BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.251/2018

Date of Institution ... 22.02.2018
Date of Decision ... 18.09.2020

Shah Daoran Sub Inspector Police Department presently posted at District Hangu Khyber Pakhtunkhwa.

... (Appellant)

VERSUS

1. Inspector General of Police Khyber Pakhtunkhwa and (04) Others.

... (Respondents)

Miss. Naila Jan,
Advocate ... For appellant.

Mr. Muhammad Jan,
Deputy District Attorney ... For respondents.

MRS. ROZINA REHMAN ... MEMBER (J)
MR. ATIQ-UR-REHMAN WAZIR ... MEMBER (E)

18/9/20

JUDGMENT

ROZINA REHMAN, MEMBER : Through the instant service appeal the appellant Shah Daoran Sub Inspector impugns the order dated 27.10.2017 vide which adverse remarks were communicated to him and order dated 08.03.2018 vide which his departmental appeal was rejected.

2. Learned counsel for appellant submitted that according to the instructions on PER, it is mandatory to issue specific warning/counseling before recording the baleful remarks in the ACR of the relevant year. He contended that before resorting to the baleful/adverse remarks in the ACR/PER, counseling has been held mandatory by the superior courts. He contended that neither verbal nor in writing any counseling was issued to the appellant by the reporting officer before recording adverse remarks in the ACR/PER of the appellant.

3. Conversely, learned DDA contended that the appellant was treated in accordance with rules and he was afforded ample opportunities not only by the reporting officer but also by the appellate authority. He contended that the appellant was consulted and dealt with departmentally. He was directed time and again to improve himself and mend his way but he failed to do so which resulted in adverse remarks in the ACR for the year 2016.

4. Perusal of record would reveal that a detailed report showing remarks/ACR entries in respect of the present appellant was produced which shows that he earned Grade-A right from 26.04.2004 to 10.05.2016 and it was from 27.07.2016 to 31.12.2016, when he was granted Grade-C with remarks that:

> "The performance of the officer during period under report was found below average. He is not taking interest in official duty, need to mend his way in future."

18/9/20

5. From the record, it is evident that his performance was good and he was appreciated by his seniors time and again. Some of his ACRs are available on file, which shows that he was mentioned to be a professional and hard working police officer. He was declared fit for promotion. He was

also awarded certificates in recognition of his outstanding performance as well as for good performance during search operation in District Kohat. Besides, other certificates were also awarded for his good performance. Commendation Certificate was also awarded to the appellant by D.I.G of Kohat Region. As per rules, before recording unfavorable remarks in the ACR/PER of a particular year of officer under report, proper counseling has to be ensured. Learned DDA was unable to show that any counseling was given to the appellant during the year 2016 (from 27.07.2016 to 31.12.2016). He was awarded Grade-A and that too, in the year 2016 from 01.01.2016 to 10.05.2016. As such, the appellant succeeded to make out a case for expunction of baleful and adverse remarks in the ACRs pertaining to the year 2016.

6. In view of the above, the present service appeal is accepted and the adverse remarks recorded in the ACR/PER for the year 2016 of the appellant are expunged. No order as to costs. File be consigned to the record room.

ANNOUNCED.
18.09.2020

(Rozina Rehman)
Member (J)

(Attiq ur Rehman Wazir)
Member (E)

18.09.2020 Appellant with counsel present.

Mr. Muhammad Jan learned Deputy District Attorney alongwith Zahid ur Rehman Inspector for respondents present.

Vide detailed judgment of today of this Tribunal placed on file, the present service appeal is accepted and the adverse remarks recorded in the ACR/PER for the year 2016 of the appellant are expunged. No order as to costs. File be consigned to the record room.

ANNOUNCED.
18.09.2020

(Atiq-ur-Rehman Wazir)
Member (E)

(Rozina Rehman)
Member (J)

10.07.2020 Due to COVID-19, the case is adjourned to 04.09.2020 for the same.

Reader

04.09.2020 Appellant with counsel present.

Mr. Muhammad Jan learned Deputy District Attorney alongwith Zahid ur Rehman Inspector for respondents present.

Arguments heard. To come up order on 18.09.2020 before D.B.

(Attiq ur Rehman)
Member (E)

(Rozina Rehman)
Member (J)

12.02.2020 Learned counsel for the appellant present. Mr. Usman Ghani learned District Attorney alongwith Mr. Aamir Hussain ASI for the respondents present. Representative of the respondents department submitted written reply which is placed on file. Adjourned. To come up for arguments on 24.02.2020 before D.B.

(Hussain Shah)
Member

(M. Amin Khan Kundi)
Member

24-2-20 The Bench is incomplete, Therefor case is adjurned to 30-3-2020

Reader

01.04.2020 Due to public holiday on account of COVID-19, the case is adjourned to 09.06.2020 for same as before.

Reader

9.06.2020 Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present.

Respondents are directed to prepare the index of Performance Evaluation Reports of the appellant and submit the same on or before the next date of hearing. Adjourned to 10.07.2020 for record before D.B.

(Mian Muhammad)
Member

(M. Amin Khan Kundi)
Member

11.10.2019 Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Mr. Ghulam Murtaza, Inspector (Legal) for the respondents present. Learned counsel for the appellant submitted amended appeal which is placed on record. Case to come up for reply on amended appeal on 14.11.2019 before D.B.

(HUSSAIN SHAH)
MEMBER

(M. AMIN KHAN KUNDI)
MEMBER

11.11.2019 Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Ghulam Murtaza, Inspector (Legal) for the respondents present. A copy of amended appeal was handed over to the learned Additional AG. Case to come up for reply on amended appeal on 13.12.2019 before D.B.

(Ahmad Hassan)
Member

(M. Amin Khan Kundi)
Member

13.12.2019 Clerk to counsel for the appellant present. Addl: AG alongwith Mr. Amir Hussain, PSI for respondents present. Appellant seeks adjournment due to general strike of the bar. Adjourned. Case to come up for arguments on 12.02.2020 before D.B.

Member

Member

25.07.2019 Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Amir Hussain, PASI for the respondents present. It was pointed out by the learned Deputy District Attorney that the departmental appeal of the appellant has been rejected by the departmental authority vide order dated 08.03.2018 after the institution of present service appeal but the same has not been challenged by the appellant through Service Appeal.

Record also reveals that the departmental appeal was filed by the appellant against the impugned adverse remarks but the same was not responded within the statutory period of 90 days by the departmental authority therefore, the appellant filed the present service appeal. However, after statutory period and institution of service appeal, the departmental authority has decided the departmental appeal of the appellant on 08.03.2018 therefore, the appellant is directed to challenge the said departmental authority order dated 08.03.2018 through amendment in appeal. Case to come up for amended appeal on 05.09.2019 before D.B.

(Hussain Shah)
Member

(M. Amin Khan Kundi)
Member

05.09.2019 Learned counsel for the appellant present. Mr. Usman Ghani learned District Attorney alongwith Mr. Ghulam Murtaza Inspector for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for further proceedings on 11.10.2019 before D.B.

(Hussain Shah)
Member

(M. Amin Khan Kundi)
Member

14.03.2019 Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Mahabat Khan, S.I for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 18.04.2019 before D.B.

(M. AMIN KHAN KUNDI)
MEMBER

(M. HAMID MUGHAL)
MEMBER

18.04.2019 Appellant in person present. Mr. Muhammad Jan learned Deputy District Attorney alongwith Mr. Gul Zad ASI for the respondents present. Due to general strike of the bar council learned counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 13.06.2019 before D.B.

(Hussain Shah)
Member

(M. Amin Khan Kundi)
Member

13.06.2019 Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Tasawar Hussain, PASI for the respondents present. Learned Deputy District Attorney informed the court that as per para-12 of the reply of respondents, the departmental appeal of the appellant has been rejected by the departmental authority but the same is not available on the record. Therefore, representative of the department is directed to furnish the same positively on the next date. Adjourned to 25.07.219 for record and arguments before D.B.

(Ahmad Hassan)
Member

(M. Amin Khan Kundi)
Member

06.11.2018 Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 23.11.2018. Written reply received on behalf of respondents by Sheraz H.C and placed on file.

READER

23.11.2018 Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney for the respondents present. Learned counsel for the appellant submitted rejoinder, which is placed on file and also requested for adjournment. Adjourn. To come up for arguments on 07.01.2019 before D.B.

Member Member

07.01.2019 Appellant with counsel and Mr. Muhammad Jan learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 21.02.2019 before D.B.

Member Member

21.02.2019 Learned counsel for the appellant and Mr. Usman Ghani learned District Attorney along with Mr. Amir Hussain ASI for the respondents present. Learned counsel for the appellant request for adjournment. Adjourned to 14.03.2019 before D.B

Member Chairman

30.04.2018 None present on behalf of appellant. Learned Addl: AG for the respondents present. The Tribunal is non functional due to retirement of the Honorable Chairman. Therefore, the case is adjourned. To come up for the same on **27.06.2018** before S.B.

Reader

27.06.2018 Counsel for the appellant and Muhammad Jan, DDA for the respondents present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 01.08.2018 before S.B.

Member

01.08.2018 Miss. Naila Jan, Advocate counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present. Written reply not submitted. The latter requested for adjournment. Granted. To come up for written reply/comments on 12.09.2018 before S.B.

Chairman

11.09.2018 Since 12th September 2018 has been declared as public holiday, by the Provincial Government on account of 1st Mukharram-ul-Haram, therefore the case is adjourned to 06.11.2018 for reply before S.B.

Chairman

Form-A

FORMOF ORDERSHEET

Court of _____

Case No. **251/2018**

S.No.	Date of order proceedings	Order or other proceedings with **signature** of judge
1	2	3
1	22/02/2018	The appeal of Mr. Shah Dauran presented today by Naila Jan Advocate may be entered in the Institution Register and put up to Worthy Chairman for proper order please. REGISTRAR
2-	26/02/18.	This case is entrusted to S. Bench for preliminary hearing to be put up there on 12/03/18. CHAIRMAN
12.03.2018		Learned counsel for the appellant present. Preliminary arguments heard. The appellant has filed the present service appeal against the adverse remarks as reflected in the ACR for the period from 27.07.2016 to 31.12.2016. The appellant also filed representation against the adverse remarks which was not replied. Points raised need consideration. Admitted for regular hearing subject to all just/legal objections. The appellant is directed to deposit process fees and security within 10 days, thereafter notice be issued to respondents for written reply/comments on 30.04.2018 before S.B Appellant Deposited Security & Process Fee (Muhammad Hamid Mughal) Member

BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

Amended Appeal No. _____/2019

Shah Dauran Sub inspector Police Department presently posted at District Hangu Khyber Pakhtunkhwa.

----------*(Appellant)*

VERSUS

1. Inspector General of Police Khyber Pakhtunkhwa regional Police officer Kohat
2. Deputy Inspector General of Police Kohat Regional.
3. Regional Police Officer Kohat Region.
4. District Police Officer Karak.
5. District Police Officer Hangu.

----------*(Respondents).*

APPEAL U/S 4 OF KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT -1974 AGAINST THE ADVERSE REMARKS FOR THE PERIOD W.E.F 27-07-2016 TO 31-12-2016 COMMUNICATED ON 27-10-2017 AND REJECTION ORDER DATED 08/03/2018 NON DISPOSAL OF THE DEPARTMENTAL APPEAL DATED 14-11-2017.

PRAYER IN APPEAL:-

ON ACCEPTANCE OF THIS SERVICE APPEAL THE IMPUGNED ADVERSE

Amended
Service
Appeal

REMARKS IN THE ACR FOR THE PERIOD WITH EFFECT FROM 27-07-2016 TO 31-12-2016 AND IMPUGNED ORDER DATED 08/03/2018 MAY KINDLY BE SET ASIDE BEING ILLEGAL AGAINST THE FACTS, RULES NOT APPLICABLE TO THE RIGHTS OF APPELLANT.

Respectfully Sheweth;

Appellant submits as under

1. That the appellant was enrolled as Constable in Police Department in the year 23-08-1987 due to his good performance promoted step wise now working as SI/SHO in Police Station City, Hangu.

2. That the appellant was posted as SHO in different Police Stations in District Kohat during which his performance was remarkable and also enjoy the confidence of the then of high-ups, all his "A" ACRs and several certificates with OB No. 1393 dated 28.06.1988, OB No. 1094 dated 31.05.1998,

OB No. 1109 dated 23.05.1989 and so on from DPOs District Kohat.

3. That the appellant is also awarded by worthy Inspector General of Police, Khyber Pakhtunkhwa Peshawar with certificate for his good performance.

4. That the appellant was transferred from District Kohat to District Karak in year 2016.

5. That the appellant during his posting in District Karak avail a number of official secret and confidential task assigned to him.

6. That ultimately the appellant was posted as SHO P.S Karak. During the SHOship the appellant achieved several achieved several important goal as a resulted, he was awarded with CC-III Certificates and cash reward Rs. 500/- OB No. 761 dated 09-12-2019, by the then DPO Karak and was also awarded with cash prize Rs. 3000/- and C-I Certificate.

7. That after some time misunderstanding were developed between the appellant and the then DPO Karak.

8. That the appellant a number of times directly and indirectly tried to remove the said misunderstanding but all in vain, even the appellant's apology get no mass.

9. The enquiries base at bias as initiated against the appellant which resulted in compulsory retirement of the appellant from his service.

10. That the order of compulsory retirement from service being un-lawful and against the facts did not stand at the initial stages of appeal and was set aside resultantly, the appellant was re-instated in service.

11. That the appellant shocked to received the impugned adverse remarks in the ACR for the period w.e.f from 27-07-2016 to 31-12-2016 by the responding officer i.e. Respondent No. 4 and countersigning officer (Respondent

No. 3) which was communicated vide letter No. 345/CC dated 27-10-2017 which is against the law and rules. (Copy of the impugned remarks is as annexure "A").

12. That the appellant aggrieved from the impugned remarks filed Departmental appeal before Respondent No. 1 which was forwarded vide letter No.6328/PA dated: 14/11/2017 and was finally rejected by the Respondent No.1 vide order dated 08/03/2018, however the same was not communicated to the appellant and was communicated on 25/07/2019 during arguments, hence the appellant filling the instant amended appeal on the following grounds (Copies of departmental appeal and letter & final order are annexure "B, C & D").

GROUNDS:

A. That the impugned remarks are against the law rules and principle of natural justice.

B. That the appellant has not been provided any opportunity of personal hearing.

C. That no counseling, notice was provided before writing the impugned remarks. Hence the impugned remarks are liable to be expunch being contrary to law and rules.

D. That even No show cause Notice has ever been issued to the appellant nor did any complaint has ever been filed against the appellant by any one.

E. That the appellant has not been treated in accordance with Article 25 of the Constitution of Islamic Republic of Pak 1973.

F. That the performance and honesty of the appellant is evident from the recommendation certificate. Hence the remarks of both the reporting as well as counter signing officer are based on malafide and without justification and solid grounds.

G. That the impugned final order is non-speaking order as the same has been rejected without assigning any reason.

H. That the appellant well adduce other grounds during the course of arguments.

It is therefore requested that the appeal of the appellant may kindly be accepted as prayed for.

Dated: 11/10/2019.

Appellant

Through

Naila Jan
Advocate, High Court
Peshawar.

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

No. S/ 959-61 /18, Dated Peshawar the 08/03/2018.

To: The Regional Police Officer,
Kohat Region.

Subject:- REPRESENTATION

Memo:

Please refer to your office memo: No. 24/CC dated 26.02.2018 on the subject cited above.

A representation submitted by Sub-Inspector Shah Duran of Hangu district Police for the expunction of Adverse Remarks recorded in his ACR for the period from 27.07.2016 to 31.12.2016 has been examined and filed by the competent authority.

The Representationist may be informed accordingly.

Furthermore, Service Roll, Service Book, Fauji Missal and Character Roll Dossier in r/o SI Shah Duran received with your memo: under reference are also returned herewith for your office record.

Please ack: receipt.

Encl: As Above.

S/Roll – (1)
S/Book – (2)
F/Missal (1)
C.R Dossier (1)

(SYED ZIA ALI SHAH)
Registrar,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar

Endst: No. & Date even

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

1. District Police Officer, Hangu.
2. PA to DIG/HQrs: Khyber Pakhtunkhwa CPO.

NO 22 dt 13-3-018
DPO Hangu
N/action Pl.

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

No. S/959-61/18, Dated Peshawar the 08/03/2018.

To: The Regional Police Officer,
Kohat Region.

Subject:- REPRESENTATION

Memo:

Please refer to your office memo: No. 2147/CC dated 26.02.2018 on the subject cited above.

A representation submitted by Sub-Inspector Shah Duran of Hangu district Police for the expunction of Adverse Remarks recorded in his ACR for the period from 27.07.2016 to 31.12.2016 has been examined and filed by the competent authority.

The Representationist may be informed accordingly.

Furthermore, Service Roll, Service Books Fauji Missal and Character Roll Dossier in r/o SI Shah Duran received with your memo: under reference are also returned herewith for your office record.

Please ack: receipt.

Encl: As Above.
S/Roll – (1)
S/Book – (2)
F/Missal (1)
C.R Dossier (1)

(SYED ZIA ALI SHAH)
Registrar,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar

Endst: No. & Date even

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

1. District Police Officer, Hangu.
2. PA to DIG/HQrs: Khyber Pakhtunkhwa CPO.

NO 22 dt 13-3-018
DPO Hangu p/
N/action pl.

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service appeal No. 251//2018

SI Shah Doran ... Appellant

VERSUS

Provincial Police Officer,
Khyber Pakhtunkhwa & Others ... Respondents

INDEX

S.NO	DESCRIPTION	ANNEXURE	PAGE NO.
1.	Para wise comments/reply	-	1-2
2.	Punishment order of compulsory retirement awarded by respondent No. 04	A	3-7
3.	Affidavit	-	8

Respondents
Through Representative

District Police Officer
Karak

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA,
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 251/2018

Shah Doran SI .... (Appellant)

Versus

Provincial Police Officer,
Khyber Pakhtunkhwa & others .... (Respondents)

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

Respectfully Sheweth: -

Para wise comments on behalf of Respondent are submitted as under:-

Preliminary Objections:

a. That the appellant has got no cause of action.
b. That the appellant has got no locus standi.
c. That the appeal is not maintainable in the present form.
d. That the appeal is not maintainable for misjoinder and non-misjoinder of parties
e. That the appellant is stopped to file the instant appeal for his own act.
f. That the appellant has not come with clean hands to this Honorable Tribunal.
g. That the appeal is time barred.

FACTS

1. Pertains to record hence no comments.
2. Pertains to record hence no comments.
3. Irrelevant, hence no comments.
4. Pertains to record hence no comments.
5. Being member of disciplined department the appellant is under obligation to perform his duty in accordance with law, rules and lawful orders of the competent authority / his superiors.
6. Reply is submitted in Para No. 5, however, it is submitted that award and punishment in Police department run side by side.
7. Incorrect, it is illogical that a senior Police Officer, who was immediate commander of the appellant, had any misunderstanding.
8. This Para is irrelevant and has no cogent evidence / reason.
9. Incorrect, the appellant was proceeded with departmentally for his professional misconduct and a punishment of compulsory retirement from service was awarded by respondent No. 4, for misconduct proved against him. Copy of order is annexure A.
10. Pertains to record hence no comments.
11. The respondent No. 4 was immediate commander of the appellant, who on observation of conduct of the appellant and in exercise of powers conferred upon him under ACR rules reported adverse remarks in the ACR, which was correctly countersigned by respondent No. (2/3)DIG/RPO.
12. Departmental representation against the adverse remarks in ACR of the appellant was examined by respondent No. 1 correctly filed.

GROUNDS

a. Incorrect, the adverse remarks in ACR of the appellant was passed by respondent No. 4 in according to rules.
b. Incorrect.
c. Incorrect, the appellant was consulted and informed accordingly.
d. Incorrect, the appellant was called by respondent No. 4, informed and heard in person.

e. Incorrect, the appellant was proceeded in accordance with ACR rules.

f. Incorrect, the service record of the appellant is in different.

g. Incorrect, a leagal order was passed by respondent No. 1.

h. The respondent may laso be allowed to advance other gorunds during hearing.

In view of the above, it is prayed that the appeal may graciously be dismissed.

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

Deputy Inspector General of Police,
Kohat Region, Kohat
(Respondent No. 2/3)

District Police Officer,
Karak
(Respondent No. 4)

District Police Officer
Hangu
(Respondent No. 5)

(3)

Annexure "A" 270

ORDER

My this Order will disposed of (05) departmental enquiries against **SI Shah Dawran (suspended)** of this district Police.

Facts are that:-

1. Whereas case file of case FIR No. 465 dated 14.11.2016 u/s 377 PPC PS Sabir Abad was marked on 17.11.2016 to him by SP, Investigation Wing Karak through the DPO Karak to register the case in PS City Karak as the commission of offence was committed in the area of PS Karak while he has kept the case file in cold storage up to 03.01.2017. SI failed to register the case and he intentionally delayed it up to 45 days which spoil the evidence as a result of which the complainant was deprived of the justice. Instead of registration of proper FIR under the relevant section of law, he marked the case file to KBI staff for further action which is tantamount to gross negligence on his part.

He was issued Charge Sheet on the above mentioned Allegations and Mr. Mehar Ali, the then SDPO, Karak was appointed as Enquiry Officer to conduct proper departmental enquiry against him and to submit report within stipulated period.

The Enquiry Officer reported on the allegations at SNo. 01 that on 17.11.2016, the case file was marked to him by SP, Investigation Wing Karak through the DPO Karak for registration of FIR which was pending upto 03.01.2017. The Enquiry Officer held him responsible for causing in ordinate delay which speaks highly badly upon the working of respondent. Therefore, the E.O recommended him for minor punishment. Furthermore, he was also heard in person and cross examined by the Enquiry Officer but he failed to put in plausible reply.

2. SI Shah Doran SHO PS Karak was time & again directed to improve his performance but he failed to do so and turned deaf ear towards the directions of high ups. In this regard, another charge sheet under mentioned allegations is issued to him and Mr. Muhammad Nazir, SDPO, B.D.Shah was appointed as Enquiry Officer to conduct proper departmental enquiry against him and to submit report within stipulated period.

A. That from the perusal of comparative crime statement in the below cases regarding dacoity, recovery of M.car/M.cycle snatching and arrest of accused in murder cases in the year 2016 were found nil, inspite of repeated directions in the meetings, his performance remain adverse and unsatisfactory.

SNo	PS	Case FIR No.	Case property which are not recovered
1	Karak	FIR No. 634 dated 22.09.2016 u/s 382	M/Cycle+Mobile
2		FIR No. 674 dated 21.09.2016 u/s 382	M/Cycle
3		FIR No. 716 dated09.11.2016 u/s 381 PPC	Honda M/Cycle
4		FIR No. 26 dated12.01.2016 u/s 382, 457, 148, 149 PPC	Rs. 4,10,000/-Gold= 25 Tola Pistol= 01 9MM Mob: phone= Rs.20,000/-
5		FIR No. 78 dated 31.01.2016 u/s 17(2) Haraba	Q-Mobile Z-2
6		FIR No. 224 dated 03.04.2016 u/s 302, 324, 34 PPC	Charged = 02 un-arrested
7		FIR No. 330 dated 03.05.2016 u/s 302, 34 PPC	Charged = 02 un-arrested
8		FIR No. 422 dated 26.06.2016 u/s 302 PPC	Unknown accused
9		FIR No. 702 dated 01.11.2016	Unknown accused

Furthermore, his performance was found very poor and below the target from the perusal of short brief report regarding arrest of proclaimed offenders despite of repeated direction to improve his performance but he failed to do so and turned deaf ear to the directions issued which is quite adverse and bad upon his working. This shows his inattention, carelessness and negligence in the discharge of official duty.

B. That on 06.01.2017, a meeting of local district representatives' i.e Councilors and Village Nazims was held and he was directed through Wireless Control Room to attend the said meeting and disposed off the various complaints against him but he deliberately avoided to face the public complaints and turned deaf ear which is quite adverse on his part.

C. That on 07.01.2017, a Police Constable embraced Shahadat in the line of duty and his funeral prayer was scheduled to be held at Police Lines Karak adjacent to PS Karak. The Regional Police Officer Kohat was also present at the occasion but he being a responsible Police officer and SHO of PS Karak intentionally avoided to ensure his presence on important occasion.

D. That SI Shah Doran developed relations with criminal Mir Nawaz s/o Arsala Khan involved in the following cases which is against the disciplinary Rules:-

I. FIR No. 186 date 31.08.2001 u/s 4,5,6 Gambling Act.
II. FIR No. 58 dated 14.03.2002 u/s 4PO.
III. FIR No. 85 dated 13.04.2005 u/s 4PO.
IV. FIR No. 34 dated 24.02.2005 u/s 3/4PO.
V. FIR No. 80 dated 06.05.2006 u/s 5,6 Gambling Act.

E. That on his behalf, a statement against the Police was published in Daily Dastak dated 09.01.2017 which is quite adverse on his part. It was also established that he is publishing press clipping against Police at the behest of district Nazim Karak and his father Noor Daraz which is quite hostile. He is in league with them for gaining vested interest.

The Enquiry Officer reported on the above allegations at S.No. (ABCD) above that his performance regarding docility, car snatching cases and arrest of accused in murder cases was found nil and was not upto the mark. While his performance under the head of arrest of POs was found satisfactory. Furthermore, the respondent SI was summoned for attending a meeting which was not deliberately attended by him which is quite adverse. The accused SI has not attended the funeral of Shaheed Constable because he made departure to the District Jail Karak on the eve of his transfer at 1450 hours while the funeral was scheduled to be held at 1600 hours. The allegations with regard to relations with gambler Mir Nawaz s/o Arsla Khan was not proved. Moreover, regarding the allegations for making contact with the District Nazim Karak, the allegations were proved as per CDR collected to this effect. Furthermore, he was also heard in person and cross examined by the Enquiry Officer but he failed to put in plausible reply.

3. Reportedly, on 24.11.2016, a proclaimed offender Mosam Khan s/o Hukam Khan r/o Karak wanted in the following cases was arrested and remained in one day Police custody:-

i. FIR No. 240 dated 07.06.2014 u/s 506 PPC
ii. FIR No. 301 dated 09.06.2015 u/s 302,34 PPC
iii. FIR No. 295 dated 21.04.2016 u/s 324, 148, 149 PPC
iv. FIR No. 736 dated 24.11.2016 u/s 15AA PS Karak.
v. FIR No. 154 dated 18.04.2016 u/s 302,148,149 PPC PS Sabirabad.

On 10.01.2017, the video was shown by 92 News Channel regarding using of physical violence by Police against the PO. Reportedly, the said video was taken during custody period of accused and shared with media persons which shows his negligence.

This act of physical violence by the Police against the accused/PO displayed on media shows gross professional misconduct on his part and has tarnished the image of KP Police.

On the directions of high ups, proper case vide FIR No. 12 dated 10.01.2017 u/s 119, 120 Police Ordinance 2016 PS Karak was registered against the delinquent Police SI Shah Dawran and others

He was issued Charge Sheet on the above mentioned allegations and Mr. Qazi Sajjad Ud Din, SP, Investigation Wing Karak and Mr. Muhammad Nazir, SDPO, B.D.Shah were appointed as Enquiry Officers to conduct proper departmental enquiry against him and to submit report within stipulated period.

The Enquiry Team submitted their findings on the above allegations at SNo. 03 and the accused official were recommended for minor punishment. The Enquiry Officers did not produced cogent reasons with regard to the fate of accused official. The allegations are virtually serious and his linkage with allegations could not be ruled out. The accused SI has committed professional misconduct by making video at his behest which brought humiliation to the Force. This act on the part of accused SI was extremely worse which required to be considered seriously. The accused SI is liable for punitive action. Furthermore, he was also heard in person and cross examined by the Enquiry Officer but he failed to put in plausible reply.

It is astonishing that accused official was held responsible during the course of investigation by Investigation Team but during the enquiry process, the E.O recommended him for minor punishment as solid evidence are available on enquiry file. The undersigned do not agree with the findings of Enquiry Officer and the undersigned is competent to award him appropriate punishment.

4. As per findings report of initial enquiry conducted by SDPO, B.D.Shah: -

A. That SI Shah Dawran while posted as I/C Guard District Jail Karak entered report in Daily Dairy No. 31 dated 10.01.2017 PS Karak against LHC Faiz Ullah No. 834 for receiving money which is against the Police Rule 14.25 and 14.26.

B. That SI alleged baseless accusation against LHC Faiz Ullah No. 834 and did not proved which is contrary to the Police Rule 22.50

C. That SI entered report in Roznamcha of PS Karak instead of Police Lines Karak which shows his personal grievances and grudges.

D. That the daily diary report was entered on the same day on which Police Torture video of accused Mosam Khan was shown on TV. His this act is against service discipline, amount to gross misconduct and punishable under the Police Rules 22.50." The allegations were proved in the initial enquiry therefore he was issued Charge Sheet on the above mentioned allegations and Mr. Qazi Sajjad Ud Din, SP, Investigation Wing Karak was appointed as Enquiry Officer to conduct proper departmental enquiry against him and to submit report within stipulated period but he returned the enquiry with certain observation. The said enquiry was than marked to SDPO Takht-e-Nasrati and Inspector Umer Zada SHO PS Latamber vide this office Endst: No. 191-93/PA (Enq) dated 11.04.2017.

The Enquiry team submitted their findings in which the allegations mentioned at SNo. 04 were established against the delinquent official. The Enquiry Officers recommended him for award of major punishment under the Police Rules 22.50 in which **minimum punishment is dismissal from service according to the Police Rules 22.50** (Any Police official who made false entry in daily diary is liable for punishment of dismissal from service). The Enquiry Officer in presence of PWs LHC Naseer Iqbal No. 88, LHC Faizullah No. 834, HC Noor Ul Amin No. 717, Const: Syed Rahim No. 476, Const: Qabil Rehman No. 131, Const: Akman Ullah No. 726 and Const; Noshad Ullah No. 770 cross examined and heard in person the accused official but he failed to put in plausible reply.

5. As per Daily Diary report No. 05 dated 29.01.2017, SI Shah Dawran while posted as SHO at Police Station Karak, the following case files were marked to him which was kept pending at Police Station and he badly failed to ensure put in court which is quite adverse on his part:

I. Case FIR No. 762 dated 14.12.2016 u/s 9(A)CNSA **pending** from 14.12.2016 to till date.
II. Case FIR No. 740 dated 25.11.2016 u/s 9(A)CNSA **pending** from 25.11.2016 to till date.
III. Case FIR No. 599 dated 21.09.2016 u/s ¾ AF **pending** from 21.09.2016 to till date.
IV. Case FIR No. 604 dated 21.09.2016 u/s 279 **pending** from 21.09.2016 to till date.
V. Case FIR No. 601 dated 21.09.2016 u/s 9(A)CN **pending** from 01.10.2016 to till date.
VI. Case FIR No. 592 dated 17.09.2016 u/s 9(A)CNSA **pending** from 17.09.2016 to till date.
VII. Case FIR No. 659 dated 29.09.2016 u/s 216 PPC **pending** from 30.09.2016 to till date.
VIII. Case FIR No. 738 dated 24.11.2016 u/s 9(A)CNSA **pending** from 15.12.2016 to till date.
IX. Case FIR No. 655 dated 27.09.2016 u/s 279 PPC **pending** from 27.09.2016 to till date.
X. Case FIR No. 611 dated 21.09.2016 u/s 279 PPC **pending** from 21.09.2016 to 24.09.2016.
XI. Case FIR No. 571 dated 02.09.2016 u/s ¾ AF **pending** from 03.09.2016 to till date
XII. Case FIR No. 506 dated 06.08.2016 u/s 9(A)CNSA **pending** from 06.09.2016 to till date.
XIII. Case FIR No. 505 dated 06.08.2016 9(A)CNSA **pending** from 19.08.2016 to till date.
XIV. Case FIR No.593 dated 19.09.2016 u/s 341 PPC **pending** from 17.12.2016 to till date.
XV. Case FIR No. 563 dated 01.09.2016 u/s 15AA **pending** from 29.11.2016 to till date.
XVI. Case FIR No. 521 dated 12.08.2016 u/s 15AA **pending** from 23.08.2016 to till date.

He was issued Charge Sheet on the above mentioned allegations at serial No. 05 and Mr. Rafi Ullah, SDPO, Takht-e-Nasrati was appointed as Enquiry Officer to conduct proper departmental enquiry against him and to submit report within stipulated period.

The Enquiry Officer reported that delinquent official is responsible for making unnecessary delay in the disposal of case files. The Enquiry Officer held the accused official guilty and recommended him for award of harsh punishment. Furthermore, the delinquent official was also heard in person and cross examined by the Enquiry Officer but he failed to put in plausible reply.

From the perusal of his service record, the delinquent official has blemished service record as detail given below:-

A. He was fine Rs. 100/- and 01 day extra drill vide DPO, Kohat OB No. 2448 dated 14.12.1988.
B. He was fine Rs. 50/- due to bad turned out and general parade on 15.04.1989 vide DPO, Kohat OB No. 846 dated 18.04.1989.
C. He was absented from duty and awarded minor punishment of Censure vide OB No. 148 dated 09.02.2005.
D. He was awarded major punishment of Compulsory Retirement from service vide DPO Kohat OB No. 44 dated 09.01.2014 **due to corruption**. He was reinstated in service vide the CPO Peshawar office order Endst: No. S/1620-28/ dated 11.03.2015 due to weak enquiry proceedings.

According to the Police Rules 16-9, a Police officer/official who continuously exhibit misconduct, in-discipline and character proving incorrigibility is liable for major punishment rather than minor punishment.

The accused official has requested for transfer of his enquiries. His request wa accepted and the instant enquiries were transferred to another Enquiry Officer mentioned at SNo. 02 and 04. Furthermore, the accused official also stated that hi enquiries may be conducted in Kohat. In this regard, the Region Chief Kohat Regio Kohat was contacted and it was directed that his enquiries may be finalized in Karak

Keeping in view of the above and available record, the recommendations of Enquir Officers and facts on file, the above named SI was also heard in person by th undersigned and full opportunity of defense was provided to him but the delinquen official failed to put in any cogent reason. The accused official was held responsibl for his involvement in serious allegations which were proved against him beyond an shadow of doubt. Accused SI has committed professional misconduct and h deserves stringent departmental action. Therefore, in exercise of powers conferre upon me, I Mian Nasib Jan, District Police Officer, Karak hereby imposed majo punishment of Compulsory Retirement from service with immediate effect.

OB NO. 224
DATED 26/04/2017

District Police Officer, Karak

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service appeal No. 251//2018
SI Shah Doran ... Appellant

VERSUS

Provincial Police Officer,
Khyber Pakhtunkhwa & Others ... Respondents

AFFIDAVIT

I, the undersigned respondent No. 03, do hereby solemnly affirm and declare on oath on behalf of respondents, that the contents of Parawise comments are true & correct to the best of our knowledge and belief, and nothing has been concealed from this Honorable Court.

DISTRICT POLICE OFFICRE,
KARAK
(Respondent No. 4)

District Police Officer
Karak

BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

Service Appeal No: 251 /2018

Shah Dawan Sub Inspector

VERSUS

Govt. of K.P.K & Others.

INDEX

S#	*Description of Documents*	*Annex*	*Pages*
1.	Grounds of Appeal.		1-6
2.	Affidavit.		7
3.	Addresses of Parties		8
4	Copy of the impugned remarks	"A"	9-10
5	Copies of departmental appeal and letter	"B & C"	11-13
6	Other documents		
10	Wakalat Nama		

Dated: 20/02/2018

Appellant

Through

Naila Jan Advocate
Peshawar High Court

Naila Jan
Advocate, High Court
Peshawar.

BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

Appeal No. 251 /2018

Shah Dawran Sub inspector Police Department presently posted at District Hangu Khyber Pakhtunkhwa.

----------(*Appellant*)

VERSUS

1. Inspector General of Police Khyber Pakhtunkhwa [illegible]
2. Deputy Inspector General of Police Kohat Regional.
3. Regional Police Officer Kohat Region.
4. District Police Officer Karak.
5. District Police Officer Hangu.

----------(*Respondents*).

APPEAL U/S 4 OF KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT -1974 AGAINST THE ADVERSE REMARKS FOR THE PERIOD W.E.F 27-07-2016 TO 31-12-2016 COMMUNICATED ON 27-10-2017 AND NON DISPOSAL OF THE DEPARTMENTAL APPEAL DATED 14-11-2017.

(2)

PRAYER IN APPEAL:-

ON ACCEPTANCE OF THIS SERVICE APPEAL THE IMPUGNED ADVERSE REMARKS IN THE ACR FOR THE PERIOD WITH EFFECT FROM 27-07-2016 TO 31-12-2016 MAY KINDLY BE EXPUNCHED BEING ILLEGAL, AGAINST THE FACTS RULES, NOT APPLICABLE TO THE RIGHTS OF APPELLANT.

Respectfully Sheweth;

Appellant submits as under

1. That the appellant was enrolled as Constable in Police Department in the year 23-08-1987 due to his good performance promoted step wise now working as SI/SHO in Police Station City, Hangu.

2. That the appellant was posted as SHO in different Police Stations in District Kohat during which his performance was remarkable and also enjoy the confidence of the then of high-ups, all his "A" ACRs and several certificates with OB No. 1393 dated

Waqar Khan Advocate
Peshawar High Court

28.06.1988, OB No. 1094 dated 31.05.1998, OB No. 1109 dated 23.05.1989 and so on from DPOs District Kohat.

3. That the appellant is also awarded by worthy Inspector General of Police, Khyber Pakhtunkhwa Peshawar with certificate for his good performance.

4. That the appellant was transferred from District Kohat to District Karak in year 2016.

5. That the appellant during his posting in District Karak avail a number of official secret and confidential task assigned to him.

6. That ultimately the appellant was posted as SHO P.S Karak. During the SHOship the appellant achieved several achieved several important goal as a resulted, he was awarded with CC-III Certificates and cash reward Rs. 500/- OB No. 761 dated 09-12-2016, by the then DPO Karak and was also awarded with cash prize Rs. 3000/- and C-I Certificate.

Malik Adv. Advocate Peshawar High Court

7. That after some time misunderstanding were developed between the appellant and the then DPO Karak.

8. That the appellant a number of times directly and indirectly tried to remove the said misunderstanding but all in vain, even the appellant's apology get no mass.

9. The enquiries base at bias as initiated against the appellant which resulted in compulsory retirement of the appellant from his service.

10. That the order of compulsory retirement from service being un-lawful and against the facts did not stand at the initial stages of appeal and was set aside resultantly, the appellant was re-instated in service.

11. That the appellant shocked to received the impugned adverse remarks in the ACR for the period w.e.f from 27-07-2016 to 31-12-2016 by the responding officer i.e. Respondent No. 4 and countersigning officer (Respondent

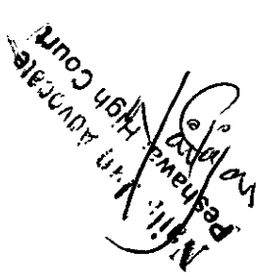
Naila Jan Advocate
Peshawar High Court

No. 3) which was communicated vide letter No. 345/CC dated 27-10-2017 which is against the law and rules. (Copy of the impugned remarks is as annexure "A").

12. That the appellant aggrieved from the impugned remarks filed Departmental appeal before Respondent No. 1 which was forwarded vide letter No.6328/PA dated: 14/11/2017 however the Respondent failed to decide the same within the stipulated period hence the appellant filling the instant appeal on the following grounds (Copies of departmental appeal and letter is as annexure "B" & "C").

GROUNDS:

A. That the impugned remarks are against the law rules and principle of natural justice.



B. That the appellant has not been provided any opportunity of personal hearing.

C. That no counseling, notice was provided before writing the impugned remarks. Hence

the impugned remarks are liable to be expunch being contrary to law and rules.

D. That even No show cause Notice has ever been issued to the appellant nor did any complaint has ever been filed against the appellant by any one.

E. That the appellant has not been treated in accordance with Article 25 of the Constitution of Islamic Republic of Pak 1973.

F. That the performance and honesty of the appellant is evident from the recommendation certificate. Hence the remarks of both the reporting as well as counter signing officer are based on malafide and without justification and solid grounds.

G. That the appellant well adduce other grounds during the course of arguments.

It is therefore requested that the appeal of the appellant may kindly be accepted as prayed for.

Dated: 20/02/2018.

Appellant

Through

Naila Jan Advocate Peshawar High Court

Naila Jan
Advocate, High Court
Peshawar.

7

BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

Service Appeal No: _____/2018

Shah Dauran Sub Inspector

VERSUS

Govt. of K.P.K & Others.

AFFIDAVIT

I, Shah Dauran Sub inspector Police Department presently posted at District Hangu Khyber Pakhtunkhwa, do hereby solemnly affirm and declare that all the contents of the application for condonation of delay are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Tribunal.

DEPONENT

IDENTIFIED BY:

Naila Jan Advocate Peshawar High Court

NAILA JAN
Advocate, High Court
Peshawar.

ATTESTED
IRFAN ULLAH ADVOCATE
NOTARY PUBLIC
22-2-18

8

BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

Service Appeal No: _____/2018

Shah Dauran Sub Inspector

VERSUS

Govt. of K.P.K & Others.

ADDRESSES OF PARTIES

APPELLANT.

Shah Dauran Sub inspector Police Department presently posted at District Hangu Khyber Pakhtunkhwa.

ADDRESSES OF RESPONDENTS

1. Inspector General of Police Khyber Pakhtunkhwa regional Police officer Kohat
2. Deputy Inspector General of Police Kohat Regional.
3. Regional Police Officer Kohat Region.
4. District Police Officer Karak.
5. District Police Officer Hangu.

Dated: 20/02/2018

Appellant

Through

Naila Jan Advocate Peshawar High Court

Naila Jan
Advocate, High Court
Peshawar.

9

Annex "A"

OFFICE OF THE
REGIONAL POLICE OFFICER
KOHAT REGION.

NO. 345 /CC Dated 27-10-/2017.

To; - The District Police Officer, Hangu.

Subject:- **ACR/COMMUNICATION OF ADVERSE REMARKS.**

Memorandum.

The Annual Confidential on the working of SI Shah Duran of karak District for the peuiod from 27.07.2016 to 31.12.2016 :-

The following observation have been made :-

Class of Report. **"C"**

Remarks by reporting Officer :-

"The performance of the officer during period under report is found below average. He is not taking interest in his official duty. Need to mend his ways in future"

Remarks by Countersigning officer;-

Agreed.

The above adverse remarks may please be conveyed to the officer concerned in order to remedy the defects.

The duplicate copy of the same duly signed by official concerned may be returned to this office as token of receipt for placing in his character roll.

Nail Hafiz
Advocate
Peshawar High Court

Awal Khan
Regional Police Officer,
Kohat Region.

No. 13-17 (10)

DISTRICT KARAK

EPARTMENT

confidential report on the working of Inspectors, Sub Inspectors and Assistant Sub ors & "D" list Head Constable for the year ending 31st December, 2016.

me, Provincial or Rang No. ank and Grade.	Sub Inspector Shah Dawran
Father's Name	Amdal Khan
Where and on what duties employed During the past 12 months.	27.07.2016 Reported his arrival 28.08.2016 to 03.08.2016 Police Line Karak 04.08.2016 to 31.12.2016 SHO PS Karak
Class of Superintendent of Police's/ District Police Officer's Report, i.e. 'A' or 'B'.	"C"
Is he honest?	No
Remarks by:- 1. Superintendent of Police, 2. District Police Officer, and 3. Regional Deputy Inspector General of Police.	The Performance of the officer during Period under report is found below average. He is not taking interest in his official duty. Need to mend his ways in full

Agreed.

AWAL KHAN (PSP)
Regional Police Officer,
Kohat Region

(MIAN NASEEB JAN)
District Police Officer, Karak

DISTRICT POLICE OFFICER
KARAK

Naila Jan Advocate
Peshawar High Court

Annex "B"

Application through Proper Channel

To:

The Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

Subject:- **1. Representation against the adverse remarks for the period from 27.07.2016 to 31.12.2016 awarded by District Police Officer, Karak.**

2. Adverse remarks being unlawful, Based on mala-fide/Surmises/Conjecture/Uncorroborative are Liable to be set aside/Expunged.

Respected Sir,

With great respect and veneration, the petitioner may be allowed to submit the following for your kind and sympathetic consideration:-

1. That the petitioner was enrolled as Constable in Police Department in the year 23.08.1987 due to his good performance promoted setup wise now working as SI/SHO in Police Station City, Hangu.
2. That the petitioner was posted as SHO in different Police Stations in District Kohat during which his performance was remarkable and also enjoy the confidence of the then of high-ups, all his "A" ACRs and several certificates with OB No. 1393 dated 28.06.1988, OB No. 1094 dated 31.05.1988, OB No. 1109 dated 23.05.1989 and so on from DPOs District Kohat. Copies Annexed.
3. Similarly, the petitioner is also awarded by worthy Inspector General of Police, Khyber Pakhtunkhwa Peshawar with certificate for his good performance. Copies Annexed.
4. That the petitioner was transferred from District Kohat to District Karak in year 2016.
5. That the petitioner during his posting in District Karak avail a number of official secret and confidential task assigned to him.
6. That ultimately the petitioner was posted as SHO P.S Karak. During the SHOship the petitioner achieved several important goal as a resulted, he was awarded with CC-III Certificates and cash reward Rs. 500/- OB No. 761 dated 09.12.2019, by the then DPO Karak and was also awarded with cash prize Rs. 3000/- and C-I Certificate. Copies Annexed.
7. That after some time misunderstanding were developed between the petitioner and the then DPO Karak.
8. That the petitioner a number of times directly and indirectly tried to remove the said misunderstanding but all in vain, even the petitioner apology get no mass.
9. The enquiries base at bias as initiated against the petitioner which resulted in compulsory retirement of the petitioner from his service.
10. That the order of compulsory retirement from service being un-lawful and against the facts did not stand at the initial stages of appeal and was set aside resultantly, the petitioner was re-instated in service.
11. That the adverse remarks too against the petitioner by the then DPO Karak is also against the reality. Moreover, legal formalities is also not fulfill in this regard i.e
    (i). That the petitioner was neither warned nor called any explanation regarding adverse remarks before.
    (ii). The case is if delayed ware not pointed out for which the petitioner was alleged.

Naila Jan Advocate
Peshawar High Court

(iii). The field in which the petitioner performance is unsatisfactory is not mentioned i.e in arresting of POs, recovery or narcotics while in all these field the petitioner performance was remarkable.

12. Thus the adverse remarks on the basic of the above mentioned grounds are not sustainable in the eyes of Law and is therefore, requested to be snt aside/expunged.

13. That the petitioner due to his professionalism and ex-good performance nowadays enjoying the confidence of DPO Hangu and is posted as SHO P.S City of District Hangu.

The petitioner therefore humbly prayed that ACR report from the responding officer is not based at facts and against the lawful of the element of malafide is therefore to be expunged, please.

The petitioner will pray for your long life, health and prosperity.

Your's Obediently
SI Shah Dauran Khan,
District Hangu

Naila Jan Advocate
Peshawar High Court

(13)

Annex B

OFFICE OF THE
DISTRICT POLICE OFFICER,
HANGU
Tel No. 0925-623026 & Fax No. 0925-620135
Email: dpo_hangu@yahoo.com

No. 6328 /PA Dated 14 / 11 /2017

To: The Regional Police Officer,
Kohat Region, Kohat.

Subject: - **APPLICATION FOR EXPUNCTION OF ADVERSE REMARKS**

Memorandum:

Kindly refer to your office Memo: No. 344/CC, dated 27.10.2017 on the subject cited above.

It is submitted that the representation in respect of SI Shah Dauran of this District Police for expunction of adverse remarks for the period from 27.07.2016 to 31.12.2016 is submitted herewith for favour of perusal and onward submission to worthy Provincial Police Officer, Khyber Pakhtunkhwa Peshawar please.

Encl: (13)

DISTRICT POLICE OFFICER,
HANGU

Advocate
Peshawar High Court

A

19

N.W.F.P POLICE

COMMENDATION CERTIFICATE

CLASS II

Granted By

M.MASOOD KHAN AFRIDI PSP.

Deputy Inspector General of Police, Kohat Region

To SUB-INSPECTOR GULAB DURAN SHO JARMA.

Son of _____

Resident of Mohalla / Village _____

Police Station JARMA *District* KOHAT.

In recognition of

1st POSITION IN ARREST OF P.Os DURING CAMPAIGN.

CASH REWARD RS. 2000/-

No. 1529

Dated _____

Deputy Inspector General of Police
Kohat Region, Kohat

Naila Jan Advocate
Peshawar High Court

(7)

North West Frontier Province Police

Commendation Certificate

CLASS I

Granted by

MALIK NAVEED KHAN

Inspector General of Police, KHYBER PAKHTUNKHWA.

To SHAH DORAN SHO PS LACHI KOHAT.

Son of

District KOHAT.

in Recognition of

BEST PERFORMANCE OF DUTY AS SHO.

(CASH REWARD OF RS.2000/-).

Dated 1 / 12 / 2014

(MALIK NAVEED KHAN)
Inspector General of Police
KHYBER PAKHTUNKHWA PESHAWAR.

Naila Jan Advocate
Peshawar High Court

North West Frontier Province Police

Commendation Certificate

CLASS I

Granted by
MALIK NAVEED KHAN
Inspector General of Police, N-W.F.P.

To ASI SHAH DORAN I/C PP MILLS AREA.

Son of

District KOHAT.

in Recognition of

GOOD WORK IN CASE FIR NO.563 DATED 02/05/2009 U/S 365/511/13AO PS SADDA.

(CASH REWARD OF RS.1500/-).

Dated / /20

(MALIK NAVEED KHAN)
Inspector General of Police
N.W.F.P.

Malik Inam Advocate
Peshawar High Court

16

(A)

17

N.W.F.P POLICE

COMMENDATION CERTIFICATE

CLASS II

Granted By

MUHMMAD MASOOD KHAN AFRIDI
Deputy Inspector General of Police, Kohat Region

To SUB:INSPECTOR SHAH DURAN .HC

Son of

ssident of Mohalla / Village

Police Station JERRA *District* KOHAT.

In recognition of

SHOWN EXTRA ORDINARY BRAVERY IN THE ARRE ST OF NOTORIOU
PO /MILITANT COMMAND R NEAAY WAHID JALA S/O SAMANDER
KHAN R/O GHURANDI VIDE CASE FIR NO.48 DATED18.2.2011
U/S 324/353/7ATA/13AO POLICE STATION SACHI.

CASH REWARD RS:1500/-

No.

Dated

Deputy Inspector General of Police
Kohat Region, Kohat

Advocate
Peshawar High Court

DISTRICT KOHAT POLICE

FRONTIER POLICE

Commendation Certificate III

is awarded to

A.S.I. SHAH DOURAN (PS SADDAR KOHAT)

in recognition of

FOR HIS GOOD PERFORMANCE VIDE CASE FIR NO.569 DATED 14.5.2009 U/Ss ✱ PO

(CASH REWARD RS.500/-)

Dated 01-06-/2009

O.B. No. 546

District Police Officer
Kohat

Naik Wali Khan
Advocate
Peshawar High Court

A

19

N.W.F.P POLICE

COMMENDATION CERTIFICATE

CLASS II

Granted By

MR. ABDULLAH KHAN P.S.P.

Deputy Inspector General of Police, Kohat Region

To S.I SHAH DURAN SHO P.S JERMA.

Son of _____

Resident of Mohalla / Village _____

Police Station _____ *District* _____

In recognition of

HIS GOOD PERFORMANCE AND ARRESSTED ONE COMMANDER.

ABDUL MATEEN ON HIGH WAY ROAD.

CASH REWARD RS: 1000/-

No. _____

Dated 20 6 2029

(ABDULLAH KHAN) P.S.P,
Deputy Inspector General of Police
Kohat Region, Kohat

Nai Lan Advocate
Peshawar High Court

Naila Jan Advocate
Peshawar High Court

DISTRICT KOHAT POLICE

Commendation Certificate III
is awarded to

SI Shah Duran SHO Lachi awarded by DPO Kohat

In recognition of

his good performance vide FIR No. 386 dt: 22.11.2012 u/s 382/411/13AO PS Lachi

Cash Rs. 1000/-

*O.B No.*_____

*Dated*_____

District Police Officer
Kohat

DISTRICT KOHAT POLICE

FRONTIER POLICE

Commendation Certificate III
is awarded to

SI Shah Zuman awarded by DPO Kohat

In recognition of

his good performance during search operation in Kohat District.

Cash Rs. 1000/-

O.B No. _____

Dated _____

District Police Officer
District Police Officer
Kohat

(B)

DPO صاحب کوہاٹ نے سرچ آپریشن

DISTRICT KOHAT POLICE

Commendation Certificate III

is awarded to

ASI. SHAH DAURAN.

In recognition of

FOR HIS GOOD PERFORMANCE.

CASH REWARD RS.1000/-

O.B. No. _____

Dated 3.6.2010

District Police Officer
Kohat

Peshawar High Court

COMMENDATION CERTIFICATE

CLASS III

Granted to Shah Duran

Police Station S/to PS Karak.

In recognition of out Standing perfamance.

District Karak.

Cash Received Rs 500/-

O.B No 761

Dated 09-12 2006

District Police Officer
Karak

Shama printing press Karak Mob:03005456613

Naila Jan Advocate
Peshawar High Court

قیمت 50روپے

26953

ایڈوکیٹ: Naila Jan

بارکونسل/ایسوسی ایشن نمبر:

رابطہ نمبر: 03129215471

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: خیبر پختونخواہ سروس ٹربیونل پشاور

دعویٰ: Service Appeal

علت نمبر: Appeal No. 251/2018

مورخہ:

جرم:

تھانہ:

منجانب: اپیلنٹ

Shah Dawran

بنام

Police

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ آن مقام پشاور کیلئے ... ایڈووکیٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظرثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہرجانہ التوائے مقدہ کے سبب سے ہوگا۔کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہٰذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 20/02/2020

العبد — گواہ شد — العبد

مقام سروس ٹربیونل پشاور کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔

Naila Jan Advocate
Peshawar High Court

Accepted

Accepted by

Naila Jan
ADC

Shah Dawran

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No. 251/2018

Shah Doran SI..... .....(Appellant)

Versus

1. Provincial Police Officer, Khyber Pakhtunkhwa Peshawar and others.....(Respondents)

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

Respectfully Sheweth: -

Para wise comments are submitted as under:-

Preliminary Objections:

1. That the appellant has got no cause of action or locus standi.
2. That the appeal is not maintainable in the present form.
3. That the appellant has not come to this Hon: Tribunal with clean hands.
4. That the appeal is bad for misjoinder of unnecessary parties and non-joinder of necessary parties.
5. That the appellant has been estopped by his own conduct to file the appeal.

FACTS

1. Pertains to record hence no comments.
2. Pertains to record, however, claim of the appellant shows the banafide of respondents.
3. Pertains to record, hence no comments.
4. Correct.
5. Subject to proof however it is the duty of appellant to fulfill the tasks given to him.
6. It is legal obligation of an official to perform his lawful duty effectively.
7. Incorrect, the official is under estimated.
8. Incorrect, hence no comments.
9. Incorrect, the appellant was involved in gross professional misconduct; therefore, he was proceeded with departmentally in accordance with law & rules by respondent No. 4.
10. The appellant was not declared innocent by the departmental Appellate authority, however, the punishment order was set aside on taking a lenient view and appellant was warned to be careful in future. (Copy of the order is "A").
11. Incorrect, the appellant was awarded adverse remarks in ACR after proper evaluation of his performance during the period under review as both the reporting as well as countersigning officers were in better position to evaluate his performance.
12. The appeal against adverse remarks without any substantiate correctly rejected. (Rejection order is "B").

GROUNDS

a. Incorrect, the appellant was treated in accordance with rules.
b. Incorrect, the appellant was afforded ample opportunities by the reporting officer and appellate authority.
c. Incorrect, the appellant was consulted and lastly dealt with departmentally, which culminate into his compulsory retirement from service.

d. Incorrect, the appellant was directed time and again by respondent No. 4 to improve himself and mend his way but he failed to do so.

e. Incorrect, the appellant has been treated in accordance with law & rules.

f. Incorrect, the appellant was treated in accordance with law & rules.

g. The respondents may also be allowed to advance additional grounds at the time of hearing of appeal.

In view of the above, it is prayed that on acceptance of this reply, the instant appeal of the appellant may kindly be dismissed with cost.

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

Deputy Inspector General of Police,
Kohat Region, Kohat
(Respondent No. 2/3)

District Police Officer,
Karak
(Respondent No. 4)

District Police Officer,
Hangu
(Respondent No. 5)

BEFORE THE HONBLE KHYBER PAKHTUNKHWA

SERVICES TRIBUNAL PESHAWAR

Service Appeal No: _____/2018

Shah Doraan Sub Inspector

VERSUS

Government of K.P.K & Others

REJOINDER ON BEHALF OF APPELLANT

Respectfully Sheweth
Preliminary Objection:-

All the preliminary objections raised by the Respondent are incorrect.

FACTS:-

1. Para No. 1 of the appeal has been admitted by the appellant hence no comments.

2. Para No.2 of the appeal has been admitted by the Respondent hence no comments.

3. Para NO. 3 of the appeal has not been properly replied hence need no comments.

4. Para No.4 of the appeal is admitted by the Respondent.

5. Para No.5 of the appeal is admitted by the Respondent.

6. Para No.6 of the appeal is admitted by the Respondent.

7. Para No.7 of the appeal is correct and that of the reply is incorrect.

8. Para No.8 of the appeal is correct and that of the reply is incorrect.

9. Para No.9 of the appeal is correct and that of the reply is incorrect.

10. Para No.10 of the reply is incorrect and that of the appeal is correct the appellant was reinstated without any punishment which show the innocence of the appellant even the reinstated order has not been annexed in support of their claim.

11. Para No.11 of the appeal is correct and that of the reply is incorrect

12. Para No.12 of the appeal is correct and that of the reply is incorrect

GROUNDS:-

All the Grounds of the appeal is correct and that of the reply is incorrect.

It is, therefore, requested that the appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.

Dated 23/11/2018

Appellant

Through

Advocate, High Court
Peshawar.

DUPLICATE

FORM No. 13 – 17

POLICE DEPTT:

DISTRICT HANGU.

ANNUAL CONFIDENTIAL REPORT

Annual Confidential Report on the working of Assistant Sub-Inspectors, Sub-Inspectors, and Inspectors for the year ending 31st December

09.01.2018 to 22.06.2018

Name, Provincial of Range No. Rank and Grade.	SI Shah Dauran (BPS-14)
Father Name	Ambel Khan
Where and on what duties employed during the past 12 months.	SHO P.S City Hangu = 09.01.2018 to 22.06.2018
Class of Superintendent of Police's Report, i.e "A" or "B".	A-1
Is he Honest?	No Complaint
REMARKS BY : - Regional Police Officer, Kohat Region. Agreed. Awal Kh **AWAL KHAN (PSP)** Regional Police Officer, Kohat Region	**09.01.2018 to 22.06.2018** He is an outstanding, hardworker, brave, and a Proffessional Police officer. He know Police job well. Fit for further Promotion. **MUHAMMAD ASIF GOHAR** DISTRICT POLICE OFFICER, HANGU

DUPLICATE

FORM No. 13 – 17

POLICE DEPTT: DISTRICT HANGU.

ANNUAL CONFIDENTIAL REPORT

Annual Confidential Report on the working of Assistant Sub-Inspectors, Sub-Inspectors, and Inspectors for the year ending 31st December

25.06.2018 to 31.12.2018

Name, Provincial of Range No. Rank and Grade.	SI Shah Dauran (BPS-14)
Father Name	Gul Muhammad Khan
Where and on what duties employed during the past 12 months.	SHO PS City = 25.06.2018 to 08.11.2018 SHO PS Saddar = 09.11.2018 to 12.12.2018 Police Lines = 13.12.2018 to 31.12.2018
Class of Superintendent of Police's Report, i.e "A" or "B"	
Is he Honest?	Yes, No Complaint

REMARKS BY : -

Regional Police Officer, Kohat Region.

Agreed.

Deputy Inspector General of Police
Regional Police Officer
Kohat Region

25.06.2018 to 31.12.2018

A professional and hard working police officer.

PIR SHAHAB ALI SHAH
DISTRICT POLICE OFFICER,
HANGU

DUPLICATE

FORM No. 13 – 17

POLICE DEPTT:

DISTRICT HANGU.

ANNUAL CONFIDENTIAL REPORT

Annual Confidential Report on the working of Assistant Sub-Inspectors, Sub-Inspectors, and Inspectors for the year ending 31st December

09.01.2018 to 22.06.2018

Name, Provincial of Range No. Rank and Grade.	SI Shah Dauran (BPS-14)
Father Name	Ambel Khan
Where and on what duties employed during the past 12 months.	SHO P.S City Hangu = 09.01.2018 to 22.06.2018
Class of Superintendent of Police's Report, i.e "A" or "B".	A-1
Is he Honest?	No Complaint
REMARKS BY : - Regional Police Officer, Kohat Region. Agreed. Awal Kh **AWAL KHAN (PSP)** Regional Police Officer, Kohat Region	**09.01.2018 to 22.06.2018** He is an outstanding, hardworker, brave, and a professional Police officer. He know Police job well. Fit for further promotion. **MUHAMMAD ASIF GOHAR** DISTRICT POLICE OFFICER, HANGU

FORM No. 13 – 17

POLICE DEPARTMENT — DISTRICT HANGU

ANNUAL CONFIDENTIAL REPORT

Annual Confidential Report on the working of Assistant Sub-Inspectors, Sub-Inspectors, and Inspectors for the year ending 31st December

10.05.2019 to 28.11.2019

Name, Provincial of Range No. Rank and Grade.	SI Shah Dauran (BPS-14)
Father Name	Gul Muhammad Khan
Where and on what duties employed during the past 12 months.	SHO PS Doaba = 10.05.2019 to 18.09.2019 I/C Traffic Warden = 19.09.2019 to 28.11.2019
Class of Superintendent of Police's Report, i.e "A" or "B".	A+
Is he Honest?	———

REMARKS BY : -

Regional Police Officer, Kohat Region.

10-5-2019 to 28-11-2019

10.05.2019 to 28.11.2019

He is brave, hardworker & good police officer - He know police job

MR. IHSAN ULLAH KHAN (PSP)
DISTRICT POLICE OFFICER.
HANGU

SYNOPSIS OF SI SHAH DURAN No.173/K

S.No	Year	Grade	Remarks
01	IHC 26.04.2004 to 31.12.2004	A	No complaint
02	IHC 01.01.2005 to 31.12.2005	A	No complaint
03	IHC 01.01.2006 to 13.07.2006	A	No complaint
04	IHC 14.07.2006 to 04.09.2006	-	Period less than three Months
05	IHC 04.09.2006 to 31.12.2006	A	-
06	IHC 01.01.2007 to 30.04.2007	A	An efficient competent hard work & good police Officer,
07	IHC 10.05.2007 to 12.07.2007	-	Period less than three Months
08	IHC 13.07.2007 to 31.12.2007	A	No Complaint
09	IHC 01.01.2008 to 28.05.2008	-	-
10	ASI 29.05.2008 to 31.12.2008	A	No Complaint a very competent officer in operation duties
11	ASI 01.01.2009 to 14.07.2009	A	A Good Police officer
12	ASI 15.07.2009 to 31.12.2009	A	A Good Police officer & hard worker
13	ASI 01.01.2010 to 31.12.2010	A	Hard worker efficient, obedient and knows his job very well
14	ASI 07.01.2011 to 31.12.2011	A	Committed and brave officer
15	SI 01.01.2012 to 20.07.2012	A	Committed and brave officer
16	SI 21.07.2012 to 31.12.2012	A	Hard working and professional Police officer,
17	SI 01.01.2013 to 31.12.2013	-	Not Available
18	SI 01.01.2014 to 31.12.2014	-	Not Available
19	SI 01.01.2015 to 28.02.2015	-	Not Available
20	SI 01.03.2015 to 31.12.2015	A	A Good Police Officer
21	SI 01.01.2016 to 10.05.2016	A	A Good Police Officer
22	SI 11.05.2016 to 25.07.2016	-	Period less than three Months
23	SI 27.07.2016 to 31.12.2016	C	The performance of the officer during period under report is found below average. He is not taking interest in his official duty, need to mend his way in future.
24	SI 01.01.2017 to 26.04.2017	C	The performance of the official is found unsatisfactory, His un-necessary delay in the disposal of case files assigned to him. Need to mend his way for a more sincere and dedicated service.
25	SI 27.04.2017 to 15.06.2017	-	Out of Service
26	SI 16.06.2017 to 19.07.2017	-	Period less than three Months
27	SI 24.07.2017 to 31.12.2017	A	A professional & Good Police Officer
28	SI 24.07.2017 to 31.12.2017	A	A professional and Good Police officer
29	SI 09.01.2018 to 22.06.2018	A-I	He is an outstanding hard worker brave and a professional Police Officer. He knows his job well. Fit for further promotion.
30	SI 25.06.2018 to 31.12.2018	-	A professional & hard working Police Officer
31	SI 01.01.2019 to 27.01.2019	-	Less than three Months
32	SI 28.01.2019 to 28.011.2019	-	Not Available
33	SI 29.11.2019 to 31.12.2019	-	Less than three Months

Confidential Clerk
RP. Bannu
29-06-2020

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 2803 /ST Dated 29/9/2020

To

The District Police Officer,
Government of Khyber Pakhtunkhwa,
Karak.

Subject: - **JUDGMENT IN APPEAL NO. 251/2018, MR. SHAH DORAN.**

I am directed to forward herewith a certified copy of Judgement dated 18.09.2020 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

SYNOPSIS OF SI SHAH DURAN No.173/K

S.No	Year	Grade	Remarks
01	IHC 26.04.2004 to 31.12.2004	A	No complaint
02	IHC 01.01.2005 to 31.12.2005	A	No complaint
03	IHC 01.01.2006 to 13.07.2006	A	No complaint
04	IHC 14.07.2006 to 04.09.2006	-	Period less than three Months
05	IHC 04.09.2006 to 31.12.2006	A	-
06	IHC 01.01.2007 to 30.04.2007	A	An efficient competent hard work & good police Officer,
07	IHC 10.05.2007 to 12.07.2007	-	Period less than three Months
08	IHC 13.07.2007 to 31.12.2007	A	No Complaint
09	IHC 01.01.2008 to 28.05.2008	-	-
10	ASI 29.05.2008 to 31.12.2008	A	No Complaint a very competent officer in operation duties
11	ASI 01.01.2009 to 14.07.2009	A	A Good Police officer
12	ASI 15.07.2009 to 31.12.2009	A	A Good Police officer & hard worker
13	ASI 01.01.2010 to 31.12.2010	A	Hard worker efficient, obedient and knows his job very well
14	ASI 07.01.2011 to 31.12.2011	A	Committed and brave officer
15	SI 01.01.2012 to 20.07.2012	A	Committed and brave officer
16	SI 21.07.2012 to 31.12.2012	A	Hard working and professional Police officer,
17	SI 01.01.2013 to 31.12.2013	-	Not Available
18	SI 01.01.2014 to 31.12.2014	-	Not Available
19	SI 01.01.2015 to 28.02.2015	-	Not Available
20	SI 01.03.2015 to 31.12.2015	A	A Good Police Officer
21	SI 01.01.2016 to 10.05.2016	A	A Good Police Officer
22	SI 11.05.2016 to 25.07.2016	-	Period less than three Months
23	SI 27.07.2016 to 31.12.2016	C	The performance of the officer during period under report is found below average. He is not taking interest in his official duty, need to mend his way in future.
24	SI 01.01.2017 to 26.04.2017	C	The performance of the official is found unsatisfactory, His un-necessary delay in the disposal of case files assigned to him. Need to mend his way for a more sincere and dedicated service.
25	SI 27.04.2017 to 15.06.2017	-	Out of Service
26	SI 16.06.2017 to 19.07.2017	-	Period less than three Months
27	SI 24.07.2017 to 31.12.2017	A	A professional & Good Police Officer
28	SI 24.07.2017 to 31.12.2017	A	A professional and Good Police officer
29	SI 09.01.2018 to 22.06.2018	A-I	He is an outstanding hard worker brave and a professional Police Officer. He knows his job well. Fit for further promotion.
30	SI 25.06.2018 to 31.12.2018	-	A professional & hard working Police Officer
31	SI 01.01.2019 to 27.01.2019	-	Less than three Months
32	SI 28.01.2019 to 28.011.2019	-	Not Available
33	SI 29.11.2019 to 31.12.2019	-	Less than three Months

Confidential Clerk
RP Office Kohat
29-06-2020

BEFORE THE HONBLE KHYBER PAKHTUNKHWA

SERVICES TRIBUNAL PESHAWAR

Service Appeal No: _____/2018

Shah Doraan Sub Inspector

VERSUS

Government of K.P.K & Others

REJOINDER ON BEHALF OF APPELLANT

Respectfully Sheweth
Preliminary Objection:-

All the preliminary objections raised by the Respondent are incorrect.

FACTS:-

1. Para No. 1 of the appeal has been admitted by the appellant hence no comments.

2. Para No.2 of the appeal has been admitted by the Respondent hence no comments.

3. Para NO. 3 of the appeal has not been properly replied hence need no comments.

4. Para No.4 of the appeal is admitted by the Respondent.

5. Para No.5 of the appeal is admitted by the Respondent..

6. Para No.6 of the appeal is admitted by the Respondent.

7. Para No.7 of the appeal is correct and that of the reply is incorrect.

8. Para No.8 of the appeal is correct and that of the reply is incorrect.

9. Para No.9 of the appeal is correct and that of the reply is incorrect.

10. Para No.10 of the reply is incorrect and that of the appeal is correct the appellant was reinstated without any punishment which show the innocence of the appellant even the reinstated order has not been annexed in support of their claim.

11. Para No.11 of the appeal is correct and that of the reply is incorrect

12. Para No.12 of the appeal is correct and that of the reply is incorrect

GROUNDS:-

All the Grounds of the appeal is correct and that of the reply is incorrect.

It is, therefore, requested that the appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.

Dated 23/11/2018

Appellant

Through

Naila Jan

Advocate, High Court

Peshawar.

BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

Service Appeal No: _____/2018

Shah Doraan Sub Inspector

VERSUS

Government of K.P.K & Others

REJOINDER ON BEHALF OF APPELLANT

Respectfully Sheweth
Preliminary Objection:-

All the preliminary objections raised by the Respondent are incorrect.

FACTS:-

1. Para No. 1 of the appeal has been admitted by the appellant hence no comments.

2. Para No.2 of the appeal has been admitted by the Respondent hence no comments.

3. Para NO. 3 of the appeal has not been properly replied hence need no comments.

4. Para No.4 of the appeal is admitted by the Respondent.

5. Para No.5 of the appeal is admitted by the Respondent.

6. Para No.6 of the appeal is admitted by the Respondent.

7. Para No.7 of the appeal is correct and that of the reply is incorrect.

8. Para No.8 of the appeal is correct and that of the reply is incorrect.

9. Para No.9 of the appeal is correct and that of the reply is incorrect.

10. Para No.10 of the reply is incorrect and that of the appeal is correct the appellant was reinstated without any punishment which show the innocence of the appellant even the reinstated order has not been annexed in support of their claim.

11. Para No.11 of the appeal is correct and that of the reply is incorrect

12. Para No.12 of the appeal is correct and that of the reply is incorrect

GROUNDS:-

All the Grounds of the appeal is correct and that of the reply is incorrect.

It is, therefore, requested that the appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.

Dated 23/11/2018

Appellant

Through

Naila Jan

Advocate, High Court

Peshawar.

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No. 251/2018

Shah Doran SI..... .....(Appellant)

Versus

1. Provincial Police Officer, Khyber Pakhtunkhwa Peshawar and others.....(Respondents)

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

Respectfully Sheweth: -

Para wise comments are submitted as under:-

Preliminary Objections:

1. That the appellant has got no cause of action or locus standi.
2. That the appeal is not maintainable in the present form.
3. That the appellant has not come to this Hon: Tribunal with clean hands.
4. That the appeal is bad for misjoinder of unnecessary parties and non-joinder of necessary parties.
5. That the appellant has been estopped by his own conduct to file the appeal.

FACTS

1. Pertains to record hence no comments.
2. Pertains to record, however, claim of the appellant shows the banafide of respondents.
3. Pertains to record, hence no comments.
4. Correct.
5. Subject to proof however it is the duty of appellant to fulfill the tasks given to him.
6. It is legal obligation of an official to perform his lawful duty effectively.
7. Incorrect, the official is under estimated.
8. Incorrect, hence no comments.
9. Incorrect, the appellant was involved in gross professional misconduct; therefore, he was proceeded with departmentally in accordance with law & rules by respondent No. 4.
10. The appellant was not declared innocent by the departmental Appellate authority, however, the punishment order was set aside on taking a lenient view and appellant was warned to be careful in future. (Copy of the order is "A").
11. Incorrect, the appellant was awarded adverse remarks in ACR after proper evaluation of his performance during the period under review as both the reporting as well as countersigning officers were in better position to evaluate his performance.
12. The appeal against adverse remarks without any substantiate correctly rejected. (Rejection order is "B").

GROUNDS

a. Incorrect, the appellant was treated in accordance with rules.
b. Incorrect, the appellant was afforded ample opportunities by the reporting officer and appellate authority.
c. Incorrect, the appellant was consulted and lastly dealt with departmentally, which culminate into his compulsory retirement from service.

d. Incorrect, the appellant was directed time and again by respondent No. 4 to improve himself and mend his way but he failed to do so.

e. Incorrect, the appellant has been treated in accordance with law & rules.

f. Incorrect, the appellant was treated in accordance with law & rules.

g. The respondents may also be allowed to advance additional grounds at the time of hearing of appeal.

In view of the above, it is prayed that on acceptance of this reply, the instant appeal of the appellant may kindly be dismissed with cost.

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

Deputy Inspector General of Police,
Kohat Region, Kohat
(Respondent No. 2/3)

District Police Officer,
Karak
(Respondent No. 4)

District Police Officer
Hangu
(Respondent No. 5)

BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

Amended Appeal No. _____/2019

Shah Dauran Sub inspector Police Department presently posted at District Hangu Khyber Pakhtunkhwa.

----------*(Appellant)*

VERSUS

1. Inspector General of Police Khyber Pakhtunkhwa regional Police officer Kohat
2. Deputy Inspector General of Police Kohat Regional.
3. Regional Police Officer Kohat Region.
4. District Police Officer Karak.
5. District Police Officer Hangu.

----------*(Respondents).*

APPEAL U/S 4 OF KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT -1974 AGAINST THE ADVERSE REMARKS FOR THE PERIOD W.E.F 27-07-2016 TO 31-12-2016 COMMUNICATED ON 27-10-2017 AND REJECTION ORDER DATED 08/03/2018 NON DISPOSAL OF THE DEPARTMENTAL APPEAL DATED 14-11-2017.

PRAYER IN APPEAL:-

ON ACCEPTANCE OF THIS SERVICE APPEAL THE IMPUGNED ADVERSE

REMARKS IN THE ACR FOR THE PERIOD WITH EFFECT FROM 27-07-2016 TO 31-12-2016 AND IMPUGNED ORDER DATED 08/03/2018 MAY KINDLY BE SET ASIDE BEING ILLEGAL AGAINST THE FACTS, RULES NOT APPLICABLE TO THE RIGHTS OF APPELLANT.

Respectfully Sheweth;

Appellant submits as under

1. That the appellant was enrolled as Constable in Police Department in the year 23-08-1987 due to his good performance promoted step wise now working as SI/SHO in Police Station City, Hangu.

2. That the appellant was posted as SHO in different Police Stations in District Kohat during which his performance was remarkable and also enjoy the confidence of the then of high-ups, all his "A" ACRs and several certificates with OB No. 1393 dated 28.06.1988, OB No. 1094 dated 31.05.1998,

OB No. 1109 dated 23.05.1989 and so on from DPOs District Kohat.

3. That the appellant is also awarded by worthy Inspector General of Police, Khyber Pakhtunkhwa Peshawar with certificate for his good performance.

4. That the appellant was transferred from District Kohat to District Karak in year 2016.

5. That the appellant during his posting in District Karak avail a number of official secret and confidential task assigned to him.

6. That ultimately the appellant was posted as SHO P.S Karak. During the SHOship the appellant achieved several achieved several important goal as a resulted, he was awarded with CC-III Certificates and cash reward Rs. 500/- OB No. 761 dated 09-12-2019, by the then DPO Karak and was also awarded with cash prize Rs. 3000/- and C-I Certificate.

7. That after some time misunderstanding were developed between the appellant and the then DPO Karak.

8. That the appellant a number of times directly and indirectly tried to remove the said misunderstanding but all in vain, even the appellant's apology get no mass.

9. The enquiries base at bias as initiated against the appellant which resulted in compulsory retirement of the appellant from his service.

10. That the order of compulsory retirement from service being un-lawful and against the facts did not stand at the initial stages of appeal and was set aside resultantly, the appellant was re-instated in service.

11. That the appellant shocked to received the impugned adverse remarks in the ACR for the period w.e.f from 27-07-2016 to 31-12-2016 by the responding officer i.e. Respondent No. 4 and countersigning officer (Respondent

No. 3) which was communicated vide letter No. 345/CC dated 27-10-2017 which is against the law and rules. (Copy of the impugned remarks is as annexure "A").

12. That the appellant aggrieved from the impugned remarks filed Departmental appeal before Respondent No. 1 which was forwarded vide letter No.6328/PA dated: 14/11/2017 and was finally rejected by the Respondent No.1 vide order dated 08/03/2018, however the same was not communicated to the appellant and was communicated on 25/07/2019 during arguments, hence the appellant filling the instant amended appeal on the following grounds (Copies of departmental appeal and letter & final order are annexure "B, C & D").

GROUNDS:

A. That the impugned remarks are against the law rules and principle of natural justice.

B. That the appellant has not been provided any opportunity of personal hearing.

C. That no counseling, notice was provided before writing the impugned remarks. Hence the impugned remarks are liable to be expunch being contrary to law and rules.

D. That even No show cause Notice has ever been issued to the appellant nor did any complaint has ever been filed against the appellant by any one.

E. That the appellant has not been treated in accordance with Article 25 of the Constitution of Islamic Republic of Pak 1973.

F. That the performance and honesty of the appellant is evident from the recommendation certificate. Hence the remarks of both the reporting as well as counter signing officer are based on malafide and without justification and solid grounds.

G. That the impugned final order is non-speaking order as the same has been rejected without assigning any reason.

H. That the appellant well adduce other grounds during the course of arguments.

It is therefore requested that the appeal of the appellant may kindly be accepted as prayed for.

Dated: 11/10/2019.

Appellant

Through

Naila Jan
Advocate, High Court
Peshawar.

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

No. S/ 959-61 /18, Dated Peshawar the 08/03/2018.

To: The Regional Police Officer,
Kohat Region.

Subject:- REPRESENTATION

Memo:

Please refer to your office memo: No. 2966 dated 26.02.2018 on the subject cited above.

A representation submitted by Sub-Inspector Shah Duran of Hangu district Police for the expunction of Adverse Remarks recorded in his ACR for the period from 27.07.2016 to 31.12.2016 has been examined and filed by the competent authority.

The Representationist may be informed accordingly.

Furthermore, Service Roll, Service Books Fauji Missal and Character Roll Dossier in r/o SI Shah Duran received with your memo: under reference are also returned herewith for your office record.

Please ack: receipt.

Encl: As Above.
S/Roll – (1)
S/Book – (2)
F/Missal (1)
C.R Dossier (1)

(SYED ZIA ALI SHAH)
Registrar,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar

Endst: No. & Date even

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

1. District Police Officer, Hangu.
2. PA to DIG/HQrs: Khyber Pakhtunkhwa CPO.

NO 28 dtd 13-3-018
DPO Hangu pr
N/action pl.