.

E. Incorrect. The concession given to the appellant by the court in the one criminal case was on the ground of compromise, while, in the two criminal cases he is still to go and still there is enough evidence against him to be punished at the conclusion of the trial.

F. Incorrect. The appellant was given opportunity of personal hearing at all forums of departmental proceedings. He was also heard in person by the respondent No. 2 as competent appellate forum in this regard, but failed to prove his innocence in the cases.

(Copy of DIG Order is attached as Annexure-C).

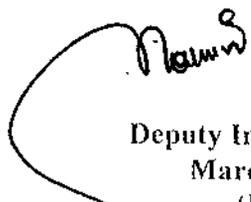
G. Incorrect. The appellant was treated as per law and rules, hence, punished as deserved.

H. The respondents also seek permission to raise additional grounds at the time of arguments.

PRAYER:-

It is, therefore, requested that the prayer of the appellant, being baseless & devoid of merits, is liable to be dismissed with costs.


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


Deputy Inspector General of Police,
Mardan Region-1, Mardan
(Respondent No. 02)


District Police Officer,
Mardan
(Respondent No. 03)

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

Service Appeal No. 1495/2018.

Salman Ex-Constable No. 3270.....Appellant.

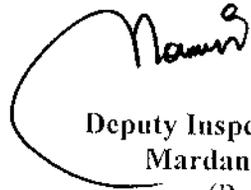
VERSUS.

District Police Officer, Mardan
& others.....Respondents.

COUNTER AFFIDAVIT.

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


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


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


District Police Officer,
Mardan
(Respondent No. 03)

Serial No.

AND PUNISHMENTS.

Five Rs. 50/- for his Absence

OB No. 2412

4-11-13

DPO/MR

② days extra drill for his Absence.

OB No. 2531

19-11-13

2

DPO/MR

② days extra drill for his Absence

OB No. 906

22-4-14

3

DPO/MR

② days extra drill for his absence.

OB No. 1378
10-6-14

4

DPO/MR

② days extra drill for his absence.

OB No. 1574

8-7-14

5

DPO/MR

③ days extra drill for his absence.

OB No. 1688
6-8-14

6

DPO/MR

② days extra drill for his absence.

OB No. 1706

8-8-14

7

DPO/MR

② day extra drill for his absence.

OB No. 1730

18-8-14

⑧

DPO/MR

15. CENSURES AND PUNISHMENTS. -- Contd.

Serial No.

4

① day extra drill for his absence.

CBHO- $\frac{386}{7-3-15}$

DPC/MR



OFFICE OF THE
SUPERINTENDENT OF POLICE
INVESTIGATION MARDAN
Phone No. 0937-9230121
Fax No. 0937-9230321
Email: invmdn@gmail.com

No. 900/PA / Inv:

Dated 04 / July / 2018.

To: The District Police Officer,
Mardan.

Subject: **DEPARTMENTAL ENQUIRY.**

Memo:

Kindly refer to your office letter No. 337/R/D.A-P.R-1975 dated 18.04.2018, on the subject noted above.

It is submitted that finding report of departmental enquiry, in respect of Constable Salman No. 3270, is sent herewith for further action please.

(Enclosure: 28 pages)


Superintendent of Police,
Investigation Mardan.

No. 3578/1A
9/12/18

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FINDINGS.

This is Departmental inquiry against Constable Salman No. 3270 which was entrusted to me by the Worthy District Police Officer, Mardan vide letter No. 337/R dated 18.04.2018. He was Charge Sheeted in response to which he submitted his written explanation which was found not satisfactory. Therefore, the undersigned initiated formal departmental inquiry against alleged defaulter official mentioned above. The charges against him are as under:-

“That Constable Salman No. 3270 while suspended at Police Lines Mardan was charged in case FIR No. 1318 dated 30.12.2017 u/s 381-A PS Mingora District Swat, in case FIR No. 18 dated 09.01.2018 u/s 381-A/34 PS Rahim Abad and in case FIR No. 1061 dated 29.12.2017 u/s 381-A/34 PS Rahim Abad District Swat. He is recommended for departmental action by SP Investigation Swat vide his office letter No. 568/GB/Inv: dated 31.01.2018 and vide letter No. 879/GB/Inv: dated 02.02.2018 respectively. Hence he is liable to be proceeded against departmentally”.

During the course of inquiry, the undersigned summoned the PWs namely Mohib Ullah ASI posted as IO PS Mingora, District Swat, Sheryar ASI posted as IO PS Rahim Abad, District Swat, Obaid Ullah ASI posted as IO PS Rahim Abad, District Swat and Riaz Ullah Khan SI posted as I/C PP Jalozy, PS Pabbi, District Nowshera along with defaulter official Constable Salman No. 3270 alongwith relevant record. I heard them in detail and recorded their statements which are available on inquiry file for kind perusal. However, brief of statements are given below:-

1. PW ASI Mohib Ullah IO PS Mingora, District Swat, deposed in his statement that one Ishaq s/o Sher Muhammad r/o Taj Chawak Mingora, lodged a report about stealing of his Motor car bearing registration No. AB-4203, against unknown accused at PS Mingora, District Swat. An enquiry u/s 156(3) CrPc was initiated into the matter. During said enquiry the complainant charged the accused Salman, Janas, Amir Gul, Ashfaq and Zubair for commission of the offence in his statement. A proper case vide

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FIR No. 1318 dated 30.12.2017 u/s 381-A/34 PPC PS Mingora was registered against the accused including the defaulter official named above for lifting his motor car, which was entrusted to him for investigation. During investigation, it was revealed that accused Salman, Amir Gul and Janas were arrested by the local Police of PS Pabbi, District Nowshera in a case vide FIR No. 68 dated 22.01.2018 u/s 411 PPC registered with PS Pabbi. He transferred the accused, accordingly, alongwith the stolen Motor car to PS Mingora. IO obtained 02 days Physical custody of accused for investigation and he interrogated the accused who admitted to have committed the offence. The accused also made pointation of the place of occurrence after expiry of Police custody he produced them before the Court for recording their confessional statements u/s 164/364 CrPc but they refused and were sent to judicial lock up in Jail Mardan. After completion investigation the concerned SHO submitted complete Challan against arrested accused u/s 512 CrPc against absconding accused to the Court. The accused were subsequently arrested by the local Police of PS Rahim Abad in case vide FIR No. 18 dated 09.01.2018 u/s 381-A/34/411 PS Rahim Abad, who were also transferred to PS Mingo., accordingly. During investigation, they also admitted to have committed the offence and made poitation of the place of occurrence. In the meanwhile, it also revealed that local Police of PS Pabbi had recovered the stolen motor car from possession of accused Amir Gul on pointation of the said accused. From investigation the accused including defaulter official named above were found guilty and complete Challan was submitted against them to the Court.

The defaulter official cross examined the PW but could not prove his innocence.

2. PW ASI/IO Sheryar deposed in his statement that investigation of case FIR No. 18 dated 09.01.2018 u/s 381-A/411/34 PPC PS Rahim Abad, District Swat was entrusted to him for investigation. Complainant Obaid Ullah s/o Nazir Hussain r/o Rahim Abad charged accused Salman (Police Constable), Janas, Amir Gul and Ashfaq in his statement u/s 164 CrPc for stealing of his motor car. Accused Salman was transferred from Mardan Jail to District Swat for investigation in the case. 02 days Physical custody

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obtained for his interrogation. During investigation, he made pointation of the place of occurrence and admitted to have committed the offence. The accused was produced before Court for recording his confessional statement u/s 164/364 CrPc which he refused and sent him to judicial lock up, Jail in Mardan. Accused Salman found guilty from investigation and complete challan submitted against him to the Court on 07.04.2018.

The defaulter official cross examined the PW but could not refute his guilt.

3. PW ASI/IO Obaid Ullah deposed in his statement that one Ahmad Karam s/o Said Qamar r/o Rahim Abad, Mingora, Swat, charged accused Salman (Police Constable) alongwith other 05 accused in his statement got recorded u/s 164 CrPc for stealing his Motor car Probax. Accused Salman was already arrested by the local Police of Pabbi, District Nowshera in case FIR No. 1061 dated 29.12.2017 u/s 381-A/34 PPC PS Rahim Abad and was confined in judicial lock up. The motor car was also recovered by the local Police from possession of the accused. The accused was transferred from District Nowshera to PS Rahim Abad for investigation in case FIR No. 1061 dated 29.12.2017 u/s 381-A/34 PPC, after completion of legal formalities. 02 days physical custody for interrogation of accused was obtain from the Court. The accused admitted to have committed the offence before Police and made pointation of the place of occurrence. He produced the accused before the Court for recording their confessional statement u/s 164/364 CrPc which he refused and was sent to judicial lock up, Jail Mardan. The stolen motor car was recovered from the possession of accused Amir Gul on pointation of accused Salman which was handed over to the complainant, accordingly. From investigation, accused Salman found guilty and complete challan submitted against him to the Court of law.

The defaulter official cross examined the PW but could not make any dent in statement of the PW.

4. PW SI Riaz Ullah I/C PP Jalozy PS Pabbi, District Nowshera, deposed in his statement that on 22.01.2018 as per pointation of accused Salman (Police Constable) 02 x motor car were recovered from brick kiln of one Abdul Salam, situated at Jalozy, Nowshera which were in possession of

accused Amir Gul. The stolen motor car registration No. AB-4203 and motor car Probax chassis No. NSP510051922 being wanted in case FIR No. 1318/2017 u/s 381-A to PS Mingora and FIR No. 1061/2017 u/s 381-A to PS Rahim Abad, respectively, were brought alongwith accused Amir Gul to the Police Station for legal action. From investigation the accused were found guilty hence, Challan against them was submitted to the Court.

The defaulter official cross examined the PW but he could not prove himself innocent.

5. Accused / Constable Salman denied all the allegations leveled against him in the Charge Sheet stating that no recovery has been made from his possession or on his pointation. Accused Salman also produced documents which revealed that he has made compromise with complainants in case FIR No. 1318/2017 and FIR No. 1061/2017 mentioned above.

Keeping in view the above facts and circumstances, the charges mentioned in the Charge Sheet against the defaulter official namely Salman No. 3270 have been proved as he managed his release on bail as well as discharging himself in the cases mentioned above on basis of compromise with the complaints of the cases and not on merit which shows that he won over the complaints/evidence in his favour. On the other hand he caused adverse affect on the image of Police department in the eyes of general public by involving himself in car lifting cases. Therefore, he is recommended for Major Punishment please.

OR
For Punishment
4/7/18
Dismissed from service due to proved guilty
misconduct of car theft
habitual
3/18

Superintendent of Police,
Investigation Mardan

✓(7)

**OFFICE OF THE
DISTRICT POLICE OFFICER
MARDAN**

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

No. 337 /R/D.A-P.R-1975.
Dated 18.4 /2018.

DISCIPLINARY ACTION UNDER KPK POLICE RULES – 1975

I, Muhammad Khurram Rashid District Police Officer, Mardan as competent authority am of the opinion that Constable Salman No. 3270, rendered himself liable to be proceeded against as he committed the following acts/omission within the meaning of section-02 (iii) of KPK Police Rules 1975.

STATEMENT OF ALLEGATIONS

That Constable Salman No. 3270, while suspended at Police Lines, Mardan was charged in case FIR No. 1318 dated 30.12.2017 u/s 381-A PS Mingora, District Swat in case FIR No. 18 dated 09.01.2018 u/s 381-A/34 PS Rahim Abad and in case FIR No. 1061 dated 29.12.2017 u/s 381-A/34 PS Rahim Abad, District Swat. He is recommended for departmental action by SP/Investigation, Mardan vide his office Letter No. 568/GB/Inv: dated 31.01.2018 and vide office Letter No. 879/GB/Inv: dated 02.02.2018 respectively. Hence, he is liable to proceed against departmentally.

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

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

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

(Signature)
(Muhammad Khurram Rashid) PSP
District Police Officer,
Mardan

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

No. _____ /R, dated Mardan the _____ /2018.

Copy of above is forwarded to the:

1. _____ for initiating proceedings against the accused official / Officer namely Constable Salman No. 3270, under Police Rules, 1975.
2. Constable Salman No. 3270, with the directions to appear before the Enquiry Officer on the date, time and place fixed by the enquiry officer for the purpose of enquiry proceedings.

***** !!! *****

E (9)

CHARGE SHEET UNDER KPK POLICE RULES 1975

I, Muhammad Khuram Rashid District Police Officer, Mardan as competent authority hereby charge you Constable Salmaan No. 3270, as follows:

That you Constable Salmaan No. 3270, while suspended at Police Lines, Mardan was charged in case FIR No. 1318 dated 30.12.2017 u/s 381-A PS Mingora, District Swat, in case FIR No. 18 dated 09.01.2018 u/s 381-A/54 PS Rahim Abad and in case FIR No. 1061 dated 29.12.2017 u/s 381-A/34 PS Rahim Abad, District Swat. You are recommended for departmental action by SP/Investigation, Mardan vide his office Letter No. 568/GB/Inv: dated 31.01.2018 and vide office Letter No. 879/GB/Inv: dated 02.02.2018 respectively. Hence, you are liable to proceed against departmentally.

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

1. By reason of the above, you appear to be guilty of misconduct under section - 02 (iii) of the KPK Police Rules 1975 and has rendered yourself liable to all or any of the penalties as specified in section - 04 (i) a & b of the said Rules.

2. You are therefore, directed to submit your written defense within seven days of the receipt of this charge sheet to the enquiry officer.

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

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

(Muhammad Khuram Rashid) DSP
District Police Officer,
Mardan

①

Annexure - C

ORDER

This order will dispose-off the departmental appeal preferred by Ex-Constable Salman No. 3270 of Mardan District against the order of District Police Officer, Mardan, wherein he was awarded Major punishment of Dismissal from service vide his office OB No. 1557 dated 15.08.2018.

Brief facts of the case are that the appellant while posted at Police Lines, proceeded against departmentally through Mr. Janas Khan Superintendent of Police Investigation, Mardan vide District Police Officer, Mardan office Disciplinary Action No.337/R/D.A-P.R1975 dated 18.04.2018 on account of charging in the following cases:-

1. FIR No. 1061 dated 29.12.2017 U/S 381-A/34 PS Rahim Abad (Swat)
2. FIR No. 1318 dated 30.12.2017 U/S 381-A PS Mingora (Swat)
3. FIR No. 18 dated 09.01.2018 U/S 381-A/34 PS Rahim Abad (Swat)

The Enquiry Officer, after fulfilling necessary process, submitted his Findings highlighting that the allegations leveled against him and the alleged official has been proved and recommended him for Major Punishment.

He was heard in Orderly Room on 13.08.2018, but failed to present any plausible reasons in his defense, therefore, awarded him Major Punishment of Dismissal from Police Force in the light of proved allegations/misconduct.

He was called in orderly room held in this office on 30.10.2018 and heard him in person. The appellant did not produce any cogent reason in his defence/innocence. Therefore, I find no grounds to intervene into the order passed by District Police Officer, Mardan. Appeal is rejected.

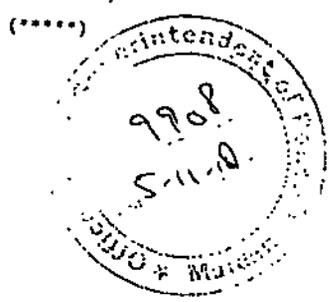
ORDER ANNOUNCED

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

No. 7005/ES,

Dated Mardan the 01/11 /2018.

Copy to District Police Officer, Mardan for information and necessary action w/r to his office Memo: No. 801/LB dated 17.10.2018. The Service Record is returned herewith:



EC/Dsp-Legal
For action

M
District Police Officer
Mardan

DPO Mardan
23-3-2019

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

- Note:
1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
 2. Always quote Case No. While making any correspondence.

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

Service Appeal No. 1495/2018.

Salman Ex-Constable No. 3270.....Appellant.

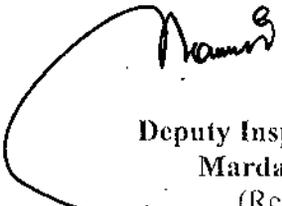
VERSUS.

District Police Officer, Mardan
& others.....Respondents.

AUTHORITY LETTER.

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


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


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


District Police Officer,
Mardan
(Respondent No. 03)

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 1495/2019

Salman

VS

Police Deptt:

.....
REJOINDER ON BEHALF OF PETITIONER
.....

RESPECTFULLY SHEWETH

Preliminary Objections:

(1-7) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

1. First portion of para 1 is admitted correct, hence no comments, while the rest of para is incorrect, hence denied.
2. Admitted correct by the respondents, hence no comments.
3. Incorrect. As per superior court judgment all acquittal are honourable acquittal.
4. Not replied according to para 4 of the appeal. Moreover para 4 of the appeal is correct.
5. Incorrect. No proper chance of defence was provided to the appellant as neither statements was recorded in the presence of the appellant nor gave him opportunity of cross examination which is violation of law and rules.
6. Admitted correct by the respondents as the service record of the petitioner is present with the department. Moreover show cause notice was not issued before passing the impugned order which is violation of law and rules.
7. Not replied according to para 4 of the appeal. Moreover para 4 of the appeal is correct.
8. Incorrect. The appellant has good cause of action to file the instant appeal which is liable to be accepted on the following grounds.

GROUNDS:

- A) Incorrect. The orders are not legal and according to facts, norms of justice and material on record and liable to be set aside.
- B) Incorrect. Inquiry was not conducted according to the prescribed procedure as No proper chance of defence was provided to the appellant as neither statements was recorded in the presence of the appellant nor gave him opportunity of cross examination which is violation of law and rules and on this ground the impugned orders are liable to set aside.
- C) Incorrect. While para C of the appeal is correct.
- D) Not replied according to para D of the appeal. Moreover para D of the appeal is correct.
- E) Not replied according to para E of the appeal. Moreover para E of the appeal is correct. Moreover the appellant was also acquitted in anther case and now only one trial is pending against the appellant. *Copy of is attached as - Annex R-1*
- F) Incorrect. While para F of the appeal is correct.
- G) Incorrect. While para F of the appeal is correct.
- H) Legal.

It is, therefore, most humbly prayed that the appeal of the appellant may kindly be accepted as prayed for.

THROUGH:

S.A.K.
APPELLANT

S.A.K.
TAIMUR ALI KHAN
(ADVOCATE HIGH COURT)

AFFIDAVIT

It is solemnly affirmed that the contents of rejoinder are true and correct and nothing has been concealed from this august Tribunal.



S.A.K.
DEPONENT

R-1

6

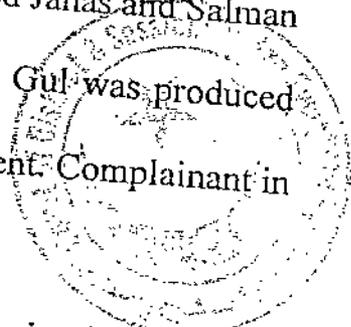
وکیل سرکار حاضر۔ مستغیث حاضرندے۔ ملزمان حاضرندے۔ ملزم امیر گل بذریعہ ضمیر "ب" طلب ہو۔ دیگر

Or-----20
03/26/2019

ملزمان و مستغیث بذریعہ جدید وارنٹ گرفتاری استندہ مورخہ 09/04/2019 کے لئے جاری ہو۔

Or-----21
09/04/2019

APP for the State present. Accused Janas and Salman on bail present while the accused Amir Gul was produced from Jail and rest of the accused are absent. Complainant in person present.



The above named accused has been implicated in the instant case FIR No. 1318 dated 30/01/2018 U/S 381-A of PS Mingora.

Today, at the very outset complainant stated at bar that the he has effect compromise with the accused, and he has got no objection over acquittal/discharge of the accused in the instant case. To this effect, he recorded his statement. The compromise deed is marked as ExPA while his CNIC is marked as ExpB (original perused and returned).

The offences are not compoundable, however, taking guidance from para 13 of the Nizam-e-Adl.Regulation 2009, the parties may also enter into compromise in non-compoundable offences.

Hence, keeping in view the statement of complainant, it is held that the compromise is genuine and executed without any undue force or coercion, therefore, the compromise is accepted and the accused Janas Khan, Salman, Amir Gul, Ishfaq Ahmad (in absentia) and Sajjad

جسٹس مسٹر ایف بی اے
تاریخ سوائے
09.04.2019

Or-----21
09/04/2019
Conti.....

(in absentia) are acquitted on the basis of compromise.

Sureties of the accused are discharged from the liability of bail bonds while the accused Amir Gul is in Judicial lockup, therefore, he be released forthwith if not required in any other case and release warrant be issued in his favour.

Case property if any be returned to its lawful owner.

File be consigned to record room after completion and compilation.

Announced
09/04/2019

(Syed Mansoor Shah Bukhari)
Judicial Magistrate/IQ-I, Swat

پروٹیکشن سپرنٹنڈنٹ اول / سوات قاضی
ضلع سوات