

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 100/2019

Date of institution ... 15.01.2019

Date of judgment ... 21.11.2019

Abbas Khan, Ex-Driver Constable, No. 5666,
Capital City Police, Peshawar.

... (Appellant)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Capital City Police Officer, Peshawar.
3. The Senior Superintendent of Police (Operation) Peshawar.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 20.12.2018 WHEREBY THE REVISION OF THE APPELLANT UNDER RULE 11-A OF POLICE RULES 1975 AMENDED IN 2014 FOR REINSTATEMENT HAS BEEN REJECTED FOR NO GOOD GROUNDS AND AGAINST THE ORDER DATED 24.08.2018, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS ALSO BEEN REJECTED AGAINST THE ORDER DATED 23.05.2018, WHEREBY THE APPELLANT WAS DISMISSED FROM SERVICE FOR NO GOOD GROUND.

Mr. Taimur Ali Khan, Advocate

.. For appellant.

Mr. Ziaullah, Deputy District Attorney

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. HUSSAIN SHAH

.. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Muhammad Raziq, Head Constable for the respondents present. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant was serving in Police Department as Driver Constable. He was imposed major penalty of dismissal from service vide order dated 23.05.2018 by the competent

M. Amin
21.11.2019

authority on the allegation that he alongwith one Farmanullah was proceeding in the official vehicle, the appellant was driving vehicle in question he did not prove his identity at Army Shanawaz Check Post, he also involved in unnecessary arguments with Sepoy Muhammad Saddique and droved vehicle to drag Sepoy Muhammad Saddique fully well know^m that he was dragging a military person on duty and was proved guilty of criminal assault on Sepoy Muhammad Siddique. The appellant filed departmental appeal on 06.06.2018 which was rejected vide order dated 24.07.2018. The appellant filed revision petition which was also rejected vide order dated 20.12.2018 hence, the present service appeal on 15.01.2019.

3. Respondents were summoned who contested the appeal by filing written reply/comments.

4. Learned counsel for the appellant contended that the appellant alongwith one Farmanullah was proceeding in official vehicle. It was further contended that the appellant being driver was driving the vehicle while Farmanullah was setting in the said vehicle. It was further contended that a facts finding inquiry was conducted by the Army Officer Lieutenant Colonel Mehmood and the competent authority Senior Superintendent of Police Operation Peshawar against the appellant and the aforesaid farmanullah on the aforesaid allegations and during the aforesaid facts finding inquiry both were proved guilty and recommended for dismissal from service. It was further contended that on the basis of said facts finding inquiry a show-cause notice was issued to the appellant which was duly replied by the appellant but the appellant was imposed major penalty of dismissal from service. It was further contended that neither proper inquiry was conducted nor any charge sheet, statement of allegation was framed and served upon the appellant nor the appellant was associated in inquiry proceeding. It was further contended that only a show-cause notice was issued to the appellant on the basis of fact finding inquiry but

M. Amin
21.11.2019

neither the competent authority has dispensed the regular inquiry in the show-cause notice nor any reason was mentioned for dispensing a regular inquiry, therefore, the appellant was condemned unheard which has rendered the whole proceeding illegal and liable to be set-aside. It was further contended that the appellant has properly identified himself to the army official during checking and he was allowed to go but another army official Muhammad Saddique had tried to take rifle having in possession of Constable Farmanullah setting in the vehicle and the appellant had not seen army constable Muhammad Saddique in dragging position while drawing official rifle from Constable Farmanullah, therefore, it was contended that the major penalty of dismissal from service is very harsh. It was further contended that a joint fact finding inquiry was also conducted against Farmanullah with the appellant and Farmanullah was also imposed major penalty of dismissal from service but on departmental appeal his major penalty of removal from service was converted into minor penalty of censure and he was reinstated in service from the date of removal from service vide order dated 12.07.2018 by the departmental authority i.e Commandant Frontier Reserve Police Khyber Pakhtunkhwa Peshawar. It was also contended that the copy of reinstatement order of Farmanullh is available on the record, therefore, it was vehemently contended that the appellant was discriminated and prayed for acceptance of appeal.

5. On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was serving in Police Department as Driver Constable. It was further contended that he alongwith Constable Farmanullah was passing through a Army Check Post known as Shanawaz Check Post near CMH Peshawar. It was further contended that the appellant was involved in unnecessary arguments with the army Sepoy Muhammad Saddique and he drove the vehicle to drag Sepoy Muhammad Saddique fully knowing that he

M. Amin
21/11/2019

dragging the military person on duty. It was further contended that a joint facts finding inquiry was conducted by the army officer and police department officer. It was further contended that the appellant alongwith said Farmanullah was proved guilty and both were recommended for major penalty of dismissal from service. It was further contended that a proper show-cause notice was issued to the appellant on the basis of facts finding inquiry by the competent authority. It was further contended that the appellant also filed reply of the same but the competent authority was not satisfied from his reply. It was further contended that a proper opportunity of personal hearing was also provided to the appellant but the appellant failed to prove his innocence, therefore, it was vehemently contended that the appellant was rightly dismissed from service by the competent authority after fulfilling all the codal formalities and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant and one Frontier Reserve Police Constable Farmanullah were proceeded on the aforesaid allegations. A joint fact finding inquiry was also conducted by the army officer and police officer against the appellant and Farmanullah on the aforesaid allegations and both were proved guilty during the facts finding inquiry by the inquiry committee. The record further reveals that a show-cause notice was issued to the appellant on the basis of facts finding inquiry and after replying the said show-cause notice, the appellant was imposed major penalty of dismissal from service but neither charge sheet, statement of allegation was framed and served upon the appellant nor proper inquiry was conducted nor the appellant was associated in any regular inquiry nor the competent authority has mentioned any valid reason for dispensing regular inquiry. Moreover, the record also reveals that Farmanullah was also proceeded with the appellant in joint facts finding inquiry and he was also proved guilty for the said charges and the competent authority has also imposed him major penalty of dismissal from service

M. Amin
21.11.2019

however, on departmental appeal the departmental authority has accepted his departmental appeal and converted the penalty of removal from service into minor penalty of censure and reinstated him in service from the date of removal from service vide order dated 12.08.2018 but the departmental appeal as well as revision petition of the present appellant was dismissed by the respondent-department. Meaning thereby, that the appellant was discriminated, therefore, we partially accept the appeal, set-aside the impugned order, reinstate the appellant into service and convert the major penalty of dismissal from service into another major penalty of reduction in pay scale for a period of two years with effect from the date of his dismissal from service. The intervening period is treated as leave without pay. The appeal is disposed of in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
21.11.2019


(HUSSAIN SHAH)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

29.08.2019 Counsel for the appellant present. Addl: AG alongwith Mr. M. Raziq, Reader for respondents present. Written reply on behalf of respondents not submitted. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on 26.09.2019 before S.B.


(Ahmad Hassan)
Member

26.09.2019 Counsel for the appellant present. Addl: AG alongwith Mr. M. Raziq, Reader for respondents present. Written reply submitted which is placed on file. To come up for rejoinder and arguments on 21.11.2019 before D.B.



Member

21.11.2019 Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Muhammad Raziq, Head Constable for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of five pages placed on file, we partially accept the appeal, set-aside the impugned order, reinstate the appellant into service and convert the major penalty of dismissal from service into another major penalty of reduction in pay scale for a period of two years with effect from the date of his dismissal from service. The intervening period is treated as leave without pay. The appeal is disposed of in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
21.11.2019


(HUSSAIN SHAH)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

15.04.2019

Appellant with counsel present. Written reply not submitted. Muhammad Raziq H.C representative of the respondent department present and seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 23.05.2019 before S.B


Member

23.05.2019

Appellant in person present. Written reply not submitted. Muhammad Raziq H.C representative of respondent department present and seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 03.07.2019 before S.B.


Member

03.07.2019

Appellant with counsel present. Mr. Muhammad Jan learned Deputy District Attorney alongwith Mr. Raziq Head Constable for the respondents present. Written reply not submitted. Representative of the respondent department seeks further time to furnish written reply/comments. Last opportunity is granted. Adjourned. To come up for written reply/comments on 29.08.2019 before S.B.



Member

27.02.2019

Counsel for the appellant present.

Contends that major penalty of dismissal from service was imposed upon the appellant whereas no proper enquiry was conducted in the matter. In view of judgment reported as 1997-SCMR-1552 it was all the more necessary to conduct proper enquiry in the matter when the appellant was subjected to the punishment of dismissal from service.

In view of the above, instant appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 15.04.2019 before S.B.


Appellant Deposited
Security & Process Fee


Chairman



~~Chairman~~ ~~cannot counsel for the appellant present~~ ~~written reply~~ ~~got submitted~~ ~~M/S. Inayat Ullah A.D.O. Zaki Ullah Senior Auditor and Kehmat Kijar Superintendent representatives of the respondents present and seek time to furnish written reply/comments. Granted. To come up for written reply/comments on 23.03.2019 before S.B.~~

Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. _____ 100/2019 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	22/1/2019	<p>The appeal of Mr. Abbas Khan resubmitted today by Mr. Taimur Ali Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 22/1/19</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>27-2-19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

The appeal of Mr. Abbas Khan Ex-Driver Constable No. 5666 CCPO Peshawar received today i.e. on 15.01.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be attested.
- 2- Copy of review petition mentioned in the memorandum of appeal is not attached with the appeal which may be placed on it.
- 3- Annexure-D of the appeal is illegible which may be replaced by legible/better one.

No. 115 /S.T,

Dt. 16-1- /2019.

16/1/19
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Taimur Ali Khan Adv. Peshawar.

Respect Sir,

- 1- Removed*
- 2- copy of review petition is not present with the appellant and did not mention as Annexure.*
- 3- Removed*

Resubmitted after compliance
GA
22/1/19.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 100 /2019

Abbas Khan

V/S

Police Deptt: —)

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of Appeal	-----	01-04
3.	Copy of show cause notice	A	05
4.	copy of reply to show cause	B	06
5.	Copy dismissal order	C	07
6.	Copy of departmental appeal	D	08-09
7.	Copy of rejection order	E	10
8.	Copy of rejection of revision	F	11
9.	Copy of order dated 12.07.2018	G	12
10.	Vakalat Nama	-----	13

APPELLANT

THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,


ASAD MAHMOOD
(ADVOCATE HIGH COURT)

①

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 100 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 61

Dated 15-01-2019

Abbas Khan, Ex-Drive Constable, No.5666,
Capital City Police, Peshawar.

(APPELLANT)

VERSUS

1. The Provincial Police Officer, KPK, Peshawar.
2. The Capital City Police Officer, Peshawar.
3. The Senior Superintendent of Police (Operation) Peshawar.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 20.12.2018, WHEREBY THE REVISION OF THE APPELLANT UNDER RULE 11-A OF POLICE RULES 1975 AMENDED IN 2014 FOR REINSTATEMENT HAS BEEN REJECTED FOR NO GOOD GROUNDS AND AGAINST THE ORDER DATED 24.08.2018, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS ALSO BEEN REJECTED AGAINST THE ORDER DATED 23.05.2018, WHEREBY THE APPELLANT WAS DISMISSED FROM SERVICE FOR NO GOOD GROUND.

Filed to-day

Registrar

15/1/2019

Re-submitted to -day
and filed.

Registrar

22/1/19. PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 20.12.2018, 24.08.2018 AND 23.05.2018 MAY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED INTO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND

2

APPROPRIATE THAT, MAY ALSO, BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant joined the police force in the year 2009 and completed all his due training etc and also have good service record throughout.
2. That the appellant along with other constable Farman Ullah in official Vehicle was stopped at Shanawaz Check post and the Sepoy at the check post after necessary checking allowed the vehicle but as the appellant moved the vehicle, other Sepoy came near the vehicle and stopped the vehicle on which the appellant and other constable sitting with the appellant told the Sepoy that they are in uniform and driving official vehicle and your colleague has already checked them and allowed them and requested him for co-operation, however he became angry and loaded his riffle on them and also tried to snatch riffle from other constable Farman Ullah and as the Sepoy loaded his riffle and may not open fire on them, due to which they started to run the vehicle in fear in order to save their life.
3. That on the basis of above mentioned issue, the appellant was suspended and show cause notice was issued to the appellant, which was duly replied by the appellant in which he denied the allegations and gave facts about the real situation. **(Copies of show cause notice and reply to show cause notice are attached as annexure-A&B)**
4. That the appellant was dismissed from service vide order dated 23.05.2018 without serving charge sheet, statement of allegations and without conducting regular inquiry to dig out the realty of the facts. The appellant filed departmental appeal on 06.06.2018, which was rejected on 24.08.2018 for no good ground. Then he filed revision under rule 11-A of the Police Rules 1975 amended in 2014 which was also rejected on 20.12.2018 for no good ground, however the appellant did not keep the copy of revision which may be requisite from the department. **(Copies of dismissal order dated 23.05.2018, departmental appeal, rejection order dated 24.08.2018 and rejection of revision order dated 20.12.2018 are attached as Annexure-C,D,E&F)**

5. That now the appellant has no other remedy except to file this service appeal in this august Service Tribunal on the following grounds amongst others.

GROUND:

- A) That the impugned order dated 12.20.2018, 24.08.2018 and 23.05.2018 are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That no regular inquiry was conducted against the appellant to dig out the reality before passing the impugned order of dismissal from service which is violation of Article 10-A of the Constitution of Pakistan as well as law and rules, therefore the impugned orders are liable to be set aside on this ground alone.
- C) That the authority did not mention any reason for dispense of inquiry which is against the law and rules.
- D) That no charge sheet was served to the appellant before passing the impugned order of dismissal from service, which is the violation of law and rules. That the appellant did not commit any misconduct, but the concerned Sepoy loaded the rifle on them and also tried to snatch rifle from other constable Farman Ullah and as the Sepoy loaded the rifle therefore they started to run the vehicle in fear in order to save their life so that the Sepoy may not open fire on them, which shows that the appellant did not commit any misconduct and run the official vehicle without any ulterior motive but in fear to save their life.
- E) That other constable namely Farman Ullah, who was also removed from the service on the same allegations was reinstated and imposed minor punishment of censure by accepting his departmental appeal vide order dated 12.07.2018, but the same treatment was not extended to the appellant which means that the appellant was discriminated which is violation of Article-25 of the constitution of Pakistan. **(Copy of order dated 12.07.2018 is attached as annexure-G)**
- F) That the penalty of dismissal from service is very harsh which is passed in violation of law and, therefore, the same is not sustainable in the eyes of law.

- G) That the appellant has been condemned unheard and has not been treated according to law and rules.
- H) 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.

Abbas

**APPELLANT
ABBAS KHAN**

THROUGH:

Taimur Ali Khan

**(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,**

Asad Mahmood

**(ASAD MAHMOOD)
ADVOCATE HIGH COURT**



OFFICE OF THE
SENIOR SUPERINTENDENT OF POLICE, (I)
(OPERATIONS),
PESHAWAR

Phone. 091-9210508 Fax. 091-9213054

E-mail: sspoperations2448@gmail.com

A 5

SHOW CAUSE NOTICE

(Under Rules 5 (3)(a) KPK Police Rules, 1975)

1. That you Driver Abbas No. ⁵⁶⁶⁶ 154 while posted at CCP Peshawar have rendered yourself liable to be proceeded under Rules 5(3)(a) of the Khyber Pakhtunkhwa police Rules 1975 for following misconducts;

At the conclusion of Joint Court of Inquiry into the circumstances under which number 4343237 Sepoy Muhammad Saddique was dragged by you along with Constable Farman No. 154 of Frontier Reserve Police conducted by Lieutenant Colonel Rashid Mehmood and the undersigned; you have been found guilty on the following scores:

- i) You along with Constable Farman Ullah No. 154 did not prove identity at Shah Nawaz Check Post.
 - ii) You along with Constable Farman Ullah No. 154 involved in unnecessary argument with number 4343237 Sepoy Muhammad Saddique.
 - iii) That you drove the vehicle to drag Sepoy Muhammad Saddique fully well knowing that you were dragging a military person on duty.
 - iv) That you along with Constable Farman Ullah are guilty of criminal assault on Sepoy Muhammad Saddique.
2. That by reason of above, as sufficient material is placed before the undersigned; therefore it is decided to proceed against you in general police proceeding without aid of enquiry officer.
 3. That the misconduct on your part is prejudicial to good order of discipline in the police force.
 4. That your retention in the police force will amount to encourage in efficient and unbecoming of good police officer.
 5. You are, therefore, called upon to Show Cause Notice as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 for the misconduct referred to above.
 6. You should submit reply to this Show Cause Notice within 07 days of the receipt of the notice failing which an ex-parte shall be taken against you.
 7. You are further directed to inform the undersigned that you wish to be heard in person or not.

SENIOR SUPERINTENDENT OF POLICE,
OPERATIONS, PESHAWAR

16-5-2018

ATTESTED

CA



97

ORDER

Show Cause Notice was issued to Driver Constable Abbas No. 5666 who was placed under suspension and closed to Police Lines Peshawar on the basis of following charges:-

At the conclusion of Joint Court of Enquiry into the circumstances under which number 4343237 Sepoy Muhammad Saddique was dragged by him along with Constable Farman No. 154 of Frontier Reserve Police jointly conducted by Lieutenant Colonel Rashid Mehmood and the undersigned; he has been found guilty on the following scores:

- i) He along with Constable Farman Ullah No. 154/FRP did not prove their identity at Shanawaz Check Post.
- ii) He along with Constable Farman Ullah No. 154/FRP involved in unnecessary argument with number 4343237 Sepoy Muhammad Saddique.
- iii) That he drove the vehicle to drag Sepoy Muhammad Saddique fully well knowing that he was dragging a military person on duty.
- iv) That he along with Constable Farman Ullah No. 154/FRP are guilty of criminal assault on Sepoy Muhammad Siddique.

2. His written reply was obtained. The same was perused and found unsatisfactory. He was called in OR 22.05.2018 in Orderly Room and heard in person. He was provided an ample opportunity in his defense. He failed to advance any plausible explanation in rebuttal of the charges. In the circumstances, charges leveled against him stand proved. Hence, the undersigned, being Competent under the law, awards him the **major punishment of dismissal from service** with immediate effect.

Order announced.

(JAVED IQBAL) PSP
Senior Superintendent of Police,
(Operations) Peshawar

No. 724-28 /PA dated Peshawar, the 23/05 /2018.

Copy for information to:

1. The Capital City Police Officer, Peshawar.
2. The Commandant FRP, Khyber Pakhtunkhwa.
3. SP HQ: Peshawar.
4. PO/OASI/CRC.
5. FMC along with complete enquiry file (Encl : _____).

ATTESTED

[Signature]

بخدمت جناب چیف پولیس صاحب پشاور

مضمون: محکمانہ اپیل برخلاف حکم مجاریہ نمبری 26/18-724 مورخہ 1/1/18 زبردستی جناب SSP آپریشن جس کی بناء پر سائل کو ملازمت سے برخاست کیا گیا ہے۔

جناب عالی!

سائل حسب ذیل عرض رساں ہے۔

یہ کہ مورخہ 07-05-2018 کو میں بسواری گاڑی لپک اپ سرکاری نمبری AA-2934 باوردی با مسلح ہمراہ گنر کانسٹیبل فرمان اللہ FRP/RQ 154 بغرض مرمتی گاڑی سرکاری ورکشاپ وقاص آٹوز صدر لے کر گیا تھا، واپسی پر شاہ نواز چیک پوسٹ واقع CMH پہنچ کر بغرض چیکنگ گاڑی کی رفتار کو نہایت آہستہ کر دیا، چیک پوسٹ ڈیوٹی پر معمور آرمی سپاہی نے اپنی تسلی کر کے ہمیں گزر جانے کا اشارہ کیا لہذا روانہ ہوتے ہی تھوڑا آگے جا کر سنتری پوسٹ میں بیٹھے ہوئے آرمی سپاہی نے دوڑ کر گاڑی کے قریب آ کر ہمیں رکنے کا اشارہ کیا لہذا ہم رک گئے اور اس نے ہمیں سروس کارڈ دکھانے کو کہا، تو جواباً ہم نے کہا کہ ڈیوٹی پر موجود آپ کے ساتھی سپاہی نے پہلے ہی ہماری چیکنگ کی ہے اور کلیئر کر کے آگے جانے کو کہا ہے اور یہ بھی کہ ہم باوردی ہیں ساتھ ہی گاڑی ہے اور بکار سرکار جا رہے ہیں جس پر مذکورہ آرمی سپاہی محمد صدیق آگ بگولا ہوا اور ہمارے ساتھ بدتمیزی سے پیش پکرنوراً رائفل لوڈ کر کے

ہمیں ڈرایا دھمکایا اور اس کے علاوہ میرے ساتھی کانٹیبیل فرمان اللہ سے اس کی رائفل چھیننے کی کوشش کی چونکہ آرمی سپاہی کارائفل لوڈ تھا اور کہیں پرفائر نہ کھول دے اس وجہ سے میں نے گاڑی روزانہ کی چونکہ وہ میرے ساتھی گنر کے رائفل سے چمٹا ہوا تھا اور تھوڑا فاصلہ طے کر کے جیسے ہی میرے نے اپنا رائفل چھڑایا تو مذکورہ آرمی سپاہی روڈ پر گر گیا، ہمارا ہرگز ان کو گھسیٹنا یا زخمی کرنا مطلب نہیں تھا اس فعل میں ہماری کوئی بد نیتی شامل نہیں تھی جبکہ ہم خود خوف کی وجہ سے روانہ ہوئے حالانکہ ہم اسے بتا چکے تھے کہ آپ کے پہلے ساتھی ہمیں کلیئر کر چکے ہیں لہذا مذکورہ سپاہی کانفل بد نیتی پر مبنی تھا، ہم بھی ڈیوٹی پر تھے اور اس سے تعاون کرنے کو کہا، بس اسی بات پر اس نے درجہ بالا حرکت کی ہے، ہم بے قصور ہیں، یہاں یہ امر قابل ذکر ہے کہ سائل کے خلاف محکمہ ہذا میں انکوائری عمل میں نہیں لائی گئی ہے اور بغیر کسی ٹھوس شواہد کے صرف اور صرف آرمی حکام کی انکوائری پر اکتفا کیا گیا اور سائل کے خلاف یکطرفہ کارروائی عمل میں لاتے ہوئے سائل کو نوکری سے مورخہ 23-05-2018 کو محکمہ ہذا سے برخاست کیا گیا، اس کے علاوہ سائل کو صفائی کا موقع بھی فراہم نہیں کیا گیا جو کہ زیادتی اور نا انصافی ہے۔

لہذا استدعا ہے کہ آپ صاحبان سائل کی مفلسی اور لاچاری کو مد نظر رکھتے ہوئے سائل کو نوکری پر دوبارہ بحال کرنے کا حکم صادر فرمائیں۔

مورخہ 06-06-2018

العارض

-Sd-

سائل عباس خان ڈرائیور کانٹیبیل نمبر 5666

0303-8806724

0313-9392341

0324-9180061

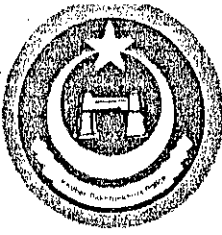
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OFFICE OF THE
CAPITAL CITY POLICE OFFICER,
PESHAWAR

Phone No. 091-9210989

Fax No. 091-9212597

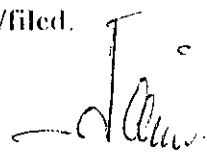
ORDER.

This order will dispose off departmental appeal preferred by ex-driver/constable **Abbas Khan No.5666** who was awarded the major punishment of **dismissal** from service under Police Rules-1975 by SSP/Operations Peshawar vide No. 724-28/PA. dated 23-05-2018.

2- The allegations leveled against him were that he while posted at Police Lines Peshawar along-with constable Farman Ullah No.154/FRP did not prove their identity at shahnawaz check post. He also involved in unnecessary argument with number sepoy Muhammad Saddique. He drove the vehicle to drag sepoy Muhammad Saddique fully well knowing that he was dragging a military person on duty. He along-with constable Farmanullah of FRP are guilty of criminal assault on sepoy Muhammad Saddique.

3- He was issued a Show Cause Notice on the basis of Joint Court of Enquiry conducted jointly by Lieutenant Colonel Rashid Mehmood and SSP/Operations in which he was found guilty. His written reply to the show cause notice was found unsatisfactory by SSP/Operations and hence awarded him the major punishment of dismissal from service.

4- He was heard in person in O.R. The relevant record perused along with his explanation which revealed that the appellant has committed a gross misconduct. The competent authority has fulfilled the codal formalities before awarding him the punishment of dismissal from service. Hence his appeal for reinstatement in service is hereby **rejected/filed**.

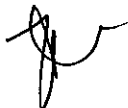

(QAZI JAMIL UR REHMAN)PSP
CAPITAL CITY POLICE OFFICER,
PESHAWAR

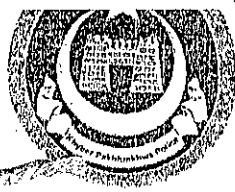
No. 874-79 /PA dated Peshawar the 24/08/ 2018

Copies for information and n/a to the:-

1. SP-HQr: Peshawar.
2. BO/OASI/ CRC for making necessary entry in his S.Roll.
3. FMC along with FM
4. Official concerned.

ATTESTED





19551 cpe
21/12/18 21/12/18

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

F 11

No. S/ 4983

/18, dated Peshawar the 20/12/2018.

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by **Ex-Driver Constable Abbas Khan No. 5666**. The petitioner was dismissed from service by SSP (Operations), Peshawar vide order Endst: No. 724-28/PA, dated 23.05.2018 on the allegation that he while posted at Police Lines Peshawar alongwith Constable Farman Ullah No. 154/FRP did not prove their identity at Shahnawaz Check Post. He also involved in unnecessary argument with sepoy Muhammad Saddique. He drove the vehicle to drag sepoy Muhammad Saddique fully well knowing that he was dragging a military person on duty. He alongwith Constable Farman-Ullah of FRP are guilty of criminal assault on sepoy Muhammad Saddique.

His appeal was rejected / filed by Capital City Police Officer, Peshawar vide order Endst: No. 874-79/PA, dated 24.08.2018.

Meeting of Appellate Board was held on 13.12.2018 wherein petitioner was heard in person. During hearing petitioner contended that due to fear of military personnel he flee from the check post.

Petitioner failed to advance any plausible explanation in rebuttal of the charges. Perusal of enquiry file revealed that the petitioner was found guilty of the charges. Therefore, the Board decided that his petition is hereby rejected.

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

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

No. S/ 4984-30 /18,

Copy of the above is forwarded to the:

1. Capital City Police Officer, Peshawar. One service roll, one Fauji Missal and one enquiry file of the above named Ex-FC received vide your office Memo: No. 17881/CRC, dated 24.09.2018 is returned herewith for your office record.
2. Senior Superintendent of Police, (Operations), Peshawar.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

ATTESTED

ORDER

P-16 ✓ G (R) 2104
This order will dispose of the departmental appeal preferred by Ex- constable Farman Ullah No. 154 of FRP HQrs: against the order of his removal from service passed by Deputy Commandant FRP KP, Peshawar vide OB.No. 615, dated 20.06.2018. The applicant was proceeded against on the allegations that he alongwith driver constable Abbas No. 5666 of CCP Peshawar dragged Sepoy Muhammad Saddiqui No. 4343237 of Pak Army, with Mobile Pickup on 07.05.2018 at Naka Bandi point near CMH Hospital Cantt. In this regard a joint Court Enquiry into the circumstances conducted by Lieutenant Colonel Rashid Muhammad and SSP Operation CCP Peshawar. During the course of joint enquiry they were found guilty on the following scores and therefore, recommended for major punishment:-

1. That constable Farman Ullah No. 154 FRP alongwith Muhammad Abbas No. 5666 CCP, involved in the above omission, which they did not prove identity.
2. They involved in un-necessary argument with Sepoy Muhammad Saddiqui No. 4343237 (Pak Army)
3. They have tried to assault on Sepoy Muhammad Saddiqui who was on bona fide duty.
4. They displayed inhuman behavior.
5. They are guilty of criminal assault on Sepoy Muhammad Saddiqui.

However, proper departmental enquiry has been conducted against constable Farman Ullah No. 154 FRP. He was issued Charge Sheet and Statement of Allegations and SP FRP Peshawar Range was nominated as Enquiry Officer. After completion of enquiry the Enquiry Officer submitted his findings, wherein he recommended him for major punishment.

Upon the findings of Enquiry Officer, Final Show Cause Notice was issued and served upon him to which he received, but his reply was found unsatisfactory. He was heard in Orderly Room to provide any cogent reason in his favor, but he failed to advance any plausible explanation regarding to his innocence.

In the light of recommendation of the enquiry officer and other material available on record, he was accordingly removed from service vide office OB No. 615, dated 20.06.2018.

Feeling aggrieved against the impugned order of Deputy Commandant FRP KP, Peshawar the applicant preferred the instant appeal. The applicant was summoned and heard in person in Orderly Room held on 10.07.2018.


During the course of personal hearing, the applicant contended that he is innocent and explained that he was not dragged the Sepoy Muhammad Saddiqui, but he carelessly clung with Mobile Pickup. He further added that he was not drive the said Mobile Pickup, at that time. He contended further that he belongs to a poor family and a sole bread earner for his kids and aged parents as well. He promised that he will be careful in future. His plea has found plausible and satisfactory.

Based on the findings narrated above, I, **Tahir Ayub Khan PSP** Commandant FRP Khyber Pakhtunkhwa, Peshawar, being the competent authority, taking a lenient view the major punishment of his removal from service is hereby converted into minor punishment of censure and he is reinstated in service from the date of removal from service and also warned to be careful in future.

Order Announced.

ATTESTED

No. 7228 /EC, dated Peshawar the 19 /07 /2018.


Commandant
o/c Frontier Reserve Police
Khyber Pakhtunkhwa, Peshawar

Copy of above is forwarded for information and necessary action to the Deputy Commandant FRP KP, Peshawar. His service record alongwith D file sent herewith.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No.100/2019.

Abbas Khan Ex-Driver Constable Police Lines Peshawar.....Appellant.

VERSUS.

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. Senior Superintendent of Police Operation, Peshawar....Respondents.

Reply on behalf of Respondents No. 1, 2, 3

Respectfully shewth:.

PRELIMINARY OBJECTIONS.

1. That the appeal is badly time barred.
2. That the appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.
3. That the appellant has not come to this Hon'able Tribunal with clean hands.
4. That the appellant has no cause of action.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from Honorable Tribunal.
7. That this Hon'able Tribunal has no jurisdiction to entertain the appeal.

Facts:-

- 1- Para No.1 pertains to record, hence needs no comments.
- 2- Para No.2 is incorrect. In fact the appellant while posted at Police Lines Peshawar along with Constable Farman Ullah No. 154/FRP did not prove their identity at Shah Nawaz Check Post. The appellant also involved in un-necessary argument with sepoy Muhammad Saddique of Pakistan Army. The appellant drove the vehicle to drag sepoy Muhammad Saddique fully knowing that he was dragging a military person on duty. The appellant along with Constable Farman Ullah are guilty of criminal assault on sepoy Muhammad Saddique. In this regard a Joint Court of enquiry was conducted against him. During the course of joint enquiry they were found guilty. The appellant was issued show cause notice to which he replied, but his reply was found un-satisfactory. The appellant was called in orderly room on 22.05.2018 and heard in person, but he

failed to advance any plausible explanation in rebuttal of the charges. The charges levelled against him were proved. After fulfilling all the codal formalities he was awarded major punishment of dismissal from service.

- 3- Para No.3 is correct to the extent that he was issued show cause notice to which he replied, but his reply was found un-satisfactory.
- 4- Para No.4 is incorrect. In fact a joint court of enquiry into the matter jointly conducted by Lieutenant Colonel Rashid Mehmood, SSP/Operation, Major Fida Hussain and DSP Hqrs: Peshawar in which he was found guilty. After fulfilling all the codal formalities he was awarded major punishment. The appellant filed departmental appeal which after due consideration was filed/rejected on the ground that the appellant committed a gross misconduct. The appellant then filed mercy petition which was also rejected on the same grounds.
- 5- That appeal of the appellant being devoid of merits may kindly be dismissed of the following grounds.

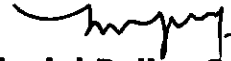
GROUND:-

- A- Incorrect. The orders are just, legal and have been passed in accordance with law/rules.
- B- Incorrect. The appellant was treated as per law/rules. Proper joint court of enquiry into the matter jointly conducted where in the charges leveled against him were proved. Therefore the punishment order was passed which is in accordance with law and liable to be upheld.
- C- Incorrect. The charges leveled against him were proved. The appellant treated as per law/rules.
- D- Incorrect. The appellant was found guilty of misconduct, after conducting joint enquiry against him. The appellant was provided as ample opportunity in his defense, but the appellant failed to advance any plausible explanation in rebuttal of the charges. The charges leveled against were proved, hence he was awarded major punishment.
- E- Incorrect. The appellant being a member of a disciplined force committed gross misconduct. The charges leveled against were proved. The appellant was treated as per law/rules and no provision of law has been violated.
- F- Incorrect. The punishment order passed by the competent authority as per law/rules.
- G- Incorrect. The appellant availed the opportunities of defense, but he could not prove himself innocent with plausible ground.

H- That respondent may also be allowed to advance any additional ground at the time of hearing the appeal.

PRAYER.

It is therefore most humbly prayed that in light of above facts and submissions, the appeal of the appellant being devoid of merits and legal footing, may kindly be dismissed.



**Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.**



**Capital City Police Officer,
Peshawar.**



**Senior Superintendent of Police,
Operations, Peshawar.**

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No.100/2019.

Abbas Khan Ex-Driver Constable Police Lines Peshawar.....Appellant.

VERSUS.

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. Senior Superintendent of Police Operation, Peshawar....Respondents.

AFFIDAVIT

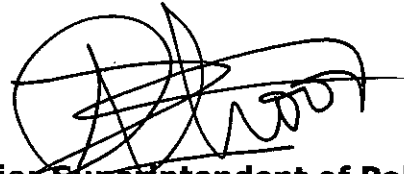
We respondents No. 1 ,2 & 3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.



**Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.**



**Capital City Police Officer,
Peshawar.**



**Senior Superintendent of Police,
Operations, Peshawar.**

RESTRICTED

IMMEDIATE

67 Punjab (Light Anti Tank)
Peshawar Cantonment
Telephone Military : 35325
1134 / A

17 May 2018

Quarters 102 Independent
Infantry Brigade Group
Central City Police Officer Peshawar

Report Involving Injuries to an Army Personnel

Independent Infantry Brigade Group Itr no 727/5/GS (Int) dated 8 May 18

Enquiry duly completed is forwarded herewith for your further necessary



Lieutenant Colonel
Commanding Officer
(Rashid Mahmood)

16/5

RESTRICTED

COURT OF INQUIRY INTO THE CIRCUMSTANCES UNDER WHICH NUMBER 4343237 SEPOY MUHAMMAD SADDIQUE WAS DRAGGED BY NUMBER 5666 CONSTABLE MUHAMMAD ABBAS KHAN OF FRONTIER RESERVE POLICE WITH DOUBLE CABIN VEHICLE NUMBER AJ2130 AT SHAHNAWAZ CHECK POST

Witness
Number-1

Number 4343237 Sepoy Muhammad Saddique, son of Sadar Din Religion Islam, Sect Sunni, Resident of Village Sandoq, Post Office Kundalsai, Tehsil Atmaqam and District Neelam, having been duly warned states:-

On 7 May 2018 at 1440 hours, I was performing duties of backup sentry at Shah Nawaz Check Post. Meanwhile, point sentry gave the signal that a yellow taxi should make U turn. While I was ensuring the task, a white coloured Double Cabin Vehicle Number AJ2130 stopped near me. Two personnel in uniform were sitting in the double cabin. They asked me why I had made the taxi to take U turn. Upon this, I asked their identity which they did not show intentionally. I asked them to park their vehicle by the side. As soon as I tried to blow alarm whistle to call Post Non Commissioned Officer, the second seater grabbed my arm and then the driver drove away the vehicle. They dragged me from Shah Nawaz Check Post up to Garrison Recreational Complex, punching me all the while. The second seater tried to get hold off his rifle. However, I was successful in preventing him from using the weapon. When the troops in near vicinity got alert, the second seater let go of me and both the personnel fled in their vehicle towards Governor House.

QUESTIONS BY THE COURT

- Question-1 What was the registration number of vehicle you stopped?
- Answer-1 The registration number of the vehicle was AJ2130.
- Question-2 How many persons were there in vehicle when you signalled the vehicle to stop?
- Answer-2 There were two individual in Police uniform.
- Question-3 What all information you demanded from the Police individuals?
- Answer-3 I asked them about their identification.
- Question-4 Was there any exchange of harsh words or heated argument when you asked for the identity cards?
- Answer-4 No, I was just told by the policemen that they were from

- police and since the Check Post had let them go, I should also leave them.
- Question-5 What was the reaction of Police men when they failed to show their Identity Cards?
- Answer-5 They tried to escape from the Check Post without proving their Identity.
- Question-6 What was your response when the Policemen tried to flee from Check Post?
- Answer-6 I tried to blow alarm whistle to call Post Non Commissioned Officer but second seater grabbed my arm and dragged me with the vehicle.
- Question-7 Did you made any effort to release your self from the Policemen?
- Answer-7 Yes, I tried to release my self from Policemen but they drove the vehicle at fast speed and dragged me till the main gate of Garrison Recreational Complex (approximately 850-900 meters).
- Question-8 Did you try to snatch Policeman upon?
- Answer-8 No, I did not.
- Question-9 Can you recognise, offenders if provided in front of you?
- Answer-9 Yes, I can recognise. (Subsequently, on seeing the individuals, driver was identified as Number 5666 Constable Muhammad Abbas Khan and second seater was Number 154 Constable Farman Ullah).

The above statement has been read over to the witness in the language he understands and signs it as correct.

Ans

(Number 4343237 Sepoy Muhammad Saddique)

Witness

Number-2

Number 5666 Constable Muhammad Abbas Khan son of Muhammad Hayat Khan Computerized National Identity Card number 17101-1677089-1, Religion Islam, Resident of Village Mehra Umer Zai, Tehsil and District Charsadda, having been duly warned states:-

I, Muhammad Abbas Khan was enrolled on 11 January 2009 in

Frontier Reserve Police and am presently performing the duties in Peshawar Police. On 7 May 2018 at about 1445 hours, I was going towards Police Lines through Mall Road on official Double Cabin alongwith Number 154 Farman Ullah. At Check Post near Combined Military Hospital Military soldier on duty stopped us and asked for our Identity Card. My second seater told him that we were from Police. He let us go. Immediately afterwards, another soldier stopped us again and asked for our identity cards. My second seater told him that we did not have any Identity Cards but we were from Police. On that, he attacked the second seater and tried to snatch his rifle through the window. Meanwhile, I sped up the vehicle. The soldier ran along and when he left the rifle, he fell down. We got afraid and immediately ran away from the place because we were not having any Identity Card.

I acknowledge my mistake, beg pardon for that and the same would not happen again.

QUESTIONS BY THE COURT

- Question-1 How many Check Posts you crossed before you were stopped by the sentry at the back up bunker of Shah Nawaz Check Post?
- Answer-1 We crossed two Check Posts.
- Question-2 Did you have any authority letter or duty slip of vehicle at the time?
- Answer-2 No, I was not having any authority letter or duty slip.
- Question-3 Who stopped you after crossing Shah Nawaz Check Post?
- Answer-3 Number 4343237 Sepoy Muhammad Saddique stopped me near the back up bunker of Shah Nawaz Check Post.
- Question-4 What information was demanded by the soldier on the duty?
- Answer-4 He asked us about Police Identity Card or Computerized National Identity Card which we were reluctant to show.
- Question-5 Why you failed to show Police Identity Card or Computerized National Identity Card?
- Answer-5 We neither had Police Identification Card nor Computerized National Identity Card.

- Question-5 What was the response of the soldier when you failed to show your Identity Card?
- Answer-6 The sentry became aggressive and tried to snatch the rifle of my second seater.
- Question-7 What was your response when sentry tried to snatch the rifle of your second seater?
- Answer-7 I tried to flee away from the Check Post and dragged the sentry along the vehicle as he was holding the rifle of second seater.
- Question-8 What was the speed of vehicle when you fled from Check Post?
- Answer-8 It was 50-60 kilometre per hours.
- Question-9 What duties have you performed earlier in your career?
- Answer-9 For most of my service, I have been a driver with Police Anti Terrorist Squad.
- Question-10 Why did you flee from the Check Post?
- Answer-10 I was afraid of the reaction / reprisal by the military personnel.

The above statement has been read over to the witness in the language he understands and signs it as correct.

Signature
(Number 5666 Constable Muhammad Abbas Khan)

Witness

Number-3

Number 154. Constable Farman Ullah son of Abdullah Khan Computenized National Identity Card number 17101-7835264-1, Religion Islam, Resident of Village Sur Dheri Landa Shah, Tehsil and District Charsadda, having been duly warned states:-

I, Farman Ullah was enrolled in Frontier Reserve Police in 2009 and performing the duties in Peshawar Police. On 7 May 2018 at about 1440 hours, I was going toward Police lines through Mall Road on official Double Cabin alongwith Number 5666 Constable Muhammad Abbas Khan who was driving. At Check Post near Combined Military Hospital, stopped us and asked for our Identity Cards. I told that we were from police. He let us go. Immediately afterwards, another soldier stopped us

again and asked for our Identity Cards. I told him that we did not have any Identity Cards but we were from Police. On that he grabbed my rifle and tried to snatch it through the window. The driver rushed the vehicle. The soldier ran / dragged along and when he left my rifle, he fell down. We got afraid and immediately ran away from the place because we were not having any Identity Cards.

I acknowledge my mistake, beg pardon for that and the same would not happen again.

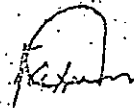
QUESTIONS BY THE COURT

- Question-1 How many Check Posts did you cross before you were stopped by the sentry at the back up bunker of Shah Nawaz Check Post?
- Answer-1 We crossed two Check Posts.
- Question-2 How was the response of Army Persons at the Check Posts you crossed?
- Answer-2 They were cooperative and let us go without checking as we were in uniform.
- Question-3 Were you on duty when the soldier stopped you?
- Answer-3 Yes, we were on duty and proceeding to Police Lines.
- Question-4 When the soldier stopped you at the back up bunker of Shah Nawaz Check Post what did he ask you?
- Answer-4 He asked us about our Police Identity Cards or Computerized National Identity Cards which we did not show to the soldier.
- Question-5 What was your reaction when the soldier asked you about Identification Card?
- Answer-5 I argued with him that we had not been asked for Identification Cards at the Check Posts and why was he asking for them.
- Question-6 Why you failed to show your Police Identity Card or Computerized National Identity Card to the soldier on duty?
- Answer-6 I was neither in possession of Police Identification Card nor Computerized National Identity Card with us at that

6

- time.
- Question-7 What was the response of soldier after you failed to show your identity?
- Answer-7 The sentry became aggressive and tried to snatch my rifle.
- Question-8 What was your response when sentry tried to snatch the rifle from you?
- Answer-8 I tried to stop him and told the driver to rush from the Check Post.
- Question-9 Did you drag the soldier along with your vehicle?
- Answer-9 Yes, as he was holding my rifle.
- Question-10 For how long did you drag / pull soldier along your vehicle?
- Answer-10 Approximately 800-900 meters.
- Question-11 Did you not realize that man handling / dragging a soldier in uniform is a serious offence?
- Answer-11 Yes, I knew it but under some unknown emotional distress, I committed this mistake, a clear violation of law.

The above statement has been read over to the witness in the language he understands and signs it as correct.



(Number 154 Constable Farman Ullah)

Witness

Number-4

Number 4345513 Sepoy Muhammad Waqas Yasin Tahir son of Ghulam Yasin Tahir, Religion Islam, Sect Sunni, Resident of Village Rustam Pur Juna, Post Office Baldamas Tehsil Charhoi and District Kottli (Azad Kashmir), having been duly warned states:-

I was on duty from 1200 hours till 1800 hours at Machni Mobile Vigilance Team. At about 1442 hours I was checking vehicles on Khalid Bin Waleed Road. Suddenly I heard noise. Once I looked back, I saw a soldier in uniform being dragged by a white Double Cabin. The vehicle was over speeding and within no time, the vehicle crossed the chowk. I tried to open fire and ran behind vehicle. Seeing me, the persons dragging the soldier let go of him and fled in the same Double Cabin. Our

Mobile Vigilance Team was on patrolling at that time. I immediately informed Shah Nawaz Check Post regarding the incident.

QUESTIONS BY THE COURT

Question-1 What sort of noise did you hear?

Answer-1 I heard the noise of screaming.


Question-2 What was the speed of white colour Double Cabin?

Answer-2 The white Double cabin was moving quite fast, roughly at 60 kilometres per hour.

Question-3 What were your actions on seeing Number 4343237 Sepoy Muhammad Saddique dragged by the white Double Cabin?

Answer-3 I ran after the vehicle, however, before I could fire, they dropped soldier and fled away.

The above statement has been read over to the witness in the language he understands and signs it as correct.


(Number 4345513 Sepoy Muhammad Waqas Yasin Tahir)

Witness

Number-5

Number 4352655 Sepoy Kamran Asif son of Manzoor Ahmed, Religion Islam, Sect Sunni, Resident of Village & Post Office Moplakey, Tehsil Renala Khurd and District Okara, having been duly warned states:-

On 7 May 2018, I was on duty with Machni Mobile Vigilance Team from 1200 hours till 1800 hours. At about 1442 hours, I was checking vehicles at Machni Road. I heard a noise at my back. When I turned back, I saw a white Double Cabin dragging a soldier. It crossed Michni Chowk in a rush and kept moving towards Governor House along Fort Road. I ran behind the vehicle to fire upon it. In the meantime, they left the soldier approximately 20 meters short of Garrison Recreational Complex entry gate and fled away in same vehicle.

QUESTIONS BY THE COURT

Question-1 What alerted you towards the white colour Double Cabin?

Answer-1 The screaming of Number 4343237 Sepoy Muhammad Saddique alerted me to a perilous situation.

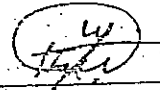
Question-2 What were your actions on watching Number 4343237 Sepoy Muhammad Saddique being dragged by the white Double Cabin?

Answer-2 I tried to chase the Double Cabin and to fire upon it but I could have injured Number 4343237 Sepoy Muhammad Saddique or other commuters on the road.

Question-3 In your opinion what was the speed of Double Cabin?

Answer-3 It was driving at around 60 kilometres per hour.

The above statement has been read over to the witness in the language he understands and signs it as correct.



(Number 4352655 Sepoy Kamran Asif)

Witness

Number-6

Pakistan Junior Commissioned Officer 4313681 Naib Subedar Aftab Ahmed son of Faqeer Muhammad, Religion Islam, Sect Sunni, Resident of Village & Post Office Chak no 644/GB, Tehsil Jaranwaia and District Faisalabad, having been duly warned states:-

On 7 May 2018, I was performing the duties of Post Junior Commissioned Officer at Shah Nawaz Check Post. At about 1444 hours, I was busy in routine entry / checking at Check Post when I received a call from Number 4345513 Sepoy Muhammad Waqas Yasin Tahir who was performing the duties with Machni Mobile Vigilance Team. He informed me that a soldier was dragged and thrown by a reckless white Double Cabin at Fort Road. I came out of the Control Room and checked all soldiers at my Check Post. I found Number 4343237 Sepoy Muhammad Saddique missing from the back up bunker. I ordered Number 4312617 Lance Havildar Khurshid Ahmed to follow the vehicle on Motor Cycle. I also called Machni Mobile Vigilance Team to Shah Nawaz Check Post. I informed Pakistan Army 53697 Captain Ali, Adjutant and Unit Control Room about the incident. Number 4312617 Lance Havildar Khurshid Ahmed returned back and informed me that Number 4343237 Sepoy Muhammad Saddique was left on road near Garrison Recreational

Complex by the persons in the vehicle and the offenders had fled from the scene. Resultantly, Number 4343237 Sepoy Muhammad Saddique got injured and was immediately evacuated to Combined Military Hospital.

QUESTIONS BY THE COURT

Question-1 Since how long you performing the duties of Post Junior Commissioned Officer at Shah Nawaz Check Post?

Answer-1 I am performing duties of Post Junior Commissioned Officer at Shah Nawaz Check Post since 1 May 2018.

Question-2 What you were doing when the soldier at the back up bunker stopped the Double Cabin Vehicle Number AJ2130?

Answer-2 I was inside the Post Control Room and was looking at routine entry and checking at Check Post.

Question-3 When did you come to know that Number 4343237 Sepoy Muhammad Saddique was missing from back up bunker?

Answer-3 I checked my soldiers when Number 4345513 Sepoy Muhammad Waqas Yasin Tahir who was performing duty with Michni Mobile Vigilance Team called to inform me of the incident.

Question-4 What was your response when you found Number 4343237 Sepoy Muhammad Saddique missing from back up bunker?

Answer-4 I ordered Number 4312617 Lance Havildar Khurshid Ahmed to chase and stop the vehicle.

Question-5 Did you inform anyone in your unit about the incident?

Answer-5 Yes, I informed Pakistan Army 53697 Captain Ali, Adjutant and Unit Control Room.

Question-6 Was Number 4312617 Lance Havildar Khurshid Ahmed successful in stopping the vehicle?

Answer-6 No, vehicle being in high speed could not be chased down.

Question-7 What all information was shared by Number 4312617 Lance Havildar Khurshid Ahmed when he returned back to the Check Post?

10

Answer-7

He informed me that Number 4343237 Sepoy Muhammad Saddique was left on Fort Road near Garrison Recreational Complex road by the culprits who had fled from the scene.

The above statement has been read over to the witness in the language he understands and signs it as correct.



(Pakistan Junior Commissioned Officer 4313681 Naib Subedar Aftab Ahmed)

FINDINGS OF THE COURT

After having gone through the statements of witnesses the court finds that:-

- a. On 7 May 2018 at 1440 hours, Number 4343237 Sepoy Muhammad Saddique ex 21 Azad Kashmir Regiment was on a bona fide duty and was sentry at back up bunker as per Standing Operating Procedures at Shah Nawaz Check Post.
- b. On 7 May 2018 at about 1440 hours, Number 5666 Constable Muhammad Abbas Khan (Driver) and Number 154 Constable Farman Ullah (Second Seater) on Vehicle Registration Number AJ 2130 (Toyota Double Cabin, white color) came from Fakhar -e- Alam Check Post and was allowed through Shah Nawaz Check Post without any difficulty.
- c. Immediately afterwards, at about 1441 hours, Constable Muhammad Abbas Khan and Constable Farman Ullah were signalled to stop by Sepoy Muhammad Saddique.
- d. Sepoy Muhammad Saddique demanded Identity Card or Computerized National Identity Card from Constable Muhammad Abbas Khan and Constable Farman Ullah.
- e. On 7 May 2018 at 1442 hours, Constable Muhammad Abbas Khan and Constable Farman Ullah did not show their Identity Cards to Sepoy Muhammad Saddique intentionally. Instead, they got offended on being asked to identify themselves.
- f. Due to suspicious behaviour, Sepoy Muhammad Saddique asked them to park their vehicle by side and tried to blow alarm whistle to call Post Non Commissioned Officer. Seeing this, Constable Farman Ullah who was second seater grabbed the arm of Sepoy Muhammad Saddique and the driver drove away the vehicle.
- g. Constable Muhammad Abbas Khan drove away the vehicle at fast speed (approximately 60-70 kilometres per hour) and dragged Sepoy Siddique ex 21 Azad Kashmir along for approximately 800 to 900 meters.
- h. After dragging the soldier for 800-900 hundred metres, Constable Farman Ullah pushed down the soldier short of entry gate of Garrison Recreational Complex and fled away from the scene.
- i. While dragging the soldier, Constable Farman Ullah punched Sepoy

Muhammad Saddique number of times venting out his anger.
Number 4352655 Sepoy Kamran Asif and Sepoy Muhammad Waqas Yasin
Tahir did not fire at fleeing vehicle due to presence of fellow soldier.

OPINION OF THE COURT

After having gone through the statements of the witnesses and findings, the court opines that:-

a. Number 5666 Constable Muhammad Abbas Khan and Number 154 Constable Farman Ullah violated the law and Standing Operating Procedures on following account:-

- (1) Constable Muhammad Abbas Khan and Constable Farman Ullah did not prove their identity.
- (2) Constable Muhammad Abbas Khan and Constable Farman Ullah involved in unnecessary argument with Number 4343237 Sepoy Muhammad Saddique.
- (3) Constable Farman Ullah tried to assault Sepoy Muhammad Saddique who was on bona fide duty.
- (4) Constable Farman Ullah displayed inhuman behaviour.
- (5) Constable Muhammad Abbas Khan drove the vehicle to drag Sepoy Muhammad Saddique fully well knowing that he was dragging a military person on duty.
- (6) Constable Muhammad Abbas Khan and Constable Farman Ullah are guilty of criminal assault on Sepoy Muhammad Saddique.

b. Being from a law enforcement agency, the personnel were well aware of the procedures and intentionally caused grave harm to a soldier on duty, which could have resulted in the soldier's death.

c. The conduct of Sepoy Muhammad Saddique was according to the Standing Operating Procedures. He did not provoke the accused.

d. Although the sentries on duty would have been entirely covered had they fired upon the vehicle, their presence of mind prevented undue loss of life and limb.

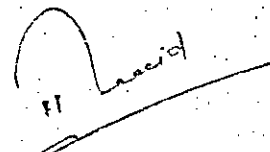
e. Regardless of his statement, Constable Farman Ullah is physically stronger than Sepoy Muhammad Saddique and manhandling by Sepoy Muhammad Saddique may be ruled out.

RECOMMENDATIONS OF THE COURT

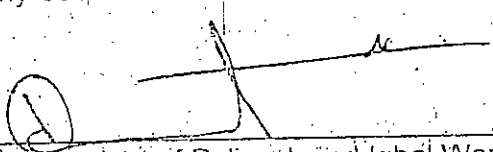
After having gone through the statements of the witnesses, findings and opinion, the court recommends that:-

- a. Number 5666 Constable Muhammad Abbas Khan and Number 154 Constable Farman Ullah be dismissed from police service and blacklisted.
- b. Constable Muhammad Abbas Khan and Constable Farman Ullah may be booked on charges of a criminal assault.
- c. Police authorities may launch an awareness drive to educate particularly the lower ranks on threat environment and resultant preventive measures with a view to encouraging appropriate behaviour at the Check Posts and during joint operations. Police authorities may encourage their personnel to display Police / national Identity Cards when asked.
- d. Concerned Police authorities should communicate the final disposal of Constable Muhammad Abbas Khan and Constable Farman Ullah with Headquarter 11 Corps and Headquarter 102 Independent Infantry Brigade.

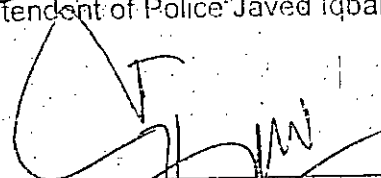
President:


 (Pakistan Army-38329 Lieutenant Colonel Rashid Mehmood, 67 Punjab (LAT))

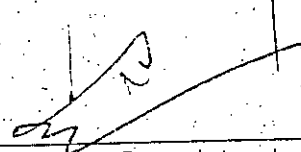
Members: (1)


 (Senior Superintendent of Police Javed Iqbal Wazir)

(2)


 (Pakistan Army-42617 Major Fida Hussain, 67 Punjab (LAT))

(3)


 (Deputy Senior Superintendent of Police Usman Ghani)

Sta : Peshawar Cantonment

Dated : 17 May 2018