

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR.

Service Appeal No. 3530/2021

Date of Institution ... 15.03.2021

Date of Decision ... 06.07.2022

Muhammad Nawaz Ex-Constable No. 394, R/O Qadri Banda
District Hangu.

... (Appellant)

VERSUS

Deputy Inspector General of Police, Kohat Region, Kohat and one
other.

... (Respondents)

MR. MUHAMMAD SAEED KHATTAK,
Advocate

--- For appellant.

MR. RIAZ AHMAD PAINDAKHEL,
Assistant Advocate General

--- For respondents.

MR. SALAH-UD-DIN
MR. MIAN MUHAMMAD

--- MEMBER (JUDICIAL)
--- MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Briefly stated the facts necessary for disposal of the instant service appeal are that the appellant while posted in Anti-Narcotic Squad, was proceeded against on the allegations of absence from duty as well as his involvement in case FIR No. 341 dated 21.08.2020 under Section 302 PPC registered at Police Station Thall District Hangu. On conclusion of the inquiry, major penalty of dismissal from service was imposed upon the appellant vide impugned order dated 19.10.2020 passed by District Police Officer Hangu. The same was challenged by the appellant



through filing of departmental appeal, which was rejected vide order dated 30.12.2020, hence the instant service appeal.

2. Respondents contested the appeal by way of submitting para-wise comments, wherein they refuted the stance taken by the appellant in his appeal.

3. Learned counsel for the appellant has contended that the appellant had not remained willfully absent from duty for a single day; that the appellant remained absent from duty only for the period during which he remained confined in jail on account of his arrest in the concerned criminal case; that the appellant was not directly charged in the criminal case and was subsequently charged for ulterior motives; that the inquiry officer had not at all given any findings that the appellant was found guilty of the charges leveled against him but even then, competent Authority awarded him major penalty of dismissal from service; that one of the allegation leveled against the appellant was his involvement in the criminal case, however the appellant has already been acquitted by the competent court of law in the concerned criminal case; that the impugned orders being wrong and illegal are liable to be set-aside and the appellant is entitled to be reinstated in service with all back benefits.

4. On the other hand, learned Assistant Advocate General for the respondents has contended that the appellant had willfully remained absent from duty and was also involved in a murder case, therefore, departmental action was taken against the appellant; that all legal and codal formalities were complied with in the inquiry proceedings and the appellant was provided opportunity of self defense as well as personal hearing; that the appellant remained unable to produce any cogent evidence in rebuttal of the allegations leveled against him; that the departmental appeal of the appellant was rejected vide order dated 30.12.2020, therefore, he was required to have filed service appeal within 30 days, however the appellant filed the instant service appeal on 15.03.2021, which is badly time barred; that the impugned orders have

been passed in accordance with law, therefore, the same may be kept intact and the appeal in hand may be dismissed with costs.

5. Arguments heard and record perused.

6. According to the record, the appellant was granted 23 hours permission on 21.08.2020, by SDPO City Hangu and he was required to return for his duty on 22.08.2020. In the meanwhile, case FIR No. 341 dated 21.08.2020 under Section 302 PPC Police Station Thall was registered regarding the murder of one Khalid Rehman. The appellant was arrested on 22.08.2020 due to suspicion and was challaned to the court for providing security under Section 107/151 Cr.PC in connection with the concerned murder case. The appellant was thus unable to appear for his duty on 22.08.2020 as he was in custody. Admittedly, the appellant was suspended on 27.08.2020 on account of his involvement in the concerned criminal case. Charge sheet as well as statement of allegations were issued to the appellant on 03.09.2020. The appellant submitted reply to the charge sheet and remained associated with the inquiry proceedings. The pre-arrest bail of the appellant was recalled and he was arrested on 17.09.2020. The appellant then remained in custody and was released on bail on 30.09.2020.

7. While going through the report submitted by the inquiry officer, we have observed that the inquiry officer has not at all given any findings that the appellant was guilty of the charges leveled against him. In absence of any findings of the inquiry officer, holding the appellant guilty of the charges leveled against him, it is not understandable as to how the appellant was awarded major penalty of dismissal from service by the competent Authority. The appellant has already been acquitted in the concerned criminal case vide judgment dated 06.04.2021 passed by the competent court of law. In view of acquittal of the appellant, the very charge leveled against the appellant on the basis of his involvement in the criminal case, has vanished away. Nothing is available on the record, which

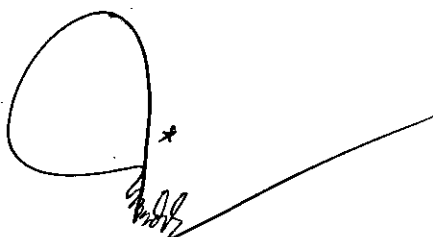
could show that acquittal of the appellant has been challenged through filing of appeal before the higher forum.

8. The appellant was suspended on 27.08.2020 and he was entitled to his pay, allowances and other benefits in accordance with Fundamental Rule-53. The competent Authority, vide impugned order dated 19.10.2020, has however dismissed the appellant from service with effect from 27.08.2020 i.e the date of his suspension. The appellant has thus been awarded the impugned penalty with retrospective effect, rendering the impugned order dated 19.10.2020 as void ab-initio.

9. So far as the question of limitation is concerned, the same had already been decided at the time of preliminary hearing by holding that in view of Section 30 of the Khyber Pakhtunkhwa Epidemic Control and Emergency Relief Act, 2020 the appeal in hand was not hit by bar of limitation.

10. In view of the above discussion, the appeal in hand is accepted by setting-aside the impugned orders and the appellant is reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
06.07.2022



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)



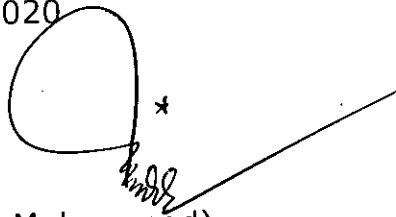
(SALAH-UD-DIN)
MEMBER (JUDICIAL)

ORDER
06.07.2020

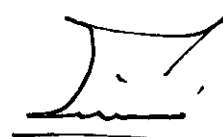
Appellant alongwith his counsel present. Mr. Riaz Ahmad Paindakhel, Assistant Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand is accepted by setting-aside the impugned orders and the appellant is reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
06.07.2020

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(Mian Muhammad)
Member (Executive)

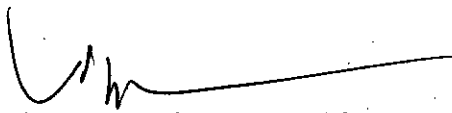
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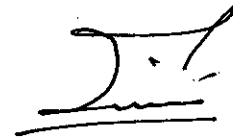
(Salah-Ud-Din)
Member (Judicial)

13.12.2021

Mr. Muhammad Saeed Khattak, Advocate for the appellant present. Mr. Muhammad Rasheed, Deputy District Attorney alongwith Mr. Haider Ali, Head Constable for respondents present.


Learned Deputy District Attorney requested for adjournment on the ground that the brief has been handed over to him very late, therefore, could not made preparation for arguments. Adjourned. To come up for arguments before the D.B on 29.03.2022.


(Atiq Ur Rehman Wazir)
Member (E)


(Salah-ud-Din)
Member (J)

29-3-2022

Proper DB not available The case is adjourned to come up for the same as before on 6-7-2022


Reader

Stipulated period passed reply not submitted.

29.07.2021

Learned Addl, A.G be reminded about the omission and for submission of reply/comments within extended time of 10 days.

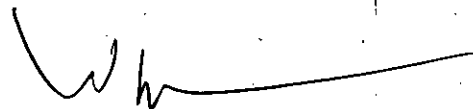

Chairman

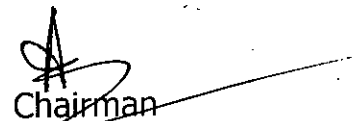
05.08.2021

Appellant in person present.

Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Ibrahim Inspector for respondents present.

Written reply has been submitted by the respondents. Arguments could not be heard due to non-availability of counsel for the appellant. Copy of the written reply submitted by the respondent is handed over to the appellant with directions that he should given the same to his lawyer within time for preparation of arguments. To come up for arguments on 13.12.2021 before D.B.


(Atiq Ur Rehman Wazir)
Member (E)


Chairman

Act, 2020, period of limitation stands frozen. The said provision is reproduced herein-below for ready reference:-

"Period of limitation under various laws.---
Notwithstanding anything contained in the Limitation Act, 1908 (Act No. IX of 1908) or any other law prescribing limitation for initiating any legal proceedings, the limitation period provided under various laws shall remain frozen from 1st March 2020 till the culmination of the emergency period and the proceedings so filed before any court or tribunal during or immediately upon cessation of such emergency period, shall not be time barred on account of any delay for the aforesaid period."

With this position discussed above, the present appeal is not affected by bar of limitation.

Points raised need consideration. The appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days of the receipt of notices positively. If the written reply/comments are not submitted within the stipulated time, the office is directed to submit the file with a report of non-compliance. File to come up for arguments on 05.08.2021.

Appellant Deposited
Security & Process Fee
11/6/21


Chairman

S.A No. 3530/2021

25.05.2021 Counsel for the appellant present. Preliminary arguments heard.

The impugned order of dismissal from service was passed on 29.10.2020, where-against departmental appeal was filed and disposed of by the appellate authority vide order dated 30.12.2020. Although the departmental appeal does not bear any date and the appellant has also not furnished any postal receipt or receiving note of the department that when it was filed by him but the order of the appellate authority mentioned no ground about the departmental appeal being time barred. So as a matter of rebuttable presumption of fact, the departmental appeal is held within time.



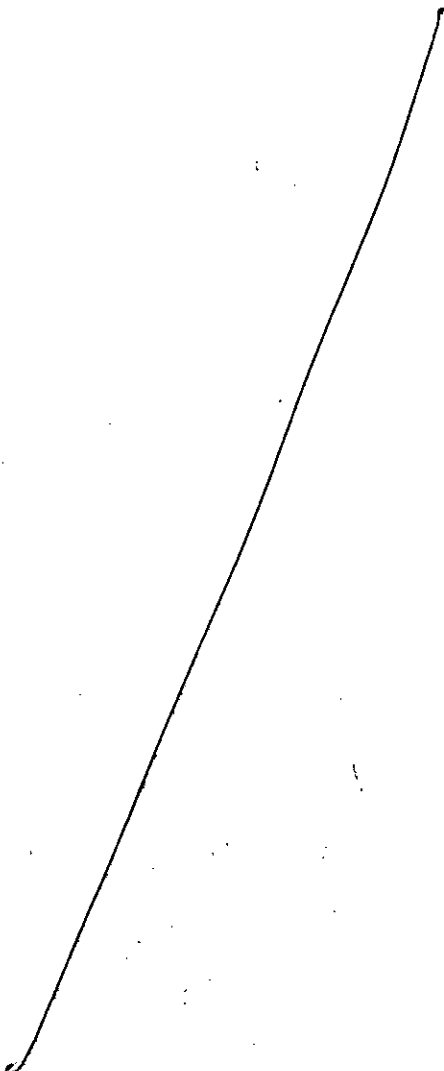
After passing of the order of appellate authority on departmental appeal, the limitation for filing of the appeal before the Tribunal will run from 31.12.2020. However, the appeal has been filed on 15.03.2021 beyond the prescribed period of limitation, with an application for condonation of delay with certain reasons. Section 9 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 r/w Rule 8 of the Khyber Pakhtunkhwa Service Tribunal Rules, 1974 empower the Tribunal to condone the delay when the appellant satisfies the Tribunal that he had sufficient cause for not preferring the appeal within stipulated period. Without considering the reasons mentioned by the appellant for condonation of delay, suffice it to say that under Section 30 of the Khyber Pakhtunkhwa Epidemic Control and Emergency Relief

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 3530 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	15/03/2021	<p>The appeal of Mr. Muhammad Nawaz presented today by Mr. Muhammad Saeed Khattak 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 15/3/2021</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>25/05/21</u></p> <p style="text-align: right;"> CHAIRMAN (for completion)</p> 

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. _____/2021

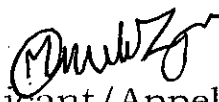
Muhammad Nawaz(Appellant)

VERSUS

DIG Police Kohat Range and another.....(Respondents)


I N D E X

S.No.	Description of Documents	Annex	Pages
1.	Service Appeal		1-7
2.	Application for condonation of delay		8-9
3.	Copies of the F.I.R and statement u/s 164 Cr.PC	A	10-16
4.	Copies of charge sheet/ statement of allegations	B	17-18
5.	Copy of the reply	C	19-20
6.	Copies of the final show cause notice and reply	D&E	21-23
7.	Copy of the order dated 19/10/2020	F	24
8.	Copies of the departmental appeal and order dated 31/12/2020	G&H	25-27
9.	Wakalat Nama		28


Applicant/Appellant

Through

Dated: 15/03/2021


Muhammad Saeed Khattak
Advocate High Court,
Peshawar.
Cell No. 0333-6272753

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR.

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 3514

Service Appeal No. 3530/2021

Dated 15/3/2021

Muhammad Nawaz Ex-Constable No. 394 R/o Qadri Banda,
District Hangu.....(Appellant)

VERSUS

1. Deputy Inspector General of Police, Kohat Region, Kohat.
2. District Police Officer, Hangu.....(Respondents)

**APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT
1974 AGAINST THE IMPUGNED ORDER
DATED 30/12/2020 PASSED BY
RESPONDENT NO. 1 WHEREBY
DEPARTMENTAL APPEAL AGAINST
DISMISSAL ORDER DATED 29/10/2020
(IMPUGNED THEREIN) WAS REJECTED.**

Prayer in appeal:

Filed to-day
Registrar
15/3/2021

On acceptance of this Service Appeal, both the impugned orders may very graciously be set aside and the appellant may kindly be reinstated on the post with all back benefits.

Respectfully Sheweth:

1. That the appellant is resident of District Hangu KPK, who was appointed as constable in police force on 01/11/2017.

- 2
2. That after completion of his training period he joined his duty and performed his duties to the quite satisfaction of his superiors and according to the nature of job.
 3. That on 21/08/2020 he was granted one day leave (23 hours) he applied for the same due to illness of his minor child.
 4. That minor son of the appellant was treated by doctors at Tall, but due to unavailability of transport he could not come back and stayed for a night, there at Tall, he was arrested by the local police as the police was searching some unknown culprit, where after he was brought to police station Tall.
 5. That in the mean while F.I.R No. 341 District Hangu u/s 302 PPC dated 21/08/2020 was lodged against some unknown persons, subsequently on 23/08/2020 a statement u/s 164 Cr.PC of the sister of the deceased was recorded, where in the appellant along with two others was charged for the commission of the murder of the deceased. (Copies

of the F.I.R and statement. u/s 164 Cr.PC are attached as annexure "A").

6. That for the reason mentioned above the appellant was facing criminal proceedings against him and was busy to get his bail from the competent Court, so was unable to join his duties, although the department was informed about the situation the appellant was facing.
7. That on 03/09/2020 a charge sheet as well as statement of allegations was issued to the appellant for the reason of absenting himself from the lawful duty. (Copies of charge sheet/ statement of allegations are attached as annexure "B").
8. That the appellant submitted a detailed reply to the charge sheet and statement of allegations. (Copy of the reply is attached as annexure "C").
9. That on 02/10/2020 final show cause notice was issued to appellant, he submitted reply to the same in the manner asked in the notice and reply. (Copies of the final show cause notice and reply are attached as annexure "D" & "E" respectively).

- 4
10. That the respondent No. 2 vide order dated 19/10/2020 awarded him major penalty of dismissal from service illegally and unlawfully from the date of his alleged absence i.e. 27/08/2020 i.e. with retrospective effect. (Copy of the order dated 19/10/2020 is attached as annexure "F").
 11. That being aggrieved of the same the appellant preferred a departmental appeal to the respondent No. 1 which too was rejected vide order 30/12/2020 without any legal and justified reasons. Copy of the impugned order was received by the appellant on 15/02/2021. (Copies of the departmental appeal and order dated 31/12/2020 are attached as annexure "G" & "H" respectively).
 12. That the appellant prefers the instant Service Appeal, inter-alia on the following amongst others:

GROUND:

- A. That the appellant has not been treated in accordance with law nor equal protection of law has been extended to him.

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- B. That very harsh punishment in shape of dismissal from service has been imposed upon the appellant for remaining absent from duty only for a single day which too was not willful but was due to the reason beyond his control which too is/ was briefly explained before the authority.
- C. That the penalty imposed upon the appellant, according to Police Rules, 1975 Section 4 (b) 2 (a) disqualify him for future employment. He being a young person will suffer irreparable loss in the future.
- D. That the appellant has a good previous record and performed all his duties throughout his previous career to the quite satisfaction of his job, he never remained absent for a single day except the one which too is/ was explained satisfactory.
- E. That in similar situation in case law reported as 2011 PLC (CS) 808 (Supreme Court) held that civil servant was removed from service on the allegation of his will absence for duty plea raised from the civil

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servant was that his absence from duty was due to circumstances beyond his control, as he has been involved in murder case, validity, Service Tribunal while dealing with appeal, had power under Section 5 of Service Tribunal Act, 1973, to vary and modify order of departmental authority, Supreme Court while sitting in appeal over judgment of Service Tribunal could also exercise such power to meet the ends of justice Civil Servant who had a long unblemished service record of servant about 17 years and he by force of circumstances (involvement in case in which he was later on acquitted), was prevented from performing his duty, civil servant was absent from duty entitled some penalty under law and his removal from service was too harsh penalty for him Supreme Court converted petition for leave into appeal and converted penalty of removal from service into compulsory retirement.

- F. That the appellant has served the department for three years the circumstances of the case demand his reinstatement on the post with all back benefits.

G. That any other ground can also be taken with permission of this Hon'ble Tribunal during the arguments.

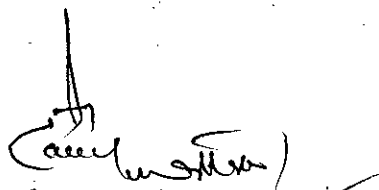
It is, therefore, humbly prayed that titled Service Appeal may kindly be allowed as per prayer.

Any other relief as deemed appropriate in circumstances of the case, not specifically asked for, may also be granted to the appellant.


Appellant

Through

Dated: 15/03/2021


Muhammad Saeed Khattak
Advocate High Court,
Peshawar.

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

C.M. No. ____/2021

In

Service Appeal No. ____/2021

Muhammad Nawaz(Appellant)

VERSUS

DIG Police Kohat Range and another.....(Respondents)

APPLICATION FOR CONDONATION OF
DELAY IF ANY.

Respectfully Sheweth:

1. That the titled service appeal has been filed today in which no date has yet been fixed for hearing.
2. That the applicant/ appellant has a got prima facie case and is sanguine of its success.
3. That the dismissal order has been given a retrospective effect which is nullity in the eyes of law otherwise too the impugned order is/ was received on 15/02/2021, so the instant appeal is well within time.

- 4. That the grounds taken in the main appeal may kindly be considered as per Courts have already governed the cases to be decided on merits rather than technicalities including the limitation.
- 5. That the question under discussion is of continuous cause of action, where no limitation lie.

It is, therefore, most humbly prayed that on acceptance of this application, the delay if any may kindly be condoned.

Munir

Applicant/Appellant

Through

Muhammad Saeed Khattak

Dated: 15/03/2021

Muhammad Saeed Khattak
Advocate High Court,
Peshawar.

بیان مسماة عظمت دختر دلال خان عمر 35/36 سال ساکنہ بازار خیل مد کھنڈ حال
تازہ ضلع کرم زبرد فوجہ 164 عرف

بیان کیا کہ برادر و نواسہ مورچہ محمد 10/11 برس سے اپنی بھائی مغنول خالہ الرحمان سے
قتل کی دعویداری نامعلوم کسان کے خلاف کی گئی اور میں نے مکمل تسلی کر لی ہے
کہ خالہ الرحمان کو مسیماں محمد مشرف ولد میر سید محمد وار ولد میر سید اور وزیر گل
ولد وزیر گل سلسلہ قادری مانڈہ نے آگہ آتشیں سے قتل کیا ہے۔ میں ہر قسم کسان
کے خلاف اپنے بھائی کے قتل کی دعویداری کرتی ہوں۔ میرے بھائی کے ہر قسم کسان
کے دشمن مجاہد کیساتھ دوستی کی وجہ سے قتل کیا ہے۔ ہر قسم کسان کے خلاف
دعویداری ہے۔ یہی میرا بیان ہے

سن کر دست تسلیم کیا

مورڈیشنل ڈسٹرکٹ جج، جھنگ

23.08.20

نشان انگشت مسماة عظمت

شاخصی مارڈ نواز

شاخص سیال بادشاہ ولد لال بادشاہ

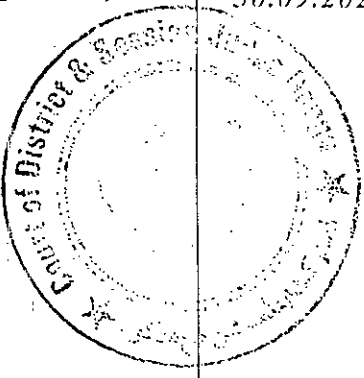
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کہاں فیاب ڈسٹریکٹ سیشن جج صاحب صاحب
30/9/2020 مقید 21/9/2020 نوں BA 142/12
نیزہ گل ونیر 302/34
341 مقید 21/8/2020

142

0-4 30.09.2020.



Counsel Mr. Aurangzeb Khan Advocate for accused/petitioners namely Nazir Gul, Muhammad Sharif and Muhammad Nawaz present. Complainant Mst. Azmata along with her counsel Mr. Said Amin Jan Advocate present.

2. Accused/petitioners named above seek their post release bail in case FIR No.341 dated 21.08.2020 u/s 302 PPC registered at PS Thall, District Hangu.

3. Brief facts of the case are that on 21.08.2020 complainant had charged unknown accused for committing Qatl-i-Amd of her brother Khalid Rehman in Lorry Adda Thall but later on, on 23.08.2020, he charged the above named accused/petitioners for the commission of offence in a statement recorded u/s 164 CrPC before Judicial Magistrate, Hangu. Now, through instant petition, petitioners/ accused seek their release on bail.

4. Arguments of both the learned counsel for the parties heard and record minutely perused with their valuable assistance.

5. Learned counsel for accused/petitioners argued that accused/petitioners are not directly charged in the FIR rather they are charged in a statement recorded u/s 164 CrPC. That there is delay about days in nomination of accused. That there is no ocular evidence on record to connect the accused/petitioners with the commission of

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30.9.20

CERTIFIED TRUE COPY

9/11/2020

EXAMINED

COPIING AGENCY HANGU

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30.09.2020.

offence. He relied upon Cr.M/BA. No.573/P/201
Peshawar High Court, Peshawar. He prayed for release of
accused petitioners on bail.

6. Learned counsel for complainant argued that case
of the accused petitioners comes within the ambit of
prohibitory clause. Though accused petitioners are not
directly charged but sufficient material is available on
record to connect them with the commission of offence. He
relied upon. That discussion on other merits of the case
would be deeper appreciation which is forbidden at bail
stage. He relied upon 2002 PCrLJ page 1048 Peshawar,
2001 PCrLJ page 1679 Karachi, 2002 PCrLJ page 1048
Peshawar and 2004 PCrLJ page 280 Peshawar. He prayed
for dismissal of bail petition.

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30.9.20

7. Perusal of record would reveal that accused/
petitioners are not directly charged in the FIR. They are
charged by complainant in her statement recorded u/s 161
CrPC before the police and her subsequent statement
recorded u/s 164 CrPC before Judicial Magistrate however
she did not mention the source of her satisfaction about the
occurrence. As she has also mentioned in her first report
that they had many blood feud enmities with other people.
There is no independent witness/evidence available on
record to connect the accused/petitioners with the
commission of offence. Even after arrest of

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9/11/22

EXAMINED
COPYING AGENCY HANG

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31/11/20
31/11/20
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Continued

30.09.2020.

accused/petitioners, nothing incriminating recovery or discovery made, which could connect them with the commission of offence. Only stance of the counsel for complainant that medico legal report supports the version of complainant, is not sufficient because medico legal report only determines seat and sight of injury and cause of death, not the connection of accused/petitioners with the commission of offence.

8. In these circumstances, case of the accused/petitioners is one of further inquiry. Therefore, I accept the petition of accused/petitioners. Accused/petitioners be released on bail subject to furnishing bail bonds in the sum of Rs.100,000/- each with two sureties each in the like amount to the satisfaction of this Court. Case file be consigned to Record Room after completion while copy of this order be placed on requisitioned record and requisitioned record be remitted back to the quarter concerned.

ANNOUNCED
30.09.2020.

(Signature)
(NAJRA REHMAN)
Sessions Judge,
Hangu.

3185
Date of presentation of application 9/11/2020
Date on which copy was filed 9/11/2020
Date on which copy was received 9/11/2020
Number of Pages 3/1
Pages Due
Name of Petitioner
9/11/2020

CERTIFIED TO BE
(Signature)
9/11/2020
EXAMINE
COPYING AGENCY HANGU

(Signature)

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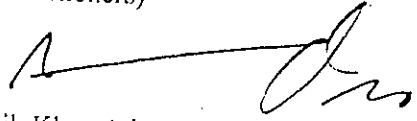
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Note:

Certified that no such like bail petition has earlier been filed on the subject matter before this Honorable Court regarding the instant matter.

@
Supdt
21.08.20

(Accused/Petitioners)
Through



Aurangzaib Khan Advocate
Dist Courts Hangu.

RECEIVED BY THE COURT
9/11/2020
IN CHARGE
COPYING AGENCY HANGU

3195
Date of presentation, _____ 9/11/2020
Date on which copy accepted _____ 9/11/2020
Date on which copy was attached _____ 9/11/2020
Signature of Clerk _____
Signature of _____
Date _____ 9/11/2020

CTC
[Signature]

Amma (B)
17

CHARGE SHEET.

I, Mr. SHAHID AHMED, D.P.O, HANGU as competent authority, hereby charge you Constable Muhammad Nawaz No. 394 while posted at Anti Narcotic Squad committed the following irregularities:-

- a). you were granted 23 hours permission by SDPO City Hangu vide DD No. 31 dated 21.08.2020 and your arrival was due on 22.08.2020 but vide DD No. 45 dated 22.08.2020 of Police Lines hangu as such you absented yourself from lawful duty without any leave or further permission from your seniors. Latter on you were charged in case FIR No.341 dated 21.08.2020 U/S 302 PPC PS Thall District Hangu.
- b). Your act shows disinterest, negligence and amounts to criminal gross misconduct which cannot be ignored.

2. By reasons of the above, you appear to be guilty of misconduct Under Police Disciplinary Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in the above rules.

3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the Enquiry Officer/Committees, as the case may be.

4. Your written defence, if any, should reach to the Enquiry Officer/Committees within the specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.

5. Intimate whether you desire to be heard in person.

6. A statement of allegation is enclosed.

MD
DISTRICT POLICE OFFICER,
HANGU

No. 47 /EC,

Dated 03/09/2020.

etc
MD

DISCIPLINARY ACTION.

I, Mr. SHAHID AHMED, D.P.O, HANGU as competent authority, am of the opinion that Constable Muhammad Nawaz No. 394 has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning Under Police Disciplinary Rules, 1975:

STATEMENT OF ALLEGATIONS.

- a). you were granted 23 hours permission by SDPO City Hangu vide DD No. 31 dated 21.08.2020 and your arrival was due on 22.08.2020 but vide DD No. 45 dated 22.08.2020 of Police Lines hangu you absented himself from lawful duty without any leave or further permission from your seniors. Latter on you were charged in case FIR No.341 dated 21.08.2020 U/S 302 PPC PS Thall District Hangu.
 - b). Your act shows disinterest, negligence and amounts to criminal gross misconduct which cannot be ignored.
2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an Enquiry Officer consisting of the following is constituted in the above rules: -

Mr. Nazir Khan, SDPO Hangu.

3. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused, record its findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.
4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the Enquiry Officer.

**DISTRICT POLICE OFFICER,
HANGU**

A copy of the above is forwarded to: -

1. Mr. Nazir Khan, SDPO Hangu. The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Disciplinary Rules, 1975.
2. Constable Muhammad Nawaz No. 394. The concerned officer with the directions, to appear before the Enquiry Officer, on the date, time and place fixed by the Officer, for the purpose of the enquiry proceedings.

CTC
JF

خواجہ چارج سیٹا طبری 47/EC بحالیہ حساب D.P.O صاحب سٹلو
 3-9-020
 حضور حضرت علیوں کہ میں بوجہ ایلمر صبی (یعنی ٹی کے کمی بیماری لیا طبر)
 حوالہ 21 سے 23 گھنٹہ منظور شدہ رخصت پیر گھر خود جا کر جہاں سے
 چلے کو علاج حالہ لیا طبر تل ڈاکٹر کے پاس جا کر بعد علاج حالہ کے پتھر ہوا
 12:30 سے فارغ ہو کر گھر خود کسلے گاڑی کا مسیئر نہ ہوا کیونکہ سے تل میں
 رشتہ دار کے پتھر چلا گیا۔ اسی آستان میں SHO تل کسی معلوم ملزم / ملزمان
 کی تلاش و مہتمم براری میں حضور تھا کہ من کنٹریل کو بھی کسی شہرہ استہاری
 کے قتل ہو میں متنبہ جانکر قحانہ تل لے گیا جہاں پیر مدعی حضور نے کسی
 معلوم ملزم / ملزمان لیا خلاف FIR درج کر کے شاہ کو بعد تسلی کے چھوڑا گیا صلح
 کو دروازہ طلب کر کے کرم 107/151 ض ف میں جہاں عدالت کیا برس و جہ پتھر حاضر رہا
 مدعی مقدمہ نے اپنی رپورٹ میں خود بیان کیا ہے کہ میں حاضر خود واقع قحانہ
 صلح کرم میں موجود تھی کہ اطلاع ملی کہ برادر اش خالد رحمن کو کسی معلوم
 ملزم / ملزمان حدود قحانہ تل میں قتل کیا ہے۔ اور FIR میں کوئی حکموں پر قتل
 مقاتلہ کی ڈشمنیاں بھی ظاہر کی ہے چونکہ عورت مدعیہ ذات ہے اور کنواری ہے۔
 صلح کرم میں رہتی ہے جسکے ساتھ تو ہمارا سابقہ علاوت گمراہ چلا ہے اور نہ
 اسکے ساتھ کوئی رشتہ داری ہے اور نہ ہی کسی قسم کا تعلق رہ چلا ہے جسکی بناء
 وہ مجھے پہچانی ہو۔ حساب والا SHO صاحب نے FIR درج شدہ میں یہ بھی
 تحریر کیا ہے کہ مقتول خالد رحمن مقدمہ عدالت 577 حوالہ 13/15 جسکا 324-324
 قحانہ تل میں شہرہ استہاری تھا چاہے تو ایسا تھا کہ جناب SHO صاحب
 مقدمہ مقدمہ کی مصروفیت کو جان کر تا جسٹاز کر بھی FIR میں کر چلا ہے
 علاوہ ازیں مقتول مقدمہ 06/07 قحانہ میں قحانہ درام میں
 بھی شہرہ استہاری تھا پھر مدعیہ کو کیا علم ہوا کہ مقتول خالد رحمن کو
 کنٹریل محلہ نواز نے قتل کیا ہے۔

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صن نظام کو پورا کرنا کہ جناب SHO کی مائی اسٹاکٹ سے من کنسٹریبل
پیدا دعویداری کیلئے ہے جو من گھڑت اور بے بنیاد ہے جس میں بالکل
بے گناہ لوگوں کو استدعا ہے کہ چارج سیٹ ہڈا کو بلا کوئی کارروائی کے
داخل دفتر فرمایا جاوے

کنٹرول ڈیپارٹمنٹ
المنہجہ لٹوواز 394 پولیس لائن

MMWZ

پولیس

FINAL SHOW CAUSE NOTICE

Annex D 21

WHEREAS, you Constable Muhammad Nawaz No. 394 proceeded against departmentally on the basis of allegations that you while posted at Anti Narcotic Squad Hangu were granted 23 hours permission by SDPO City Hangu vide DD No. 31 dated 21.08.2020 and your arrival was due on 22.08.2020, but vide DD No. 45 dated 22.08.2020 of Police Lines Hangu as such you absented yourself from lawful duty without any leave or further permission from your seniors. Similarly, you were charged in case vide FIR No. 341 dated 21.08.2020 u/s 302 PPC Police Station Thail. Your act shown your disinterest, negligence and amounts to criminal gross misconduct which cannot be ignored.

THEREFORE, you were served with Charge Sheets and statements of allegations under Police Disciplinary Rules 1975 vide No. 47/EC, dated 03.09.2020, for which you submitted the reply to Mr. Nazir Khan, SDPO Hangu appointed as Enquiry Officer into the matter. After completion of enquiry, the Enquiry Officer submitted the finding report dated 28.09.2020 for further final order to the undersigned.

NOW, THEREFORE, I, Shahid Ahmed, District Police Officer, Hangu have vested the power under Police Disciplinary Rules, 1975 liable to take action against you.

Your reply to the Final Show Cause Notice must reach to the office of undersigned within **7 days** after the receipt of instant Notice. In case of failure, it shall be presumed that you have no defence and ex-parte action will be taken against you.

No. 208 /EC,

Dt: 02/10/2020.


**DISTRICT POLICE OFFICER,
HANGU.**

CTC
CTA

جناب عالی
کوالم نیشنل سٹوڈنٹس یونیورسٹی 205/EC طارق جناب DPO
2-10-020

صاحب سیدو حضرت و حق حضرت یوں کہ میں یو جی ایلر جینی (یعنی بچے
کی بیماری لیا خاطر) حوزہ 21⁰⁸ سے 23⁰⁸ تک رخصت منظور شدہ ہے
گھر خود عالم جہاں سے بچے کو علاج معالجہ کیلئے ٹل کو ڈاکٹر کے پاس لے
گیا بعد علاج معالجہ کے تقریباً 12:30 ڈاکٹر سے فارغ ہو کر چونکہ مجمع
کا دن تھا میری وقت گزاری کے مسئلہ نہ ہونے کی وجہ سے ٹل میں رشتہ داروں
کے گھر چلا گیا۔ اسی اثناء میں 5110 ٹل کسی غلطی ملزم ایلر زمان کی تلاش
و پتہ پزیری میں مصروف تھا کہ سن کنٹریل کو بھی کسی مجرم اشتہاری کے
قتل کیس میں مستبہ جعفر قحانہ ٹل لے گیا جہاں پر مدعی مقدم نے کسی
غلطی ملزم ایلر زمان کی خلاف FIR درج کر کے شاک کو بعد تسلی کے چھوڑا گیا
صبح کو واپس ڈلوٹی کیلئے چلے گئے ہیں مصروف تھا کہ دوبارہ قحانہ ٹل طلب
کر کے جہاں پر پتہ 107/151 صف جلال عدالت کیا۔ میں وجہ غیر حاضر رہا

مدعی مقدم نے اپنی رپورٹ میں خود بیان کیا ہے کہ میں خانہ واقع ضلع کرم
میں موجود تھی کہ اطلاع ملی کہ میرا دراصل والد راجن کو کسی غلطی ملزم
ایلر زمان نے حدود قحانہ ٹل میں قتل کیا ہے اور FIR میں بھی کچھ کہوں پر قتل
مقتالہ کی دشمنیاں ظاہری ہے۔ چونکہ صورت مدعیہ ذات ہے اور کنواری ہے
ضلع کرم میں رہتی ہے۔ جیلے ساتھ نہ تو ہمارا سابقہ عدوت گزر چکا ہے اور نہ
اسکے ساتھ کوئی رشتہ داری ہے۔ اور نہ کسی قسم کا تعلق رہ چکا ہے۔ جلی بنا
وہ مجھے جانتی ہے۔ جناب والا SHO صاحب نے FIR درج شدہ میں جی
ٹرینر کیا ہے کہ مقول خالد راجن مقدمہ سلسلہ 577 حوزہ 13/12/13 جمل
34-324 قحانہ ٹل میں مجرم اشتہاری تھا۔ چاہئے تو اسکا تھا کہ جناب
SHO صاحب متذکرہ مقدمہ کی تصدیق کو جلال کمرتا جگا ذکر FIR میں
کر چکا ہے۔ علاوہ ازیں مقول متذکرہ تقریباً 06/07 مقدمات میں
قحانہ دو آب میں جی مجرم اشتہاری تھا۔ پھر مدعیہ کو کیا علم ہوا کہ
مقول خالد راجن کو کنٹریل نواز نے قتل کیا ہے جس سے ظالم
کہ جناب SHO صاحب کی پائی لائٹ کرنے جسے سن کنٹریل پر دعویداری

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کننگی ہے جو من گھڑت اور بے بنیاد ہے میں بالکل بے
 گناہ ہوں عدالت کو ہوق نہ ہی من کینٹیل کو تقریباً 12/13
 دن میں جہانت پیر راکھ ہے جو بے گناہی کا واضح ثبوت ہے
 اسٹد عاھلر مائل سو کاز نوٹس داخل دفعہ منر مایا حاکم
 مائل کر کا حکم صادر فرمائیں

کنٹیل محلہ نواز 394

۵۲۹
 الحق

ORDER

This order of mine will dispose off the departmental enquiry against Constable Muhammad Nawaz No. 394 on the basis of allegations that he while posted at Anti Narcotic Squad Hangu was granted 23 hours permission by SDPO City Hangu vide DD No. 31 dated 21.08.2020 and his arrival was due on 22.08.2020, but vide DD No. 45 dated 22.08.2020 of Police Lines Hangu as such he absented himself from lawful duty without any leave or further permission from his seniors. Similarly, he was charged in case vide FIR No. 341 dated 21.08.2020 u/s 302 PPC Police Station Thall. Consequently, he was suspended on 27.08.2020 vide OB No. 198, dated 27.08.2020. His act shown his disinterest, negligence and amounts to criminal gross misconduct on his part, which cannot be ignored.

Therefore, he was served with Charge Sheet together-with statement of allegations under Police Disciplinary Rules 1975 vide No. 47/EC, dated 03.09.2020, for which he submitted the reply to Mr. Nazir Khan, SDPO Hangu appointed as Enquiry Officer into the matter. After completion of enquiry, the Enquiry Officer submitted the finding report dated 28.09.2020 for further final order to the undersigned.

Thereafter, a Final Show Cause Notice was issued to him vide No. 208/EC, dated 02.10.2020 and he submitted his reply, but the undersigned did not agree with him and summoned to appear in next orderly room to be held in the office of the undersigned.

Similarly, he was heard in person on 15.10.2020, but no reasonable response could be given in his/self defence to have proved his innocence thus, held him guilty for the charges.

Keeping in view of above facts and having gone through available record, the undersigned has arrived at the conclusion that defaulter Constable Muhammad Nawaz No. 394 being a member of disciplined force, had absented himself from lawful duty without any leave or prior permission from seniors till to date, subsequently he committed the aforementioned criminal case. Moreover, in such circumstances, his retention in Police Department is burden on public exchequer, therefore, I, Shahid Ahmed, District Police Officer, Hangu in exercise of the powers conferred upon me, awarded him major punishment of Dismissal from Service from the date of his absence i.e 27.08.2020.

Order Announced

OB No. 261

Dated 19/10/2020


DISTRICT POLICE OFFICER,
HANGU

OFFICE OF THE DISTRICT POLICE OFFICER, HANGU.

No. 11008-07/EC, dated Hangu, the 20 IX /2020

Copy of above is submitted to the Regional Police Officer, Kohat Region, Kohat for favour of information please.

2. Pay Officer, SRC, Reader & OHC for necessary action.


DISTRICT POLICE OFFICER,
HANGU

BEFORE THE DEPUTY INSPECTOR GENERAL OF POLICE, KOHAT REGION, KOHAT.

Subject: APPEAL AGAINST THE ORDER OF DPO HANGU BEARING OB NO 261 DATED 19-10-2020 WHEREBY THE APPELLANT EX-CONSTABLE MUHAMMAD NAWAZ NO. 394 WAS AWARDED THE MAJOR PUNISHMENT OF DISMISSAL FROM SERVICES FROM THE DATE OF HIS ABSENCE I.E 27-08-2020.

RESPECTFULLY SHEWETH,

The appellant prefers the instant appeal against the order of DPO Hangu for your kind perusal and consideration on the basis of the following facts and grounds:

Facts: Briefly stated the facts that the appellant while posted at Anti-Narcotics force Hangu due to emergency relating to the sickness of his son, was granted 23 hours' permission by SDPO city Hangu on 21-8-2020 and was supposed to report for duty on 22-8-2020 but he did not. Moreover, the appellant was charged vide case FIR No:341 dt.21-08-2020 u/s302PPC PS Thall on the above counts, he was proceeded against departmentally which resulted in his dismissal from service by DPO Hangu vide the impugned order.

Hence this appeal

GROUND:

- A. That the appellant had brought his son from his village Qadri Banda to Thall for medical treatment on 22-08-2020 but could not return to his village due to non-availability of transport and thus failed to report for duty on due date i.e 22-08-2020. He stayed for the night with his relatives at Thall.
The police searching for POS, raided the house of his relatives and challan the appellant 107/151 srpe without any reason for such arrest. The appellant therefore could not report for duty on 22-08-2020.
- B. That the appellant was falsely charged in case FIR No 341 dt.21-08-2020 302 PPC PS Thall. Perusal of relevant FIR would show that none was charged in the lodged by MstAzmata sister of Khalid Rehman deceased. Copy of FIR is enclosed for perusal.
The appellant was charged by Mst.Azmata complaint vide her supplementary statement recorded two days after the occurrence without disclosing the source of her satisfaction about the guilt of the appellant.
- C. That as per the report of complaint Mst. Azmata, the deceased's family had enmity with several other people. As such the murder of Khalid Rehman by his opponents could not rule out especially when the appellant had no enmity with the deceased or his family.
- D. That Khalid Rehman deceased was proclaimed offered vide case FIR No 577 dt 30-12-2015 324 PPC PS Thall.
- E. That no ocular or circumstantial evidence was available on record to connect the appellant with the commission of the offence.
- F. That as far as the department enquiry against the appellant is considered, the same has not been conducted in accordance with the rules. The appellant was not associated with the departmental proceedings and the witness if any, were examined by the enquiry officer in the absence of the appellant depriving him of his legal right of cross examination.

20.
Annex-9

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- G. That copy of the finding report of the enquiry officer was not provided to the appellant by DPO Hangu along with the final show cause notice to enable him to offer his explanation with regard to adverse findings if any recorded against him. Such requirement could not be brushed aside. The DPO Hangu failure to provide copy of finding report of the enquiry Officer before imposition of Major penalty of dismissal from service upon the appellant was violative of the principle of "Natural Justice".
- H. That the impugned order was unlawful and not sustainable under the law.

Prayer:

In view of the above submissions, it is prayed that by accepting the instant appeal, the impugned order may kindly be set-aside and the appellant re-instated in service w.e.f the date of his dismissal i.e 27-08-2020 with all the back benefits. I may also be heard in person please.

Yours Obediently,


Ex-Constable Muhammad Nawaz
No 394.
R/o Qadri Banda Distt: Hangu
Cell No: 0336-9464952



ORDER.

This order will dispose of a departmental appeal, moved by Ex-Constable Muhammad Nawaz No. 394 of Operation Staff Hangu against the punishment order, passed by DPO Hangu vide OB No. 261, dated 19.10.2020 whereby he was awarded major punishment of dismissal from service on the following allegations:-

The appellant absented himself after availing 23 hrs leave granted by SDPO. Subsequently, the appellant was charged in case vide FIR No. 341, dated 21.08.2020 u/s 302 PPC PS Thall.

He preferred an appeal to the undersigned upon which comments were obtained from DPO Hangu and his service record was perused. He was also heard in person in Orderly Room, held on 30.12.2020. During hearing, he did not advance any plausible explanation in his defense.

I have gone through the available record and came to the conclusion that the punishment order passed by DPO Hangu is justified. The appellant is charged in a criminal case and the allegations leveled against him have been proved. Therefore, His appeal being devoid of merits is hereby rejected.

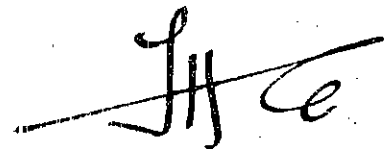
Order Announced
30.12.2020



~~(TAYYAB HAFEEZ) PSP~~
Region Police Officer,
Kohat Region.


No. 151 /EC, dated Kohat the 05-01 /2021.

Copy to District Police Officer, Hangu for information and necessary action w/r to his office Memo: No. 12645/LB, dated 22.12.2020. His Service Roll & Fauji Missal is returned herewith.

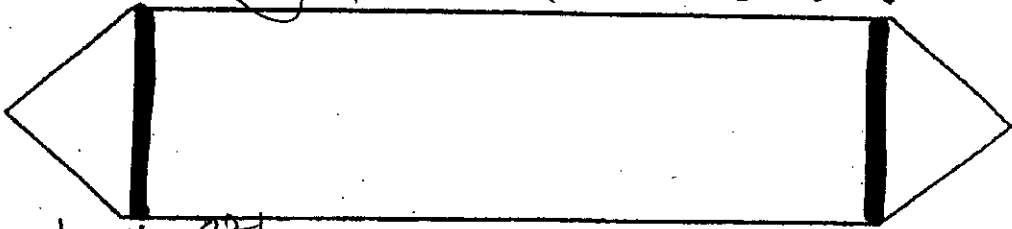


~~(TAYYAB HAFEEZ) PSP~~
Region Police Officer,
Kohat Region.

31/12



بعدالت ۶۲۴



۲۰۱۶ء ۲۰ جناب اسد علی

۵۱۶ فرم

بنام حسن نواز

موزخه ۱۵/۵/۲۰۱۶
مقدمہ
دعویٰ
جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی وجواب دہی وکل کاروائی متعلقہ
 آن مقام لہذا کیلئے کہ سندھ کی عدالت
 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 تقرر ثالثہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور
 بصورت ڈگری کرنے اجراء اور صولی چیک دروپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
 زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخ
 نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار 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 با اختیارات حاصل ہوں گے اور اس کا ساختہ
 پرواختہ منظور 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 دکالت نامہ لکھ دیا کہ سدر ہے۔

المرقوم ۱۵ ماہ مارچ ۲۰۱۶ء

بمقام _____

کے لئے منظور ہے۔

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**BEFORE THE HONORABLE,
SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR**

**Service Appeal No. 3530/2021
Muhammad Nawaz, Ex-Constable No.394**

..... Appellant

VERSUS

Deputy Inspector General of Police,
Kohat Region, Kohat

..... Respondents.

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S. #	Description of documents	Annexure	Pages
1.	Parawise comments		
2.	Daily Diary No. 31, dated 21.08.2020	A &	
	Daily Diary No. 45, dated 22.07.2020	A-1	
3.	Copy of statement u/s 164 Cr.PC	B	
4.	Copy of reply the Charge Sheet	C	
5.	Copy of Final Show Cause Notice	D	



Deponent
Inspector Legal, Hangu

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 3530/2021

Muhammad Nawaz Ex-Const No. 394

..... Appellant

VERSUS

Deputy Inspector General of Police,
Kohat Region, Kohat & other

..... Respondents

REPLY TO APPLICATION FOR CONDONATION OF DELAY

Respectively Sheweth:

Reply on application is submitted as under:-

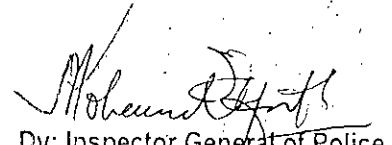
Preliminary Objections:-

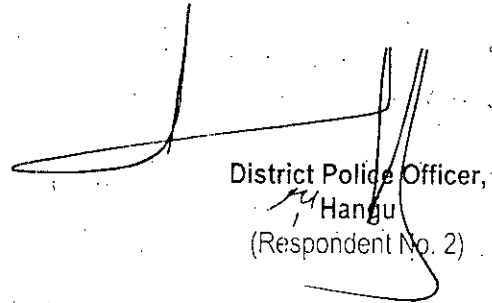
- viii. That the appellant has got no cause of action.
- ix. The appellant has got no locus standi,
- x. That the appeal is bad for misjoinder and nonjoinder of necessary parties.
- xi. That the appellant is estopped to file the instant appeal for his own act.
- xii. That the appeal is bad in eyes of law and not maintainable.
- xiii. That the appellant has not approached the honorable Tribunal with clean hands.
- xiv. That the appeal is badly time barred and liable to be dismissed in limine.

On Grounds

1. The appeal is not maintainable in its present form and limitation as well.
2. The applicant / appellant has got no prima facie case hence, the application alongwith appeal is liable to be dismissed.
3. The applicant / appellant is charged in a murder case by victim party and he willfully avoided to surrender himself to Police or report to his place of posting. Hence, a speaking and legal order is passed by respondent No. 2 after conducting a regular inquiry against him.
4. The applicant / appellant filed a time barred departmental appeal without any explanation of delay. It is mandatory that the appellant / applicant shall explain each and every day for delay in filling departmental and service appeal, but the appellant / applicant failed to explain the delay in filing of appeals.
5. The applicant / appellant has got no cause of action.

In view of the above, it is prayed that the application and appeal of the appellant may graciously be dismissed with cost.


Dy: Inspector General of Police
Kohat Region, Kohat
(Respondent No. 1)


District Police Officer,
Hangu
(Respondent No. 2)

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 3530/2021

Muhammad Nawaz Ex-Const No. 394

..... Appellant

VERSUS

Deputy Inspector General of Police,
Kohat Region, Kohat & other

..... Respondents

PARAWISE COMMENTS BY RESPONDENTS.

Respectfully Sheweth:-

Parawise comments are submitted as under:-

Preliminary Objections:-

- i. That the appellant has got no cause of action.
- ii. The appellant has got no locus standi.
- iii. That the appeal is bad for misjoinder and nonjoinder of necessary parties.
- iv. That the appellant is estopped to file the instant appeal for his own act.
- v. That the appeal is bad in eyes of law and not maintainable.
- vi. That the appellant has not approached the honorable Tribunal with clean hands.
- vii. That the appeal is badly time barred and liable to be dismissed in limine.

Facts:-

1. Pertains to personal information of the appellant and appointment in Police department, hence no comments.
2. Pertains to records.
3. The appellant was sanctioned leave for 23 hrs vide daily diary No. 31 dated 21.08.2020; he was supposed to make his arrival on 22.08.2020, but the appellant willfully absented himself from lawful duty vide daily diary No. 45 dated 22.08.2020. Copy of daily diaries are annexure A & A -1.
4. As replied in above para, the appellant willfully absented and involved himself in case FIR No. 341 dated 21.08.2020 u/s 302 PPC PS Thall, district Hangu.
5. FIR is only information to the incident / offence and the complainant lodged the information report, subsequently, after due satisfaction, the complainant recorded statement u/s 164 CrPC wherein the appellant and his co-accused were charged for the commission of offence. Copy of statement is annexure B.

6. The appellant being member of a disciplined force was duty bound to join his duty and surrender himself to the competent court of law or Police but he deliberately absented himself and avoided to surrender himself before the court.

7. The appellant besides commission of a heinous cognizable offence also committed gross professional misconduct. Therefore, the appellant was liable to be proceeded departmentally under the relevant law rules. Hence, a regular inquiry was initiated by the appellant by respondent No. 2 under the relevant law rules.

8. The reply to the charge sheet filed by the appellant was unsatisfactory and the appellant failed to advance any plausible explanation / defense. Copy of reply to the charge sheet is annexure C.

9. Similarly, reply of appellant to the first show cause notice was also without any defense and found unsatisfactory by the respondent No. 2. Copy is annexure D.

10. The appellant has committed a gross professional misconduct in addition to a heinous crime. The charge / allegation leveled against the appellant was proved beyond any shadow of doubt and he was held guilty of the charge. Therefore, on completion of all procedural formalities, the appellant was dismissed from service by the competent authority i.e. respondent No. 2 for which he deserved.

11. The departmental appeal of the appellant was processed by the respondent No. 1, the appellant was heard in person but he failed to defend himself. Hence, the appeal being devoid of merits was rejected by the 1st Appellate Authority i.e. Respondent No. 1 vide order dated 30.12.2020.

12. The appellant is estopped to file the instant appeal for his own act.

Grounds:-

A. Incorrect a regular inquiry was conducted against the appellant under the existing rules and he was afforded ample opportunity of defense. Hence, the appellant was treated in accordance with the relevant rules.

B. The appellant willfully absented himself from lawful duty and subsequently committed a heinous crime i.e. murder for which he was charged by the victim party. The appellant if so was innocent, he was required to report his place of posting.

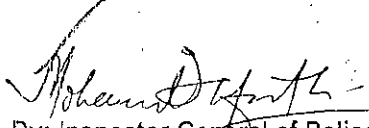
C. The punishment imposed on the appellant by the respondent No. 2 is commensurate to the charge established against him beyond any shadow of doubt.

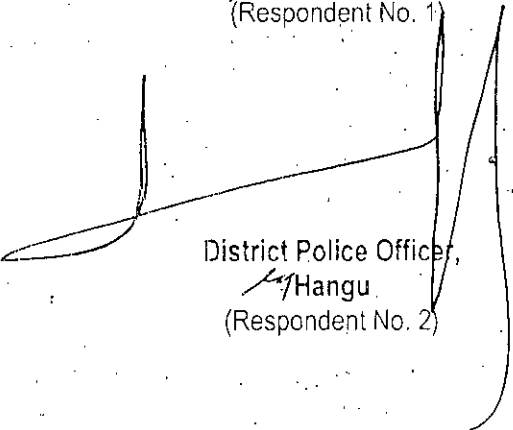
D. Irrelevant, the appellant was proceeded with departmentally and awarded a punishment for his own act i.e. permission of murder reported vide above quoted case reference.

- E. Each and every criminal case has its own merits and facts. However, the appellant has been charged in a murder case and his conduct has been established during the course of a regular inquiry conducted against him.
- F. The appellant during his short span of service has committed a heinous crime and misconduct. The appellant has damaged the image of a disciplined department by commission of a heinous crime.
- G. The respondents may also be allowed to advance other grounds during the course of hearing.

Prayer:-

In view of the above, it is prayed that the appeal contrary to facts, law & rules, devoid of merits, badly time barred may graciously be dismissed with costs.


Dy: Inspector General of Police
Kohat Region, Kohat
(Respondent No. 1)


District Police Officer,
Hangu
(Respondent No. 2)

(A)

پروفیسر

تاریخ 21-08-2020

میں نے اپنی ریسرچ کے لیے آپ سے درخواست کی ہے کہ آپ اس کے لیے

کیونکہ میں نے اس کے لیے 394 سے اجازت لی ہے DSP کے ساتھ ساتھ

میں نے اس کے لیے درخواست کی ہے کہ آپ اس کے لیے

میں نے

میں نے

Amad

MM (P.L. Hangu)

21-08-2021


پولیس لائن

لغزہ 45 اور تا 22-08-20

نمبر 45 پولیس ریفرنس آرگورٹنڈ حاضری آئیڈیفیشن 22-08-20 ورنہ 45-05-05
ایس ورنہ کینسل شد لانز 394 جن کی آج حاضری مطلوب ہے۔ تا حال حاضری آئی
جسٹی جڈن آرگورٹنڈ حاضری درج روزنامہ کر کے لغزہ لغزہ مناسب کارروائی انسان
ہما جان کی خدمت میں ارسال ہوگی۔

صوبائی عالی

کینسل بلٹان اعلیٰ


MM P. L. Hangu

22-08-20

35/36

سیال شاہ مظفر حسین زوردار خان ایف 35/36 سال سا کہ بازار چل در کھڑا حال
تاریخ تصدیق 16/4/1974

بیان کیا کہ زوردار کے برسرِ حیات 35/36 سال کے تھے اسے اپنی بیوی متول خالدہ الرحمان سے
متعلق کسی دستاویز نامعلوم کسان کے خلاف کی تھی۔ اس میں سے مکمل بتسلی کر لی ہے
کہ خالدہ الرحمان کو سیال محمد شریف ولد میر سید محمد نواز ولد میر سید اور نذر گل
ولد نذر گل کسان مادر بن ماندہ نے ایسے آتشیں ہتھیار سے قتل کیا ہے۔ جس پر سہ کسان
کے خلاف ایسے کھائی گئے تھے کہ قتل کی دہریہ کی وجہ سے قتل کیا ہے۔ ہر سہ کسان کے خلاف
دہریہ کی وجہ سے ایسے ہی بیان ہے۔

سین کورٹ تسلیم کیا

شان انگشت مسماہ عقلت

GENERAL INVESTIGATION
DEPARTMENT
GOVERNMENT OF PUNJAB
LAW ENFORCEMENT DEPARTMENT
FEROZ SHAH KOHATA

شہادت گارڈ نذارد

23.08.20

شناخت سیال بادشاہ و لال بادشاہ

CNIC :- 141017126



CHARGE SHEET.

SDPO HANGU	
Diary No	170
Date	07.09.20

I, Mr. SHAHID AHMED, D.P.O, HANGU as competent authority, hereby charge you Constable Muhammad Nawaz No. 394 while posted at Anti Narcotic Squad committed the following irregularities:-

- a). you were granted 23 hours permission by SDPO City Hangu vide DD No. 31 dated 21.08.2020 and your arrival was due on 22.08.2020 but vide DD No. 45 dated 22.08.2020 of Police Lines hangu as such you absented yourself from lawful duty without any leave or further permission from your seniors. Latter on you were charged in case FIR No.341 dated 21.08.2020 U/S 302 PPC PS Thall District Hangu.
- b). Your act shows disinterest, negligence and amounts to criminal gross misconduct which cannot be ignored.

2. By reasons of the above, you appear to be guilty of misconduct Under Police Disciplinary Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in the above rules.

3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the Enquiry Officer/Committees, as the case may be.

4. Your written defence, if any, should reach to the Enquiry Officer/Committees within the specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.

5. Intimate whether you desire to be heard in person.

6. A statement of allegation, is enclosed.


DISTRICT POLICE OFFICER,
HANGU

No. 47 /EC,

Dated 03/09/2020.

DISCIPLINARY ACTION.

I, **Mr. SHAHID AHMED, D.P.O, HANGU** as competent authority, am of the opinion that Constable Muhammad Nawaz No. 394 has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning Under Police Disciplinary Rules, 1975:

STATEMENT OF ALLEGATIONS.

a). you were granted 23 hours permission by SDPO City Hangu vide DD No. 31 dated 21.08.2020 and your arrival was due on 22.08.2020 but vide DD No. 45 dated 22.08.2020 of Police Lines hangu you absented himself from lawful duty without any leave or further permission from your seniors. Latter on you were charged in case FIR No.341 dated 21.08.2020 U/S 302 PPC PS Thall District Hangu.

b). Your act shows disinterest, negligence and amounts to criminal gross misconduct which cannot be ignored.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an Enquiry Officer consisting of the following is constituted in the above rules: -

{ Mr. Nazir Khan, SDPO Hangu. }

3. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused, record its findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the Enquiry Officer.

**DISTRICT POLICE OFFICER,
HANGU**

A copy of the above is forwarded to: -

1. Mr. Nazir Khan, SDPO Hangu. The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Disciplinary Rules, 1975.

2. Constable Muhammad Nawaz No. 394. The concerned officer with the directions to appear before the Enquiry Officer, on the date, time and place fixed by the Officer, for the purpose of the enquiry proceedings.

جنرل عالی

خواجہ چارج سپٹاٹری 47/EC جاریہ جناب D.P.O صاحب منگو

3-9-2020

معرض خدمت سے ہوں کہ میں جو ہم ایئر سی (یعنی نئی نئی بیماری اینڈکسٹر)

حوالہ 21 سے 23 گھنٹہ منظور شدہ رخصت پر گھر خود حاکم جہاں سے

بچے کو علاج دیا گیا تھا ٹل ڈاکٹر کے پاس حاکم بعد علاج دیا گیا کے تقریباً

12:30 سے مارچ ہو کر گھر خود کھلے گاڑی کا مسٹر ہو گیا کیونکہ سے ٹل میں

رشتہ دار کے گھر چلا گیا اسی اثناء میں SHO ٹل کسی معلوم ملزم / ملزمان

کی تلاش و تہہ براری میں مصروف تھا کہ من کنسٹبل کو بھی کسی حسرت استہاری

کے قتل ہو گیا جس وقتکہ جانکر تھا ٹل سے گیا جہاں پر مدعی مصروف کسی

معلوم ملزم / ملزمان کے خلاف FIR درج کر کے شام کو بعد تسلی کے چھوڑا گیا صبح

کو دوبارہ طلب کر کے کمر 151/107 ضحہ میں جلالی عدالت کیا بدین وہم و گمراہی

مدعی مقدمہ نے اپنی زبوں میں خود بیان کیا کہ میں جانے خود واقعہ تھانہ

ضلع کمر میں موجود تھی کہ اطلاع ملی کہ برادر ارشد خالد رحمن کو کسی معلوم

ملزم / ملزمان حدود تھانہ ٹل میں قتل کیا گیا اور FIR میں کچھ حکموں پر قتل

مقاتلہ کی دشمنیاں بھی ظاہر کی گئی ہیں چونکہ عوارض مدعیہ ذاتی ہے اور کنواری ہے

ضلع کمر میں رہتی ہے جس کے ساتھ تو ہمارا سابقہ عداوت گمراہی ہے اور نہ

اس کے ساتھ کوئی رشتہ داری ہے اور نہ ہی کسی قسم کا تعلق رہ چکا ہے جسلی بناء

وہ مجھے پہنچی ہو جناب والا SHO صاحب نے FIR درج شدہ میں یہی

خبر یہ کہ کہ مقتول خالد رحمن مقدم عدالت 577 مورخ 12/15 324-34 تھانہ ٹل میں

حسرت استہاری تھا جائے تو ایسا تھا کہ جناب SHO صاحب

مذکورہ مقدمہ کی مصدقیت کو جلالی کمر تا جیسا کہ بھی FIR میں کر چکا ہے

علاوہ ازیں مقتول مذکورہ تقریباً 06/07 مقدمات میں تھانہ درانہ میں

بھی حسرت استہاری تھا پھر مدعیہ کو کیا معلوم ہوا کہ مقتول خالد رحمن کو

Attested
Divisional Police Officer
Hangu 25-09-2020

P.T.O

25-09-2020

حسن نظام ہو گا کہ جناب SHO کی بائی الاٹمنٹ سے من کنٹریل
پیر و عورتاری کیلئے جو من گھڑت اور بے بنیاد ہے جس بالکل
نے گناہ ہوں۔ استدعا ہے کہ حراج سپٹ ہذا کو برا کوئی کارروائی کے
داخل دفتر فرمایا جاوے۔

کنٹریل و سٹارٹوز 394 پولیس لائن

Attached

MMWZ

0336-9464952

Sub-Divisional Police Officer
Muzaffargarh

مکراس نمائند انٹرویو انٹیم

سوال 1

قتول کسانہ ایک کا رشتہ /علق تھا ؟
قتول کسانہ کوئی رشتہ /علق میں تھا قتل کی میں آسکو جتنا ہی میں ہوں۔ اور یہی دیکھا ہوں۔

جواب 1

سوال 2

کبار کی دشمنی موجود ہے ؟ اور کس کے ساتھ ہے ؟
گاہوں میں دشمنی موجود ہے۔ وہ بہتر گاہوں میں ہے۔ مقتول کسانہ میرا کوئی عداوت میں ہے۔

جواب 2

سوال 3

گاہوں میں ایک دشمنی کس کے ساتھ ہے ؟
گاہوں میں عرب محل اور ایک فائدہ کار دشمنی ہے۔ جس کے ساتھ یہاں کئی پتھر رکھا گیا ہے۔

جواب 3

سوال 4

کس قتل ایک دشمنوں کسانہ لگنا بھٹتا تھا ؟
میں نے میں دیکھا تھا۔

جواب 4

سوال 5

کس قتل اجرتی قابل تھا ؟
یہ میں معلوم النہ البی اننا معلوم ہوا ہے کہ وہ 7 حدیثات از قسم قتل اقدام قتل ہرزو میں

جواب 5

سوال 6

بعض وقوع آپ کو کھو تھے ؟
میں تل میں اپنے رشتہ داروں کسانہ ہے جن کا گھر ہے وقوع ہے تقریباً $\frac{3}{4}$ کلومیٹر دور ہے۔

جواب 6

سوال 7

میں تل میں اپنے رشتہ داروں کسانہ ہے جن کا گھر ہے وقوع ہے تقریباً $\frac{3}{4}$ کلومیٹر دور ہے۔

جواب 7

MMWZ (P. 15) 16-9-2020

سوال 7

آپ رشتہ داروں کے ہاں کیا کر رہے تھے؟
مہرا بیبا بیمار تھا اور ہم جنہاں سے مارا جو کر آڑہ میں گاڑی کا ہینڈل نظر کر رہا تھا، سگن

جواب

سوال 8

ایک رشتہ داران رشتہ سے کیا لگتے تھے؟
میرے گھس مہری بھائی کا ساری ہو گیا ہے۔

جواب

سوال 9

ایک رشتہ داران میں کوئی نرینہ شخص ہے جو ایک حق میں گواہی دینے کا بیروز وقوع آیا اس کے گھر سے موجود تھے؟
جہاں عبدالغفار گھس مہری بیروز وقوع موجود تھا۔ اور وہ پہلے گھر سے حق میں گواہی دینے کے لئے مارا ہے

جواب

سوال 10

وقوع کیوں چلے روٹا ہوا ہے؟
میل لاری آڑہ میں وقوع روٹا ہوا تھا۔

جواب

سوال 11

ایک رشتہ داران کا گھر کوئی چلے ہے؟
میرے رشتہ داران کا گھر کسی ایسے ماٹیل کسٹا تھا ہے۔ جو کہ جاب وقوع سے $\frac{3}{9}$ کلومیٹر کے فاصلے پر ہے

جواب

سوال 12

SHO محمود عالم نے انکو کیوں تھانے لگے؟
میں رشتہ داران کا گھر سے غازی جمع آرا سکی کہنے کے لئے SHO محمود عالم نے ہمیں تھانے لگا۔

جواب

سوال 13

SHO محمود عالم کسٹا کوئی ریشش موجود ہے؟ یا کوئی تنازعہ موجود ہے؟
نہیں۔ SHO محمود عالم کسٹا کوئی ریشش تنازعہ موجود نہیں ہے۔ البتہ SHO محمود عالم ہمیں دشمن پاری کسٹا ہر جہاں ہے۔ میرے ساتھ گواہان موجود تھے۔

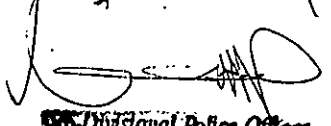
جواب

سوال 14

SHO محمود عالم نے انکو کیوں چارج کیا؟ ایک تھانے کسٹا کوئی ریشش نہیں ہے؟
SHO محمود عالم نے میری تھانے کی تھانے ڈکس کھلا اور وہ میری تھانے نے عدالت میں اپنا بیان 164/364

جواب

تھانے کرنے کا مادہ طور پر دعویٰ کی گئی۔ میری تھانے میں کس FIR میں مجھے اور میرے بھائی محمد شریف اور میرا کزن محمد شکیل کو ملزمان نامزد ہے۔

Attested


P.T.O

سوال 15) ایک ساتھ کوئی اور کس کھانا لہا کرتے؟
جواب: میرے ساتھ میرا بھائی محمد شریف اور کرن محمد نذیر کبھی کبھی کھانا لہا کرتے۔

سوال 16) شہدے سے انکو کبھی چہرچ گنا ہے؟
جواب: جی ہاں۔

سوال 17) آپ لوگوں کے سلسلہ کوئی اور چہرچ ہے؟
جواب: میں صرف میں اور میرا بھائی اور کرن چہرچ ہے۔

سوال 18) آپ نے کبھی شہدوں کو اپنے دشمنوں کے ساتھ کبھی دیکھا ہے؟
جواب: نہیں۔ قاتل کو چھو جانتا ہیں میں نہیں۔

سوال 19) موقع کس وقت رونما ہوا ہے؟
جواب: موقع کا موقع علم میں نہیں، 5:10 بجے تقریباً 1 بجے تقریباً کر کے کھانا لہا کرتے۔

سوال 20) آپ لوگوں میں جھگڑت کبھی ہوئی ہے؟
جواب: ہاں، میں نے اپنے دوستوں کے ساتھ جھگڑت کی ہے۔

سوال 21) 23 بجے وقت کب کس جگہ ہوا تھا؟
جواب: میں نے 23 بجے وقت لہا تھا، 5:10 بجے تقریباً۔ اور لوگوں کے ساتھ کھانا لہا کرتے۔

سوال 22) 22:58 بجے وقت کب کس جگہ ہوا تھا؟
جواب: میں نے 22:58 بجے وقت لہا تھا، 5:10 بجے تقریباً۔

16.09.2020

Attested

Sub-Divisional Police Officer
Hangu

25.09.2020

انکوائری ازاں کنسٹیبل محمد نواز نمبر 394 متعینہ Anti Narcotics سکوڈ

جناب عالی!

بجوالہ چارج شیٹ نمبری 47/EC مورخہ 03.09.2020 دفتر جناب DPO صاحب ہنگو، انکوائری ازاں کنسٹیبل محمد نواز نمبر 394 متعینہ Anti Narcotics سکوڈ معروض خدمت ہوں کہ چارج شیٹ ہدائیں مذکورہ کنسٹیبل پر ذیل الزام لگایا گیا ہے۔

الزامات:-

مذکورہ کنسٹیبل نے بجوالہ 31 روز ناچے 21.08.2020 کو SDPO ہنگو سے 23 گھنٹے رخصت منظور کی اور مورخہ 22.08.2020 کو مذکورہ کنسٹیبل کی اپنی جائے تعیناتی پر حاضری تھی۔ لیکن مذکورہ کنسٹیبل بجوالہ 45 مورخہ 22.08.2020 پولیس لائن ہنگو بغیر کسی رخصت کے سرکاری ڈیوٹی سے غیر حاضر ہوا اور بعد از مذکورہ کنسٹیبل کو مقدمہ علت 341 مورخہ 21.08.2020 جرم 302PP تھانہ ٹل میں چارج کیا گیا۔

اس سلسلے میں کنسٹیبل محمد نواز نمبر 394 کو دفتر ہذا طلب کر کے جس نے اپنا تحریری بیان پیش کیا جو لطف ہذا ہے۔

انسپیکٹر عبدالرحمن OII تھانہ ٹل کو دفتر ہذا طلب کر کے جس نے اپنا تحریری بیان پیش کیا جو لطف ہذا ہے۔

SHO تھانہ ٹل محمود عالم کو دفتر ہذا طلب کر کے جس نے اپنا تحریری بیان پیش کیا جو لطف ہذا ہے۔

محرر تھانہ ٹل سیف اللہ کو دفتر ہذا طلب کر کے جس نے اپنا تحریری بیان پیش کیا جو لطف ہذا ہے۔

کنسٹیبل محمد نواز نمبر 394:-

میں نے بیان کیا کہ وہ بوجہ ایمر جنسی (بچے کی بیماری کی وجہ سے) مورخہ 21.08.2020 سے 23 گھنٹے منظور شدہ رخصت پر گھر خود جا کر جہاں سے بچے کو علاج معالجہ کھانا مل ڈاکٹر کے پاس جا کر بعد از علاج معالجہ کے تقریباً 12:30 سے فارغ ہو کر گھر خود کیلے گاڑی کا میسر نہ ہونے کی وجہ سے ٹل میں رشتہ دار کے گھر چلا گیا۔ اور اسی اثناء میں SHO تھانہ ٹل کسی معلوم ملزم / ملزمان کی تلاش و پتہ براری میں مصروف تھا۔ کہ اس دوران اس (مذکورہ کنسٹیبل) کو بھی کسی مجرم اشتہاری کے قتل ہونے میں مشتبہ جان کر تھانہ ٹل لے گیا۔ جہاں پر مدعی مقدمہ نے کسی معلوم ملزم / ملزمان کی خلاف FIR درج کی تھی اور شام کو بعد تسلی کے اس کو چھوڑا گیا۔ اور صبح کو دوبارہ طلب کر کے جرم 107/151 ض ف چالان عدالت کیا۔ بدیں وجہ وہ اپنی ڈیوٹی سے غیر حاضر رہا۔ مدعی مقدمہ نے اپنی رپورٹ میں خود بیان کیا ہے کہ وہ خانہ خود واقع تانہ ضلع کرم میں موجود تھی۔ کہ اطلاع ملی کہ برادر اش خالد رحمن کو کسی معلوم ملزم / ملزمان نے حدود تھانہ ٹل میں قتل کیا ہے۔ اور FIR میں کئی جگہوں پر قتل مقتالہ کی دشمنیاں بھی ظاہر کی ہے۔ چونکہ مدعیہ عورت ذات اور کنوری ہے۔ ضلع کرم میں رہتی ہے جس کے ساتھ نہ تو اس (مذکورہ کنسٹیبل) کا سابقہ عدوت گزر چکا ہے اور نہ اس کے ساتھ کوئی رشتہ داری / تعلق ہے۔ جس کی بناء پر وہ مجھے پہچانتی ہو۔ SHO نے FIR درج شدہ میں یہ بھی تحریر کیا ہے کہ مقتول خالد رحمن مقدمہ علت 577 مورخہ 13.12.2015 جرم 324-34PPC تھانہ ٹل میں مجرم اشتہاری تھا۔ SHO کو یہ کرنا چاہیے تھا کہ وہ متذکرہ مقدمہ کی مشغیت کو چالان کرنا جس کا ذکر بھی FIR میں کر چکا ہے۔ علاوہ ازیں مقتول متذکرہ تقریباً 06/07 مقدمات میں تھانہ دوآبہ میں بھی مجرم اشتہاری تھی۔ پھر مدعیہ کو کیسے علم ہوا کہ مقتول خالد رحمن کو کنسٹیبل محمد نواز نے قتل کیا ہے۔ جس سے ظاہر ہوتا ہے کہ SHO کی ہائی لائٹ کرنے سے اس پر دعوی داری کی گئی ہے۔ جو سن گھڑت اور بے بنیاد ہے اور وہ بالکل بے گناہ ہے۔

انسپیکٹر عبدالرحمن خان OII تھانہ ٹل:-

میں نے بیان کیا کہ مورخہ 21.08.2020 بوقت 15:00 بجے مسماہ عظیمہ دختر دلال خان سکنہ بازار خیال در مسند حال تانہ ضلع کرم کی تحریری رپورٹ پر مقدمہ ہذا نامعلوم ملزمان کے خلاف درج رجسٹر ہو کر نقشہ موقع حسب حال مرتب کیا گیا۔ مورخہ 22.08.2020 کو مدعیہ کی بیان زیر دفعہ 161 ض ف قلمبند کر کے عدالت میں مورخہ 23.08.2020 زیر دفعہ 164 ض ف قلمبند کر کے ملزمان ۱۔ نزیر گل ولد وزیر گل ۲۔ محمد نواز ولد میر سید ۳۔ محمد شریف ولد میر سید سنا کنان قدری بائٹھ ٹل پر دعوی داری کر کے جنہوں نے عدالت SCJ سے قبل از گرفتاری ضمانت کر کے جو امر وز مورخہ 17.09.2020 کو عدالت سے خارج ہوئی۔ کل انہیں حراست پولیس پیش عدالت کیے جائینگے۔

SHO تھانہ ٹل محمود عالم:-

میں نے بیان کیا کہ مورخہ 21.08.2020 کو اطلاع ملی کہ ایک شخص کو بمقام لاری اڈہ ٹل میں قتل کر کے ملزمان جانب بمسملی کرش مشین بطرف پلوسین

نزار ہو رہے ہیں۔ اس اطلاع پر ہمراہ نفری ملزمان کا تعاقب شروع کر کے نزد کرش مشین مسیان نذیر گل ولد وزیر گل، محمد نواز، محمد شریف پسران میز سید پسران قوری بانڈہ کیکر درختان میں چھپے ہوئے قابو کر کے چونکہ محمد نواز جو پولیس کنسٹیبل تھا ہر قسم حربوں سے واقف تھا۔ اللہ کی برآمدگی کی ہر ممکن کوشش کر کے مگر اللہ کی دستیاب نہ ہوا۔ ہر سہ کسان کی طرف سے ہر قسم کی ڈیما ڈیما بھی ہوئی۔ مگر ڈیما ڈیما مسترد کر کے ہر سہ کسان کو ہمراہ لا کر تھانہ میں زیر نگرانی سنتری بیٹھائے گئے۔ چونکہ مقتول خالد الرحمن کیساتھ بوقت وقوع کوئی رشتہ دار وغیرہ موجود نہ تھے۔ مذکورہ خالد الرحمن بمخبر برادران نے دیہہ در سند سے سکونت ترک کر کے تھانہ علاقہ ضلع کرم میں رہائش پذیر تھے۔ مقتول خالد الرحمن کی ہشیرہ مسماہ عظیمہ سول ہسپتال مل آکر نامعلوم ملزمان کے خلاف دعویداری کی۔ چونکہ خالد الرحمن کا مجاہد نامی شخص سنہ قادری بانڈہ کیساتھ گہرے تعلقات تھے اور ملزمان بالا کو کافی نقصان پہنچایا تھا۔ اور مزید نقصان کے درپے تھے۔ سہمی مجاہد سکنہ قادری بانڈہ کا ملزمان بالا کیساتھ قتل مقابلہ کی دشمنی ہے۔ اور مقتول خالد الرحمن دوستی کے غرض سے سہمی مجاہد کی ہر قسم امداد کو تیار تھا۔ بدیں وجہ ملزمان نے فائدہ اٹھا کر خالد الرحمن کو قتل کیا اور مدعیہ نے تین دن بعد اسی ملزمان پر دعویداری کی بروز وقوع ہر سہ کسان کو تھانہ میں ہر پہلو سے انٹار وگیٹ کر کے مگر ملزمان نے جرائم پیشہ ہونے کے ناطے جرم تسلیم نہ کر کے مزید انٹار وگیٹ کی خاطر انوسٹی گیشن سٹاف کو حوالہ کر کے انوسٹی گیشن سٹاف نے بھی ہر پہلو پر انٹار وگیٹ کر کے چونکہ ملزمان پر قوی یقین تھا کہ وقوع ملزمان کی کارستانی ہے مگر دعویداری نہ ہونے کی بناء پر بجرم 107/151 ض ف میں بند بحالات تھانہ کر کے صحیح چالان عدالت کیے۔ بروز وقوع سے قبل احسان اللہ IHC نے بدوران گشت ملزم محمد نواز کو مشکوک جان کر جامہ تلاشی پر مذکورہ سے ہسٹول بھی برآمد کی۔ مگر موقع پر مذکورہ نے احسان اللہ IHC کو لائسنس پیش کر کے اپنے آپ کو پولیس کنسٹیبل ظاہر کیا۔ اور بعد وقوع کے ملزمان کے پاس اسلحہ موجود نہ تھا۔ جس سے ظاہر ہوا کہ ملزمان نے بعد وقوع کے اسلحہ موجود نہ تھا جس سے ظاہر ہوا کہ ملزمان نے بعد وقوع کے اسلحہ ہائے کہیں چھپا رکھا تھا۔ چونکہ روز روشن تھا مدعیہ نے جب ملزمان کے خلاف دعویداری کی۔ تو ملزمان نے الزام لگایا کہ اس (SHO) نے ملزمان سے ایک لاکھ پچاس ہزار روپیہ لی ہے اور مدعی فریق کیساتھ ملی بھگت کر کے مدعیہ نے دعویداری کی ہے۔ اس سلسلے میں اس نے ضمنی نمبر 06 بھی تحریر کی ہے۔ اور جملہ حالات بذریعہ ضمنی تحریر کیا چکا ہے۔ ضمنی کی نقل کا پی لف بیان ہذا ہے۔ ملزمان نے بے بنیاد الزام اس وجہ سے لگا کر اسے ٹارگٹ کیا۔ کہ بروز وقوع ان کسان کو اس نے گرفتار کیے تھے۔ چونکہ مقتول کی گئی جگہوں پر دشمنی تھی اگر بروز وقوع وہ ملزمان کو گرفتار نہ کرتا تو ملزمان بچ نکلتے۔ بروز وقوع وہ اور پولیس نفری نے جو ڈیوٹی کی ہے اور ملزمان کو بے نقاب کیا ہے وہ داد کے مستحق ہیں۔ ملزمان بالا نے عدالت سے BBA کر کے جو مورخہ 17.09.2020 کو کینسل ہو کر عبدالرحمن OII سے تفتیش کر کے ملزمان جو ڈیوٹی لاک اپ میں بند ہے۔

محرر تھانہ مل سیف اللہ۔

نے بیان کیا مورخہ 21.08.2020 کو ایک تحریری مراسلہ منجانب سلطان علی ASI بدست کنسٹیبل عدنان 673 نامعلوم ملزمان کے خلاف بوقت 15:15 بجے جرم PPC 302 موصول ہو کر جس پر مقدمہ علت 341 مورخہ 21.08.2020 جرم PPC 302 تھانہ مل درج رجسٹر کر کے نقل FIR مع مراسلہ بغرض تفتیش حوالہ انوسٹی گیشن سٹاف تھانہ کیے گئے۔ FIR پر اسکا دستخط ثبت ہے۔

جناب والہ!

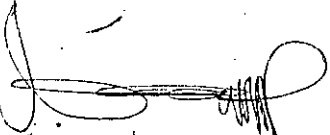
اس سلسلے میں کنسٹیبل محمد نواز حسب طلبی دفتر ہذا آ کر جس اپنے نے بیان میں لگائے گئے الزامات کی تردید کی۔ مذکورہ کنسٹیبل پر کراس سوالات بھی کیے گئے جو اہل برائے ملاحظہ ہے۔ SHC محمود عالم اور انسپکٹر عبدالرحمن خان OII تھانہ مل حسب طلبی دفتر ہذا آ کر جس سے مقدمہ کے متعلق تفصیلی دیکس کیا گیا۔ مقدمہ کے متعلق SHO اور تفتیشی ایفیسر مذکورہ سے الگ الگ بیانات قلمبند کیے گئے۔ SHO نے لگائے گئے الزامات کی تردید کی۔ بیانات لف انوائزی ہذا ہیں۔ علاوہ ازیں محرر تھانہ مل سیف اللہ کو دفتر ہذا طلب کر کے جس سے بھی تحریری بیان قلمبند کیا گیا۔

بمطابق FIR مورخہ 21.08.2020 کو مسماہ عظیمہ کی رپورٹ پر نامعلوم ملزم / ملزمان کیخلاف مقدمہ علت 341 مورخہ 21.08.2020 جرم PPC 302 تھانہ مل درج رجسٹر کیا گیا۔ جبکہ مورخہ 23.08.2020 کو مدعیہ مسماہ عظیمہ دفتر دلال خان سکنہ بازار خیل در سند حال ضلع کرم نے عدالت جناب حیدر علی جوڈیشل مجسٹریٹ اہنگو میں پیش ہو کر اپنا بیان زیر دفعہ 164 ض ف قلمبند کرایا۔ بمطابق مدعیہ بیان 164 ض ف بروز وقوع 21.08.2020 کو انہوں نے اپنے بھائی خالد الرحمن کے قتل کی دعویداری نامعلوم ملزمان کیخلاف کی تھی۔ تاہم اب انہوں نے تسلی کر لی ہے کہ انکے بھائی مقتول خالد رحمان کو مسیان محمد شریف ولد میر سید، اور نذیر گل ولد وزیر گل اور محمد نواز ولد میر سید نے بوجہ مجاہد کیساتھ دوستی کے قتل کیا ہے۔ کیونکہ ہر سہ کسان کی مجاہد کی ساتھی دشمنی تھی اور مجاہد اسکے مقتول بھائی کا دوست تھا۔ بدیں وجہ اپنے بھائی کی قتل کی دعویداری ہر سہ کسان پر کی ہے۔ بیان 164 لف ہذا ہے۔

جہاں تک کنسٹیبل محمد نواز پر دعویداری کا تعلق ہے۔ کنسٹیبل محمد نواز مقدمہ میں ڈاٹر ایکٹ۔ بیارج نہیں ہے۔ بلکہ مدعیہ نے وہ یوم بعد عدالت میں 164 ض ف بیان قلمبند کرایا ہے جس میں اس نے بعد تسلی و بعد تفتیش کے مذکورہ کنسٹیبل پر حسب ضابطہ دعویداری کر کے انہیں مقدمہ میں ملزم ٹھہرایا گیا ہے۔ کنسٹیبل محمد نواز

نے دعویٰ داری کے اگلے ہی دن عدالت سے BBA حاصل کر کے جو مورخہ 17.09.2020 کو کینسل ہو کر معطل کنسٹیبل جوڈیشل لاک اپ ہنگو :
کنسٹیبل مذکورہ خود کو بے گناہ ظاہر کرتا ہے۔ مقدمہ عدالت میں زیر سماعت ہے۔

لہذا انکو آری برخلاف کنسٹیبل محمد نواز نمبر 394 بغرض مناسب حکم ارسال خدمت ہے۔


سب ڈویژنل پولیس آفیسر ہنگو

Issue final Show
Cause notice

D.P.O Hangu
01/10/2020

Dismissed from
Service from the date
of this suspension

D.P.O Hangu
15/10/2020

خواجہ فاضل شوکانو ٹرسٹ طبری 208/EC 2-10-020 جاریہ جناب DPO صاحب سیکرٹری جنرل پولیس میں جو کہ میں یوم اظہار حسنی (یعنی بچے کی بیماری) کو نظر میں رکھ کر 21 سے 23 گھنٹہ رخصت منظور شدہ ہے۔

گیا بعد علاج معالجہ سے بچے کو علاج معالجہ کیلئے ٹل کو ڈاکٹر کے پاس لے گا۔ دن تھا پھر وقت گزاری کے تقریباً 12:30 ڈاکٹر سے فارغ ہو کر ہونہ مضمون کے گھر چلا گیا۔ اسیثناء میں SHO محلہ کسی مضمون کے بارے میں رشتہ داروں سے مشورہ کر رہی تھی۔ مصروف تھا کہ من کنسٹبل کو بھی کسی مضمون کے بارے میں اطلاع ملے۔ اظہار حسنی کے وقت میں مصروف تھا کہ دوبارہ قاتل طلب کیا۔

جہاں پر گھر 107/151 صفحہ حالات عدالت کیا۔ میں وہ عین حاضر رہا۔ میں موجود تھی۔ مگر اطلاع ملی کہ میرا دراصل خالد رحمن کو کسی مضمون کے بارے میں عدالت کی دشمنیاں ظاہر کی تھیں۔ جو نام صورت عدالت سے ہے اور کنواری ہے۔

میں نے کہا کہ میں نے تو ہمارا سابقہ عدالت گزار چکا ہے اور نہ ہی میں نے کوئی رشتہ داری ہے۔ اور نہ کسی قسم کا تعلق رہ چکا ہے۔ جلی بیاہ نہیں کیا ہے۔ جناب والا SHO صاحب نے FIR درج شدہ میں بھی 324 قاتل ٹل میں خیرا اشتہاری تھا۔ چاہے تو اساتھ کہ جناب صاحب نے مذکورہ مقدمہ کی تصدیق کو حالات کو ملاحظہ کیا۔

میں نے خلاف از میں مقبول متذکرہ تقریباً 06/07 عدالت میں جواب میں ہی خیرا اشتہاری تھا۔ حضور مدعیہ کو کیا علم ہوا کہ میں خالد رحمن کو کنسٹبل نوڈ نے قتل کیا ہے۔ جس سے ظاہر ہے کہ میں SHO صاحب نے خیرا اشتہاری کو قتل کیا ہے۔ جس سے ظاہر ہے کہ

جس میں گھڑت اور بے بنیاد فیصلے میں بالکل ہے
کتابوں عدالت کو خوفناک فیصلے میں کینٹین کو تقریباً 12/13
نہ میں عانت پر راجح ہے جو بے کتابی کا واضح ثبوت ہے
استدعا کے مائل سٹوڈنٹس داخل دفتر مقرر کیا جا کر
مائل کی کا حکم صادر فرمائیں

الکینٹین محلہ نواز 394 صفحہ 101

M. H. H.

Call in OR.

M

D.P.O Hangu

0871012020

**BEFORE THE HONORABLE,
SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR**

**Service Appeal No. 3530/2021
Muhammad Nawaz, Ex-Constable No.394**

..... Appellant

V E R S U S

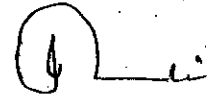
Deputy Inspector General of Police,
Kohat Region, Kohat

..... Respondents

AFFIDAVIT.

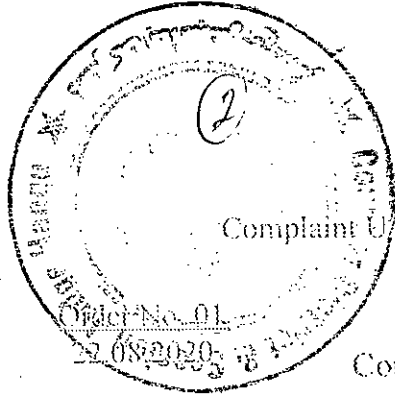
I, Ibrahim Khan, Inspector Legal Hangu do hereby solemnly affirm and declare on other that all the contents of accompanying report are true and correct to best of my knowledge and belief that nothing has been concealed from this Honorable Court.

Identified by



Inspector Legal, Hangu
CNIC # 17301-3346174-1
Cell # 0308-5976656

IN THE COURT OF HAIDER ALI KHAN,
JUDICIAL MAGISTRATE-II, HANGU



The State

Versus

Nazeer Gul etc

Complaint U/S; 107/151 Cr.P.C

P.S: Thall, Hangu.

نذیر گل

Complaint under sections 107/151 Cr.P.C submitted in Court today.

Be entered in the relevant register.

APP Naeem Ullah for the state present. Respondents in custody present.

Notice U/S 112 Cr.P.C served upon the respondents, who submitted that they are not contesting the complaint rather willing to execute bonds as per the order of the Court.

Keeping in view the contents of complaint coupled with notice u/s 112 Cr.P.C and reply of the respondents, this Court is satisfied to direct the respondents to remain peaceful for a period of one-year u/s 107/151 Cr.P.C. They shall avoid the commission of any offence and would remain peaceful for the said period and shall submit a bond worth Rs. 50,000/- with two sureties each in the like amount to the satisfaction of this Court. Failing which the accused may be committed to Judicial Lock-Up and shall undergo S.I for a period of One year. The sureties shall guarantee that the respondents would remain peaceful, having good behavior for the said period.

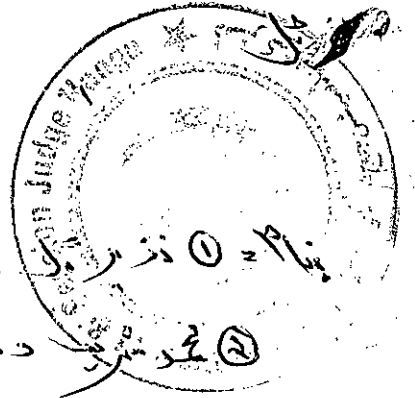
File be consigned to record room after its completion.

Announced
22.08.2020

CERTIFIED
30/3/21
EXAMINED
COPYING AGENCY HANGU

(Haider Ali Khan),
JM-II, Hangu.

ہنگو



بنیاد ① ذریعہ اول داد و دیہہ قلم ستر قادی بانڈہ۔

② محمد شہزاد داد و دیہہ ستر قادی بانڈہ۔

③ محمد نواز داد و دیہہ ستر قادی بانڈہ۔

③

استغاثہ ڈیپارٹمنٹ فا ۱۵۱/۱۵۶/۱۵۶

جناب عالی

خواجہ شاد علی صاحب ۳۱۱ اور ۵۸/۲۸۱

دہرہ خواجہ شاد علی صاحب ۳۱۱ اور ۵۸/۲۸۱

پتو پوری آنڈیمہ لکھی آنڈیمہ لکھی

عدالت لاجپور

استر عامر سنگھ پابند ضمانت فرماؤ جاوے؟

~~1/2/2011~~
11-184, The
22-08-02

پیارے

۱۔ استر عامر سنگھ پابند ضمانت فرماؤ جاوے؟

۲۔ سجاد علی صاحب و خدیجہ لال خانہ ستر بازار خیاب درخندہ لال خانہ ستر

۲۲/۰۸/۰۲۰۰

سید علی صاحب
CERTIFIED TRUE COPY
30/3/20
EXAMINED
COPYING AGENCY HANGU

11-184, The

چیکلہ حفظ امن زیر دفعہ 151 ضابطہ نو جداری تمانہ مل سندھ

سرکار بنام محمد نواز ولد میر سید ساکن تمارہ بنڈہ سندھ سندھ ہوں

منکہ م ولد ساکن د ساکن د ساکن د کاہوں

ہر گاہ مجھ ملزم سے چیکلہ حفظ امن برائے ایک سال عدالت میں طلب کیا گیا ہے لہذا میں بذریعہ تحریر ہذا اقرار کرتا

ہوں کہ اندر معیاد مذکور پر امن رہوں گا، نقص امن یا کوئی فعل جس سے نقص امن کا احتمال ہونہ کرونگا۔

بمقابلہ سرکار جملہ رعایا سرکار پر امن رہوں گا، اگر اس میں قصور کیا تو مبلغ = 50,000 روپیہ بطور تادان سرکار دولت مدار کو ادا کرونگا۔

مورخہ 22/8/2020

ATTESTED

Civil Judge (M),
Hangu.

22/8/20

ملزم محمد نواز منڈو

منکہ تمان ولد فضل الرحمن ساکن کنتی بانڈہ سندھ سندھ ہوں

منکہ محمد سیمان ولد تمان محمد ساکن د د ساکن د کاہوں

میں اہم سکی ملزم مذکورہ الصدر کی طرف سے ضامن ہو کر اقرار کرتا ہوں کرتے ہیں کہ ملزم مذکورہ معیاد مسطور

کے اندر پر امن رہے گا۔ نقص امن یا کوئی فعل جس سے نقص امن کا احتمال ہونہ کرے گا۔ بمقابلہ سرکار و جملہ رعایا

سرکار پر امن رہے گا۔ اگر نامبرو نے اس میں قصور کیا تو مبلغ = 50,000 روپیہ تادان سرکار دولت مدار کو

مشتراک یا منفرد ادا کرنے کا کریں گے۔

المرقوم 22/8/2020

3-7-2020 32852-16101-NCN

ضمانت محمد سیمان منڈو

25/8/2020

Suleman

3-7-2020 4113-609-016101-NCN

ضمانت تمان منڈو

949943319594994

Suleman

بند در زیر ضمانت 50000 روپیہ تمانہ مل سندھ

7-2462-6132-016101

وکیل مشاہد

CERTIFICATE

30/8/20

GOPAL

شناختی نمبر: 14101-6094113-5
نام: محمد
TP0916
موجودہ رہائشی پتہ: ڈاکخانہ بنگلہ، تحصیل و ضلع بنگلہ

مسکین پتہ: ایسٹ

تاریخ اجراء: 26/06/2015
تاریخ سہ ماہی: 06/2025
گمشدہ کارڈ ملنے پر قریبی فیئر کس میں ڈال دیں



حکومت پاکستان
قومی شناختی کارڈ
14101-6094113-5



نام: اقصان
جنس: مرد
والد کا نام: فضل الرحمن
شناختی علامت: کوئی نہیں
تاریخ پیدائش: 02/04/1997
عثمان یوسف حسین

دستخط: مسٹر. جنرل

شناختی نمبر: 14101-3285247-3
نام: محمد
U62X3Y
موجودہ رہائشی پتہ: ڈاکخانہ بنگلہ، تحصیل و ضلع بنگلہ

مسکین پتہ: ایسٹ

تاریخ اجراء: 25/10/2016
تاریخ سہ ماہی: 25/10/2026
گمشدہ کارڈ ملنے پر قریبی فیئر کس میں ڈال دیں



حکومت پاکستان
قومی شناختی کارڈ
14101-3285247-3



نام: محمد سلیمان
جنس: مرد
والد کا نام: تان محمد
شناختی علامت: کوئی نہیں
تاریخ پیدائش: 01/01/1998
عثمان یوسف حسین

دستخط: مسٹر. جنرل

شناختی نمبر: 14101-6132462-7
نام: امیر شاہ
UR4L32
موجودہ رہائشی پتہ: ڈاکخانہ نیل، تحصیل و ضلع بنگلہ

14-85278368

مسکین پتہ: ڈاکخانہ نیل، تحصیل و ضلع بنگلہ

تاریخ اجراء: 21/01/2015
تاریخ سہ ماہی: 21/01/2025
گمشدہ کارڈ ملنے پر قریبی فیئر کس میں ڈال دیں



حکومت پاکستان
قومی شناختی کارڈ
14101-6132462-7



نام: وزیر شاہ
جنس: مرد
والد کا نام: حکیم شاہ محمد
شناختی علامت: ہائیں پاؤں پر نشان زخم
تاریخ پیدائش: 1965
امیر شاہ تاجور

دستخط: مسٹر. جنرل

کارڈ نمبر داری

14101-6132462-7

نمبر داری کارڈ نمبر: 4 تاریخ اجراء: 29-04-2006

مذمت: وزیر شاہ اہل نبرد

مذمت: حکم شاہ

موضوع: سماجی خیال تحصیل میں خلیج بنگلہ

نمبر داری کارڈ نمبر داری: 106

30/3/16

1324

30/3/16

30/3/16

30/3/16

30/3/16

حوالہ ضابطہ ریٹرنس میں حرم سعیدہ صاحبہ

5C/04/2021 نوٹس نمبر 28/11/20 عدالت 6/4/21

سرکار سیکرٹری جنرل، محکمہ عدالت، اسلام آباد
302/54 کا نمبر

عن 341 صفحہ نمبر 21/8/21 جیم
Accused Nazir Gul, Muhammad Nawaz and



Muhammad Sharif on bail with counsel present. Mr. Shad Muhammad, learned APP for the State present. Complainant absent despite service.

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Vide my detailed judgment consisting of seven pages, separately placed on file, consisting of seven (07) pages; the accused facing trial namely **Nazir Gul, Muhammad Nawaz and Muhammad Sharif** are hereby acquitted u/s 265-K Cr.PC. Their sureties are absolved of responsibilities of the bail bonds.

Case property if any be dealt with as per law. File be consigned to record room after necessary completion and compilation.

ANNOUNCED

06/04/2021

Azimullah
(Azimullah Mishwani)

Addl: Sessions Judge-II/JMCTC/JSC,
Hangu

CERTIFIED TO BE

17/5/21 EXAMINED
COPYING AGENCY HANGU

IN THE COURT OF AZIMULLAH MISHWANI
ADDITIONAL SESSIONS JUDGE-II/JMCTC, HANGU

Session Case No. 104/II-P

State..... Vs Nazir Gul etc

Date of Institution : 28/11/2020
Date of hearing : 06/04/2021
Date of Decision : 06/04/2021

FIR No. 341
Dated: 21/08/2020
u/s 302/34 PPC
P.S. Thall, Hangu.

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JUDGMENT

06/04/2021

1. Mr. Shad Muhammad, learned APP for the State present. Accused Nazir Gul, Muhammad Nawaz and Muhammad Sharif on bail present alongwith learned counsel. Complainant absent despite service.
2. The case was fixed for arguments on application moved on behalf of the defense counsel for acquittal of accused under Section 265-K Cr.P.C.
3. Compendium facts forming background of the case are such that; on 21/08/2020, complainant Mst Azmata Bibi in the emergency room of civil

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CERTIFIED
17/5/21
EXAMINED
COPYING AGENCY HANGU

State..... Vs Nazir Gul etc

hospital Thall reported the matter to the effect that; on the fateful day, she was present in her house when received information that her brother Khalid Rehman has been killed by someone at Larri Adda Thall and his dead body has been shifted to civil hospital, Thall. In pursuance of said information, she rushed to the hospital, where in the emergency room she found her deceased brother, who was killed by some unknown persons through firearms. The report of the complainant was lodged initially against unknown culprits, however, on 23/08/2020, the complainant in her statement recorded u/s 164 Cr.PC charged the accused facing trial for the commission of offence.

4. Prosecution initially submitted interim challan against the accused. The accused facing trial got arrested on 24/08/2020 and on completion of investigation the prosecution submitted complete challan against them. Trial was commenced and accused were summoned, who on bail put their appearance before the Court. After compliance with provision of Section 265-C Cr.P.C, charge was framed on 02/01/2021 to which they claimed trial, hence,

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02/01/2021
EXAMINED
COPYING AGENCY HANG

State..... Vs Nazir Gul etc

prosecution was accordingly accorded opportunity to adduce its evidence.

5. The prosecution got examined almost nine PWs out of which, PW-1 Mehmood Alam SHO has submitted interim challan (Ex.PW-1/1) against the accused. This PW-1, after completion of investigation has also submitted complete challan (Ex.PW-1/2) against the accused. PW-2 Saif Ullah LHC is the marginal witness to recovery memo (Ex.PC), vide which the I.O in his presence during spot inspection recovered and took into possession blood stained earth. Similarly, in his presence the I.O also recovered two empties of 30 bore freshly discharged from near the places of accused. Further, he is also marginal witness to recovery memo (Ex.PC/1) vide which the I.O in his presence took into possession the clothes of deceased. PW-3 Sultan Ali ASI has drafted the Murasila (Ex.PA/1) and has prepared the injury sheet (Ex.PW-3/1) and inquest report (Ex.PW-3/2) of deceased. PW-4 Mir Jhang constable is marginal witness to recovery memo (Ex.PC/2) vide which the I.O in is presence took into possession Rs.30,000/- of different denominations, having bullet cut marks

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CERTIFIED BY

17/5/22
EXAMINE
COPYING AGENCY HANCO

State..... Vs Nazir Gul etc

from the front pocket of deceased. Similarly, the I.O in his presence also took into possession one Nokia mobile set alongwith SIM in damaged condition from the pocket of deceased. This PW-4 was also entrusted to carry the case property in parcels to the FSL authorities vide Rahdari receipt Ex.PW-4/1 and has returned the road receipt with endorsement of FSL authorities. PW-5 Said Ullah IHC on receiving Murasila has incorporated its contents in shape of FIR Ex.PA. PW-6 Shah Jehan has identified the dead body of deceased Khalid Rehman in hospital before the doctor and police. PW-7 Tariq Constable has produced the dead body of deceased alongwith injury sheet and inquest report before the doctor for conducting autopsy. PW-8 Doctor Risal Noor has conducted autopsy on the dead body of deceased and has submitted his report Ex.PM. PW-9 Abdur Rehman Inspector has conducted investigation in the instant case. This PW-9, during spot inspection prepared the site plan, recovered blood stained earth from the place of deceased. Similarly, vide recovery memo Ex.PC/1, he took into possession blood stained clothes of deceased. Further vide recovery

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memo Ex.PC/2 he also took into possession Rs.30,000/- of different denominations alongwith Nokia mobile set from the pocket of deceased in presence of marginal witnesses. He sent the blood stained articles and recovered empties to FSL and has obtained the FSL results (Ex.PZ & Ex.PZ/1). This PW-9, has arrested the accused facing trial and has issued their card of arrest (Ex.PW-9/7) and has produced the accused before the court for obtaining their physical custody vide application Ex.PW-9/8.

6. Learned defense counsel then moved an application u/s 265-K Cr.P.C. I heard both the learned counsel for accused and learned APP and perused the record.
7. I have given my conscious consideration to the arguments forwarded in pro and contra of the petition and have gone through the record.
8. Having considered the points of learned counsel agitated at the bar and with particular reference to the statement of the investigation officer, wherein, he during the cross examination admits that the occurrence is unseen and there is no eye witness of the occurrence, who could come forward to record
- CA

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ocular account regarding the occurrence. Admittedly, the deceased was involved in so many criminal cases and was declared proclaimed offender by the court. The criminal history of deceased in shape of FIRs are placed on file, which would suggest that none of the accused facing trial has charged the deceased in said cases. Further, as evident from the cross examination of the PW-9, that the complainant charged the accused facing trial after consultation with one Mujahid, who gave her chit, wherein names of accused were mentioned. Moreover, repeated process were issued against complainant through SP Investigation, which returned with report that complainant has shifted her abode to some unknown place and she did not bother to appear before the court to charge the accused facing trial. No tangible evidence could be brought on record to connect the accused facing trial with the commission of offence.

- a. Having the afore stated fact of the case, I am of the considered view that further dilating upon the rest of the witnesses will serve no purpose and there hardly remains a probability of the accused to be convicted.

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9. In the circumstances, since there remains no probability of the accused facing trial to be convicted, therefore, by **accepting** the application, the accused facing trial namely **Nazir Gul, Muhammad Nawaz and Muhammad Sharif** are hereby acquitted u/s 265-K Cr.PC. Their sureties are absolved of responsibilities of the bail bonds.

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10. Case property, if any be dealt with as per law.

11. File be consigned to record room after necessary completion and compilation.

Announced:
06/04/2021

Azimullah
Azimullah Mishwani
ASJ-II/JMCTC, Hangu.

CERTIFICATE

Certified that this Judgment consists of seven (07) pages. Each page has been checked, signed, and corrected accordingly.

Azimullah
Azimullah Mishwani
ASJ-II/JMCTC, Hangu.

1854
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KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

No: _____/ST Dated: ____/____/2022

To:

The Deputy Commandant Frontier Reserve Police
Khyber Pakhtunkhwa.

Subject:- **JUDGMENT IN APPEAL NO. 7028/2021 CASE TITLED MUHAMMAD NAWAZ VS POLICE**

I am directed to forward herewith a certified copy of Judgment dated 22-06-2022 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

**REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.**



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