


06.01.2020

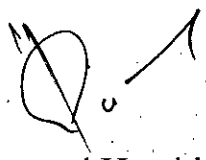
Petitioner alongwith his counsel and Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Mir Faraz, DSP (Legal) for the respondents present. Respondent-department has already submitted implementation report vide order sheet dated 04.11.2019. The petitioner has expressed objection on it. Case to come up for objection petition and arguments on 03.02.2020 before S.B at Camp Court Swat.


(Muhammad Amin Khan Kundi)
Member
Camp Court Swat

03.02.2020

Petitioner with counsel present. Mr. Riaz Paindakheil learned Assistant Advocate General present. Learned counsel for the petitioner submitted application for withdrawal of the present execution petition with permission to file a fresh one if grievance of the petitioner not redressed by the respondents.


In view of above, the present execution petition is hereby dismissed as withdrawn with permission to file fresh one under the law. No order as to costs. File be consigned to the record room.


(Muhammad Hamid Mughal)
Member
Camp Court, Swat.

ANNOUNCED.
03.02.2020

04.11.2019

None present on behalf of the petitioner. Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Mir Faraz, DSP (Legal) for the respondents present. Record reveals that the petitioner filed service appeal against his dismissal order which was partially accepted and the respondent-department was directed to conduct de-novo inquiry within a period of 90 days vide detailed judgment dated 10.01.2019. The petitioner has submitted implementation petition for implementation of the aforesaid judgment. Today, representative of the department has submitted the order of the competent authority whereby the petitioner has been imposed stoppage of two increments but the charge sheet, copy of inquiry and copy of final show-cause notice has not been brought. He is strictly directed to furnish the same on 04.12.2019 before S.B at Camp Court Swat. In the meanwhile notice be also issued to the petitioner for the date fixed.


(Muhammad Amin Khan Kundi)
Member
Camp Court Swat

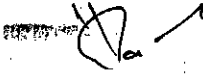
04.12.2019

Petitioner in person present. Addl: AG alongwith Mr. Khawas Khan, SI for respondents present. Record mentioned in order sheet dated 04.11.2019 have not been submitted by the respondents. Representative of the respondents is directed to submit the same on the next date of hearing, positively. To come up for further proceedings on 06.01.2020 before S.B. at camp court Swat..


(Ahmad Hassan)
Member


03.09.2019

Learned counsel for the petitioner present. Mr. Mian Amir Qadir learned Deputy District Attorney alongwith Khawas Khan Inspector present. Representative of the respondent department seeks time to furnish reply. Fresh notice be also issued to the respondents for reply. Adjourn. To come up for reply/further proceedings on 07.10.2019 before S.B at Camp Court, Swat.


Member
Camp Court, Swat.

07.10.2019

Counsel for the petitioner and Mr. Anwar-ul-Haq, Deputy District Attorney alongwith Mr. Khawas Khan, S.I (Legal) for the respondents present. Implementation report not submitted. Representative of the department requested for further adjournment. Last chance is granted to the respondents to furnish implementation report. Adjourned to 05.11.2019 for implementation report before S.B at Camp Court Swat.


(Muhammad Amin Khan Kundi)
Member
Camp Court Swat

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 254/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	24.06.2019	<p>The execution petition of Mr. Nadeem Iqbal submitted today by Mr. Shabir Ahmad Khan Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR 24/6/19</p>
2	25-6-19	<p>This execution petition be put up before touring S. Bench at Swat on <u>3-07-2019</u></p> <p style="text-align: right;"><i>[Signature]</i> member</p>
	03.07.2019	<p>Petitioner present. Learned counsel for the petitioner present. Notice of the present execution petition be issued to the respondents. Adjourn. To come up for implementation report/comments on 03.09.2019 before S.B at Camp Court, Swat.</p> <p>Annexed with the memo of present execution petition is an application for interim relief. Notice of the same be also issued to the respondents for the date fixed.</p> <p style="text-align: right;"><i>[Signature]</i> Member Camp Court, Swat</p>

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, AT PESHAWAR

C.M NO. _____ OF 2019

Execution Petition No. 254/2019
In

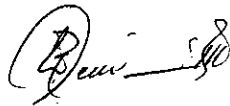
SERVICE APPEAL NO. 569 OF 2018

NADEEM IQBAL,

VERSUS

DPO swat and others

S.no	Description	Annexure	Page no.
1	Memo of application		1-3
2	Affidavit		4
3	Order of reinstatement dated 10-1-2019	"A"	5-7
4	Copy of Note sheet dated 22-5-2019 and Copy of order dated 25-2-2019 along with better copies	"B & C"	8-11
5	Copy of order of ADDL'IGP HQRs dated 30-5-2019	"D"	12-13
6	Application for suspension of order of ADDL'IGP HQRs dated 30-5-2019		14-15
7	Wakalat Nama		16


Petitioner
Nadeem Iqbal


Through Council,

Shabir Ahmad Khan (Dawlat Khel)

Advocate High Court

Office address:

Hamza Law chamber ,Near Azad Medicine

Company post office road Mingora Swat.

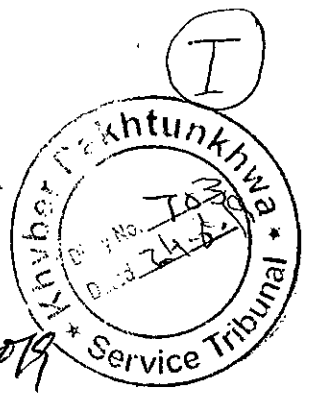
Cell: 0341-566-6363 /0333-949-9466

Dated: 21/06/2019.

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, AT PESHAWAR

C.M NO. _____ OF 2019

Execution Petition No. 254/2019



SERVICE APPEAL NO. 569 OF 2018

NADEEM IQBAL, Data Processing Supervisor at PTS Swat

..... (Petitioner)

VERSUS

1. District Police Officer Swat at Gulkada Swat
2. Regional Police Officer, Malakand at Saidu Sharif Swat
3. Inspector Khurshed Khan (A.DIG Assistant to Regional Police Officer Malakand at Saidu Sharif Swat)
4. Additional Inspector General of Police KPK at CPO Peshawar
5. Inspector General of Police KPK at CPO Peshawar

..... (Respondents)

APPLICATION FOR RELEASE OF SALARY AND FOR FILING OF DE-NOVO ENQUIRY AS NOT COMPLETED IN THE PRESCRIBED TIME AS PER THE DIRECTIONS OF THIS AUGUST TRIBUNAL AND THE BACK BENEFIT MAY KINDLY BE GRANTED/GIVEN TO THE PETITIONER.

RESPECTFULLY SHEWETH,

The petitioner submits as under:

1. That the petitioner while serving as Data Processing Supervisor at District Swat was dismissed from service on 09-01-2018.
2. That the petitioner filed Service Appeal before this honorable tribunal against the impugned order dated 09-01-2018 of DPO Swat which was Accepted and the impugned order dated 09-01-2018 was set aside and the petitioner was reinstated into service, and the respondents were directed to conduct de novo enquiry strictly in accordance with law within the period of Ninety days from the date of receipt of this judgement. The issue of back benefit shall be subject to the outcome of de novo enquiry. It is pertinent to mention here that the stipulated time period for conducting the de novo enquiry is already elapsed and no any order of the respondents have been concluded yet which also amounts to the violation of the order of this honorable tribunal. (Copy of order dated 10-01-2019 of this honorable Tribunal is attached here as Annex A).

3. That the petitioner was reinstated and joined the duty on 25-02-2019, then, the petitioner was summoned by the DPO Swat and issued a charge sheet in which the Addl. SP Swat Khankhel was nominated as Enquiry Officer for the purpose of de novo enquiry. The enquiry officer submitted his findings report on 29-03-2019 and recommended the petitioner for minor punishment as already suffered punishment. Then, the recommendations of the Enquiry Officer was sent by DPO Swat to Addl. IG Headquarters vide letter No. 93/PA dated 12-04-2019 duly received by Addl. IG Headquarters, and then, the Addl. IG Headquarter referred the case/finding report of the Enquiry Officer to AIG Legal for expert opinion who responded on 22-05-2019 with the recommendation to issue a fresh charge sheet to the petitioner and committee be constituted for this purpose consisting of IT Experts who shall conclude their enquiry within fifteen days, subject to the approval of the Addl. IG Headquarter. It is pertinent to mention here that all the enquiry documents are in the possession of the Enquiry Officer and Addl. IG Headquarter and the petitioner requested the said documents for the purpose of filing this application, but the same were refused to be provided to the petitioner, hence, not attached herewith this instant petition. While, note sheet regarding the opinion and recommendations of AIG Legal and order dated 25-02-2019 along with better copies are attached herewith as Annex B & C.

4. That on 30-05-2019 Addl. IG Headquarter ordered the de novo enquiry of the petitioner with immediate effect but the same was already conducted by Addl. SP Swat but the same was ignored/skipped in the mentioned order and it did not make any reference to the de novo enquiry which had already been conducted by Addl. SP Swat. It is further averred that time so prescribed and directed by this August Tribunal has been elapsed and the respondents have badly failed to comply with the directions so issued by this honorable tribunal in judgment dated 10-01-2019. The said directed enquiry has been used as a rolling stone to humiliate and degrade the petitioner and his professionalism as the de novo enquiry is already conducted but skipped and ignored in the fresh order of the Addl. IG Headquarter dated 30-5-2019 , moreover, the time prescribed by this honorable tribunal has already been elapsed and no further extension has been taken by the respondents which is in total violation of the judgment of this honorable tribunal, and, any such order or enquiry conducted after the expiration of the time so provided, would be totally illegal and in violation as per the spirit of the judgment of this honorable court dated 10-01-



2019. (Copy of order dated 30-05-2019 of Addl. IG Headquarter alongwith better copy is attached herewith as Annex D).

- 5. That from the date of reinstatement into service till date, the petitioner has discharged and performed his duty regularly but no salary has been paid to the petitioner, moreover, the time prescribed by this honorable tribunal has already been elapsed and no further extension has been taken by the respondents which is in total violation of the judgment of this honorable tribunal, and, any such order or enquiry conducted after the expiration of the time so provided, would be totally illegal and in violation as per the spirit of the judgment of this honorable court dated 10-01-2019, therefore, the salary of the petitioner may kindly be released from the date of reinstatement into service while the said de novo enquiry may kindly be filed and all the back benefits may kindly be extended/given to the petitioner.
- 6. That the petitioner is a poor person and is pressing hard for the salaries/benefits for which he is entitled under the law.
- 7. That other important points will be raised during the course of arguments, with prior permission of this honorable tribunal.

PRAYER:

In the view of the above, it is humbly prayed that :

- a. The respondents may kindly be directed to release the salary of the petitioner forthwith w.e.f. 25-02-2019.
- b. Respondents may kindly be directed to file the de-novo enquiry proceedings, if any, as not completed within the prescribed time as per the directions of this honorable tribunal and the back benefits may kindly be extended/given to the petitioner.
- c. Any other remedy/relief, which deems appropriate and not specifically prayed for, may also be given to the petitioner.


 Petitioner
 Nadeem Iqbal
 Through Council, 

Shabir Ahmad Khan (Dawlat Khel)

Advocate High Court

BEFORE SERVICE TRIBUNAL KHYBER
PUKHTUNKHWA AT PESHAWAR

C.M No _____ 2019

Nadeem iqbal
Versus
DPO swat and others

C.M in service appeal No 569/2018

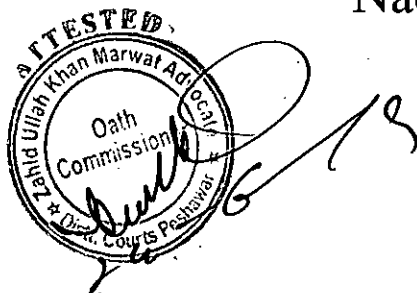
Affidavit

I Nadeem iqbal district Swat do hereby states on oath that all the contents of the instant application are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this honorable tribunal.



Deponet

Nadeem iqbal

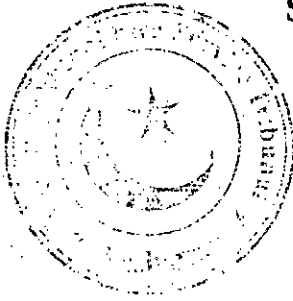


Amma

A

5

BEFORE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR



Service Appeal No. 569 of 2018

Khyber Pakhtunkhwa
Service Tribunal

614

24-4-2018

Nadeem Iqbal S/o Sayed Ghafoor Khan R/o
Mohallah Mazeed Khail, Manglawar, District
Swat (Ex.DPS at Police Department Swat)

...Appellant

VERSUS

1. District Police Officer, Swat
2. Regional Police Officer Malakand at Saidu
Sharif, Swat
3. Inspector Khurshid Khan (A.DIG) Assistant to
Regional Police Officer Malakand at Saidu
Sharif Swat
4. Inspector General / Provincial Police Officer
Khyber Pakhtunkhwa at Peshawar

...Respondents

Filed by

24/4/18

SERVICE APPEAL U/S 4 OF THE KPK SERVICE
TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED
ORDER OF RESPONDENT NO. 1 DATED 09/01/2018,
WHEREBY APPELLANT WAS DISMISSED FROM
SERVICE WITH IMMEDIATE EFFECT AGAINST
WHICH APPELLANT FILED DEPARTMENTAL
APPEAL ON 18/01/2018 BUT NO ORDER HAS BEEN
PASSED BY RESPONDENT NO. 2 TILL NOW ON THE
DEPARTMENTAL APPEAL OF THE APPELLANT.

Respectfully Sheweth:

Facts arising to the present appeal are as under;

ATTESTED

6

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
CAMP COURT SWAT.

Service Appeal No.569/2018

Date of Institution ... 24.04.2018

Date of Decision ... 10.01.2019



Nadeem Iqbal S/O Sayed Ghafoor Khan R/o Mohallah Mazeed Khail, Manglawar,
District Swat (Ex.DPS at Police Department Swati). ... (Appellant)

VERSUS

District Police Officer, Swat and three others. ... (Respondents)

MR. SHABIR AHMAD KHAN,
Advocate --- For appellant.

MIAN AMIR QADAR,
District Attorney --- For respondents

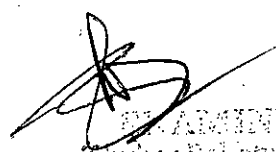
MR. AHMAD HASSAN, --- MEMBER(Executive)
MR. MUHAMMAD AMIN KHAN KUNDI --- MEMBER(Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER:- Arguments of the learned counsel for the
parties heard and record perused.

ATTESTE

ARGUMENTS.


AHMAD HASSAN
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

2. Learned counsel for the appellant argued that on certain allegations, the appellant was proceeded departmentally and thereafter, major penalty of dismissal from service was awarded to him vide impugned order dated 09.01.2018. He filed departmental appeal on 18.01.2018, which was not responded within the given time frame given in the rules, hence, the present service appeal. Disciplinary proceedings were initiated and concluded by DPO, Swat, who was not the competent authority in this case so the impugned order was coram-non-judice being pass by an incompetent authority. He was required to be proceeded under the Khyber

Pakhtunkhwa Police Department (Information Technology Group) Service Rules, 2014.


3. Learned District Attorney argued that all codal formalities were observed before passing the impugned order. The appellant has treated according to law and rules.

CONCLUSION.


4. Record available on the case file revealed that the appellant was appointed by the Addl: Inspector General of Police, while disciplinary proceedings were initiated and finalized by the DPO, Swat, who was otherwise not the competent to proceed in this case. Impugned order passed by the DPO, Swat was coram-non-judice and void ab-initio. As the entire proceedings became null and void due to non-observance of rules, so we did not deem it appropriate not to touch other aspects of the case.

5. As a sequel to above, the appeal is accepted, the impugned order dated 09.01.2018 is set aside and the appellant is reinstated in service. The respondents are directed to conduct de-novo enquiry strictly in accordance with law within a period of ninety days from the date of receipt of this judgment. The issue of back benefits shall be subject to the outcome of the de-novo enquiry. Parties are left to bear their own costs. File be consigned to the record room.


(MUHAMMAD AMIN KHAN KUNDI)
Member


(AHMAD HASSAN)
Member
Camp court Swat

ANNOUNCED
10.01.2019

Certified to be true copy

K. M. Akbar
Service Tribunal,
Peshawar

Amended

8

NOTE SHEET — C.P.O.

Subject:

SERVICE APPEAL NO. 269/2018 TITLED NADEEM IQBAL
FX-DATA PROCESSING SUPERVISOR, SWAT

Reference para 20 of ante note sheet

Brief facts

1. Impugned order of No. 269/2018 in FX Data Processing Supervisor, SWAT was dismissed from service by DPO, SWAT on the ground that while his post was vacant on the date for discharge, he was not appointed to the post. He was appointed to the post and manipulated the date of appointment to 10/01/2018. He was appointed to the post on the date of 10/01/2018. The impugned order was passed on the date of 10/01/2018. The operative part of the impugned order reads as follows:

4. Record available on the case file reveals that the appellant was appointed by the Addl. Inspector General of Police, while disciplinary proceedings were initiated and finalized by the DPO, SWAT, who was otherwise not competent to proceed in this case. Impugned order passed by the DPO, SWAT was against non-judicial and void ab initio. As the entire proceedings became null and void due to non-observance of rules, case is not fit to be appropriate to touch other aspects of the case.

5. As a sequel to above, the appeal is accepted, the impugned order dated 10/01/2018 is set aside and the appellant is reinstated in service. The appellant is directed to comply with all disciplinary proceedings strictly in accordance with law within a period of 15 days from the date of receipt of this judgment.

6. The appellant is directed to deposit the amount of Rs. 100,000/- towards the cost of the proceedings within a period of 15 days from the date of receipt of this judgment. The appellant is directed to deposit the amount of Rs. 100,000/- towards the cost of the proceedings within a period of 15 days from the date of receipt of this judgment. The appellant is directed to deposit the amount of Rs. 100,000/- towards the cost of the proceedings within a period of 15 days from the date of receipt of this judgment.

DIG, FAB

Addl. IG, P/HDQs:

Advocate High Court & Federal Shariat Court

Better Copy

9

NOTE SHEET-----CPO

Subject: Service Appeal No.269/2018 Titled Nadeem Iqbal ,Ex-Data processing supervisor swat.

Reference Para 20 of ante note sheet..

Brief facts:

Delinquent official Nadeem Iqbal (Data processing supervisor swat) was dismissed from service by DPO swat of the allegation that while his posting as data entry Incharge for documentation of NCP Vehicles tried to intrude into the system with the intention to steal and manipulate the data. He was dismissed from service by DPO Swat, he lodged Service Appeal against the order of DPO Swat. The honorable tribunal accepted his appeal vide judgment 10-01-2019. The operative paras 4 and 5 of the judgment are reproduced as under:

4. **Record available on the case file revealed that the appellant was appointed by the Addl. Inspector General of Police while the proceedings were initiated and finalized by the DPO Swat who was otherwise not competent to proceed in this case, impugned order passed by the DPO Swat was coram-non-judice and void ab-initio. As the entire proceedings became null and void due to non preservice of rules so we did not deem it appropriate to touch other aspects of the case.**
5. **As a sequel to above, the appeal is accepted, the impugned order dated 09-01-2018 is set aside and the appellant is reinstated in service. The respondents are directed to conduct a de-novo enquiry strictly in accordance with the law within a period of 90 days from the day of receipt of this judgment.**

Addl. SP Khankhel was nominated as enquiry officer for de-novo purpose, appellant was reinstated by DPO Swat for the purpose of de-novo proceedings. Charge sheet was issued by DPO Swat, enquiry officer submitted enquiry report dated 29-03-2019 and held him guilty and recommended him for minor punishment as already suffered punishment. Findings of the enquiry officer were received by DPO Swat video letter No. 93/PA dated 04-02-2019. The case was referred to AIG Legal for expert opinion who submitted his report vide Para 13 of the ante note sheet that as per IT Riles 2014, the appointing authority for BPS-16 is Addl. IG Headquarter and the service tribunal in its judgment dated 10-01-2019 has also declared the impugned order of DPO Swat void ab-intio due to this flaw.

In view of above, fresh charge sheet may be issued and enquiry committee consisting of an IT experts may be constituted to conclude the enquiry within 15 days, if approved.

Submitted for kind perusal and order, please.

Sd.

AIG LEGAL

22-05-2019

DIG/IAB Sd
22/5

Addl:IGP/HQrs

Attested to be True Copy

Shabir Ahmad Khan (Dawlat Khel)
Advocate High Court
& Federal Shariat Court

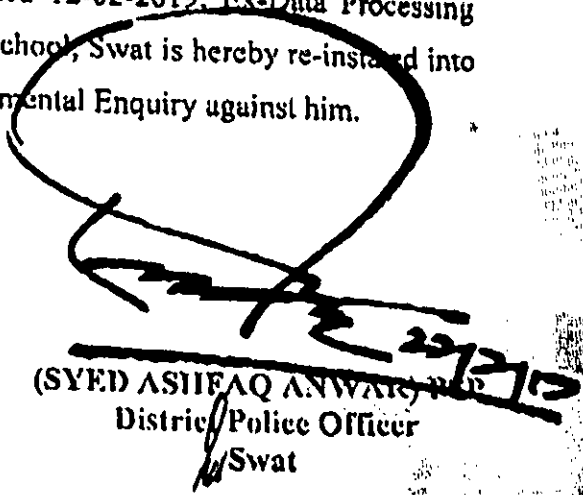
Office of the Principal, RTS
MFD at Swat.

57

Dr. No. _____
Date: 25/02/2019

ORDER

In compliance with the Judgment of Service Tribunal Khyber Pakhtunkhwa in Service Appeal No.569/2018 dated 10-01-2019 and directions received from CPO, Peshawar vide Memo: No.703/Legal, dated 12-02-2019, Ex-Data Processing Supervisor Nadeem Iqbal (BS-16) of Police Training School, Swat is hereby re-instated into service provisionally for the purpose of Denovo Departmental Enquiry against him.


(SYED ASHFAQ ANWAR)
District Police Officer
Swat

OB No. 31.

Dated: 22.2 /2019.

OFFICE OF THE DISTRICT POLICE OFFICER, SWAT

No. 3250-53 /E, dated Saidu Sharif the, 22/21 /2019.

Copy for information and necessary action to the;

- 1) Regional Police Officer, Mulakand at Saidu Sharif, Swat.
- 2) Deputy Inspector General of Police, Enquiry & Inspection, Khyber Pakhtunkhwa, Peshawar w/r to AIG/Legal Endst: No.704/Legal, dated 12-02-2019.
- 3) AIG/Legal, CPO, Peshawar w/r to his office Memo: No.703/Legal, dated 12-02-2019.
- 4) Principal, Police Training School, Swat.



BETTER COPY

(11)

ORDER

In compliance with the judgment of Service Tribunal Khyber Pakhtunkhwa, in service appeal No. 569/2018 dated 10-01-2019 and directions received from CPO Peshawar vide Memo No. 703/Legal dated 12-02-2019, EX-Data Processing Supervisor Nadeem Iqbal (BS-16) of police training Swat is hereby reinstated into service provisionally for the purpose of departmentally de-novo enquiry against him.

Sd:

(SYED ASHFAQ ANWAR) PSP
DISTRICT POLICE OFFICER SWAT
SWAT

OB NO. 31
Dated. 22-2-2019

OFFICE OF THE DISTRICT POLICE OFFICER, SWAT
No. 3250-53/E, dated Saidu Sharif the, 22/2/2019

Copy for the information and necessary action to the:

1. Regional Police Officer Malakand, at Saidu Sharif Swat
2. Deputy Inspector General of Police Enquiry & Inspection Khyber Pakhtunkhwa Peshwar w/r to AIG Legal Endst: No. 704/Legal, dated 12-2-2019
3. AIG Legal, CPO, Peshwar w/r to his office Momo; No. 703/Legal dated 12/2/2019
4. Principal, Police Training School, Swat

Attested to be True Copy

[Signature]
Shabir Ahmad Khan (Dawat Khel)
Advocate High Court
& Federal Shariat Court

Annex

12



OFFICE OF THE
ADDITIONAL INSPECTOR GENERAL OF POLICE,
HEADQUARTERS, KHYBER PAKHTUNKHWA,
CENTRAL POLICE OFFICE, PESHAWAR

No. 91-24/PA/Hqs Dated 31.10.2019
Ph# 091-9210345

ORDER

As directed by the Khyber Pakhtunkhwa Service Tribunal in
judgment in Service Appeal No. 96/2018, (Government Department) regarding Mr. I
Nadeem Iqbal, ID in Procedure Supervision is hereby ordered with immediate
effect.

(SIGNED)
MAJID KHAN,
Additional Inspector General of Police,
Headquarters, Khyber Pakhtunkhwa,
Peshawar.

Copy sent to:

- 1. DIO, Office of Accountability Branch KPK LPO Peshawar.
- 2. Regional Police Officer Muzakir.
- 3. DPO Swat in reference to office letter No. 93-PA, dated 12.04.2019.
- 4. Official concerned.

BETTER COPY

13

OFFICE OF THE ADDITIONAL INSPECTOR GENERAL OF
POLICE,

HEADQUARTERS, KHYBER PAKHTOON KHWA, PESHAWAR

NO.9194/PA/Hqrs dated 30 5 2019
Ph#091-9210345

ORDER

As directed by the Khyber Pakhtunkhwa Service Tribunal in judgment in Service Appeal No.586/2018, de-novo Departmental enquiry against Nadeem Iqbal Data processing Supervisor is hereby ordered with immediate effect.

Sd/

(AMJAD KHAN)PSP
Additional Inspector General of Police,
Headquarter, Khyber Pakhtoon Khwa
Peshawar.

Copy forwarded to:

1. DIG/Internal Accountability Branch KPK CPO Peshawar.
2. Regional police officer Malakand.
3. DPO Swat w/r to his office letter No.93/PA dated:12 4 2019
4. Official concerned

Attested to be True Copy

[Signature]
Shabir Ahmad Khan (Dawlat Khel)
Advocate High Court
& Federal Shariat Court

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

C.M NO. _____ OF 2019

In

SERVICE APPEAL NO. 569 OF 2018

NADEEM IQBAL, Data Processing Supervisor at PTS Swat

..... (Petitioner)

VERSUS

1. District Police Officer Swat at Gulkada Swat
2. Regional Police Officer, Malakand at Saidu Sharif Swat
3. Inspector Khurshed Khan (A.DIG Assistant to Regional Police Officer Malakand at Saidu Sharif Swat)
4. Additional Inspector General of Police KPK at CPO Peshawar
5. Inspector General of Police KPK at CPO Peshawar

..... (Respondents)

**APPLICATION FOR SUSPENSION OF ORDER OF
ADDITIONAL INSPECTOR GENRAL OF POLICE
HEADQUARTERS KPK DATED 30-5-2019 PROCEEDINGS IF
ANY TILL THE DISPOSAL OF MAIN PETITION.**

Respectfully sheweth:

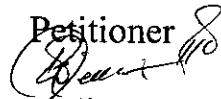
The petitioner submits as under:

- 1) That the petitioner is filling the instant petition before this honorable tribunal today and yet the date is not fixed.
- 2) That this honorable tribunal vide its judgment dated 10-1-2019 reinstated the petitioner into service and the respondents were directed to conduct the de novo enquiry within 90 days from the date of receipt of judgment dated 10-1-2019 of this honorable tribunal.
- 3) That the respondents badly failed to comply with the direction of this honorable tribunal and the prescribed time has been elapsed but no outcomes of the de novo enquiry by the Respondents have been concluded yet.
- 4) That after the expiry of the prescribed time i.e. 90 days the respondents have no authority to initiate any sort of proceedings against the petitioner.
- 5) That the respondent have not requested any proper and formal extension concerning the time so prescribed by this honorable tribunal to conclude de novo enquiry against the petitioner.
- 6) That the respondent No 4 ADDL'IGP HQrs issued order dated 30-5-2019 for de novo departmental enquiry against the petitioner which is totally illegal, void ab

initio and total violation of express provisions of the judgment dated 10-1-2019 on the following grounds:

- a) That the aforementioned order by respondent No 4 was issued after the lapse of time so prescribed by this honorable tribunal i.e. 90 days.
 - b) That a de novo enquiry had already been conducted by Additional SP Khankheel and had submitted his findings report which totally ignored and no reference to the same Enquiry has been made in the order so issued by respondent No 4.
- 7) That other legal and factual points will be raised during the course of arguments with the prior permission of this honorable tribunal

Under the circumstances it is therefore humbly prayed that by acceptance of this application the order of respondent No 4 dated 30-5-2019 and proceedings if any may kindly be suspended till the disposal of main petition.

Petitioner

Naedem Iqbal .

**BEFORE SERVICE TRIBUNAL KHYBER PUKHTUNKHWA
AT PESHAWAR**

WAKALT NAMA


Title:

Nadeem Iqbal versus DPO swat and others

I/we do hereby appoint **SHABIR AHMAD KHAN (Dawlat khel)** Advocate High Court in the above cited case/ suit/ appeal/ revision/ petition to do all or any of the following acts, deeds and things:

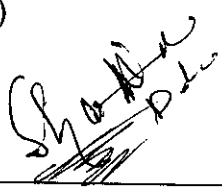
- 1) To appear, act and plead for me/us in the above cited case/ suit/ appeal/ revision/ petition in this court/tribunal and which the same may tried or heard, and any other proceedings arising out of or connected therewith.
- 2) To sign and verify and file , case/ suit/ appeal/ revision/ petition ,affidavits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

IN WITNESS whereof I/We have signed this Waklat Nama hereunder , the contents of which have been read/ explained to me/us and fully understood by me/us this.



Nadeem Iqbal (Petitioner)

Attested and Accepted by:



SHABIR AHMAD KHAN (Dawlat khel)

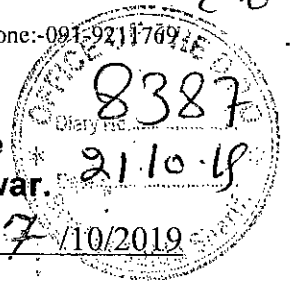
Advocate High Court

Dated: 21/6/09



Phone:-091-92117691E

Office of the
Inspector General of Police
Khyber Pakhtunkhwa, Peshawar.



147312
21/10/19

No. 3179 /CPO/IAB dated Peshawar the 17/10/2019

To: The District Police Officer,
Swat

Subject: **DENOVO DEPARTMENTAL ENQUIRY AGAINST NADEEM IQBAL, DATA PROCESSING SUPERVISOR SWAT**

Memo:

Please refer to your office letter No.15296/Legal dated 07.10.2019, on the subject cited above.

In this connection copy of order in respect of Nadeem Iqbal, Data Processing Supervisor issued by the Addl:IGP/HQrs: is sent herewith for necessary action, Please.

Amal Khan

Deputy Inspector General of Police
Internal Accountability
Khyber Pakhtunkhwa,
Peshawar

No:- /CPO/IAB,
Copy of above is forwarded for information to:-

1. The Addl:IGP/HQrs: Khyber Pakhtunkhwa.
2. The Regional Police Officer, Malakand.
3. The Registrar, CPO, Peshawar.
4. The Office Superintendent, Secret Branch, CPO.

Sir i chawaz Khan

Place on file

*Legal Seal
21.10.19*

DSM/ Legal / PA / E

For Malakand pl.

*District Officer
SWAT
21/10*

vehicles through the "User Name" of Nadeem, while the remaining 105 numbers have been entered through "User Name" of Malakand Division.

ORDER

This order disposes off the departmental enquiry against the delinquent Data Processing Supervisor, Swat Mr. Nadeem Iqbal.

The delinquent official was dismissed from service by DPO Swat on the allegations that while he was posted as Data Entry Incharge for documentation of NCP vehicles he tried to intrude into the system with the intention to steal and manipulate the data.

He lodged service appeal against the order of DPO Swat. The Honorable Tribunal accepted his service appeal vide its judgment dated 10.01.2019 and De Novo enquiry was ordered.

The operative paras 4 & 5 are reproduced as under:-

- Record available on the case file revealed that the appellant was appointed by the Addl: Inspector General of Police (HQrs:), while disciplinary proceedings were finalized by the DPO Swat, who was otherwise not competent to proceed in this case vide para 4 (3) (Appointing Authority) and para 14 (Termination) of the Khyber Pakhtunkhwa Police Department (Information Technology Group) Service Rules, 2014. Impugned order passed by the DPO Swat was hence coram-non-judice and void ab-initio. As the entire proceedings became null and void due to non-observance of rules, so it is deemed appropriate not to touch other aspects of the case.

- As a sequel to the above, the appeal was accepted, the impugned order dated 09.01.2018 was set aside and the appellant was re-instated in service. The respondents were directed to conduct the De Novo enquiry strictly in accordance with law within a period of ninety days from the dated of receipt of this judgment.

To proceed further in De Novo enquiry, he was issued Charge Sheet and Summary of Allegations by the Addl: IGP, HQrs: Khyber Pakhtunkhwa, Peshawar vide No.127/PA/Hqrs: dated 18.06.2019 and the following enquiry committee was constituted:-

1. Mr. Malak Ijaz, SP Investigation, Swat now DPO Shangla.
2. Mr Muhammad Saleem Ullah, Dy: Director IT CPO, KP, Peshawar
3. Mr. Mujahid Shah, Senior Web Technology, IT Board KP Peshawar.

The committee submitted their findings on 09.10.2019 wherein the recommendation entailed are summarized as follow:-


- a) As per report of technical experts, prior to this the subject software had been formatted and record has been checked through the Lap Top of Moen Fayaz PRO which revealed that 58 NCP vehicles have been entered out of the 163 numbers of vehicles through the "User Name" of Nadeem, while the remaining 105 numbers have been entered through "User Name" of Malakand Division.

- b) The enquiry committee while holding the delinquent official as negligent in his duty has established that Nadeem Iqbal has been found guilty of misconduct and was posted out from the NCP registration office. He is found guilty of willful provision of wrong "User Name" password to the officers instead.

In order to mete out Justice, the delinquent official Nadeem Iqbal was also issued Final Show Cause Notice by the undersigned and was also heard in person. Both the reply and the personal hearing could not be found satisfactory.

It appears from the findings of the enquiry that Nadeem Iqbal was negligent in discharging his duties, therefore I, Dr. Ishtiaq Ahmed being Competent Authority, hereby award the "minor punishment" of stoppage of 02 (Two) annual increments with cumulative effect in accordance with the Rule 5(b) Khyber Pakhtunkhwa Efficiency & Disciplinary Rules, 2011.

Order announced and issued.


(DR. ISHTIAQ AHMED) PSP, PPM
Additional Inspector General of Police,
Headquarters, Khyber Pakhtunkhwa
Peshawar.



Order of Add. IGP

Phone:-091-9217769

1473/L
21/10/19

Office of the
Inspector General of Police
Khyber Pakhtunkhwa, Peshawar.

8387
21.10.19
17/10/2019

No. 3175 /CPO/IAB dated Peshawar the

To: The District Police Officer,
Swat

Subject: DENOVO DEPARTMENTAL ENQUIRY AGAINST NADEEM IQBAL, DATA PROCESSING SUPERVISOR SWAT

Memo:

Please refer to your office letter No.15296/Legal dated 07.10.2019, on the subject cited above.

In this connection copy of order in respect of Nadeem Iqbal, Data Processing Supervisor issued by the Addl:IGP/HQrs: is sent herewith for necessary action, Please.

Amal Khan
Deputy Inspector General of Police
Internal Accountability
Khyber Pakhtunkhwa,
Peshawar

No:-

/CPO/IAB,
Copy of above is forwarded for information to:-

1. The Addl:IGP/HQrs: Khyber Pakhtunkhwa.
2. The Regional Police Officer, Malakand.
3. The Registrar, CPO, Peshawar.
4. The Office Superintendent, Secret Branch, CPO.

*Date of dismissal - 09-1-2018
Tribunal order dt 10-1-2019
re-instatement for denovo enquiry*

Site houses when place on file

Legal Seal 21.10.19

DSM Hyal / PA /
For Maclean

21/10

ORDER

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Order announced and issued.


(DR. ISHTIAQ AHMED) PSP. PPM
Additional Inspector General of Police,
Headquarters, Khyber Pakhtunkhwa
Peshawar.

فیاض اور گوہر SPF سٹاٹس و سیرا سٹریٹ کے بیانات اور چارج شیٹ کے مطابق ندیم کا سواری 28.08.2019 بوقت رات 10:00 بجھ کر لاہور کی ایکسپریس ہونے کا الزام ہے۔ اس طرح حاصل کردہ معلومات اور بیانات، چارج شیٹ میں واضح آفتاب ہے۔

۲۔ مطابق چارج شیٹ الزام نمبر ۱ میں گاڑیوں کی تعداد 171 ہے جبکہ ایک اپ سے حاصل کردہ معلومات کے مطابق 163 گاڑیوں کا اندراج بغیر تفصیل مالکان انٹرنان کی گئی ہے، جبکہ سیکشن ماہرین کے رائے کے مطابق یہ کمزور سافٹ ویئر ڈیٹا سٹیک کی وجہ سے ہو سکتی ہے۔ ان 163 گاڑیوں میں سے محض 58 گاڑیاں ندیم کے پوزرٹ سے درج ہوئی ہے۔

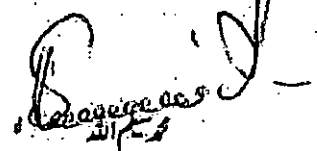
۳۔ الزام نمبر ۲ میں جہاں تک 499 گاڑیوں کی دوہری (بار بار) اندراج کا تعلق ہے تو اس نسبت سیکشن ماہرین کی رپورٹ کے مطابق 499 گاڑیوں میں سے کوئی بھی گاڑی ندیم کے پوزرٹ سے درج نہیں کیا گیا ہے۔ یہ اندراج جملہ ملاکنڈ ڈویژن میں ذریعہ استعمال مختلف ایجنسیوں سے ہوئے ہیں۔

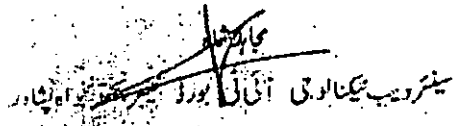
۴۔ رسمی حقائق کے پیش نظر اس امر کو نظر انداز نہیں کیا جاسکتا، کہ قصور وار ندیم اقبال جو کہ NCP رجسٹریشن کے ایک اہم مفید چیتھات تھا، سافٹ ویئر کا پرائیڈن بھی تھا، جب مذکورہ کو NCP رجسٹریشن ڈیک سے ہٹایا گیا تو مذکورہ جان بوجھ کر متعلقہ DPO صاحب کو بار بار متعلقہ حقائق و تیر کا غلط پاس ورڈ اور پوزرٹ نمبر فراہم کر کے مذکورہ کا یہ فعل قصداً افسران بالا کی حکم عدولی کرنا بھی زبانی ہے۔

۵۔ سیکشن ماہرین کے رپورٹ کے مطابق کمپیوٹر سسٹم اور سافٹ ویئر مائل انٹراڈیٹ فارمیٹ کیا جا چکا ہے۔ اس لئے چارج شیٹ میں عامہ الزامات یہ یعنی ہی ثابت کرنا ناممکن ہوا ہے۔

جملہ حالات و واقعات سے انٹراڈیٹ سسٹم اس نتیجہ پر پہنچی ہے کہ انٹراڈیٹ سیکشن کی ہے۔ سیکشن ماہرین کی رپورٹ کے مطابق اندر انٹراڈیٹ سافٹ ویئر پہلے سے فارمیٹ کیا جا چکا ہے اور الزامات ثابت کرنا ناممکن ہے۔ جبکہ ریکارڈ ڈیٹا مین نیٹس PRO کے ایپ ٹاپ اور جی ڈیٹا ایپ کے ذریعہ چیک کیا گیا جس میں 163 گاڑیوں میں سے 58 گاڑیوں کا ندیم کے پوزرٹ سے درج ہوئی اور باقی 105 گاڑیاں پورٹ ملاکنڈ ڈویژن کے پوزرٹ کی جانب سے درج کی گئی اور الزامات کو بے بنیاد قرار دیا۔ مذکورہ ندیم اقبال کو NCP رجسٹریشن سے ہٹانے پر قصداً افسران بالا کو غلط پوزرٹ نمبر پاس ورڈ فراہم کرنا مذکورہ کی بددینی کرتا ہے لیکن کر زبانی ہے۔

یہ امر شکر کہ رپورٹ مرتب ہو کر رہے مناسب حکم پیش خدمت ہے۔


محمد نسیم اللہ


سینئر ویب سیکشن آئی ٹی بورڈ

ذہنی ڈیپارٹمنٹ آئی ٹی سی ای او، خیبر پختونخواہ پشاور

~~ملک اعجاز
سلیب پوسٹل سروسز شاخ
(پشاور)~~

BEFORE KHYBER PAKHTUN KHWA SERVICE TRIBUNAL AT
CAMP COURT SWAT

Nadeem Iqbal

VERSUS

IGP and others

EXECUTION PETITION

APPLICATION FOR WITHDRAWAL OF ABOVE TITLED PETITION
WITH THE PERMISSION TO FILE A FRESH ONE IF GRIEVANCES OF
APPELLANT HAS NOT BEEN REDRESSED BY RESPONDENTS.

Sir

The Petitioner submitted as under:.

1. That the titled appeal has been pending before this honorable tribunal and fixed for today i-e 03-02-2020
2. That the respondents finalized the inquiry initiated against the appellant / Petitioner and awarded minor punishment.
3. That the appellant /Petitioner filed departmental appeal against above mentioned order which is still pending before respondent No.1
4. That the Petitioner /Appellant want to withdraw instant petition with the condition that if the graveness Petitioner/Appellant have not been redressed by the respondent then the appellant will approach this honorable tribunal.

It is therefore humbly prayed that, In the light of above mentioned facts the instant execution petitioner may kindly be withdraw as prayed for.

PETITIONER /APPELLANT

NADEEM IQBAL

DATA PROCESSING SUPERVISOR.

AT POLICE TRAINING SCHOOL SWAT

Dated 03 -02-2020