

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No: 1286/2020

Date of Institution: ... 25.02.2020  
Date of Decision: ... 12.11.2021

Mr. Asif Khan, Ex-Constable No.192. District Police, Mardan.  
... (Appellant)

**VERSUS**

The Inspector General of Police, Khyber Pakhtunkhwa,  
Peshawar and two others.

... (Respondents)

Uzma Syed,  
Advocate ... For Appellant.

Kabir Ullah Khattak,  
Additional Advocate General ... For Respondents.

Rozina Rehman ... Member (J)  
Mian Muhammad ... Member (E)

**JUDGMENT**

Rozina Rehman, Member(J): The appellant has invoked the jurisdiction of this Tribunal through the above titled appeal with the prayer as copied below:

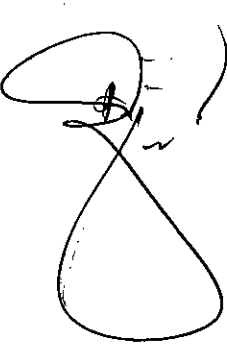
"On acceptance of this appeal, the order dated 04.11.2013 and 06.11.2019 may please be set aside and the appellant may be reinstated into service with all back benefits."

2. Brief facts of the case are that appellant was appointed as Constable in the Police Department. During service, he was charged in a criminal case vide F.I.R No.789 U/S 302 P.P.C. He was, therefore, departmentally proceeded against and was dismissed from service. He was tried in a competent court of Law and was acquitted.

After earning acquittal, he preferred departmental appeal but the same was regretted. Feeling aggrieved, he filed revision before respondent No.1 but the same was not responded to, hence, the present service appeal.

3. We have heard Miss. Uzma Syed Advocate learned counsel for appellant and Kabir Ullah Khattak learned Additional Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Miss Uzma Syed Advocate learned counsel appearing on behalf of appellant, in support of appeal contended with vehemence that the impugned dismissal order and the order of appellate authority are against law and facts. She submitted that appellant was acquitted by competent court of Law and that every acquittal is honorable but instead of giving benefit of acquittal to the appellant, his appeal was dismissed. Lastly, she submitted that appellant was dismissed just on the basis of his involvement in a criminal case and that the only stigma on the person of appellant is no more, therefore, he may kindly be reinstated in service. Reliance was placed on judgments of this Tribunal passed in Service Appeals No: 616/2017, 1380/2014, 1025/2017 and 768/2018.



5. Conversely, learned A.A.G submitted that appellant was recruited as Constable in Police Department but his performance was not satisfactory. That he while posted at Police Guard WAPDA Grid Station near Sheikh Maltoon, was found directly involved in a criminal case, therefore, he was issued charge sheet with statement of allegations and inquiry was entrusted to D.S.P Headquarters. He contended that in the light of recommendation of Inquiry Officer, he

was awarded major penalty of dismissal from service which does commensurate with the gravity of misconduct of the appellant.

6. From the record it is evident that plea which the respondents have tried to establish against the appellant through parawise comments and arguments at the bar, is mainly linked with his involvement in the criminal case. It has been asserted on behalf of respondents that appellant being member of disciplined force earned bad name to the Department and that the departmental and criminal proceedings are of distinct in nature and can work side by side and decision of the criminal court, if any, is not binding in the departmental proceedings. It is on record that accused was acquitted vide order of the learned Sessions Judge, Mardan dated 26.09.2019, where-after, he submitted his departmental appeal on 16.10.2019. Despite production of relevant record in respect of his acquittal by the competent court of Law, his appeal was rejected. His acquittal was not taken into consideration by the appellate authority. The registration of F.I.R No.789 on 24.07.2013 was taken as ground for disciplinary action against the appellant. According to the operative part of the judgment, appellant was acquitted on the basis of compromise as it was in the best interest of both the parties. When the criminal case taken as ground for disciplinary action against the appellant has failed at trial of the accused, the said ground having worked for disciplinary action against the appellant and imposition of major penalty upon him has vanished. We, therefore, hold that imposition of major penalty of dismissal from service upon appellant remained no more tenable. In this respect, we have sought guidance from 1998 PLC (C.S) 179, 2003 S.C.M.R 2015; P.L.D 2010 Supreme

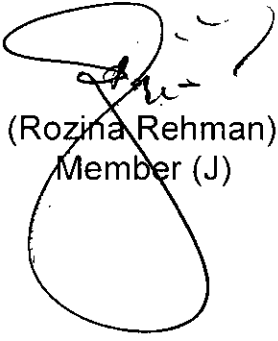


Court 695, judgments of Service Tribunal passed in Service Appeals No.1380/2014, 1025/2017, 616/2017, 768/2018.

7. In view of the above factual and legal position, we set aside the impugned orders and direct that appellant be reinstated in service, however, absence and intervening period shall be treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
12.11.2021

  
(Mian Muhammad)  
Member (E)

  
(Rozina Rehman)  
Member (J)

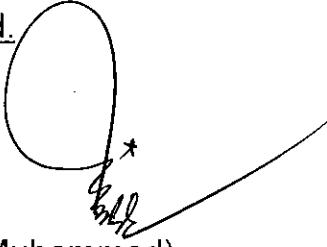
Order  
12.11.2021

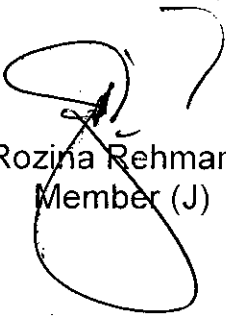
Appellant present through counsel.

Kabir Ullah Khattak learned Additional Advocate General for respondents present. Arguments heard. Record perused.

Vide our judgment of today of this Tribunal placed on file, we set aside the impugned orders and direct that appellant be reinstated in service, however, absence and intervening period shall be treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

Announced.  
12.11.2021

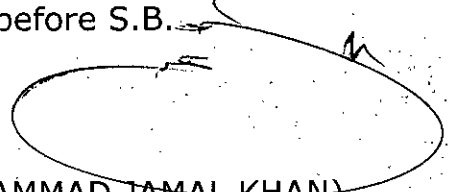
  
(Mian Muhammad)  
Member (E)

  
(Rozina Rehman)  
Member (J)

11.11.2020

Appellant is present in person. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Khayal Roz, Inspector (Legal), for the respondents are also present.

Written reply on behalf of respondents not submitted. Representative of the department seeks further time to furnish written reply/comments. Adjourned to 31.12.2020 on which date to come up for written reply/comments before S.B.

  
(MUHAMMAD JAMAL KHAN)  
MEMBER (JUDICIAL)

31.12.2020

Appellant in person present. Mr. Noor Zaman Khattak, District Attorney alongwith Mr. Khayal Roz, ASI for respondents present.

Written reply/comments on behalf of the respondents submitted which is placed on file. A copy of the same is also handed over to the appellant.

Adjourned to 13.04.2021 for rejoinder and arguments before D.B.

  
(Mian Muhammad)  
Member(E)

13.04.2021


Due to demise of Hon'able Chairman, the Tribunal is defunct, therefore, the case is adjourned to 28.07.2021 for the same.

  
Reader

28.07.2021

Appellant in person and Mr. Muhammad Adeel Butt,  
Learned Additional Advocate General alongwith Mr. Khayal  
Roz, Inspector for respondents present.

Due to general strike of the Peshawar Bar Association,  
the case is adjourned to 12.11.2021 for the same before D.B.



(Rozina Rehman)  
Member (Judicial)



Chairman

15.07.2020

Counsel for the appellant present. Arguments heard and record perused.

Contends that appellant was appointed as Constable and during service, he was charged in criminal case. Due to alleged involvement, impugned order dated 04.11.2013 was passed whereby major penalty of dismissal from service was imposed. The appellant was acquitted from the charge where after he filed departmental appeal which was regretted vide order dated 06.11.2019. A revision was also filed but the same was not attended to.

Points raised need consideration. Instant appeal is admitted for regular hearing subject to all legal exceptions. The appellant is directed to deposit security and process fee within 10 days. Notice be issued to the respondents. To come up for written reply/comments on 17.09.2020 before S.B.

Appellant Deposited  
Security & Process Fee

15/7/20

Member (J)

17.09.2020

Counsel for the appellant and Addl. AG alongwith Attaur Rahan Inspector for the respondents present.

Learned AAG seeks time to furnish requisite comments/reply. Adjourned to 11.11.2020 on which date the requisite reply/comments shall positively be furnished.

Chairman

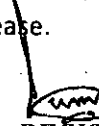




Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- 1286 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	03/03/2020	<p>The appeal of Mr. Asif Khan resubmitted today by Mr. Shahzullah Yousafzai Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p> REGISTRAR 3/3/2020</p>
2-	06/03/2020	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>17/04/2020</u></p> <p> MEMBER</p>
17.04.2020		<p>Due to public holiday on account of COVID-19, the case is adjourned to 15.07.2020 for the same. To come up for the same as before S.B.</p> <p> Reader</p>

The appeal of Mr. Asif Khan Ex-Constable No. 192 District Police Mardan received today i.e. on 25.02.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

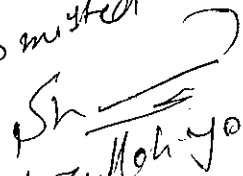
- 1- Index of the appeal may be prepared according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Copy of Court order dated 26.09/2019 is incomplete which may be completed.

No. 474 /S.T,

Dt. 26-02 /2020.

  
REGISTRAR,  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Uzma Syed Adv. Pesh.

*objection removed  
resubmitted accordingly.  
Sh.   
Shehzaib Youlazi  
Advocate*

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 1286 /2020

ASIF KHAN

V/S

POLICE DEPARTT.

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*Am*  
APPELLANT  
~~Asif Khan~~  
Asif Khan

THROUGH:

*Uzma*  
(UZMA SYED)  
ADVOCATE HIGH COURT,  
*Sh &*  
SHAHZULLAH YOUSAFZAI  
ADVOCATE HIGH COURT

①

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 1286 /2020

Mr. Asif Khan, Ex-Constable/No.192.  
District police, Mardan.

Khyber Pakhtunkhwa  
Service Tribunal

Entry No. 1328

Dated 25/2/2020  
(Appellant)

VERSUS

1. The Inspector General of Police , KPK, Peshawar.
2. The Regional Police Officer, Mardan.
3. The District Police Officer Mardan.

(Respondents)

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APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 04.11.2013 WHEREIN THE APPELLANT WAS AWARDED MAJOR PENALTY OF DISMISSAL FROM SERVICE AND AGAINST THE ORDER DATED 06.11.2019 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED AND AGAINST NOT DECIDING THE REVIEW PETITION 11-A WHICH WAS NOT RESPONDED WITHIN STATUTORY PERIOD OF 90 DAYS.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 04.11.2013 AND 06.11.2019 MAY PLEASE BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED INTO SERVICE WITH ALL BACK AND CONSEQUETIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

~~Filed to day~~  
Registrar.  
25/2/2020

~~Re-submitted to -day~~  
and filed.

~~Registrar~~  
3/3/2020

RESPECTFULLY SHEWETH:

2

**FACTS:**

1. That the appellant was appointed as Constable in Police Department and performed his duty till his dismissal from service with entire satisfaction of his superior.
2. That during service appellant was charged in criminal case having FIR NO .789 dated 24/07/2013 U/S 302 PPC police station city district mardan. **Copy of FIRs are attached as Annexure-A.**
3. That due to alleged involvement of appellant in the above mentioned criminal case the respondents straight away issued impugned order dated 04/11/2013, whereby major penalty of dismissal from service was imposed on appellant without waiting the outcome of trial court **Copy of dismissal order is attached as Annexure-B.**
4. That it is pertinent to mention here, that after facing trial the appellant was finally acquitted from charge by the honorable trial court vide judgment 26/09/2019. **Copy of judgment dated 26/09/2019 is attached as Annexure-C.**
5. That after acquittal from afore mentioned criminal case the appellant filed departmental appeal against impugned order dated 04/11/2013 before respondent no.2 on 16/10/2019 and the same has been regretted by respondent no.2 vide order dated 06/11/2019 on no good grounds. **Copies of departmental appeal and appellate impugned order dated 06/11/2019 is attached as annexure.....D&E.**
6. That feeling aggrieved from above mentioned appellate order the appellant filed revision before respondent no.1 but the same has not been responded within stipulated period of ninety days. **Copy of revision petition is attached as annexure .....F.**
7. That feeling further aggrieved and having no other remedy the appellant preferred the instant appeal on following grounds inter alia.

**GROUND:**

3

- A) That the impugned orders dated 04.11.2013 & 06/11/2019 are against the law, facts, norms of justice and material on record, hence not tenable and liable to be set aside.
- B) That the appellant has been honorably acquitted from the charge on the basis of which he was dismissed from the service, hence the charge no more remain in field. Therefore the appellant is entitled to be reinstated in service with all back benefits.
- C) That it is a well settled law lays down by the august supreme court, that merely involvement in criminal case does not ipso facto warrant dismissal from service unless the same charge has been proved before competent court of law. But the respondents did not consider this aspect of the case and issued the impugned order in a hasty manner without waiting the outcome of trial court.
- D) That no charge sheet and statement of allegations has been served on appellant before passing major penalty of dismissal from service.
- E) That no regular inquiry has been conducted in the matter which is a mandatory requirement of police rules 1975 before passing major penalty of dismissal from service.
- F) That no chance of personal hearing has been provided to the appellant at any stage before passing the impugned orders, which is not only against police rules 1975 but also against natural justice
- G) That the appellant was condemned unheard and has not been treated according to law and rules.
- H) That the respondents have acted in arbitrary and malafide manner while issuing the impugned orders hence the same is not tenable in eye of law and liable to be set aside.
- I) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.

(4)

*Am*  
APPELLANT  
Asif khan

THROUGH:

*Uzma Syed*  
(UZMA SYED)  
ADVOCATE HIGH COURT,  
*Sh*  
SHAHZULLAH YOUSAFZAI  
ADVOCATE HIGH COURT





B-6

POLICE DEPARTMENT

MARDAN DISTRICT

ORDER

This order will dispose-off a departmental enquiry, under NWFP Police Rules 1975, initiated against Constable Asif Khan No. 192, while posted at Police Guard WAPDA Grid Station Near Sheikh Maltoon, (now under suspension Police Lines) has been involved in a case vide FIF No. 789 dated 24.07.2013 u/s 302/PPC Police Station City.

In this connection, Constable Asif Khan No. 192 was charge sheeted vide this office No. 30/PA dated 12.08.2013 and also proceeded him against departmentally through Mian Naseeb Jan DSP/HQrs Mardan; who after fulfilling necessary process, submitted his findings to the undersigned vide his office endorsement No. 411/HQrs dated 21.10.2013, in which he stated the said Constable is directed time and again to appear before the enquiry office but he did not to do so hence he is recommended to remove from service.

The undersigned agreed with the findings of enquiry officer and the alleged Constable Asif Khan is dismissed from service, in exercise of the power vested in me under the above quoted rules.

**Order announced**

O.B No. 2417


Dated 11/11/2013

No. 101 / dated Mardan the 4-11-2013.

  
(Gul Afzal Afridi)  
District Police Officer,  
Mardan.

Copy for information and necessary action to:-

1. The DSP/HQrs Mardan.
2. The Pay Officer (DPO) Mardan.
3. The PA to DPO Mardan.
4. The E.C (DPO) Mardan.
5. The OASI (DPO) Mardan with ( ) enclosures.

Attested  
Sh. 

ATTESTED

C-7

سید قاسم علی  
بندت جناب القضاة  
فیصلہ پیشی برصوبہ  
19/7/18  
8-10-18  
52/100  
Judge Special Task-II, Mardan

Order.....07  
Dt.26.09.2019

علی  
1  
2  
4

The case was fixed for 30.09.2019 but on the application fo the counsel for accused requisitioned for today / as parties have patched up the mater inter-se. It be entered in today's diary and cause list. Accused was also summoned through zamima bay for today.

Muhammad Sheraz APP for the state present. Accused Asif produced in custody through Zamima Bay.

The major legal heirs of deceased Mst.Hameeda stated before the court that through the intervention of the elders of Illaqa/Jirga members, they have patched up the matter with the accused facing trial and waived off their rights of Qisas, Diyat and has pardoned the accused unconditionally in the name of Almighty Allah, therefore, they have got no objection if this court acquit the accused Asif. In this regard their statement alongwith joint statement of the elders/Jirga member also recorded and placed on file whereby the factum of compromise.

Muhammad Asif Khan  
Sessions Judge  
Judge Special Task-II, Mardan

Counsel for accused facing trial, submitted an application for depositing the shares of minors legal heirs of the deceased i.e. Waqar Ahmad (son of deceased) amounting to Rs.894459/- and Aiman Ahmad (daughter of deceased) amounting to Rs.447229/- with the Nazir/Accountant of the court, which was allowed and accused is

Certified To Be True

14 OCT 20

Examiner Copying & Sessions Clerk

ATTACHED

Order-7 continue  
Dt.26.09.2019

directed to deposit the same with the Nazir/Accountant, Sessions Court Mardan, while the Nazir/Accountant of the Sessions Court is directed to invest the same in the shape of National Saving Certificates at National Saving Center and submit report before the court today, which he complied with by today and submitted copies of the certificates, which are placed on file, while original handed over to the father of minor, namely Ahmad before the court *being his guardian now. etc.*

In view of the above, as the complainant party has effected genuine compromise with the accused facing trial and the offence U/S 302 PPC is also compoundable as per schedule-II of Cr.P.C of the charges leveled against him in the instant case, therefore, accused facing trial Asif is hereby acquitted U/S 302 PPC on the basis of compromise as it is in the best interest of both the parties. He is in custody. Be set free forthwith, if not required to be detained in any other case.

Case properly be disposed off in accordance with law. File be

Announced.  
Dt.26.09.2019

*Attested*  
Sh *[Signature]*  
Muhammad Asif Khan,  
Sessions Judge/JST-II, Mardan.

Muhammad Asif Khan  
District & Sessions Judge/  
Judge Special Task-II, Mardan

Name of Applicant	<i>U-60 v U-2</i>
Application No.	<i>15885</i>
Date of Presentation of Application	<i>3-10-15</i>
Date on which Copy Presented	<i>14-10-15</i>
Date on which Copy Examined	<i>14-10-15</i>
No. of pages	<i>02</i>
Court Fee / Copying fee	<i>1/-</i>
Date of copyist	<i>14-10-15</i>
Name of copyist	

Certified To Be True Copy

14 OCT 2019

Examiner Copying Branch  
Sessions Court Mardan

ATL-70

D-9

BEFORE THE HONORABLE D.I.G OF MARDAN REGION 1 MARDAN

Subject: Application for Reinstatement in Service against the order of worthy Mardan dated 4.11.2013 vide which applicant was dismissed from service.

Respected Sir,

It is submitted as under:

Facts :The Applicant while posted at police guard Wapda grid station Mardan was departmentally proceeded against the allegation of absence from duty.The departmental enquiry was carried out exparty by DSP/ HQrs Mr. Naseeb Jan after his finding the applicant was dismissed from service vide the order of learned DPO vide O.B No 2417 dated 4.11.2013 hence aggrieved this application for reinstatement in service.

GROUND FOR APPEAL

1. That the order of learened D.P.O Mardan is against the law and facts.
2. That the order has been made in absence of the applicant .
3. That no evidence has been recorded during enquiry to establish the charges.
4. That the appellant remained absence due to false nomination in a murder case ( copy of FIR attached).
5. That subsequently, the complainant party found the applicant innocent and there by effected compromise with the Applicant (copy of the learened court attached ).
6. That the appellant has got sufficient police experience with good physique and can betterly serve his department in future.
7. That the applicant has a family and has no other source of income the police job.

In view of the above it is requested that the applicant may kindly be re instated in service on humanitarian ground in greater interest of justice.

No. 13024/ES  
DT: 16/10/19  
Date: 16.10.2019

Attached  
Sw

Yours obediently

Abm

Ex-constable Asif khan (192) S/O Hareef Gul R/O present Address  
Dog Jatla Ac wa cantt .

Contact: 0312.9360693 / 0332.9360693

EC/DPO Mardan.  
For Comment

TESTED

E-10

**ORDER.**

This order will dispose-off the departmental appeal preferred by **Ex-Constable Asif Khan No. 192** of Mardan District Police against the order of the then District Police Officer, Mardan, wherein he was awarded Major Punishment of dismissal from Service by the then District Police Officer, Mardan vide his office OB: No, 2417 dated 04.11.2013.

Brief facts of the case are that the appellant while posted at Police Guard WAPDA Grid Station Near Sheikh Maltcon remained involved in a murder case vide FIR No. 789 dated 24.07.2013 u/s 302 PPC Police Station City, District Mardan. Consequently he was charged sheeted and also proceeded against departmentally through Mian Naseeb Jan the then DSP/HQrs: Mardan. The Enquiry Officer after fulfilling necessary process, submitted his findings to the District Police Officer, Mardan wherein the Enquiry Officer has stated that the Official was directed time and again to appear before the Enquiry Officer but he failed do so, hence he was recommended for awarding major punishment.

The District Police Officer, Mardan agreed with findings of the Enquiry Officer and the defaulter Official was dismissed from Service vide OB: No. 2417 dated 04.11.2013.

The appellant was dismissed from service on 04.11.2013 being involved in a criminal case and he filed the instant departmental appeal which is badly time barred. **Hence, his departmental appeal for re-instatement into service is hereby rejected..**

**ORDER ANNOUNCED.**

  
**(MUHAMMAD ALI KHAN)PSP**  
Regional Police Officer,  
Mardan. *Alh*

No. 13584 / ES,

Dated Mardan the 06/11 /2019.

Copy forwarded to District Police Officer, Mardan for information and necessary w/r to his office Memo: No. 439/LB dated 30.10.2019. His Service Record is returned herewith.

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

*Affected*  
*Sh*

**ATTESTED**

F-11

**BEFORE THE HONORABLE INSPECTOR GENERAL OF POLICE KPK  
PESHAWAR.**

Subject: Appeal for Reinstatement in Service against the order of worthy DIG Mardan dated 06.11.19 No 13584 vide which Departmental Appeal was dismissed.

Respected Sir,

**It is submitted as under:**

**Facts :** The Applicant while posted at police guard Wapda grid station Mardan was departmentally proceeded against the allegation of absence from duty. The departmental enquiry was carried out x party by DSP/ HQrs Mr. Naseeb Jan after his finding the applicant was dismissed from service vide the order of learned DPO vide O.B No 2417 dated 4.11.2013 hence aggrieved this application for reinstatement in service.

**GROUND FOR APPEAL**

1. That the order of learned D.P.O Mardan is against the law and facts.
2. That the order has been made in absence of the applicant.
3. That no evidence has been recorded during enquiry to establish the charges.
4. That the appellant remained absence due to false nomination in a murder case ( copy of FIR attached).
5. That subsequently, the complainant party found the applicant innocent and there by effected compromise with the Applicant (copy of the learned court attached).
6. That the appellant has got sufficient police experience with good physique and can bitterly serve his department in future.
7. That the applicant has a family and has no other source of income the police job.
8. That departmentally appeal was rejected by worthy DIG Mardan 06.11.2019.

**In view of the above it is requested that the applicant may kindly be reinstated in service on humanitarian ground in greater interest of justice.**

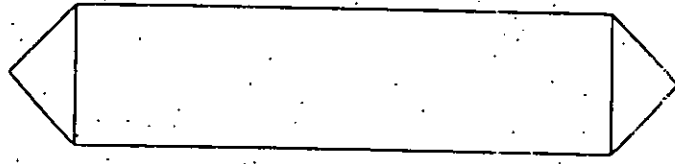
Yours obediently

Date: 11.11.2019

Ex-constable Asif khan (192) S/O Hareef Gul R/O present Address  
Dog Jatla Ac wa cantt .

Contact: 0312.9360693 / 0332.9360693

**ATTESTED**



2ء منجانب  
بنام

Asif Khan

یا

Police Dept

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام سپریم کورٹ کے لیے جسٹس سر ایمنو شاہ زور اللہ کے سامنے  
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقریر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی  
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت  
مقدمہ مذکور 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 بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے  
اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے  
سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں  
گے۔ کہ پیروی مذکور کریں۔ لہذا نکالت نامہ لکھ دیا کہ سندر ہے۔

2026ء

ماہ ستمبر

25

المرقوم

کے لئے منظور ہے۔

Accepted  
in  
us

مقام

Amir  
اصفا قلی

C

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

**Service Appeal No. 1286/2020**

Asif Khan Ex-Constable No.192 District Police, Mardan.....Appellant

**VERSUS**

1. The Inspector General of Police Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Mardan
3. The District Police Officer, Mardan

.....Respondents

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<b>S. No.</b>	<b>Description of Documents</b>	<b>Annexure</b>	<b>Pages.</b>
1.	Copy of Written Reply.	---	1-3
2.	Copy of Affidavit.	---	4
3.	Copy of bad entries	A	5-6
4.	Copy of FIR	B	7
5.	Copy of Charge Sheet, Enquiry & orders	C & D	8-12
6.	Copy of Authority Letter.	---	13



C

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

**Service Appeal No. 1286/2020**

Asif Khan Ex-Constable No.192 District Police, Mardan.....Appellant

**VERSUS**

1. The Inspector General of Police Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Mardan
3. The District Police Officer, Mardan

.....Respondents

**Para-wise comments by respondents:-**

**Respectfully Sheweth,**

**PRELIMINARY OBJECTIONS**

1. That the appellant has not approached this Hon'ble Tribunal with clean hands.
2. That the appellant has concealed the actual facts from this Hon'ble Tribunal.
3. That the appellant has got no cause of action or locus standi to file the instant appeal.
4. That the appellant is estopped by his own conduct to file the instant Service Appeal.
5. That the appeal is unjustifiable, baseless, false, flawless and vexatious and the same is liable to be dismissed with special compensatory cost in favour of respondents.
6. That the Hon'ble Tribunal has no jurisdiction to adjudicate the matter.

**REPLY ON FACTS**

1. Correct to the extent that the appellant was recruited as constable in Police Department but his performance was not satisfactory (Copy of list of bad entries and punishment enclosed as Annexure "A")
2. Correct to the extent that the appellant while posted at Police Guard WAPDA Grid Station Near Sheikh Maltoon was found directly involved in a criminal case vide FIR No.789 dated 24.07.2013 u/s 302 PPC Police Station City. (Copy of FIR is annexed as "B").
3. Incorrect. Stance taken by the appellant is totally devoid of merit because he has been issued Charge Sheet with Statement of Allegations and enquiry was entrusted to Mian Naseeb Jan the then DSP/HQrs Mardan. The Enquiry Officer after fulfilling all legal and codal formalities, held the appellant responsible of misconduct. Therefore, in light of recommendation of Enquiry Officer, the competent authority awarded the appellant appropriate punishment of dismissal from service, which does commensurate with the gravity of misconduct of the appellant (Copies of Charge Sheet & Statement

of allegations are annexed as "C" & "D"). Moreover, the plea of the appellant regarding without waiting for the outcome of trial by the competent authority is not plausible because criminal proceedings have no binding effects on the departmental proceedings.

4. Plea taken by the appellant is bereft of any substance because criminal and departmental proceedings are two different entities which can run parallel and the fate of criminal case will have no effects on the departmental proceedings.
5. Correct to the extent that the appellant preferred departmental appeal which was also decided on merit because the appellant was provided full-fledged opportunity of defending himself by the appellate authority but he bitterly failed to produce any cogent reason in his defense. Therefore, the same was rejected/filed being devoid of any merit and badly time barred.
6. Plea taken by the appellant seems tailored one because the appellant in order to cover the issue of limitation, annexed the copy of revision allegedly filed before the Inspector General of Police Khyber Pakhtunkhwa Peshawar as no diary or dispatch number is written on the said petition. As per rule the period of limitation start from the rejection of departmental appeal.
7. That appeal of the appellant is liable to be dismissed on the following grounds amongst the others.

**REPLY ON GROUNDS:**


- A. Incorrect. Orders passed by the respondents are legal, lawful hence, liable to be maintained.
- B. Incorrect. Stance taken by the appellant is totally ill-based because criminal and departmental proceedings are two different entities which can run side by side and the fate of one will have no binding effects on the other.
- C. Para already explained needs no comment.
- D. Incorrect. Stance taken by the appellant is totally devoid of merit because he has been issued Charge Sheet with Statement of Allegations and enquiry was entrusted to Mian Naseeb Jan the then DSP/HQrs Mardan. The Enquiry Officer after fulfilling all legal and codal formalities, held the appellant responsible of misconduct. Therefore, in light of recommendation of Enquiry Officer, the competent authority awarded the appellant appropriate punishment of dismissal from service, which does commensurate with the gravity of misconduct of the appellant. The copies of the same have been annexed as annexure mentioned above.
- E. Para explain earlier needs no comments.
- F. Incorrect. The appellant has been provided right of self defense during course of departmental proceedings but has no cogent justification to defend himself.
- G. Para explained earlier needs no comments.

H. Incorrect. Story propounded by the appellant is totally based on illusion.

I. The respondents also seek permission of this honorable tribunal to adduce additional grounds at the time of arguments.

**PRAYER:-**

Keeping in view the above facts narrated facts it is most humbly prayed that the appeal of the appellant being badly barred by law and limitation may kindly be dismissed with costs please.

  
**Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar.**  
(Respondent No. 01)

  
**Regional Police Officer,  
Mardan.**  
(Respondent No. 02)

  
**District Police Officer,  
Mardan.**  
(Respondent No. 03)

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

**Service Appeal No. 1286/2020**

Asif Khan Ex-Constable No.192 District Police, Mardan.....Appellant

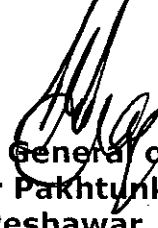
**VERSUS**

1. The Inspector General of Police Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Mardan
3. The District Police Officer, Mardan

.....Respondents

**COUNTER AFFIDAVIT.**

We, the respondents do hereby declare and solemnly affirm on oath that the contents of the Para-wise comments in the service appeal cited as subject are true and correct to the best of our knowledge and belief and nothing has been concealed from this Honourable Tribunal.

  
**Inspector General of Police,**  
**Khyber Pakhtunkhwa,**  
**Peshawar.**  
(Respondent No. 01)

  
**Regional Police Officer,**  
**Mardan.**  
(Respondent No. 02)

  
**District Police Officer,**  
**Mardan.**  
(Respondent No. 03)

Arinewe "A"

ORDER

Being involved vide case  
FIR No 789 dated 24-7-13 U/S 302  
I PPC Ps City suspended and closed  
to police line immediately.

CR No. 1622

31/2/13.

DPO/Mardau

ORDER

He is hereby dismissed from  
Service, in exercise of the power in me  
under the above.

DPO/Mardau

Serial No.

15-CENSURES AND PUNISHMENTS.

Punishment One day Extra Drill.

OB No - 1493

4-5-10



DPO/MR

Punishment Two days Extra Drill.

OB No - 1496

4-5-10



DPO/MR

ORDER

The appeal of EX-Constable Asit Khan No. 192 for re-instatement into service is hereby rejected vide DGM/MDM order.

Enst: No. 13584/ECs dt: 06-11-19.



DPO/MDM

قابل

### ابتدائی اطلاع رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ 153 مجموعہ ضابطہ فوجداری

سی

ضلع دروان

789

28

تاریخ وقوع - وقوع :- 24/7/13 وقت تقریباً 12:00 بجے

1-	تاریخ و وقت رپورٹ	24/7/13 وقت 12:50 بجے
2-	نام و سکونت اطلاع دہندہ مستغیث	محمد دین ولد الف رفین قوچ افغان عمر تقریباً 60 سال ساکن دانش کالونی
3-	مختصر کیفیت جرم (معدنہ) حال اگر کچھ لیا گیا ہو۔	302 B
4-	جائے وقوع و قاصد تھانہ سے اور دست	نزد مکان محتوم واقع دانش کالونی
5-	نام و سکونت ملزم	آصف ولد عارف سک دانش کالونی دروان
6-	کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا تو وجہ بیان کرو	برسر سبکی دراصل خود جامع کیا جاتا ہے
7-	تھانہ سے روانگی کی تاریخ و وقت	پلور سنٹرل رپورٹ

دروان سے بدست کیش صفحہ 302 درج ذیل تقریباً 60 سال ساکن دانش کالونی نے مفت دفتر خود حماہ حمیدہ زویہ احمد خان بے تقریباً 27 سال ساکن دانش کالونی برادر ایلدیان حبیب کچھو کچھو سیال mmc دروان لاکر کیوں رپورٹ کرنا حمیدہ دفتر ام حماہ حمیدہ چارے نزد دانش کالونی میں ریاض بڈیر تھی۔ دفتر ام کا خاوند احمد خان زراعت و کھیت مٹوں میں ملازم ہے جس کے گھر والد عارف ساکن دانش کالونی کا مرنڈاش نے اسے آتش سے مار ڈالی ہے جس میں خود اطلاع وقوع آئے واقع خود انور اسی ام امین کا خیمہ دیر ہے جنہوں نے خود اطلاع دی میں دفتر ام کے متعلق کا بر خلاف ملزم آصف مذکورہ بالا دیر دیر میں بر دست خط عمر ولد محمد دین بے تقریباً 20 سال ساکن دروان نے رپورٹ بلائی تاکہ مذکورہ ملزم کے متعلق کاشی نامہ تیز نہ لگے تاکہ مذکورہ کے کاغذات دستیار کے دفتر میں نہ لگے۔ ملزم کا پتہ دروان میں ہے۔ بیان کردہ حالات و واقعات سے صورت معلوم ہوا کہ انجانہ بھولی mmc دروان 24/7/13 کارروائی حکام نے آئندہ درانے صرف خوف درانے ہی نہیں بلکہ اس مرتب ہوا۔ درانے کے بغیر 192 بولن تفتیش حوالہ انجانہ تفتیش سے ملے جاتے ہیں۔ آئندہ بلا اور پلور رپورٹ اطلاع دی جاتی ہے۔ درج پلور سنٹرل رپورٹ زراعت ہے۔

Si-Ps. انتا  
24-7-2013

Annexure 'C' (2)

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

tel: 9230109  
Fax: 923

No. 30 /PA/D.A-P.R-MJR

Dated 12/18 /2013

DISCIPLINARY ACTION UNDER NWFP POLICE RULES - 1975

I, **Gul Afzal Afridi**, District Police Officer, Mardan as competent authority am of the opinion that **Constable Asif Khan No. 192**, has rendered himself liable to be proceeded against as he committed the following acts/omission within the meaning of section-02 (iii) of NWFP:Police Rules 1975.

STATEMENT OF ALLEGATIONS


That **Constable Asif Khan No. 192**, while posted at Police Guard WAPDA Grid Station Near Sheikh Maltoon, (now under suspension Police Lines) has been involved in a case vide FIR No. 789 dated 24.07.2013 u/s 302/PPC Police Station City.

This amounts to grave misconduct on his part, warranting departmental action against him.

For the purpose of scrutinizing the conduct of the said official with reference to the above allegations, Mian Naseeb Jan Khan DSP/HQrs Mardan is deputed to conduct proper departmental enquiry against the above mentioned Constable, as contained in section-6 (1) (a) of the aforementioned Rules.

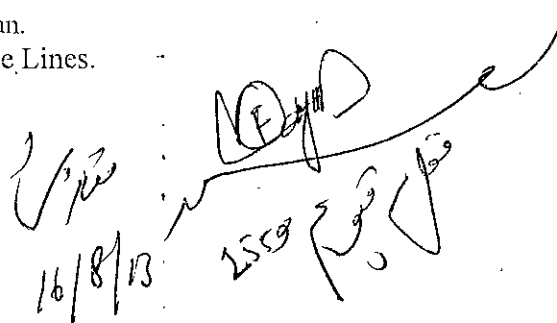
The enquiry officer, after completing all proceedings shall submit his verdict to this office within the stipulated time of (10) days, as contained in section-06 (5) of NWFP Police Rules 1975.

Constable Asif Khan is directed to appear before the enquiry officer on the date, time and place fixed by the enquiry officer. A statement of charge sheet is attached.

  
(Gul Afzal Afridi)  
District Police Officer,  
Mardan.

Copies for information and necessary action to the: -

1. Mian Naseeb Jan Khan DSP/HQrs Mardan.
2. Constable Asif Khan No. 192 of Police Lines.

  
16/8/13  
2559



Annexure "D"

CHARGE SHEET UNDER NWFP POLICE RULES 1975

I, Gul Afzal Afridi, District Police Officer, Mardan as competent authority hereby charge you Constable Asif Khan No. 192, as follows.

That you Constable Asif Khan No. 192, while posted at Police Guard WAPDA Grid Station Near Sheikh Maltoon, (now under suspension Police Lines) have been involved in a case vide FIR No. 789 dated 24.07.2013 u/s 302/PPC Police Station City.

This amounts to grave misconduct on your part, warranting departmental action against you, as defined in section-6 (1) (a) of the NWFP Police Rules 1975.

1. By reason of the above, you appear to be guilty of misconduct under section – 02 (iii) of the NWFP Police Rules 1975 and has rendered yourself liable to all or any of the penalties as specified in section-04 (i) a & b of the said Rules.
2. You are therefore, directed to submit your written defense **within seven days** of the receipt of this charge sheet to the enquiry officer.
3. Your written defence if any, should reach to the enquiry officer within the specified period, failing which, it shall be presumed that you have no defense to put-in and in that case, an ex-parte action shall follow against you.
4. Intimate whether you desired to be heard in persons.

  
(Gul Afzal Afridi)  
District Police Officer,  
Mardan.

فائل انکوائری رپورٹ ازاں کنشیل آصف نمبر 192 پولیس لائن مردان

جناب عالی!

بحوالہ چھٹی انگریزی نمبری 30/PA/D.A.PR/1975 مورخہ 12/08/2013 کنشیل آصف نمبر 192 کیخلاف انکوائری کاغذات موصول ہو کر جس میں کنشیل مذکورہ کیخلاف الزام لگایا گیا ہے۔ کہ جب وہ پولیس گارڈ گریڈیشن شیخ ملتان میں تعینات تھا۔ تو اسکے خلاف مقدمہ علت 789 مورخہ 13-07-24 جرم 302 تھانہ سٹی مردان میں دعویداری ہو کر وہ ملزم ہے۔

تو اس سلسلے میں باقاعدہ انکوائری ہو کر جو کہ کنشیل مذکورہ کو بار بار بغرض تقسیم کرنے چارج شیٹ کئی بار اطلاع یابی کی کوشش کی گئی۔ مگر کنشیل مذکورہ حاضر نہیں آیا۔ مورخہ 13-08-16 کو چارج شیٹ بمعہ سٹیٹمنٹ آف الیکیشن بغرض تعمیل SHO تھانہ سٹی مردان بھجوا یا جا کر، تاکہ متعلقہ اہلکار کے گھر کے افراد میں سے کسی پر تعمیل کرے۔ مگر SHO تھانہ سٹی کے بیان کے مطابق کنشیل مذکورہ کا گھر مقفل ہے۔ اور کوئی بھی شخص اسکے رہائش کے متعلق نہیں جانتا۔ اور اسکے بیان کے مطابق کنشیل مذکورہ کا اپنے محلے میں کوئی بھی رشتہ دار وغیرہ نہیں ہے۔ تو جملہ کاغذات عدم تعمیل واپس ارسال کئے ہیں۔

اس انکوائری کے سلسلے میں تفتیشی آفیسر SI بخشید خان کے بیان کے مطابق مقدمہ عنوان بالا میں مدعی مقدمہ نے دختر خود مسماہ حمیدہ کے قتل کی دعویداری برخلاف ملزم آصف کر کے دوران تفتیش ملزم کے متعلق معلوم ہوا کہ وہ محکمہ پولیس میں بحیثیت کنشیل پولیس لائن مردان سے گارڈ گریڈیشن واپڈ انوشہرہ روڈ شیخ ملتان ڈیوٹی سرانجام دے رہا ہے۔ جس کے نسبت گارڈ کمانڈر عالم زب سے معلومات ہو کر جس نے بیان کیا کہ کنشیل مذکورہ بروز وقوعہ گارڈ سے غائب تھا۔ جس کے خلاف رپورٹ کے نسبت لائن آفسر صاحب کو اطلاع دی گئی ہے۔ پولیس لائن سے معلومات ہو کر واقعی مذکورہ کے خلاف بحوالہ مد 25 روز نامہ 13-07-24 بوقت 0735 بجہ رپورٹ غیر حاضری درج روز نامہ کی گئی ہے۔ ملزم بعد وقوعہ روپوش ہے۔ جس کے خلاف کارروائی روپوشی مکمل کر کے مقدمہ میں چالان زیر دفعہ 512 بغرض سماعت بوساطت افسران بالا بھجوا یا گیا ہے۔

پس انکوائری بالا ہو کر جس سے معلوم ہوا کہ کنشیل آصف واقعی مقدمہ میں ملوث ہے۔ اس لئے کہ ملزم کا بروز وقوعہ جائے تعیناتی سے غیر حاضر ہونا۔ اور بعد وقوعہ روپوش ہونا اس بات کی دلیل ہے۔ کہ کنشیل مذکورہ نے جرم کیا ہے۔ جسکی وجہ سے وہ دیدہ دانستہ اپنی موجودگی چھپا رہا ہے۔ تو کنشیل مذکورہ کے خلاف یکطرفہ کارروائی عمل میں لاتے ہوئے کنشیل آصف نمبر 192 کو محکمہ پولیس سے برطرفی کی سفارش کی جاتی ہے۔

(میاں نصیب جان)

ڈپٹی سپرینٹنڈنٹ پولیس ہیڈ کوارٹر مردان

Approved

NO. 411/140 dated 21/10/013

کل صفحات ( 18 )

Reader  
Amir  
21/10/13


**ORDER**

This order will dispose-off a departmental enquiry, under NWFP Police Rules 1975, initiated against **Constable Asif Khan No. 192**, while posted at Police Guard WAPDA Grid Station Near Sheikh Maltoon, (now under suspension Police Lines) has been involved in a case vide FIR No. 789 dated 24.07.2013 u/s 302/PPC Police Station City.

In this connection, Constable Asif Khan No. 192 was charge sheeted vide this office No. 30/PA dated 12.08.2013 and also proceeded him against departmentally through Mian Naseeb Jan DSP/HQrs Mardan, who after fulfilling necessary process, submitted his findings to the undersigned vide his office endorsement No. 411/HQrs dated 21.10.2013, in which he stated the said Constable is directed time and again to appear before the enquiry officer but he did not to do so hence he is recommended to remove from service.

The undersigned agreed with the findings of enquiry officer and the alleged Constable Asif Khan is dismissed from service, in exercise of the power vested in me under the above quoted rules.

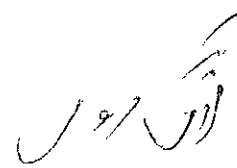
**Order announced**O.B No. 2417Dated 4 / 11 / 2013

  
(Gul Afzal Afridi)  
District Police Officer,  
Mardan.

No. \_\_\_\_\_ / dated Mardan the \_\_\_\_\_ /2013.

Copy for information and necessary action to:-

1. The DSP/HQrs Mardan.
2. The Pay Officer (DPO) Mardan.
3. The PA to DPO Mardan.
4. The E.C (DPO) Mardan.
5. The OASI (DPO) Mardan with ( ) enclosures.



**ORDER.**

This order will dispose-off the departmental appeal preferred by Ex-Constable Asif Khan No. 192 of Mardan District Police against the order of the then District Police Officer, Mardan, wherein he was awarded Major Punishment of dismissal from Service by the then District Police Officer, Mardan vide his office OB: No. 2417 dated 04.11.2013.

Brief facts of the case are that the appellant while posted at Police Guard WAPDA Grid Station Near Sheikh Maltoon remained involved in a murder case vide FIR No. 789 dated 24.07.2013 u/s 302 PPC Police Station City, District Mardan. Consequently he was charged sheeted and also proceeded against departmentally through Mian Naseeb Jan the then DSP/HQrs: Mardan. The Enquiry Officer after fulfilling necessary process, submitted his findings to the District Police Officer, Mardan wherein the Enquiry Officer has stated that the Official was directed time and again to appear before the Enquiry Officer but he failed do so, hence he was recommended for awarding major punishment.

The District Police Officer, Mardan agreed with findings of the Enquiry Officer and the defaulter Official was dismissed from Service vide OB: No. 2417 dated 04.11.2013.

The appellant was dismissed from service on 04.11.2013 being involved in a criminal case and he filed the instant departmental appeal which is badly time barred. Hence, his departmental appeal for re-instatement into service is hereby rejected..

ORDER AJIN ZUNGER.

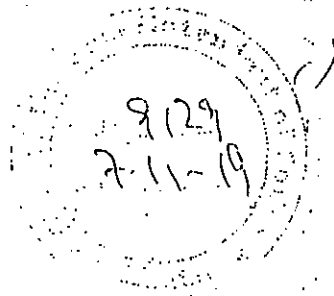
*Muhammad*  
**(MUHAMMAD ALI KHAN)PSP**  
Regional Police Officer,  
Mardan. *Ali*

No. 13584 /ES,

Dated Mardan the 06/11 /2019.

Copy forwarded to District Police Officer, Mardan for information and necessary w/r to his office Memo: No. 439/LB dated 30.10.2019. His Service Record is returned herewith.

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



*DSP Legal,*  
*EC*  

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*For information*  
*DPO Mardan*  
*6/11/19*

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

**Service Appeal No. 1286/2020**

Asif Khan Ex-Constable No.192 District Police, Mardan.....Appellant


**VERSUS**

1. The Inspector General of Police Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Mardan
3. The District Police Officer, Mardan

.....Respondents

**AUTHORITY LETTER.**

Mr. Zaheer Khan PASI Legal Branch, (Police) Mardan is hereby authorized to appear before the Honourable Service Tribunal, Khyber Pakhtunkhwa, Peshawar in the above captioned service appeal on behalf of the respondents. He is also authorized to submit all required documents and replies etc. as representative of the respondents through the Addl: Advocate General/Govt. Pleader, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

  
**Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar.**  
(Respondent No. 01)

  
**Regional Police Officer,  
Mardan.**  
(Respondent No. 02)

  
**District Police Officer,  
Mardan.**  
(Respondent No. 03)