### FORM OF ORDER SHEET

•	Court o	of			
	, Case	No305/ <b>2023</b>			
S.No.	Date of order proceedings	Order or other proceedings with signature of judge			
1	2	3			
1-	10/02/2023	The appeal of Mr. Hazrat Ullah resubmitted today by Mr. Zulfiqar Mahmood Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on Parcha Peshi is given to appellant/counsel for the date fixed.			
		By the order of Chairman  A  REGISTRAR			
+		."			

The appeal of Mr. Hazrat Ullah Ex-Constable No. 7164 CCP Peshawar received today i.e. on 27.01.2023 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal be got singed by the appellant.
- 2- Annexures of the appeal be attested.
- 3- Check list is blank be filled up
- 4- Departmental appeal having no date be dated.
- 5- The authority whose order is challenged has not been arrayed a necessary party in the heading of appeal.

No. 4/2 /S.T,

Dt. 31 (01 /2023

KHYBER PAKHTUNKHWA PESHAWAR.

Mr. Zulfigar Mehmood Adv. High Court at Peshawar.

All objection are removed

The date is already mentioned departmental Appeal

31/1/2023

### BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES <u>TRIBUNALPESHAWAR</u>

#### Hazrat Ullah

#### **VERSUS**

IGP Khyber Pakhtukhwa & Others

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5.	Copy of FIR		"A"	8+9
6.	Copy of Bail Order dated 15-9-22		"B"	10+16
8.	Copy of Dismissal Order		"C"	15
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Dated: 25-1-2023

- Appellant

Through

Zulfiqar Mehmood Advocate, High Court, Peshawar.

# BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES TRIBUNALPESHAWAR

In S.A 305/2023

Hazrat Ullah, Ex- Constable No: 7164, Capital City Police, Peshawar, resident of Sufaid Sang, Tehsil & District Peshawar.

.....Appellant

#### **VERSUS**

- Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2. Capital City Police Officer at Police Line, Peshawar.
- 3. Capt ® Saleem Abbas Kulachi (PSP) Superintendent of Police Rural, CCP, Peshawar.
- 4. Deputy Superintendent of Police, Regi Circle, Peshawar.

.....Respondents

Appeal Under Section 4 of Khyber Pakhtunkhwa
Services Tribunal Act 1974 Against The
Impugned Dismissal Order No: 270/1 Dated: 1810-2022 Of The Office Of Superintendent Of
Police Peshawar, Whereby The Appellant Was
Dismissed From The Rolls Of The Respondent
Department In A Classical, Cursory And
Whimsical Manner, And Departmental Appeal

## Of the Appellant Has Not Been Decided Inspite Of Lapse of Statutory Period By the Respondents.

#### Respectfully Sheweth,

- That the Appellant is a naturally born bonafide citizen of Islamic Republic of Pakistan and hails from a respectable family of District Peshawar.
- 2. That after going through the mandatorily required criteria, the Appellant got inducted on to the rolls of the prestigious Police Force of the province years back in 2010.
- 3. That during the course of his employment, Appellant always remained a pragmatic and duty full fellow, who never left any stone unturned in performance of obligation, best of level upon the shoulders of the Appellant and hence the career of the Appellant remained soot-less or without any soot or sootage.
- 4. That it was in the back drop of 2/09/2022, while the Appellant was performing his duty at PS Regi Model Town Peshawar, whereby the Appellant came to know that a criminal case was been registered against unknown persons village Sufaid Sung Caste Esa Khel bearing FIR No: 457 dated 02-09-2022, U/S 324/353/148/149/427 PPC and 7 ATA of Police Station, Regi, Peshawar. (Copy of FIR, is annexed herewith as Annexure "A")

- 5. That as the Appellant was charged in a criminal case, hence when he was getting back to his home after performing his duties on dated: 3/9/22, he was arrested by the DSP Regi Circle in the above mentioned FIR with malafide intention and ulterior motive on the behalf of Ex-Deputy Speaker KPK Assembly namely Mehmood Jan Khan.
- 6. That the Appellant moved his bail application before the 'competent court, who was released on bail, the Hon'ble Judge ATC vide order dated: 15-09-2022. (Copy of Bail Order dated 15-9-22 is attached as Annexure "B")
- 7. That after the release the appellant went to the PS: Regi Model Town duty place, it was staining to discover that appellant has been dismissed from his job without any notice or any prior hearing. (Copy of Dismissal Order is attached as Annexure "C")
- 8. That in this regard, the Appellant moved Departmental Appeal on dated: 18-10-2022 vide Diary No: 15839 to the Chief City Police Officer / CCPO, but despite of lapse of statutory period, nothing came out of the same. (Copy of Departmental Appeal is annexed herewith as Annexure "D")
- 9. That feeling aggrieved, the Appellant approaches this Hon'ble Tribunal for his reinstatement into service upon the following ground inter-alia:-

#### Grounds:

- A. That impugned dismissal order is wrong, illegal, unlawful, hence liable to be set aside.
- B. That the impugned dismissal order was passed without fulfilling the codal formalities and without following due process of law, hence the Order impugned herein is not tenable in the eyes of law.
- C. That neither Charge Sheet has been framed nor served upon the Appellant, therefore the impugned Order is illegal, unlawful, void ab-initio and liable to be set aside.
- D. That no statement of allegation as well as no Show-Cause-Notice has been issued to the Appellant, hence the impugned order is wrong, illegal and against the law, hence not sustainable in the eye of law and liable to be turned down.
- E. That no inquiry ever got initiated in case of the Appellant nor was ever afforded any opportunity of personal hearing or prior notice, thus was condemn unheard.
- F. That no final Show-Cause Notice was ever served upon the Appellant and the impugned Order was passed in hurry by the Respondent Department.
- G. That the absence of the Appellant is not intentional nor deliberated but due to the facts mentioned above, which is beyond the control of the Appellant. Therefore the impugned order is not warranted in the circumstances of the Appellant's case, hence liable to be set aside.
- H. That even the Appellate Authority simply shelved the Departmental Appeal of the Appellant without any rhyme or reason.

- I. That from all prospective the impugned Dismissal Order is illegal, unlawful, void ab-initio, corum-non-judice, hence liable to be set aside.
- J. That any other ground not raised here may graciously be allowed to be raised at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of the instant Service Appeal, impugned Dismissal Order No: 270/1 dated: 18-10-2022 of the office of Superintendent of Police Peshawar, may kindly be declared as illegal, unlawful and void abinitio, and by doing so, the impugned above dismissal order may kindly be set aside. And the Appellant be reinstated into service with all back benefits.

Any other relief not specifically asked for may also graciously be extended in favor of the appellant in the circumstances of the case.

Dated: 25-01-2023.

Appel<u>la</u>nt

Through

Zulfiqar Mehmood

&

Muhammad Aftab Advocates, High Court, Peshawar

NOTE:

No such like appeal for the same appellant, upon the same subject matter has earlier been filed by me, prior to the instant one, before this Hon'ble Tribunal.

Advocate.

## BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES TRIBUNALPESHAWAR

In S.A\_\_\_\_\_/2023

Hazrat Ullah

#### **VERSUS**

IGP Khyber Pakhtukhwa & Others

#### **AFFIDAVIT**

I, Hazrat Ullah, Ex- Constable No: 7164, Capital City Police, Peshawar, resident of Sufaid Sang, Tehsil & District Peshawar, do hereby solemnly affirm & declare on oath that all content of the instant Service Appeal, are true & correct to the best of my knowledge & belief and nothing has been concealed or misstated from this Hon'ble Tribunal.

**DEPONENT** 

MITE STED

CNIC: 17301-45197001

Cell No: 0315-9419 853

Identified BY

**Zulfiqar Mehmood** Advocate, High Court, Peshawar

## BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES TRIBUNALPESHAWAR

In S.A\_\_\_\_/2023

Hazrat Ullah

#### <u>VERSUS</u>

IGP Khyber Pakhtukhwa & Others

#### ADDRESSES OF PARTIES

#### **APPELLANT**

Hazrat Ullah, Ex- Constable No: 7164, Capital City Police, Peshawar, resident of Sufaid Sang, Tehsil & District Peshawar

#### ADDRESSES OF RESPONDENTS

- 1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2. Capital City Police Officer at Police Line, Peshawar.
- 3. Superintendent of Police, Headquarters, Peshawar.
- 4. Deputy Superintendent of Police, Regi Circle, Peshawar.

Dated: 25-1-2023

Appellant

Through

Zulfiqar Mehmood Advocate High Court, Peshawar

¢ 3/2.52 253491 13101-0827195-5 عمد مكونت اطلاح وبنده ومستنيث ادراس كالاكام وبأل أون نمبر لغيت جرم (معدافعه) فال اگر يحوليا كيايوز م<sup>ين</sup> اع وتوعدنا صلاتها فدست اورمت کاروالی جراتش کے معلق کی گی اگر اطلاع درج کرنے عمل آو تف بوا بوتو وجد بیان کرو تانى رداكى ارتادت 365A14814917 001

رای سلم ولدان مقری جانزی الیکرین رفزع وال ای منظر الیک سلم و الله این رفزع وال ای منظر الله و الله الله و الله الله و ال @ عــزيره لرنبارى سرل دله في در الله و الل ولرسنريك ١٠ كاسمان ولرسترعك ١١ ورنت ولدناهلم ١١ صال ولدناهلم و و المنظم ولراسلم و فرا فن عرف المرولرناها و والح حال و الما الله ولرافط الله و فرائل الل صنيك تدريث كردت ادرد لاقدين فوف وهراس دمرلف فيرايدولن الدينكر فالأ رُبِولَ بِيكَ لَدُ عِرْارَ فِيلَ وَأَنْ اللهُ اللهُ وَاللهُ اللهُ وَاللهُ اللهُ وَاللهُ اللهُ وَاللهُ اللهُ وَ يتردبا فسيرا فيصب ولنطان ى تدنى مرية مردب تاهالي يوكر وفي در شراب منوا والدن والأراك والمال بالاقد مناس جرام الا كالاكر مناس كالدرس والاث ك الزالة وريك و دربس يُن كَا عَالَمُ بن ما الله ووتَركُ الله الذي علام ين ورك المراب طروع ما الرون المراه كالمال على الدو والمراه وى حدث مع بالاير برم والم الا والك إلا جال الأول برم حاكمة م وا عنوس ادران الامامان قرور منظ براج ولوسة لي الحالية

### IN THE COURT OF Dr. MUHAMMAD AAMIR NAZIR ADMINISTRATIVE JUDGE, ANTI TERRORISM COURTS PESHAWAR.

	BA No
Case FIR No.	457 Dated 08/9/99 UIS 324/353/148/149 PS Reg
Order No.1	Bail application received through counsel.  Entrusted to learned Judge, ATC—Peshawar for disposal under the law.  Administrative Judge)  Appli-Terrorism Courts, Peshawar.
Order No.02 12.09.2022	IN THE COURT OF MUHAMMAD ADIL KHAN LEARNED JUDGE ANTI TERRORISM COURT-III PESHAWAR  Bail Application received from the learned Administrative Judge for ATCs, Peshawar.
	Be entered in the relevant register. Notice and record for 14/09/2022.  (Muhammad Adil Khan)  Judge, ATC-III. Peshawar
Order No.03 14.09.2022	Learned counsel for the accused/petitioner and Mr. Irshad Ullah learned Sr. PP for state as well as DFC PS Regi present. Learned counsel submits an application requesting therein to delete the name of the complainant from the penal of respondent, being clerical mistake. So, the application is allowed and office is directed to delete the name of the complainant from the penal of respondent. Notice received back,

which shows his service and also of the service of complainant Khan

Continued Order No.04 Dated 15.09.2022

which Riaz Khan SHO and constable Khaista Rehman sustained injuries, who were shifted to LRH Peshawar for treatment. Secret information through Special Branch and DSP received regarding the involvement of the following accused besides others unknown accused and women: (1) Jehanzeb retired FC employee (Commander), (2) Ibrar s/o Gul Ahmed, (3) Saidan Shah s/o Hussainay, (4) Mudassir, (5) Mutahhir, (6) Muslim s/o Azam Sher, (7) Jehanzeb Electrician, (8) Muntazhir, (9) Abu Bakkar, (10) Ghuncha Gul, (11) Socha Gul Sons of Aslam, (12) Lal Zali s/o unknown r/o Mohallah Esa Khel, (13) Uzair s/o Nihad, (14) Sabeel s/o Chandi, (15) Zubair s/o Jehanzeb, (16) Raham Zali alias Khalo s/o Sabaz Ali, (17) Kamran s/o Sabaz Ali, (18) Sifat s/o unknown, (19) Jehan s/o unknown, (20) Bakhat Munir s/o Aslam, (21) Fayaz alias Afsar s/o unknown, (22) Haji Mohabat s/o Azam Sher, (23) Sami Ullah alias Milad s/o unknown, (24) Sana Ullah s/o Taqat r/o Parsang and (25) Waqar s/o Yaseen along with other unknown persons and women being facilitators r/o Esa Khel. They have organized terrorist group for committing terrorism in the area, demanding Bhatta and committing other crimes, headed by Jehanzeb retired FC employee. The residents of the Kanday Esa Khel attacked law enforcing agencies whenever they visited the area for the performance of their duties. The abductees also succeeded to escape from the Hujra of Esa Khel Tribe during cross firing between the police and terrorists.

The accused/petitioners were arrested on 07-09-2022 but they have neither been named in the FIR nor their role has been specified during the investigation. Their involvement in the case as well as their arrest languagestion mark as how they were implicated in the case and arrested. No confession has been made by them nor any recovery or discovery was effected which may connect them with the

2712

#### BEFORE THE COURT OF LEARNED SPECIAL JUDGE ANTI TERRORISM PESHAWAR

Cr.M		/2022	(BA)

- [ Hazrat Ulfah S/o Sahar Gul
- 2. Zaib Khan S/o Walyat Khan

Order Shoot No. D. Judge ATC-III Peshawar.

BOTH RESIDENTS OF SAFAID SANG ISSA KHEL CURRENTLY CENTRAL JAIL PESHAWAR

ACCUSED/PETITIONERS

#### **VERSUS**

- 1. THE STATE
- 2. SHEWARD FRANKSOMBER LABOUR CALLAH KAFURDHERI PERHAMAR Nide order No. 03. deleted dated: 14-09-022

RESPONDENTS

FIR No. 457

DATED: 02-09-2022

POLICE STATION: RAIGI

CHARGED U/S: 353/324/148/149/224/225/427 PPC, 7ATA

APPLICATION UNDER SECTION 21-D ATA READ WITH 497 CR.P.C & ALL OTHER ENABLING SECTIONS OF LAW FOR GRANT OF POST ARREST BAIL TO THE ACCUSED/PETITIONERS UNTIL THE FINAL DISPOSAL OF THE CAPTIONED CASE

RESPECTFULLY SHEWETH.

Order Sheet No. V

I. That the above captioned case has been registered against the Accused/Petitioners in which they have been malafidely charged, at a later stage in utmost disregard of law and facts at the behest of people in the corridor of power.

#### COPY OF FIR IS ATTACHED

II. Now the Accused/Petitioners approach this honourable court for grant of post-arrest bail on the following grounds inter alia;

#### GROUNDS;

- 1. That the Accused/Petitioners are innocent and have been falsely charged with malafide by the police in order to show their efficiency.
- 2. That the Accused/Petitioners have been charged through malicious and incompetent investigation without an iota of evidence exclusively to satisfy egos of persons lurking in the corridors of power.
- 3. That the story of the Complainant is based on surmises and conjecture and is not appealable to a prudent mind.
- 4. That no offence on the face of the record exists against the Accused/Petitioners.
- That the story as narrated by the Complainant is at odds with logic and defiescommon sense.
- 6. That even otherwise the case of the Accused/Petitioner falls within the purview of further inquiry as envisaged by section 497(2) Cr.P.C
- That neither the allegation of ransom nor that of abduction can be proved upon tentative assessment of the record.
- 8. That the Accused/Petitioners have not been charged by name in the FIR, yet the police in classical misuse of power arrested and charged them for an occurrence which cannot be substantiated from the record.
- 9. That the Accused/Petitioners hail from respectable family and have no previous convictions and keeping them behind bars would only cause their unjust humiliation and harassment.
- 10. That the Accused/Petitioners are ready to furnish reliable sureties to the satisfaction of this honourable court.
- 11. That an error in granting bail can always be rectified, if the Accused/Petitioners are convicted, however no compensation or rectification can be made for the incarceration of the Accused/Petitioners in the likely event of their acquittal.

12. That the Accused/Petitioners willingly undertake to cooperate with the investigating officer as and when required.

MINISTAL

13. That any other ground may be raised at the time of arguments.

Order Sheet No.

Judge ATC-III Peshawar.

#### **PRAYER**

It is therefore most humbly submitted that on acceptance of this application, the Accused/Petitioners may kindly be released on bail until the disposal of the captioned

ACCUSED/PETITIONERS,

THROUGH,

BARRISTER AMIR KHAN CHAMKANI

NOTE: As per the instructions of my client no such bail petition has been filed by them prior to the current petition.

COUNSEL

#### ORDER

This office order will dispose of the departmental proceedings against FC Hazrat Ullah No. 7164 while posted at CCP Peshawar on the following allegation that

"That he is involved in a criminal case vide FIR No. 456 dated 02.09.2022, u/s 364-A.148.149.7ATA. Police Station Reg. This act to gross misconduct or his part and against the discipline of the force".

Under Police Rules 1975 (arrended 2014) proper charge sheet along with summary of allegation were issued against him and SDPO Warsak was appointed as enquiry officers to scrutinize the conduct of the alleged constables. They conducted enquiry proceedings & submitted finding/report.

Keeping in view the aforementioned facts, being a competent authority

Hazrat Ullah No.7164 is hereby awarded Major punishment of "Dismissal from service" with immediate effect.

Order announced.

OB: No. 270/1

Dated 18 1/0/2022

Capt (R) Saleem Ahnas Kulachi (PSF)

Superintendent of Police, Rural, CCP Poshawar

No. 78. /SP/Rural: dated Peshawar, the 18/15/2022.

Copy for information and necessary action to the:-

- The Senior Superintendent of Police, Operation, Peshawar.
- 2. The Superintendent of Police Headquarter: Peshawar.
- 3. SDPO Regi
- SDPO Warsak Enquiry officer.
- 5. Pay Officer.
- 6. CRC.
- 7. OASI
- 8. Fauji Missal branch with enquiry file for record.
- 9. Official concerned.

## بحضور جناب CCPO صاحب خيبر پختونخواه پشاور

اييل برخلاف آفس ريمول آرڈر نمبر 2701مور خد 18.10.2022

### ایل بمراد نوکری پر بحال کرنے کانسٹبل حضرت الله ولد سحر گل

جناب عالى! سائيلان حسب ذيل عرض رسال إلى-

1۔ یہ کہ سائیلان محکمہ بولیش میں کنسٹبلان ہے جو کہ عرصہ 9 سال سے ایمانداری سے اپنے فرائف سرانجام دے رہے تصاور ریگی ٹاکن میں بحیثیت کنسٹبلان تعینات ہیں۔

2- یہ کہ مور ند 2022 03 09 کو سائیلان ڈیوٹی ہے گھر جارہے تنے کہ ساجد، متاز DSP نے بغیر کی قانوٹی وجہ وجواز کو ہم سائیلان کو گر فار کرکے 4 دن تک حسب بے جابیں رکھااور بعد میں مقدمہ علت مہر 457 مور ند 2020 02 02 7ATA \$702.09 جو کہ مور ند 2022 07.09 جرم 7ATA & 7ATA و کا مور ند 2022 07.09 کو گر فار ظاہر کیا گیا ہے۔

3۔ بیر کر مذکورہ مقدمہ میں عدالت حضور نے من سائیلان کو دیابر ضانت کیاہے۔ (نائید میں نقل حکم عدالت حضور لف ہے) ت

4۔ بیا کہ سائل نے ایک عدد درخواست قبل از دائر کی تھی کہ من سائل کوڈیوٹی پر معمور کیاجائے لیکن کوئی میں ۔4 مثبت متیجہ نہ آیااور بعد از درخواست من سائل کو اپنے ڈیوٹی نے Dismissal کر دیا۔

5۔ یہ کہ من سائل نے ہمیشہ سے ایمانداری کے ساتھ ایک ڈیوٹی سرانجام دی ہے اور تاحال میرے خلاف. کوئی شکایات نہیں ہوئی ہے۔

6 میرکه مذکوره Dismissal order سراسر غلط، خلاف قانون واختیارات کاغلط استعال ہے۔

لہذا استدعاکی جاتی ہے کہ من سائل کو اپنی ٹوکری پر دوبارہ بحال کرنے کے احکامات صادر فرمائی جائے۔

03/594/98 53 W/z

حفرت الشولد سجرگل بلنث نمبر 7164 دانطه نمبر 853 \$594

# بحضور جناب انسكيثر جنزل آف يوليس صاحب خيبر پختونخواه بيثاور

اپيل برخلاف آفس ريمول آر درنمبر 2701مور خه 18.10.2022

# ائیل بمر اونوکری پر بحال کرنے کا قسیل میں الله ولد کر گا

جناب عالى! سائيلان حسب ذبل عرض رسال إن-

- ا۔ یہ کہ سائیلان محکمہ پولیس میں کنسٹبلان ہے جو کہ عرصہ 9 سال سے ایمانداری سے اپنے فرائض سے ا
- یہ کہ مورخہ 03.09.2022 کو سائیلان ڈیوٹی سے گھر جارہے تھے کہ ساجد، ممتاز DSP نے بغیر کسی
  تانونی وجہ وجواز کو ہم سائیلان کو گر فتار کرکے 4 دن تک حسب بے جامیں رکھا اور بعد میں مقدمہ علت
  نمبر 457 مور خہ 02.09.2022 جرم 257/427/148/149 PPC & 7ATA مور خہ 07.09.2022 کو گر فتار ظاہر کیا گیاہے۔
  تھانہ ریکی میں مور خہ 07.09.2022 کو گر فتار ظاہر کیا گیاہے۔
- ۔ بیک مذکورہ مقدمہ میں عدالت حضور نے من سائیلان کو دیابر ضانت کیا ہے۔ (نائید میں نقل تھم عدالت حضور لف ہے)۔
- 4 میر که ساکل نے ایک عدو درخواست قبل از دائر کی تھی که من سائل کوڈیوٹی پر معمور کیا جائے لیکن کوئی میں میں کہ من سائل کو اپنے ڈیوٹی سے Dismissal کردیا۔
- 5۔ بیر کہ من سائل نے ہمیشہ سے ایمانداری کے ساتھ اپنی ڈیوٹی سر انجام دی ہے اور تاحال میرے خلاف کوئی شکایات نہیں ہوگی ہے۔
  - 6- سير كه مذكوره Dismissal order سر اسر غلط، خلاف قانون واختيارات كاغلط استعال ہے۔

لہذا استدعا کی جاتی ہے کہ من سائل کو اپنی نو کری پر دوبارہ بحال کرنے کے احکامات صادر فرمائی جائے۔

03/594/98 W/====

العبر 0316-0080813

