

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

Service Appeal No. 1633/2022

Wajid Ali No. 884 Head Constable Police Lines, District Police, Nowshera.

.....Appellant

**V E R S U S**

Provincial Plice Officer, Khyber Pakhtunkhwa, Peshawar and others.

.....Respondents

**I N D E X**

S.No.	Description of documents	Annexure	Pages
1.	Parawise comments	-	1-3
2.	Affidavit	-	04
3.	Copy of Show Cause Notice	A	05
4.	Copy of punishment order	B	06
5.	Copy of enquiry report	C	07
6.	Copy of order of appellate authority	D	08-09

  
Inspector Legal,  
Nowshera

(1)

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

Service Appeal No. 1633/2022

Wajid Ali No. 884 Head Constable Police Lines, District Police, Nowshera.

.....Appellant

**V E R S U S**

1. District Police Officer, Nowshera.
2. Regional Police Officer, Mardan.
3. Provincial Plice Officer, Khyber Pakhtunkhwa, Peshawar.

.....Respondents

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS 1,2&3**

Respectfully Sheweth: -

**PRELIMINARY OBJECTIONS: -**

1. That the appellant has got no cause of action and locus standi to file the instant appeal.
2. That the appeal is badly barred by law and limitation.
3. That the appellant is estopped by his own conduct to file the instant appeal.
4. That the appeal is not maintainable in its present form.
5. That the appellant has not come to the Honourable Tribunal with clean hands.
6. That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.

**Reply on Facts: -**

1. Correct to the extent that the appellant while posted at Police Station, Akbarpura was reported to have close links with a notorious criminal Jan Sher r/o Dawood Zai, District Peshawar, who was involved/charged in multiple cases of Police Stations, Shahpur, Sharqi, Cantt:, Chamkani, District Peshawar and Police Station, Akbarpura District Nowshera, which amounts to grave misconduct on his part. In this connection he was issued Show Cause Notice. (Copy of Show Cause Notice is annexure "A").
2. Correct to the extent that reply to the Show Cause Notice was submitted by the appellant wherein he negated the allegations leveled against him.
3. Incorrect. As per rules 5(5) of Khyber Pakhtunkhwa, Police Rules, 1975, (amended 2014) on receipt of the explanation of the defaulter official, the competent authority shall determine whether the charge has been



proved or not. In case the charge is proved, the authority shall award one or more of major or minor punishments as deemed necessary. Hence, after receiving reply to the Show Cause Notice, the same was found unsatisfactory, therefore, appellant was awarded major punishment of reduction in rank (substantive rank of ASI to HC). (Copy of punishment order is annexure "B"). However, when appellant moved departmental appeal against the punishment order, the same was sent back by the office of respondent No. 02 vide No. 6081/ES, dated 09-09-2022 to the office of respondent No. 01 for holding enquiry into the matter. Hence, on the directions of respondent No. 02 proper enquiry was conducted through SDPO Nowshera Cantt: and enquiry officer in the finding of his enquiry recommended that punishment of the appellant may be kept intact. (Copy of enquiry report is annexure "C").

4. Correct to the extent that appellant against punishment order moved departmental appeal before the appellate authority i.e Regional Police Officer, Mardan, however, the same was filed being devoid of merit. (Copy of order of appellate authority is annexure "D").
5. That appeal of the appellant is liable to be dismissed inter-alia on the following grounds: -


#### Reply on Grounds

- A. Incorrect. Order dated 20-07-2022 passed by respondent No. 01 whereby major punishment of reduction in rank was awarded to the appellant and order dated 19-10-2022 passed by respondent No. 02 whereby appeal of the appellant was filed, are in accordance with law and rules, hence, are liable to be maintained.
- B. Incorrect. Already explained in para 03 of the facts.
- C. Incorrect. Contacts/links of the appellant with a notorious criminal namely Jan Sher had been established through obtaining CDR of the appellant, which has been also admitted by the appellant.
- D. Incorrect. Already explained vide above paras.
- E. Incorrect. This is wrong to presume that an officer who is on the verge of promotion, will not be punished even if he is found guilty of misconduct.
- F. Incorrect. Poor family condition does not allow any officer/official to commit an act which is prejudicial to the department.


- G. Incorrect. As explained above on the direction of the appellate authority proper departmental enquiry was conducted against appellant through SDPO Cantt:.
- H. Incorrect. Show Cause Notice had been issued to the appellant to which appellant submitted his reply but the same was found unsatisfactory. Moreover, appellant was heard in person by respondent No. 01 in orderly room held on 01-06-2022 but he failed to produce any cogent reason in his defense. Therefore, he was awarded major punishment of reduction in rank.
- I. The respondents may also be allowed to advance additional grounds at the time of arguments.

Prayers

It is, therefore, most humbly prayed that on acceptance of above submissions, the appeal of the appellant may very kindly be dismissed with costs, please.

  
Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.  
Respondent No. 03

  
Regional Police Officer,  
Mardan.  
Respondent No. 02

  
District Police Officer,  
Nowshera.  
Respondent No.01

(4)

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

Service Appeal No. 1633/2022

Wajid Ali No. 884 Head Constable Police Lines, District Police, Nowshera.

.....Appellant


**V E R S U S**

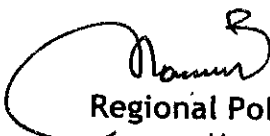
1. District Police Officer, Nowshera.
2. Regional Police Officer, Mardan.
3. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.


.....Respondents

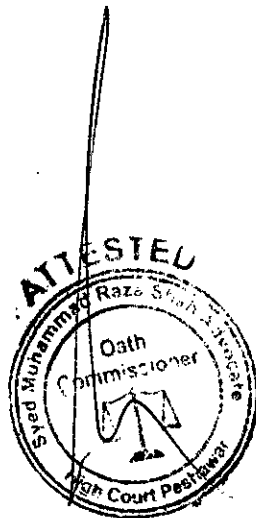
**AFFIDAVIT**

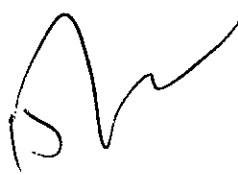
We the respondents No. 1, 2 & 3 do hereby solemnly affirm and declare on Oath that the contents of reply to the appeal are true and correct to the best of our knowledge and belief and nothing has been concealed from the Honourable tribunal.

  
Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.  
Respondent No. 03

  
Regional Police Officer,  
Mardan.  
Respondent No. 02

  
District Police Officer,  
Nowshera.  
Respondent No.01





Amex: A;  
5

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

**SHOW CAUSE NOTICE**

**(Under Rule 5 (3) KPK Police Rules, 1975)**

1. That you ASI Wajid Ali while posted at PS Akbarpura now under suspension at Police Lines, Nowshera have rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunkhwa Police Rules 1975 for following misconduct:  
Reportedly, you have close links with a notorious criminal Jan Sher r/o Dawood Zai, District Peshawar who is involved/charged in multiple cases of Police Stations, Shah Poor, Sharqi, Cantt and Chamkani, District Peshawar and PS Akbarpura, District Nowshera which is evident from your CDR. The village of aforementioned PO is adjacent to PS Akbarpura and you are continuously giving him information about raids of police, which amounts to grave misconduct on your part.
2. That by reasons of above, as sufficient material is placed before the undersigned; therefore it is decided to proceed against you in general Police proceeding without aid of enquiry officer.
3. That the misconduct on your part is prejudicial to good order of discipline in the Police force;
4. That your retention in the Police force will amount to encourage inefficiency and unbecoming of good Police officers;
5. That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action against you by awarding one or more of the kind punishments as provided in the rules.
6. You are, therefore, called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 for the misconduct referred to above.
7. You should submit reply to this show cause notice within **07 days** of the receipt of the notice failing which an ex-parte action shall be taken against you.
8. You are further directed to inform the undersigned that you wish to be heard in person or not.

  
District Police Officer,  
Nowshera

No. 277 /PA  
Dated 28/06/2022

ASI Wajid Ali

Annex: B, (6)

POLICE DEPARTMENT

NOWSHERA DISTRICT

ORDER

ASI Wajid Ali No. 884, while posted at Police Station, Akbarpura was reportedly and having close links with a notorious criminal Jan Sher r/o Dawood Zai, District Peshawar who is involved/charged in multiple cases of Police Stations, Shah Poor, Sharqi, Cantt and Chamkani, District Peshawar and PS Akbarpura, District Nowshera which is evident from his CDR. The village of aforementioned PO is adjacent to PS Akbarpura and he was continuously giving information to aforementioned PO about raids of police.

On account of which, he was suspended, closed to Police Lines and served with Show Cause Notice, to which, he submitted his reply, perused by the undersigned and found unsatisfactory.

He was also heard in person by the undersigned wherein he failed to produce any cogent reason in his defense, therefore, he is hereby awarded major punishment of **reduction in rank (substantive rank of ASI to HC) with immediate effect** and re-instated in service from the date of suspension, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules-1975.

OB No. 709

Dated 20/07 /2022

  
District Police Officer,  
Nowshera

No. 1726-32 /PA, dated Nowshera, the 20/07 /2022.

Copy for necessary action to the:

1. The Capital City Police Officer, Peshawar for information.
2. DSP HQrs: Nowshera.
3. Pay Officer.
4. Establishment Clerk.
5. OHC.
6. FMC with its enclosures (04 pages).
7. I/C Computer Lab.



CANTT CIRCLE

Tel: 0923-9220108, E-Mail: sdponsrcantt@gmail.com

No: 50/ST, Dated: 30/09/2022.

Annex. C

To: The District Police Officer  
Nowshera

Subject: **INQUIRY REPORT HC WAJID ALI NO.266.**

Memo: Kindly refer to your office Diary No. 33/PA, dated 13.09.2022.

**SUMMARY OF ALLEGATIONS:**

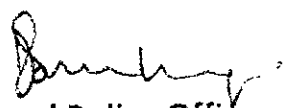
HC Wajid Ali No. 266, while posted PS Akbarpura, now Police Lines Nowshera, had reportedly close links with POs Jan Sher r/o Daudzai District Peshawar involved in criminal cases of Police stations Shah Poor, Sharqai, Cantt and Chamkani of District Peshawar and police station Akbarpura. The village of aforementioned criminal is adjacent to PS Akbarpura and the defaulter official informed him about the raids of police which is evident from his CDR. On account of which he was suspended close to police lines Nowshera served with a show cause notice and awarded him Major punishment of reduction in rank (ASI to HC) against which he submitted appeal to the Regional Police Officer Mardan. The Regional Police Officer Mardan ordered to conduct inquiry into the matter under Khyber Pakhtunkhwa Police Rules, 1975.

**PROBING:**

The delinquent police official HC Wajid Ali submitted his reply to the charge sheet wherein he stated that he was posted PS Akbarpura. During gusht there was chatter in area that Ihsan Ullah has been kidnapped from the area of PS Shah Pur but neither the incident reported by any one nor verified. He further added that on the direction of his seniors he had tried on contact number of notorious POs and they were arrested duly armed. Similarly, he made contact with notorious PO Jan Sher r/o Guluzai, Muhammad Zai and his other companion area of PS Shah Pur. Several raids were conducted on abode of POs in presence of SHO Akbarpura but with no success. The contact on PO number was just for his location and his arrest. Besides defaulter official, other police officers have also tried on his contact number in connection with his arrest. The contact with PO was just in kidnapping incident of Ihsan Ullah to ensure his arrest. Furthermore, he denied the links with notorious PO Jan Sher wanted in multiple cases of PSs in Peshawar.

**FINDINGS:**

The defaulter official was heard in person and his recorded statement perused which is unsatisfactory he also admitted the contact with PO Jan Sher Khan in person. Moreover, CDR of the official number is also evident against him which establishes his contact with PO. His punishment may be kept intact, keeping in view gravity of his case. This shows his malafide intention. The official under inquiry failed to any cogent reason in his defense. Therefore, he is recommended for the award of any appropriate punishment.

  
Sub-Divisional Police Officer,  
Cantt circle Nowshera.



Annex D,  
⑧

ORDER.

This order will dispose-off the departmental appeal preferred by Head Constable Wajid Ali No. 266 of Nowshera District against the order of District Police Officer, Nowshera, whereby he was awarded major punishment of reduction in rank from substantive rank of ASI to Head Constable vide OB: No. 709 dated 20.07.2022. The appellant was proceeded against departmentally on the allegations that he while posted at Police Station, Akbarpura was reportedly having close links with a notorious criminal namely Jan Sher r/o Dawood Zai, District Peshawar who was involved/charged in multiple cases of Police Stations, Shah Poor, Sharqi, Cantt and Chamkani, District Peshawar and Police Station Akbarpura, District Nowshera which is evident from his Call Data Record. The village of aforementioned proclaimed Offender is adjacent to Police Station Akbarpura and he was continuously giving information to aforementioned proclaimed Offender about raids of Police.

On account of which, he was suspended and closed to Police Lines, Nowshera and was issued Show Cause Notice to which his reply was received/perused by the District Police Officer, Nowshera and found unsatisfactory.

The delinquent Officer was heard in person in orderly Room by the District Police Officer, Nowshera but he failed to present any plausible reasons in his defense, therefore, he was awarded major punishment of reduction in rank from substantive rank of ASI to Head Constable vide OB: No. 709 dated 20.07.2022.

He preferred departmental appeal before the then Regional Police Officer, Mardan and appeared in orderly Room held in this office on 08.09.2022 heard him in person and the same was sent back to District Police Officer, Nowshera for enquiry into the matter vide this office endorsement No. 6081/ES dated 09.09.2022.

The District Police Officer, Nowshera vide his office Memo: No. 2768/PA dated 03.10.2022 submitted enquiry report conducted by Sub Divisional Police Officer, (SDPO), Nowshera according to which he held responsible the delinquent Officer and recommended that his punishment may be kept intact.

Hence, the appellant was again called in Orderly Room held in this office on 19.10.2022 but he bitterly failed to advance any cogent justification in his defense.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations of misconduct against the appellant have been proved beyond any shadow of doubt. Being a member of disciplined/uniformed force, the involvement of the delinquent Officer in such like activities of having contacts with criminals is totally against the norms of force. As instead bringing criminals before the

Court of Law, the appellant has extended favour in evading lawful arrest of the above named criminal. He could not present any cogent justification to warrant interference in the order passed by the competent authority.

Keeping in view the above, I, **Muhammad Ali Khan, PSP Regional Police Officer, Mardan**, being the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being devoid of merit.

*Muhammad Ali Khan*  
**Regional Police Officer,  
Mardan.**

No. 8220 /ES, Dated Mardan the 19/10 /2022.

Copy forwarded to District Police Officer, Nowshera for information and necessary action w/r to his office Memo: No. 2193/PA dated 24.08.2022. His Service record is returned herewith.

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

*EC/PMC*  
*For n. action*  
*an*  
*DPONS*  
*20/10/2022*

*No. 2257/PA*  
*dt 21/10/2022*