



07.10.2019

Counsel for the appellant and Mr. Anwar-ul-Haq, Deputy District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 05.11.2019 for rejoinder if any and arguments before D.B at Camp Court Swat.


(Hussain Shah)
Member
Camp Court Swat

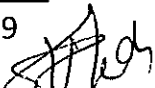

(Muhammad Amin Khan Kundi)
Member
Camp Court Swat

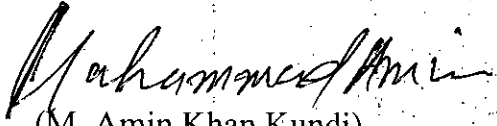
05.11.2019

None present on behalf of the appellant. Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mian Sikandar Shah, Reader to DSP (Legal) for the respondents present. Called several times but none appeared on behalf of the appellant nor the appellant was present in person therefore, the present service appeal is dismissed in default. File be consigned to the record room.

ANNOUNCED

05.11.2019


(Hussain Shah)
Member
Camp Court Swat


(M. Amin Khan Kundi)
Member
Camp Court Swat

12.06.2019


Learned counsel for the appellant present. Preliminary arguments heard.

The appellant (Ex-Constable) has filed the present service appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 03.12.2018 whereby he was awarded major punishment of removal from service. The appellant has also assailed the order dated 10.01.2019 through which his departmental appeal for reinstatement in service was filed. The appellant has also made impugned the order dated 07.05.2019 whereby his Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rules, 1975 was rejected.

Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for reply/comments. To come up for written reply/comments on 03.09.2019 before S.B at Camp Court, Swat.


Appellant Deposited
Security & Process Fee

14/6/19


Member
Camp Court, Swat.

03.09.2019



Learned counsel for the appellant present. Mr. Mian Amir Qadir learned Deputy District Attorney alongwith Khawas Khan Inspector present and submitted written reply/comments. Adjourn. To come up for rejoinder if any and arguments on 07.10.2019 before D.B at Camp Court, Swat.


Member
Camp Court, Swat.

Form- A
FORM OF ORDER SHEET

Court of _____

Case No.- _____ 656/2019 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	21/05/2019	<p style="text-align: center;">The appeal of Mr. Sail Ali presented today by Mr. Shabir Ahmad Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	24.5-19	<p style="text-align: center;">This case is entrusted to touring S. Bench at Swat for preliminary hearing to be put up there on <u>12-06-2019</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE SERVICE TRIBUNAL
KHAYBER PUKHTOONKHWA AT PESHAWAR

Service Appeal No. 656 of 2019

Said Ali son of Ahmad Mukhtiar resident of Shagai, Saidu Sharif,
Tehsil Babozai, District Swat (Ex-Constable B. No. 2080).

..... (**Appellant**)

Versus

Inspector General of Police, Khyber Pakhtunkhwa at Peshawar
and others.

....**Respondents**

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6.	Copy of departmental appeal and order of respondent No. 2 dated 10.01.2019	D & E	12-13
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Appellant *Said Ali*
Through Counsel

Shabir Ahmad Khan
DK.

Shabir Ahmad Khan (Dawlatkhel)
Advocate High Court.
Dated: 18.05.2019

BEFORE THE SERVICE TRIBUNAL
KHAYBER PUKHTOONKHWAT PESHAWAR

Service Appeal No. 656 of 2019

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 783

Dated 21/5/2019

Said Ali son of Ahmad Mukhtiar resident of Shagai, Saidu Sharif,
Tehsil Babozai, District Swat (Ex-Constable B. No. 2080).

..... (Appellant)

Versus

1. Inspector General of Police, Khyber Pakhtunkhwa at Peshawar.
2. Regional Police Officer Malakand Range-III at Saidu Sharif, District Swat.
3. District Police Officer Swat at Gulkada.

... (Respondents)

Appeal under Section 4 of the Service Tribunal Act, 1974, against the impugned order of respondent No. 3 dated 03-12-2018 whereby appellant was ~~Removed~~ from service with immediate effect against which appellant preferred departmental appeal to respondent No. 2 which was also filed by respondent No. 2 on 10.01.2019. then the appellant preferred revision to review committee of respondent no. 1 but the same was rejected by the review committee of respondent No. 1 on 07.05.2019.

Respectfully Sheweth:

The appellant submits as under:

1. That the appellant was recruited in Police Department as constable in 2009 and performed his duty with great zeal and enthusiasm.

Filed to-day
Sone Ali
Registrar

2. That the appellant was deputed in documentation Centre for duty with excise and taxation and army personals for physical checking and verification of NCP vehicles and as well as for allotting number to that NCP vehicles.
3. That on 06.02.2018, respondent NO. 3 issued show cause notice the appellant vide No. 75/PA to which the appellant submitted his written reply but later on, on 14.04.2018 respondent No. 3 issued charge sheet vide No. 68/PA to the appellant in which the allegation level against the appellant are as ***"that you while posted for physical checking of NCP vehicles was alleged of gross misconduct as he had declared to be not cut and weld. The vehicle was allotted documentation number but it was found later to be cut and weld"***. It is worth mentioning here that most of the inquiry documents were in the possession of respondent No. 3 and on the verbal/written request of the appellant didn't provide the said inquiry documents for filing instant appeal, that's why copy of charge sheet is not attached herewith this service appeal. (Copy of written request is attached herewith as **Ann: A**).
4. That inquiry was initiated against the appellant and entrusted to D.S.P Saidu Circle Swat and after conducting the inquiry, the inquiry officer submitted his finding report to respondent NO. 3 in which the inquiry

officer recommended the appellant for transfer from documentation centre but the respondent No. 3 without giving proper opportunity of hearing, illegal and unlawfully ^{Said to} ~~Removed~~ the appellant from service. (Copy of finding report along with better copy and order of dismissal are attached herewith as **Ann: B & C**).

5. That the appellant preferred departmental appeal to respondent No. 2 against the impugned order but respondent No. 2 without giving opportunity of hearing, filed the departmental appeal of the appellant. (Copy of departmental appeal and order of respondent No. 2 are attached herewith as **Ann: D & E**).

6. That aggrieved from the order of respondents No. 2 & 3, preferred revision to respondent No. 1 but the same was also rejected by respondent No. 1 vide order dated 07.05.2019. (Copy of revision petition along with better copy and order of respondent No. 1 are attached herewith as **Ann: F & G**).

7. That no proper opportunity of being fairly heard was given to the appellant by respondents, illegally and unlawfully ^{Said to} ~~Removed~~ the appellant from service which against law and norms of justice and service rules.

8. That most of inquiry documents were in the possession of respondent No. 3, so respondent No. 3 may kindly be directed to produce all relevant documents to this

Service Tribunal for ends of justice, hence the instant service appeal is submitted on the following amongst other grounds:-

GROUND:-

- a. That the inquiry officer recorded the statement of owner of the said NCP vehicle from which the appellant is crystal clear. (Copy of the statement is herewith attached as **Ann: H**).
- b. That FIR has already been registered against the owner of the said NCP vehicle and the case is still pending before the Court of law that whether the said NCP vehicle is cut and weld or not.
- c. That the appellant was not treated in accordance with law and rules on subject and impugned order has passed flagrant violation of law and rules tainted with malafide intention and is therefore not sustainable and liable to be set aside.
- d. That the allegations leveled against the appellant are baseless and frivolous.
- e. That neither proper inquiry of appellant was conducted nor proper opportunity of hearing was given to the appellant.

- f. That the impugned order is un-reasonable; arbitrary and is liable to be aside.
- g. That other important points will be raised during the course of arguments with prior permission of this Hon'ble Court.

PRAYER:-

It is, therefore, humbly prayed that by acceptance of this service appeal, the appellant may kindly be re-instated in service with all back benefits and the impugned order of respondents may graciously be set aside. Any other relief as deemed appropriate in the circumstances of the case and not specifically asked/prayed for, may also be granted to the appellant.

Said Qureshi
Appellant
Through Counsel.

Shabir Ahmad Khan
Shabir Ahmad Khan (Dawlatkhel)
Advocate High Court.
Dated: 18.05.2019

Certificate:-

It is certified that no such like appeal is either pending or decided by this Hon'ble Court.

Shabir Ahmad Khan
Shabir Ahmad Khan (Dawlatkhel)
Advocate High Court.

BEFORE THE SERVICE TRIBUNAL
KHAYBER PUKHTOONKHWA AT PESHAWAR

Service Appeal No. _____ of 2019

Said Ali son of Ahmad Mukhtiar resident of Shagai, Saidu Sharif,
 Tehsil Babozai, District Swat (Ex-Constable B. No. 2080).

..... (Appellant)

Versus

Inspector General of Police, Khyber Pakhtunkhwa at Peshawar
 and others.Respondents

AFFIDAVIT

It is stated on oath that all the contents of the attached appeal are true and correct to the best of my knowledge and belief. Moreover, no such like appeal is pending or decided by this Hon'ble Court.

Deponent: _____

Said Ali

Said Ali (B. No. 2080) himself



BEFORE THE SERVICE TRIBUNAL
KHAYBER PUKHTOONKHW A AT PESHAWAR

Service Appeal No. _____ of 2019

Said Ali son of Ahmad Mukhtiar resident of Shagai, Saidu Sharif,
 Tehsil Babozai, District Swat (Ex-Constable B. No. 2080).

..... (**Appellant**)

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa at Peshawar
 and others.**Respondents**

MEMO OF ADDRESSES

Address of appellant:

Said Ali son of Ahmad Mukhtiar resident of Shagai, Saidu Sharif,
 Tehsil Babozai, District Swat (Ex-Constable B. No. 2080).

NIC No: 15602-2744109-3

Mobile No: 0342-824410280

Addresses of respondents:

1. Inspector General of Police, Khyber Pakhtunkhwa at Peshawar.
2. Regional Police Officer Malakand Range-III at Saidu Sharif, District Swat.
3. District Police Officer Swat at Gulkada.

Said Ali

Appellant
 Through Counsel

Shabir Ahmad Khan

Shabir Ahmad Khan (Dawlatkhel)
 Advocate High Court.
 Dated: 18.05.2019

(8)

Amir
A

بکھنور جناب DPO صاحب سوات

درخواست بمبراد عطا یگی مصدقہ نقولات درانکواری ازاں سید علی خان بغرض سروس اپیل

جناب عالی! حسب ذیل عرض ہے۔

۱۔ یہ کہ من سائل کو آپ صاحبان نے محکمہ پولیس سے Dismiss کیا ہے اور من سائل

کی محکمانہ اپیل بھی فائل ہو چکی ہے۔

۲۔ یہ کہ اب سائل سروس اپیل دائر کرنا چاہتا ہے جس کے لئے مصدقہ نقولات انکواری

ازاں سید علی خان کی اشد ضرورت ہے۔

لہذا استدعا ہے کہ بمنظوری درخواست ہذا حسب عنوان درخواست

ہذا من سائل کو سروس اپیل دائر کرنے کے لئے مصدقہ نقولات

انکواری ازاں سید علی خان دینے کا حکم صادر فرمایا جائے۔

المرقوم: 16/05/2019

سید علی خان

عریضہ:

سید علی خان ولد احمد مختیار سکنہ شگسی، اسلامپور، تحصیل بابوزی،

ضلع سوات

سید علی خان

18/5/19

SHABIR AHMAD KHAN
(Dawlat khel)
Advocate High Court
& Federal Shariat Court

Amak
B

فائینڈنگ رپورٹ

عنوان :-

حکمان کاروائی برخلاف کنسٹیبل سید علی 2080 تحصیل سترکا جوسوات

خلاصہ الزام :- کنسٹیبل سید علی 2080 تحصیل سترکا جوسوات پر الزام ہے۔ کہ مذکورہ کنسٹیبل بحیثیت ڈیپٹی ڈیوٹی پر مامور ہے اور مذکورہ کنسٹیبل نے پک اپ سوڈی نمبری AB-1149 کو کلیمر سے کرہ لاث کیا ہے جبکہ مذکورہ گاڑی کٹ تھی مذکورہ کنسٹیبل نے اپنی ڈیوٹی میں غفلت اور لاپرواہی کا مرتکب ہوا ہے۔

تفصیل تحقیق :- انکوائری ہذا میں اصل حقائق منظر عام پر لانے کے خاطر مذکورہ کنسٹیبل ریٹوش حسب ضابطہ تقسیم

کر کے تفصیلی بیان بھی لیا جا کر شامل انکوائری ہوئی۔ اسی طرح محمد عارف انچارج NCP، کنسٹیبلان عمران

نمبر 1637، ناصر علی نمبر 2581، امیر محمد نمبر 2607، محمد سہیل 2034، عبد المجید 2713 اور مسکی صاحب زمان ولد

تورخان سکند باغ کیوکاری، مدد محرز ظہور خان تھانہ کوکاری کے بیانات لئے گئے۔ علاوہ ازیں نقل FIR تھانہ کوکاری سے

حاصل کر کے لف انکوائری ہذا ہے۔

رائے انکوائری آفیسر :- کردہ انکوائری سے پایا گیا کہ چارج شیٹ میں گاڑی متذکرہ کا نمبر AB-1149 تحریر ہے

جبکہ پیش کردہ دستاویزات میں گاڑی مذکورہ کا نمبر AB-4911 ہے۔ ندید پایا گیا کہ کنسٹیبل سید علی 2080 کا ڈاکو منٹیشن سنٹر

میں کافی عرصہ ہو چکا ہے۔ انکوائری ہذا میں کنسٹیبل سید علی 2080 باقاعدہ قصور وار پایا جاتا ہے۔

لہذا کنسٹیبل سید علی 2080 کو ڈاکو منٹیشن سنٹر سے تبدیل کرنے کی سفارش کی جاتی ہے۔ فائینڈنگ رپورٹ

گزارش ہے۔

ایس۔ ڈی۔ پی۔ او سیدوسرگل

تاریخ نمبرتی	Good انٹری	Bad انٹری	سابقہ غیر حاضری
18.12.2018	NIL	26	102

لاہور

18/12/18

SHABIR AHMAD KHAN
Advocate High Court
& Federal Shariat Court

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Better Copy Page No.

از دفتر سید وسرکل

ریڈر نمبر 651 مورخہ 24/09/2018

فائینڈنگ رپورٹ

عنوان: محکمانہ کارروائی برخلاف کنسٹیبل سید علی 2080 متعینہ ڈاکو منٹیشن سنٹر کا نجوسوات
خلاصہ الزام: کنسٹیبل سید علی 2080 متعینہ ڈاکو منٹیشن سنٹر کا نجوسوات پر الزام ہے کہ مذکورہ کنسٹیبل بچسپیت
ڈیپنٹی ڈیوٹی پر مامور ہے اور مذکورہ کنسٹیبل نے پک اب سوزو کی نمبری AB-1149 کو کاپی دے کر
نمبر الاٹ کما سے جبکہ متذکرہ گاڑی کٹ تھی مذکورہ کنسٹیبل نے اپنی ڈیوٹی میں غفلت اور لاپرواہی کا مرتکب
ہوا ہے۔

تفصیل تحقیق: انکوائری ہذا میں اصل حقائق منظر عام پر لانے کے خاطر مذکورہ کنسٹیبل حسب ضابطہ تقسیم
کر کے تفصیلی بیان بھی لیا جا کر شامل انکوائری ہوئی۔ اسی طرح محمد عارف انچارج NCP، کنسٹیبلان عمران
نمبر 1637، ناصر علی نمبر 2581، امیر محمد نمبر 2607، محمد سہیل 2034، عبد المجید 2713 اور مسملی
صاحب زمان ولد تورخان سکند باغ کوکاری، مدحدر ظہور خان تھانہ کوکاری کے بیانات لے گئے۔ علاوہ ازیں
نقل FIR تھانہ کوکاری سے حاصل کر کے لف انکوائری ہذا ہے۔

رائے انکوائری آفیسر: کردہ انکوائری سے پایا گیا کہ چارج شیٹ میں گاڑی متذکرہ کا نمبر AB-1149
تحریر ہے جبکہ پیش کردہ دستاویزات میں گاڑی مذکورہ کا نمبر AB-4911 ہے۔ مزید پایا گیا کہ کنسٹیبل سید
علی 2080 کا ڈاکو منٹیشن سنٹر میں کافی عرصہ ہو چکا ہے۔ انکوائری ہذا میں کنسٹیبل سید علی 2080 باقاعدہ
تصویر وار پایا جاتا ہے۔

لہذا کنسٹیبل سید علی 2080 کو ڈاکو منٹیشن سنٹر سے تبدیل کرنے کی سفارش کی جاتی ہے۔ فائینڈنگ رپورٹ
گزارش ہے۔

۱۱

ایس۔ ڈی۔ پی۔ اوسیدوسرکل

سابقہ غیر حاضری

Bad انٹری

Good انٹری

تاریخ بھرتی

102

26

NIL

18/12/2009

SHABIR AHMAD KHAN
(Dawlat, Karachi)
Advocate High
& Federal Shariat Court

18/12/09

ORDER

This order will dispose of Departmental Enquiry against Constable Said Ali No. 2080 of this District Police. He while posted for physical checking of NCP vehicles was alleged of gross misconduct as he had declared a vehicle to be not cut and weld. The vehicle was allotted documentation number but it was later found to be cut and weld.

He was issued a show cause notice vide this office No. 75/PA, dated 06-02-2018 to explain his position. He was called to Orderly Room and heard in person but he failed to present any solid reasons to rebut the allegations leveled against him. Subsequently, a regular enquiry was carried out against the delinquent Constable. He was issued a charge sheet and statement of allegations vide this office No. 68/PA, dated 18-04-2018 and DSP Saidu was appointed as Enquiry Officer to conduct proper departmental enquiry against the Constable under discussion. The Enquiry Officer carried out proper enquiry against the official and held him guilty of misconduct. The Enquiry Officer recommended major punishment for the Constable under enquiry.

The delinquent Constable was posted to a sensitive point and he was required to perform honestly and follow discipline but he failed to fulfill his responsibility as a honest Police Officer. His conduct is detrimental to discipline and may adversely affect the behavior of other personnel of the Force. Hence, in exercise of the powers vested in the undersigned under Rules 2 (iii) of Police Disciplinary Rules – 1975, I Syed Ashfaq Anwar, PSP, District Police Officer, Swat being competent authority, am constrained to award him major punishment of removal from service with immediate effect.

Order announced.

O.B. No. 195

Dated: 23-12-2018.

Copies to:-

1. Addl: SP Swat
2. Establishment Clerk
3. OSI

For necessary action, please.

District Police Officer
Swat

Handwritten signature and date
18/5/2018

SHABIR AHMAD KHAN
(Dastgir Khel)
Advocate High Court
& Federal Shariat Court

S.P. Ahmad
OC



عنوان: درخواست اپیل بابت بحالی کنشیل محکمہ پولیس ضلع سوات

جناب عالی!

گزارش ہے کہ سائل ضلع سوات علاقہ تھانہ سید و شریف کا سکوتی باشندہ ہے۔ سال محکمہ پولیس سوات میں 18/12/2009 کو حالیہ کشیدہ حالات کے دوران بھرتی ہوا اور اپنا ڈیوٹی نہایت محنت اور فرض شناسی کے ساتھ ادا کرتا رہا۔ اس دوران سائل کا تبادلہ نان کشم پیڈ گاڑیوں کے پیکنگ میں بحیثیت ڈیوٹی ہوا چونکہ میں گاڑی کا مستری نہیں تھا۔ سوزو کی کونمبر الاٹ ہو کر گاڑی کے پیکنگ میں ملا۔ ارمی ایکسٹروالوں نے بھی کیا اور عام طور پر جن مقامات پر گاڑی کٹ ہوتا تھا اس مقام پر متذکرہ سوزو کی بالکل صحیح تھا۔ لیکن بعد میں متذکرہ گاڑی دوبارہ پولیس نے قبضہ میں کر کے کٹ ثابت کیا۔ جس نسبت ابتدائی انکوائری D.S.P سید و سرکل نے کر کے میری پیش موجود الوقت DPO صاحب واحد محمد صاحب کو ہو کر میں نے اپنے بے گناہی بیان کیا جس سے DPO صاحب مطمئن ہو کر سائل کو ڈیوٹی جاری رکھنے کی ہدایت کی تقریباً 09/10 مہینوں کے بعد نامعلوم وجوہات کے بناء پر دوبارہ انکوائری سرسبز ہوئی جس میں سائل پر الزام ثابت نہ ہو کر انکوائری افسر نے سائل کو تبدیل کرنے کی سفارش کی لیکن DPO صاحب سوات نے سائل کو محکمہ سے برخاست کیا۔

سائل ایک غریب گھرانے سے تعلق رکھتا ہے۔ وسیع خاندان کا واحد کفیل اور کشیدہ حالات کے دوران محکمہ پولیس نے خدمت کیا ہے جبکہ تا کردہ گناہ کے الزام میں ایک سال بعد یکطرفہ طور پر برخاست کیا گیا ہے۔ لہذا بذریعہ درخواست استدعا ہے کہ سائل کے بے گناہی عرصہ ملازمت اور چھوٹے بچوں پر رحم فرما کر محکمہ پولیس میں ملازمت بحال کرنے کا حکم صادر فرمایا جائے۔ تو سائل تاحیات دعا گو رہے گا۔

العارض
فیصل احمد

آپ کا تابع دار

سید علی خان سابقہ کنشیل نمبر 2080

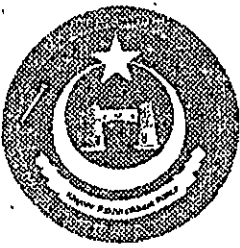
ساکن اسلام پور، تھانہ سید و شریف، ضلع سوات

شناختی کارڈ نمبر: 3-109-2744109-15602

موبائل نمبر 0342-8214480

سید احمد
18/5/09

SHABIR AHMAD KHAN
(Dawlati Khat)
Advocate High Court
& Federal Shariat Court



OFFICE OF THE
REGIONAL POLICE OFFICER, MALAKAND

AT SAIDU SHARIF SWAT.

Ph: 0946-9240381-88 & Fax No. 0946-9240390

Email: digmalakand@yahoo.com

13

547
16.1.18
APPEAL
E

ORDER:

This order will dispose off appeal of Ex-Constable Said Ali No. 2080 (~~Special Police Officer~~) of Swat District for reinstatement in service.

Brief facts of the case are that Constable Said Ali No. 2080 while deputed for physical checking of NCP vehicle was alleged of gross misconduct as he had declared cut and weld vehicle fit and allotted NCP documentation number fraudulently. Consequently he was issued Show Cause Notice coupled with statement of allegations and SDPO/ Saidu Circle was appointed as Enquiry Officer. The enquiry officer after conducting proper departmental enquiry and recording statements of all concerned officers, the enquiry officer submitted his finding recommending the delinquent Constable for major punishment. Being found guilty of charges leveled against him delinquent Constable was awarded punishment of removal from service by District Police Officer, Swat vide his office OB No.195 dated 03/12/2018.

He was called in Orderly Room on 02/01/2019 and heard him in person. The appellant could not produce any cogent reason in his defense. Therefore, his appeal for reinstatement in service is hereby filed.

Order announced.

(MUEHAMMAD SAEED), PSP
Regional Police Officer,
Malakand, at Saidu Sharif Swat
"Salim"
3/01

No. 529 /E,

Dated 10-01 /2019.

Copy to District Police Officer, Swat for information and necessary action with reference to his office Memo: No. 23042/E, dated 19/12/2018.

PPs attached
D

OSI/EC

for reaction M.

[Handwritten signature]

attested

AEC
Take entry in
this roll and
then doest, Swat
to FMC
24/1/19

18/1/19
SHABIR AHMAD KH
(Daw)
Advocate High
& Federal Sh

No 1521 /E,
dt. 24-1-2019
copy to the applicant accord

محضور جناب PPO صاحب بہادر خیبر پختونخواہ بمقام پشاور

عنوان: درخواست اپیل بابت بحالی کنسٹیبل محکمہ پولیس ضلع سوات

جناب عالی!

گزارش ہے کہ سائل ضلع سوات علاقہ تھانہ سید و شریف کانسٹیبل باشندہ ہے۔ سائل محکمہ پولیس سوات میں 18/12/2009 کو حالیہ کشیدہ حالات کے دوران بھرتی ہوا اور اپنا ڈیوٹی نہایت محنت اور فرض شناسی کے ساتھ ادا کرتا رہا۔ اس دوران سائل کا تبادلہ نان کسٹم پیڈ گاڑیوں کے چیکنگ میں بحیثیت ڈیوٹی ہو چوکتا تھا۔ اس دوران سائل کو نمبر الاٹ ہو کر گاڑی کے چیکنگ میرے علاوہ ارمی ایکسائز والوں نے بھی کیا اور عام طور پر جن مقامات پر گاڑی کٹ ہوتا تھا اس مقام پر متذکرہ سوز کی بالکل صحیح تھا۔ لیکن بعد میں متذکرہ گاڑی دوبارہ پولیس نے قبضہ میں کر کے کٹ ثابت کیا۔ جس نسبت ابتدائی انکوائری D.S.P سید و سرکل نے کر کے میری پیشی موجود الوقت DPO صاحب واحد صاحب کو ہو کر میں نے اپنے بے گناہی بیان کیا جس سے DPO صاحب مطمئن ہو کر سائل کو ڈیوٹی جاری رکھنے کی ہدایت کی تقریباً 09/10 مہینوں کے بعد نامعلوم وجوہات کے بناء پر دوبارہ انکوائری سرسبز ہوئی جس میں سائل پر الزام ثابت نہ ہو کر انکوائری افسر نے سائل کو تبدیل کرنے کی سفارش کی لیکن DPO صاحب سوات نے سائل کو محکمہ سے برخاست کیا۔ اس نسبت سائل نے RPO صاحب نے بحوالہ چھٹی نمبری 529/E مورخہ 10/01/2019 سائل کے اپیل داخل کی جو کہ فائل کر دی گئی۔

سائل ایک غریب گھرانے سے تعلق رکھتا ہے۔ وسیع خاندان کا واحد کفیل اور کشیدہ حالات کے دوران محکمہ پولیس نے خدمت کیا ہے جبکہ ناکردہ گناہ کے الزام میں ایک سال بعد یکطرفہ طور پر برخاست کیا گیا ہے۔ لہذا بذریعہ درخواست استدعا ہے کہ سائل کے بے گناہی عرصہ ملازمت اور چھوٹے بچوں پر رحم فرما کر محکمہ پولیس میں ملازمت بحال کرنے کا حکم صادر فرمایا جائے۔ تو سائل تاحیات دُعا گور ہے گا۔

العارض

آپ کا تابعدار

سید علی خان سابقہ کنسٹیبل نمبر 2089

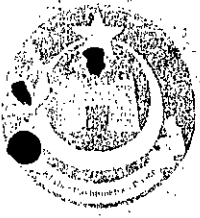
ساکن اسلام پور، تھانہ سید و شریف، ضلع سوات

شناختی کارڈ نمبر: 3-109-2744-15602

موبائل نمبر 0342-8214480

18/01/2019

SHABIR AHMAD KHAN
(Dawlat Khet)
Advocate High Court
& Federal Shariat Court



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

(16)

No. S/ 1593

/19, dated Peshawar the 07/05/2019



ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by **Ex-Constable Said Ali No. 2080**. The petitioner was removed from service by District Police Officer, Swat vide OB No. 195, dated 03.12.2018 on the allegations that he while deputed for physical checking of NCP vehicles was alleged of gross misconduct as he had declared cut and weld vehicle fit and allotted NCP documentation number fraudulently. His appeal was filed by Regional Police Officer, Malakand at Swat vide order Endst: No. 529/E, dated 10.01.2019.

Meeting of Appellate Board was held on 08.04.2019 wherein petitioner was heard in person. During hearing petitioner contended that he has not taken any money but he had declared cut and weld vehicle fit due to mistake.

Petitioner remained posted at this point for more than one year. He was well experienced to check the vehicles. However, with naked eyes, he could not find the cut and weld point. He was punished over negligence. It was alleged that he had received money to declare this vehicle fit. During his 08 years & 08 months service, he has received 28 bad entries. His service is not neat and clean. Therefore, as recommended by the Board his petition is hereby rejected.

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

(SADIQ BALOCHI) PSP
AIG/Establishment.

For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No. S/ 1594-1600/19.

Copy of the above is forwarded to the:

1. Regional Police Officer, Malakand at Swat, Service Roll and Fauji Missal containing Departmental enquiry file of the above named Ex-FC received vide your office Memo: No. 3754-55/E, dated 22.03.2019 is returned herewith for your office record.
2. District Police Officer, Swat.
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 AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

✓
✓
EC/OS

Not in action pl.

Noted

18/5/19
SHABIR AHMAD KHAN
(Dawlat Khel)
Advocate High Court
& Federal Shariat Court

میں نے اپنے زمانہ میں (تو زمانہ) کے باغ کو نکالنے کے لیے
میں نے اپنے زمانہ میں (تو زمانہ) کے باغ کو نکالنے کے لیے

میں نے اپنے زمانہ میں (تو زمانہ) کے باغ کو نکالنے کے لیے
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میں نے اپنے زمانہ میں (تو زمانہ) کے باغ کو نکالنے کے لیے
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میں نے اپنے زمانہ میں (تو زمانہ) کے باغ کو نکالنے کے لیے

مدار اطلاق درجہ زمان و گورنمنٹ سیکشن باغ کوکری

0334 5677835

Handwritten signature

SHABIR AHMAD KHAN
Advocate, High Court
& Federal Shariat Court

18

Better Copy Page No.

بیان ازاں صاحب زمان

مسئلی صاحب زمان ولد تورخان سکنہ باغ کوکاری نے بذریعہ پولیس بیان کیا کہ میرا ایک NCP سوزو کی تھی جس کو کے لئے قمبر بانی پاس لے جا کر وہاں پر آرمی حکام کیساتھ اہلکار سید علی، میرے سوزو کی کوچیک کرنے درست قرار دئے اور میری گاڑی کو AB-4911 نمبر الاٹ ہو چکا تھا بعد میں کسی نے میرے خلاف جناب DPO صاحب کو شکایت کی اور ظہور IHC تھا نہ کوکاری، ضلع سوات نے میرے گاڑی سوزو کی کا دوبارہ معائنہ کرا کر کٹ اینڈ ویلڈ یڈ ثابت کر کے میرے خلاف تھا نہ کوکاری میں مقدمہ علت نمبر 07 مورخہ 12/01/2018 جرم PPC-471, 468, 420, 419, 290, 287 درج رجسٹر کیا۔ کنشیل سید علی نے مجھ سے کسی قسم کی لالچ یا رقم کا مطالبہ نہیں کیا ہے۔ میں اب بھی یقین رکھتا ہوں کہ میرا سوزو کی اب بھی کٹ نہیں ہے یہی میرا بیان ہے۔
نوٹ: میرے گاڑی کو دو ڈویژن نے بدینتی سے کٹ ثابت کیا ہے جس میں کیس زیر سماعت ہے۔

العبد و تحفظ اردو و نشان انگشت

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مسئلی صاحب زمان ولد تورخان سکنہ باغ کوکاری

0334-5697835

سید علی

18/5/19
SHABIR AHMAD KHAN
(Dawlat Akbar)
Advocate High Court
& Federal Shariat Court

19

BEFORE THE SERVICE TRIBUNAL KHAYBER PUKHTUNKHWA
AT PESHAWAR

WAKALAT NAMA

Case No: _____ of 2019

TITLE:-

Said Ali

VERSUS

I.G.P and others.

I/we do hereby appoint **SHABIR AHMAD KHAN (DAWLATKHEL)** Advocate High Court in the above mentioned case, to do all or any of the following acts, deeds and things:

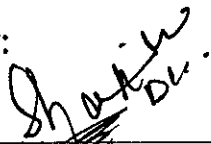
1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard, and any other proceedings arising out of or connected therewith.
2. To sign and verify and file, petitions, appeals, affidavits and applications as may be deemed necessary or advisable by them for the conduct, prosecution or defense of the said case at all its stages.
3. To receive payment of, and issue receipts for, all money that may be or become due and payable to us during the course of the proceedings.
4. To do any act necessary or ancillary to the above acts, deed and things.
5. To appoint any other counsel to do any/all of the acts, dee and things.
6. I/We, shall appear in the court/tribunal on every date of hearing for assistance and if due to my/our non-appearance, any adverse judgment/order/decree is passed, they will not be held responsible.

IN WITNESS whereof I/we have signed this **Wakalat Nama** hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____



Said Ali (appellant)

Attested and Accepted by:



SHABIR AHMAD KHAN (DAWLATKHEL)
Advocate High Court.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 656/2018

Said Ali S/O Ahmed Mukhtyar resident of Shagai Saidu Sharif Tehsil Babozai,
District Swat (Ex- Constable B. No.2080).

..... Appellant

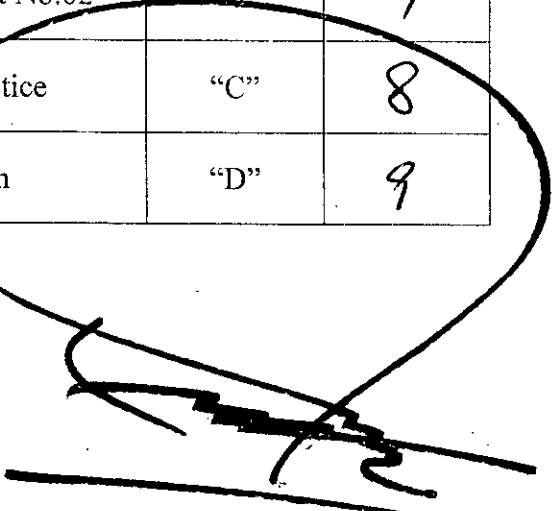
VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer Malakand at Saidu Sharif Swat.
3. District Police Officer Swat.

..... Respondents

INDEX

S.No:	Description of Documents	Annexure	Page
1	Para-wise Comments	-	1-3
2	Affidavit	-	4
3	Authority Letter	-	5
4	Copy of list of punishment	"A"	6
5	Copy of Order of respondent No.02	"B"	7
6	Copy of Show Cause Notice	"C"	8
7	Copy of report challan	"D"	9


District Police Officer, Swat
(Respondent No. 3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 656/2018

Said Ali S/O Ahmed Mukhtyar resident of Shagai Saidu Sharif Tehsil Babozai,
District Swat (Ex- Constable B. No.2080).

..... Appellant

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer Malakand at Saidu Sharif Swat.
3. District Police Officer Swat.

..... Respondents

PARAWISE REPLY BY RESPONDENTS

Respectfully Sheweth,

PRELIMINARY OBJECTIONS.

1. That the appeal is badly barred by Law & limitation.
2. That the appellant has got no Cause of action and locus standi to file the present appeal.
3. That the appeal is bad due to misjoinder and nonjoinder of necessary parties.
4. That the appellant has not come to the Tribunal with clean hands.
5. That the instant appeal is not maintainable in its present form.
6. That the appellant has concealed the material facts from this Hon'ble Tribunal.

FACTS:

1. Correct to the extent that the appellant was enlisted as Constable in 2009 in Police Department, however the remaining para is incorrect as he has been awarded 24 minor punishments during service. List enclosed as annexure- "A".
2. Pertain to record, hence needs no comments.
3. Correct to the extent that Show Cause Notice followed by Charge Sheet was issued to the appellant but the reply to the Show Cause Notice was found unsatisfactory, however the remaining para is incorrect as all the relevant documents for filing of departmental/service appeals were provided to the appellant which is evident from the service appeal and annexures.
4. Incorrect. DSP, Circle Saidu Sharif vide finding report No.651 dated 24/09/2018 has specifically explained in second last para of the finding report that the appellant has issued documentation number to the vehicle which was cut and weld and the appellant was found responsible for the alleged misconduct. Furthermore, local Police of Police Station Kokari has registered

(2)

FIR No.07 dated 12/01/2018 U/S 419/420/468/471 PPC regarding the vehicle in question. During course of enquiry statements of material witnesses and the appellant were recorded and all the opportunities of self defense were provided to the appellant and on the basis of true charges he was awarded appropriate punishment under the rules.

5. Incorrect. Departmental appeal of appellant was thoroughly examined and the appellant was heard in orderly room on 02/01/2019 and thereafter respondent No.02 passed appropriate order under the rule. Copy is enclosed as annexure "B".
6. Pertains to record, second departmental appeal has no legal value under Khyber Pakhtunkhwa Service Tribunal Act-1974.
7. Incorrect. All the opportunities of self defense and personal hearing were provided to the appellant during course of departmental probe and competent authorities have passed legal orders in accordance with facts and rules.
8. Copies of public documents have been provided to the appellant and on the basis of which the appellant has filed departmental as well as the service appeal. Furthermore, the appellant has unlawfully assailed the valid/legal orders of the respondents before this honorable tribunal.

GROUND:

- a. Incorrect. Owner of the vehicle has admitted in his statement that his vehicle was checked by the appellant and declared cleared, but subsequently was checked by Zahoor Rahman IHC and found cut and welded and FIR No. 07 dated 12/01/2018 U/S 419/420/468/471 PPC was registered against the said owner in Police Station Kokari.
- b. It has been proved from the departmental enquiry as well as from FIR No.01 that the appellant has dishonestly issued documentation number to a cut and weld vehicle.
- c. Incorrect. Appellant has been treated in accordance with law/rules and the respondents have never violated any right of the appellant during course of departmental probe.
- d. Incorrect. The allegations were proved/established from the departmental probe as well as from the criminal case investigation. Copy of report/challan 173 Cr.P.C is enclosed as annexure "C"
- e. Incorrect. Proper departmental enquiry through competent enquiry officer was conducted, wherein all the opportunities of self defence and personal hearing

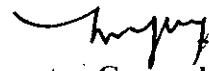
were provided to the appellant, furthermore investigation in FIR No.07 dated 12/01/2018 Police Station Kokari fully connect the appellant with the charges.

f. Incorrect. The orders of the respondents are based on facts, well reasonable, and accordance with law/rules.

g. That other grounds not specifically answered in the reply, will be agitated with the permission of honorable Tribunal at the time of arguments.

PRAYER:

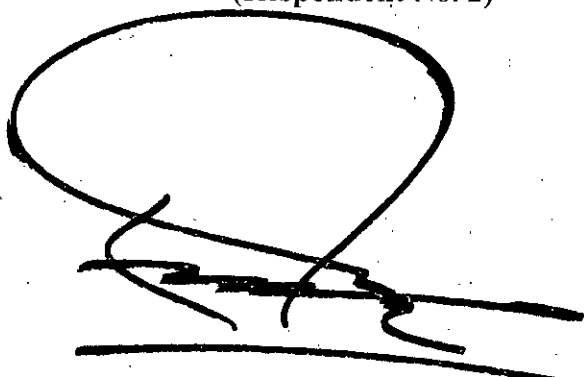
Keeping in views the above facts and circumstances, it is humbly prayed that the appeal of appellant being devoid of legal force may kindly be dismissed with costs.



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



**Regional Police Officer,
Malakand Region
(Respondent No. 2)**



**District Police Officer Swat
(Respondent No. 3)**

Service Appeal No. 656/2018

Said Ali S/O Ahmed Mukhtyar resident of Shagai Saidu Sharif Tehsil Babozai,
District Swat (Ex- Constable B. No.2080).

..... Appellant

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer Malakand at Saidu Sharif Swat.
3. District Police Officer Swat.

..... Respondents

AFFIDAVIT

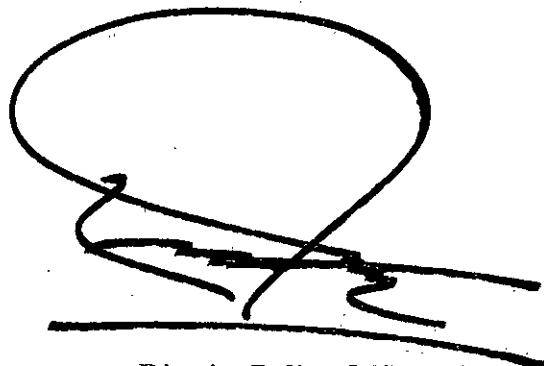
We, the above respondents do hereby solemnly affirm on oath and declare that the contents of the appeal are correct/true to the best of our knowledge/ belief and nothing has been kept secret from the honorable Tribunal.



**Inspector General of Police
Khyber Pakhtunkhwa Peshawar
(Respondents No.1)**



**Regional Police Officer
Malakand Region
(Respondents No.2)**



**District Police Officer, Swat
(Respondents No.3)**

Service Appeal No. 656/2018

Said Ali S/O Ahmed Mukhtyar resident of Shagai Saidu Sharif Tehsil Babozai,
District Swat (Ex- Constable B. No.2080).

..... Appellant

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer Malakand at Saidu Sharif Swat.
3. District Police Officer Swat.

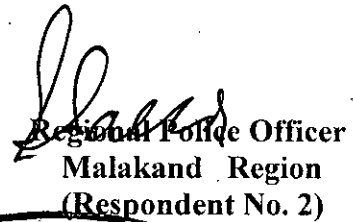
..... Respondents

AUTHORITY LETTER

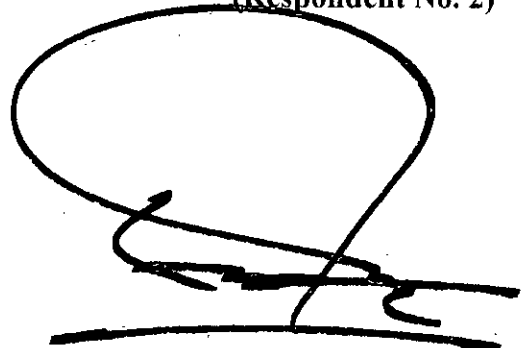
We, the above respondents do hereby authorize Mr. Mir Faraz Khan DSP/Legal & Mr. Khawas Khan SI Legal to appear before the Tribunal on our behalf and submit reply etc in connection with titled Service Appeal.



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



**Regional Police Officer
Malakand Region
(Respondent No. 2)**



**District Police Officer Swat
(Respondent No. 3)**

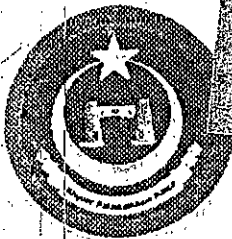
Ameroz A

6

Bad Entries/Minor Punishment detail of Head Constable Said Ali
Swat Police

Sr.No	Misconduct	Nature of punishment
01	Absented from duty w.e.f 16/11/2010 to 22/11/2010	Without pay
02	24/08/2011 to 25/08/2011	Without pay
03	09/01/2013 to 10/01/2013	Without pay
04	08/01/2013 to 19/01/2013	Without pay
05	09/01/2013 to 10/01/2013	Without pay
06	08/07/2012 to 09/07/2013	Without pay
07	28/04/2012 to 29/04/2013	Without pay
08	17/04/2014 found without jacket	03 days quarter guard
09	14/06/2014 to 17/06/2014	Without pay
10	11/10/2014 to 16/10/2014	Without pay
11	26/12/2014 to 30/12/2014	Without pay
12	22/07/2015 to 27/07/2015	Without pay
13	19/09/2015 to 22/09/2015	Without pay
14	30/08/2015 to 01/09/2015	Without pay
15	18/06/2015 to 29/06/2015	Without pay
16	28/04/2015 to 02/05/2015	Without pay
17	02/09/2015 to 08/04/2015	Without pay
18	19/03/2015 to 27/03/2015	Without pay
19	22/02/2015 to 23/02/2015	Without pay
20	18/06/2015 to 19/06/2015	Without pay
21	07/06/2015 to 09/06/2015	Without pay
22	07/08/2014 to 11/08/2014	Without pay
23	26/02/2016 to 11/03/2016	Without pay
24	27/10/2015 to 29/10/2015	Without pay


Establishment Clerk



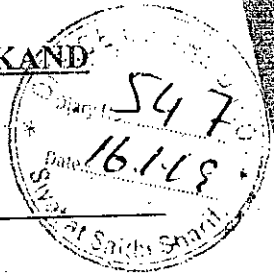
Amended B

OFFICE OF THE
REGIONAL POLICE OFFICER, MALAKAND

AT SAIDU SHARIF SWAT.

Ph: 0946-9240381-88 & Fax No. 0946-9240390

Email: digmalakand@yahoo.com



ORDER:

This order will dispose off appeal of Ex-Constable Said Ali No. 2080 (~~Special Police Officer~~) of Swat District for reinstatement in service.

Brief facts of the case are that Constable Said Ali No. 2080 while deputed for physical checking of NCP vehicle was alleged of gross misconduct as he had declared cut and weld vehicle fit and allotted NCP documentation number fraudulently. Consequently he was issued Show Cause Notice coupled with statement of allegations and SDPO/ Saidu Circle was appointed as Enquiry Officer. The enquiry officer after conducting proper departmental enquiry and recording statements of all concerned officers, the enquiry officer submitted his finding recommending the delinquent Constable for major punishment. Being found guilty of charges leveled against him delinquent Constable was awarded punishment of removal from service by District Police Officer, Swat vide his office OB No.195 dated 03/12/2018.

He was called in Orderly Room on 02/01/2019 and heard him in person. The appellant could not produce any cogent reason in his defense. Therefore, his appeal for reinstatement in service is hereby filed.

Order announced.

(Signature)
(MUHAMMAD SAEED), PSP
Regional Police Officer,
Malakand, at Saidu Sharif Swat
"Salim"

No. 529 /E,
Dated 10-01 /2019.

Copy to District Police Officer, Swat for information and necessary action with reference to his office Memo: No. 23042/E, dated 19/12/2018.

PPs attached
(Signature)

SPP

AEC
Make entry in
this roll and
then do it
to FMC
(Signature)
24/1/19

OSI / EC
(Signature)
District Officer

No. 1521 /E,
Dt: 24-1 /2019
copy to the applicant accordingly.

Ameer C

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OFFICE OF THE DISTRICT POLICE OFFICER, SWAT.

No. 75 /PA, Dated Gulkada the 06-02-2018

SHOW CAUSE NOTICE.

(Under Rule 5 (3) K.P.K Police Rules, 1975)

1. You Constable Said Ali No. 2080 while posted at Documentation Center as denter have rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunkhwa Police Rules 1975 for following misconduct/s;

Whereas, a Suzuki vehicle was issued documentation No. AB-1149 after declared clear by you. You conducted the physical examination of the vehicle and declared it clear despite the fact that the vehicle was cut at frame and the weld signs were clearly visible. The vehicle, on suspicion was again subjected to physical examination which identify the vehicle to be cut. You have concealed the facts which tantamount to gross misconduct. Thus issued show cause notice.

*That by reason of above, as sufficient material is placed before the undersigned, therefore, it is decided to proceed against you in general Police proceeding without aid of enquiry officer;

2. That the misconduct on your part is prejudicial to good order of discipline in the Police force;
3. that your retention in the Police force will amount to encourage in efficient and unbecoming of good Police officer;
4. That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action against you by awarding one or more of the kind punishments as provided in the rules.
5. You are, therefore, called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 for the misconduct referred to above.
6. You should submit reply to this show cause notice with 07 days of the receipt of the notice failing which an ex parte action shall be taken against you.
7. You are further directed to inform the undersigned that you wish to be heard in person or not.
8. Grounds of action are also enclosed with this notice.

District Police Officer, Swat

Received by _____

Dated _____/2018.

Amended

محکمہ انیسٹریکشن، سکول، گورنمنٹ کالج، سکس

داہلہ عبدالشاجو

Handwritten signature

Handwritten marks and numbers

287, District Public Schools, District Guikada, 462-471, 12/1/1991

بیموں معذروں اکثر یوں	سبب		تفصیل گواہان	ملاحظہ
	زخمی حالت	بہ حالت		
<p>Handwritten notes in the right margin:</p> <p>1. 11/1/91</p> <p>2. 12/1/91</p> <p>3. 13/1/91</p> <p>4. 14/1/91</p> <p>5. 15/1/91</p> <p>6. 16/1/91</p> <p>7. 17/1/91</p> <p>8. 18/1/91</p> <p>9. 19/1/91</p> <p>10. 20/1/91</p>	<p>Handwritten notes in the middle column:</p> <p>1. 21/6/91</p> <p>2. 22/6/91</p> <p>3. 23/6/91</p> <p>4. 24/6/91</p> <p>5. 25/6/91</p> <p>6. 26/6/91</p> <p>7. 27/6/91</p> <p>8. 28/6/91</p> <p>9. 29/6/91</p> <p>10. 30/6/91</p>		<p>Handwritten notes in the left column:</p> <p>1. 11/1/91</p> <p>2. 12/1/91</p> <p>3. 13/1/91</p> <p>4. 14/1/91</p> <p>5. 15/1/91</p> <p>6. 16/1/91</p> <p>7. 17/1/91</p> <p>8. 18/1/91</p> <p>9. 19/1/91</p> <p>10. 20/1/91</p>	<p>Handwritten notes in the far left column:</p> <p>1. 11/1/91</p> <p>2. 12/1/91</p> <p>3. 13/1/91</p> <p>4. 14/1/91</p> <p>5. 15/1/91</p> <p>6. 16/1/91</p> <p>7. 17/1/91</p> <p>8. 18/1/91</p> <p>9. 19/1/91</p> <p>10. 20/1/91</p>

Handwritten text at the bottom right: 1He. مقامہ گورنمنٹ کالج

BEFORE THE SERVICE TRIBUNAL
KHAYBER PUKHTOONKHWAT PESHAWAR

Service Appeal No. 656 of 2019

Said Ali son of Ahmad Mukhtiar resident of Shagai, Saidu Sharif,
Tehsil Babozai, District Swat (Ex-Constable B. No. 2080).

..... (Appellant)

Versus

1. Inspector General of Police, Khyber Pakhtunkhwa at Peshawar.
2. Regional Police Officer Malakand Range-III at Saidu Sharif, District Swat.
3. District Police Officer Swat at Gulkada.

... (Respondents)

Appeal under Section 4 of the Service Tribunal Act, 1974, against the impugned order of respondent No. 3 dated 03-12-2018 whereby appellant was ^{Said to} ~~removed~~ from service with immediate effect against which appellant preferred departmental appeal to respondent No. 2 which was also filed by respondent No. 2 on 10.01.2019. then the appellant preferred revision to review committee of respondent no. 1 but the same was rejected by the review committee of respondent No. 1 on 07.05.2019.

Respectfully Sheweth:

The appellant submits as under:

1. That the appellant was recruited in Police Department as constable in 2009 and performed his duty with great zeal and enthusiasm.

2. That the appellant was deputed in documentation Centre for duty with excise and taxation and army personals for physical checking and verification of NCP vehicles and as well as for allotting number to that NCP vehicles.
3. That on 06.02.2018, respondent NO. 3 issued show cause notice the appellant vide No. 75/PA to which the appellant submitted his written reply but later on, on 14.04.2018 respondent No. 3 issued charge sheet vide No. 68/PA to the appellant in which the allegation level against the appellant are as ***"that you while posted for physical checking of NCP vehicles was alleged of gross misconduct as he had declared to be not cut and weld. The vehicle was allotted documentation number but it was found later to be cut and weld"***. It is worth mentioning here that most of the inquiry documents were in the possession of respondent No. 3 and on the verbal/written request of the appellant didn't provide the said inquiry documents for filing instant appeal, that's why copy of charge sheet is not attached herewith this service appeal. (Copy of written request is attached herewith as **Ann: A**).
4. That inquiry was initiated against the appellant and entrusted to D.S.P Saidu Circle Swat and after conducting the inquiry, the inquiry officer submitted his finding report to respondent NO. 3 in which the inquiry

officer recommended the appellant for transfer from documentation centre but the respondent No. 3 without giving proper opportunity of hearing, illegal and unlawfully ^{and} ~~Remove~~ the appellant from service. (Copy of finding report along with better copy and order of dismissal are attached herewith as **Ann: B & C**).

5. That the appellant preferred departmental appeal to respondent No. 2 against the impugned order but respondent No. 2 without giving opportunity of hearing, filed the departmental appeal of the appellant. (Copy of departmental appeal and order of respondent No. 2 are attached herewith as **Ann: D & E**).
6. That aggrieved from the order of respondents No. 2 & 3, preferred revision to respondent No. 1 but the same was also rejected by respondent No. 1 vide order dated 07.05.2019. (Copy of revision petition along with better copy and order of respondent No. 1 are attached herewith as **Ann: F & G**).
7. That no proper opportunity of being fairly heard was given to the appellant by respondents, illegally and unlawfully ^{and} ~~Remove~~ the appellant from service which is against law and norms of justice and service rules.
8. That most of inquiry documents were in the possession of respondent No. 3, so respondent No. 3 may kindly be directed to produce all relevant documents to this

Service Tribunal for ends of justice, hence the instant service appeal is submitted on the following amongst other grounds:-

GROUND:-

- a. That the inquiry officer recorded the statement of owner of the said NCP vehicle from which the appellant is crystal clear. (Copy of the statement is herewith attached as **Ann: H**).
- b. That FIR has already been registered against the owner of the said NCP vehicle and the case is still pending before the Court of law that whether the said NCP vehicle is cut and weld or not.
- c. That the appellant was not treated in accordance with law and rules on subject and impugned order has passed flagrant violation of law and rules tainted with malafide intention and is therefore not sustainable and liable to be set aside.
- d. That the allegations leveled against the appellant are baseless and frivolous.
- e. That neither proper inquiry of appellant was conducted nor proper opportunity of hearing was given to the appellant.

- f. That the impugned order is un-reasonable, arbitrary and is liable to be aside.
- g. That other important points will be raised during the course of arguments with prior permission of this Hon'ble Court.

PRAYER:-

It is, therefore, humbly prayed that by acceptance of this service appeal, the appellant may kindly be re-instated in service with all back benefits and the impugned order of respondents may graciously be set aside. Any other relief as deemed appropriate in the circumstances of the case and not specifically asked/prayed for, may also be granted to the appellant.

Appellant 
Through Counsel


Shabir Ahmad Khan (Dawlatkhel)
Advocate High Court.
Dated: 18.05.2019

Certificate:-

It is certified that no such like appeal is either pending or decided by this Hon'ble Court.


Shabir Ahmad Khan (Dawlatkhel)
Advocate High Court.

BEFORE THE SERVICE TRIBUNAL
KHAYBER PUKHTOONKHWA AT PESHAWAR

Service Appeal No. _____ of 2019

Said Ali son of Ahmad Mukhtiar resident of Shagai, Saidu Sharif,
 Tehsil Babozai, District Swat (Ex-Constable B. No. 2080).

..... (Appellant)

Versus

Inspector General of Police, Khyber Pakhtunkhwa at Peshawar
 and others.Respondents

AFFIDAVIT

It is stated on oath that all the contents of the attached appeal are true and correct to the best of my knowledge and belief. Moreover, no such like appeal is pending or decided by this Hon'ble Court.

Deponent: _____

Said Ali

Said Ali (B. No. 2080) himself



BEFORE THE SERVICE TRIBUNAL
KHAYBER PUKHTOONKHWA AT PESHAWAR

Service Appeal No. _____ of 2019

Said Ali son of Ahmad Mukhtiar resident of Shagai, Saidu Sharif,
 Tehsil Babozai, District Swat (Ex-Constable B. No. 2080).

..... (Appellant)

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa at Peshawar
 and others.**Respondents**

MEMO OF ADDRESSES

Address of appellant:

Said Ali son of Ahmad Mukhtiar resident of Shagai, Saidu Sharif,
 Tehsil Babozai, District Swat (Ex-Constable B. No. 2080).

NIC No: 15602-2744109-3

Mobile No: 0342-8214480

Addresses of respondents:

1. Inspector General of Police, Khyber Pakhtunkhwa at Peshawar.
2. Regional Police Officer Malakand Range-III at Saidu Sharif, District Swat.
3. District Police Officer Swat at Gulkada.

Appellant
 Through Counsel

Shabir Ahmad Khan

Shabir Ahmad Khan (Dawlatkhel)
 Advocate High Court.
 Dated: 18.05.2019

8

Amir

A

بھنور جناب DPO صاحب سوات

درخواست بمراد عطا ینگى مصدقہ نقولات درانکوآزرى ازاں سیدعلی خان بغرض سروس اپیل

جناب عالی! حسب ذیل عرض ہے۔

۱۔ یہ کہ من سائل کو آپ صاحبان نے محکمہ پولیس سے Dismiss کیا ہے اور من سائل

کی محکمانہ اپیل بھی فائل ہو چکی ہے۔

۲۔ یہ کہ اب سائل سروس اپیل دائر کرنا چاہتا ہے جس کے لئے مصدقہ نقولات انکوآزرى

ازاں سیدعلی خان کی اشد ضرورت ہے۔

لہذا استدعا ہے کہ بمنظوری درخواست ہذا حسب عنوان درخواست

ہذا من سائل کو سروس اپیل دائر کرنے کے لئے مصدقہ نقولات

انکوآزرى ازاں سیدعلی خان دینے کا حکم صادر فرمایا جائے۔

المرقوم: 16/05/2019

شہلا

عریضہ:

سیدعلی خان ولد احمد مختیار سکنہ شنگئی، اسلامپور، تحصیل بابوزی،

ضلع سوات

شہلا

18/5/19

SHABIR AHMAD KHAN
(Dawat Isha)
Advocate High Court
& Federal Shariat Court

اردو دفتر SDPO سیدوسرگل

ریڈنگ نمبر 24-09-2018

9

ANMAK

B

فائینڈنگ رپورٹ

تھانہ کاروائی برطانف کنسٹیبل سید علی 2080 متعلقہ اکوئیشن سنٹر کا رجسٹرڈ ہے۔ کنسٹیبل کی طبیعت ڈیٹریڈیوٹی پر مامور ہے۔
خلاصہ الزام:- کنسٹیبل سید علی 2080 متعلقہ اکوئیشن سنٹر کا رجسٹرڈ ہے۔ کنسٹیبل نے اپنی ڈیوٹی میں غفلت اور لاپرواہی کا مرتکب ہے۔

تفصیل تحقیق:- انکوئیری ہذا میں اصل حقائق منظر عام پر لانے کے خاطر مذکورہ کنسٹیبل پر نوٹس حسب ضابطہ تقسیم کر کے تفصیلی بیان بھی لیا جا کر شامل انکوئیری ہوئی۔ اسی طرح محمد عارف انچارج NCP، کنسٹیبلان عمران نمبر 1637، ناصر علی نمبر 2581، امیر محمد نمبر 2607، محمد سہیل 2034، عبد المجید 2713 اور سکی صاحب زمان ولد تورخان سکند باغ کوکاری، دردمرظہور خان تھانہ کوکاری کے بیانات لئے گئے۔ علاوہ ازیں نقل FIR تھانہ کوکاری سے حاصل کر کے لف انکوئیری ہذا ہے۔

رائے انکوئیری آفیسر:- کردہ انکوئیری سے پایا گیا کہ چارج شیٹ میں گاڑی متذکرہ کا نمبر AB-1149 تحریر ہے جبکہ پیش کردہ دستاویزات میں گاڑی مذکورہ کا نمبر AB-4911 ہے۔ مزید پایا گیا کہ کنسٹیبل سید علی 2080 کوڈ اکوئیشن سنٹر میں کافی عرصہ ہو چکا ہے۔ انکوئیری ہذا میں کنسٹیبل سید علی 2080 باقاعدہ قصور وار پایا جاتا ہے۔

لہذا کنسٹیبل سید علی 2080 کوڈ اکوئیشن سنٹر سے تبدیل کرنے کی سفارش کی جاتی ہے۔ فائینڈنگ رپورٹ

گزارش ہے۔

ایس۔ ڈی۔ پی۔ او سیدوسرگل

تاریخ نمبر	Good انٹری	Bad انٹری	سابقہ غیر حاضری
18.12.2018	NIL	2.6	102

18/12/18

SHABIR AHMAD KHAN
Advocate High Court
& Federal Shariat Court

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Better Copy Page No.

از دفتر سید وسرکل

ریڈر نمبر 651 مورخہ 24/09/2018

فائنڈنگ رپورٹ

عنوان: محکمہ کارروائی بر خلاف کنسٹیبل سید علی 2080 متعینہ ڈاکو منٹیشن سنٹر کا نجوسوات
خاصہ الزام کنسٹیبل سید علی 2080 متعینہ ڈاکو منٹیشن سنٹر کا نجوسوات پر الزام ہے کہ مذکورہ کنسٹیبل بحیثیت
ڈپٹی ڈپوٹی پر مامور ہے اور مذکورہ کنسٹیبل نے پک اپ سوزو کی نمبری AB-1149 کو کلپٹر دے کر
نمبر الاٹ کیا ہے جبکہ متذکرہ گاڑی کٹ تھی مذکورہ کنسٹیبل نے اپنی ڈپوٹی میں غفلت اور لاپرواہی کا مرتکب
ہوا ہے۔

تفصیل تحقیق: انکوائری ہذا میں اصل حقائق منظر عام پر لانے کے خاطر مذکورہ کنسٹیبل حسب ضابطہ تقسیم
کر کے تفصیلی بیان بھی لیا جا کر شامل انکوائری ہوئی۔ اسی طرح محمد عارف انچارج NCP، کنسٹیبلان عمران
نمبر 1637، ناصر علی نمبر 2581، امیر محمد نمبر 2607، محمد سہیل 2034، عبدالحمید 2713 اور مسہلی
صاحب زمان ولد تورخان سکندہ باغ کوکاری، مدحدر ظہور خان تھانہ کوکاری کے بیانات لے گئے۔ علاوہ ازیں
نقل FIR تھانہ کوکاری سے حاصل کر کے لف انکوائری ہذا ہے۔

رائے انکوائری آفیسر: کردہ انکوائری سے پایا گیا کہ چارج شیٹ میں گاڑی متذکرہ کا نمبر AB-1149
تحریر ہے جبکہ پیش کردہ دستاویزات میں گاڑی مذکورہ کا نمبر AB-4911 ہے۔ مزید پایا گیا کہ کنسٹیبل سید
علی 2080 کا ڈاکو منٹیشن سنٹر میں کافی عرصہ ہو چکا ہے۔ انکوائری ہذا میں کنسٹیبل سید علی 2080 باقاعدہ
قصور وار پایا جاتا ہے۔

لہذا کنسٹیبل سید علی 2080 کو ڈاکو منٹیشن سنٹر سے تبدیل کرنے کی سفارش کی جاتی ہے۔ فائنڈنگ رپورٹ
گزارش ہے۔

cl.

ایس۔ ڈی۔ پی۔ اوسیدوسرکل

سابقہ غیر حاضری

102

Bad انٹری

26

Good انٹری

NIL

تاریخ بھرتی

18/12/2009

18/12/09

SHABIR AHMAD KHAN
Magistrate High
& Federal Shariat Court

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Ammed
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ORDER

This order will dispose of Departmental Enquiry against Constable Said Ali No. 2080 of this District Police. He while posted for physical checking of NCP vehicles was alleged of gross misconduct as he had declared a vehicle to be not cut and weld. The vehicle was allotted documentation number but it was later found to be cut and weld.

He was issued a show cause notice vide this office No. 75/PA, dated 06-02-2018 to explain his position. He was called to Orderly Room and heard in person but he failed to present any solid reasons to rebut the allegations leveled against him. Subsequently, a regular enquiry was carried out against the delinquent Constable. He was issued a charge sheet and statement of allegations vide this office No. 68/PA, dated 18-04-2018 and DSP Saidu was appointed as Enquiry Officer to conduct proper departmental enquiry against the Constable under discussion. The Enquiry Officer carried out proper enquiry against the official and held him guilty of misconduct. The Enquiry Officer recommended major punishment for the Constable under enquiry.

The delinquent Constable was posted to a sensitive point and he was required to perform honestly and follow discipline but he failed to fulfill his responsibility as a honest Police Officer. His conduct is detrimental to discipline and may adversely affect the behavior of other personnel of the Force. Hence, in exercise of the powers vested in the undersigned under Rules 2 (iii) of Police Disciplinary Rules -- 1975, I Syed Ashfaq Anwar, PSP, District Police Officer, Swat being competent authority, am constrained to award him major punishment of removal from service with immediate effect.

Order announced.

O.B. No. 195

Dated: 03-12-08

Copies to:-

1. Addl: SP Swat
2. Establishment Clerk
3. OSI

For necessary action, please.

District Police Officer
Swat

Ammed
GC
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SHABIR AHMAD KHAN
(Dawlat Khan)
Advocate High Court
& Federal Shariat Court

18/5/2008

عنوان: درخواست اپیل بابت بحالی کنشیل محکمہ پولیس ضلع سوات

جناب عالی!

گزارش ہے کہ سائل ضلع سوات علاقہ تھانہ سید و شریف کا سکوتی باشندہ ہے۔ سائل محکمہ پولیس سوات میں 18/12/2009 کو حالیہ کشیدہ حالات کے دوران بھرتی ہوا اور اپنا پوئی نہایت محنت اور فرض شناسی کے ساتھ ادا کرتا رہا۔ اس دوران سائل کا تبادلہ نان کشم پیڈ گاڑیوں کے ڈیننگ میں بحیثیت ڈیوٹی ہوا چونکہ میں گاڑی کا مسٹری نہیں تھا۔ سوزو کی کو نمبر الاٹ ہو کر گاڑی کے ڈیننگ میں ملا۔ اری ایکسائز والوں نے بھی کیا اور عام طور پر جن مقامات پر گاڑی کٹ ہوتا تھا اس مقام پر متذکرہ سوزو کی بالکل صحیح تھا۔ لیکن بعد میں متذکرہ گاڑی دوبارہ پولیس نے قبضہ میں کر کے کٹ ثابت کیا۔ جس نسبت ابتدائی انکوائری D.S.P سید و سرکل نے کر کے میز پر پیشی موجود الوقت DPO صاحب واحد محمد صاحب کو ہو کر میں نے اپنے بے گناہی بیان کیا جس سے DPO صاحب مطمئن ہو کر سائل کو ڈیوٹی جاری رکھنے کی ہدایت کی تقریباً 09/10 مہینوں کے بعد نامعلوم وجوہات کے بناء پر دوبارہ انکوائری سرسبز ہوئی جس میں سائل پر الزام ثابت نہ ہو کر انکوائری افسر نے سائل کو تبدیل کرنے کی سفارش کی لیکن DPO صاحب سوات نے سائل کو نگلے سے برخواست کیا۔

سائل ایک غریب گھرانے سے تعلق رکھتا ہے۔ وسیع خاندان کا واحد کفیل اور کشیدہ حالات کے دوران محکمہ پولیس نے خدمت کیا ہے جبکہ آکر وہ گناہ کے الزام میں ایک سال بعد کی طرف طور پر برخواست کیا گیا ہے۔ لہذا بذریعہ درخواست استدعا ہے کہ سائل کے بے گناہی عرصہ ملازمت اور چھوٹے بچوں پر رحم فرما کر محکمہ پولیس میں ملازمت بحال کرنے کا حکم صادر فرمایا جائے۔ تو سائل تاجیات دعا گو ہے گا۔

العارض

آپ کا تاجدار

سید علی خان سابقہ کنشیل نمبر 2080

ساکن اسلام پور، تھانہ سید و شریف، ضلع سوات

شناختی کارڈ نمبر: 3-15602-2744109

موبائل نمبر 0342-8214480

سید احمد

18/5/09
SHABIR AHMAD KHAN
(Dawlati Kheal)
Advocate High Court
& Federal Shariat Court



OFFICE OF THE
REGIONAL POLICE OFFICER, MALAKAND

AT SAIDU SHARIF SWAT.

Ph: 0946-9240381-88 & Fax No. 0946-9240390

Email: digmalakand@yahoo.com

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547
16/11/19
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ORDER:

This order will dispose off appeal of Ex-Constable Said Ali No. 2080 (Special Police Officer) of Swat District for reinstatement in service.

Brief facts of the case are that Constable Said Ali No. 2080 while deputed for physical checking of NCP vehicle was alleged of gross misconduct as he had declared cut and weld vehicle fit and allotted NCP documentation number fraudulently. Consequently he was issued Show Cause Notice coupled with statement of allegations and SDPO/ Saidu Circle was appointed as Enquiry Officer. The enquiry officer after conducting proper departmental enquiry and recording statements of all concerned officers, the enquiry officer submitted his finding recommending the delinquent Constable for major punishment. Being found guilty of charges leveled against him delinquent Constable was awarded punishment of removal from service by District Police Officer, Swat vide his office OB No.195 dated 03/12/2018.

He was called in Orderly Room on 02/01/2019 and heard him in person. The appellant could not produce any cogent reason in his defense. Therefore, his appeal for reinstatement in service is hereby filed.

Order announced.

(MULHAMMAD SAEED), PSP
Regional Police Officer,
Malakand, at Saidu Sharif Swat
"Saidu"
3/01

No. 529 /E,

Dated 10-01 /2019.

Copy to District Police Officer, Swat for information and necessary action with reference to his office Memo: No. 23042/E, dated 19/12/2018.

PPs attached
D

OSI/EC

To: District Police Officer, Swat

[Handwritten signature]

Attested

AEC
Make entry in
his Bill and
then do it, sent
to FMC
24/11/19

No. 1521 /E,
CU-24-1-12/19

copy to the applicant accordingly

18/11/19
SHABIR AHMAD KHAN
Advocate High Court
& Federal Shariat C



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. SI/1593

dated Peshawar the 07/05/2019

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Ex-Constable Said Ali No. 2080. The

petitioner was removed from service by District Police Officer, Swat vide OB No. 195, dated 03.12.2018 on the allegations that he while deputed for physical checking of NCP vehicles was alleged of gross misconduct as he had declared cut and weld vehicle fit and allotted NCP documentation number fraudulently. His appeal was filed by Regional Police Officer, Malakand at Swat vide order Fdsst No. 529/A, dated 10.01.2019.

Meeting of Appellate Board was held on 08.04.2019 wherein petitioner was heard in person. During hearing petitioner contended that he has not taken any money but he had declared cut and weld vehicle fit due to mistake.

Petitioner remained posted at this point for more than one year. He was well experienced to check the vehicles. However, with naked eyes, he could not find the cut and weld point. He was punished over negligence. It was alleged that he had received money to declare this vehicle fit. During his 08 years & 08 months service, he has received 28 bad entries. His service is not neat and clean. Therefore, as recommended by the Board his petition is hereby rejected.

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

(SADIQ BALOCH) DSP
AIG/Establishment
For Inspector General of Police
Khyber Pakhtunkhwa
Peshawar.

No. SI/1594-1600/19.

Copy of the above is forwarded to the:

1. Regional Police Officer, Malakand at Swat, Service Roll and Faqfi Missal containing Departmental enquiry file of the above named Ex-F.C received vide your office Memo No. 3754-55/A, dated 22.03.2019 is returned herewith for your office record.
2. District Police Officer, Swat.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/IGPs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/IGPs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: B-IV CPO Peshawar.

Advocate High Court
& Federal Shariat Court
SHABIR AHMAD KHAN
(Dawlat Uddin)

18/5/19
Signature

For Michael M.L.

EC/08

✓



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(17)

Amir
H

Handwritten text in Urdu, likely a legal document or court order, mentioning various details and possibly a date.

Handwritten text in Urdu, including a list of numbers: 237, 290, 419, 420, 468, 471. The text appears to be a detailed account or record.

Handwritten text in Urdu, possibly a signature or a concluding statement, with some numbers like 0334-691835.

SHABIR AHMAD KHAN
(Dawlat Zhai)
Advocate High Court
& Federal Shariat Cou

Better Copy Page No.

بیان ازاں صاحب زمان

مسمی صاحب زمان ولد تورخان سکنہ باغ کوکاری نے بذریعہ پولیس بیان کیا کہ میرا ایک NCP سوزوکی تھی جس کو کے لئے نمبر بائی پاس لے جا کر وہاں پر آری حکام کیساتھ اہلکار سید علی، میرے سوزوکی کو چیک کرنے درست قرار دئے اور میری گاڑی کو AB-4911 نمبر الاٹ ہو چکا تھا بعد میں کسی نے میرے خلاف جناب DPO صاحب کو شکایت کی اور ظہور IHC تھانہ کوکاری، ضلع سوات نے میرے گاڑی سوزوکی کا دوبارہ معائنہ کرا کر کٹ اینڈ ویلڈ یڈ ثابت کر کے میرے خلاف تھانہ کوکاری میں مقدمہ عدالت نمبر 07 مورخہ 12/01/2018 جرم PPC-471, 468, 420, 419, 290, 287 درج رجسٹر کیا۔ کنٹیبل سید علی نے مجھ سے کسی قسم کی لالچ یا رقم کا مطالبہ نہیں کیا ہے۔ میں اب بھی یقین رکھتا ہوں کہ میرا سوزوکی اب بھی کٹ نہیں ہے یہی میرا بیان ہے۔

نوٹ: میرے گاڑی کو دو ڈوڈ نیٹر نے بدیتی سے کٹ ثابت کیا ہے جس میں کیس زیر سماعت ہے۔

العبد و مستخظ اردو نشان انگشت

(Handwritten signature)

مسمی صاحب زمان ولد تورخان سکنہ باغ کوکاری

0334-5697835

(Handwritten signature)

18/5/2019
 SHABIR AHMAD KHAN
 (Dawlat khel)
 Advocate High Court
 & Federal Shariat Court

19

BEFORE THE SERVICE TRIBUNAL KHAYBER PUKHTUNKHWA
AT PESHAWAR

WAKALAT NAMA

Case No: _____ of 2019

TITLE:-

Said Ali

VERSUS

I.G.P and others.

I/we do hereby appoint **SHABIR AHMAD KHAN (DAWLATKHEL)** Advocate High Court in the above mentioned case, to do all or any of the following acts, deeds and things:

1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard, and any other proceedings arising out of or connected therewith.
2. To sign and verify and file, petitions, appeals, affidavits and applications as may be deemed necessary or advisable by them for the conduct, prosecution or defense of the said case at all its stages.
3. To receive payment of, and issue receipts for, all money that may be or become due and payable to us during the course of the proceedings.
4. To do any act necessary or ancillary to the above acts, deed and things.
5. To appoint any other counsel to do any/all of the acts, dee and things.
6. I/We, shall appear in the court/tribunal on every date of hearing for assistance and if due to my/our non-appearance, any adverse judgment/order/decree is passed, they will not be held responsible.

IN WITNESS whereof I/we have signed this **Wakalat Nama** hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____

Said Ali (appellant)

Attested and Accepted by:



SHABIR AHMAD KHAN (DAWLATKHEL)
Advocate High Court.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 656/2018

Said Ali S/O Ahmed Mukhtyar resident of Shagai Saidu Sharif Tehsil Babozai,
District Swat (Ex- Constable B. No.2080).

..... Appellant

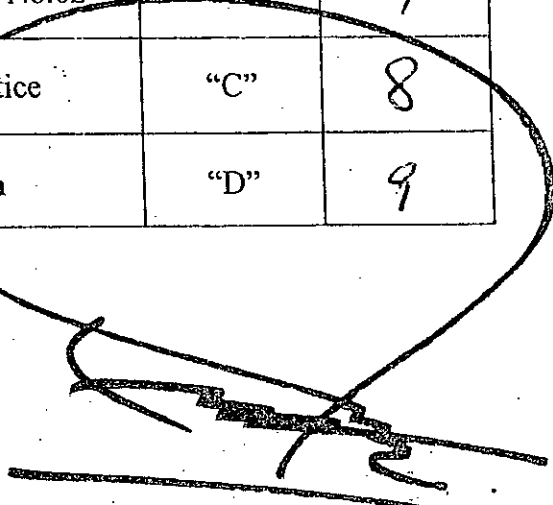
VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer Malakand at Saidu Sharif Swat.
3. District Police Officer Swat.

..... Respondents

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S.No:	Description of Documents	Annexure	Page
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2	Affidavit	-	4
3	Authority Letter	-	5
4	Copy of list of punishment	"A"	6
5	Copy of Order of respondent No.02	"B"	7
6	Copy of Show Cause Notice	"C"	8
7	Copy of report challan	"D"	9


District Police Officer, Swat
(Respondent No. 3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 656/2018

Said Ali S/O Ahmed Mukhtyar resident of Shagai Saidu Sharif Tehsil Babozai,
District Swat (Ex- Constable B. No.2080).

..... Appellant

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer Malakand at Saidu Sharif Swat.
3. District Police Officer Swat.

..... Respondents

PARAWISE REPLY BY RESPONDENTS

Respectfully Sheweth,

PRELIMINARY OBJECTIONS.

1. That the appeal is badly barred by Law & limitation.
2. That the appellant has got no Cause of action and locus standi to file the present appeal.
3. That the appeal is bad due to misjoinder and nonjoinder of necessary parties.
4. That the appellant has not come to the Tribunal with clean hands.
5. That the instant appeal is not maintainable in its present form.
6. That the appellant has concealed the material facts from this Hon'ble Tribunal.

FACTS:

1. Correct to the extent that the appellant was enlisted as Constable in 2009 in Police Department, however the remaining para is incorrect as he has been awarded 24 minor punishments during service. List enclosed as annexure- "A".
2. Pertain to record, hence needs no comments.
3. Correct to the extent that Show Cause Notice followed by Charge Sheet was issued to the appellant but the reply to the Show Cause Notice was found unsatisfactory, however the remaining para is incorrect as all the relevant documents for filing of departmental/service appeals were provided to the appellant which is evident from the service appeal and annexures.
4. Incorrect. DSP, Circle Saidu Sharif vide finding report No.651 dated 24/09/2018 has specifically explained in second last para of the finding report that the appellant has issued documentation number to the vehicle which was cut and weld and the appellant was found responsible for the alleged misconduct. Furthermore, local Police of Police Station Kokari has registered

(2)

FIR No.07 dated 12/01/2018 U/S 419/420/468/471 PPC regarding the vehicle in question. During course of enquiry statements of material witnesses and the appellant were recorded and all the opportunities of self defence were provided to the appellant and on the basis of true charges he was awarded appropriate punishment under the rules.

5. Incorrect. Departmental appeal of appellant was thoroughly examined and the appellant was heard in orderly room on 02/01/2019 and thereafter respondent No.02 passed appropriate order under the rule. Copy is enclosed as annexure "B".
6. Pertains to record, second departmental appeal has no legal value under Khyber Pakhtunkhwa Service Tribunal Act-1974.
7. Incorrect. All the opportunities of self defense and personal hearing were provided to the appellant during course of departmental probe and competent authorities have passed legal orders in accordance with facts and rules.
8. Copies of public documents have been provided to the appellant and on the basis of which the appellant has filed departmental as well as the service appeal. Furthermore, the appellant has unlawfully assailed the valid/legal orders of the respondents before this honorable tribunal.

GROUND:

- a. Incorrect. Owner of the vehicle has admitted in his statement that his vehicle was checked by the appellant and declared cleared, but subsequently was checked by Zahoor Rahman IHC and found cut and welded and FIR No. 07 dated 12/01/2018 U/S 419/420/468/471 PPC was registered against the said owner in Police Station Kokari.
- b. It has been proved from the departmental enquiry as well as from FIR No.01 that the appellant has dishonestly issued documentation number to a cut and weld vehicle.
- c. Incorrect. Appellant has been treated in accordance with law/rules and the respondents have never violated any right of the appellant during course of departmental probe.
- d. Incorrect. The allegations were proved/established from the departmental probe as well as from the criminal case investigation. Copy of report/challan 173 Cr.P.C is enclosed as annexure "C"
- e. Incorrect. Proper departmental enquiry through competent enquiry officer was conducted, wherein all the opportunities of self defence and personal hearing

- were provided to the appellant, furthermore investigation in FIR No.07 dated 12/01/2018 Police Station Kokari fully connect the appellant with the charges.
- f. Incorrect. The orders of the respondents are based on facts, well reasonable, and accordance with law/rules.
 - g. That other grounds not specifically answered in the reply, will be agitated with the permission of honorable Tribunal at the time of arguments.

PRAYER:

Keeping in views the above facts and circumstances, it is humbly prayed that the appeal of appellant being devoid of legal force may kindly be dismissed with costs.

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

[Signature]
**Regional Police Officer,
 Malakand Region
 (Respondent No. 2)**

[Signature]
**District Police Officer Swat
 (Respondent No. 3)**

(4)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 656/2018

Said Ali S/O Ahmed Mukhtyar resident of Shagai Saidu Sharif Tehsil Babozai,
District Swat (Ex- Constable B. No.2080).

..... Appellant

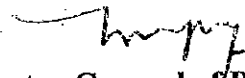
VERSUS

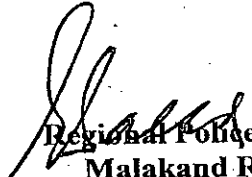
1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer Malakand at Saidu Sharif Swat.
3. District Police Officer Swat.

..... Respondents

AFFIDAVIT

We, the above respondents do hereby solemnly affirm on oath and declare that the contents of the appeal are correct/true to the best of our knowledge/ belief and nothing has been kept secret from the honorable Tribunal.


**Inspector General of Police
Khyber Pakhtunkhwa Peshawar
(Respondents No.1)**


**Regional Police Officer
Malakand Region
(Respondents No.2)**


**District Police Officer, Swat
(Respondents No.3)**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

5

Service Appeal No. 656/2018

Said Ali S/O Ahmed Mukhtyar resident of Shagai Saidu Sharif Tehsil Babozai,
District Swat (Ex- Constable B. No.2080).

..... Appellant


VERSUS


1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer Malakand at Saidu Sharif Swat.
3. District Police Officer Swat.

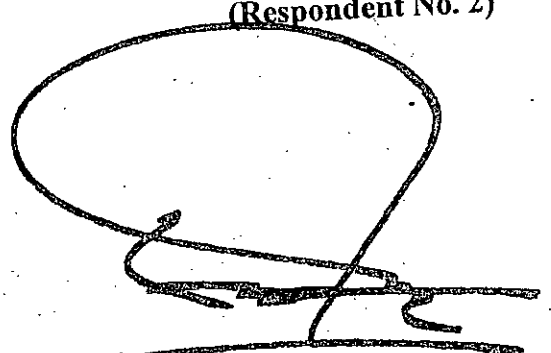
..... Respondents

AUTHORITY LETTER

We, the above respondents do hereby authorize Mr. Mir Faraz Khan DSP/Legal & Mr. Khawas Khan SI Legal to appear before the Tribunal on our behalf and submit reply etc in connection with titled Service Appeal.


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


Regional Police Officer
Malakand Region
(Respondent No. 2)


District Police Officer Swat
(Respondent No. 3)

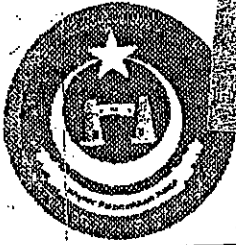
Amer "A"

6

Bad Entries/Minor Punishment detail of Head Constable Said Ali
Swat Police

Sr.No	Misconduct	Nature of punishment
01	Absented from duty w.e.f 16/11/2010 to 22/11/2010	Without pay
02	24/08/2011 to 25/08/2011	Without pay
03	09/01/2013 to 10/01/2013	Without pay
04	08/01/2013 to 19/01/2013	Without pay
05	09/01/2013 to 10/01/2013	Without pay
06	08/07/2012 to 09/07/2013	Without pay
07	28/04/2012 to 29/04/2013	Without pay
08	17/04/2014 found without jacket	03 days quarter guard
09	14/06/2014 to 17/06/2014	Without pay
10	11/10/2014 to 16/10/2014	Without pay
11	26/12/2014 to 30/12/2014	Without pay
12	22/07/2015 to 27/07/2015	Without pay
13	19/09/2015 to 22/09/2015	Without pay
14	30/08/2015 to 01/09/2015	Without pay
15	18/06/2015 to 29/06/2015	Without pay
16	28/04/2015 to 02/05/2015	Without pay
17	02/09/2015 to 08/04/2015	Without pay
18	19/03/2015 to 27/03/2015	Without pay
19	22/02/2015 to 23/02/2015	Without pay
20	18/06/2015 to 19/06/2015	Without pay
21	07/06/2015 to 09/06/2015	Without pay
22	07/08/2014 to 11/08/2014	Without pay
23	26/02/2016 to 11/03/2016	Without pay
24	27/10/2015 to 29/10/2015	Without pay





Amex 2 B

OFFICE OF THE
REGIONAL POLICE OFFICER, MALAKAND

AT SAIDU SHARIF SWAT.

Ph: 0946-9240381-88 & Fax No. 0946-9240390

Email: digmalakand@yahoo.com

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16.1.18
Date
at Saidu Sharif

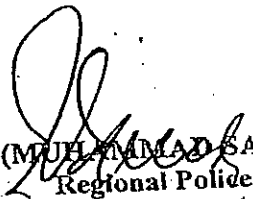
ORDER:

This order will dispose off appeal of Ex-Constable Said Ali No. 2080 (Special Police Officer) of Swat District for reinstatement in service.

Brief facts of the case are that Constable Said Ali No. 2080 while deputed for physical checking of NCP vehicle was alleged of gross misconduct as he had declared cut and weld vehicle fit and allotted NCP documentation number fraudulently. Consequently he was issued Show Cause Notice coupled with statement of allegations and SDPO/ Saidu Circle was appointed as Enquiry Officer. The enquiry officer after conducting proper departmental enquiry and recording statements of all concerned officers, the enquiry officer submitted his finding recommending the delinquent Constable for major punishment. Being found guilty of charges leveled against him delinquent Constable was awarded punishment of removal from service by District Police Officer, Swat vide his office OB No.195 dated 03/12/2018.

He was called in Orderly Room on 02/01/2019 and heard him in person. The appellant could not produce any cogent reason in his defense. Therefore, his appeal for reinstatement in service is hereby filed.

Order announced.


(MUHAMMAD SAEED), PSP
Regional Police Officer,
Malakand, at Saidu Sharif Swat
Saeed
3/01

No. 529 /E,

Dated 10-01-2019.

Copy to District Police Officer, Swat for information and necessary action with reference to his office Memo: No. 23042/E, dated 19/12/2018.

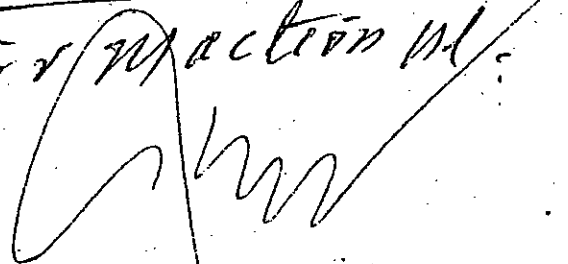
PPs attached
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SPT

AFC
Make entry in
this Bill and
Rem doct, sent
to FMC
24/1/19

OSI / EC

To r/ action M.



15/1/19

No 1521 /E,
dt. 24-1-2019

copy to the applicant accordingly

Amer "C" (8)

OFFICE OF THE DISTRICT POLICE OFFICER, SWAT.

No. 75 /PA, Dated Gulkada the 06-02-2018

SHOW CAUSE NOTICE.

(Under Rule 5 (3) K.P.K Police Rules, 1975)

1. You Constable Said Ali No. 2080 while posted at Documentation Center as denter have rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunkhwa Police Rules 1975 for following misconduct/s;

Whereas, a Suzuki vehicle was issued documentation No. AB-1149 after declared clear by you. You conducted the physical examination of the vehicle and declared it clear despite the fact that the vehicle was cut at frame and the weld signs were clearly visible. The vehicle, on suspicion was again subjected to physical examination which identify the vehicle to be cut. You have concealed the facts which tantamount to gross misconduct. Thus issued show cause notice.

That by reason of above, as sufficient material is placed before the undersigned, therefore, it is decided to proceed against you in general Police proceeding without aid of enquiry officer;

2. That the misconduct on your part is prejudicial to good order of discipline in the Police force;
3. that your retention in the Police force will amount to encourage in efficient and unbecoming of good Police officer;
4. That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action against you by awarding one or more of the kind punishments as provided in the rules.
5. You are, therefore, called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 for the misconduct referred to above.
6. You should submit reply to this show cause notice with 07 days of the receipt of the notice failing which an ex parte action shall be taken against you.
7. You are further directed to inform the undersigned that you wish to be heard in person or not.
8. Grounds of action are also enclosed with this notice.


District Police Officer, Swat

Received by _____

Dated _____/2018.

محکمہ تعلیم، گوجرانوگر

صفحہ ۲
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دعا علیہ عبدالعزیز

۲۲۷، District Public Schools, District Quikada, ۴۶۲-۴۶۱

۶۰۷، ۵۶۱، ۱۲، ۱۲، ۱۲

تفصیل کوائف	سن		مقام
	تعمیر	تعمیر	
<p>۱۔ ڈی ایچ ایف، گوجرانوگر</p> <p>۲۔ ڈی ایچ ایف، گوجرانوگر</p> <p>۳۔ ڈی ایچ ایف، گوجرانوگر</p> <p>۴۔ ڈی ایچ ایف، گوجرانوگر</p> <p>۵۔ ڈی ایچ ایف، گوجرانوگر</p> <p>۶۔ ڈی ایچ ایف، گوجرانوگر</p> <p>۷۔ ڈی ایچ ایف، گوجرانوگر</p> <p>۸۔ ڈی ایچ ایف، گوجرانوگر</p> <p>۹۔ ڈی ایچ ایف، گوجرانوگر</p> <p>۱۰۔ ڈی ایچ ایف، گوجرانوگر</p>	<p>۱۹۶۹</p> <p>۱۹۷۰</p> <p>۱۹۷۱</p> <p>۱۹۷۲</p> <p>۱۹۷۳</p> <p>۱۹۷۴</p> <p>۱۹۷۵</p> <p>۱۹۷۶</p> <p>۱۹۷۷</p> <p>۱۹۷۸</p> <p>۱۹۷۹</p>	<p>گوجرانوگر</p> <p>گوجرانوگر</p> <p>گوجرانوگر</p> <p>گوجرانوگر</p> <p>گوجرانوگر</p> <p>گوجرانوگر</p> <p>گوجرانوگر</p> <p>گوجرانوگر</p> <p>گوجرانوگر</p> <p>گوجرانوگر</p>	

۱۱۶، گوجرانوگر

Handwritten notes and signatures in the right margin.