## BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

#### SERVICE APPEAL NO. 267/2018

Date of institution ... 26.02.2018 Date of judgment ... 03.05.2019

Niaz Hussain S/o Shah Zali Khan R/o Rustam District Mardan

(Appellant)

#### **VERSUS**

1. Inspector General of Khyber Pakhtunkhwa, Central Police Officer, Peshawar.

2. Deputy Inspector General of Police CTD Khyber Pakhtunkhwa Peshawar.

(Respondents)

APPEAL UNDER SECTION-4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER-VIDE NO. 13146-53/PA DATED 09.11.2017 OF DEPUTY INSPECTOR GENERAL OF POLICE CTD KP PESHAWAR.

Mr. Rahman Ullah, Advocate.

For appellant.

Mr. Riaz Ahmad Paindakhel, Assistant Advocate General

For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI MR. AHMAD HASSAN

MEMBER (JUDICIAL) MEMBER (EXECUTIVE)

#### **DISSENTING JUDGMENT**

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Counsel for the appellant present. Mr. Riaz Ahmad Paindakhel, Assistant Advocate General alongwith Mr. Wajid Ali, ASI for the respondents present. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant was serving in Police Department as Inspector. He was imposed major penalty of dismissal from service vide order dated 09.11.2017 by the Deputy Inspector General of Police on the allegation

- (i) that he was reportedly involed in the transportation and smuggling of Non Custom Paid (NCP) vehicles vide FIR No. 492 under sections 419/420/468/471/171PPC/15AA dated 29.07.2017 PS Lund Khwar District Mardan.
  - (ii) That on his direction his gunman namely Ishfaq Ali No. 182 received the NCP vehicle from one Haji Hayat Khan r/o Bara Khyber Agency for transportation to Sakhakot.
  - (iii) That his performance as SHO CTD Mardan remained poor.

The appellant filed departmental appeal before the Inspector General of Khyber Pakhtunkhwa Peshawar on 15.11.2017 which was not responded within the stipulated period hence, the present service appeal on 26.02.2018.

- 3. Respondents were summoned who contested the appeal by filing of written reply/comments.
- 4. Learned counsel for the appellant contended that the appellant was serving as Inspector in Police Department. It was further contended that the appellant was imposed major penalty of dismissal from service vide order dated 09.11.2017 by the Deputy Inspector General of Police on the aforesaid allegations. It was further contended that the departmental proceeding against the appellant was initiated mainly on the grounds that he was involved in the aforesaid criminal case but the appellant was totally innocent in the said criminal case that is why that the prosecution submitted application for discharge of the appellant in the said criminal case before the competent court which was accepted and the appellant Naiz Hussain was discharged from the aforesaid criminal case vide detailed order dated 12.10.2017 passed by the Judicial Magistrate Takht Bahi. It was further contended that the appellant was serving in Police Department since 2003 but there was not complaint against the appellant nor any criminal proceeding or any departmental proceeding was

as per schedule first Police Rules, 1975 the competent authority of Inspector was DPO/SSP but in the present departmental proceeding, charge sheet, statement of allegation and show-cause notice was issued to the appellant by the Deputy Inspector General of Police and the impugned order was also passed by the Deputy Inspector General of Police instead of DPO/SSP therefore, the impugned order is illegal and void. It was further contended that the allegations against the appellant are baseless and without any proof. It was further contended that neither proper inquiry was conducted nor the appellant was associated in the so-called inquiry nor opportunity of cross examination, personal hearing and defence was provided to the appellant therefore, the appellant was condemned unheard which has rendered the whole proceeding illegal and liable to be set-aside and prayed for acceptance of appeal.

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5. On the other hand, learned Assistant Advocate General for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was serving in Police Department as Inspector. It was further contended that a proper departmental proceeding was initiated against the appellant on the aforesaid allegation. It was further contended that the criminal proceeding has no bearing/effect on the departmental proceeding therefore, the discharge of the appellant from criminal case does not help the appellant in departmental proceeding. It was further contended that proper regular department proceeding was conducted and after fulfilling all the codal formalities the appellant was rightly imposed major penalty of dismissal from service on the recommendation of inquiry committee report. It was further contended that though charge sheet, statement of allegation and show-cause notice was issued by the Deputy Inspector General of Police and the major penalty was also imposed to the appellant by the Deputy Inspector General of

Police and as per schedule first of Police Rules, 1975 the competent authority of the inspector/appellant was DPO/SSP but the order of higher authority should always be maintained and the impugned order cannot be set-aside only on this ground and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant was serving in Police Department as Inspector. The record further reveals that departmental proceeding was initiated against the appellant on the aforesaid allegation. The record further reveals that inquiry was conducted by the inquiry committee and the inquiry committee have recorded the statement of witnesses namely Zakir Khan S.I Incharge Chowki Umer Abad, Mazhar Ali ASI I.O case FIR No. 492 under sections 419/420/468/471/171PPC/15AA dated 29.07.2017 PS Lund Khwar District Mardan and Khan Muhammad ASI Muharrar PS CTD Mardan. Copy of the statement of the aforesaid witnesses were also furnished by the representative of the department at the time of arguments which shows that the statements of said witnesses were recorded by the inquiry committee during the inquiry proceeding on 09.08.2017 and 16.08.2017 but the appellant was neither provided opportunity of cross examination nor the statement of witnesses were recorded by the inquiry committee in the presence of the appellant therefore, the appellant was condemned unheard, as opportunity of cross examination to the appellant on the aforesaid witnesses was the fundamental right of the appellant therefore, the inquiry committee has violated the principle of natural justice and the appellant has been deprived from his defence through cross-examination which has rendered the whole proceeding illegal and liable to be set-aside. AS such, we partially accept the appeal, set-aside the impugned order, reinstate the appellant into service with the direction to the respondent-department to conduct de-novo inquiry in the mode and manner prescribed by rules.

Manning 120 pg

appeal has been partially accepted and the department have been directed to conduct de-novo inquiry and as per Police Rules, 1975 first schedule the competent authority to the extent of rank of inspector is DPO/SSP therefore, it would be proper to direct concerned DPO/SSP to issue charge sheet, statement of allegation as well as final show-cause notice and pass order deem appropriate in de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

**ANNOUNCED** 

03.05.2019

Hoch amm and Amin (MUHAMMAD AMIN KHAN KUNDI) MEMBER

(AHMAD HASSAN) MEMBER

20.12.2018

Appellant in person present. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Appellant requested for adjournment on account of the non-availability of this counsel. Adjourned. To come up for arguments on 14.02.2019 before D.B.

(Hussain Shah) Member

(Muhammad Amin Khan Kundi) Member

14.02.2019

Appellant in person and Addl. AG for the respondents present.

Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, instant matter is adjourned to 03.05.2019 before the D.B.

Member

Chairman

03.05.2019

Counsel for the appellant present. Mr. Riaz Ahmad Paindakhel, Assistant Advocate General alongwith Mr. Wajid Ali, ASI for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of five pages placed on file, we partially accept the appeal, set-aside the impugned order, reinstate the appellant into service with the direction to the respondent-department to conduct de-novo inquiry in the mode and manner prescribed by rules and as per Police Rules, 1975 first schedule the competent authority to the extent of rank of inspector is DPO/SSP therefore, it would be proper to direct concerned DPO/SSP to issue charge sheet, statement of allegation as well as final show-cause notice and pass order deem appropriate in de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

03.05.2019

(MUHAMMAD AMIN KHAN KUNDI)

MEMBER

(AHMAD HASSAN) MEMBER 30.05.2018

Mr. Arif Khan, Junior to learned counsel for the appellant present. Mr. Wajid Head Constable alongwith Mr. Kabirullah Khattak, Addl. A.G for the respondents present. The learned junior counsel made a request for adjournment that senior counsel is busy in the Hon'ble High Court. Adjourned. Case to come up for arguments on 04.09.2018 before the D.B.

Member

Chairman

04.09.2018

Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 01.11.2018 before D.B.

(Muhammad Amin Kundi)

Member

(Muhammad Hamid Mughal)

Member

01.11.2018

Due to retirement of Hon'able Chairman, the Tribunal is defunct. Therefore, the case is adjourned for the same on 20.12.2018 before D.B.

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30.03.2018

Appellant in person and Addi. AG alongwith Wajid Khan, H.C for the respondents present. Written reply not submitted. Seeks adjournment. To come up for written reply/comments on 11.04.2018 before the S.B.

Chàirman

11.04.2018

Appellant alongwith counsel present. Mr. Kabir Ullah Khattak, Addl: AG alongwith Mr. Wajid Ali, H.C for the respondents present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 24.04.2018 before S.B.

---Member

24.04.2018 Clerk of the counsel for appellant and Addl: AG alongwith Mr. Gul Zad, S.I for the respondents present. Written reply submitted. To come up for rejoinder and arguments 30.05.2018 before S.B.

Chairman

## Form-A

## FORMOF ORDERSHEET

Court of		
Case No.	267/2018	

			<u>,                                      </u>
	S.No.	Date of order proceedings	Order or other proceedings with signature of judge
	1	2	3
	1	26/02/2018	The appeal of Mr. Niaz Hussain presented today by Mr.
,			Rehmanullah Advocate may be entered in the Institution
			Register and put up to Worthy Chairman for proper order
			please.
			REGISTRAR
	2	27 lorlie.	This case is entrusted to S. Bench for preliminary hearing
	-		to be put up there on 12 losli8.
			CHAIRMAN
			, ;
		·	, ·
			·
12.03	3.2018		rned counsel for the appellant present. Preliminary ents heard.
		has fi	The appellant (Ex-Inspector Police Department) led the present service appeal against the order
			09.11.2017 whereby he was awarded major
		•	y of dismissal from service. The appellant has also
		filed respo	departmental appeal, but the same was not nded.
		appell within respon	ndents for written reply/comments on 30.03.2018
<b>.</b>		before	3.0

(Muhammad Hamid Mughal)
Member



## IN THE SERVICE TRIBUNAL, K.P.K PESHAWAR

Service Appeal No. <u>267</u>/2018

Niaz Hussain S/o Shah Zali Khan R/o Rustam District Mardan

...Appellant

#### **VERSUS**

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`hrough

Rahman Ullah

And

ASIM KHAN

Advocate Peshawar



## IN THE SERVICE TRIBUNAL ,K.P.K PESHAWAR

Service Appeal No. <u>267</u>/2018

Khyber Pakhtukhwa Service Tribunai

Diary No. 266

Niaz Hussain S/o Shah Zali Khan R/o Rustam District Mardan 26-2

...Appellant

#### **VERSUS**

1. Inspector General of Khyber PukhtoonKhwa, Peshawar

Central Police Officer,

2. Deputy Inspector General of Police CTD KP Peshawar.

.....Respondents

SERVICE APPEAL U/S 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER VIDE NO 13146-53/PA DATED 09-11-2017 Of DEPUTY INSPECTOR GENERAL OF POLICE CTD KP PESHWAR

## Prayer in Appeal:

ON ACCEPATNCE OF THIS APPEAL THE ORDER VIDE 13146-53/PA DATED 09-11-2017 Οľ INSPECTOR GENERAL OF POLICE CTD KP PESHWAR MAY KINDLY BE SETASIDE AND THE APPELLANT MAY Redto-day Griciously be reinstate on his post with all BACK BENIFIT.

가하기 기술 Respectfully Sheweth:

- 1. That the appellant was appointed in Police Department in the year 2006.
- 2. That the appellant as SHO police station CTD Mardan was performing his services with the entire satisfaction of their high-ups.
- 3. That the appellant well performed his duty but he was blamed for the allegations which is as under:
- > charged in the FIR No 492 U/S 419/420/468/471PPC/15AA, Dated 29-07-2017
- > Directing his gunman namely Ishfaq Ullah No.182 received the NCP vehicle from one Haji Hayat Khan for transportation to skhakot.
- > Poor Performance as SHO CTD Mardan.

## (Statement of allegation, Final Show Cause & charge sheet is Attached as annexure A, B & C)

4. That departmental inquiry was initiated against the appellant; appellant produced a comprehensive reply before the inquiry officer and forwarded his detailed record of his performance.

(Copy of reply is Attached as annexure D)



5. That after conducting the inquiry on said baseless allegation the respondent No 2 passed an impugned Order No.13146-53/PA Dated 09-11-2017 by awarding major punishments, Dismissal from service.

# (Copy of impugned order is attached as annexure E)

**6.** That the appellant filed departmental appeal before the respondent no 1 which met no response.

# (Copy of Departmental Appeal is attached as annexure F)

That being aggrieved from the said orders passed, Approached this Honourable Tribunal on the following Grounds.

#### **GROUNDS:**

- A. That the impugned order is illegal, unlawful and against natural justice.
- **B.** That all the allegations leveled against the appellant due to the above said concocted FIR No 492, that's why the prosecution submitted an application for the discharge of appellant.
- C. That the appellant was not present at the time of occurrence and he was on special duty in charsada on 29-07-2017.

# (Copy of Daily Dairies are Attached as annexure G & H)

D. That the appellant was discharge by the Learned Judicial Magistrate Takht Bhai on 12-10-2017. So base of the inquiry was quashed by the Learned Magistrate but this aspect is totally ignored by the respondents and the alleged inquiry so far conducted against the appellant is against the norm of justice.

# (Copy of Discharge Order is Attached as annexure I)

E. That the appellant was blamed and charged on the false statement of constable Ishfaq who was suspended from his post on 4-07-2017 and appellant has no concern with the said constable and there is no evidence available against him except oral allegations.

## (Copy of Daily Dairy is Attached as annexure J)

- F. That the appellant was serving the department since 2006 and his all service tenure shows that no complaint, neither criminal proceedings nor any departmental inquiry has been conducted against him.
- G. That the impugned order is totally unfair, biased and not according to circumstances of the case in hand.

- G. That the impugned order is totally unfair, biased and not according to circumstances of the case in hand.
- H. That during course of departmental inquiry neither any evidence was brought against the appellant neither any person was examined to sustain the allegation, nor any opportunity given for cross examination.
- I. That the allegation against appellant is baseless and without any proof but awarding major punishment which is against the basic principles of service rules.
- J. That enquiry officer has not examined even a single witness against the appellant to support the baseless allegation and the alleged inquiry so far conducted against the appellant is against the norm of justice.
- K. That the appellant was not properly adopted the way of inquiry which is unjust and against the law.
- L. That the harsh punishment awarded by respondent is not according to the Law and it is no where mentioned in either police or other service rules.
- M. That the appellant has not been treated in accordance with law as provided and guaranteed under the constitution of 1973.
- N. That any other ground may be forwarded at the time of arguments with the kind permission of this Hon, ble court.

It is therefore humbly prayed that on acceptance of this appeal the order vide no 13146-53/PA Dated 09-11-2017 of deputy inspector general of police CTD KP PESHWAR may kindly be setaside and the appellant may griciously be reinstate on his post with all back benefit.

AND Any other remedy which the court deems fit & proper may also be granted in favour of the petitioner against the respondents with cost.

Through

la 1

Appellant

RAHMAN ULLAH

&

ASIM KHAN

\_ Advocates



## IN THE SERVICE TRIBUNAL, K.P.K PESHAWAR

Service Appeal No/2018	
Niaz Hussain S/o Shah Zali Khan R/o Rustam Distric	t MardanAppellant
VERSUS	
Inspector General of Khyber PukhtoonKhwa, & Other	

#### **Affidavit**

I Niaz Hussain S/o Shah Zali Khan R/o Rustam District Mardan, do hereby solemnly declare on oath that contents of this appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

DEPONENT

# 5

## IN THE SERVICE TRIBUNAL , K.P.K PESHAWAR

Service Appeal No/2018	
Niaz Hussain S/o Shah Zali Khan R/o Rustam Dist	rict Mardan
	Appellant
VERSUS	A
Inspector General of Khyber PukhtoonKhwa, & Othe	er
••	Respondents
Addresses of the parties	

## **APPELLANT**

Niaz Hussain S/o Shah Zali Khan R/o Rustam District Mardan

## RESPONDENTS:

- 1. Inspector General of Khyber PukhtoonKhwa, Central Police Officer, Peshawar
- 2. Deputy Inspector General of Police CTD KP Peshawar

Through

Rahman Ullah

Advocate Peshawar

## AMARY OF ALLEGATIONS



ZEB, DEPUTY INSPECTOR GENERAL OF POLICE, CTD KHYBER PAKHTUNKHWA, PESHAWAR, am of the opinion that Inspector Niaz Hussain of this Unit has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning of Police Disciplinary Rules, 1975 read with Amendments 2014.

## STATEMENT OF ALLEGATIONS

- That he is reportedly involved in the transportation and smuggling of Non Custom Paid (NCP) Vehicles vide FIR No. 492 d/s 419/420/468/471/171PPC/15AA, dated 29-07-2017 PS Lund Khwar District Mardan.
- That on his direction, his gunman namely Ishfaq Ali No. 182 received the NCP Vehicle from one Haji Hayat Khan r/o Bara Khyber Agency for iil transportation to Sakhakot.
  - That your performance as SHO CTD Mardan remained poor.
- For the purpose of scrutinizing the conduct of the said accused with reference (iii to the above allegations, Mr. Fazal-i-Hamid SSP, Int: & Surv: and Mr. Quaid Kamal Khan DSP. HOrs: of CTD, Khyber Pakhtunkhwa, Peshawar are appointed as Enquiry Officers, to conduct enquiry under the Rules.
  - The Enquiry Officers, shall, in accordance with the provision of the Police Disciplinary Rules, 1975 read with Amendments 2014 provide reasonable opportunity of hearing to the accused, record its findings and make within 15 days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused.

(MUBARAK ZEB) PSP Deputy Inspector General of Police, CTD, Khyljer Pakhtunkhwa, deshawar.

No 8709-1PA/CTD

Dated Peshawar the cl /08/2017.

## Copy of above is forwarded to the:-

- 1. Inspector General of Police, Khyber Pakthunkhwa, Peshawar for information.
- Enquiry Officers of this Unit are directed to initiate departmental proceedings agains the accused under the Police Disciplinary Rules, 1975 read with Amendments 2014. 2. Regional Police Officer Mardan Region.
- 5. Inspector Niaz Hussain to appear before the Enquiry Officer on the date time and place fixed by the Enquiry Officer for the purpose of enquiry proceedings.





OFFICE OF THE,
DY: INSPECTOR GENERAL OF POLICE,
COUNTER TERRORISM DEPARTMENT,
KHYBER PAKHTUNKHWA, PESHAWAR
Ph # 091-9218093-94 Fax # 091-9218031.

B

No. //830 /PA Dated 06//0 /2017.

#### FINAL SHOW CAUSE NOTICE.

- 1. WHEREAS, You Inspector Niaz Hussain of this Unit while posted as SHO CTD Mardan rendered yourself for disciplinary proceedings by committing gross misconduct and negligence in duty. A Charge Sheet based on the following allegations was issued to you and enquiry committee comprising by Fazal-i-Hamid SSP/Int&Sur CTD and Quaid Kamal DSP HQrs:/CTD was constituted for scrutinizing your conduct reference to charges leveled against you.
  - i) That he is reportedly involved in the transportation and smuggling of Non Custom Paid (NCP) Vehicles vide FIR No. 492 u/s 419/420/468/471/171PPC/15AA, dated 29-07-2017 PS Lund Khwar District Mardan.
  - ii) That on his direction, his gunman namely Ishfaq Ali No. 182 received the NCP Vehicle from one Haji Hayat Khan r/o Bara Khyber Agency for transportation to Sakhakot.
  - iii) That your performance as SHO CTD Mardan remained poor.
  - 2. WHEREAS, the enquiry committee carried out proper departmental proceedings against you. Opportunity of personal hearing and production of defense was provided to you. Committee also examined your reply submitted in response to Charge Sheet. The committee found you guilty for the charges leveled against you, made recommendation for award of Major Punishment i.e." Dismissal from Service".
  - 3. AND WHEREAS, on going through the finding and recommendation of enquiry committee, material placed on record and other connected papers including your defense placed on file, I satisfied that you have committed gross mis-conduct and are guilty of charges leveled against you as per Charge Sheet/Statement of allegations conveyed to you vide 8709-13/PA/CTD dated 01-08-2017, which stands proved and recommended to be awarded Major Punishment under the said Rules.
- 4. NOW THEREFORE, I Mubarak Zeb PSP, Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa as competent authority have tentatively decided to impose upon you, any one or more penalties including the penalty of "Dismissal from Service" under Police Rules 1975 (amended in 2014)



You are therefore, issued Final Show Cause Notice to explain within seven (07) days of the receipt of the notice as to why the aforesaid penalty should be imposed upon you. If your reply was not received within stipulated period than it shall be presumed that you have no defense to offer and ex-parte action shall be taken against you and also intimate whether you wish to be heard in person or not.

Copy of enquiry report is enclosed.

(MUBARAK ZEB) PSP
Deputy Inspector General of Police,
CTD, Khyper Pakhtunkhwa,
Peshawar.

Inspector Niaz Hussain, Now Closed to CTD HQrs:-





OFFICE OF THE. DY: INSPECTOR GENERAL OF POLICE. COUNTER TERRORISM DEPARTMENT, KHYBER PAKHTUNKHWA, PESHAWAR Ph # 091-9218093-94 Fax # 091-9218031.

/PA/CTD

Dated 01/08/2017.

#### **CHARGE SHEET**

I Mubarak Zeb PSP, Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa, Peshawar as a Competent Authority, hereby charge you inspector Niaz Hussain the then SHO PS CTD Mardan; now under suspension, as follows.

- That you are reportedly involved in the transportation and smuggling of Non Custom Paid (NCP), Vehicles vide FIR No. 492 u/s 419/420/468/471/171PPC/15AA, dated 29-07-2017 PS Lund Khwar District Mardan.
- ii) That on your direction your gunman namely Ishfaq Ali No. 182 received the NCP Vehicle from one Haji Hayat Khan r/o Bara Khyher Agency for transportation to Sakhakot.
- iii) That your performance as SHO CTD Mardan remained poor.

By reason of the above, you appear to be guilty of misconduct under Police Disciplinary Rules, 1975 with amendments 2014 and have rendered yourself liable to all or any of the penalties specified in the Rules:-

. You are, therefore required to submit your written defense within 7 days of the receipt of this Charge Sheet to the Enquiry Officer as the case may be.

Your written defense, 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, exparte action will be taken against you.

You are also at liberty, if you wish to be heard in person.

Statement of allegation is enclosed.

(MUBAKAK ZEB)PSP

Deputy Inspector General of Police, CTD Khyler Pakhtunkhwa;

Reshawar



بحوالہ فائنل شوکازنوٹس نمبری 11830 مور نے 06/10/2017 مجاریہ جناب DIG صاحب CTD خیبر پختو ک خواہ پیثاور معروض خدمت ہوں کہ من انسپکٹر کے خلاف حیارج شیٹ میں الزامات ہیں۔

کے من انسکیر NCP گاڈیوں کی سمگانگ بلیں ملوث ہے جس کی نسبت مقدمہ علت 492 مور زمہ 29/07/2017

(419,420,468,4<sup>7</sup>1,171,PPC,15AA) تقانه لوندخوژ درج رجسر و ہے-

یہ کہ سائل کے گن مین کنٹیبل اشفاق علی بیلٹ نمبر 182 نے نان کشم پیڈگاڑی حاجی حیات خان سکنہ باڑہ خیبرا بجنسی ہے وصول کرکے سائل کے حکم پر ذکورہ گن مین متذکرہ NCP گاڑی سخاکوٹ ملا کنڈ ایجنسی لے جار ہاتھا۔ بیاکہ بحثیت SHO س ٹی ڈی مردان سائل کی کارکردگی ناقص رہی۔

من انسپکٹر نے سال 2006ء میں محکمہ پولیس خیبر پختون خواہ میں بحثیت PAS شمولیت اختیار کی کیونکہ سائل کے والد شازعلی خان شہید سب انسپکٹر متعینہ تھا نہ تھر اضلع پشا درنے سال 2003ء میں دہشت گردوں کی اندھادھند فائزنگ کی وجہ سے جام والد کی شہاوت کے بعد سائل اپنے خاندان جو کہ 7افراد پر شتمل ہے کا واحد کفالت دار ہے۔

اس کے بعد سائل کوصابرگل خان DSP انوش گیشن می ٹی ڈی مردان ریجن کی طرف سے بذر بعد موبائل فون اطلاع ملی کہ بھکم افسران بالا دفتر RIU می ٹی ڈی مردان آ جا کیں۔ سائل نے تھم کی من وعن تعمیل کو تے ہوئے فوری طور پر متذکرہ دفتر پہنچ گیا۔ دفتر میں پہلے سے موجود جناب SP پریشن می ٹی ڈی خیبر پختون خواہ کے ساتھ ملاقات ہو کر جس نے بعد میں اپنے ساتھ گاڑی میں بٹھا کر ساتھ کہا کہ دفتر جناب DPO صاحب پہنچ گئے صاحب مردان جلتے ہیں جو آ فسران بالاکی تھم کی تعمیل کرتے ہوئے صاحب، موصوف کے ساتھ گاڑی میں بیٹھ کر دفتر DPO صاحب پہنچ گئے

ATTESTED

جہاں پر DPO مردان نے SP اپریشن کی موجودگی میں سائل کو تفظر یاں لگا کر گرفتار کرنے کا تھم کر کے سی پولیس شیشن مردان میں بند بہ حوالات تھانہ کیا۔ مقامی پولیس تھانہ لوند خوڑ نے کارڈ گرفتاری میں سائل کو ہاتھیان بازارلوند خوڑ میں گرفتار کر کیا ہے کہ آن انسیکٹر کو مور نہ 29/07/2017 بوقت 1700 بجہ وہاں ہے گرفتار کیا گیا ہے حالا نکہ مندرجہ بالا زمینی تھائی ، حالات وواقعات اور آفسران بالا کے آتھوں دیکھا حال کے باوجود سائل کی گرفتاری ہاتھیان بازار ہے مل میں لا ناایک جھوٹی اور فرضی کہانی ہے۔

بیالزام که بحثیت SHO ی فی وی مردان سائل کی کارکردگی ناقس ہے تو یہال بیآ مرقا بل ذکر ہے کہ من انسیکر تقریبال تک بیٹیت SHO ی فی وی کی بلاخوف وخطر برانجام دے کرآ فسران بالا کو کی تشم کی بخشیت SHO ی فی وی بلاخوف وخطر برانجام دے کرآ فسران بالا کو کی تشم کی شم کی وی بین دیا ہے دوران تعیناتی سائل کی کارکردگی اس جو سے تک بحثیت SHO ی فی وی تعینات رہنا فرض شناسی ودلیری واعثما دکا منہ بولتا جُوت ہے۔ دوران تعیناتی سائل کی کارکردگی اس جوت سے واضح ہے کہ متذکرہ عرصہ میں 07 کا شکوف 19 پستول ، 448 کارتو س مختلف ساخت ہے۔ دوران تعیناتی سائل کی کارکردگی اس جوت سے واضح ہے کہ متذکرہ عرصہ میں 10 کا مذخود کشر جیک نظر ان 145 کارورن محتلف 145 کارتو س مختلف ساخت میں 100 کار تاری 146 کارورن میں 100 کارورن میں 145 کارورن میں 150 کارورن میں 145 کارورن میں 145 کارورن میں 145 کارورن میں 145 کارورن میں 150 کارورن میں 145 کارورن میں 150 کارورن میں 145 کارورن میں 150 کی گرفتاری شائل کی میں 150 کورن میں 150 کورن میں 150 کورن میں 150 کی گرفتاری شائل کی گرفتاری شائل کی گرفتاری تشیف وی میں 150 کورن میں 150 کورن میں 25 کی 150 کی اظہار وجوہ توٹس با جانہ ہوگا کہ کی اظہار وجوہ توٹس با جانہ ہوگا کہ کی اظہار وجوہ توٹس با جانہ ہوگا کہ کارورن میں 25 کورن میں 25 کارورن میں 25 کی 25 کارورن کی 25 کی

مندرجہ بالا عالات وواقعات اور حقائق کی روشی میں بیہ بات روز روشن کی طرح عیاں ہے کہ سائل کے خلاف جملہ کا روائی متذکرہ ایک بنی بنائی داستان ہے جس کا حقیقت سے کو کی تعلق نہیں لہٰذااستدعا ہے کہ انصاف کے تقاضوں کو مدنظر رکھتے ہوئے سائل کے خلاف چارج شیٹ میں لگائے گئے الزامات بغیر کسی قانونی کا روائی کے داخل دفتر فر ماکرتا کہ سائل اپنے فرائض مصبی دوبارہ سنجال کراپنے ملک وقوم کی خدمت کر سکے۔





## OFFICE OF THE, DY: INSPECTOR GENERAL OF POLICE, COUNTER TERRORISM DEPARTMENT, <u>KHYBER PAKHTUNKHWA, PESHAWAR</u> h # 091-9218093-94 Fax # 091-9218031.



No. 13/46-53/PA Dated 09/1

#### **ORDER**

This order is passed today on 08-11-2017 to dispose of departmental proceedings initiated against Inspector Niaz Hussain (under suspension) while posted as SHO PS CTD Mardan Region.

Inspector Niaz Hussain presently under suspension and closed to CTD HQrs. Reshawar was charge sheeted under the Khyber Pakhtunkhwa Police Rules 1975 (amended 2014) on the score of the following allegations:-

- That you are reportedly involved in the transportation and smuggling of Non Paid | (NCP) Vehicles vide FIR419/420/468/471/171PPC/15AA, dated 29-07-2017 PS Lund Khwar District Mardan.
- That on your direction your gunman namely Ashfaq Ali No. 182 received the NCP ii) Vehicle from one Haji Hayat Khan r/o Bara Khyber Agency for transportation to Sakhakot.
- That your performance as SHO CTD Mardan remained poor. iii)

For conducting probe into the allegations leveled against Inspector Niaz Hussain an enquiry committee consisting of Mr. Fazl-e-Hamid SSP/Int & Sur CTD and Mr. Quaid Kamal DSP HQrs: CTD Khyber Pakhtunkhwa was constituted. The enquiry committee found the officer guilty as Inspector Niaz Hussain has close ties with criminal namely Mumawar @ Adnan Ali through whom he used to smuggle NCP Vehicles, the enquiry committee recommended him for major punishment as dismissal from service.

Inspector Niaz Hussain was called and heard in person. His verbal and written y to Final Show Cause Notice were perused. Enquiry papers were also perused in detail.

The enquiry committee have found the officer guilty of the charges of in colvement in transportation and smuggling of Non Custom Paid Vehicle, Thereby bringing a bad name to the reputation of the department. He is guilty of gross misconduct.

In the light of findings/recommendations of the Enquiry Committee and available record against Inspector Niaz Hussain the then SHO PS CTD Mardan, I, Mubarak Zeb, Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa being competent thority, hereby imposes the major punishment "Dismissal from service" with immediate

Order announced.

(MUBARAK ZEB) PSP

Deputy Inspector General of Police CTD, Khyber Pakhtunkhwa, Peshawar.

<u>Endst: No. & date even.</u>

Copy of the above is forwarded to the:-

The Inspector General of Police, Khyber Pakhtunkhwa.

All Addl IGP/Khyber Pakhtunkhwa. 2.

3. Deputy Inspector General of Police, HQrs: Khyber Pakhtunkhwa.

Regional Police Officer, Mardan.

Senior Superintendent of Police/Ops CTD Central Zone.

Superintendent of Police. CTD Mardan.

Superintendent of Police/HQrs: CTD.

Officer concerned.



# بخدمت جناب انسپکر جزل آف پولیس خیبر پختون خواه پشاور

م منوان!

محکمانه اپیل منجانب نیاز حسین خال انسیکٹر CTD برخلاف تھم محررہ 09/11/2017 جسکی روسے ڈی آئی جی CTD صاحب نے اپیلانٹ کو (Dismissal from Service) سزادی ہے۔

## استدعابرايل

بمنظورا پیل بنرافیصلهٔ محرره 09/11/2017 کوکالعدم دمنسوخ قرار دیکرسائل کوباعزت نوکری پر ۱۱سیخ پوسٹ پر بحال کرنے کا حکم صادر فر مائے۔ جناب عالی!

سائل/اپیلانٹ حسبُ زیل عرض رساں ہے۔

- یہ کہ سائل تھانہ ہی ٹی ڈی مردان رکجن میں بطور SHO تعینات تھااورا پنی ڈیوٹی زمدداری ،ایمانداری اورخوش اسلوبی سےادا کررہاتھااور دوران ڈیوٹی سائل نے 13 مجر مان اشتہاری گرفتار کئے اور 7عدد کلاشٹکوف بمعدد یگر 19 عدد پستول 10 عددخود کش جیکٹ 145 کلوبارو دہشمول دیگر اشیاء قبضہ میں لئے ہیں۔
  - ۔ پیکہ مورخہ 29/07/2017 کوزاکرخان ای کی رپورٹ پرمقد معلت 492 مورخہ 29/07/2017 زیرد فعہ 49/420/468/471/171/15AA مراضہ 49/420/468/471/171/15AA 9/420/468/471/171/15AA عند فوٹ علم اللہ اللہ اللہ اللہ اللہ ہوت وقو عمن انسپکڑا پنی ڈیوٹی پر چارسدہ میں موجود تھا اور مذکورہ اشفاق کنشٹیل بوجہا تکوائری میں موجود تھا اور مذکورہ اشفاق کنشٹیل بوجہا تکوائری میں موجود تھا اور مذکورہ اشفاق کنشٹیل بوجہا تکوائری میں موجود تھا اور مذکورہ اشفاق کنشٹیل بوجہا تکوائری میں موجود تھا اور مذکورہ اشفاق کنشٹیل بوجہا تکوائری میں موجود تھا اور مذکورہ اشفاق کنشٹیل بوجہا تکوائری موجود تھا اور مورخہ 24/07/2017 سے خیر حاضر تھا۔

## (نقل FIR لف مارک A ہے۔ جبکنقل معطلی مارک B ہے۔ جبکنقل مفیر حاضری مارک C ہے)

3۔ پیکمن انسکٹر چونکہ مقدمہ ہذامیں بے گناہ تھا تو فوری طور پرمن سائل/اپیلانٹ نے اپنے آپ کو پولیس کے حوالہ کیا اور عدالت نے من انسکٹر کوضانت پر رہا کیا اور بعدہ عدالت نے من انسکٹر کومقدمہ سے بروئے تھم محررہ 12/10/2017 ڈسپیارج کیا۔

(نقل تلم محرره 12/10/2017 مارک D ہے۔)

4۔ پیکہ بروئے چارج شیٹ مورخہ 01/08/2017 ڈی آئی جی CTD صاحب نے تکمانہ کاروائی کرتے ہوئے من انسپکٹر کوچارج شیٹ جاری کیا جس میں تین قتم کے الزامات لگائے گئے جو کہ زیل ہیں۔

1۔ یہ کمن سائل نان کشم پیڈ گاڑیوں کے امگانگ میں ملوث ہے اور میر سے خلاف مقدمہ علت بالا درج رجسر ڈ ہے۔ 2۔ یہ کمن انسکیٹر کے کہنے رکنسٹیبل اشفاق علی نمبر 182 نان کشم پیڈ گاڑیاں خیبرائیسی سے سخا کوٹ لا تا تھا۔

3- يدكر بطور SHO ى فى وى من انسكرى كاركردگى مايوس كن ربى - ( اقل جارج شيث لف مارك عب-)

- بیکہ ڈی آئی جی CTD نے مختر مضل حامہ SSP، قائد کمال خان DSP ہیڈ کوارٹر کواٹکوائری آ فسر مقرر کر کے رپورٹ بمعدالزامات حوالہ کی۔ -5 **نقل statment of allegations لف ارک F**
- 6۔ پیکہ ندکورہ بالا افسران صاحبان نے انگوائری کرے ڈی آئی جی CTD نے من انسیکٹر کوفائنل شوکا زنوٹس جاری کیا جس کا جواب من انسیکٹر نے تفصیلاً دے دیا (نقل فائنل شوکا زنوٹس لف مارک G ہے۔ جبکہ جواب من انسیکٹر لف مارک H ہے۔)
  - 7۔ پیکہ ڈی آئی جی CTD نے بروئے تھم محررہ 09/11/2017 من انسپکڑ کو Dismissal from Service کی سزادی جو کہ خلاف قانون ہے

(15)

خلاف واقعات ہے اور پولیس رولز کے خلاف ہونے کی وجہ نے کا تعدّم قرار دیئے کے قابل ہے۔ انقا کی

(نقل تم محرره 09/11/2017 الف ارک ایج - ) اب من اسپلانث درج زیل نکات پر هم محرره 09/11/2017 کو کالعدم قرار دینے ومنسوخ کرنے اور من ایپلانث کونوکری پر بخال کرنے کی استدعا کرتے ہیں ۔

## نكات: ـ

- A پیرکتم محرره 09/11/2017 خلاف قانول خلاف واقعات اورخلاف پولیس رولز ہیں للہذا قابل اخراج ہے۔
- B۔ یہ کہ چارج شیٹ میں میر بےخلاف جوالزامات لگائے گئے تھے اُن میں سے ایک بھی میر بےخلاف ثابت نہیں ہوا کیونکہ درج بالا FIR میں من مائل کوعد الت نے باعزت ڈسچارج کیا۔ جہاں تک کنٹیم با اشفاق کا تعلق ہے تو وقوعہ کے دنوں میں وہ تھانہ سے غیر حاضر تھا۔ لہٰذا اُسکے کئے مائل کوعد الت نے باعزت ڈسچارج کیا۔ جہاں تک کنٹیم با اور نہ ہی انکوائزی رپورٹ میں اس بابت کوئی شہادت آئی ہوئی ہے۔ جہاں تک بطور SHO میری کارکردگی کا تعلق ہوئے جو میں نے فائل شوکازنوٹس کے جواب میں اپنی کارکردگی کی بابت تفصیلی جواب کھا ہے۔
- سیکمن اسپلانٹ کے خلاف چارج شیٹ میں جوالزامات لگائے گئے تھے چونکہ وہ ثابت نہ ہوئے تو ڈی آئی جی CTD نے تھم محررہ 09/11/2017میں ۔ ک میری سزا کی جو وجہ پیش کی ہے وہ بید کمن انسکیٹر کے ملزم منور عرف عدنان کے ساتھ قرببی تعلقات ہے اور اسکے ذریعے نان کشم پیڈگاڑیا سمگل کرتا تھا۔ لیکن چارج شیٹ میں اس قیم کا کوئی الزام نہیں لگایا گیا ہے جس کی وجہ ہے من اسپلانٹ اس نسبت کوئی Defence پیش نہ کرسکا۔
  - D میکہ بوقت وقوعہ FIR نمبر 492 من سائل بروئے مدنبر 7 مورخہ 29/07/2017 چارسدہ میں بمعدد میگر سٹاف ڈیوٹی پرموجود تھا (نقل منبر 7 لف مارک ل ہے۔)
  - E۔ پیر کم ملزم عدنان علی کے ساتھ من انسپکٹر کے کوئی بھی روابط نہ تھے اور نہ ہی اس نسبت انگوائری افسر نے کوئی تھوں ثبوت ریکارڈ پرلائے ہیں۔
- ۔ پیکمانکوائری افسران نے کیے طرفہ کاروائی کرتے ہوئے من ایپلانٹ کوئنا تک نہیں بدیں وجہ تھم مذکورہ بوجہ یک طرفہ ہونے کے قابل اخراج ہے۔

  لہذا استدعا ہے کہ بمنظور اپیل ہذا تھم محررہ 09/11/2017 کوکا لعدم / خارج کر کے من ایپلانٹ کونوکری پر

بحال کرنے کا تھم صاور فر مائیں۔

مورفه: ـ 15/11/2017

ايبلانث/سائل

نیاز حسین خان ولد شاه زلی خان سکنه نوان کلے رستم مخصیل وضلع مردان \_



(199) (19) 28-7 36117 5-29-7 Por 5109:10 wie SHO it Sho The Asi Ed Je 500 6 06/ 4 600/ 516 7.6 Might 837 cle Mi 288 Moser Haber Sols IM vel ما مع منزون و الم و الله الموال الواد الواد المواد 1) to sile with the de land the first Meder a may work Stelo w des Jests, mm fs cIpml 29-07-2017.

ردان ارفن م 29 -7 -3 1/2, 19 Later CTU clas 29 -7 012 = 15170 cos si 06 26, [], س مع سماسال رفته توالم مديلًا ليد از ديود مناع عامله سے والی دوران دلاتی اس مراد مات و برایف رو بانل فون کی اخرا کی طرف of show of RIU of State نے سلاک م ہے psp انوں ی ڈ ن ما ہوں کان 5/16 R10 mison 2 4 M R10 mis i. مسلو د فير RIV من جمور كرس مع لوى والسل تعای آر ملازمان س انجر دامل کوت کان المراج ال 2016

C, per for il (less) 11 ets (32) 1 lesson (18)

- Olio for la 13 , 2 100 (18)

Order-1 12.10.2017

Complete Challan submitted by prosecution today. Be registered.

SPP for the state present. Accused namely Niaz Husain alongwith counsel namely Muhammad Ayub Khan Advocate present. Counsel for the accused namely Niaz Husain pointed out opinion of Assistant Public Prosecutor and District Public Prosecutor Mardan, available on file which is meant for discharge of accused namely Niaz Husain and Aftab from the charges leveled against them in case FIR No.492 dated 29.7.2017 under section 419/420/468/471/171/15 AA of P.S Lund Khwarh. Opinion perused alongwith other available record as ground for discharge taken by the prosecution are taken as such:

1: That no recovery in the shape of vehicle or any other incriminating articles affected from the possession of accused particularly Niaz Husain. Niaz Husain was not present at th time of occurrence, statement of co-accused to the police officer is not admissible, as per Art-39 of QSO 1984 confession before police officer cannot be made basis of conviction, allegation leveled against accused Niaz Husain and Aftab for using official number plats for shifting of non-custom paid vehicle have not such support and as no recovery whatsoever has been made. No person has been arrested to whom such delivery was required to be done.

2. Besides above mentioned grounds record also reveals that investigation is completed which is silent regarding any direct connection of Niaz Husain and Aftab. No such previous complaint, any criminal proceedings, any departmental inquiry against Niaz Husain and similarly no criminal record prior to this case against Aftab has been located or annexed with record by the local police or

Cooling to the True Gody

12/19/17

Judicial Magistrate/Civil Judge-IV Takht Bhai, Mardan

12/10/17 Contd:

prosecution, while record reveals that accused Ashing Ali was suspended by the concerned office sequal to Daily Diary No.16 dated 24.7.2017 of Mardan region CTD which was prior to institution of this case. Copy of Daily Diary No.9 dated 04.7.2017 also reveals that suspension order of constable Ashfaq No.182 was also ordered by the concerned DSP office and the same also reveals that the said Ashfaq was under inquiry prior to lodging of instant FIR. No recovery of amount Rs.60,000/- has been made. Haji Hayat the alleged accused, still not arrested. No record acquired by police/prosecution regarding alleged 17/18 vehicles as per FIR. Accused as per record namely Niaz Husain, is public servant and has been suspended till decision of department proceedings. When inquiry has already been conducted against Niaz Husain by the same police but no such iotal of evidence yet produced by the police concerned or prosecution on the record to connect Niaz Husain with commission of offence rather complete Challan have been submitted which shows nothing but oral allegations against accused Niaz Husain and Aftab as well absconder Hayat like they are charged on the statement of co-accused which version as per record have no corroboration or support. Pertinent to mention that prosecution is seeking discharge of accused Niaz Husian and Aftab on the ground above mentioned. So in such like circumstances keeping in view whole of the gathered record particularly the inquiry/department inquiry against Niaz Husain, Niaz Husain is hereby discharged, subject to findings of departmental proceedings or any other concurrent findings while notice be issued to rest of the

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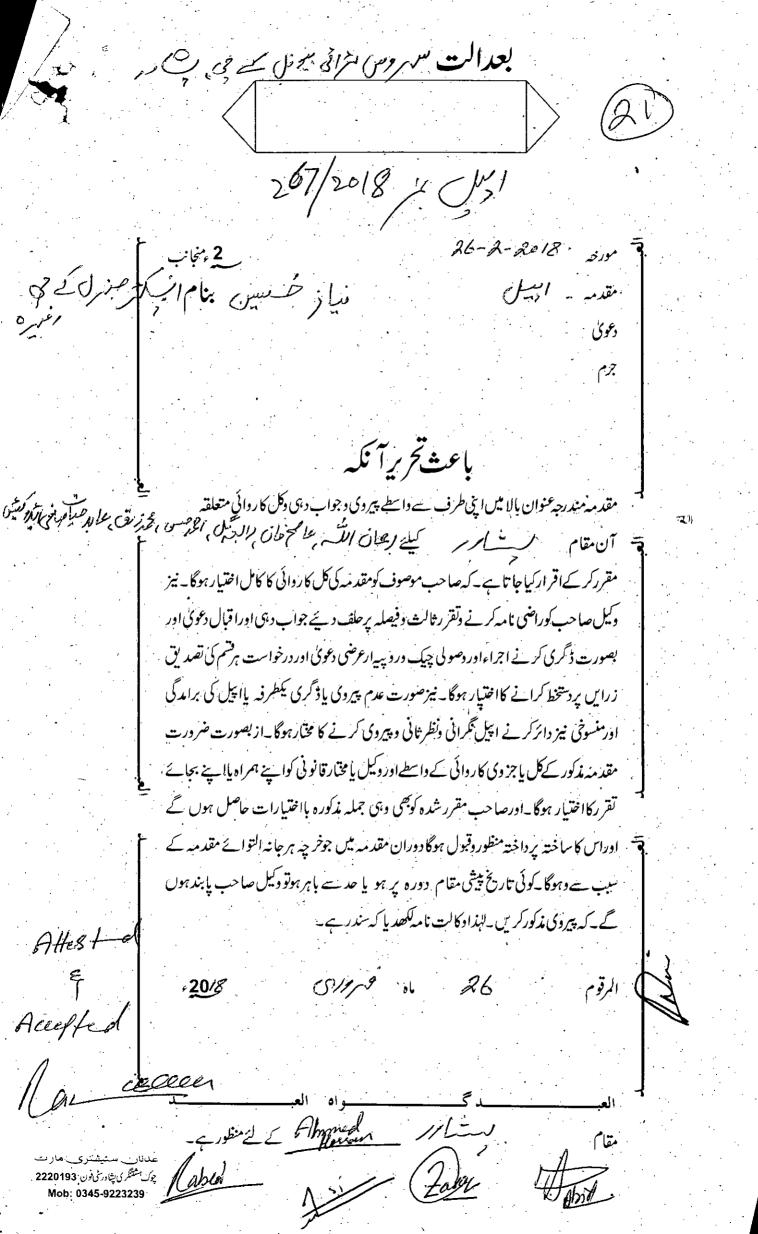
(Muhammad Haroon)

Judicial Magistrate, Takht Bhai

Sudicial Mauistrate/Civil Judge-in

Takht Bhai, Mardan

1010) do 3/6:30 in SHOVE in the Colore \$ 16,000 2) (2) be (Millo - 1) 24 7 P17 182 Vilew 18 6 2 33 - 2 10 11/10 12 Dista Vogo of the miliaries مردفر تمان کے ورور میں لائٹر) کر انسان ( Wilgs 9 ) 2 ( ) ! be viel of in 5. 10 and for in istalist of 36 is Afflute por the is 19 - 7. 20/7



# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

## Service Appeal No. 267/2018.

Niaz Hussain S/O Shah Zali Khan R/O Rustam District Mardan. .....(Appellant)

#### Versus

- 1. Inspector General of Police KPK Peshawar.
- 2. Deputy General of Police, CTD, Khyber Pakhtunkhwa, Peshawar.

......(Respondents)

## **PARAWISE COMMENTS BY RESPONDENTS:-**

## **Preliminary Objections**

- 1. That the appeal is not maintainable in its present form.
- 2. That the appellant has got no cause of action.
- 3. That the appellant is estopped by his own conduct to file the present appeal.
- 4. That the appellant has not come to this Honorable Tribunal with clean hands and has concealed material facts.
- 5. That the appeal is bad for misjoinder and non-joinder of necessary parties.
- 6. That the appeal is barred by law.
- 7. That the appeal is badly time barred.

## **Facts**

## Respectfully Sheweth

- 1. Pertains to record hence no comments.
- 2. Incorrect appellant while posted as SHO PS CTD Mardan Region was departmentally proceeded on the following allegations:-
- i. That he was reportedly involved in the transportation and smuggling of non-custom paid vehicles vide FIR No. 492 u/s 419-420-468-471-171PPC-15AA dated 29.07.2017 PS Lund Khwar District Mardan.
- ii. That on his directions his gunman namely Ashfac Ali No.182 received the NCP vehicle from one Haji Hayat Khan r/o Bara Khyber Agency for transportation to Skhakot.
- iii. That his performance as SHO CTD Mardan Region remained poor.

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- 3. Incorrect all the allegations leveled against the appellant mentioned in the charge sheet were proved by enquiry officer. (Copy of charge sheet, final show cause notice, Replies and finding of enquiry is enclosed as Annex "A", "B", "C", "D" and "E").
- 4. Incorrect the appellant failed to convince his high ups as he has no solid grounds to defend himself.
- 5. Incorrect all the allegations were proved against the appellant and accordingly major punishment of dismissal was awarded to him.
- 6. Incorrect his departmental appeal was referred to appellate board. The appellant was called and heard in person by the board. The appellate board found that the departmental proceedings initiated against the appellant were complete in all respects. The only defense of the appellant that he was discharged from criminal charge is no ground for absolving him from departmental proceedings. Moreover, the opinion of one forum is not binding on the other. The involvement of his gumman in transportation of non-custom paid vehicles also speaks about his lack of supervision on subordinates. Furthermore, proper departmental enquiry was conducted wherein he was found guilty of the charges leveled against him. (copy of rejection order of departmental appeal is enclosed as Annex "F")

## **Grounds**

- A. Incorrect the order is legal, lawful and as per the prevailing law.
- B. Incorrect detail of this Para has already been discussed in facts of Para No.6
- C. Incorrect the appellant gunman was arrested red handed on the spot. Moreover, another person namely Munawar @Adnan Ali s/o Muhammad Fayaz r/o Shabqadar was also arrested in case FIR No.492/2017 PS Lund Khwar Mardan who is a close friend of the appellant. Munawar @Adnan Ali is also wanted to Punjab Police in other heinous crimes. Munawar @Adnan Ali was also living with the then Inspector Niaz Hussain now the appellant at his outhouse situated in Sheikh Maltoon Township from where they were running the racket for transport of NCP vehicles.
- D. Incorrect the only defense of the appellant that he was discharged from criminal charge is no ground for absolving him from departmental proceedings and the opinion of one forum is not binding on the other.

- E. Incorrect appellant was not charged only on the statement of his gunman namely Ashfaq Ali but during course of enquiry his close ties with Munawar@Adnan Ali (Criminal) has also been established through cellular analysis of their cell phones data who was also arrested red handed.
- F. Pertains to record hence no comments.
- G. Incorrect his dismissal order was passed after conducting proper departmental enquiry, he was provided full chance to defend himself but he failed to produce any solid evidence to prove himself innocent.
- H. Incorrect all the formalities of departmental enquiry were adopted, the cellular data of appellant and accused Munawar was analyzed which revealed that both have regularly in contact with each other which are in itself sufficient evidence.
- I. Incorrect detail reply to this Para has already been explained in previous Paras.
- J. Incorrect the enquiry officer recorded the statement of
- i. SI Zakir Khan Incharge Police Post Umar Abad PS Lund Khwar Mardan.
- ii. ASI Mazhar Ali I/O case FIR No.492/2017.
- iv. ASI Khan Muhammad, Moharrar PS CTD Mardan.

Besides their statements the appellant was personally heard and his cellular data was also analyzed. After examining the data and statements of above mentioned official the enquiry officer found him guilty.

- K. Incorrect all formalities and steps of departmental enquiry was followed and full chance was provided to appellant to defend himself.
- L. Incorrect appellant was found guilty and the charge leveled against him was proved therefore he was awarded major punishment of dismissal from service which is according to prevailing law.
- M. Incorrect appellant was treated as per law and rules.
- N. The respondent also seeks permission of honourable court to forward any other ground at the time of arguments.

## PRAYER:

In view of the above, it is submitted that the appeal is devoid of merit, law/rules and prayed that the appeal may kindly be dismissed.

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

Deputy Inspector General of Police, CTD Khyber Pakhtunkhwa, Peshawar, (Respondent No. 2)

# PESHAWAR PESHAWAR

Service Appeal No. 267/2018.

Niaz Hussain S/	O Shah Zali Khan	R/O Rustam Distric	ct Mardan	(Appellant)
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#### Versus

- 1. Inspector General of Police KPK Peshawar.
- 2. Deputy General of Police, CTD, Khyber Pakhtunkhwa,

Peshawar.....(Respondents)

#### **AFFIDAVIT**

We the deponents in the above titled service appeal, do here by solemnly affirm and declare on oath that the contents of Para wise comments/reply are correct and true to the best of our knowledge and belief and nothing have been kept concealed from this honorable tribunal.

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

Deputy Inspector General of Police, CTD Khyber Pakhtunkhwa, Peshawar, (Respondent No. 2)

## AMARY OF ALLEGATIONS



ZEB, DEPUTY INSPECTOR GENERAL OF POLICE, CTD KHYBER PAKHTUNKHWA, PESHAWAR, am of the opinion that Inspector Niaz Hussain of this Unit has rendered himself hable to be proceeded against as he committed the following acts/omissions within the meaning of Police Disciplinary Rules, 1975 read with Amendments

## STATEMENT OF ALLEGATIONS.

- That he is reportedly involved in the transportation and smuggling of Custom Paid (NCP) Vehicles vide FiR No. 492 u/s 419/420/468/471/171PPC/15AA, dated 29-07-2017 PS Lund Khwar District Mardan.
- That on his direction, his gunman namely Ishfaq Ali No. 182 received the NCP Vehicle from one Haji Hayat Khan r/o Bara Khyber Agency for transportation to Sakhakot.
  - That your performance as SHO CTD Mardan remained poor. iii)

For the purpose of scrutinizing the conduct of the said accused with referent to the above allegations, Mr. Fazal-i-Hamid SSP Int: & Surv; and Mr. Quaid Kamal Kha DSP, HOrs: of CTD, Khyber Pakhtunkhwa, Peshawar are appointed as Enquiry Officers, conduct enquiry under the Rules.

The Enquiry Officers, shall, in accordance with the provision of the Pol Disciplinary Rules, 1975 read with Amendments 2014 provide reasonable opportunity hearing to the accused, record its findings and make within 15 days of the receipt of order, recommendation as to punishment or other appropriate action against the accused

> (MUBARAK ZEB) PSP Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa, Feshawar.

No 8 709-/PA/CTD

Dated Peshawar the 01/08/2017.

## Copy of above is forwarded to the:-

- 13. Inspector General of Police, Khyber Pakthunkhwa, Peshawar for information.
- 3: Enquiry Officers of this Unit are directed to initiate departmental proceeding 2. Regional Police Officer Mardan Region. the accused under the Police Disciplinary Rules, 1975 read with Amendments 2
  - Inspector Niaz Hussain to appear before the Enquiry Officer on the date time SP CTD Mardan. fixed by the Enquiry Officer for the purpose of enquiry proceedings.





No. 1/830 /PA Dated 06/10 /2017.

## FINAL SHOW CAUSE NOTICE.

- 1. WHEREAS, You Inspector Niaz Hussain of this Unit while posted as S CTD Mardan rendered yourself for disciplinary proceedings by committing gross miscont and negligence in duty. A Charge Sheet based on the following allegations was issued to and enquiry committee comprising by Fazal-i-Hamid SSP/Int&Sur CTD and Quaid Kamal E HQrs:/CTD was constituted for scrutinizing your conduct reference to charges leveled aga you.
  - i) That he is reportedly involved Non Custom Paid (NCP) Vehicles vide FIR No. 492 t District Mardan.
  - ii) That on his direction, his gunman namely Ishfaq Ali No. 182 receiv the NCP Vehicle from one Haji Hayat Khan r/o Bara Khyber Agency I transportation to Sakhakot.
  - iii) That your performance as SHO CTD Mardan remained poor.
- 2. WHEREAS, the enquiry committee carried out proper departmen proceedings against you. Opportunity of personal hearing and production of defense w provided to you. Committee also examined your reply submitted in response to Char Sheet. The committee found you guilty for the charges leveled against you, marrecommendation for award of Major Punishment i.e." Dismissal from Service".
- 3. AND WHEREAS, on going through the finding and recommendation enquiry committee, material placed on record and other connected papers including you defense placed on file, I satisfied that you have committed gross mis-conduct and a guilty of charges leveled against you as per Charge Sheet/Statement of allegation conveyed to you vide 8709-13/PA/CTD dated 01-08-2017, which stands proved ar recommended to be awarded Major Punishment under the said Rules.
- 4. NOW THEREFORE, I Mubarak Zeb PSP. Deputy Inspector General a Police, CTD, Khyber Pakhtunkhwa as competent authority have tentatively decided to impose upon you, any one or more penalties including the penalty of "Dismissal from Service" under Police Rules 1975 (amended in 2014)



You are therefore, issued Final Show Cause Notice to explain within seven (07) days of the receipt of the notice as to why the aforesaid penalty should be imposed upon you. If your reply was not received within stipulated period than it shall be presumed that you have no defense to offer and ex-parte action shall be taken against you and also intimate whether you wish to be heard in person or not.

Copy of enquiry report is enclosed.

(MUBARAK ZEB) PSP
Deputy Inspector General of Police,
CTD, Khyper Pakhtunkhwa,

Peshawar.

Inspector Niaz Hussain, Now Closed to CTD HQrs:-

ATTESTED



\_/PA/CTD

Dated 01/08/2017

## CHARGE SHEET

1) I Mubarak Zeb PSP; Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa, Peshawar as a Competent Authority, hereby charge you Inspector Niaz Hussam the then SHO PS CTD Mardan, now under suspension, as follows.

- That you are reportedly involved in the transportation and snuggling of Non Custom Paid (NCP) Vehicles vide FR No. 492 u/s 419/420/468/471/171PPC/15AA dated 29-07-2017 PS Lund Khwar District Mardan.
- ii) That on your direction your gunman namely Ishfaq Ali No. 182 received the NCP Vehicle from one Haji Hayat Khan r/o Bara Khyber Agency for transportation to Sakhakot.
- iii) That your performance as SHO CTD Mardan remained poor.

By reason of the above, you appear to be guilty of misconduct under Police Disciplinary Rules, 1975 with amendments 2014 and have rendered yourself liable to all or any of the penalties specified in the Rules:-

2) You are, therefore required to submit your written defense within 7 days of the receipt of this Charge Sheet to the Enquiry Officer as the case may be.

Your written defense, 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, exparte action will be taken against you.

You are also at liberty, if you wish to be heard in person.

Statement of allegation is enclosed.

ATTESTED

(MUBAKAK ZEB)PSP
Deputy Inspector General of Police,
CTD Khylyer Pakhtunkhwa,
Peshawar

بحوالہ فائنل شوکازنوٹس نمبری11830 مور نہ 16/10/2017 مجاریہ جنابDIG صاحبCTD خیبر پختون خواہ بیٹاور معروض خدمت ہوں کہ من انسپکٹر کے خلاف جیارج شیٹ میں الزامات ہیں۔

کے من انسکٹر NCP گاڈیوں کی سمگانگ میں ملوث ہے جس کی نسبت مقدمہ ملت 492 مور ند 29/07/2017

(419,420,468,471,171,PPC,15AA) تفانه لوندخوژ درج رجسر ذہرے۔

یے کہ سائل کے گن مین کنٹیبل اشفاق بلی بیلٹ نمبر 182 نے نان کشم پیڈگاڑی جاجی حیات خان سکنہ ہاڑہ خیبرایجنسی ہے وصول کرکے سائل کے حکم پر ندکورہ گن مین متذکرہ NCP گاڑی سخا کوٹ ملاکنڈ ایجنسی لے جارہاتھا۔

به که بخشیت SHO سی فی وی مردان سائل کی کارکردگی ناقص رای -

من انسپکڑنے ہال2006ء میں محکمہ پولیس خیبر پختون خواہ میں بحثیت PASI شمولیت اختیار کی کیونکہ سائل کے والدشازعلی خان شہید سب انسپکڑ متعینہ تھانہ تھر اضلع پٹاور نے سال 2003ء میں دہشت گردوں کی اندھادھند فائر نگ کی دجہ سے جام شہادت اوش کیااور والد کی شہادت کے بعد سائل اپنے خاندان جو کہ 7 افراد پر مشتل ہے کا داحد کفالت دار ہے۔

من انسپائم کے خلاف پیالزام کہ بیں NCP گاڑیوں کی سمگنگ بیں ملوث ہوں اور اس نسبت تھا نہ اوند فوڑ بیں سند کرہ بالا مقدم بھی درج وجشر ڈ ہے، بیالزام حقیقت کے برعکس ہے، کیونکہ بحیثیت زمددار پولیس انسراس فتم کے کروہ دھندہ بیں ملوث ہونا بجھے بالاتر ہے۔ بیر ے خلاف مقدمہ بالا بغیر کی حقیقت کے درج رجشر ڈ ہوکراس فیمن بیل نہ تو کوئی پیشم دیدگواہ دستیاب ہے اور نہ کوئی ایسی دیگر دا قعاتی شہادت صفحہ شل پر موجود ہے جس سے بیمفروضہ واضح ہو سکے کہ واقعی میں انسپائر اس فیم کے غیر قانونی دھندہ سے وابستہ ہے۔ من انسپائر نے 11 سال نوکری میں اسپیغ فرائص نہایت خوش اسلو بی سے انجام دیے ہیں اور آج تک آفسران بالاکو کسی فیم کی شکایت کا موقع نہیں دیا ہے ۔ کسی تحص کے زاتی فضل میں اپنیا والزام جیسا کہ مقدمہ بالا کے مضمون میں زکر شدہ ہے کئی ذوہر ہے ہے گناہ تھی کومورد الزام نہیں تھہرایا جا سکتا۔ سائل کے خلاف ایک ایسے تحص کے زبانی بیان پر مقدمہ درج رجشر ڈ کیا گیا جس کا سائل کے ساتھ کی قتم کا نا طرفیس تھا جو کہ مروجو قوا بین اور انساف کے نقاضوں کے سرامر منافی ہے۔ نہ ید براں وقوعہ کے دن سائل بھی المران بالا بحوالہ نقل یہ 7 دوزنا میں 1072 وقت 10 : 09 بحد معدد بگر ہمرایا ان بیا سرامر منافی ہے۔ نہ ید براں وقوعہ کے دن سائل بھی المران بالا بحوالہ نقل یہ وردزنا می ہو 20/07/2017 وقت 20:00 وقت 20:00 وقت 20:00 ہو تھانہ کسی بھی ڈی واپس آیا ہوں۔

مرکاری ڈ او ٹی کے لئے ضلع چارسدہ جا کر جو بعد زفر اغت شرکاری ڈ ہوئی بحوالہ نقل یہ وکردزنا می ہوں۔

اس کے بعد سائل کوصابرگل خان DSP انوش گیشن می ٹی ڈی مردان ریجن کی طرف سے بذریعہ موبائل فون اطلاع ملی کہ بھکم انسران بالا دفتر RIU می ٹی ڈی مردان آ جا کیں۔ سائل نے تھم کی من وعن تعمیل کو تے ہوئے فوری طور پر متذکرہ دفتر پہنچ گیا۔ دفتر میں پہلے سے موجود جناب SP اپریشن می ٹی ڈی خیبر پختون خواہ کے ساتھ ملا قات ہوکر جس نے بعد میں اپنے ساتھ گاڑی میں بٹھا کر ساتھ کہا کہ دفتر جناب DPO صاحب بہنچ گئے۔ صاحب مردان چلتے ہیں جو آ فسران بالاکی تھم کی تعمیل کرتے ہوئے صاحب، موصوف کے ساتھ گاڑی میں بیٹھ کر دفتر DPO صاحب بہنچ گئے۔

ATTESTED

جہاں پر OPO مردان نے SP اپریش کی موجودگی میں سائل کو تھٹڑیاں لگا کر گرفتار کرنے کا تھم کر کے سٹی پولیس شیش مردان میں بند بہ حوالات تھانہ کیا۔ مقامی پولیس تھانہ لوندخوڑ نے کارڈ گرفتاری میں سائل کو ہاتھیان بازار لوندخوڑ میں گرفتار کر کیا ہے کہ من انسیکڑ کو بند بہ حوالات تھانہ کیا۔ مقامی پولیس تھانہ لوندخوڑ نے کارڈ گرفتاری میں سائل کو ہاتھیان بازار سے گرفتار کیا گیا ہے حالا نکہ مندرجہ بالاز مین حقائق ، حالات دواقعات اور آفسران بالا کے مورجہ کی معامل کے باوجود سائل کی گرفتاری ہاتھیان بازار سے ممل میں لا ناایک جھوٹی اورفرضی کہانی ہے۔

یالزام که بحیثیت SHO کی ٹی ڈی مردان تعینات رہا ہوں اور اپنے عرصہ تعیناتی میں اپی ڈیو ٹی بلا خون و خطر سرانجام دے کرآ فسران بالاکوکی شم کی جیشیت SHO کی ٹی ڈی مردان تعینات رہا ہوں اور اپنے عرصہ تعیناتی میں اپی ڈیو ٹی بلا خون و خطر سرانجام دے کرآ فسران بالاکوکی شم کی شکایت کا موقع نہیں دیا ہے اور ایک سال کے طویل عرصہ تک کے جیشیت SHO کی ٹی ڈی تعینات رہنا فرض شنا کی ودلیر کی واعتاد کا منہ ہوت ہے۔ دوران تعیناتی سائل کی کارکردگی اس جوت ہے کہ متذکرہ عرصہ میں 07 کلاشکون 19 پستول، 448 کارتوس مختلف ساخت ہے۔ دوران تعیناتی سائل کی کارکردگی اس جوت ہے دام تذکرہ عرصہ میں 07 کلاشکون 14 کلوباروو، 80 عدد وی محتلف ما فت القالم اللہ کارڈ ، 80 عدد وی محتلف کلوباروو، 80 عدد ویسیورز، 27 عدد ریسیورز، 27 عدد ریسیورز، 27 عدد ریسیورز، 10 گزیائما کارڈ ، 80 عدد ریسوٹ کٹرولر ، 17 عدد ریسیورز، 14 کلوگرام بال بیرنگ، 15 عدد بیٹری سیل، 2140 روپ فیڈ ، 1000 روپ بھتے خوری رقم، 30 عدد موٹرسائکل، 11 عدد موبائل فون، 01 موٹر کار مرکز کار ، 20 عدد موٹرسائکل ، 11 کور میسیورٹ کی گرفتاری شائل کو فران بالاکی طرف ہے کہ شم کی اظہار وجوہ نوٹس یا چارہ شیٹ میں سائل کو آفر ان بالاکی طرف ہے کہ شم کی اظہار وجوہ نوٹس یا چارہ شیٹ وغیرہ بھی نہیں دیے گئے ہیں جو کہ سائل کی بود ان فرائض مصری کی عکاس ہے۔

ویرده ک بین دک سائل کے خلاف جمله کاروائی متذکر دایک مندرجه بالا حالات وواقعات اور حقائل کی دونروشن کی طرح عیاں ہے کہ سائل کے خلاف جمله کاروائی متذکر دایک بنی بنائی داستان ہے جس کا حقیقت ہے کوئی تعلق میں لہٰذااستد عاہے کہ انساف کے تقاضوں کو مدنظرر کھتے ہوئے سائل کے خلاف چارج شیٹ بنی بنائی داستان ہے جس کا حقیقت ہے کوئی تعلق میں لہٰذا استد عاہے کہ انساف کے تقاضوں کو مدنظر رکھتے ہوئے سائل کے خلاف چارج شیٹ میں لگائے گئے الزامات بغیر کسی قانونی کاروائی کے داخل دفتر فر ما کرتا کہ سائل اپنے فرائض منصبی دو بارہ سنجال کراپنے ملک وقوم کی خدمت میں لگائے گئے الزامات بغیر کسی قانونی کاروائی کے داخل دفتر فر ما کرتا کہ سائل اپنے فرائض منصبی دو بارہ سنجال کراپنے ملک وقوم کی خدمت

کر سکے۔



آج مورخہ 12/10/2017 کوعدالت جناب محمد ہارون جوڈیشل مجسٹر ہے تخت بھائی نے سائل کومقد مدعلت 492 متذکرہ بالا سے بحوالہ آرڈر نمبر 1662 مورخہ 12/10/2017 ڈسچارج کرکے آرڈرکی کا پی ہمراہ لف کرکے جوکہ سائل کی بے گناہی کا منہ بولٹا ثبوت

العارض

مورخه: \_ 12/10/2017

آپکا تا بع وفر مان انسپکر نیاز تحسین خان نمبر 45/MR ی فی و ی مردان ریجن مردان \_

ATTESTED

ے۔



No. 13/46-53/PA Dated 09/

### **ORDER**

This order is passed today on 08-11-2017 to dispose of departmen proceedings initiated against Inspector Niaz Hussain (under suspension) while posted as S RSCTD Mardan Region.

Inspector Niaz Hussain presently under suspension and closed to CTD HC Reshawar was charge sheeted under the Khyber Pakhtunkhwa Police Rules 1975 (amenc 2014) on the score of the following allegations:-

- i) That you are reportedly involved in the transportation and smuggling of N Vehicles 419/420/468/471/171PPC/15AA, dated 29-07-2017 PS Lund Khwar Distr Mardan.
- ii) That on your direction your gunman namely Ashfaq Ali No. 182 received the No Vehicle from one Haji Hayat Khan r/o Bara Khyber Agency for transportation Sakhakot.
- That your performance as SHO CTD Mardan remained poor. iii)

For conducting probe into the allegations leveled against Inspector Nia Hassain an enquiry committee consisting of Mr. Fazl-e-Hamid SSP/Int & Sur CTD and M Quaid Kamal DSP HQrs: CTD Khyber Pakhtunkhwa was constituted. The enquiry committee faling the officer guilty as Inspector Niaz Hussain has close ties with criminal namel Munawar @ Adnan Ali through whom he used to smuggle NCP Vehicles, the enquir committee recommended him for major punishment as dismissal from service.

Inspector Niaz Hussain was called and heard in person. His verbal and writte y to Final Show Cause Notice were perused. Enquiry papers were also perused in detail.

The enquiry committee have found the officer guilty of the charges o in volvement in transportation and smuggling of Non Custom Paid Vehicle, Thereby bringing a had name to the reputation of the department. He is guilty of gross misconduct.

In the light of findings/recommendations of the Enquiry Committee and awailable record against Inspector Niaz Hussain the then SHO PS CTD Mardan, I, Mubarak Zeb, Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa being competent authority, hereby imposes the major punishment "Dismissal from service" with immediate

Order announced.

(MUBARAK ZEB) PSP Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa, Peshawar,

Endst: No. & date even.

Copy of the above is forwarded to the:-

1. The Inspector General of Police, Khyber Pakhtunkhwa.

2. All Addl IGP/Khyber Pakhtunkhwa.

3. Deputy Inspector General of Police, HQrs: Khyber Pakhtunkhwa.

4. Regional Police Officer, Mardan.

5. Senior Superintendent of Police/Ops CTD Central Zone.

6. Superintendent of Police. CTD Mardan.

7. Superintendent of Police/HQrs: CTD.

8. Officer concerned.

ATTESTED

بخدمت جناب انسپکٹر جنزل آف پولیس خیبر پختون خواہ پشاور

محکماندا بیل منجانب نیاز حسین خان انسکیلر CTD برخلاف حکم محرره 09/11/2017 جسکی روسے ڈی آئی جی CTD صاحب نے اسپلانٹ کو (Dismissal from Service) איונט ב-

## استدعابرابيل

بمنظورا پیل بذا فیصله محرره 09/11/2017 کوکالله م ومنسوخ قرار دیکرسائل کو باعزت نوکری پر ۱۱ ہے پیسٹ پر بحال کرنے کا حکم صادر فر مائے۔ جناب عالى!

سائل/ا بیلانت حسب زیل عرض رسال ہے۔

په که سائل تھانه ی ٹی ڈی مردان ریجن میں بطور HO تعینات تھااورا پنی ڈیوٹی ز مہداری ،ایمانداری اورخوش اسلو بی سے ادا کرر ہاتھااور دوران ڈیوٹی سائل نے 13 مجرمان اشتہاری گرفتار کئے اور 7 عدد کالشنکوف بمعہ دیگر 19 عدد پیتول 10 عدد خود کش جیکٹ 145 کلوبار و دہشمول دیگر اشیاء قبضہ میں لئے

يه كهمورند 29/07/2017 كوزاكرخان اي كالإيورث يرمقدمه علت 492مورند 29/07/2017 زيدفعه

419/420/468/471/171/15AA فانتظوندخوز مين درج رجيزة مواجس مين سائل كوب كناه اورغلط طور بركر فقار شده ملزم اشفاق جوكي سی ٹی ڈی کا اہلکارتھا کے کہنے پر پھنسایا گیا حالانکہ بوتات وقوعہ من انسپیٹرا بنی ڈیوٹی پر جارسدہ میں موجودتھا اور مذکورہ اشفاق کنسٹیبل بوجہ انکوائری 04/07/2017 ہے معطل تھا اور مورخہ 2017/2017 ہے ڈیوٹی سے غیر حاضر تھا۔

(نقل FIR لف مارک A ہے۔ جبکنقل معظلی مارک B ہے۔ جبکنقل مفیر حاضری مارک C ہے)

یہ کمن انسپکڑ چونکہ مقدمہ مذامیں ہے گناہ تھا تو فوری طور پرمن سائل/ا پیلانٹ نے اپنے آپ کو پولیس کے حوالہ کیااورعدالت نے من انسپکڑ کوضانت پر ر ہاکیااور بعدہ عدالت نے من انسکٹر کومقد مدے بروائے تھم محررہ 7 12/10/201 وسچارج کیا۔

(نقل حکم محرره 12/10/2017 مارک D ہے۔)

ید کہ بروئے چارج شیٹ مور ند 01/08/2017 و کی آئی جی CTD صاحب نے محکمانہ کاروائی کرتے ہوئے من انسپکٹر کو چارج شیٹ جاری کیا جس میں ATTESTED

تین قتم کے الزامات لگائے گئے جو کہ زیل ہیں۔

1۔ بیکہ من سائل نان تسم پیڈ گاڑیوں کے سمگانگ میں ماوث ہے اور میرے خلاف مقد معلت بالا درج رجسر ڈ ہے۔ 2\_ بدكمن انسكير كے كہنے ركنسيل اشفاق على تمبر 182 نان كشم بيد گاڑياں خيبرا يجنى سے خاكوث لا تا تھا۔

3 - يەكەبطور SHO سى ئى دى من انسپكىزى كاركردگى لايوس كن ربى \_ (نقل ج**ارج شيث لف مارك E - - )** 

یہ کہ ڈی آئی جی CTD نے مختر مضل حامد SSP ، قالم کمال خان DSP ہیڈ کوارٹر کوائکوائری آ فسر مقرر کر کے رپورٹ بمعدالزامات حوالہ کی۔

(نقل statment of allegationsلف مارک F ہے۔)

یہ کہ مذکورہ بالا افسران صاحبان نے انکوائری کر کے ڈگی اُئ جی CTD نے من انسپکٹر کوفائنل شوکا زنوٹس جاری کیا جس کا جواب من انسپکٹر نے تفصیلا دے دیا (نقل فائنل شوكازنونس لف مارك G ب-جبكه جواب من انسيكرلف مارك H ب-)

یہ کہ ڈی آئی جی CTD نے بردئے تھم محررہ 7 اُ1/20 من انسیکڑ کو Dismissal from Service کی سزادی جو کہ خلاف قانون ہے

T.

خلاف واقعات ہےاور پولیس رولز کےخلاف ہونے کی وجہ سے کا بعدم قر ارؤینے کے قابل ہے۔

(نقل تکم محرره 09/11/2017 افغارک ایسے۔)

اب من ایپلانٹ درج زیل نکات پر تھم محررہ 09/11/2017 کو کالعدم قرار دینے ومنسوخ کرنے اور من ایپلانٹ کونوکری پر بخال کرنے کی استدعا کرتے ہیں۔

## نكات: ـ

- یہ کہ تھم محررہ 09/11/2017 خلاف قانون خلاف دا قعات اور خلاف پولیٹ رولز ہیں لہٰذا قابل اخراج ہے۔
- سیکہ چارج شیٹ میں میرے خلاف جوالزامات لگائے گئے تھا اُن میں سے ایک بھی میرے خلاف ٹابت نہیں ہوا کیونکہ درج بالا FIR میں من سائل کوعدالت نے باعزت و سچارج کیا۔ جہاں تک کنسٹیبل اشفاق کا تعلق ہے تو وقوعہ کے دنوں میں وہ تھانہ سے غیر حاضرتھا۔ لبندا اُسکے کئے ہوئے جرم کومن اسپلا نٹ پرڈ الانہیں جاسکتا اور نہ ہی انکوائری رپورٹ میں اس بابت کوئی شہادت آئی ہوئی ہے۔ جہاں تک بطور SHO میری کارکردگی کا تعلق ہے تو میں نے فائن شوکاز نوٹس کے جواب میں اپنی کارکردگی کی بابت تفصیلی جواب کھا ہے۔
- ید که من ایبلانٹ کے خلاف چارج شیٹ میں جوالزامات لگائے گئے تھے چونکہ وہ ٹابت نہ ہوئے تو ڈی آئی جی CTD نے تھم محررہ 09/11/2017 میں میری سزا کی جو وجہ پیش کی ہے وہ یہ کہ من انسیکٹر کے ملزم منور عرف عدنان کے ساتھ قریبی تعلقات ہے اور اسکے زریعے نان سلم پیڈگاڑیا سمگل کرتا تھا۔ لیکن چارج شیٹ میں اس قتم کا کوئی الزام نہیں لگایا گیا ہے جس کی وجہ سے من ایبلا نش اس نسبت کوئی Defence پیش نہ کر سکا۔
  - بیر که بوقت دقوعہ FIR نمبر 492 من سائل بروئے مدنمبر 7 مورخہ 29/07/2017 چارسدہ میں بمعہ دیگر سٹاف ڈیوٹی پرموجود تھا (نقل مذنمبر 7 لف مارک ل ہے۔)
- یہ کہ ملزم عدنان علی کے ساتھ من انسپکٹر کے کوئی بھی روابط نہ تھے اور نہ ہی اس نسبت انکوائری افسر نے کوئی تھوں ثبوت ریکارڈپرلائے ہیں۔ یہ کہ انکوائری افسران نے کیک طرفہ کاروائی کرتے ہوئے من ایپلانٹ کوئنا تک نہیں بدیں دجہ تھم ندکورہ بوجہ کیک طرفہ ہونے کے قابل اخراج ہے۔ لہٰذا استدعا ہے کہ بمنظورا بیل ہٰذا تھم محررہ 09/11/2017 کوکالعدم / خارج کر کے من ایپلانٹ کوٹوکری پر

بحال کرنے کا تھم صا در فر مائیں۔

مورخه: \_15/11/2017

ایبلانت/سائل

نیاز حسین خان ولد شاه زلی خان سکنه نواں کلے رستم مخصیل وضلع مر دان۔

ATTESTED

#### KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 989 /ST

Dated 33.- 5- / 2019

То

The Deputy Inspector General of Police CTD, Government of Khyber Pakhtunkhwa,

Peshawar.

Subject: -

JUDGMENT IN APPEAL NO. 267/2018, MR. NIAZ HUSSAIN.

I am directed to forward herewith a certified copy of Judgement dated 03.05.2019 passed by this Tribunal on the above subject for strict compliance.

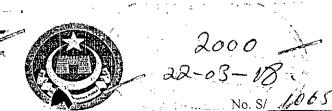
Encl: As above

REGISTRAR

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR.

Before the Honible Chairman, Sarvice Tribunal Peshawar Service Appleal NO. 267/2018 Nea3 Hussain\_\_ Inspector General of Police Sic باعث تحريرا نكه مقدمهمندرجېعنوان بالاميں اپنی طرن سے داسطے بیردی دجواب دہی دکل کاروا کی متعلقہ Promonulal de Fashcoular prior مقرر کرے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کومقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز و کیل صاحب کوراضی نامه کرنے وتقرر تالت ہ فیصلہ برحلف دیسے جواب دہی اورا قبال دعوی اور بسورت دمري كرني اجراءا ورصولي چيك وروبيدار عرضي وعوى اور درخواست برسم كي تقيديق زرایں پرد شخط کرانے کا ختیار ہوگا۔ نیزصورت عدم بیروی یا ڈگری بیکطرفہ یاا بیل کی برامدگی اورمنسوخی نیز دائز کرنے اہیل تکرانی دنظر ثانی و بیروی کرنے کا اختیار ہوگا۔از بصورت ضرورت مقد مہ ندکور کے کل یا جزوی کاروائی کے واسطے اوروکیل ما مختار قانونی کوایے ہمراہ گااسے بجائے تقرر کا اختیار موگا \_اورمها حب مقررشده کوجهی و بی جمله مذکور ۱۱ یا ختیا رات حاصل موں مے اوراس کا ساخت برواختة منظور قبول موكار دوزان مقدمه ميس جوخر جدد هرجانه التوائح مقدمه كسبب سے و موكار کوئی تاریخ بیتی مقام دوره پر ہو ما حدے باہر ہوتو وکیل صاحب پابند ہوں مے کہ بیروی ند کورکریں ۔لہداوکالت نامہ کھندیا کے سندر ہے، ۔ Hester conly)



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

/18. Dated Peshawar the  $22/\sigma_3$  /2018.

### **ORDER**

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by **Ex-Inspector Niaz Hussain**. The appellant was dismissed from service by DIG/CTD, Khyber Pakhtunkhwa, Peshawar vide order No. 13146-53/PA, dated 09.11.2017.

He while posted as SHO Police Station CTD Mardan was departmentally proceeded on the following allegations:-

- (i) That he was reportedly involved in the transportation and smuggling of Non-Custom-Paid vehicles vide FIR No. 492 u/s 419/420/468/471/171PPC/15AA, dated 29.07.2017 Police Station Lund Khwar District Mardan.
- (ii) That on his direction his gurman namely Ashfaq Ali No. 182 received the NCP vehicle from one Haji Hayat Khan r/o Bara Khyber Agency for transportation to Sakhakot.
- (iii) That his performance as SHO CTD Mardan remained poor.

A meeting of the appellate Board was held on 07.03.2018 in CPO, Peshawar. Niaz Hussain Ex-inspector (hereinafter referred to as appellant) was present and heard in detail.

Brief yet relevant facts of the case are that the appellant while posted as SHO Police Station CTD Mardan was proceeded against departmentally on the charges of involvement in transportation and smuggling of Non-Custom-Paid vehicles. He was also involved in the case FIR No. 492 under Section 419, 420, 468, 471, 171 PPC, 15-AA dated 29.07.2017 Police Station Lund Khwar District Mardan as his gunman namely Ishfaq Ali No. 182 was arrested red-handed while transporting Non-Custom-Paid vehicle and the above cited case was registered.

The departmental proceedings initiated against appellant culminated in passing of the impugned order dated 09.11.2002, by the Deputy Inspector General of Police, CTD Peshawar.

The appellant contended before the Board that he was discharged from criminal charges vide order dated 26.10.2017 passed by the Judicial Magistrate Peshawar, therefore, the departmental proceedings are not tenable. He admitted the involvement of his gunman in smuggling of NCP vehicles. He also admitted that full opportunity of defence and hearing was provided to him during the course of enquiry proceedings.

The Board examined the departmental enquiry file of appellant which revealed that the enquiry committee has completed all legal and procedural formalities during the enquiry proceedings. Full chance of defense was provided to the appellant. Final Show Cause Notice was issued to him. The Board found the departmental proceedings initiated against appellant was complete in all respects. The only defence of the appellant that he was discharged from criminal charge is no ground for absolving him from departmental proceedings as the criminal charges and departmental charges are distinct in nature and the opinion of one forum is not binding on the other. The involvement of his gunman in transportation of NCP vehicles also speaks about his lack of supervision on subordinates. Furthermore, Page 1 of 2



No. 13/46-53/PA Dated 09/1/ /2017

#### **ORDER**

This order is passed today on 08-11-2017 to dispose of departmental proceedings initiated against Inspector Niaz Hussain (under suspension) while posted as SHO PS CTD Mardan Region.

Inspector Niaz Hussain presently under suspension and closed to CTD HQrs: Peshawar was charge sheeted under the Khyber Pakhtunkhwa Police Rules 1975 (amended 2014) on the score of the following allegations:-

- i) That you are reportedly involved in the transportation and smuggling of Non Custom Paid (NCP) Vehicles vide FIR No. 492 u/s 419/420/468/471/171PPC/15AA, dated 29-07-2017 PS Lund Khwar District Mardan.
- ii) That on your direction your gunman namely Ashfaq Ali No. 182 received the NCP Vehicle from one Haji Hayat Khan r/o Bara Khyber Agency for transportation to Sakhakot.
- iii) That your performance as SHO CTD Mardan remained poor.

For conducting probe into the allegations leveled against Inspector Niaz Hussain an enquiry committee consisting of Mr. Fazl-e-Hamid SSP/Int & Sur CTD and Mr. Quaid Kamal DSP HQrs: CTD Khyber Pakhtunkhwa was constituted. The enquiry committee found the officer guilty as Inspector Niaz Hussain has close ties with criminal namely Munawar @ Adnan Ali through whom he used to smuggle NCP Vehicles, the enquiry committee recommended him for major punishment as dismissal from service.

Inspector Niaz Hussain was called and heard in person. His verbal and written reply to Final Show Cause Notice were perused. Enquiry papers were also perused in detail.

The enquiry committee have found the officer guilty of the charges of involvement in transportation and smuggling of Non Custom Paid Vehicle, Thereby bringing a bad name to the reputation of the department. He is guilty of gross misconduct.

In the light of findings/recommendations of the Enquiry Committee and available record against Inspector Niaz Hussain the then SHO PS CTD Mardan, I, Mubarak Zeb, Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa being competent authority, hereby imposes the major punishment "Dismissal from service" with immediate effect.

Order announced.

(MUBARAK ZEB) PSP

Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa, Peshawar.

Endst: No. & date even.

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Copy of the above is forwarded to the:-

- 1. The Inspector General of Police, Khyber Pakhtunkhwa.
- [1] 2. All Addl IGP/Khyber Pakhtunkhwa.
- 📆 3. Deputy Inspector General of Police, HQrs: Khyber Pakhtunkhwa.
- 4. Regional Police Officer, Mardan.
  - 5. Senior Superintendent of Police/Ops CTD Central Zone.
- 6. Superintendent of Police. CTD Mardan.
- 7. Superintendent of Police HQrs: CTD.
  - 8. Officer concerned.

بحوالہ فائنل شوکازنونش نمبری 11830 مورخہ 06/10/2017 مجاریہ جنابDIG صاحبCTD خیبر پختون خواہ پیثاور معروض خدمت ہوں کیمن انسیکم کےخلاف جارج شیٹ میں الزامات ہیں ۔

كەمن انسپكىر NCP گاۋايول كى سىڭلنگ مىن ملوث ہے جس كى نسبت مقدمەعلىت 492 مورخە 29/07/2017

(419,420,468,471,171,PPC,15AA) تقاندلوندخوژ درج رجير ديب

یہ کے سائل کے گن مین کنٹیلیل اشفاق علی بیلٹ نمبر 182 نے نان کشم پیڈگاڑی جاجی حیات خان سکنۂ باڑہ خیبرایجنسی ہے وصول کر کے سائل کے تھم پر ندکورہ گن مین متذکرہ NCP گاڑی سخاکوٹ ملاکنڈ ایجنسی لے جار ہاتھا۔

به که بخشیت SHO ی فی وی مردان سائل کی کارکردگی ناقص رہی۔

من انسپکٹر نے سال 2006ء میں محکمہ پولیس خیبر پختون خواہ میں بحثیت PAS شمولیت اختیار کی کیونکہ سائل کے والد شازعلی خان شہید سب انسپکٹر متعینہ تھانہ تھر اضلع پشاور نے سال 2003ء میں دہشت گردوں کی اندھادھند فائر نگ کی وجہ سے جام شہادت نوش کیااور والد کی شہادت کے بعد سائل اپنے خاندان جو کہ 7 افراد پر مشتمل ہے کا واحد کفالت دار ہے۔

من السيكٹر كے خلاف بيالزام كميں NCP گاڑيوں كى سمگنگ ميں ملوث ہوں اور اس نسبت تھاند لوند خوڑ ميں متذكرہ بالا مقدمہ بھى درج رجٹر ڈ ہے، بيالزام حقيقت كے بركس ہے، كيونكہ بحثيت زمددار پوليس افسراس شم كے مكروہ دھندہ ميں ملوث ہونا سجھ سے بالاتر ہے۔ بير سے خلاف مقدمہ بالا بغير كى حقيقت كے درج رجشر ڈ ہوكراس ضمن ميں نيوكوئي چھم ديرگواہ دستياب ہاورنہ كوئي اليى ديگروا قعاتی شہادت سخه شل پر موجود ہے جس سے بي مفروض واضح ہو سكے كدواقعي من انسيگٹراس قتم كے غير قانوني دھندہ سے وابسة ہے۔ من انسيکٹر نے اسپنے 11 سال نوكرى موجود ہے جس سے بي مفروض واضح ہو سكے كدواقعي من انسيگٹراس قتم كے غير قانوني دھندہ سے وابسة ہے۔ من انسيکٹر نے اسپنے 11 سال نوكرى ميں اسپنے فرائفن نہا ہيں خوش اسلو بی سے انجام دع ہيں اور آج تک آفر ان بالا كوكري تتم كی شكایت كاموقع نہيں دیا ہے كہ شخص كر ان قانون اور انسان كے طاف ايك اور بين بيان پر فقد مدورج رجشر ڈ كيا گيا جس كاسائل كے ساتھ كوئم كانا طرفيس تھا جو كہ مروج تو انين اور انسان كے تقاضوں كے السخص كر بائى بيان پر فقد مدورج رجشر ڈ كيا گيا جس كاسائل كے ساتھ كوئم كانا طرفيس تھا جو كہ مروج تو انين اور انسان كے تقاضوں كے سراسر منائی ہے۔ نہ بيد برال وقوعة كے دن سائل بحکم افر ان بالا بحوال نقل مد 7روز نامچ 7002 وقت 10:00 جو معدد يگر ہمرايان كرائن ديو ئي غيول نگر ہي دورائن ہي ہوں۔ کوئون کی انسان کی جو بعد از فراغت سرکاری ڈ يوئی بحوال نقل مد 9روز نامچ 7002 وقت 20:00 وقت 20:00 ہوں تھاند کی ڈوئون کی والی ہی کی ڈوئون کی والی ہی ہوں۔ کوئون کی دورائی ہوں۔ کوئون کی انسان کوئون کی کوئون کی والی ہی ان ہوں۔ کوئون کی والی ہی انسان کے دورائی ہوں کی دورائی کوئون کی دورائی ہوں کی دورائی ہوں کی دورائی کوئون کی والی ہوں کی دورائی ہوں۔ کوئون کی والی ہوں کوئون کی دورائی ہوں کوئون کی دورائی کی دورائی کی دورائی کوئون کی کوئون کی کوئون کی دورائی کوئون کی کوئون کوئون کوئون کوئون کی کوئون کوئون کی کوئون کی کوئون کی کوئون ک

اس کے بعد سائل کو صابر گل خان DSP انوسٹی گیشن می ٹی ڈی مردان ریجن کی طرف سے بذریعہ مو بائل فون اطلاع ملی کہ بھکم افسران بالا دفتر RIU می ٹی ڈی مردان آجا کیں۔سائل نے حکم کی من وعن تعمیل کرتے ہوئے فوری طور پرمتذکرہ دفتر بہنچ گیا۔دفتر میں پہلے سے موجود جناب SP اپریشن می ٹی ڈی جیسر بیختون خواہ کے ساتھ ملاقات ہوکر جس نے بعد میں اپنے ساتھ گاڑی میں بیٹھ کر دفتر جناب DPO صاحب بہنچ گئے صاحب مردان چلتے ہیں جو آفسران بالاکی حکم کی تعمیل کرتے ہوئے صاحب موصوف کے ساتھ گاڑی میں بیٹھ کر دفتر DPO صاحب بہنچ گئے جہاں پر DPO مردان نے SP اپریشن کی موجودگی میں سائل کو جھٹڑیاں لگا کر گرفتار کرنے کا حکم کر کے مٹی پولیس سٹیشن مر وہان میں بند بہ حوالات تھا نہ کیا۔ مقامی پولیس تھا نہ لوندخوڑ نے کارڈ گرفتاری میں سائل کو ہاتھیان باز ارلوندخوڑ میں گرفتار کر نے کاذکر کیا ہے کہ من انسپکٹر کو مورخہ 29/07/2017 بوقت 1700 بجہ وہاں سے گرفتار کیا گیا ہے حالانکہ مندرجہ بالا زمینی حقائق ، حالات وواقعات اور آفر ان بالا کے آنکھوں دیکھا حال کے باوجود سائل کی گرفتاری ہاتھیان بازار سے مل میں لا ناایک جھوٹی اور فرضی کہانی ہے۔

سیالزام کہ کنٹیمل اشفاق بیلٹ نمبر 182 سائل کے ساتھ بحثیت گرنتینات ہاوراً سے سائل کے تھم پر NCP گاڑی سمی حاجی حیات خان سائن باڑہ خیبرا بیننی سے وصول کر کے سخا کوٹ کیلئے روانہ کی ۔ یہاں یہ وضاحت ضروری ہے کہ واقعی نہ کورہ اشفاق بچھ عرصہ تک سائل کے ساتھ بحثیت گرنتینات رہا ہے گر نہ کورہ کنٹیمل مورخہ 04/07/2017 کو بحکم آفران بالا معطل ہو چکا ہے جس کی نسبت محرم تھانہ نے با قاعدہ اطلاع بحوالفق مدنمبر 90روزنا مجھ 24/07/2017 پورٹ بھی درج کی ہے اور نہ کورہ کے خلاف پہلے ہی سے محکمانہ کاروائی جاری تھی ۔ مزید بران نہ کورہ کنٹیمبل مورخہ 24/07/2017 سے اپن سرکاری ڈیوٹی سے غیر حاضر بھی ہوا تھا جو کہ مورخہ کاروائی جاری تھی ۔ مزید بران نہ کورہ کنٹیمبل مورخہ 15 یوم تک اپنی سرکاری ڈیوٹی سے غیر حاضر رہا ہے ۔ لہذا آفران بالا کے تھم پر معطل شدہ اورا پنی سرکاری ڈیوٹی سے غیر حاضر ہوت کے تا نون ہر بہذہ اپنی معطل شدہ اورا پنی سرکاری ڈیوٹی سے غیر حاضر ہوت کے گئی ہے گئی تھوں کے مرز دشدہ زاتی افعال کی ذمہ داری بغیر کی شوس ثبوت کے سی بھی اورہ مورف کے سرائر منافی ہے۔

بیالزام که بحثیت SHO کی ڈی مردان اتعینات رہا ہوں اور اپ عرصہ تعیناتی میں اپنی ڈیوٹی بلاخوف وخطر سرانجام دے کرآ ضران بالاکوکی تنم کی جنٹیت SHO کی ڈی تعینات رہا ہوں اور اپ عرصہ تعیناتی میں اپنی ڈیوٹی بلاخوف وخطر سرانجام دے کرآ ضران بالاکوکی تنم کی شخایت کاموقع نہیں دیا ہے اور ایک سال کے طویل عرصے تک بحثیت SHO کی ڈی تعینات رہنا فرض شنا کی وولیری واعتاد کامنہ بوانا جوت ہے۔ دوران تعیناتی سائل کی کارکردگی اس جوت ہے واضح ہے کہ متذکرہ عرصہ میں 07 کا شکوف 19 پہتول، 448 کارتو س مختلف ساخت ہے۔ دوران تعیناتی سائل کی کارکردگی اس جوت ہے واضح ہے کہ متذکرہ عرصہ میں 10 کا دخود کش جیکٹ ، 145 کلوبارو و، 80 عدو ملاور در 180 میں 100 کو تاریخ کے 145 کلوبارو و، 100 مدر کے 146 کلوبارو و، 100 مدر کے 140 کلوبارو و، 100 مدر کیسور نہیں 140 کلوبارو کی میں ملوث 13 ملز بان اشتہاری کی گرفتاری شائل میں ملوث 13 ملز بان اشتہاری کی گرفتاری شائل میں سائل کو افسران بالا کی طرف سے کہ قتم کی اظہار وجوہ توش یا چارج شیٹ بیٹ وغیرہ بھی نہیں دیے گئے ہیں جو کہ مائل کی ہے جانہ ہوگا کہ انگون میں سائل کو افسران بالا کی طرف سے کہ قتم کی اظہار وجوہ توش یا چارج شیٹ وغیرہ بھی نہیں دیے گئے ہیں جو کہ مائل کی ہے اپ اور جشین کی مائل ہوئی ہے۔ یہاں بیتذکرہ کرنا بھی ہے جانہ ہوگا کہ انگون مضوی کی عکاس ہے۔

مندرجہ بالا حالات و واقعات اور حقائق کی روشی میں یہ بات روز روش کی طرح عیاں ہے کہ ماکل کے خلاف جملہ کاروائی متذکرہ ایک بنی بنائی داستان ہے جس کا حقیقت ہے کوئی تعلق نہیں لہذا استدعاہے کہ انصاف کے نقاضوں کو مدنظر رکھتے ہوئے سائل کے خلاف چارج شیٹ میں لگائے گئے الزامات بغیر کسی قانونی کاروائی کے داخل دفتر فرما کرتا کہ سائل اپنے فرائفل منصی دوبارہ سنجال کراپنے ملک وقوم کی خدمت کر سکے۔ آج مورخہ 12/10/2017 کوعدالت جناب محمد ہارون جوڈیشل مجسٹریٹ بخت بھائی نے سائل کومقد مدعلت 492 متذکرہ بالا سے بحوالد آرڈر نمبر 1662 مورخہ 12/10/2017 ڈسپارج کرکے آرڈر کی کا پی ہمراہ لف کرکے جوکہ سائل کی بے گناہی کا مذہ بول آ جوت ہے۔ ج

مورخه: ـ 12/10/2017

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prosecution, while record reveals that accused Ashfaq Ali was suspended by the concerned office sequal to Daily Diary No.16 dated 24:7.2017 of Mardan region CTD which was prior to institution of this case. Copy of Daily Diary No.9 dated 04.7.2017 also reveals that suspension order of constable Ashfaq No.182 was also ordered by the concerned DSP office and the same also reveals that the said Ashfaq was under inquiry prior to lodging of instant FIR. No recovery of amount Rs.60,000/2 has been made. Haji Hayat the alleged accused, still not arrested. No record acquired by police/prosecution regarding alleged 17/18 vehicles as per FIR. Accused as per record namely Niaz Husain, is public servant and has been suspended till decision of department proceedings. When inquiry has already been conducted against Niaz Husain by the same police but no such ibta of evidence yet produced by the police concerned or prosecution on the record to connect Niaz Husain with commission of offence rather complete Challan have been submitted which shows nothing but oral allegations against accused Niaz Illusain and Aflab as well absconder Hayat like they are charged on the statement of co-accused which version as per record have no corroboration or support. Pertinent for mention that prosecution is seeking discharge of accused Niaz Husian and Affab on the ground above mentioned. So in such like circumstances keeping in view whole of the gathered record particularly the inquiry/department inquiry against Niaz Husain, Niaz Husain is hereby discharged, subject to findings of departmental proceedings or any other concurrent findings while notice be issued to rest of the accused for

(Muhammad Haroon)

Judicial Magistrate, Takht Bhai.

Sudicial Manastrate Civil Judgo:

12-10-17

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ومن لع المحطاح" 12-10-17 No 12-10-17 No.22 458/2 of colon the Order-1 12.10.2017

Complete Chaban submitted by prosecution foday De registered.

SPP for the state present. Accused namely Niaz Husain alongwith counsel namely Muhammad Ayub Khan Advocate present. Counsel for the accused namely Niaz Husain pointed out opinion of Assistant Public Prosecutor and District Public Prosecutor Mardan, cvailable on file which is meant for discharge of accused namely Niaz Husain and Aftab from the charges leveled against them in case FIR No.492 dated 29,7,2017 under section 419/420/468/47/1/171/15, AA. of [P.S. Lund Khwarh. Opinion perused alongwith other available record us ground for discharge taken by the prosecution are taken as

1. That no recovery in the shape of vehicle organy other incriminating articles affected from the possession of acquised particularly Niaz Husain. Niaz Husain was not present at th time of occurrence, statement of co-accused to the police officer is not admissible, as per Art-39 of OSO 1984 confession before police officer cannot be made basis of conviction, allegation leveled against accused Niaz Husain and Attab for using official number plats for shifting of non-custom paid vehicle have not such support and his no recovery whatsoever has been made. No person has been arrested to whom such delivery was required to be

2. Besides above mentioned grounds record also reveals that investigation is completed which is silent regarding any direct connection of Niaz Husain and Aftab. No such previous complaint, any criminal proceedings, any departmental inquiry against Niaz Husain and similarly no criminal record prior to this case against Aftab has been

tocated or annexed with record by the local police or

udicial Magistrate Civil Judge-IV **Takht B**hai, Mardan

## BEFORE THE COURT OF AL

ASHFAQ ALI AND OTHERS



OF THE ACCUSED NAMELY NIAZ HUSSAIN AND APPLICATION FOR THE DISCHARG 492 DATED ED AGAINST THEM, IN CASE FIR NO. U/S 419/420/468/171 PPC 15AA

#### Brief Facts of the Case: -

That on 29-07-2017 the complainant namely Zakir khan SI was on routine gusht at Jewar road near Jranda at Umar Abad, in the mean while a land cruiser bearing registration No. UB001 Islamabad white colour was signaled to stop for the purpose of checking, but instead of stoppage the driver of the said vehicle speeds up the vehicle but over powered by the police party, the driver discloses his name Adnan while other discloses his name Ashfaq All being gunman of the Niaz Hussain Inspector CTD. He (Ashfaq Ali) further discloses that on the instance/ directions of inspector CTD Niaz Hussain, he used to transfer the vehicle on payment of Rs. 60000/- to the premises of Malakand Agency. From the possession of accused Ashfaq Ali one rifle M4 No. 472538, 02 magazines 60 live rounds were recovered while form the possession of accused Adnan one Pistol 9MM no. 881, 3 magazines and 50 live rounds were recovered. That accused Ashfaq Ali further discloses that previously Seventeen/ Eighteen vehicles were shifted to Malakand Agency. The complainant also charged Aftab Hayat khan for the commission of offençe.

#### Grounds for Discharge.

- That no recovery in the shape of vehicle or rifle or any other incriminating article 1. being recovered from the possession of above name accused.
- That both the above name accused (Niaz Hussain and Aftab) were not present at 2: the time of occurrence.
- That as per article 38 Qanoon e Shahadat order 1984 "The statement of co-٦. accused to police officer is not admissible, in this respect reliance is made on MLD 2014 page 316 and YLR 2016 LHC page 1891.
- That as per article 39 Qanoon e Shahadat order 1984 "That the confession of an 4: accused to police officer cannot be made basis for conviction wisdom is sought from judgement MLD 2001 page 807 and PCRLJ 1999 page 1469.
- That as per murasila allegation levelled against the accused namely Niaz Hussain 5: and Aftab that he used to shift the vehicle to Malakand Agency by using/affixing government No. Plates but no such recovery was affected from the possession of both the accused rather No. Plate UB 001 Islamabad.

that as per allegation no person / accused was arrested to whom the vehicle were 6: shifted nor the IO brought on record such evidence.

That in such like circumstances the trial of the accused would be a futile exercise, 7: wastage of precious time of the court and the ultimate result would be the acquittal of the accused. So keeping in view the above facts, circumstances and available evidence on record, there are sufficient reasons for non-prosecution of the Case U/S 4 sub (c) clause (ii) of the Prosecution Act 2005.

NOTE: On 29-07-2017 , 25-08-2017 and on 06-10-2017 the learned Judicial Magistrate directed district Public prosecutor to submit the case for trial therefore as per direction the local police submitted the case file to the office of undersigned on date 07-10-2017 at office closing time. As recovery of vehicle along with other incriminating article are directly affected from the possession of accused Ashfaq Ali and Adnan therefore case against these two are recommended for trial while case against the accused Hayat Khan is recommended for proceedings u/s 512 CrPC as he is absconde

osecutor Assistant Public P Mardan

District Public Prosecutor

Mardan



No. // 830 /PA Dated e6/10 /2017.

### FINAL SHOW CAUSE NOTICE.

1. WHEREAS, You Inspector Niaz Hussain of this Unit while posted as SHO CTD Mardan rendered yourself for disciplinary proceedings by committing gross misconduct and negligence in duty. A Charge Sheet based on the following allegations was issued to you and enquiry committee comprising by Fazal-i-Hamid SSP/Int&Sur CTD and Quaid Kamal DSP HQrs:/CTD was constituted for scrutinizing your conduct reference to charges leveled against you.

- i) That he is reportedly involved in the transportation and smuggling of Non Custom Paid (NCP) Vehicles vide FIR No. 492 u/s 419/420/468/471/171PPC/15AA, dated 29-07-2017 PS Lund Khwar District Mardan.
- ii) That on his direction, his gunman namely Ishfaq Ali No. 182 received the NCP Vehicle from one Haji Hayat Khan r/o Bara Khyber Agency for transportation to Sakhakot.
- iii) That your performance as SHO CTD Mardan remained poor.
- 2. WHEREAS, the enquiry committee carried out proper departmental proceedings against you. Opportunity of personal hearing and production of defense was provided to you. Committee also examined your reply submitted in response to Charge Sheet. The committee found you guilty for the charges leveled against you, made recommendation for award of Major Punishment i.e "Dismissal from Service":
- 3. AND WHEREAS, on going through the finding and recommendation of enquiry committee, material placed on record and other connected papers including your defense placed on file, I satisfied that you have committed gross mis-conduct and are guilty of charges leveled against you as per Charge Sheet/Statement of allegations conveyed to you vide 8709-13/PA/CTD dated 01-08-2017, which stands proved and recommended to be awarded Major Punishment under the said Rules.
- 4. NOW THEREFORE, I Mubarak Zeb PSP, Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa as competent authority have tentatively decided to impose upon you, any one or more penalties including the penalty of "Dismissal from Service" under Police Rules 1975 (amended in 2014)

You are therefore, issued Final Show Cause Notice to explain within seven (07) days of the receipt of the notice as to why the aforesaid penalty should be imposed upon you. If your reply was not received within stipulated period than it shall be presumed that you have no defense to offer and ex-parte action shall be taken against you and also intimate whether you wish to be heard in person or not.

Copy of enquiry report is enclosed.

(MUBARAK ZEB) PSP

Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa, Peshawar.

Inspector Niaz Hussain, Now Closed to CTD HQrs:-

6-10-2007

## FINDINGS OF INQUIRY AGAINST INSPECTOR NIAZ HUSSAIN KHAN, CTD HQrs PESHAWAR.

The undersigned were entrusted with an inquiry against Inspector Niaz Hussain, CTD Headquarter, with the following allegations that:

- I. He is reportedly involved in the transportation & smuggling of Non Custom Paid (NCP) vehicles vide FIR No. 492 dated 29-07-2017 u/s 419-420-498-471/171PPC/15AA PS Lund Khwar Mardan.
- II. On his direction his gunman Constable Ashfaq Ali No.182 received the NCP vehicle from one Haji Hayat Khan r/o Bara Khyber Agency for transportation to Skhakot.
- III. That his performance as SHO CTD Mardan remained poor.

The defaulter Inspector Niaz Hussain reply to the charge sheet, was received. He was also called upon by the enquiry committee and heard in person. During the course of enquiry the statements of the following officials were got recorded:-

- 1. Inspector Niaz Hussain, CTD HOrs.
- 2. SI Zakir Khan, Incharge Police Post Umar Abad PS Lund Khwar.
- 3. ASI Mazhar Ali, I/O case FIR No.492/2017.
- 4. ASI Khan Mohammad, Moharrar PS CTD Mardan.

### FINDINGS:

- 1. During the probe, Inspector Niaz Hussain denied all charges leveled against him, however as per the statements of I/O of FIR No.492/2017 and SI Zakir Khan, I/C Police Post Umar Abad PS Lund Khwar, Inspector Niaz Hussain is involved in the smuggling of NCP vehicles. The above mentioned case is still under investigation.
- 2. It also transpired that the defaulter Inspector Niaz Hussain has close ties with criminal/PO Munawar @ Adnan Ali s/o Mohammad Fayaz r/o Shabqadar now Sheikh Maltoon Township which he admitted during cross examination. It has also been proved after going through cellular analysis who was arrested in the above mentioned case and is also wanted to Punjab Police in other heinous crimes. Munawar @ Adnan Ali was also living with Inspector Niaz Hussain at his outhouse situated in Sheikh Maltoon Township from where they were running the racket for transport of NCP Vehicles.

It is established that the defaulter Inspector is involved in smuggling of NCP vehicles which speaks highly adverse on his part.

## CONCLUSION:

After going through the available record and statements of the above mentioned officials, the enquiry committee came to conclusion that Inspector Niaz Hussain has close ties with a criminal namely Munawar @ Adnan Ali through whom he used to smuggle NCP vehicles. He is declared guilty in the instant enquiry; it is recommended that he may be dismissed form service.

DSP HQrs:,

CTD, KP, Peshawar.

SSP, Int & Surv:

CTD, KP, Peshawar.

til geste blook wet proside ( 2 d. los chilly ( 2 7 7 7 9 ) in Paris ( 2 1) الشينى الله الله دافى كى كور ( مراس مى حمل موجوط 10 حيك 09 0100 61 WW P, Ed c/ de Gin - 3 d المان د الما وملك ما الله المال على والمقرضات السمار لي مالي المولاد المولد المعام ال will color of 1/2/1/20 as, 1 evine in 1/2/20 color of the series of the color of th

a selection of the Company of HOSW for معرسان ملى عبر سار لور سول الفاجر دامع دفائل . حسف الل ون 2 ochet int de De de de la mente de l'and de de de l'és est de l'és et d'és et de l'és et d'és et - the condend of the chair of the condend of the sound of the condend of the cond المراجع المالي من وسيد المن العربي العربي الموركي المراكي المر اس فرس کرسارا کے ساز ہے صاب کر ایک مراور سا ۔ ایک کو لھی SMT i li s decima de main celà prim la sulla colliere la ser es a la colliere la company de la colliere la company de la colliere la colli www.j. 2. 1. Ewilian Jolies of the will ist of the 109 / 9 mm 18 city of con of heard of h Élpho Cu 1.2

Musicals 200 DPs an 3/2 on be 3 . 16/3

بحواله شو کازنولس نمبری 8-8706 مورخه 01/08/2017 مجاربه جناب DIG صاحب CTD خیبر پختو کن خواه

یشاورمعروض خدمت ہوں۔ کہ من انسپکٹر کے خلاف چارج شیٹ میں الزامات ہیں۔

کمن انسکٹر NCP گاڈیوں کی سمگانگ میں ملوث ہے جس کی نسبت مقدمہ علت 492 مور خد 29/07/2017

(419,420,468,471,171,PPC,15AA) تقانه لوند خور درج رجشر ڈے۔

یہ کہ سائل کے گن مین کنشٹیل اشفاق علی بیلٹ نمبر 182 نے نان کشم بیڈ گاڑی حاجی حیات خان سکنہ باڑہ خیبرا بجنس سے وصول کر کے سائل کے تھم پر مذکورہ گن مین متذکرہ NCP گاڑی سخا کوٹ ملا کنڈ ایجنسی لے جارہا تھا۔

بەكە بىختىت SHO كى فى دانسائل كى كاركردى ناقص راى ـ

(نقل مدات روانگی دواپسی همراه لف ہیں)

اس کے بعد سائل کو صابرگل خان DS انوش گیشن می ٹی ڈی مردان ریجن کی طرف سے بذر بعد موبائل فو العلاما می کی دیکھم افسران بالا وفتر RIU می ٹی ڈی مردان آ جا ئیں میں نے تھم کی من وعن قبل کرتے ہوئے فوری طور برمند کر اور بہتنج گیا۔ وفتر میں پہلے سے موبو فو جناب SSP اپریشن می ٹی ڈی خیبر پختون خواہ کے ساتھ ملا قات ہو کرجس نے بعد میں اپنے ساتھ گاڑی میں بٹھا کر ساتھ کہا کہ وفتر جناب DPO صاحب مردان چلتے ہیں جوآ فسران بالا کی تھم کی تعمل کرتے ہوئے صاحب موصوف کے ساتھ گاڑی میں بٹھا کر ساتھ کا ڈی میں بٹھ کر وفتر DPO صاحب بہنچ گئے جہاں پر DPO مردان نے SSP اپریشن کی موجود گی میں سائل کو تھس ٹیاں لگا کر گرفتار کرنے کا تھم کر کے ٹی پولیس ٹیشن مردان میں بند بہ حوالات تھا نہ کیا۔ مقامی پولیس تھا نہ لوند خوڑ میں گرفتاری میں سائل کو ہا تھیا ن باز ار لوند خوڑ میں گرفتار کرنے کا ذکر کیا ہے کہ من انسیکٹر کو مور خد 29/07/2017 بوقت 1700 بجد وہاں سے گرفتار کی ہا تھیا ن باز ارب شمل میں لا ناایک جھوٹی اور فرضی کہانی ہے۔

یالزام کہ تعلیٰ اشفاق بیلٹ نمبر 182 سائل کے ساتھ بحثیت گرنعینات ہے اورا کی ۔ یہاں یہ وضاحت ضروری ہے کہ گاؤی مسمی جاجی حیات خان سائل کے میار پہندی ہے وصول کر کے خاکوٹ کیلئے روانہ کی ۔ یہاں یہ وضاحت ضروری ہے کہ واقعی فہ کورہ اشفاق پجھ عرصہ تک سائل کے ساتھ بحثیت گرنعینات را ہے گر فہ کورہ کشٹیل مورخہ 704/07/2017 کو بحکم آفران بالا معطل ہو چکا ہے جس کی نبعت محررتھانہ نے با قاعدہ اطلا کی بحوالہ قل مدنبر 90روز نامچہ جس کی نبعت محررتھانہ نے با قاعدہ اطلا کی بحوالہ قل مدنبر 90روز نامچہ مورخہ 704/07/2017 بورٹ بھی درج کی ہے اور فہ کورہ کے خلاف پہلے ہی ہے محکمانہ کاروائی جارئی ہے۔ مزید براں فہ کورہ کشٹیل مورخہ 709/08/2017 کے بازی سرکاری ڈیوٹی سے غیر حاضر جس کہ ہوا تھا جو کہ مورخہ 709/08/2017 کو بحوالہ قل مد 10 تھا نہ حاضر تا ہے جو تقریبی سے اپنی سرکاری ڈیوٹی سے غیر حاضر تر ہا اس بالا کے تھم پر معطل شدہ اور اپنی سرکاری ڈیوٹی سے غیر حاضر شدہ کشٹیل کو اپنی سرکاری ڈیوٹی سے غیر حاضر شدہ کشٹیل کو اپنی سرکاری ڈیوٹی سے غیر حاضر شدہ کہ نامی کی خود ذمہ دارہ ہوتا کو اپنی سرکاری ڈیوٹی سے غیر حاضر تا کہ خود ذمہ دارہ ہوتا کو اپنی سرکاری ڈیوٹی سے غیر حاضر شدہ کری نیوٹ کے کئی ہے دارہ دوسروں کے سرز دشدہ افعال کی ذمہ داری بغیر کس شوس ثبوت کے کئی بے گناہ شخص کے کھندوں پر ڈالنا انصاف کے خورد مرام منافی ہے۔

(نقل مدات بابت معظلی ،غیرحاضری وحاضری واحکامات معظلی تنظیل اشفاق همراه لف بین)

اسکے علاوہ تنظیل اشفاق نے بروئے شامپ بیان خلفی میں بخوش وہواس روبروئے گواہان حلفاتح برکیا ہے کہ اُس نے نہومن انسپکڑی ہدایت پر NOP گاڑی سخا کوٹ روانہ کی اور نہ ہی اُسکامن انسپکڑ سے اس ضمن میں کوئی دیگر واسط موجود ہے۔ مزید بیان کیا ہے کہ مقائی پولیس نے مذکورہ کنشلیبل سے بیان غلط درج کروایا ہے۔

(بیان خلفی کنشمیل اشفاق مراه لف ہے)

یالزام کہ بحقیت SHO کی ڈی مردان العینات رہا ہے اورائے عرصہ تعیناتی میں اپنی ڈیوٹی بلاخوف و خطرہ تقریباً ایک سال تک بحقیت SHO کی ڈی مردان العینات رہا ہے اورائے عرصہ تعیناتی میں اپنی ڈیوٹی بلاخوف و خطرہ سرانجام دے کرآ فر این بالا کو سن SHO کی ڈی سرانجام دے کرآ فر این بالا کو سن کے متاز کرہ تعیناتی میں اپنی ڈیوٹی ہے۔ دوران تعیناتی سائل کی کارکردگی اس جوت سے واضح ہے کہ متذکرہ عرصہ میں 70 کلا شکوف 19 پستول 448 کارتوس مختلف ساخت 20 (RPG 7) گن 24 عدد گولے 31 عدد مارٹرش میں مورد مرد گرش کر ایک ہوئی کے متذکرہ مورد میں مورد کی ایک ہوئی کے مورد کی ایک ہوئی کے مورد کی ایک ہوئی کے کہ متذکرہ مورد کی ایک ہوئی کے کہ کارتوس مختلف ساخت 20 (RPG 7) گن 24 عدد ہوئر کی گرفتار کی کارکردگی ایک ہوئی کی کہ کارٹوس مختلف ساخت 20 (RPG 7) گن 21 عدد ہوئرگر کی گرفتار کی کہ کارٹوس میں کہ کارٹوس میں کہ کو کرام بال ہیر تک معدد مورد کی گور کر اور کی کو کرام بال ہیر تک مورد کی کورد کر کرائر کی گرفتار کی کہ کہ کرائی ہوئی کے جانہ ہوگا کہ اپنے عرصہ تعیناتی میں سائل کو آخر ان بالا کی طرف سے کی قسم کی اظہار وجوہ نوٹس یا جارہ شیٹ وغیر کی مورد کی کو کرنا ہوں کے گئی ہوئی کی کو کرنا ہوں کے گئی ہوئی کو کہ کارٹوس کی کو کرنا کو کرنا کو کرنا ہوں کے گئی ہوئی کو کرنا ہوں کے گئی ہوئی کی کو کرنا ہوں کے گئی ہوئی کی کار کی ہے گئی کی کار ہے۔

(کارکردگیر پورٹ عرصة تعیناتی SHO س ٹی ڈی ہمراہ لف ہے)

مندرجه بالاحالات وواقعات اورحقائق کی روشی میں به بات روز روش کی طرح عیاں ہے کہ سائل کے خلاف جمله کاروائی مند کرہ ایک بنی بنائی داستان ہے جس کا حقیقت سے کوئی تعلق نہیں لہٰذا استدعا ہے کہ انصاف کے تقاضوں کو مدنظر رکھتے ہوئے سائل کے خلاف جارج شیٹ میں لگائے گئے الزامات الخیر کسی قانونی کاروائی کے داخل دفتر فر ماکر تا کہ سائل اپنے فرائض منصی دوبارہ سنتھاں کر بینے ملک وقوم کی خدمت کر سکے۔

مورخه: \_ 15/08/2017

العارض

آپکا تا بع وفر مان انسکٹر نیاز کسین خان نمبر 45/MR سی ٹی ڈی مردان ریجن مردان۔

Jan.

RECOVERY PS CTD MARDAN REGION FROM 29.07.2016 TO 01.08.2017

#### \*Total 1. **SMG** 05 07 2. Rifle 3. Short Gun --4. **Pistol** 11 07 18 5. Anti-Aircraft Gun --6. Rounds 56 392 448 7. RPG-7 2 02 8: **RPG-7 Shell** 06 18 24 9. Mortar 31 31 10. **Mortar Shell** 04 03 07 11. 03 Suicide Jackets 07 10 12. **Explosive** 88Kg 57Kg 100g 145Kg 100g 13. IED 01 80 Wire 14. 13 Yard 20 Yard 33 Yard 15: Hand Grenade 16 130 146 16. 103 Safety Fuse 42 145 17. 22 Detonator 43 65 18. Dynamite --19. Prima Card 21Yard 40 Yard 61 Yard 20. **Net Bolt** 21. **Remote Controller** 02 06 80 22. Receiver 11 05 17 23. **Ball Bearing** 08 Kg 06 Kg 14Kg 24. **Battery** 09 06 15 25. **Battery Cell** 31 50 81 26. 01 Drum 02 03 27. **Funding Money** 2140 ~-2140 28. 11000 **Extortion Money** --11000 29. **Robbery Money** --30. KidnappeeRecover 02 02 31. **Motor Cars** 01 --01 32. 03 **Motor Cycles** --03 33. **Mobile Phones** 07 04 11 34. **Pocket Phones** --01 01 35. **POs** 04 09 13

12-08-2017

36.

Others

ميداس ميري روس مله ديما حول بم ملامان حديدان على ولدي ما الله الله على دريا اسفاق على مد سرعلى كر العرف صرى لسدخط- سرائدس ملا شاه زيرة كذا كذا لك خاست لولس منطور المحواء مناب المراب من من من من من من من منطور المحواء المن منطور المحواء المناب منطور المحواء ملمان حسد الحام ها لا وي عود سل ساجع كا ملامان كے بمانا حث زم وقع الحال علاق على المعام والمعام والمعا سر المالية المستن عادي عباللك المربط المالية المستن عادي عربيا لله المالية المستن عادي عربيا لله المالية المستن المستن عادي المستن المست المستن المست المستن المستن المستن المستن المستن المستن المستن المستن المستن ا صعر شرا براله علما شاه مروا ما فدريا فاح

9-8-17

سان از ان حال فی ۱۵۱ فر عاله ( علی حرال دو ال في سريان ساله وحمرة ٢٥ وحما - فرقان لال ١١٤ س ملے مقریقی اسی سی جم لفری ملکے فقریقی اسی سی جم لفری ELINA OHZ of selin on a celle in OHZA-INMIN الله عاريم عاما لذا - حمارة الله عاريم عاما لذا - حمارة الله عاريم عاما لذا - حمارة الله عاريم عاريم عاما لذا - حمارة الله عاريم ع لفرى ول علم مرواتي كرك لعدة سراج خال الا عم لزى ولي م عدارم و دورنای آی عارمه سے والباتل شلایا که نیازحسا Les W- No RIU res - inc Timil To DSP Who of SHO SP-1- 297 Polis 13 rolls sid - Liti bys in Riu Jus تى سَقَلْمَا مِسَا مِلْمَا مِ مِلْ الْمِيمَا مِ مِلْ الْمُ مِنْ اللَّهِ مِنْ اللَّهِ مِنْ اللَّهِ مِنْ اللَّهِ تى سَقَلْمَانَ مِسَا مِلْمَانَ مِنْ مِنْ اللَّهِ مِنْ اللَّهِ مِنْ اللَّهِ مِنْ اللَّهِ مِنْ اللَّهِ مِنْ اللّ مم كن استفاق 189 قد الاحد مثل المس المواثري حبل أرى عنى حل Ja Meas & CtD a lie 4 7 2 to 2 1 1 1 2 1 2 1 W William دلورط در آنوز الحر كما حاجيل ج. كما لا اشفاق 182 فنالور؟ حال م ا دونان آیا که مع عبر حاصر می ال می دونان آیا که می معاصر عنا 24.1.14 2 15-47 - 408 مي سرامان ما حرا درس Masi - D.S. CAd. Marden

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SHO / CTD / Mardan Region

15-8-2017

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, , Cellin -29 7 8 /11 10 N p July 29 7 8.15.30 Einstich 62 6 2 10 8 10/2 10 10 112 CID UST - 101/151 V4 July 1 182 Glater July 103 divis الله وي ي ده الله على الموط الرس دفير Sprongers (weller) collers com il file un Eles eles els per p سر بالمان مرت سو الفرن المردال از ال - Ap My w Col Forwarded PL

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No. 11392 /PA Dated 25 9 /2017.

То

The Senior Superintendent of Police, Intelligence & Surveillance, CTD, HQrs: Peshawar.

Subject:

**DEPARTMENTAL PROCEEDINGS AGAINST INSPECTOR NIAZ HUSSAIN & CONSTABLE** 

ISHFAQ ALI.

Memo:

Please refer to this office endrs: No. 8714-19/PA dated 01-08-2017 and enc No. 8709-13/PA dated 01-08-2017 on the subject cited above.

The requisite report in the above subject enquiry is still awaited which may sent to this office, please.

Deputy Inspector General of Police, CTD Khyber Pakhtunkhwa,

Peshawar



\_\_\_\_\_/PA Dated \_\_\_\_\_\_/201

## **ORDER**

Inspector Niaz Hussain of CTD Mardan is hereby closed from CTD Marda Region to CTD HQrs: Peshawar due to involvement in the smuggling and transportation Non Custom Paid Vehicles vide FIR No. 492 u/s 419/420/468/471/171PPC/15AA dated 2 07-2017 PS Lund Khwar District Mardan, with immediate effect.

P/HQrs:

No. 9637-40 /PA dated Peshawar the 21/08/2017.

Copy to:-

- 1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2. Regional Police Officer Mardan Region.
- 3. SP/CTD Mardan.
- 4. All concerned in CTD HQrs:

OR.....03. 07.08.2017.

Counsel for the accused/petitioner and APP for the state present. Arguments have already been heard and case file perused.

Through present petition petitioner Niaz Hussan s/o Shahz Ali r/o Nawan Kill Mardan is seeking released on bail in case FIR No.402 dated 29:7.2017 under section 419/420/468/471-PPC registered at Police Station Shergarh. My this order is also dispose of bail petition No.448/BA titled Ishfaq versus the state as both the petitions are outcome of same FIR.

The brief facts as per the contents of FIR are that the complainant Zakir Khan SI alongwith other police officials during gusht/nakabandi we a present at Jewar road near Jranda. In the meanwhile a pand crozier bearing registration UB 001-ICT Islamabad white colour was coming from Umar

occurrence present case was registered. accused at the instant of accused Niaz Hussain. On this same was taken to Malakand Agency by both the said the bang low of Niaz Hussain Inspector CTD and then the number plate of CTD Mardan was being fixed on vehicles in person known as Affab. It was further reported that official Malakand Agency by both the accused and handed over to a previously to 17/18 vehicles of different types were shifted to taken on rent Rs.60,000/- and it was disclosed that verification it came to knowledge that the vehicle was been was being taken to capton Adnan at Malakand Agency. After Nias Hussain CTD Mardan. He further stated that the vehicle Mardan and also shown him to the Gun Man of Inspector Jahfaq Ali s/o Mir Ali r/o Ako Dheri an constable in CTD card. The other person armed with M-4 rifle disclosed named him as capton in Pak Army. He also produced the service were found. The driver having pistol in his hand and shown police of PP Hatyan the same was apprehended. Two persons the speed. The said yenicle was chased and with the help of Abad side. The driver was signaled to stop, but he enhanced

glampivibni etataigaM gmd\apallg two sureties each in the like amount to the satisfaction of thiw -\000,000 asi lo mus sit in shoot list grantsirmfine list bruboses of pail, hence both the petitioners are admitted to The bail petition of accused/petitioners is arguable for the within the ambit of prohibitory clause of Section 497 Cr.P C. Hal for asobjection of the province for the offence does not fall best the pertitioners have ever involved in any circuminal case of the vehicle. There is nothing on the record to show that Adnan at the time of apprehension and taking into possession arrest. Petitioner lahlaq Ali was accompanying main accused involved on the disclosure of co-accused at the time of their was taken into possession. Petitioner Niaz Hussain has been was not accompanying the other accused when the vehicle petitioners are named in the FIR but petitioner Niaz Hussain Perusal of the record shows that though the

Record alongwith copy of this brder be returned and this file be consigned to record room after its completion.

(LIA TAQALI) | M-ogbut anoisse2 :lbbA imid ndali



## ARRIVAL REPORT

In pursuance of the Worthy Deputy Inspector General of Police, Khyber Pakhtunkhwa, Peshawar's Notification issued under Endst: No. 9637-40/PA dated 21.08.2017, I have submitted by arrival report at CTD, HQrs: Peshawar today on the Fore Noon of 22.08.2017.

(NIAZ HUSSAIN) Inspector

## OFFICE OF THE DEPUTY INSPECTOR GENERAL OF POLICE, CTD, KHYBER PAKHTUNKHWA, PESHAWAR.

No.9739- /PA/CTD/

Dated Peshawar, the 23/08/2017

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

- 1. Worthy Deputy Inspector General of Police, CTD Khyber Pakhtunkhwa, Peshawar.
- 2. Senior Superintendant of Police, CTD Central Zone Abbottabad.
- 3. Superintendant of Police, CTD HQrs: Peshawar.
- 4. PA/PSO, Acctt: OASI CTD, HQrs: Peshawar
- 5. Officer concerned

SP/HOrs:

For Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa,



PA Dated

/2017

## **ORDER**

Inspector Niaz Hussain of CTD Mardan is hereby closed from CTD M Region to CTD HQrs: Peshawar due to involvement in the smuggling and transportat Non Custom Paid Vehicles vide FIR No. 492 u/s 419/420/468/471/171PPC/15AA data 07-2017 PS Lund Khwar District Mardan, with immediate effect.

SP/HQrs:

For Deputy Inspector General of Police,
CTD Khyber Pakhtunkhwa,
Peshawar

No: 9637-40 /PA dated Peshawar the 21/08/2017.

Copy to:-

- 1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2. Regional Police Officer Mardan Region.
- 3. SP/CTD Mardan.
- 4. All concerned in CTD HQrs:



No. 8706-8/PA Dated 01 /08/2017.

## **ORDER**

On reported involvement in the smuggling and transportation of Non Custom Paid Vehicles vide FIR No. 492 u/s 419/420/468/471/171PPC/15AA dated 29-07-2017 PS Lund Khwar District Mardan, Inspector Niaz Hussain SHO PS CTD Mardan is hereby placed under suspension with immediate effect.

Charge Sheet and Summary of allegations will be communicated separately.

(MUEARAR ZEB)PSP

Deputy Inspector General of Police, CTD Khyber Pakhtunkhwa, Peshawar

No.

/PA dated Peshawar the <u>**1/1/08/2017.**</u>

Copy to:-

- 1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2. Regional Police Officer Mardan Region.
- 3. SP/CTD Mardan.
- 4. All concerned in CTD HQrs:



lo.\_\_\_\_/PA/CTD

Dated 01/08/2017.

### **CHARGE SHEET**

- 1) I Mubarak Zeb PSP, Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa, Peshawar as a Competent Authority, hereby charge you Inspector Niaz Hussain the then SHO PS CTD Mardan, now under suspension, as follows.
  - i) That you are reportedly involved in the transportation and smuggling of Non Custom Paid (NCP) Vehicles vide FIR No. 492 u/s 419/420/468/471/171PPC/15AA, dated 29-07-2017 PS Lund Khwar District Mardan.
  - ii) That on your direction your gunman namely Ishfaq Ali No. 182 received the NCP Vehicle from one Haji Hayat Khan r/o Bara Khyber Agency for transportation to Sakhakot.
  - iii) That your performance as SHO CTD Mardan remained poor.

By reason of the above, you appear to be guilty of misconduct under Police Disciplinary Rules, 1975 with amendments 2014 and have rendered yourself liable to all or any of the penalties specified in the Rules:

- 2) You are, therefore required to submit your written defense within 7 days of the receipt of this Charge Sheet to the Enquiry Officer as the case may be.
- Your written defense, 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, exparte action will be taken against you.
- 4) You are also at liberty, if you wish to be heard in person.

5) Statement of allegation is enclosed.

(MUBAKAK ZEB)PSP

Deputy Inspector General of Police, CTD Khyber Pakhtunkhwa,

Peshawar

## SUMMARY OF ALLEGATIONS

1). I, MUBARAK ZEB, DEPUTY INSPECTOR GENERAL OF POLICE, CTD KHYBER PAKHTUNKHWA, PESHAWAR, am of the opinion that Inspector Niaz Hussain of this Unit has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning of Police Disciplinary Rules, 1975 read with Amendments 2014.

## STATEMENT OF ALLEGATIONS.

- That he is reportedly involved in the transportation and smuggling of Non Custom Paid (NCP) Vehicles vide FIR No. 492 u/s 419/420/468/471/171PPC/15AA, dated 29-07-2017 PS Lund Khwar District Mardan.
- That on his direction, his gunman namely Ishfaq Ali No. 182 received the NCP Vehicle from one Haji Hayat Khan r/o Bara Khyber Agency for transportation to Sakhakot.
- iii) That your performance as SHO CTD Mardan remained poor.
- 2). For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, Mr. Fazal-i-Hamid SSP, Int: & Surv. and Mr. Quaid Kamal Khan DSP, HQrs: of CTD, Khyber Pakhtunkhwa, Peshawar are appointed as Enquiry Officers, to conduct enquiry under the Rules.
- 3). The Enquiry Officers, shall, in accordance with the provision of the Police Disciplinary Rules, 1975 read with Amendments 2014 provide reasonable opportunity of hearing to the accused, record its findings and make within 15 days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused.

(MUBARAK ZEB) PSP Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa, Jeshawar.

13 No 8 709 - /PA/CTD

Dated Peshawar the cl/08/2017.

## Copy of above is forwarded to the:-

1. Inspector General of Police, Khyber Pakthunkhwa, Peshawar for information.

2. Regional Police Officer Mardan Region.

3. Enquiry Officers of this Unit are directed to initiate departmental proceedings agains the accused under the Police Disciplinary Rules, 1975 read with Amendments 2014.

SP CTD Mardan.

5. Inspector Niaz Hussain to appear before the Enquiry Officer on the date time and place fixed by the Enquiry Officer for the purpose of enquiry proceedings.



## OFFICE OF THE SUPERINTENDENT OF POLICE COUNTER TERRORISM DEPARTMENT MARDAN REGION

No./184, CTD/Mardan Region dated 29 107 /2017

To: -

The Deputy Inspector General of Police.

CTD KP, Peshawar

Subject: -

**INFORMATION REPORT** 

Respected Sir,

It is submitted that as per D.D No 13 dated 29.07:2017 that DPO Mardan has arrested insp Niaz Husain khan SHO PS CTD Mardan red handed in connection with his involvement in smuggling of NCP Vehicles. The district police Mardan are going to register a case FIR in this regard.

The information report is hereby submitted for your perusal and further necessary action, please.

Superintendent of Police,
CTD, Mardan Region.

Sho and his staff (B) involved CTD, Mardan Region.

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proper enquiry was conducted wherein he was found guilty of the charges leveled against him. No irregularity was found in the order passed by the competent authority.

In view of the above the Board decided that the order of competent authority is hereby up. Consequently the departmental appeal is rejected being without any force and substance.

This order is issued with the approval by the Competent Authority.

(SHER AKBAR)

PSP, S.St

Deputy Inspector General of Police, HQrs: For Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

No. S/1066\_74/18,

Copy of the above is forwarded to the:

- 1. Dy: Inspector General of Police, CTD, Khyber Pakhtunkhwa, Peshawar.
- 2. Deputy Inspector General of Police, Enquiry & Inspections, Khyber Pakhtunkhwa, Peshawar.
- 3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
- 4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
- 5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
- 6. PA to DIG/Training, Khyber Pakhtunkhwa, Peshawar.
- 7. PA to AIG/Establishment, Khyber Pakhtunkhwa, Peshawar.
- 8. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
- 9. Office Supdt: E-II, CPO, Peshawar.

SP, HQ-ECISRGIOASI

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