

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 430/2018

Date of Institution ... 30.03.2018
Date of Decision ... 12.12.2022

Said Ul Islam, Ex-Constable No.3186, District Police Mardan.

... (Appellant)

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and two others.

... (Respondents)

Fazal Shah Mohmand,
Advocate

... For appellant.

Muhammad Riaz Khan Paindakhel,
Assistant Advocate General

... For respondents.

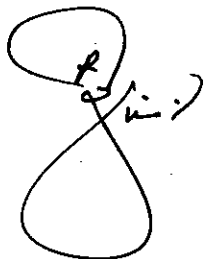
Mrs. Rozina Rehman
Miss Fareeha Paul


... Member (J)
... Member (E)

JUDGMENT

ROZINA REHMAN, MEMBER (J): The appellant has invoked the jurisdiction of this Tribunal through above titled appeal with the prayer as copied below:

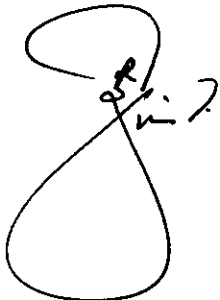
“That on acceptance of this appeal the impugned orders dated 02.03.2018 of respondent No. 1 and order dated 29.01.2018 of respondent No. 2 may kindly be set aside and the appellant may kindly be reinstated in service with all back benefits.”





2. Brief facts of the case are that appellant was appointed as constable in District Police Mardan on 05.10.2009. During service while posted in PS Saddar Mardan, he was issued charge sheet on the allegations of leaking out the valuable secrecy of the police force and informing the proclaimed offender before raid of police party. An inquiry was conducted and consequently appellant was dismissed from service vide order dated 29.01.2018. He preferred departmental appeal which was rejected, hence the present service appeal.

3. We have heard Fazal Shah Mohmand, Advocate learned counsel for the appellant and Muhammad Riaz Khan Painsakhel, learned Assistant Advocate General for respondents and have gone through the record and the proceedings of the case in minute particulars.



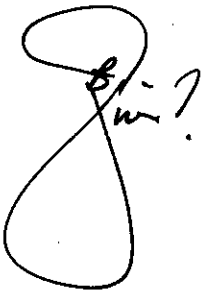
4. Fazal Shah Mohmand Advocate, learned counsel for the appellant submitted that impugned orders are wrong, illegal, against law and facts as mandatory provisions of law and rules were badly violated by the respondents. He contended that no proper inquiry was conducted and no witness was examined in presence of appellant. It was argued that the appellant just informed the relatives of accused Shahid who was locked in the lockup of the PS, which did not come within the ambit of misconduct rather it was the duty of the police officials to inform his family. He further submitted that appellant was put in quarter guard for 18 days and was dismissed from service on the same allegations which amounts to double jeopardy. Lastly, he submitted that the appellant has

nine years of service on his credit with unblemished service record therefore, his appeal may kindly be accepted.

5. Conversely, learned AAG submitted that appellant was treated in accordance with law and that proper departmental enquiry was conducted by providing opportunity of defence and was punished after compliance of all codal formalities.

6. From the record it is evident that the present appellant was proceeded against departmentally on the allegations that he while posted at PS Saddar Mardan, was an indisciplined official vide report of SHO City Mardan. He leaked out the valuable secrecy of police force and also informed proclaimed offender before the raid of police party. One Ikhtiraz Khan DSP was nominated as inquiry officer and vide order dated 30.01.2018 he was dismissed from service. He preferred departmental appeal which also met the same fate and was rejected vide order dated 02.03.2018 by Regional Police Officer Mardan. In the meanwhile, appellant filed revision petition under Rule 11-A of Police Rules 1975, which was partially accepted vide order dated 04.07.2018 of Inspector General of Police KP Peshawar. Keeping in view his long service he was reinstated in service and punishment of dismissal from service was converted into reduction in pay by one stage. Intervening period was counted towards service as leave without pay. Thereafter, an application was submitted seeking permission to file amended appeal which was accordingly accepted and amended appeal was filed. The impugned order dated 04.07.2018 is silent in respect of time period as to for how much time period reduction in pay by one stage would be in

field. Copy of the charge sheet alongwith statement of allegations is available on file but there is no proof that charge sheet was properly served upon the appellant. Similarly record is silent as to what type of secrecy of the police force was leaked out by the appellant. No evidence was produced in this regard and no witness was examined. The appellant was not given any opportunity of cross examination, similarly information regarding raid of the police party was also not proved. No such report was placed on file in order to show raid by the police party for the arrest of proclaimed offender. Copy of naqal mad 57 of daily diary dated 25.10.2017 is available on file vide which he was put in quarter guard for 18 days. Inquiry report submitted by Ikhtiraz Khan DSP is available on file which clearly shows that he relied upon the statement (verbal & written) of accused official and recommended him for major punishment of dismissal. It is astonishing as to how the inquiry officer could rely upon the statement of an accused official only and that too verbal statement, which is not available. He failed to examine any witness and indiscipline act allegedly committed by the appellant was not brought on surface. The main allegation regarding passing on information to the proclaimed offender before police raid was not proved as to which offender was the target and for whom's arrest the police party was ready for raid. Even a copy of FIR was not produced before the bench in order to show the proclaimed offender. The second allegation leveled against the appellant was leaking out the secrecy was also not at all established rather the only act committed by the appellant was to contact the brother of the accused who was very much present in the lockup of police station rather informed his brother



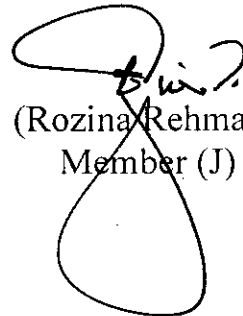
regarding the arrest of his brother for providing clothes for the accused person. For this very act he was put in quarter guard for 18 days and was once again proceeded against departmentally which amounts to double jeopardy.

7. Keeping in view the above facts and circumstances, this appeal is allowed as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

12.12.2022


(Farceha Paul)
Member (E)


(Rozina Rehman)
Member (J)

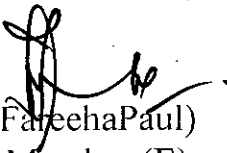
ORDER
12.12.2022

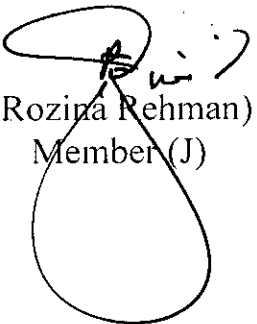
Appellant present through counsel.

Muhammad Riaz Khan Paindakhel learned Assistant Advocate General for respondents present. Arguments heard. Record perused.

Vide our detailed judgment of today of this Tribunal place on file, instant service appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
12.12.2022


(Fareeha Paul)
Member (E)


(Rozina Rehman)
Member (J)

02.06.2022

Junior to counsel for the appellant present.

Naseer ud Din Shah, learned Assistant AG alongwith
Atta ur Rehman Inspector for respondents present.

Lawyers are on general strike, therefore, case is
adjourned to 10.08.2022 for arguments before D.B.


(Fareeha Paul)
Member(E)


(Rozina Rehman)
Member (J)

10.8.2022

Proper DB not available the case
is adjourned to 2-11-2022


2nd Nov., 2022

Counsel for the appellant present. Mr. Muhammad

Riaz Khan Paindakhel, Assistant Advocate General for the
respondents present.

Learned counsel for the appellant seeks adjournment in
order to further prepare the brief. Last opportunity is granted. To
come up for arguments on 12.12.2022 before the D.B.


(Fareeha Paul)
Member (E)

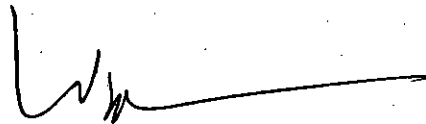

(Kalim Arshad Khan)
Chairman

05.08.2021

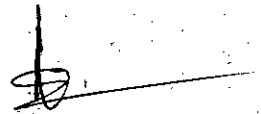
Counsel for the appellant present.

Mr. Asif Masood Ali Shah, Deputy District Attorney for respondents present.

Former made a request for adjournment to further prepared the brief. Adjourned. To come up for arguments on 08.11.2021 before D.B.



(Atiq Ur Rehman Wazir)
Member (E)



Chairman

08.11.2021

Appellant in person present. Mr. Khyal Roz Inspector alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Appellant sought adjournment on the ground that his counsel is not available today due to strike of Lawyers. Adjourned. To come up for arguments before the D.B on 09.02.2022.



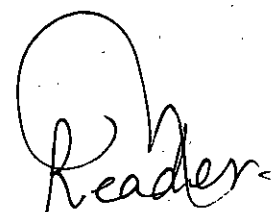
(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

9-2-2022

Due to retirement of the Honorable
Chairman the case is adjourned to come up
for the same as before on 2-6-2022



Reader

23.11.2020

Due to non-availability of D.B, the case is adjourned to 03.02.2021 for the same as before.

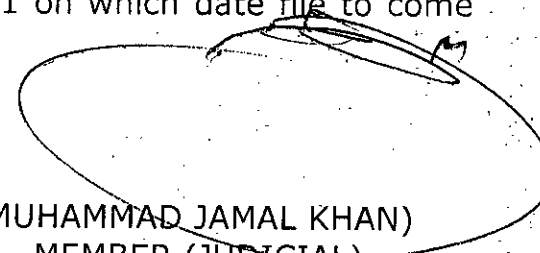

Reader

03.02.2021

Appellant is present alongwith his counsel. Mr. Kabirullah Khattak, Additional Advocate Genera, for the respondents is also present.

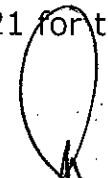
The reply to amended appeal has not been submitted by the respondents. Amended reply submitted today, the same is placed on file. Time was sought for arguments. The appeal is accordingly adjourned to 16.04.2021 on which date file to come up for arguments before D.B.


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

16.04.2021


Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 05.08.2021 for the same as before.


Reader

12.5 .2020

Due to COVID19, the case is adjourned to

4 / 8 /2020 for the same as before.



Reader

04.08.2020

Due to summer vacation case to come up for the same on
05.10.2020 before D.B.




Reader

05.10.2020


Junior counsel for appellant present.

Zara Tajwar learned Deputy District Attorney
alongwith Atta ur Rehman Inspector for respondents
present.

Junior counsel for appellant submitted amended
appeal copy of the same handed over to representative
of the respondents. To come up for reply of the
amended appeal and arguments on 23.11.2020 before
D.B.



(Atiq ur Reman Wazir)
Member (E)



(Rozina Rehman)
Member (J)

12.11.2019 Junior to counsel for the appellant present. Mr. Ziaullah, DDA alongwith Mr. Atta ur Rehman, Inspector for respondents present. Junior to counsel for the appellant seeks time to file amended appeal. Granted. To come up for amended appeal and arguments on 08.01.2020 before D.B.


Member

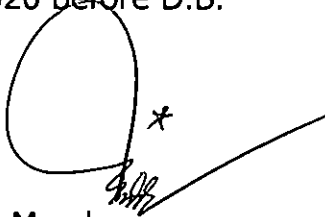

Member

08.01.2020 Lawyers are on strike as per the decision of Peshawar Bar Association. Adjourn. To come up for further proceedings/arguments on 12.03.2020 before D.B.


Member


Member

12.03.2020 Appellant in person present. Asst: AG alongwith Mr. Atta Ur Rehman, SI for respondents present. Appellant seeks adjournment as his counsel is not available today. Adjourned. To come up for arguments on 12.05.2020 before D.B.


Member


Member

19.06.2019

Clerk to counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General alongwith Mr. Atta Ur Rehman SI for the respondents present. Clerk to counsel for the appellant requested for adjournment as counsel for the appellant is not in attendance. Adjourn. To come up for arguments on 19.08.2019 before D.B.


Member


Member

19.08.2019

Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 08.10.2019 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

08.10.2019

Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney alongwith Atta ur Rehman Inspector present. Learned counsel for the appellant submitted application for grant of permission to file amended appeal. Copy of the same given to the representative of respondent department. Adjourn. To come up for reply and arguments on the said application and further proceedings on 12.11.2019 before D.B.



Member


Member

06.02.2019


Nemo for appellant. Addl. AG alongwith Attaullah, Inspector (Legal) for the respondents present.

Representative of respondents requests for further time for submission of written reply. Adjourned to 20.03.2019 with the warning that in case the reply is not submitted on the next date the defence of respondents will be closed.


Chairman


20.03.2019

Nemo for the appellant. Mr. Kabirullah Khattak learned Addl; AG alongwith Mr. Atta ur Rehman SI for the respondents present. Written reply not submitted. Learned AAG request for time to submit written reply/comments. ~~Due to general strike of the bar, the case~~ is adjourned. To come up for written reply/comments on 18.04.2019 before S.B


(Hussain Shah)
Member


18.04.2019

No one present on behalf of appellant. Mr. Kabirullah Khattak learned AAG alongwith Atta ur Rehman Inspector present. Written reply submitted. To come up for rejoinder/arguments on 19.06.2019 before D.B.


Member


02.08.2018

Neither the appellant nor his counsel present. Mr. Kabirullah Khattak, Addl: AG for respondents present. To come up for written reply/comments on 12.09.2018 before S.B.


Chairman

11.09.2018

Since 12th September 2018 has been declared as public holiday, by the Provincial Government on account of 1st Mukharram-ul-Haram, therefore the case is adjourned to 05.11.2018 for reply before S.B.


Chairman


05.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 20.12.2018. Written reply not received.

READER

20.12.2018

Clerk to counsel for the appellant present. Written not submitted. No one present on behalf of respondent department. Notice be issued to the respondents for 06.02.2019. To come up for written reply/comments on the date fixed before S.B.


Member

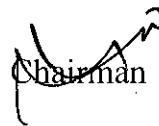
23.04.2018

Counsel for the appellant present. Preliminary arguments heard. The learned counsel for the appellant argued that the appellant was dismissed on 29.1.2018, against which he filed departmental appeal on 03.02.2018, which was rejected on 02.03.2018 and thereafter, he filed the present service appeal on 30.03.2018.

The ground taken by the appellant was that no show cause notice was issued to the appellant. That no proper enquiry was conducted.

The 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. To come up for written reply/comments on 11.06.2018 before the S.B.

Appellant Deposited
Security & Process Fee


Chairman

11.06.2018


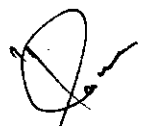
Clerk of the counsel for appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Representative of the department is not in attendance, therefore, notice be issued to the respondents with the direction to direct the representative to attend the court and submit written reply on the next date. Adjourned. To come up for written reply/comments on 02.08.2018 before S.B.


(Muhammad Amin Khan Kundi)
Member

Form-A
FORM OF ORDERSHEET

Court of _____

Case No. 430/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	30/03/2018	<p>The appeal of Mr. Said-ul-Islam presented today by Mr. Fazal Shah Mohmand Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR 30/3/18</p>
2	02/04/18.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>23/04/18.</u></p> <p style="text-align: right;"> MEMBER</p>

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No. 430 /2018

Said Ul Islam.....Appellant

V E R S U S

RPO and Others.....Respondents

I N D E X

S.No	Description of Documents	Annexure	Pages
1.	Service appeal with affidavit		1-3
2.	Copy of Order dated 29-01-2018	A	4
3.	Copy of departmental appeal & Order dated 02-03-2018	B & C	5-7
4.	Copy of Section 4 (K) of Police Order	D	8-9
5.	Wakalat Nama		10

Dated:- 29-03-2018.

Said
Through

Fazal
Fazal Shah Mohmand
Advocate, Peshawar

OFFICE:- Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell# 0301 8804841
Email:- fazalshahmohmand@gmail.com

①

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No. 430 /2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 460

Said Ul Islam Ex Constable No 3186 District Police Mardan

Date 30/03/2018

.....Appellant

V E R S U S

1. Regional Police Officer Mardan.
2. District Police Officer Mardan.
3. Provincial Police Officer KPK Peshawar.

.....Respondents

**APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974
AGAINST THE ORDER DATED 02-03-2018 PASSED BY
RESPONDENT NO 1 WHERE BY DEPARTMENTAL
APPEAL OF THE APELLANT FILED AGAINST THE ORDER
ISSUED VIDE OB NO 227 DATED 29-01-2018 OF
RESPONDENT NO 2 HAS BEEN REJECTED/FILED.**

PRAYER:-

On acceptance of this appeal the impugned orders dated 02-03-2018 of respondent No 1 and Order dated 29-01-2018 of respondent No 2 may kindly be set aside and the appellant may kindly be ordered to be reinstated in service with all back benefits.

Respectfully Submitted:-

1. That the appellant joined the respondent Department as Constable in District Police Mardan on 05-10-2009 and since then he performed his duties with honesty and full devotion and to the entire satisfaction of his superior officers.
2. That the appellant while lastly posted to Police Station Saddar Mardan was issued charge sheet on the allegations of leaking the valuable secrecy of the force and also informing the proclaimed offender before raid of Force party, the appellant accordingly replied the same refuting the allegations and explaining the true position.
3. That thereafter an illegal inquiry was conducted and finally the appellant was dismissed from service by respondent No 2 vide order dated 29-01-2018. (Copy of Order dated 29-01-2018 is enclosed as Annexure A).

Filed today
30/3/18
Registrar.

2

4. That the appellant preferred departmental appeal before respondent No 1 on 03-02-2018 which was rejected vide order dated 02-03-2018. **(Copy of departmental appeal and Order dated 02-03-2018 is enclosed as Annexure B & C).**
5. That the impugned orders dated 02-03-2018 of respondent No 1 and order dated 29-01-2018 of respondent No 2 are against the law, facts and principles of justice on grounds inter alia as follows:-

GROUND S:-

- A. That the impugned orders are illegal and void abinitio.
- B. That mandatory provisions of law and rules have badly been violated by the respondents and the appellant has not been treated according to law and rules.
- C. That no proper inquiry was conducted in the matter, and no one was examined in presence of the appellant.
- D. That no show causes notice was communicated to the appellant.
- E. That actually the appellant did what law is required to have done as he only informed the relative of accused Shahid who was locked in the lock up of the Police Station which is not misconduct rather the duty of Police as per Section No 4 (K) of the Police Order 2002. **(Copy of Section 4 (K) of Police Order is enclosed as Annexure D).**
- F. That the appellant was put in quarter guard for 18 days by respondent No 2 and was also dismissed from service on the same allegations which amounts to double jeopardy.
- G. That the impugned orders are against the principles of natural justice the dictums of the superior Courts on the subject.
- H. That the appellant did nothing that would amount to misconduct.
- I. That the appellant has about 9 years of service with unblemished service record.

J. That the appellant seeks the permission of this honorable tribunal for further/additional grounds at the time of arguments.

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

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

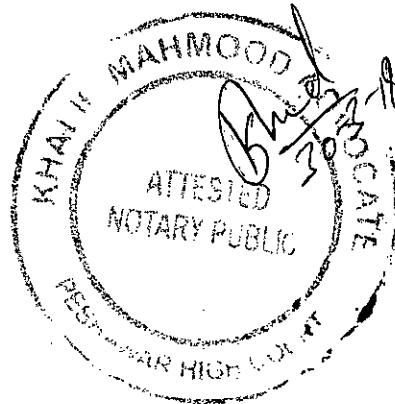
Dated:- 29-03-2018.

[Signature]
Appellant
Through *[Signature]*
Fazal Shah Mohmand
Advocate, Peshawar

AFFIDAVIT

I, Said Ul Islam Ex Constable No 3186 District Police Mardan, do hereby solemnly affirm and declare on oath that the contents of this **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

[Signature]
Identified by
Fazal Shah Mohmand
Advocate Peshawar



[Signature]
DEPONENT



OFFICE OF THE
DISTRICT POLICE OFFICER
MARDAN

4

1 A 4

No. _____ /R,
Dated _____ /2018.

Tel: 0937-9230109
Fax: 0937-9230111
Email: dpomardan650@gmail.com
Facebook: District Police Mardan
Twitter: @dpomardan

ORDER

This order will dispose-off the departmental inquiry, which has been conducted against Constable Said ul Islam No. 3186, on the allegation he while posted at PS Saddar, Mardan, as per report of SHO City Mardan vide DD NO. 57 dated 25.10.2017, he was an indiscipline Police official. He leaked the valuable secrecy of Police Force and also informed the Proclaimed offenders before the raid of Force Party. Therefore he was recommended to proceed against departmentally. This attitude adversely reflected on his performance which is an indiscipline act and gross misconduct on his part as defined in rule 2(iii) of Police Rules 1975.


In this connection, Constable Said ul Islam No. 3186, was charge sheeted vide this office No. 3186/R, dated 14.11.2017, and also proceeded him against departmentally through Ikhtiraz Khan, DSP/HQrs, Mardan, who after fulfilling necessary process, submitted his findings to the undersigned vide his office Memo: No. 67/HQrs, dated 24.01.2018. The enquiry officer recommended him for major punishment.

The undersigned agreed with the recommendation of inquiry officer, and heard him in OR held on 27.01.2018, hence the alleged Constable Said ul Islam No. 3186, is hereby awarded major punishment of *dismissal from Service*, with immediate effect in exercise of the power vested in me under the above quoted rules.

Order announced

O.B No. 227

Dated 29/01/2018


Dr. Mian Saeed Ahmed (PSP)
District Police Officer,
Mardan.

No. 1063-68 /R, dated Mardan the 30-1 /2018.

Copy for information and necessary action to the:

1. Deputy Inspector General of Police Mardan, Region-I, Mardan.
2. S.P Operations, Mardan.
3. DSP / Rural, Mardan.
4. Pay officer (DPO) Mardan
5. E.C (DPO) Mardan.
6. OSI (DPO) Mardan.

*****!!!*****



BEFORE THE DEPUTY INSPECTOR GENERAL OF POLICE MARDAN REGION -1

MARDAN

B
5

Subject: APPEAL AGAINST THE ORDER OF DISTRICT POLICE OFFICER MARDAN ISSUED VIDE O.B NO. 227 DATED 29-01-2018, WHERE BY THE APPELLANT WAS AWARDED MAJOR PUNISHMENT OF "DISMISSAL FROM SERVICE".

Respected Sir,

The appellant submits as under:-

1. That DPO Mardan had issued charge sheet No. 3186/R dated 14-11-2017 to the appellant with the following allegations:-
"You Constable Said-ul-Islam No. 3186, while posted at Police Station Saddar, Mardan as per report of SHO City Mardan vide DD NO.57 dated 25-10-2017, he was an indisciplined Police Official. He leaked the valuable secrecy of Police Force and also informed the proclaimed offenders before the raid of Force Party. Therefore he was recommended to proceed against departmentally. This attitude adversely reflected on his performance which is an indisciplined act and gross misconduct on his part as defined in rule 2 (iii) of Police Rules, 1975."
2. That the appellant has been enrolled in the prestigious police service on 05-9-2009 and belongs to village kala khail Post Office Shamshad Abad, Tehsil and Distt Mardan. The appellant remained posted at Police Lines Mardan since May, 2017.
3. That the facts behind the incident mentioned in the charge sheet are that on 25-10-2017 The appellant was on patrolling duty at Cobra -1 under the command of SI Itibaar Shah. The same day that about 08:00 am the appellant along with other officials came to PS City Mardan. In the meanwhile one accused namely Shahid r/o Akora Khattak lying in the lock up requested him for providing mobile phone to contact his relatives. On humanitarian grounds, the appellant dialed the required Cell no. 03339008284 which was in the name of his brother Wajid Ali. Wajid Ali is a school teacher at Govt School Gajo Khan Swabi.
4. On 25-10-2017 SI Ashiq Hussain, SHO PS City summoned the appellant to the PS City Mardan. It was about 1600 hrs when the SHO inquired from the appellant regarding the telephonic communication between the accused Shahid and his brother Wajid Ali. The appellant replied in response that he has nothing with them but he has dialed the telephone of Wajid Ali on pure humanitarian grounds. SHO Ashiq Hussain entered a report against the appellant in the daily diary vide DD No.57 dated 25-10-2017. (Copy enclosed)
5. In the light of the report vide DD No.57 dated 25-10-2017 PS City Mardan, The appellant was kept in quarter guard for 19 days, followed by a departmental enquiry. During the course of enquiry the appellant produced a detailed and comprehensive reply before the enquiry officer but was not considered. In the light of enquiry finding the DPO Mardan dismissed the appellant vide OB No.227 dated 29-01-2018 and hence the present appeal. (Copy of OB No.227 dated 29-01-2018 is enclosed).

GROUND OF APPEAL:

- a). The appellant has served in the Police department for 09 years. During this period the appellant was dealt departmentally nor punished. This fact is evident from the shining service record of the appellant.
- b). On 25-10-2017 the appellant made telephonic communication between accused Shahid and his brother Wajid Ali on humanitarian ground. Wajid Ali is not a proclaimed offender and no secrecy has been leaked out by the appellant.

Attested
e/10

6

c). The SHO Ashiq Hussain has blamed the appellant that he is untrustworthy, leaking secrecy of Police Force and giving prior information to the accused. All these allegations are superficial and have got no legs to stand upon. With these allegations the overall conduct of the appellant has been damaged. It would not be out of place to mention here that during enquiry no such like evidence to prove the allegations have been brought on enquiry file.

d). The appellant was summoned in Orderly Room held on 27-01-2018 but was not heard by the DPO Mardan. Similarly No "final Show cause notice" was issued to the appellant before the announcement of the dismissal which is against the norms of justice.

e). The appellant is married having 03 kids and old age parents are also dependent upon me. The sole livelihood of the entire family is dependent upon the police service of the appellant .

Keeping in view the above mentioned facts and circumstances, it is humbly prayed in your honour that the Appeal of Appellant may kindly be accepted and the impugned Order passed by DPO Mardan may please be set aside by re-instatement in service from the date of dismissal, please.

Yours Obediently,


(CONSTABLE SAID UL ISLAM)

No. 3186

District Police Mardan

(Now dismissed from service)

Dated: 03 February, 2018.

Attested
ed
SP

ORDER.

(7)

C

This order will dispose-off the appeal preferred by Ex-Constable Said Ul Islam No. 3186 of Mardan District Police against the order of the District Police Officer, Mardan, whereby he was awarded Major punishment of dismissal from service vide District Police Officer, Mardan OB No. 227 dated 29.01.2018.

Brief facts of the case are that the appellant while posted at Police Station Saddar, Mardan, as per report of SHO City Mardan vide daily diary NO. 57 dated 25.10.2017, he was an indiscipline Police official. He leaked the valuable secrecy of Police Force and also informed the Proclaimed offenders before the raid of Force Party. Therefore he was recommended to proceed against departmentally. Consequently, he was charge sheeted and also proceeded against departmentally through Ikhtiraz Khan, DSP/HQrs, Mardan. The Enquiry Officer after fulfilling necessary process, submitted his findings to District Police Officer, Mardan and recommended him for Major Punishment. The District Police Officer, Mardan agreed with the recommendation of Enquiry Officer and the alleged Constable was heard him in Orderly Room held in the office of District Police Officer, Mardan on 27.01.2018 and awarded him Major Punishment of dismissal from Service.

He was called in orderly room held in this office on 28.02.2018 and heard him in person, but he did not produce any substantial evidence about his innocence. Therefore, I find no grounds to intervene the order passed by the District Police Officer, Mardan. **Appeal is rejected.**

ORDER ANNOUNCED.

(Muhammed Alam Shinwari)PSP
o/c Regional Police Officer,
Mardan

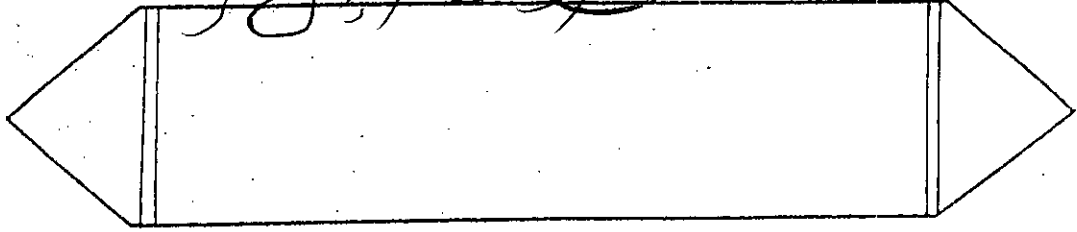
No. 1317 /ES, Dated Mardan the 02 - 03 - 2018.

Copy to District Police Officer, Mardan for information and necessary action w/r to his office Memo: No. 189/LB dated 22.02.2018. The Service Record is returned herewith.

(*****)

Attested
e/g

بعدالت (15) فی فیصلہ



2 مخائب

الاسم بنام RPO وشرہ

موزخه
مقدمه
دعوی
جرم

باعث تحریر آئیکہ

مقدمہ مندمجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
دیکل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعوی اور
بصورت ڈگری کرنے اجراء اور صولی چیک دروپہ ارضی دعوی اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرفہ یا اپیل کی براندگی 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 اختیار حاصل ہوں گے اور اس کا ساختہ
پر داختم منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائنہ التوائے مقدمہ کے سبب سے وہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم 29
ماہ 2018

بمقام
لکھنے کے لئے منظور ہے۔
Affected, Accepted
at Karachi

lawful orders and instructions issued by an officer or an authority to whom he is responsible under this order and non-compliance of such orders, directions and instructions which he is bound to observe or obey for action shall be liable under paragraph (c) of clause (1) of Article 155;

- (xxiii) "rules" means rules made under this Order;
- (xxiv) "schedule" means a schedule to this Order;
- (xxv) "senior ranks" means members of the police above the rank of Inspector as set out in First Schedule;
- (xxvi) "street" includes any highway, bridge, way, causeway, arch, road, lane, footway, square, alley or passage, whether or not it is a thoroughfare and to which the public have access, whether permanently or temporarily; [xxx]
- ²[(xxvi-a) "superintendence" means supervision of Police by the appropriate Government through policy, oversight and guidance and, in case of a Province, it shall be exercised by the Chief Minister through the Chief Secretary and the Provincial Home Department, while ensuring total autonomy of the Provincial Police Officer in operational, administrative and financial matters and, in case of Federal Capital, such supervision shall be exercised by the Ministry of Interior, Government of Pakistan; and]
- (xxvii) "vehicle" includes any conveyance of any description mechanically propelled or otherwise.

(2) All references in respect of District Superintendent of Police in any law in force shall mean Head of District Police posted under Article 11 and Article 15.

¹ The word "and" omitted by the Police Order (Amdt.) Ordinance, (XLIV of 2009), dated 26.11.2009.

² Inst. by the Police Order (Amdt.) Ordinance (XLIV of 2009), dated 26.11.2009.

8

Chapter-II

D

RESPONSIBILITIES AND DUTIES OF THE POLICE

3. Attitude and responsibilities of Police towards the public.— It shall be the duty of every police officer to---

- (a) behave with the members of the public with due decorum and Courtesy;
- (b) promote amity;
- (c) guide and assist members of the public particularly the poor, disabled or physically weak and children who are either lost or find themselves helpless on the streets or other public places; and
- (d) aid individuals who are in danger of physical harm particularly women and children.

4. Duties of Police.--- (1) Subject to law, it shall be the duty of every police officer to--

- (a) protect life, property and liberty of citizens;
- (b) preserve and promote public peace;
- (c) ensure that the rights and privileges, under the law, of a person taken in custody, are protected;
- X (d) prevent the commission of offences and public nuisance;
- X (e) collect and communicate intelligence affecting public peace and crime in general;
- X (f) keep order and prevent obstruction on public roads and in the public streets and thoroughfares at fairs and all other

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places of public resort and in the neighbourhood of and at the places of public worship;

- (g) regulate and control traffic on public roads and streets;
- (h) take charge of an unclaimed property and to prepare its inventory;
- (i) detect and bring offenders to justice;
- (j) apprehended all persons whom he is legally authorised to apprehend and for whose apprehension, sufficient grounds exist;
- (k) ensure that the information about the arrest of a person is promptly communicated to a person of his choice;
- (l) enter and inspect without a warrant on reliable information any public place, shop or gaming-house where alcoholic drinks or narcotics are sold weapons and illegally stored and other public places of resort of loose and disorderly characters;
- (m) obey and promptly execute all lawful orders;
- (n) perform other duties and exercise powers as are conferred by this Order, the Code or any other law for the time being in force;
- (o) aid and co-operate with other agencies for the prevention of destruction of public property by violence, fire, or natural calamities;
- (p) assist in preventing members of public from exploitation by any person or organized groups;
- (q) take charge of lunatics at large to prevent them from causing harm to themselves or other members of the public and their property; and

search

9

- (r) prevent harassment of women and children in public places.
- (2) Police officer shall make every effort to--
 - (a) afford relief to people in distress situations, particularly in respect of women and children;
 - (b) provide assistance to victims of road accidents;
 - (c) assist accident victims or their heirs or their dependants, where applicable, with such information and documents as would facilitate their compensation claims; and
 - (d) cause awareness among the victims of road accidents of their rights and privileges.
- (3) It shall be the duty of a police officer to lay information before a competent Court and to apply for a summons, warrant, search warrant or such other legal process as may, by law, be issued against any person suspected of committing an offence.

COMMENTS

Duties of Investigating Officer--Nature, extent and scope-- Investigating Officer of a criminal case is not to render any opinion regarding guilt or innocence of an accused person and under the relevant statutory provisions contained in the Code of Criminal Procedure, 1898, the Police Order, 2002 and the Police Rules, 1934, he is only to collect all the relevant evidence and to submit his report and the collected evidence and material before the concerned Magistrate, so that he or the Trial Court can then form their own independent opinion regarding sufficiency or otherwise of the evidence and material in order to decide whether to take cognizance of the offence and of the case or not, to summon any person to face a trial or not and to frame a charge against a person or not--Opinion of police officer regarding guilt or innocence of an accused person is inadmissible in evidence being irrelevant. PLD 2009 Lah. 585(c)

search 1/2 of the

Privacy of private place--Fundamental right--According to S. 4(1) of Chapter II of Police Order, 2002, Police is authorized to enter and inspect without warrant on reliable information in any public place mentioned in

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C

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

Service Appeal No. 430/2018.

Said-ul-Islam.....Appellant.

VERSUS.

District Police Officer, Mardan

& others.....Respondents.

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:-

1. That the appellant has not come to this Honourable Tribunal with clean hands.
2. That the appellant has got no cause of action.
3. That the appellant has concealed material facts from this Honourable Tribunal.
4. That the appellant is estopped by his own conduct, by law to bring the instant appeal.
5. That the present appeal is bad in its present form hence not maintainable and liable to be dismissed.
6. That the appeal is bad due to non-joinder of necessary parties and mis-joinder of unnecessary parties.
7. That the instant appeal is barred by law & limitation.
8. That already the appellant has been re-instated into service, hence, the instant appeal has become infructuous.

REPLY ON FACTS.

1. Correct to the extent of appellant's enlistment in the year 2009, however, to the rest of the Para the service record of the appellant speaks otherwise. **(Copies of red/bad entries are attached as Annexure-A)**
2. Correct to the extent of allegations and the framed charged-sheet against appellant while the rest of the Para is incorrect as the appellant has been found guilty. Hence, rightly punished under rules/law.
3. Correct, hence, no comments.
4. Correct, hence, no comments.
5. Incorrect. The impugned orders are correct and in accordance with law and principles of justice. Hence, holds no grounds, legal or moral, to stand hereon in this Honourable Tribunal.


REPLY ON GROUNDS:-

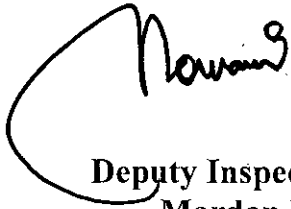
- A. Incorrect. The impugned orders are legal and valid. Hence, denied.
- B. Incorrect. There is no violation of any provision of law. The appellant has been treated as such under rules/law.
- C. Incorrect. Proper departmental inquiry under rules/law was conducted against appellant by providing all opportunities of defence. **(Copy of Inquiry is attached as Annexure-B)**
- D. Incorrect. All codal formalities are complied with.
- E. Incorrect and the appellant self-admits the fact/allegations of misconduct he committed under rules/law. Hence, deserved as such penalty.
- F. Incorrect and the ground of double jeopardy is baseless. Hence, denied.
- G. Incorrect. The impugned orders are in accordance with principles of natural justice/dictum of superior courts.
- H. Incorrect. The appellant has done misconduct and punished as deserved under rules/law.


- I. Correct to the extent of (09) years service, however, keeping his long service in view the order of dismissal was converted into “**reduction in pay by one stoppage**” and the intervening period to be treated as leave without pay vide order No. 2614/18 dated 04.07.2018 by the office of the Inspector General of Police, Khyber Pakhtunkhwa, Peshawar. **(Copy of order is attached as Annexure-C)**
- J. The respondents also seek permission to raise additional grounds at the time of arguments.

PRAYER:-

The appellant has been given credit of long service and his dismissal is converted into penalty of “reduction in pay by one stage” and he does not deserve anymore leniency or reduction in punishment. It is, therefore, requested that the instant service appeal being devoid of merits, is liable to be dismissed with costs.


**Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.**
(Respondent No. 03)


**Deputy Inspector General of Police,
Mardan Region-I, Mardan**
(Respondent No. 01)


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

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

Service Appeal No. 430/2018.

Said-ul-Islam.....Appellant.


VERSUS.

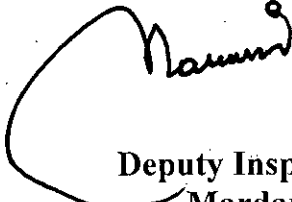
District Police Officer, Mardan

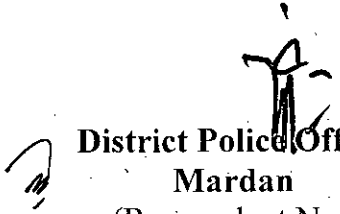
& others.....Respondents.

COUNTER AFFIDAVIT.

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


**Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.**
(Respondent No. 03)


**Deputy Inspector General of Police,
Mardan Region-I, Mardan**
(Respondent No. 01)


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

14. COMMENDATORY ENTRIES — Contd.

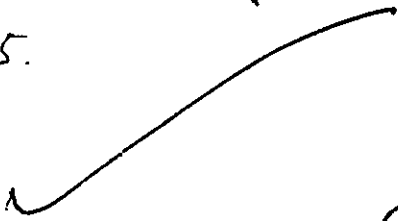
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DPO/MR

ORDER

He is hereby awarded major punishment of "Dismissal from Service" with immediate effect in exercise of the power vested in me under Police Rules 1975.

OB No. 227
dt 28-1-18




District Police Officer
Mardan

ORDER

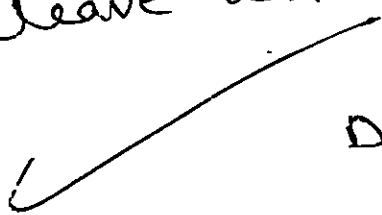
The Appeal is rejected by DIG Mardan order
Empl. No. 1317/ES date 2-3-2018.


DPO/Mardan

ORDER

He is hereby re-instated in service and punishment of dismissal from service is converted in to reduction in pay by one stage. However, the intervening period shall be counted towards service as leave without pay.

OB No. 1310
9/7/18


DPO, Mardan

14. COMMENDATORY ENTRIES — Concl'd.

Serial No.

Serial No.

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ORDER

The Board decided that he is re-instated in service and the punishment of dismissal from service is converted to reduction in pay by one stage. However the intervening period shall be counted towards service as leave without pay. vide L.P.K.P.K. Pesh Order Endst: No. 2615-21/18 dt: 4-7-18 and pay fixed Rs. - 1404/- pm. ✓

O.B.N.O. 1310

dt: 29-7-18.

Verified
M. B. A. / 18
Dist. Comptroller of Accounts
Mardan District Police Officer
Mardan

MF NO. 810
Dt: 12/10/2018
Drawn Arrear Rs: 55304/- on
a/c Pay & Allow / Encashment of L.P.R.
W.e.f. 9/17/18 to 31/8/2018
Less GPF 20/10/1800 amount 1380
Tax - 51904/-

District Comptroller of Accounts

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14. COMMENDATORY ENTRIES -- Concl'd.

Serial No.

Serial No.

He is here

ORDER

The Board decided that he is re-instated in service and the punishment of dismissal from service is converted to reduction in pay by one stage. However the Intervening Period shall be counted towards service as leave without pay. vide L.P.K.P.K. Pesh Order Endst: No. 265-21/18 dt: 4-7-18 and pay fixed Rs - 1404/- PM. ✓

OBNO. 1310

dt: 29-7-18

Verified ✓
 M/19/18
 Dist. Comptroller of Accounts Mardan
 District Police Officer Mardan

MF No 810
 Dt: 12/10/2018
 Drawn Amount Rs: 55304/- on a/c Pay & Allow / Emolument of L.P.R.
 W.e.f. 9/17/2018 to 31/8/2018
 Less GPF 2018/10/1800 Fixed 1380
 I Tax -51904/-

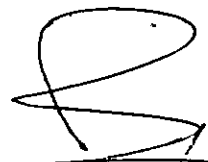
M/16/18
 District Comptroller of Accounts Mardan
 16/11/18

Cha
 him
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 OBNO
 18

16. CENSURES AND PUNISHMENTS.

He is hereby suspended and closet to Police line. with immediate effect


OB No: 2268
10-8-12


DPD/MR
✓

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Service
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ice as
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7-18
✓

He is hereby provisionally re-instated in Service till the disposal of his departmental enquiries with immediate effect.


OB No: 2800
10-10-2012


DPD/MR
✓

ORDER

He is hereby exonerated of the Charges levelled against him by re-instating him in Service from the date of suspension with counting his suspension period as duty with immediate effect.

OB No: 1347
18/6/13


DPD/Mardan

ce Officer
lan

15. CENSURES AND PUNISHMENTS. -- Conted.

② days extra drill for his absence
 OB No. $\frac{1767}{28-8-14}$ DP ~~DP~~ MK

① day extra drill for his absence.

OB No. $\frac{2435}{7-12-14}$

DP ~~DP~~ MK

② days extra drill for his absence.

OB No. $\frac{1011}{11-6-15}$

DP ~~DP~~ MK

② days extra drill for his absence

OB No. $\frac{1110}{25-6-15}$

DP ~~DP~~ MK

16. LEAVE, ABSENCE AND BREAKS IN SERVICE.
 All Periods not counting as "approved service" to be entered in red ink.

1.		2.			3.	4.
Date		Extent			No. Of District Order	Description of leave i.e privilege hospital, sick leave or of absence, or forfeiture of approved service.
cm	To	Years	Months	Days		
				⑤	1902 11-5-11	Leave w/o pay - DPO/m
				②	1767 20-8-14	d - DPO/m
				①	2435 2-12-14	d - DPO/m
				②	1011 11-6-15	d - DPO/m
				②	1110 25-6-15	d - DPO/m

(W)

**OFFICE OF THE
DISTRICT POLICE OFFICER
MARDAN**

Tel: 0937-9230109
Fax: 0937-9230111
Email: dpomardan650@gmail.com
Facebook: District Police Mardan
Twitter: @dpomardan

168 /R/D.A-P.R-1975.
Dated 14.11.2017.

DISCIPLINARY ACTION UNDER KPK POLICE RULES – 1975

I, **Dr. Mian Saeed Ahmed** District Police Officer, Mardan as competent authority am of the opinion that **Constable Saif ul Islam No. 3186**, rendered himself liable to be proceeded against as he committed the following acts/omission within the meaning of section-02 (iii) of KPK Police Rules 1975.

STATEMENT OF ALLEGATIONS

That **Constable Saif ul Islam No. 3186**, while posted at PS Saddar, Mardan. as per report of SHO City Mardan vide DD NO. 57 dated 25.10.2017. he was an indiscipline Police official. He leaked the valuable secrecy of Police Force and also informed the Proclaimed offenders before the raid of Force Party. Therefore he is recommended to proceed against departmentally.

2. For the purpose of scrutinizing the conduct of the said official with reference to the above allegations DSP H. H. H. is appointed as Enquiry Officer.

3. The enquiry officer shall conduct proceedings in accordance with provisions of Police Rules 1975 and shall provide reasonable opportunity of defense and hearing to the accused official, record its findings and make within twenty five (25) days of the receipt of this order. recommendation as to punishment or other appropriate action against the accused officer.

4. The accused officer shall join the proceedings on the date, time and place fixed by the Enquiry Officer.


(Dr. Mian Saeed Ahmed) PSP
District Police Officer,
Mardan

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

No. _____ /R. dated Mardan the _____ /2017.

Copy of above is forwarded to the:

1. _____ for initiating proceedings against the accused official / Officer namely **Constable Saif ul Islam No. 3186**, under Police Rules, 1975.
2. **Constable Saif ul Islam No. 3186**, with the directions to appear before the Enquiry Officer on the date, time and place fixed by the enquiry officer for the purpose of enquiry proceedings.

***** !!! *****

(5)

CHARGE SHEET UNDER KPK POLICE RULES 1975

I, **Dr. Mian Saeed Ahmed** District Police Officer, Mardan as competent authority hereby charge you **Constable Saif ul Islam No. 3186**, as follows.

That you **Constable Saif ul Islam No. 3186**, while posted at PS Saddar, ~~Mardan~~ as per report of SHO City Mardan vide DD NO. 57 dated 25.10.2017, you were an Indiscipline Police official. You leaked the valuable secrecy of Police Force and also informed the Proclaimed offenders before the raid of Force Party. Therefore you are recommended to proceed against departmentally.

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

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


(Dr. Mian Saeed Ahmed) PSP
**District Police Officer,
Mardan**

تھامس ٹی

نقلمبر 57 فورٹ 25¹⁶/₁₇

ڈائری
رورٹ
رورنگل

عاشق حسین SHO وقت 17:50 بجے فورم 25¹⁰/₁₇ درج تعینہ کنٹینبل سید اسد
کوڑا I میں علاقہ تمام صدر وردان میں ٹیوٹی انجام دے رہا ہے۔ انتہائی ناقابل
کنٹینبل سے۔ سکرسی اڈٹ کرنا ہے۔ علاقہ 3 گرفتاری سے بچے ہوئے تھے۔
بیلے الحراع دینا ہے جسکا یہ عمل انتہائی سوراخ اور خلاف ڈسپلین ہے۔
مزورہ کا اس عمل کو جواب دہ صاحب سٹی کے نوٹس میں آ کر جواب دیا ہے۔
مزورہ کنٹینبل سید اسد ام 3186 کو کوڑا چارڈ میں بیلڈنگ کا حکم
صدر کے ساتھ جواب دہ صاحب وردان کے نوٹس میں آ گیا۔ البتہ
5 اپکارم کوڑا 4 ویدیت ہوئی کہ کنٹینبل مزورہ کو حسب احکم
افسران ناہ کوڑا چارڈ پولیس رائل میں بیلڈنگ کا حکم اور ویدیت
ہوئی کہ نقلمبر علیحدہ وقت کر کے لے کر عن قریب کاروائی افروان تاکہ
فرصت میں چھوٹی جائے اور میں ہمہ نیرایان داسین گفت علاقہ
علاقہ سول

عاشق حسین

نقل اظہار الی

See
Forwarded

MIA B
26-10-17

26
کوڑا چارڈ کے سوا کسی سے کاپی نہیں
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OFFICE OF THE DEPUTY SUPERINTENDENT OF POLICE

HEADQUARTERS & TRAFFIC MARDAN.

Inquiry Report conducted vide No.168/R/D.A-P.R-1975, dated 14.11.2017.

BRIEF HISTORY:-

That Constable Said-ul-Islam No. 3186, while posted at PS Saddar Mardan, as per report of SHO City Mardan vide DD No. 57 dated 25.10.2017, he was an indisciplined Police official. He leaked the valuable secrecy of Police Force and also informed the proclaimed offenders before the raid of Police party. Therefore he is recommended to proceed against departmentally.

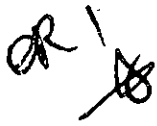
FINDINGS:-


In this connection enquiry proceedings were initiated and the alleged Constable was summoned and heard in person. He produced his written statement that, he was performing his routine duty at Cobra-I Mobile, about 12:00 hours he saw an unknown person, present in the lockup (PP Charsadda Road), who told the alleged official to contact his family and bring clothes for him. Then after he contacted brother of accused and told him to bring clothes to Police Station City for his brother. He stated that, he belongs to a poor family and only responsible person to take care of his family. He in his written statement, apologized on the wrongful/indisciplined act which he has committed and requested for filing the inquiry proceedings against him also committed to be careful in future (He has earned 01 good with 09 bad entries in his service so far).

RECOMMENDATION:-

Keeping in view the statement of the alleged official (verbal and written), it is crystal clear that, he has violated departmental rules and committed an indisciplined act. In such a case the undersigned is of the view that, the alleged official is burden on the Police department being proven indisciplined and criminal-minded. The report lodged against him is based on facts and the alleged official has nothing to offer in his defense.

It is therefore, recommended that, the alleged Constable may be awarded major punishment (dismissal from service), if agreed.

OR /  Dismissal from service 27/11/18


(IKHTIRAZ KHAN)
Deputy Superintendent of Police,
HQs/Traffic, Mardan.

No. _____ /HQs dated Mardan the _____ /2018.



OFFICE OF THE
DISTRICT POLICE OFFICER
MARDAN

Tel: 0937-9230109
Fax: 0937-9230111
Email: dpomardan650@gmail.com
Facebook: District Police Mardan
Twitter: @dpomardan

No. _____/R,
Dated _____/2018.

ORDER

This order will dispose-off the departmental inquiry, which has been conducted against **Constable Said ul Islam No. 3186**, on the allegation he while posted at PS Saddar, Mardan, as per report of SHO City Mardan vide DD NO. 57 dated 25.10.2017, he was an indisciplined Police official. He leaked the valuable secrecy of Police Force and also informed the Proclaimed offenders before the raid of Force Party. Therefore he was recommended to proceed against departmentally. This attitude adversely reflected on his performance which is an indisciplined act and gross misconduct on his part as defined in rule 2(iii) of Police Rules 1975.

In this connection, **Constable Said ul Islam No. 3186**, was charge sheeted vide this office No. 3186/R, dated 14.11.2017, and also proceeded him against departmentally through **Ikhtiraz Khan, DSP/HQrs, Mardan**, who after fulfilling necessary process, submitted his findings to the undersigned vide his office Memo: No. 67/HQrs, dated 24.01.2018. The enquiry officer recommended him for major punishment.

The undersigned agreed with the recommendation of inquiry officer, and heard him in OR held on 27.01.2018, hence the alleged **Constable Said ul Islam No. 3186**, is hereby awarded major punishment of *dismissal from Service*, with immediate effect in exercise of the power vested in me under the above quoted rules.

Order announced

O.B No. 227
Dated 29/01/2018.

Dr. Mian Saeed Ahmed (PSP)
District Police Officer,
Mardan.

No. 1063-68 /R, dated Mardan the 30-1 /2018.

Copy for information and necessary action to the:

1. Deputy Inspector General of Police Mardan, Region-I, Mardan.
2. S.P Operations, Mardan.
3. DSP / Rural, Mardan.
4. Pay officer (DPO) Mardan
5. E.C (DPO) Mardan.
6. OSI (DPO) Mardan.

*****!!!*****

ORDER.

(7)

This order will dispose-off the appeal preferred by Ex-Constable Suld Ul Islam No. 3186 of Mardan District Police against the order of the District Police Officer, Mardan, whereby he was awarded Major punishment of dismissal from service vide District Police Officer, Mardan OB No. 227 dated 29.01.2018.

Brief facts of the case are that the appellant while posted at Police Station Saddar, Mardan, as per report of SHO City Mardan vide daily diary NO. 57 dated 25.10.2017, he was an indiscipline Police official. He leaked the valuable secrecy of Police Force and also informed the Proclaimed offenders before the raid of Force Party. Therefore he was recommended to proceed against departmentally. Consequently, he was charge sheeted and also proceeded against departmentally through Iktiraz Khan, DSP/HQrs, Mardan. The Enquiry Officer after fulfilling necessary process, submitted his findings to District Police Officer, Mardan and recommended him for Major Punishment. The District Police Officer, Mardan agreed with the recommendation of Enquiry Officer and the alleged Constable was heard him in Orderly Room held in the office of District Police Officer, Mardan on 27.01.2018 and awarded him Major Punishment of dismissal from Service.

He was called in orderly room held in this office on 28.02.2018 and heard him in person, but he did not produce any substantial evidence about his innocence. Therefore, I find no grounds to intervene the order passed by the District Police Officer, Mardan. Appeal is rejected.

~~ORDER ANNOUNCED.~~

(Muhammad Alam Shinwari)PSP
Regional Police Officer,
Mardan

No. 1317 /ES, Dated Mardan the 02 - 03 - 2018.

Copy to District Police Officer, Mardan for information and necessary action w/r to his office Memo: No. 189/LB dated 22.02.2018. The Service Record is returned herewith.

(*****)

Attested
e/g



(2)

**OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.**

No. S/ 2614 /18, dated Peshawar the 04/07/2018.

ORDER

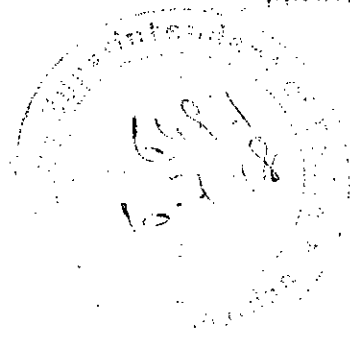
This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by **Ex-FC Said-ul-Islam No. 3186**. The petitioner was dismissed from service by DPO, Mardan vide OB No. 227, dated 29.01.2018 on the charge that he while posted at Police Station Saddar, Mardan, as per report of SHO City Mardan vide daily diary No. 57 dated 27.12.17 he was an indiscipline Police official. He leaked the valuable secrecy of Police Force and allowed proclaimed offenders before the raid of Force Party.

His appeal was rejected by Regional Police Officer, Mardan vide order Indst: No. 13 dated 02.03.2018.

Meeting of Appellate Board was held on 21.06.2018 wherein petitioner was heard in person. During hearing petitioner denied the allegation leveled against him. He contended that he had given his phone to a person in the Police Station who contacted his brother for bringing clothes.

There is long service of 08 years, 04 months and 09 days at the credit of petitioner, therefore in view of his long service the Board decided that the petitioner is hereby re-instated in service and punishment of dismissal from service is converted into reduction in pay by one stage. However intervening period shall be counted towards service as leave without pay.

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



(IRFAN ULLAH KHAN)
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No. S/ 2615-21 /18.

Copy of the above is forwarded to the:

1. Regional Police Officer, Mardan. Service Roll alongwith Fuji Missal of the above Constable received vide your office Memo: No. 2938/ES, dated 03.05.2018 is retained here for your office record.
2. District Police Officer, Mardan.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

OB/EC/PO/OS
for n/a/18

DPO Mardan
SK/18

OB 13/0
07-18



**OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN.**

Tel No. 0937-9230109 & Fax No. 0937-9230111

Email dpo_mardan@yahoo.com

Facebook: District Police Mardan

Twitter: @dpomardan

ORDER.

On Re-instatement in Service by Worthy AIG Establishment Khyber Pakhtunkhwa Peshawar vide order Endst: No. 2615-21 '18. dated 04.07.2018 and hereby Allotted Constabulary No. 3186 to FC Said ul Islam with immediate effect:-

OB No. 1585

Dated. 17-8-2018.

**District Police Officer
Mardan**

No. 534-35 / OSI, dated Mardan the 15/08/2018.

Copy to the:-

1. Pay Officer.
2. E.C.

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

Service Appeal No. 430/2018.

Said-ul-Islam.....Appellant.

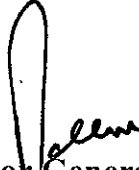
VERSUS.

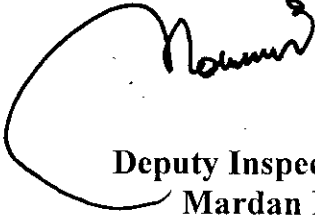
District Police Officer, Mardan


& others.....Respondents.

AUTHORITY LETTER.

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


Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 03)


Deputy Inspector General of Police,
Mardan Region-I, Mardan
(Respondent No. 01)


District Police Officer,
Mardan
(Respondent No. 02)

Before the Service Tribunal RPLR Petitioner

Service Appeal No 430/2018

Said Ul Islam vs RPO and others

Applications for the grant of Permission to file
Amended appeal

Respectfully submitted.

1. That the titled appeal is pending before this honorable Tribunal and is fixed for today.

2. That the appellant has been reinstated vide order dated 4.7.2018, however punishment of dismissal has been converted into reduction in pay by one stage and intervening period has been counted as leave without pay. Copy of order is enclosed.

3. That the appellant now wants to impugn the appellate order for benefits.

4. That there is no bar on filing amended appeal which rather would serve the ends of justice.

It is therefore prayed that the appellant may be allowed to file amended appeal.

Dated
8-10-19

Through
Appellant
Fozel Sheikh
Advocate

Mohamed
Pasha



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA

No. SI/2614 /18, dated Peshawar the 04/07/2018.

ORDER

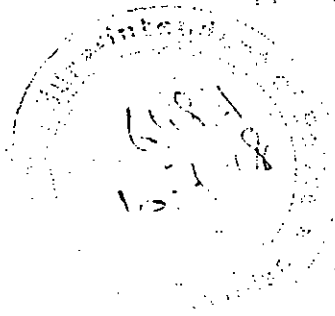
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His appeal was rejected by Regional Police Officer, Mardan vide order Endst: No. 1317/ES dated 02.03.2018.

Meeting of Appellate Board was held on 21.06.2018 wherein petitioner was heard in person. During hearing petitioner denied the allegation leveled against him. He contended that he had given his cell phone to a person in the Police Station who contacted his brother for bringing clothes.

There is long service of 08 years, 04 months and 09 days at the credit of petitioner, therefore in view of his long service the Board decided that the petitioner is hereby re-instated in service and punishment of dismissal from service is converted into reduction in pay by one stage. However, the intervening period shall be counted towards service as leave without pay.

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



(IRFAN ULLAH KHAN)
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No. SI/2615-21 /18.

Copy of the above is forwarded to the:

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4. PA to Addl: IGP/HQs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

Service Appeal No 430/2018

Said Ul Islam vs RPO and others

Application for the grant of permission to file Amended appeal

Respectfully Submitted.

1. That the titled appeal is pending before this Honorable Tribunal and is fixed for today.

2. That the appellant has been reinstated vide order dated 4.7.2018, however punishment of dis-issf has been converted into reduction in pay by one stage and intervening period has been counted as leave without pay. Copy of order is enclosed.

3. That the appellant now want to impugn the appellate order for benefits.

4. That there is no bar on filing amended appeal which rather would serve the ends of justice.

It is therefore prayed that the appellant may be allowed to file amended appeal.

Dated
8.10.19

Thouq
Appellant
Fozel Sheikh
Advocate
Mohamed
Pasha



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA

No. S/ 2614 /18, dated Peshawar the 04/07/2018.

ORDER

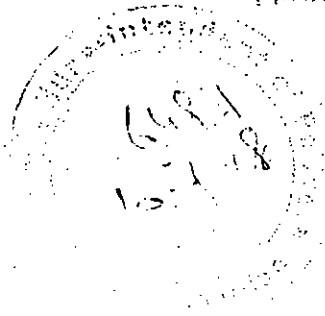
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There is long service of 08 years, 04 months and 09 days at the credit of petitioner; therefore in view of his long service the Board decided that the petitioner is hereby re-instated in service and punishment of dismissal from service is converted into reduction in pay by one stage. However, the intervening period shall be counted towards service as leave without pay.

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



(IRFAN ULLAH KHAN)
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No. S/ 2615-21 /18.

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6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

Before the Service Tribunal CPE Keshwari

Service Appeal No 430/2018

Said Al Islam vs RPO and others

Application for the grant of Permission to file
Amended appeal

Respectfully submitted.

1. That the titled appeal is pending before this Honorable Tribunal and is fixed for today.

2. That the appellant has been reinstated vide order dated 4.7.2018, however punishment of dis-isc has been converted into reduction in pay by one stage and intervening period has been counted as leave without pay. Copy of order is enclosed.

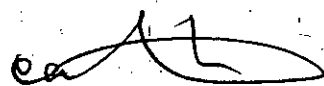
3. That the appellant now want to impugn the appellate order for benefits.

4. That there is no bar on filing amended appeal which rather would serve the ends of justice.

It is therefore prayed that the appellant may be allowed to file amended appeal.

Dated
8.10.19

Through
Appellant
Fozel Shah
Advocate


Fozel Shah
Advocate



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA

PESHAWAR.

No. SI/2614 /18, dated Peshawar the 04/07/2018.

ORDER

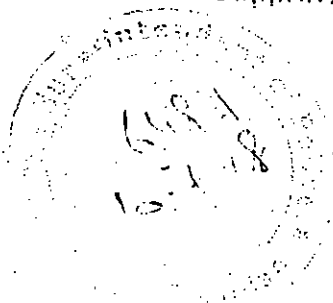
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His appeal was rejected by Regional Police Officer, Mardan vide order Endst: No. 1317/18 dated 02.03.2018.

Meeting of Appellate Board was held on 21.06.2018 wherein petitioner was heard in person. During hearing petitioner denied the allegation leveled against him. He contended that he had given his cell phone to a person in the Police Station who contacted his brother for bringing clothes.

There is long service of 08 years, 04 months and 09 days at the credit of petitioner, therefore in view of his long service the Board decided that the petitioner is hereby re-instated in service and punishment of dismissal from service is converted into reduction in pay by one stage. However, the intervening period shall be counted towards service as leave without pay.

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

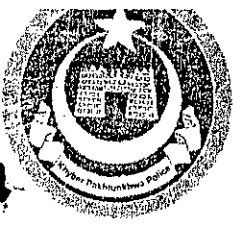


(IRFAN ULLAH KHAN)
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No. SI/2615-21 /18.

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6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: I-IV CPO Peshawar.



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. S/ 2614 /18, dated Peshawar the 04/07/2018.

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by **Ex-FC Said-ul-Islam No. 3186**. The petitioner was dismissed from service by DPO, Mardan vide OB No. 227, dated 29.01.2018 on the charge that he while posted at Police Station Saddar, Mardan, as per report of SHO City Mardan vide daily diary No. 57 dated 25.10.2017, he was an indiscipline Police official. He leaked the valuable secrecy of Police Force and also informed proclaimed offenders before the raid of Force Party.

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

(IRFAN UBLAI KHAN)
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No. S/ 2615-21 /18.

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5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal. Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Amended Service Appeal No _____/2020

Said Ul IslamAppellant

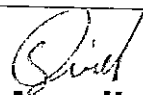
V E R S U S

PPO and others.....Respondents


I N D E X

S.No	Description of Documents	Annexure	Pages
1.	Service appeal		1-3
2.	Copy of Order dated 29-01-2018	A	4
3.	Copy of departmental Appeal and Order dated 02-03-2018	B & C	5-7
4.	Copy of Order dated 04-07-2018	D	8
5.	Copy of Section 4 (K) of Police Order	E	9-10
6.	Wakalat Nama		11

Dated:- 04-08 -2020


Appellant
(Said Ul Islam)

Through


Fazal Shah Mohmand
Advocate,
Supreme Court of Pakistan.

OFFICE:- Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell# 0301 8804841
Email:- fazalshahmohmand@gmail.com

(17)

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Amended Service Appeal No _____/2020

Said Ul Islam Ex Constable No 3186 District Police Mardan
.....Appellant

V E R S U S

1. Provincial Police Officer KPK Peshawar.
2. Regional Police Officer Mardan
3. District Police Officer Mardan

.....Respondents

APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER DATED 04-07-2018 PASSED BY RESPONDENT NO 1 WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT FILED AGAINST THE ORDER ISSUED VIDE OB NO. 227 DATED 29-01-2018 OF RESPONDENT NO 2, HAS BEEN PARTIALLY ACCEPTED AND THE PUNISHMENT OF DISMISSAL FROM SERVICE HAS BEEN COVERTED INTO REDUCTION IN PAY BY ONE STAGE.

PRAYER:-

On acceptance of this appeal the impugned Order dated 04-07-2018 of respondent No 1 may kindly be modified, thereby reinstating the appellant into service with all back benefits.

Respectfully Submitted:-

1. That the appellant joined the respondent Department as Constable in District Mardan on 05-10-2009 and since then he performed his duties with honesty and full devotion and to the entire satisfaction of his high superior officers.
2. That the appellant was lastly posted to Police Station Sadder Mardan was issued charge sheet on the allegations of leaking the valuable secrecy of the force and also informing the proclaimed offender before raid of Force Party, the appellant according replied the same refuting the allegations and explaining the true position.
3. That thereafter, an illegal inquiry was conducted and finally the appellant was dismissed from service by the respondent No. 2 vide Office Order dated 29-01-2018. **(Copy of Order dated 29-01-2018 is enclosed as Annexure A).**

(2)

4. That the appellant preferred departmental appeal before respondent No. 1 On 03-02-2018 which was rejected Vide order dated 02-03-2018. **(Copy of Departmental Appeal and order dated 02-03-2018 is enclosed as Annexure B & C).**
5. That the appellant preferred departmental appeal before respondent No. 1 under rule 11-A of KP police Rules 1975 which was partially accepted and the punishment of dismissal from the service was converted into reduction in pay by one stage vide order dated 04-07-2018. **(Copy of order Dated 04-07-2018 is enclosed as Annexure D).**
6. That the appellant had also filed service Appeal No. **430/2018** and thereafter partial acceptance of departmental appeal, the appellant submitted application for filing amended service appeal which was accepted, hence this amended service appeal.
7. That the impugned Order dated 04-07-2018 of respondent No 1 is against the law, facts and principles of justice on grounds inter alia as follows:-

GROUND S:-

- A. That the impugned Order is illegal and void ab-initio.
- B. That mandatory provision of law and rules has badly been violated by the respondents and the appellant has not been treated according to law and rules.
- C. That no proper inquiry has been conducted in the matter, no one was examined in presence of appellant.
- D. That no show cause notices was communicated to the appellant
- E. That actually the appellant did what law is required to have done as he only informed the relative of accused Shahid who was locked in the lock up of the Police Station which is not misconduct rather the duty of the police as per Section 4 (K) of the Police Order 2002. **(Copy of Section 4 (K) of the Police Order is enclosed as Annexure E).**
- F. That the appellant was put in the quarter guard for 18 days by respondent No. 3 and was also dismissed from service on the same allegations which amount to double jeopardy.


3

- G. That the impugned order is against the principles of natural justice the dictums of the superior courts on the subject.
- H. That the appellant did nothing that would amount misconduct.
- I. That the appellant has more than eleven years of service with unblemished service record.
- J. That the appellant seeks the permission of this honorable tribunal for further/additional grounds at the time of arguments.


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

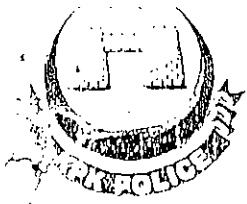
Any other relief not specifically asked for and deemed appropriate in the circumstances of the case, may also be granted in favor of the appellant.

Dated-: 04-08 -2020


**Appellant
(Said Ul Islam)**

Through


**Fazal Shah Mohmand
Advocate,
Supreme Court of Pakistan.**



OFFICE OF THE
DISTRICT POLICE OFFICER
MARDAN

4

1 A

No. _____ /R,
Dated _____ /2018.

Tel: 0937-9230109
Fax: 0937-9230111
Email: dpomardan650@gmail.com
Facebook: District Police Mardan
Twitter: @dpomardan

ORDER

This order will dispose-off the departmental inquiry, which has been conducted against Constable Said ul Islam No. 3186, on the allegation he while posted at PS Saikdar, Mardan, as per report of SHO City Mardan vide DD NO. 57 dated 25.10.2017, he was an indiscipline Police official. He leaked the valuable secrecy of Police Force and also informed the Proclaimed offenders before the raid of Force Party. Therefore he was recommended to proceed against departmentally. This attitude adversely reflected on his performance which is an indiscipline act and gross misconduct on his part as defined in rule 2(iii) of Police Rules 1975.

In this connection, Constable Said ul Islam No. 3186, was charge sheeted vide this office No. 3186/R, dated 14.11.2017, and also proceeded him against departmentally through Ikhtiraz Khan, DSP/HQrs, Mardan, who after fulfilling necessary process, submitted his findings to the undersigned vide his office Memo: No. 67/HQrs, dated 24.01.2018. The enquiry officer recommended him for major punishment.

The undersigned agreed with the recommendation of inquiry officer, and heard him in OR held on 27.01.2018, hence the alleged Constable Said ul Islam No. 3186, is hereby awarded major punishment of *dismissal from Service*, with immediate effect in exercise of the power vested in me under the above quoted rules.

Order announced

O B No. 227

Dated 29/01/2018.

Dr. Mian Saeed Ahmed (PSP)
District Police Officer,
Mardan.

No. 1063-68/R, dated Mardan the 30-1/2018.

Copy for information and necessary action to the:

1. Deputy Inspector General of Police Mardan, Region-I, Mardan.
2. S.P Operations, Mardan.
3. DSP Rural, Mardan.
4. Pay officer (DPO) Mardan
5. E.C (DPO) Mardan.
6. OSI (DPO)-Mardan.

*****!!!*****

BEFORE THE DEPUTY INSPECTOR GENERAL OF POLICE MARDAN REGION -1
MARDAN

B
S

Subject: APPEAL AGAINST THE ORDER OF DISTRICT POLICE OFFICER MARDAN ISSUED VIDE O.B NO. 227 DATED 29-01-2018, WHERE BY THE APPELLANT WAS AWARDED MAJOR PUNISHMENT OF "DISMISSAL FROM SERVICE".

Respected Sir,

The appellant submits as under:-

1. That DPO Mardan had issued charge sheet No. 3186/R dated 14-11-2017 to the appellant with the following allegations:-
"You Constable Said-ul-Islam No. 3186, while posted at Police Station Saddar, Mardan as per report of SHO City Mardan vide DD NO.57 dated 25-10-2017, he was an indisciplined Police Official. He leaked the valuable secrecy of Police Force and also informed the proclaimed offenders before the raid of Force Party. Therefore he was recommended to proceed against departmentally. This attitude adversely reflected on his performance which is an indisciplined act and gross misconduct on his part as defined in rule 2 (iii) of Police Rules, 1975."
2. That the appellant has been enrolled in the prestigious police service on 05-9-2009 and belongs to village kala khail Post Office Shamshad Abad, Tehsil and Distt Mardan. The appellant remained posted at Police Lines Mardan since May, 2017.
3. That the facts behind the incident mentioned in the charge sheet are that on 25-10-2017 the appellant was on patrolling duty at Cobra -1 under the command of SI Itibaar Shah. The same day that about 08:00 am the appellant along with other officials came to PS City Mardan. In the meanwhile one accused namely Shahid r/o Akora Khattak lying in the lock up requested him for providing mobile phone to contact his relatives. On humanitarian grounds, the appellant dialed the required Cell no. 03339008284 which was in the name of his brother Wajid Ali. Wajid Ali is a school teacher at Govt School Gajo Khan Swabi.
4. On 25-10-2017 SI Ashiq Hussain, SHO PS City summoned the appellant to the PS City Mardan. It was about 1600 hrs when the SHO inquired from the appellant regarding the telephonic communication between the accused Shahid and his brother Wajid Ali. The appellant replied in response that he has nothing with them but he has dialed the telephone of Wajid Ali on pure humanitarian grounds. SHO Ashiq Hussain entered a report against the appellant in the daily diary vide DD No.57 dated 25-10-2017. (Copy enclosed)
5. In the light of the report vide DD No.57 dated 25-10-2017 PS City Mardan, the appellant was kept in quarter guard for 19 days, followed by a departmental enquiry. During the course of enquiry the appellant produced a detailed and comprehensive reply before the enquiry officer but was not considered. In the light of enquiry finding the DPO Mardan dismissed the appellant vide OB No.227 dated 29-01-2018 and hence the present appeal. (Copy of OB No.227 dated 29-01-2018 is enclosed).

GROUND OF APPEAL:

- a). The appellant has served in the Police department for 09 years. During this period the appellant was dealt departmentally nor punished. This fact is evident from the shining service record of the appellant.
- b). On 25-10-2017 the appellant made telephonic communication between accused Shahid and his brother Wajid Ali on humanitarian ground. Wajid Ali is not a proclaimed offender and no secrecy has been leaked out by the appellant.

Attested
e/10

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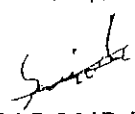
c). The SHO Ashiq Hussain has blamed the appellant that he is untrustworthy, leaking secrecy of Police Force and giving prior information to the accused. All these allegations are superficial and have got no legs to stand upon. With these allegations the overall conduct of the appellant has been damaged. It would not be out of place to mention here that during enquiry no such like evidence to prove the allegations have been brought on enquiry file.

d). The appellant was summoned in Orderly Room held on 27-01-2018 but was not heard by the DPO Mardan. Similarly No "final Show cause notice" was issued to the appellant before the announcement of the dismissal which is against the norms of justice.

e). The appellant is married having 03 kids and old age parents are also dependent upon me. The sole livelihood of the entire family is dependent upon the police service of the appellant.

Keeping in view the above mentioned facts and circumstances, it is humbly prayed in your honour that the Appeal of Appellant may kindly be accepted and the impugned Order passed by DPO Mardan may please be set aside by re-instatement in service from the date of dismissal, please.

Yours Obediently,



(CONSTABLE SAID UL ISLAM)

No. 3186

District Police Mardan

(Now dismissed from service)

Dated: 23 February, 2018.

Attested
[Signature]

ORDER.

73

This order will dispose-off the appeal preferred by Ex-Constable Saïd Ul Islam No. 3186 of Mardan District Police against the order of the District Police Officer, Mardan, whereby he was awarded Major punishment of dismissal from service vide District Police Officer, Mardan OB No. 227 dated 29.01.2018.

Brief facts of the case are that the appellant while posted at Police Station Saddar, Mardan, as per report of SHO City Mardan vide daily diary NO. 57 dated 25.10.2017, he was an indisciplined Police official. He leaked the valuable secrecy of Police Force and also informed the Proclaimed offenders before the raid of Force Party. Therefore he was recommended to proceed against departmentally. Consequently, he was charge sheeted and also proceeded against departmentally through Ikhîraz Khan, DSP/HQrs, Mardan. The Enquiry Officer after fulfilling necessary process, submitted his findings to District Police Officer, Mardan and recommended him for Major Punishment. The District Police Officer, Mardan agreed with the recommendation of Enquiry Officer and the alleged Constable was heard him in Orderly Room held in the office of District Police Officer, Mardan on 27.01.2018 and awarded him Major Punishment of dismissal from Service.

He was called in orderly room held in this office on 28.02.2018 and heard him in person, but he did not produce any substantial evidence about his innocence. Therefore, I find no grounds to intervene the order passed by the District Police Officer, Mardan. Appeal is rejected.

ORDER ANNOUNCED.

(Muhammad Alam Shinwari)PSP
Regional Police Officer,
Mardan

No. 1317 /ES, Dated Mardan the 02 - 03 - 2018.

Copy to District Police Officer, Mardan for information and necessary action w/r to his office Memo: No. 189/LB dated 22.02.2018. The Service Record is returned herewith.

(*****)

Attested
e/g



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA

"D"
 8

No. SI 2614 /18, dated Peshawar the 04/07/2018.

ORDER

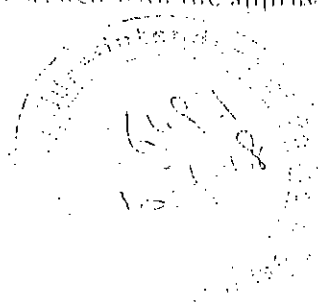
This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-PC Said-ul-Islam No. 3186. The petitioner was dismissed from service by DPO, Mardan vide OR No. 227, dated 29.01.2018 on the charge that he while posted at Police Station Saddar, Mardan, as per report of SHO City Mardan vide daily diary No. 57 dated 25.10.2017, he was an indiscipline Police official. He leaked the valuable secrecy of Police Force and also informed proclaimed offenders before the raid of Force Party.

His appeal was rejected by Regional Police Officer, Mardan vide order Findst. No. 1317/ES dated 02.03.2018.

Meeting of Appellate Board was held on 21.06.2018 wherein petitioner was heard in person. During hearing petitioner denied the allegation leveled against him. He contended that he had given his cell phone to a person in the Police Station who contacted his brother for bringing clothes.

There is long service of 08 years, 04 months and 09 days at the credit of petitioner, therefore in view of his long service the Board decided that the petitioner is hereby re-instated in service and punishment of dismissal from service is converted into reduction in pay by one stage. However, the intervening period shall be counted towards service as leave without pay.

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



(IRFAN UDDIN KHAN)
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar

No. SI 2615-21/18.

Copy of the above is forwarded to the:

1. Regional Police Officer, Mardan, Service Roll alongwith Fuji Missal of the above named Constable, received vide your office Memo: No. 2938/ES, dated 03.05.2018 is returned herewith for your office record.
2. District Police Officer, Mardan
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl. IG/PHQs, Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/PHQs, Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt. I-IV CPO Peshawar.

lawful orders and instructions issued by an officer or an authority to whom he is responsible under this order and non-compliance of such orders, directions and instructions which he is bound to observe or obey for action shall be liable under paragraph (c) of clause (1) of Article 155;]

(xxiii) "rules" means rules made under this Order;

(xxiv) "schedule" means a schedule to this Order;

(xxv) "senior ranks" means members of the police above the rank of Inspector as set out in First Schedule;

(xxvi) "street" includes any highway, bridge, way, causeway, arch, road, lane, footway, square, alley or passage, whether or not it is a thoroughfare and to which the public have access, whether permanently or temporarily; [xxx]

²[(xxvi-a) "superintendence" means supervision of Police by the appropriate Government through policy, oversight and guidance and, in case of a Province, it shall be exercised by the Chief Minister through the Chief Secretary and the Provincial Home Department, while ensuring total autonomy of the Provincial Police Officer in operational, administrative and financial matters and, in case of Federal Capital, such supervision shall be exercised by the Ministry of Interior, Government of Pakistan; and]

(xxvii) "vehicle" includes any conveyance of any description mechanically propelled or otherwise.

(2) All references in respect of District Superintendent of Police in any law in force shall mean Head of District Police posted under Article 11 and Article 15.

The word "and" omitted by the Police Order (Amdt.) Ordinance, (XLIV of 2009), dated 26.11.2009.

Inst. by the Police Order (Amdt.) Ordinance (XLIV of 2009), dated 26.11.2009.

Chapter-II

RESPONSIBILITIES AND DUTIES OF THE POLICE

3. Attitude and responsibilities of Police towards the public.--- It shall be the duty of every police officer to---

- (a) behave with the members of the public with due decorum and Courtesy;
- (b) promote amity;
- (c) guide and assist members of the public particularly the poor, disabled or physically weak and children who are either lost or find themselves helpless on the streets or other public places; and
- (d) aid individuals who are in danger of physical harm particularly women and children.

4. Duties of Police:--- (1) Subject to law, it shall be the duty of every police officer to--

- (a) protect life, property and liberty of citizens;
- (b) preserve and promote public peace;
- (c) ensure that the rights and privileges, under the law, of a person taken in custody, are protected;
- (d) prevent the commission of offences and public nuisance;
- (e) collect and communicate intelligence affecting public peace and crime in general;
- (f) keep order and prevent obstruction on public roads and in the public streets and thoroughfares at fairs and all other

Attended
[Signature]

places of public resort and in the neighbourhood of and at the places of public worship;

K (g)

regulate and control traffic on public roads and streets;

α (h)

take charge of an unclaimed property and to prepare its inventory;

α (i)

detect and bring offenders to justice;

α (j)

apprehend all persons whom he is legally authorised to apprehend and for whose apprehension, sufficient grounds exist;

α (k)

ensure that the information about the arrest of a person is promptly communicated to a person of his choice;

Search (l)

enter and inspect without a warrant on reliable information any public place, shop or gaming-house where alcoholic drinks or narcotics are sold weapons and illegally stored and other public places of resort of loose and disorderly characters;

L (m)

obey and promptly execute all lawful orders;

(n)

perform other duties and exercise powers as are conferred by this Order, the Code or any other law for the time being in force;

(o)

aid and co-operate with other agencies for the prevention of destruction of public property by violence, fire, or natural calamities;

L (p)

assist in preventing members of public from exploitation by any person or organized groups;

(q)

take charge of lunatics at large to prevent them from causing harm to themselves or other members of the public and their property; and



F α (r)

prevent harassment of women and children in public places.

(2)

Police officer shall make every effort to--

10

F α (a)

afford relief to people in distress situations, particularly in respect of women and children;

(b)

provide assistance to victims of road accidents;

(c)

assist accident victims or their heirs or their dependants, where applicable, with such information and documents as would facilitate their compensation claims; and

α (d)

cause awareness among the victims of road accidents of their rights and privileges.

α (3)

It shall be the duty of a police officer to lay information before a competent Court and to apply for a summons, warrant, search warrant or such other legal process as may, by law, be issued against any person suspected of committing an offence.

COMMENTS

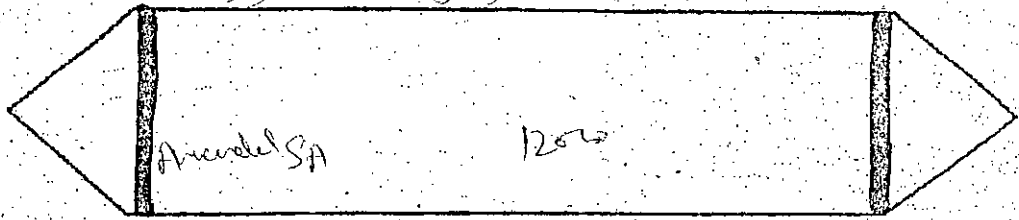
Duties of Investigating Officer--Nature, extent and scope-- Investigating Officer of a criminal case is not to render any opinion regarding guilt or innocence of an accused person and under the relevant statutory provisions contained in the Code of Criminal Procedure, 1898, the Police Order, 2002 and the Police Rules, 1934, he is only to collect all the relevant evidence and to submit his report and the collected evidence and material before the concerned Magistrate, so that he or the Trial Court can then form their own independent opinion regarding sufficiency or otherwise of the evidence and material in order to decide whether to take cognizance of the offence and of the case or not, to summon any person to face a trial or not and to frame a charge against a person or not--Opinion of police officer regarding guilt or innocence of an accused person is inadmissible in evidence being irrelevant. PLD 2009 Lah. 585(e)

Search 103 qfr

Privacy of private place--Fundamental right--According to S. 4(1) of Chapter II of Police Order, 2002, Police is authorized to enter and inspect without warrant on reliable information in any public place mentioned in

Abdullah
2/10

بجالات سروس ٹریڈنگ کمپنی کا سٹور



2 مخائب
 سید السلام
 بنام ۲۲۰۰

موزخہ
 مقدمہ
 دعویٰ
 جرم

باعث تحریر آٹک

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب وہی دکل کاروائی متعلقہ
 آن مقام کیلئے لیکچر ۱۲۰۰ + ASC + راجہ منظور + فی ادرس
 مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
 وکیل صاحب کو رضی نامہ کرنے و تقرر ثالثہ فیصلہ برخلاف دیئے جواب وہی اور اقبال دعویٰ اور
 بسورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
 زرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برادگی اور مشورتی
 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 بچائے تقرر کا اختیار
 ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیار حاصل ہوں گے اور اس کا ساختہ
 پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جاتہ 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 وکالت نامہ لکھد یا کہ سندر ہے۔

المرقوم
 ماہ ۲۰۲۰
 واہ العبد

مقام کے لئے منظور ہے۔
 Accepted
 Accepted
 ed ASC

C

BEFORE THE HONOURABLE SERVICE TRIBUNEL,
KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 430/2018

Said ul Islam
VERSUS
Regional Police Officers & Others

Replay to the application for the grant of permission to file amended appeal.

Respectfully Sheweth,

1. Correct to the extent that appeal of the applicant against the order dated 29.01.2018 whereby he was awarded Major penalty of dismissal from service is pending adjudication before this honorable court.
2. Correct to the extent that the applicant has been reinstated into service by the Inspector General of Police, Khyber Pakhtunkhwa vide order No. S/2614/2018, dated 04.07.2018 and the penalty of dismissal from service is converted into reduction in pay by one stage whereas the intervening period was counted toward service as leave without pay.
3. That the applicant is required to file fresh appeal if he is aggrieved from the afore-referred order passed by the Inspector General of Police, Khyber Pakhtunkhwa.
4. Explained earlier needs no comments.

Keeping in view the above submissions it is therefore, requested that the instant application may kindly be dismissed / rejected.


District Police Officer,
Mardan