

2nd Feb, 2023

Clerk of learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present.

Lawyers are on strike, therefore, the case is adjourned. Office is directed to notify the next date on the notice board as well as on the website of the Tribunal. To come up for arguments on 08.05.2023 before D.B.



(Muhammad Akbar Khan)
Member (E)



(Kalim Arshad Khan)
Chairman

SCANNED
Peenawar

30.06.2022

Learned counsel for the appellant present. Mr. Naseer Ud Din Shah, Assistant Advocate General for respondents present.

Learned counsel for the appellant requested for adjournment in order to prepare the brief. Adjourned. To come up for arguments on 06.10.2022 before the D.B.



(Rozina Rehman)
Member (J)

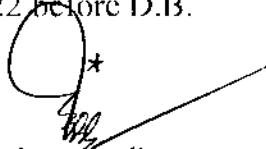


(Salah Ud Din)
Member (J)

06.10.2022

Junior to counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate general respondents present.

Junior to counsel for the appellant made a request for adjournment on the ground that senior counsel is not available today. Adjourned. To come up for arguments on 07.12.2022 before D.B.




(Mian Muhammad)




(Kalim Arshad Khan)

Junior to counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. Advocate General, for the respondents present.

Former seeks adjournment on the ground that learned senior counsel for the appellant is engaged in Honourable Peshawar High Court. Last opportunity is granted. To come up for arguments on 02.02.2023 before the D.B.



(Farcelia Paul)
Member (E)



(Kalim Arshad Khan)
Chairman

07th Dec. 2022

SCANNED
KIST
PESHAWAR

12.07.2021

Learned Addl, A.G be reminded about the omission
and for submission of reply/comments within extended
time of 10 days.

Chairman

Stipulated period passed reply not submitted.

13.12.2021

Syed Noman Ali Bukhari, Advocate for the appellant present.
Mr. Muhammad Rasheed, Deputy District Attorney for respondents
present.

Respondents have already submitted written
reply/comments through office which are placed on file. To come
up for arguments before the D.D on 10.03.2022.

(Atiq Ur Rehman Wazir)
Member (E)

(Salah-ud-Din)
Member (J)

10-03-2022

Due to retirement of the Honible Chairman
the case is adjourned to come up for the same as
before on 30-06-2022

Reader

28.05.2021

Counsel for the appellant present. Preliminary arguments heard.

Points raised need consideration. The appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days of the receipt of notices positively. If the written reply/comments are not submitted within the stipulated time, the office is directed to submit the file with a report of non-compliance. File to come up for arguments on 27.09.2021.


Appellant Deposited
Security Process Fee



Chairman

27.9.21

DB is on Tour case to come up
For the same on. Dated 13-12-21




Reader

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 4278 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	30/03/2021	<p>The appeal of Mr. Javed Khan presented today by Syed Noman Ali Bukhari 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-	25/05/21	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>28/05/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 4278/2021

Javed Khan

V/S

Police Department.


INDEX

S.NO.	Documents	Annexure	Page No.
1.	Memo of appeal	----	01-05
2.	Copy of FIR	---A---	06
3.	Copy of bail order	---B---	07-09
4.	Copy of charge sheet and statement of allegation	---C---	10-11
5.	Copy of reply	----D----	12
6.	Copy of inquiry report	---E---	13
7.	Copy of order	---F---	14
8.	Copy of inquiry	---G---	15-16
9.	Copy of impugned order	---H---	17
10.	Copy of departmental appeal	---I---	18
11.	Copy of rejection order	---J---	19
12.	Copy of statement	---K---	20-23
10.	Vakalat Nama	-----	24


APPELLANT

Javed Khan

THROUGH:


(SYED NOMAN ALI BUKHARI)

ADVOCATE HIGH COURT

1

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2021

Mr. Javed Khan, Ex-IHC/No.2008
CCP Peshawar.

(Appellant)

VERSUS

1. The Capital City Police Officer Peshawar
2. The Senior Superintendent of Police (operations) Peshawar.

(Respondents)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 31.12.2020 WHEREIN THE APPELLANT WAS AWARDED MAJOR PENALTY OF DISMISSAL FROM SERVICE AND AGAINST THE REJECTION ORDER DATED 02.03.2021 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 31.12.2020 AND 02.03.2021 MAY PLEASE 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.

②

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant was appointed as Constable in the year 1996 in Police Department and work with entire satisfaction of his superior.
2. That the appellant while posted at chief Minister Secretariat, the wife of the appellant committed suicide on the basis of which appellant was falsely charged for the murder of his wife by the wife's brother. And F.I.R No. 495 dated 25.07.2019 was registered against the appellant and his nephew but appellant was not directly charged. **(Copy of FIR is attached as Annexure-A).**
3. That thereafter, appellant was arrested and then bail out vide order dated 30.09.2019 by the competent court of law on merit i.e no single evidence existed against the appellant. Then charge sheet was issued to the appellant and the appellant properly replied to the charge sheet and denied the entire allegation. **Copy of bail order, charge sheet, statement of allegation and reply is attached as annexure-B, C & d.**
4. That the inquiry was conducted and inquiry officer in his finding report requested that the inquiry kept pending till the finalization of case and the competent authority agreed with the same and inquiry kept pending till the decision of the criminal case vide order dated 08.11.2019 . **Copy of the inquiry report and order is attached as annexure- E & F.**
5. That the case of the appellant is under trail in the competent court of law, and again inquiry was conducted against the appellant without showing any reason and without associated appellant with the inquiry p[roceeding neither any statement of witness has been recorded nor opportunity of defense has been provided to the appellant and also without show cause the impugned order dated 31.12.2020 was passed against the appellant and before the finalization of the criminal case which is also the violation of CSR 194. **(Copy of inquiry report and Impugned Order is attached as Annexure-G).**
6. That thereafter, the appellant filed departmental appeal for reinstatement in service which was rejected vide order dated 02.03.2021 for no good grounds. Hence the present appeal on following grounds. **Copy departmental appeal and rejection order is attached as Annexure-H & I.**

GROUNDS:

- A) That the impugned order dated 31.12.2020 & 02.03.2021 are against the law, facts, norms of justice and material on record and principle of fair play.
- B) That nothing has been proved against the appellant in departmental proceeding and the criminal trial is also pending against the appellant. That all the actions taken against the appellant is before the finalization of the criminal case which is the violation of CSR 194 and without any proof, hence the appellant is eligible for the reinstatement.
- C) That all the actions taken against the appellant is before the finalization of the criminal case which is also the violation of CSR 194. The department is duty bound to kept departmental proceeding pending till the finalization of case.
- D) That under CSR-194/194-A the appellant was suspended till the order of the Competent court but the appellant was dismissed from the service which is against the law and rules
- E) That the impugned order and attitude of respondent department is in sheer violation of Article 4, 25 and 38 of the constitution.
- F) That due to impugned order and Harsh View of the respondents department, the appellant and his family has suffered a lot.
- G) That no chance of personal hearing was provided to the appellant at the time of passing impugned order, which against the law and rules.
- H) That before passing impugned order no codal formalities was fulfilled and no proper procedure was adopted which is the violation of the law and rules hence the impugned order is not sustainable, liable to be set aside.
- I) That the inquiry report along with the show cause was also not provided to the appellant, which is clear violation of Superior Court judgment. That principal is also held in the appeal of the **Waleed Mehmood vs Police Deptt and Zeeshan vs police.**
- J) That there is no chance of self-defense was provide to the appellant and according to Supreme Court judgment mere on the basis of

allegation no one should be punished. And according to superior court judgment accused shall be consider innocent till proved guilty.

- K) That the statement of the witnesses is clear about the fact that the appellant was at the time of occurrence not at home. So the appellant was wrongly charge for murder case after the considerable delay. So the impugned order is liable to be set-aside. **Copy of statement is attached as annexure-J.**
- L) That once the competent authority kept pending the inquiry till the decision of the criminal case then without any reason and without given any notice to the appellant and before finalization of the criminal case the appellant was dismissed from the service is against the law and justice.
- M) That the statement of the brother of the wife of appellant was neither recorded by the inquiry officer nor the appellant given chance to cross examine the same, which also loses the significance and fairness of the inquiry.
- N) That it is the maxim of the law (audi alteram peltrum) that no one should be unheard, and the impugned order is also passed in violation of article of 10-A OF the constitution of Pakistan which told us about the fair trial which was the fundamental right of the appellant but denied to the appellant.
- O) That according to Federal Shariyat court Judgment the show cause notice is must before taking any adverse action, non-issuance of show cause notice is against the injunction of Islam. Hence the impugned order is liable to be set-aside.
- P) That the show cause is the demand of natural justice and also necessary for fair trial and also necessary in light of injunction of Quran and Sunnah but show cause was not given to the appellant. So, fair trail denied to the appellant which is also violation of Article 10-A of the constitution.
- Q) That no proper procedure has been followed before passing the impugned order and even, there is no show cause notice along with the inquiry report was served upon the appellant, thus the proceedings so conducted are defective in the eye of law.
- R) That the appellant was condemned unheard and has not been treated according to law and rules.

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- S) That the appellant has not been treated accordance with law, fair played justice, despite he was a civil servant of the province, therefore, the impugned order is liable to be set aside on this score alone.
- T) That the opportunity of personal hearing and personal defense was not provided to the appellant.
- U) 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
Javed Khan

THROUGH:


(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT

A (6)

انجمن اولیاد پاکستان (KPK) کے نام سے
پاکستان میں 1724424242

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میں نے اپنی زندگی میں کئی بار پاکستان کے لیے لڑا ہے اور اب بھی لڑ رہا ہوں۔ میں نے اپنی زندگی میں کئی بار پاکستان کے لیے لڑا ہے اور اب بھی لڑ رہا ہوں۔ میں نے اپنی زندگی میں کئی بار پاکستان کے لیے لڑا ہے اور اب بھی لڑ رہا ہوں۔

میں نے اپنی زندگی میں کئی بار پاکستان کے لیے لڑا ہے اور اب بھی لڑ رہا ہوں۔ میں نے اپنی زندگی میں کئی بار پاکستان کے لیے لڑا ہے اور اب بھی لڑ رہا ہوں۔ میں نے اپنی زندگی میں کئی بار پاکستان کے لیے لڑا ہے اور اب بھی لڑ رہا ہوں۔

میں نے اپنی زندگی میں کئی بار پاکستان کے لیے لڑا ہے اور اب بھی لڑ رہا ہوں۔ میں نے اپنی زندگی میں کئی بار پاکستان کے لیے لڑا ہے اور اب بھی لڑ رہا ہوں۔ میں نے اپنی زندگی میں کئی بار پاکستان کے لیے لڑا ہے اور اب بھی لڑ رہا ہوں۔

(10) (9) B (7) (4)

IN THE COURT OF SYED KAMAL HUSSAIN SHAH
ADDITIONAL SESSIONS JUDGE-MARDAN AT KATLANG

Petition No. 213/BA of 16.09.2019

Javed etc versus The State.

Order
30/09/2019

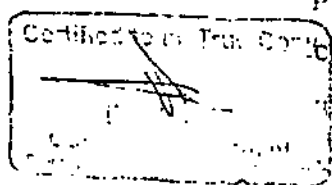
Present: Mr. Muhammad Sajjad APP for the State.
Counsel for accused/petitioners. Counsel for complainant.

Accused/petitioners, namely Javed Khan, son of Afzal Khan and Naveed Ali son of Ajmal Khan r/o Sangao Katlang are seeking their post arrest bail in case FIR No. 495, dated: 25.07.2019 registered U/S 302/34 PPC with police station Katlang.

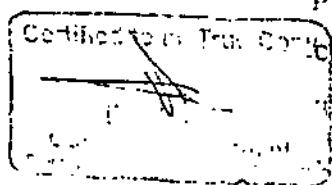
Arguments of learned counsel for the accused/petitioner, learned counsel for complainant and learned APP for the State have already been heard in detail and case file perused.

As per learned counsel for the accused/petitioner, their clients are innocent and have falsely been implicated in the captioned case. His contention is that the local police have involved the present petitioners without sufficient material on the record. Arguments of the learned counsel are that although there exist evidence under section 164 Cr.PC against them but the same has not been scanned through the test of cross examination, he maintained. He is further of the view that in each and every case, where there is neither an ocular account nor some circumstantial evidence, then the case in question becomes one of further inquiry. He further argued that there is not a single recovery or discovery on their part and at their pointation/instance. He further explained that there is no confessional statement on the part of present petitioners.

Therefore, he prayed for release of the accused/petitioner on bail until conclusion of ^{their} trial. In support of his contention, he relied upon the following case law: 2007 YLR 153 [Lahore], 2011 YLR 1636 [Peshawar], 2014 PCrLJ 711 [Quetta], 2011 YLR 1636 [Peshawar], 2011 YLR 2252



01-10-19



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[Peshawar], 2011 SCMR 1644, 2008 YLR 1113 [Lahore],
2014 SCMR 27, 2014 MLD 1223 [Lahore], 2011 SCMR 355,
2011 SCMR 161.

On the other hand, learned APP for state and learned counsel for complainant opposed their view. They argued in detail and explained that FIR has been registered against accused/petitioners. They opposed the grant of bail to the accused/petitioners on the grounds that they have committed the murder of Mst. Nihayat and the offence with which they are charged carries capital punishment and do fall within the ambit of prohibitory clause of section 497 Cr.PC. In support of his contention, he relied upon the case law; 2013 YLR 1782 [Lahore]

pic

As per available record accused/petitioners are charged under section 302/34 PPC. Keeping in view statement of the complainant recorded under section 164 CrPC ~~Trust~~ of the learned counsel for accused/petitioners is that there is a considerable delay in connection with charging the present petitioner for the alleged occurrence. His another contention is that neither any discovery nor any recovery has been effected and materialized at the instant of the present petitioners. His further arguments is that the present petitioners have not made any admission or confession before the competent judicial magistrate. On the converse arguments of learned state counsel, as well learned counsel for the complainant are that the FIR has been registered by the complainant after recording his statement under section 164 CrPC, Keeping in view the ground reality the factum of alleged murder of real sister of the complainant. Their further arguments is that as per initial report the deceased committed suicide but the medical report does not support that version simply because of the reason that the dead body was not ^{having} any charring marks. Their another arguments is that in case of the kind of nature circumstantial as well medical evidence becomes of significant importance and in the present case both the circumstantial as well medical evidence supports

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version of the complainant viz murder of the deceased by the present accused/petitioner.

The complainant, ~~is~~ the real brother of deceased has charged accused/petitioner Javed Khan for consultation and abetment. The complainant has charged his co-accused Naveed Khan for an active role i.e. murder of the deceased Mst. Niyayat. Perusal of FIR reveals that the local police/prosecution has not inserted section 109 PPC, so for keeping in view nature of allegations leveled by the complainant. Moreover, not a single statement on file exists ^{to} the effect that accused/petitioner Javed Khan has actually participated in the commission of alleged murder of the deceased. Therefore, in all probability his ~~is~~ becomes as ~~of~~ one of abetment as defined under section 109 PPC in ~~the~~ connection whereof the actual facts would be determined after recording pro and contra evidence ^{during} ~~the~~ course of trial. However, the allegations against petitioner namely Naveed Khan are of direct nature and his actual involvement in connection with murder of the deceased. The medical report also reveals that the dead body was not having any ~~chopping~~ marks and that fact rules out or minimize chances of suicidal death.

With the above observations and findings, the case to the extent of accused/petitioner Javed Khan is one of further inquiry. Therefore, his petition for enlargement ~~of~~ bail is allowed subject to furnishing bail bonds in the sum of ^{with two sureties each on the like amount} Rs.200,000/- and the petition for enlargement of accused/petitioner Naveed Khan is dismissed in the light of above findings.

Requisitioned record be returned to the quarters concerned and file of this court be consigned to record room after completion and compilation.

Announced

(Syed Kamal Hussain Shah)
AD&SJ, Mardan at Kallang.

Certified to be True Copy
EX-101
21-10-19

Name of Applicant	<u>Hussain Shah</u>
Date of Presentation of Application	<u>21-10-19</u>
Date on which copy prepared	<u>21-10-19</u>
Date on which copy Examined	<u>21-10-19</u>
Cost of words	<u>2-5</u>
Cost of stamps	<u>2-5</u>
Cost Fee	<u>2-5</u>

C (10)

CHARGE SHEET

Whereas I am satisfied that a Formal Enquiry as contemplated by Police Rules 1975 is necessary & expedient in the subject case against IHC Javed No. 2008 CCP Peshawar.

And whereas, I am of the view that the allegations if established would call for major/minor penalty, as defined in Rule 3 of the aforesaid Rules.

Now therefore, as required by Rule 6 (1) (a) & (b) of the said Rules, I Senior Superintendent of Police, Operations, Peshawar hereby charge IHC Javed No. 2008 CCP Peshawar on the basis of following allegations mentioned in the enclosed summary of allegations.

I hereby direct you further under Rule 6 (1) (b) of the said Rules to put forth written defence within 7-days of the receipt of this Charge Sheet to the Enquiry Officer, as to why the action should not be taken against you and also stating at the same time whether you desire to be heard in person.

In case your reply is not received within the specific period to the Enquiry Officer, it shall be presumed that you have no defence to offer and ex-parte action will be taken against you.

- sd -
SENIOR SUPERINTENDENT OF POLICE,
(OPERATIONS) PESHAWAR

DISCIPLINARY ACTION

No: 2970/651
2.10.19

411

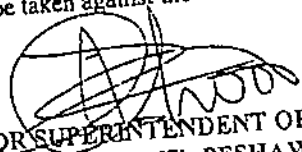
I, Senior Superintendent of Police Operations, Peshawar as competent authority, am of the opinion that IHC Javed No. 2008 CCP Peshawar has rendered him liable to be proceeded against, as he committed the following acts/omission within the meaning of section 03 of the Police Rules 1975.

STATEMENT OF ALLEGATIONS

- i. As intimated by Chief Security Officer Chief Minister's Secretariat Khyber Pakhtunkhwa vide his office memo No. PA/CSO/CMS/Khyber Pakhtunkhwa/9223, dated 20.09.2019, IHC Javed No. 2008 while posted at CM Security Khyber Pakhtunkhwa is involved in criminal case vide FIR No. 495 dated 25.07.2019 u/s 302/34 PPC PS Katlang, Mardan for the murder of his wife. He has been arrested in the said case and confined in District Jail Mardan.
- ii. By doing so, he has committed a gross misconduct.

For the purpose of scrutinizing the conduct of afore said police official in the said episode with reference to the above allegations SP. Raza is appointed as Enquiry Officer under Rule 5 (4) of Police Rules 1975.

The Enquiry Officer shall in accordance with the provision of the Police Rules (1975), provide reasonable opportunity of hearing to the accused Official and make recommendations as to punish or other action to be taken against the accused official.


SENIOR SUPERINTENDENT OF POLICE,
(OPERATIONS), PESHAWAR
02/10/2019

No. 208 E/PA, dated Peshawar the

Copy to the above is forwarded to the Enquiry Officer for initiating proceeding against the accused under the provision of Police Rules 1975

Seen

Seve GS



جائیگی۔ کوالیٹی گارنٹنٹس امری EPA 208. صفحہ 10/2019 02 جارتہ صا۔ پد
 صا صا لکھنے کے معروضات حد تک ہوں گے۔ ریشا و قوم صفحہ 07/019 10 لکھنے اور
 حضرت جس سے نکل کر مساع میں لفت اولیٰ اقبال جودر سے آئے آتے
 تھا تے تھا کھڈا اسلا دوران اسرام عنبر سے آ کر کھے بتلا ماہ ام ای نے لکھ
 اٹھا یا ہے یہ شکر خور کفر کی طرف روئے تو واجباً کفر خور سے تڑپنا نہیں ہوگا
 ظاہر ہے کہ آواز سن کر گویا داخل ہو کر دیکھا تو بوجہ ام خون میں لکھنا جس
 میں بڑی بھی کھڈا قحاشی ہو گیا تو اللہ تعالیٰ دیکھ کر خوش قسمتی لکھنا تو لکھ
 شاکت جاوید سے پھوڑا کر کے جس پر ریشا و قوم صفحہ 174 خلاف ثابت
 خود قسمی شروع کر کے فرم پر جو جو درجان فطیر جاوید اسرام اور لکھنا و ام حمادہ ناظرہ
 کی کی زور قائم جاوید کے بیانات حکمہ کر کے بیان کی کر زور ام نے خود سیرٹا نہیں
 کرت خود قسمی ہی ہے ہم حکمہ بیانات کی نقل لکھنا بیان لکھنا لکھنا کے سام
 ام جسے حیداد علی فرم کے لکھنا بلوانا اور ان سے بیان $\frac{161}{167}$ $\frac{167}{167}$ حکمہ کر کے
 فرم اور کھڈا ام کو لکھنا کھڈا کھڈا 495 صفحہ 07/25 019 صفحہ 302/34 صفحہ 167
 دوران روزہ ریشا و قوم کے کھڈا عدالت سچین سے عبور نا جائز حاصل کر کے
 خارج ہو کر باقاعدہ عدالت سچین سے بر قانت ہوں

حکمہ کھڈا میں ماسوا حیداد علی سے عدالتہ قلم کاران خود قسمی کے بیانات
 سے لکھنا اور مساع کھڈا ام کو خود سے باسیر ہے حکمہ بیانات لکھنا بیان لکھنا
 ایک طرف زور ام نے خود قسمی کر کے بیماری زندگی اس میں سیرباد کی ہوئی ہے
 کھڈا کھڈا لکھنا جان کھڈا لکھنا لکھنا لکھنا لکھنا لکھنا لکھنا لکھنا لکھنا
 پیمانہ خلاف عدالتہ کھڈا ام کے جس میں کھڈا لکھنا لکھنا لکھنا لکھنا لکھنا
 استدعا ہے کہ نا کھڈا عدالتہ جار کھڈا لکھنا لکھنا لکھنا لکھنا لکھنا لکھنا لکھنا

اصحاحات صادر شدہ ہیں
 Asa. Police. Peshwar. 08/019. 0300. 5923510

To : SSP Operations, Peshawar
From : SP Rural, Peshawar
No. 2976 SPR, Dated: 23/10/2019

E

13

Subject: DEPARTMENTAL ENQUIRY AGAINST IHC JAVED NO. 2008

Memorandum:

Please refer to your office diary No. ²⁰⁸ 1977/PA, dated: ⁰²⁻¹⁰⁻²⁰¹⁹ 28.8.2019 on the subject cited above.

Statement of allegations:

According to statement of allegations/charge sheet, IHC Javed No. 2008 while posted at CM Security KPK is involved in criminal case vide FIR No. 495, dated: 25.07.2019 U/S 302/34 PPC, PS Katlang Mardan for the murder of his wife. He was arrested in the case and confined in District Jail, Mardan. Later on released on bail.

Proceedings:

The alleged official was summoned and charge sheet along-with summary of allegations was served upon him. He was heard in person, his statement was recorded and all the relevant documents were also perused.

Statement of IHC Javed:

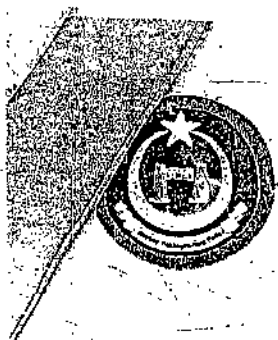
The alleged official stated in his statement that on the date/time of occurrence, he along-with his two friends Naimat Wali and Iqbal Mahmood were present outside the mosque after performing prayers, and were planning to eat dinner together. Meanwhile his son Ozair reached there and informed him that his mother has pistol in her hands. On the tip of this information, he suddenly rushed his home but since reaching home, he heard noise of firing and on reaching home, he found that his wife has shot dead herself. In this connection, an enquiry U/S 156(3) Cr.P.C was initiated. During enquiry, witnesses of the spot Mazhar Javed (his son) and daughter in law Mrs. Nazira stated in their statements the deceased had fired on herself, whereas, his brother in law Jamdad Ali charged him in the statement U/S 161/164 Cr.P.C and the above mentioned case was registered against him. Subsequently, he was released on bail from the Court. In this regard, photocopies of the statements of witnesses are also attached for perusal.

Recommendation:

As this is a criminal case and relates to the Court, hence recommended that the subject enquiry may be kept pending till decision of Court.

SP Rural Division

Agreed
P
30/10



7

F

14

OFFICE OF THE
SENIOR SUPERINTENDENT OF POLICE
(OPERATIONS)
PESHAWAR

E-mail: sspoperations2448@gmail.com

Phone: 091-9210508

Fax: 091-9213054

ORDER

IHC Javed No. 2008 while posted at CM Secretariat Khyber-Pakhtunkhwa was proceeded against departmentally vide this office No. 208/E/PA dated 02.10.2019 on account of his involvement in criminal case FIR No. 495 dated 25.07.2019 u/s 302/34 PPC PS Katlang.

SP Rural, CCP, Peshawar was appointed as Enquiry Officer who carried out a detailed enquiry and submitted his findings wherein he recommended that the enquiry may be kept pending till final decision of the court in the criminal case.

In light of the findings of EO, the enquiry against IHC Javed No. 2008 is being kept pending till decision of the criminal case in the court concerned.

SENIOR SUPERINTENDENT OF POLICE,
(OPERATIONS), PESHAWAR

No. 1557-61/PA, dated Peshawar the 08/11/2019.

C.C for inf: and n/a to:

1. The Capital City Police Officer, Peshawar w/r to his office Dy No. 14485/OS/CCPO dated 23.09.2019.
2. The DSP Legal, CCP, Peshawar: to keep in touch with the Court concerned and inform this office about the final decision of the court so that the departmental proceedings could be finalized.
3. EC-I/EC-II/PO/AS.
4. FMC (along with complete enquiry file containing 28 pages) is directed to keep constant contact with DSP Legal and upon receipt of copy of court's judgment, the case file be put up immediately to finalize the proceedings.

Encl- 28



MOST IMMEDIATE

OFFICE OF THE
SR: SUPERINTENDENT OF POLICE
(OPERATIONS)
PESHAWAR

Phone: 091-9210508

GT 15

No. 3007-09 /PA

Dated Peshawar the 28 / 12 /2020

To: The Superintendent of Police,
Rural, CCP Peshawar.

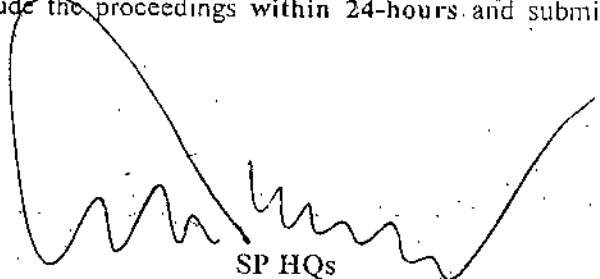
Subject: - Departmental Enquiry Against IHC Javed No. 2008 Involved in Case FIR No. 495 dated 25.07.2019 u/s 302/34 PPC PS Katlang.

Memo:-

Reference to the subject cited above and to state that the subject enquiry was conducted by you in which findings received with the recommendations to keep it pending till the decision of criminal case in the competent court.

2. The competent authority has desired to dispose of all the pending departmental enquiries against police officials involved in criminal cases.

3. In light of the directions passed by the competent authority, complete enquiry file is returned herewith with the direction to conclude the proceedings **within 24-hours** and submit decisive findings for its further disposal.


SP HQs
For SENIOR SUPERINTENDENT OF POLICE
(OPERATIONS) PESHAWAR

Cope to:-

1. The Capital City Police Officer Peshawar for favor of information please.
2. FMC with the direction to send complete enquiry file to the Enquiry Officer by today the 28th December, 2020 positively.

16

To: SSP Operations, Peshawar
From: SP Rural, Peshawar
No: 3229
SPR, Dated: 30/12/2020
Subject: DEPARTMENTAL ENQUIRY AGAINST IHC JAVED NO:-2008

Memorandum:-
Please refer to your office diary No. 3007-09/PA, dated:28.12.2020 on the subject cited above.

Allegations:-
According to statement of allegations/charge sheet, IHC Javed No. 207 while posted at CM Security KPK is involved in criminal case vide FIR No. 495, dated:25.07.2019 U/S 302/34 PPC, PS Kallang, Mardan for the murder of his wife. He was arrested in the case and confined in District Jail, Mardan. Later on released on bail.


An enquiry was conducted by the then SP Rural and it was recommended that the subject departmental enquiry may be kept pending till decision of the Court.

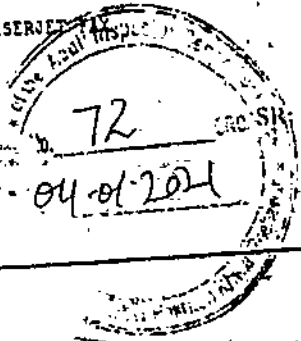
Proceedings:-
It was ordered vide your office diary No. 3007-09/PA, dated:28.12.2020 to dispose-off all pending departmental enquiries. In this connection, the alleged official was summoned to this office and his statement was recorded (attached).

IHC Javed No. 2008 stated in his statement that on the date/time occurrence, he along-with one Naimat Wali and Iqbal Mahmood were present outside mosque after performing prayers, and were planning to eat dinner together. Meanwhile his son Uzair reached there and informed him that his mother has pistol in her hand. On the tip of this information, he suddenly rushed his home but he heard noise of firing in the way and on reaching his home, he found that his wife has shot dead herself. His daughter in law namely Nazira, sons Saqib Javed and Mazhar Javed were witness of the occurrence. Motive behind the occurrence was domestic issue and she was also suffering from blood pressure. After a lapse of approximately 15 days, his brother in law namely Jamdad Ali falsely charged him for the murder of his sister (his wife). He has therefore, requested that his case is under trial in the Court and his enquiry proceedings may be kept pending till decision of the Court.

Findings:-
Initially enquiry u/s 174 Cr.P.C was conducted in the case. Then on 25.07.2019, brother of deceased lady, Jamdad Ali recorded his statement us 164 Cr.P.C before Magistrate & charged IHC Javed (husband of Bunyawat Zamina) deceased & Naveed Khan s/o Ajmal Khan for the murder of his sister. Both accused got BBA on 27.07.2019 which could no be confirmed & both were handed over to Police on 12.09.2019. During trial, statements of witnesses were recorded & on the basis of their statements IHC Javed was granted bail. However, the principle accused in the case, Naveed Khan is still in jail & his case is pending hearing in High Court. Weapon of offence (Pistol 30 Bore) belonged to IHC Javed. There were no charring mark on the dead body that supports version of complainant.

Recommendations:-
IHC Javed Khan No.2008 is hereby proposed/recommended for suitable punishment.


SP Rural Division



OFFICE OF THE SUPERINTENDENT OF POLICE, (OPERATIONS) PESHAWAR Phone: 091-9210508

H

17

ORDER

This office order will dispose of formal departmental proceedings against ASI Javed No. 2008 who while posted to Chief Minister's Secretariat, Khyber Pakhtunkhwa was repatriated to CCP Peshawar vide Chief Security Officer letter No.PA/CSC/CMS/Khyber Pakhtunkhwa dated September 20, 2019 and proceeded against departmentally on account of his involvement in the murder of his wife. He was charged by his brother-in-law Jamdad Ali in his statements u/s 161 & 164 Cr.P.C for the murder of his sister on the basis of which case FIR No. 495 dated 25.07.2019 u/s 302/34 PPC PS Katlang District Mardan.

2. Charge sheet along statement of allegations was issued to him and SP/Rural Peshawar was appointed as Enquiry Officer to scrutinize the conduct of aforesaid official with reference to the above allegations. The EO, after conducting a thorough probe submitted his findings concluding therein that initially enquiry u/s 174 Cr.P.C was conducted in the case. Then on 25.07.2019, brother of deceased lady, Jamdad Ali recorded his statement u/s 164 Cr.P.C before Magistrate and charged the accused official (husband of deceased Bunyawat Zamina) & Naveed Khan u/s Ajmal Khan for the murder of his sister. Both accused got BHA on 27.07.2019 which could not be confirmed and as such they were handed over to Police on 12.09.2019. During trial, statements of witnesses were recorded, on the basis of which accused ASI was granted bail while the principle accused Naveed Khan is still in jail & his case is pending hearing in the Hon'ble High Court. Weapon of offence (Pistol 30 Bore) belonged to ASI Javed. The EO found him guilty on the above counts and recommended him for suitable punishment.

3. On receipt of the findings, the same were perused along with relevant record which revealed that the accused ASI has been charged with a heinous offence and that too for the murder of his own wife. His connivance in the murder of his deceased wife is apparent given the statements of his brother-in-law. Therefore, I Mansoor Aman PSP, SSP (Operations) Peshawar, being competent under the law, am convinced that the accused ASI is guilty and deserves to be awarded with major penalty. He is hereby dismissed from service with immediate effect.

DCO/SB	
SSP/Admn/SP	✓
SP/IS	
SP/Int.	
SP/Surv	
SP/Inf-Disc	
SP/JIT	
SP/IRNA	
SP/IRGIS	
AI/GRDU	
Dir/Tech.	
...	

EC
for n/a

MANSOOR AMAN, PSP
Senior Superintendent of Police,
Operations, Peshawar

No. 3049-54 N/A dated Peshawar, the 31/12/2020.

Copy for information and necessary action to:-

1. The Capital City Police Officer Peshawar.
2. The Deputy Inspector General of Police, Special Branch, Khyber Pakhtunkhwa
3. DD & AD IT.
4. FC/WFC-IRAS/PO
5. FMC along with complete enquiry file containing 72 pages for record.

58
11-1-2021

Acct/EA/SRC/LO

For file n/a.

Recd
copy provided
to A/SB

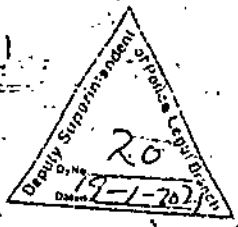
EC/SB
11-1-21

MS
85
04/01/2021

خدمت جناب سی سی پی ڈی کے لیے

(18)

اپیل برائے خالی نوٹری



جناب عالی

Form with fields for No. (79), Date (19-1-2021), and other details.

گزشتہ سال 1996 میں خود کو لیس میں بھرتی ہوا تھا۔ اور حوالہ آرڈر نمبر 9/ جاریہ ایس ایس پی آپریشن لٹ و محکمہ سے برخواست کیا گیا۔ حوالہ آرڈر معروض خدمت میں سائل کی CM ہاوس KPK میں کنسٹ - ASI ڈپٹی سراجیام دینا تھا۔ 19.01.2021 کو سائل قحبی پیر تھا۔ اور اپنے گاؤں گھر میں تھا۔ سائل نماز مغرب اپنے محلہ کے مسجد ادا کر کے باہر اپنے ایک دو رشتہ دار کے بائیں کمرے سے تھے کہ اس دوران سائل کا قہقہا بہہ رہا ہوا اور مجھے بتایا کہ اسی سے لپٹول نکالی ہے اس بات پر میں تیزی سے ساتھ گھر خود طرف دوڑا جب میں گیت کے قریب پہنچا تو گھولی کی آواز سننی اندر جا کر دیکھا کہ سائل کی بیوی خون میں لخت پت تری پڑی ہے۔ اپنے دوسرے بیٹے جو گھر میں موجود تھا سے پوچھا تو اس نے کہا کہ اسی نے اپنی لاش لپٹول نکالی کہ اپنے آپ پر گولی چلائی جس سے اسے موت ہوئی۔ رپورٹ تھانہ کائناتنگ میں پہلے ہی تھی تاقت حادثہ کی معرفت درجہ کی گئی۔ رپورٹ چیئر مین کنفیڈنسی اس واقعہ پر سائل کے سالے بھی شریک تھے اور سارے حالات و واقعات اس علم میں لائے گئے۔ جب پتہ سالے واپس اپنے گھر گئے تو 25.07.2019 کو بیان دیا کہ میری بہن کی مسمی نوید کو میرا جیسا ہے نے سائل کے ایما پر قتل کیا ہے۔ رپورٹ پر قہقہہ تھانہ کائناتنگ میں سائل اور بیٹے نوید کے خلاف درجہ کیا گیا۔ قہقہہ میں سائل ضمانت پر ہے اور زیر ضمانت آئی آر کاٹنگ ہے۔ بلا معروضات کی روشنی میں سائل ضلعاً اقرار کرتا ہے کہ اس سارے معاملے میں سائل کا قصور ہے گناہ ہے۔ مانا کہ قہقہہ کی قیادت کو ملو نا چاہتی تھی مگر اس کا یہ مطلب نہیں کہ وہ قتل تک آجاتی۔ عینی شاہدین نے دیکھا اس کے بیانات (کیا رپورٹ ہے) خود کئی دنوں سائل گھر خود ہی میں نہیں تھا اور عینی شاہدین سائل کے بیٹے ہیں جو معاملے بالکل سے اپنی ماں کے بقول چھوٹے کیسے بولے گئے۔ صرف وقت میں سائل کی بقول استعمال ہوئی ہے۔ بقول کو قہقہہ تو سائل نہیں رکھا جاسکتا کہی نہیں تو اپنے گھر میں۔ دیگر سائل کا اس معاملے سے کوئی تعلق نہیں تھا اور وہ بھی اپنی بیوی کا اتنا گھناور مانع نہیں کہ سائل کے وہ بیٹے سائل کے بنیاد مقدمہ میں گھسیٹا رہے ہیں۔ تاکہ مجھے ذہنی اور مالی نقصان پہنچے جس سے جلالنگ سائل بیوی کی قوت سے کافی الجھن کا شکار ہے۔ معروضات پر پھر درجہ غور فرمادیں اہل حقائق کو منظر عام پر لا کر سائل کو انصاف دلایا جاوے۔ سائل کو دوبارہ نوٹری پر بحال فرماویں۔ اگر قہقہہ کا مقدمہ سائل کے خلاف ہوا تو سائل کو سزا دی جاوے۔ دعا گو رہوں گا۔

F.M.C

19-01-2021 DSP sb legad

Re comments

pl.

Signature and date 19/1/21

حادثہ ASI (سابقہ) خود کو لیس لٹ درجہ 0355-5923510

pat up record P.I. By Police



OFFICE OF THE
CAPITAL CITY POLICE OFFICER
PESHAWAR

Phone No. 091-9210989

Fax No. 091-9212597

5019

ORDER

This order will dispose of departmental appeal preferred by Ex-ASI Javed Khan No.2008 who was awarded the major punishment of "Dismissal from Service" under PR-197/SSP/Operations Peshawar vide No.3049-54, dated 31-12-2020.

2- He while posted at Chief Minister Secretariat Peshawar was repatriated to Peshawar and was proceeded against departmentally on the charges of his involvement in the murder of his wife. He was charged by his brother in law Jamdad Ali in his statement recorded u/s 161 & Cr.Pc for the murder of his sister on the basis of which case vide FIR No.495, dated 25-07-2019 302/34/PPC PPC Police Station Katlang Mardan was registered against him.

3- He was issued proper Charge Sheet and Summary of Allegations by SSP/Operations Peshawar and SP/Rural Peshawar was appointed as enquiry officer to scrutinize the conduct of accused official. The enquiry officer after conducting proper enquiry submitted that initially enquiry u/s 174 Cr.Pc was conducted. Then brother of the deceased lady recorded his statement u/s 164 Cr.Pc before Magistrate & charged ASI Javid Khan (husband of Bunyawat Zamina) deceased & Naib Sub-Inspector Khan son of Ajmal Khan for the murder of his sister. Both the accused got BBA which could not be confirmed and were arrested. The accused official was granted bail by the court of law. The enquiry officer recommended him for suitable punishment. In light of the findings of the enquiry officer, the competent authority awarded him the above major punishment.

4- He was heard in person in O.R. and the relevant record along with his explanation was perused. IO of the case was also summoned to this office alongwith case file. The IO has stated that the accused official has been charged by his brother in law in his statement recorded u/s 164 before Magistrate. Moreover, there are no evidence or eye witnesses to show his innocence in the case. Therefore his appeal for setting aside the punishment awarded to him by SSP/Operations Peshawar No.3049-54, dated 31-12-2020 is hereby rejected/filed.

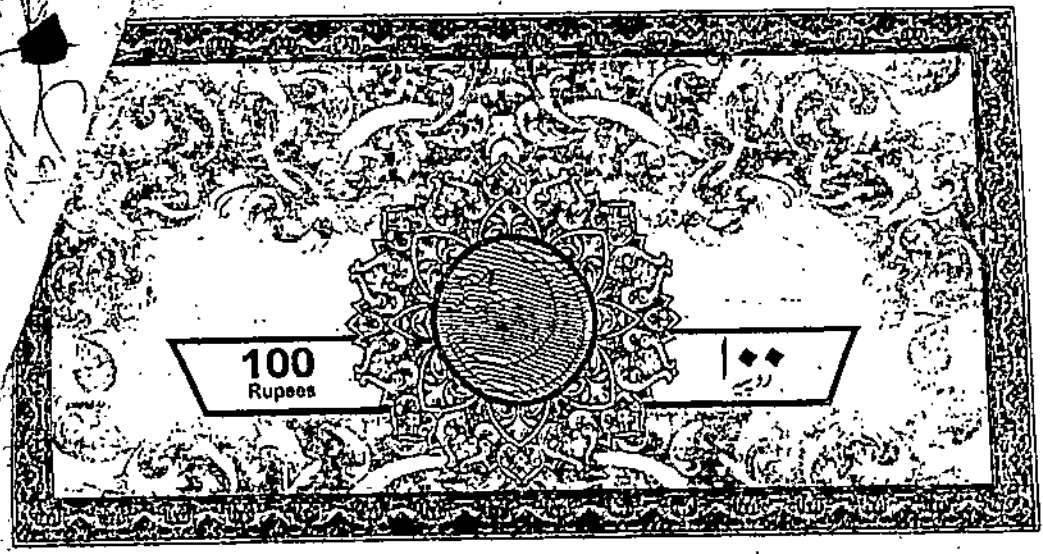
(ABBAS AHSAN) PSP
CAPITAL CITY POLICE OFFICER
PESHAWAR

No. 615-23 /PA dated Peshawar the 09-03- 2021

Copies for information and n/a to the:-

1. SSP/Operations Peshawar
2. SP/Rural Peshawar
3. OS/EC-I/EC-II, ASI
4. Pay Officer/ CRC
5. FMC along with Fouji Missal.
6. Official concerned.

196



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بیان حلقہ ثابت ہائے

سرکار ہندوستان کے لئے
سرکار ہندوستان کے لئے

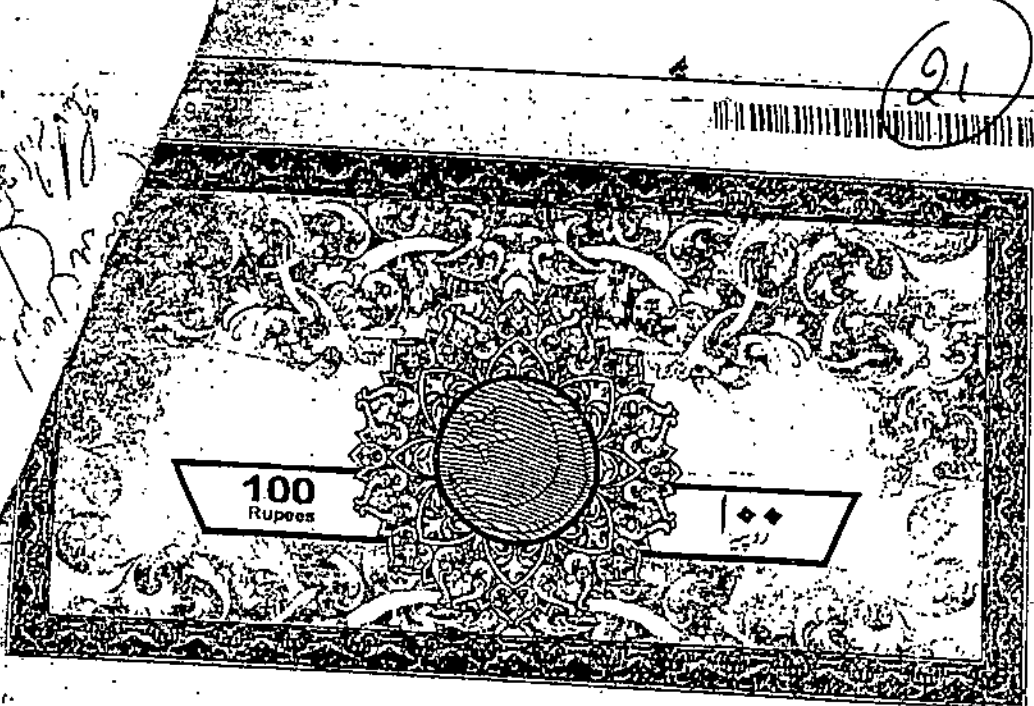
عدد 375-3 25/1/1964

مقامی افسانہ محمد ولد شاہداد خان ساکن رشتہ دار خان زادہ صاحبہ ماہرانی مردان، کلموں حلقہ اور
کے ہنگو تیار ہوں۔ کہ میں اپنے قریبی میں ملتا ہوں۔ اور دہلی میں جو کوئی سر انجام دیا گیا
روز بروز میں مردان سے اپنے علاقہ سندھ اور آج۔ میرے کا نام قلم جوئی حلقہ میں ہے
جاوید خان آئے۔ نام میرے سے فارغ ہو کر میرے لئے۔ اول وقت علاج کے بعد قریبی ہر شے دار
یہ اس نے کہا کہ کی دولت ہے کہ میں ہم قلموں کے روانہ ہوں۔ جب وقت ولی کے مکان کو
کہ وہ اپنے کہ جاوید خان نے کیا کہ جو کچھ کہہ سکتے ہیں۔ ہم قلموں ہائیں کہہ گئے کہ اسی دوران
جاوید خان کا چھوٹا بیٹا اور جاوید خان سے باہر کے جاوید خان کوئی طرف چل پڑا
میں کہی ہنگو چل پڑا اسی دوران راستہ میں خاتون کی آواز آئی۔ یہ اس نے حلقہ
کے کوئی زخم سے معلوم ہوا کہ جاوید خان کی ہوتی ہے اب پر خاتون کا خود کہنے کی تھی۔
جاوید خان کے حلقہ FIR مذکورہ بالا حلقہ۔ چھوٹا بیٹا اور میں کوئی ہے جاوید خان
ہے کہ ہے۔ کہ میں میرے پاس ہے۔ یہ میرے سطر کے لئے کہ سندھ کے من حلقہ ان تمام حلقہ
کا اور ہے کہ میں نے کوئی امر فقیر یا لہو شہدائیں رکھا ہے۔ حلقہ ہائیں کی ہوتی ہے
من حلقہ خود زخم دار ہے۔ بیان حلقہ سندھ، خیر ہے۔

تاریخ 09/2-74

375-3 16/1/1964
محمد ولد شاہداد خان

Handwritten notes and stamps on the left margin, including a circular stamp with 'MAKROOR' and 'STAMP' text.



پہاں طلعی بابت گائیج جاوید خان ولد نسیم سنگھ متا

پہاں لاکھ صاحب ایڈیشنل سیشن جج صاحب کیمپ کراچی کا دفتر
سنگھ بنام جاوید رعیہ

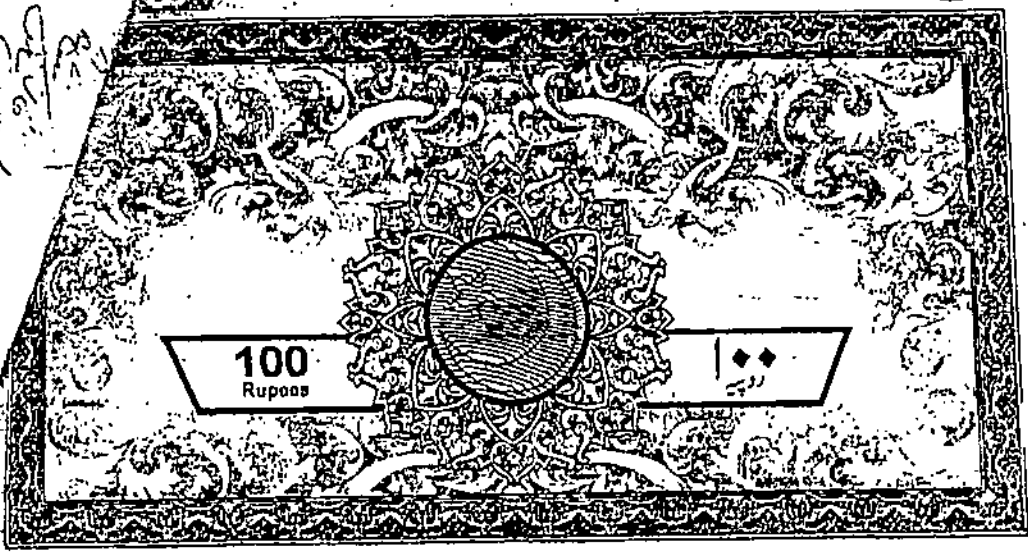
عدد 495 مورخ 25/07/19
302/34
PPC
پہاں طلعی صاحب ذیل معنی ہے

فتح سہ ماہہ کی روز جمعہ جاوید سنگھ سنگھ کے گھنٹے سے لے کر گھنٹے تک مردان کی پھول
کے مکھڑی میں کمرے میں جاوید خان کی شادی ہو چکی ہے۔ میرزا اور اس کے دو بیٹان
تعلقہ لے گئے۔ اور روز جمعہ میں مکان آڑوں میں گھنٹے کی جلا گئی تھی۔
آڑوں کے پاس کے نازک بیکر گھر خود آیا۔ لا میرزا اس وقت تھے تاکہ میں کیمپ لے کر۔ اور
جی آواز دی کہ گھر سے نکل کر وہاں نہیں کئی ماہ کا۔ میں مکان کے دروازے تک پہنچی۔
تو میرزا اس کے فوراً باہر نکلا اور گائیج کی۔ جاوید خان میرزا شہر ہے۔ جاوید خان نے جاوید
FIR نمبر کو عالم جھوٹ پر مبنی میں گورٹ اور بے بنیاد ہے۔ جاوید خان نے گناہ ہے۔
میں جلفہ ان تمام حقائق کا اقرار کرتی ہے کہ میں نے کوئی امر ضعیف یا پوشیدہ نہیں کیا
ہے۔ غلط پالی کی صورت میں خود ذمہ دار رہو گی۔ پہاں طلعی بابت گائیج جاوید خان

08
09/19

سنگھ کے نام سے

مسماہ ناظرہ کی روز جمعہ جاوید



بیان حلفی

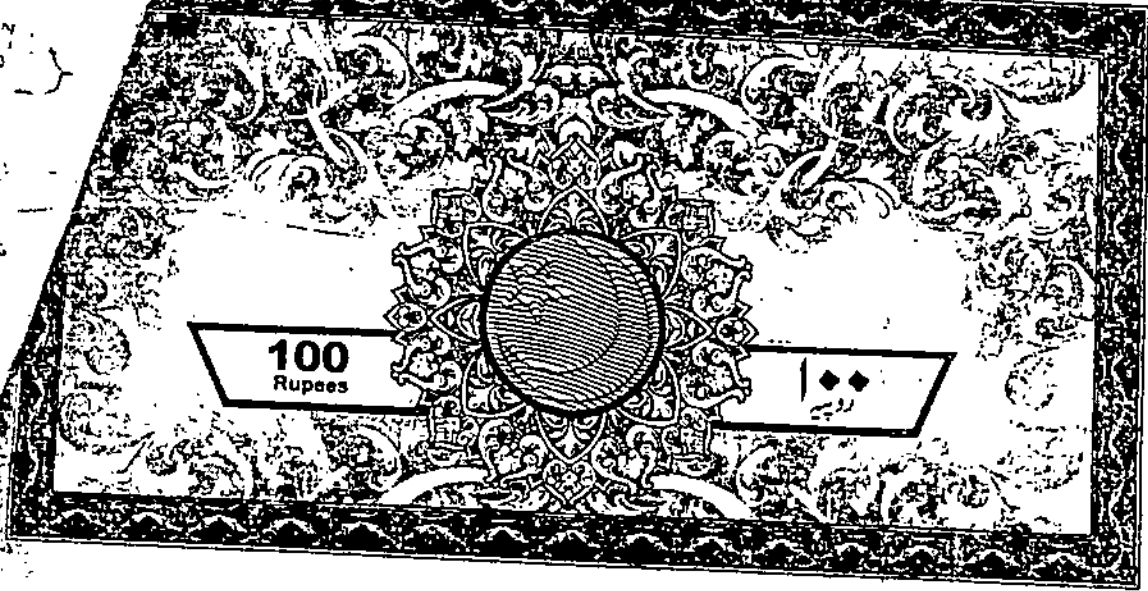
میرالدین صاحب اپنی کسین اور دستگیر خان صاحبہ کے لئے اور کسین صاحبہ کے لئے
سہ ماہیہ جاریہ

تاریخ 25/7/19 495 مہلہ 25/7/19 302/34 302/34 302/34

تہ سہ ماہیہ جاریہ دہلہ جاریہ خان صاحبہ کے لئے جاریہ کسین صاحبہ کے لئے جاریہ کسین صاحبہ کے لئے
بہلہ بیان کرتا ہوں کہ اورز و قویم میں مکان گروہ خود میں والدہ شوقیہ کے ساتھ
موجود تھا۔ کہ والدہ شوقیہ نے کچھ بوسہ دیا کہ تہہ پاکہ شام کو میں نہیں بیٹھی تھی۔
اور دوست و قویم میں مکان خود میں موجود تھا۔ کہ میری والدہ شوقیہ نے کسین
بہلہ کرتے تھے کہ گویا فعل جاؤ ورنہ نہیں بھی ماردوں۔ میں اور میری بہن
سہ ماہیہ جاریہ دہلہ کے لئے جاریہ کسین صاحبہ کے لئے جاریہ کسین صاحبہ کے لئے
نہایت کر کے فرماتی تھی۔ میں ان تمام باتوں کو اور کرتا ہوں کہ میرا والد
جاریہ خان کے خلاف FIR مذکورہ نام میں پر جھوٹا مدعا بنایا اور میں گواہی
دے رہا ہوں یہ بیان ہے۔ بہلہ سطر بہت باگینہ میں بھی جاریہ خان کو کر لیا ہوا ہے۔

09/19

میرالدین صاحب
تہ سہ ماہیہ جاریہ



بیان طلبی

محرم الحرام ۱۴۳۵ھ بمطابق ۱۹/۱۱/۲۰۱۴ء
سیدہ سہارہ بیگم صاحبہ
۳۱۲/۳۶ گھاٹ کھنڈ
۴۶۵ محلہ ۲۵/۱۱/۲۰۱۴ء

میں نے سہارہ بیگم صاحبہ سے ۱۰۰ روپے کی رقم (پندرہ سو روپے) وصول کرنے کے لیے درخواست کی ہے۔
ان رقموں کا تعلق سہارہ بیگم صاحبہ کی طرف سے دیے گئے قرضوں کی ادائیگی کے لیے ہے۔
میں نے سہارہ بیگم صاحبہ سے ان رقموں کی ادائیگی کے لیے درخواست کی ہے۔
میں نے سہارہ بیگم صاحبہ سے ان رقموں کی ادائیگی کے لیے درخواست کی ہے۔
میں نے سہارہ بیگم صاحبہ سے ان رقموں کی ادائیگی کے لیے درخواست کی ہے۔
میں نے سہارہ بیگم صاحبہ سے ان رقموں کی ادائیگی کے لیے درخواست کی ہے۔
میں نے سہارہ بیگم صاحبہ سے ان رقموں کی ادائیگی کے لیے درخواست کی ہے۔
میں نے سہارہ بیگم صاحبہ سے ان رقموں کی ادائیگی کے لیے درخواست کی ہے۔

۱۹/۰۸/۰۹

سہارہ بیگم صاحبہ

VAKALATNAMA

24

NO. _____/20

IN THE COURT OF KP Service Tribunal, Peshawar.

----- Javed Khan ----- Appellant
Petitioner
Plaintiff

VERSUS

----- Police Deptt ----- Respondent (s)
Defendants (s)

I/WE Javed Khan.

do hereby appoint and constitute the **SYED NOMAN ALI BUKHARI Advocate High Court** for the aforesaid Appellant(s), Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party to commence and prosecute / to appear and defend this action / appeal / petition / reference on my / our behalf and al proceedings that may be taken in respect of any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take documents, to accept the process of the court, to appoint and instruct council, to represent the aforesaid Appellant, Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party agree(s) ratify all the acts done by the aforesaid.

DATE _____/20



(CLIENT)

ACCEPTED


SYED NOMAN ALI BUKHARI
ADVOCATE HIGH COURT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.4278/2021.

Ex- IHC Javed Khan No.2008 of CCP of Peshawar..... **Appellant.**

VERSUS

Capital City Police Officer Peshawar and others..... **Respondents.**

REPLY BY RESPONDENTS NO. 1, &2.

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS:-

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
3. That the appellant has not come to Hon'able Tribunal with clean hands.
4. That the appellant has no cause of action and locus standi.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from Honorable Tribunal.
7. That the appeal is not maintainable being devoid of any merit.

REPLY ON FACTS:-

- (1) Para pertains to record, hence needs no comments.
- (2) Incorrect. The appellant while posted at Chief Minister Secretariat Peshawar, as involved himself in a criminal case vide FIR No.495 dated 25.07.2019 u/s 302/34 PS Katlang for the murder of his wife. In this regard, he was issued charge sheet with statement of allegations. SP Rural was appointed as Enquiry Officer, who after conducting a departmental proceeding and probe into the matter submitted his findings report, wherein he recommended for suitable punishment. After fulfilling all codal formalities, he was awarded major punishment of dismissal from service. (Copy of charge sheet, statement of allegations, and enquiry report are annexed as annexure "A" "B" "C")
- (3) First part of para not related to the record of respondents, while rest of para denied on the grounds that the appellant was issued Charge Sheet & statement of allegations to which he replied, but his reply was found unsatisfactory.
- (4) Incorrect. Real fact of the para is that enquiry was properly conducted under the law/rules and when the competent authority found that the misconduct of involvement in the criminal case is falls under moral turpitude, hence awarded the major punishment.
- (5) Incorrect. Court proceedings and departmental proceedings are two different entities which can run side by side. The enquiry officer after conducting proper enquiry submitted that initially enquiry u/s 174 Cr.P.C was conducted. Then brother of the deceased lady recorded his statement u/s 164 Cr.P.C before Magistrate and charged ASI

Javid Khan and one other person for the murder of his sister. Both the accused got BBA which could not be confirmed and were arrested. The accused official was granted bail by the court of law. The enquiry officer recommended him for suitable punishment, hence the competent authority awarded him major punishment.

- (6) Incorrect. The appellant filed departmental appeal, which was thoroughly processed and an ample opportunity of hearing was provided to appellant by appellate authority but appellant failed to defend himself with plausible/justifiable grounds, hence his appeal was rejected filed.


REPLY ON GROUNDS:

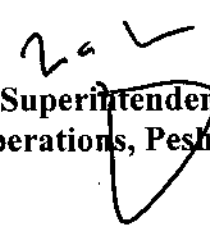
- A) Incorrect. The punishment orders passed by the competent authority are just legal and have passed in accordance with law/rules.
- B) Incorrect. Court proceedings and departmental proceedings are two different entities which can run side by side. The appellant being a member of a disciplined force, committed gross misconduct. After fulfilling all the codal formalities he was awarded the major punishment.
- C) Para already explained in the above para.
- D) Incorrect. The punishment order passed by the competent authority is legal and in accordance with law/rules.
- E) Incorrect. The appellant was treated as per law/rules and no Article of Constitution of Pakistan has been violated by the replying respondents.
- F) Incorrect. The appellant himself is responsible for the situation by committing gross misconduct.
- G) Incorrect. The appellant was provided full opportunity of defense, but the appellant failed to defend himself. After fulfilling all the codal formalities he was awarded the major punishment.
- H) Incorrect. Proper charge sheet with statement of allegation was issued to him. Detailed departmental enquiry was conducted as per law/rules. The appellant was provided full opportunity of defense, but the appellant failed to defend himself. After fulfilling all the codal formalities he was awarded major punishment.
- I) Incorrect. The appellant was treated as per law/rules and no violation has been done by the department.
- J) Incorrect. Before passing the punishment order the appellant was heard in person but he failed to provide himself innocent.
- K) Incorrect. The appellant was charged in the criminal case, thus found guilty of misconduct hence the punishment was passed against him which is facts on based of reality.
- L) Incorrect. Para already explained in the above paras.

- M) Incorrect. The enquiry conducted against the appellant is based on facts which attached on record.
- N) Incorrect. After fulfilling all of codal formalities, the charges leveled against him were proved, hence he was awarded major punishment.
- O) Incorrect. The appellant was treated as per law/rules.
- P) Incorrect. The appellant was treated as per law/rules and no Article of Constitution of Pakistan has been violated by the replying respondents.
- Q) Incorrect. Proper charge sheet with statement of allegations was issued to the appellant. Departmental enquiry was conducted against him. After fulfilling all the codal formalities he was awarded the major punishment.
- R) Incorrect. The competent authority before imposing the major punishment had completed all codal formalities and an ample opportunity of self defense was provided, but he failed to defend himself.
- S) Incorrect. The appellant was treated legally in the matter and no violation of law/rules has been committed by the respondent department, hence impugned order is liable to be upheld.
- T) Incorrect. The appellant was provided full opportunity of personal hearing but he failed to defend himself.
- U) Respondents also seek permission of this Honorable Tribunal to raise additional grounds at the time of arguments.

PRAYER.

It is therefore most humbly prayed that in light of above facts and submissions, the appeal of the appellant being devoid of merits and legal footing, may kindly be dismissed with costs please.


Capital City Police Officer,
Peshawar.

20

Senior Superintendent of Police,
Operations, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.4278/2021.


Ex- IHC Javed Khan No.2008 of CCP of Peshawar..... **Appellant.**

VERSUS

Capital City Police Officer Peshawar and others..... **Respondents.**

AFFIDAVIT.

We respondents 1 and 2 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.


**Capital City Police Officer,
Peshawar.**

2 ✓
**Senior Superintendent of Police,
Operations, Peshawar.**

A 1 L

CHARGE SHEET

Whereas I am satisfied that a Formal Enquiry as contemplated by Police Rules 1975 is necessary & expedient in the subject case against **IHC Javed No. 2008 C Peshawar**.

And whereas, I am of the view that the allegations if established would call for major/minor penalty, as defined in Rule 3 of the aforesaid Rules.

Now therefore, as required by Rule 6 (1) (a) & (b) of the said Rules, I, Senior Superintendent of Police, Operations, Peshawar hereby charge **IHC Javed No. 2008 C Peshawar** on the basis of following allegations mentioned in the enclosed summary of allegations.

I hereby direct you further under Rule 6 (1) (b) of the said Rules to put in your written defence within 7-days of the receipt of this Charge Sheet to the Enquiry Officer as to why the action should not be taken against you and also stating at the same time whether you desire to be heard in person.

In case your reply is not received within the specific period to the Enquiry Officer it shall be presumed that you have no defence to offer and ex-parte action will be taken against you.

- sd -
**SENIOR SUPERINTENDENT OF POLICE
(OPERATIONS) PESHAWAR**

DISCIPLINARY ACTION

B

No. 2976/A
2.10-15 L

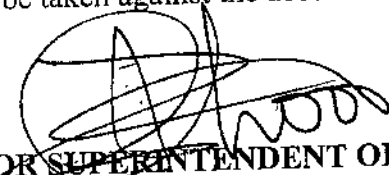
I, Senior Superintendent of Police Operations, Peshawar as competent authority, am of the opinion that IHC Javed No. 2008 CCP Peshawar has rendered him liable to be proceeded against, as he committed the following acts/omission within the meaning of section 03 of the Police Rules 1975.

STATEMENT OF ALLEGATIONS

- i. As intimated by Chief Security Officer Chief Minister's Secretariat Khyber Pakhtunkhwa vide his office memo No. PA/CSO/CMS/Khyber Pakhtunkhwa/9223, dated 20.09.2019, IHC Javed No. 2008 while posted at CM Security Khyber Pakhtunkhwa is involved in criminal case vide FIR No. 495 dated 25.07.2019 u/s 302/34 PPC PS Katlang, Mardan for the murder of his wife. He has been arrested in the said case and confined in District Jail Mardan.
- ii. By doing so, he has committed a gross misconduct.

For the purpose of scrutinizing the conduct of afore said police official in the said episode with reference to the above allegations SP Ruyal is appointed as Enquiry Officer under Rule 5 (4) of Police Rules 1975.

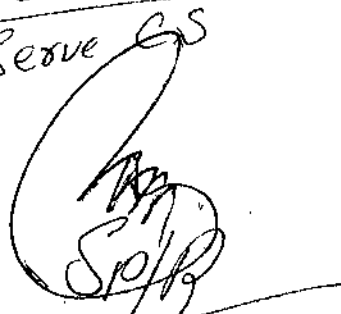
The Enquiry Officer shall in-accordance with the provision of the Police Rules (1975), provide reasonable opportunity of hearing to the accused Official and make recommendations as to punish or other action to be taken against the accused official.


SENIOR SUPERINTENDENT OF POLICE,
(OPERATIONS), PESHAWAR

No. 208 E/PA, dated Peshawar the 02 / 10 / 2019

Copy to the above is forwarded to the Enquiry Officer for initiating proceeding against the accused under the provision of Police Rules 1975

Seen.
Serve ES



To : SSP Operations, Peshawar
From : SP Rural, Peshawar
No. **2976** SPR, Dated: **23 / 10 / 2019**
Subject: **DEPARTMENTAL ENQUIRY AGAINST IHC JAVED NO. 2008**

Memorandum:

Please refer to your office diary No. ²⁰⁸ 187/E/PA, dated: ⁰²⁻¹⁰⁻²⁰¹⁹ 28.8.2019 on the subject cited above.

Statement of allegations:

According to statement of allegations/charge sheet, IHC Javed No. 2008 while posted at CM Security KPK is involved in criminal case vide FIR No. 495, dated: 25.07.2019 U/S 302/34 PPC, PS Katlang Mardan for the murder of his wife. He was arrested in the case and confined in District Jail, Mardan. Later on released on bail.

Proceedings:

The alleged official was summoned and charge sheet along-with summary of allegations was served upon him. He was heard in person, his statement was recorded and all the relevant documents were also perused.

Statement of IHC Javed:

The alleged official stated in his statement that on the date/time of occurrence, he along-with his two friends Naimat Wali and Iqbal Mahmood were present outside the mosque after performing prayers, and were planning to eat dinner together. Meanwhile his son Ozair reached there and informed him that his mother has pistol in her hands. On the tip of this information, he suddenly rushed his home but since reaching home, he heard noise of firing and on reaching home, he found that his wife has shot dead herself. In this connection, an enquiry U/S 156(3) Cr.P.C was initiated. During enquiry, witnesses of the spot Mazhar Javed (his son) and daughter in law Mrs. Nazira stated in their statements the deceased had fired on herself, whereas, his brother in law Jamdad Ali charged him in the statement U/S 161/164 Cr.P.C and the above mentioned case was registered against him. Subsequently, he was released on bail from the Court. In this regard, photocopies of the statements of witnesses are also attached for perusal.

Recommendation:

As this is a criminal case and relates to the Court, hence recommend that the subject enquiry may be kept pending till decision of Court.

SP Rural Division

Agreed
30/10

Senior Superintendent of Police
Peshawar

To : SSP Operations, Peshawar
 From : SP Rural, Peshawar
 No: 3228 SPR, Dated: 30/12/2020
 Subject: **DEPARTMENTAL ENQUIRY AGAINST IHC JAVED NO. 2008**

Memorandum:-

Please refer to your office diary No. 3007-09/PA, dated:28.12.2020 on the subject cited above.

Allegations:-

According to statement of allegations/charge sheet, IHC Javed No. 20' while posted at CM Security KPK is involved in criminal case vide FIR No. 495, dated:25.07.2019 U/S 302/34 PPC, PS Katlang, Mardan for the murder of his wife. He was arrested in the case and confined in District Jail, Mardan. Later on released on bail.

An enquiry was conducted by the then SP Rural and it was recommended that the subject departmental enquiry may be kept pending till decision of the Court.

Proceedings:-

It was ordered vide your office diary No. 3007-09/PA, dated:28.12.2020 to dispose-off all pending departmental enquiries. In this connection, the alleged official was summoned to this office and his statement was recorded (attached).

IHC Javed No. 2008 stated in his statement that on the date/time occurrence, he along-with one Naimat Wali and Iqbal Mahmood were present outside mosque after performing prayers, and were planning to eat dinner together. Meanwhile his son Uzair reached there and informed him that his mother has pistol in her hand. On the tip of this information, he suddenly rushed his home but he heard noise of firing in the way and on reaching his home, he found that his wife has shot dead herself. His daughter in law namely Nazira, sons Saqib Javed and Mazhar Javed were witness of the occurrence. Motive behind the occurrence was domestic issue and she was also suffering from blood pressure. After a lapse of approximately 15 days, his brother in law namely Jamdad Ali falsely charged him for the murder of his sister (his wife). He has therefore, requested that his case is under trial in the Court and his enquiry proceedings may be kept pending till decision of the Court.

Findings:-

Initially enquiry u/s 174 Cr.P.C was conducted in the case. Then on 25.07.2019, brother of deceased lady, Jamdad Ali recorded his statement us 164 Cr.P.C before Magistrate & charged IHC Javed (husband of Bunyawat Zamina) deceased & Naveed Khan s/o Ajmal Khan for the murder of his sister. Both accused got BBA on 27.07.2019 which could no be confirmed & both were handed over to Police on 12.09.2019. During trial, statements of witnesses were recorded & on the basis of their statements IHC Javed was granted bail. However, the principle accused in the case, Naveed Khan is still in jail & his case is pending hearing in High Court. Weapon of offence (Pistol 30 Boie) belonged to IHC Javed. There were no charring mark on the dead body that supports version of complainant.

Recommendations:-

IHC Javed Khan No.2008 is hereby proposed/recommended for suitable punishment.



MOST IMMEDIATE

OFFICE OF THE
SR: SUPERINTENDENT OF POLICE
(OPERATIONS)
PESHAWAR

Phone: 091-9210508

No. 3007-09 /PA

Dated Peshawar the 28 / 12 /2020

To: The Superintendent of Police,
Rural, CCP Peshawar.

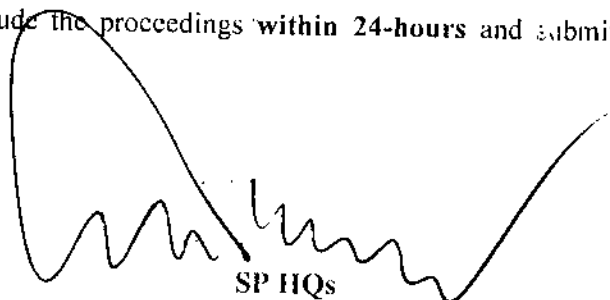
Subject: - Departmental Enquiry Against IHC Javed No. 2008 Involved in Case FIR No. 495 dated 25.07.2019 u/s 302/34 PPC PS Katlang.

Memo:-

Reference to the subject cited above and to state that the subject enquiry was conducted by you in which findings received with the recommendations to keep it pending till the decision of criminal case in the competent court.

2. The competent authority has desired to dispose of all the pending departmental enquiries against police officials involved in criminal cases.

3. In light of the directions passed by the competent authority, complete enquiry file is returned herewith with the direction to conclude the proceedings **within 24-hours** and submit decisive findings for its further disposal.


SP HQs
For SENIOR SUPERINTENDENT OF POLICE
(OPERATIONS) PESHAWAR

Cope to:-

1. The Capital City Police Officer Peshawar for favor of information please.
2. FMC with the direction to send complete enquiry file to the Enquiry Officer by today the 28th December, 2020 positively.

P.A
Call IHC Javed to-day


29/12/2020