

ORDER
13.02.2023

Nemo for the appellant. Mr. Atta-ur-Rehman, Inspector (Legal) alongwith Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Vide previous order sheet dated 24.11.2022, last opportunity was given to the appellant for arguments but today nobody put appearance on behalf of the appellant despite repeated calls at different intervals till rising of the court, therefore, the appeal in hand stands dismissed in default. Parties are left to bear their own costs.

File be consigned to the record room.

ANNOUNCED

13.02.2023



(Fareeha Paul)
Member (E)



(Salah-Ud-Din)
Member (J)

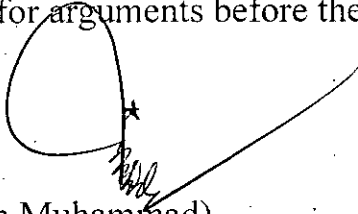
SCANNED
KPST
Peshawar

27.10.2022

Counsel was informed via telephone for the date fixed.
SCANNED
KPST
Peshawar

Nemo for the appellant. Mr. Atta-ur-Rehman, Inspector alongwith Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Notice for prosecution of the appeal be issued to the appellant as well as his counsel through registered post and to come up for arguments before the D.B on 24.11.2022.



(Mian Muhammad)
Member (E)

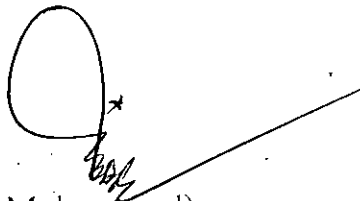


(Salah-ud-Din)
Member (J)

24.11.2022

Junior of learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy in august Supreme Court of Pakistan. Adjourned. Last opportunity given. To come up for arguments on 13.02.2022 before the D.B.



(Mian Muhammad)
Member (E)



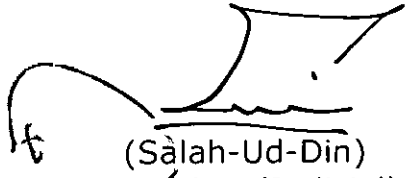
(Salah-Ud-Din)
Member (J)

SCANNED
KPST
Peshawar

25.08.2022

Nemo for the appellant. Mr. Atta-ur-Rehman, Inspector
(Legal), alongwith Mr. Muhammad Adeel Butt, Additional
Advocate General for the respondents present.

Learned Member (Judicial) Ms. Rozina Rehman is on leave,
therefore, arguments could not be heard. Adjourned. To come
up for arguments on 27.10.2022 before the D.B.


(Salah-Ud-Din)
Member (Judicial)

FD

30.07.2021

Nemo for appellant.

Muhammad Rasheed learned Deputy District Attorney alongwith Khyal Roz Inspector for respondents present.

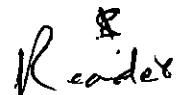
Notice be issued to appellant/counsel for 16.12.2021 for arguments before D.B.


(Rozina Rehman)
Member (J)


Chairman

16.12.21


DB is on Tour case to come up
For the same on "Dated. 31-3-22"


Reader

31.03.2022

Nemo for the appellant. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.


Previous date was changed on Reader Note, therefore, appellant as well as his counsel be summoned through registered post and to come up for arguments before the D.B on 07.06.2022.


(Rozina Rehman)
Member (J)


(Salah-ud-Din)
Member (J)

7.6.22

As per D.B is on Tour, therefore the case is adjourned to 25-8-22 for same.



02.11.2020

Junior to counsel for the appellant and Usman Ghani, District Attorney alongwith Zaheer Muhammad, PSI for the respondents present.

The Bar is observing general strike, therefore, the matter is adjourned to 13.01.2021 for hearing before the D.B.



(Mian Muhammad)
Member



Chairman

13.01.2021

Counsel for the appellant and Mr. Kabirullah Khattak learned Addl. AG for respondents present.

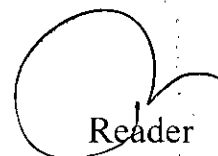
Due to COVID-19, the case is adjourned for the same on 21.04.2021 before D.B.



READER

21.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 30.07.2021 for the same as before.



Reader

26.12.2019

Appellant in person present. Mr. Muhammad Jan, DDA for respondents present. Appellant seeks adjournment. Adjourn. To come up for arguments on 24.02.2020 before D.B.


Member


Member

24.2.2020

The bench is incomplete. Therefore the case is adjourned to 06.04.2020 before D.B.

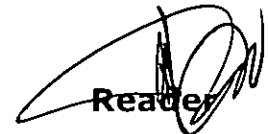
6.4.2020

Due to COVID 19 the case is adjourned to 01.7.2020 for same as before.



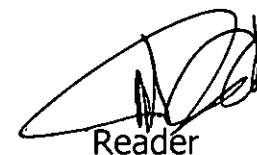
01.07.2020

Due to COVID-19, the case is adjourned to 26.08.2020 for the same.


Reader

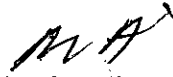
26.08.2020

Due to summer vacation case to come up for the same on 02.11.2020 before D.B.


Reader


26.07.2019 Learned counsel for the appellant present. Mr. Zia Ullah Learned Deputy District Attorney alongwith Mr. Atta Ur Rehman Inspector (Legal) for the respondents present. Representative of the respondent is directed to furnish complete inquiry record on the next date positively. Adjourned. To come up for record and arguments on 22.10.2019 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

22.10.2019 Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney alongwith Mr. Atta Ur Rehman Inspector (legal) for the respondent present. Representative of the respondent department has not submitted the inquiry record mentioned in the previous order sheet. He is strictly directed to furnish the same on the next date of hearing. Adjourned. To come up for record and arguments on 26.12.2019 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

28.12.2018

Nemo for appellant. Mr. Muhammad Jan, DDA
alongwith Attaur Rahman, S.I (Legal) for the respondents.

On the last date, the matter was adjourned through
Reader note. Let fresh notices be issued to appellant/counsel
for 28.02.2019 for arguments before the D.B.


Member


Chairman

28.02.2019

Appellant in person And Addl. AG alongwith
Attaur Rahman, Inspector (Legal) for the respondents
present.

Due to general strike on the call of Bar
Association instant matter is adjourned to 17.05.2019
before the D.B.


Member


Chairman

17.05.2019

Appellant in person and Addl. AG alongwith Attaur
Rahman, Inspector (Legal) for the respondents present.

Due to demise of his father, learned Member of the
Bench (Mr. Hussain Shah) is on leave. Adjourned to
26.07.2019 for arguments before the D.B.


Chairman

19.07.2018

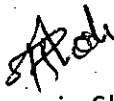
Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney alongwith Mr. Atta Ur Rehman S.I legal for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 11.09.2018 before D.B


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

11.09.2018

Clerk to counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Clerk to counsel for the appellant seeks adjournment on the ground that learned counsel for the appellant is not available. Adjourned. To come up for arguments on 05.11.2018 before D.B


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member


05.11.2018


Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 28.12.2018.


READER

15.01.2018


Appellant absent. Mr. Kabir Ullah Khattak, Addl: AG for the respondents present. Lawyer community on strike on the call of Khyber Pakhtunkhwa Bar Council. Adjourned. To come up for arguments on 13.03.2018 before D.B.


(Gul Zeb Khan)
Member


(M. Hamid Mughal)
Member

13.03.2018

Learned counsel for the appellant and Mr. Usman Ghani, learned District Attorney alongwith Muhammad Shafiq Inspector for the respondents present. Complete record of inquiry not submitted so the arguments could be heard. Record also not found annexed with the reply. Representative of the respondents is directed to furnish the same till next date i.e 03.05.2018. Adjourn. To come up for arguments/record before D.B on the date fixed


(M.Amin Khan Kundi)
Member


(Muhammad Hamid Mughal)
Member

03.05.2018

Due to retirement of the worthy Chairman, the Tribunal is incomplete, therefore the case is adjourned. To come up for same on 19.07.2018 before D.B

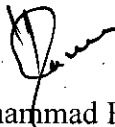

Reader

02-04 16.08.2017

Learned counsel for the appellant present. Through the present appeal the appellant has made impugned the order whereby he was awarded departmental punishment.


Grounds raised in the memo of appeal against the impugned order need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondent for written reply/comments for 21.09.2017 before S.B.

Appellant Deposited
Security & Process Fee


(Muhammad Hamid Mughal)
Member

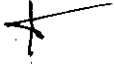
21.09.2017

Clerk to counsel for the appellant and Addl. AG for respondents present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 30.10.2017 before S.B.


(Ahmad Hassan)
Member

30.10.2017

None for the appellant present. Addl. AG alongwith Mr. Khalid Khan, Constable for respondents present. Written reply submitted. To come up for rejoinder and final arguments on 15.01.2018 before D.B.


Ahmad Hassan
(Member)

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 733/2017

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	12/07/2017	<p>The appeal of Mr. Saifullah resubmitted today by Mr. Rehman Ullah Advocate, may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR 12/7/17</p>
2-	13-7-17	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>20-7-17</u>.</p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>
3.	20/7/2017	<p>Clerk to Counsel for the appellant Present. Requested for adjournment. Request accepted. To come up for preliminary hearing on 16/08/2017. Before SB</p> <p style="text-align: right;"><i>[Signature]</i> (Muhammad Hamid Mugh) MEMBER</p>

The appeal of Mr. Saifullah Khan son of Sherullah Khan r/o Near Sugar Mills Post office Shareef Abad tehsil and distt. Peshawar received today on 23.06.2017 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexure-B of the appeal is illegible which may be replaced by legible/better one.
- 2- Copies of statement of allegation, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.

No. 1613 /S.T,

Dt. 29/6 /2017

29/6/17
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Rehmanullah Ad. Pesh.

Note: After the completion the


file has been resubmitted on: 11-07-2017

*- ~~objection~~ objection no. 2 removed, while objection no. 2
is not been removed because the objected
documents will be produced at the time of arguments
if necessary or will be submitted as additional documents
because respondents are providing the same to the appellate.
The appeal is resubmitted.*

Advocate.

11/12/12

objection no. 2 removed, while objection no. 1
has not been removed because the object
document will be produced as the matter of argument
if necessary or will be admitted as additional documents
because respondents are bound to the evidence.
The appeal is resisted.


Advocate.

IN THE SERVICE TRIBUNAL ,K.P PESHAWAR

Service Appeal No. 733/2017

Saifullah khan S/o Sherullah Khan R/o Near Sugar Mills, Post office Shareef Abad Tehsil & District Mardan

.....Appellant

VERSUS

Deputy Inspector General Mardan Region 1, Mardan & Others

.....Respondents

INDEX

S.NO	Description Of Documents	Annex	Pages
1	Grounds of Service Appeal		1-4
<u>2</u>	Affidavit		5
<u>3</u>	Copy of Charge Sheet	A	6
<u>4</u>	Copy of order dated 02-05-2017	B	7
<u>5</u>	Copy of Departmental Appeal	C	8
<u>6</u>	Copy of order dated 29-05-2017	D	9
<u>7</u>	Wakalatnama		10


Appellant

Through


RAHMAN ULLAH

ADVOCATE

SUPREME COURT OF PAKISTAN

1

IN THE SERVICE TRIBUNAL ,K.P PESHAWAR

Service Appeal No. 733 /2017

Khyber Pakhtukhwa
Service Tribunal

Diary No. 731

Dated 23/6/2017

Saifullah khan S/o Sherullah Khan R/o Near Sugar Mills, Post
office Shareef Abad Tehsil & District Mardan

.....**Appellant**

VERSUS

1. Deputy Inspector General Mardan Region 1, Mardan
2. District police officer Mardan
3. Superintendent of police Operation and Headquarters Mardan

.....**Respondents**

SERVICE APPEAL U/S 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974
AGAINST ORDER VIDE O.B NO 1038 DATED 02-
05-2017 of DISTRICT POLICE OFFICER
MARDAN AND ORDER VIDE NO 4713.ES DATED
29-05-2017 OF REGIONAL POLICE OFFICER
MARDAN WHO PARTIALLY ALLOWED THE
APPEAL AND THE APPELLANT WAS RESTORED
TO ORIGINAL RANK OF SI AND HIS
FORFEITURE OF FIVE YEARS APPROVED
SERVICES IS REDUCED TO THREE YEAR.

Prayer in Appeal:

ON ACCEPATNCE OF THIS APPEAL THE ORDER
 VIDE O.B NO 1038 DATED 02-05-2017 PASSED
 BY RESPONDENT NO 2 MAY GRICIOUSLY BE
 SET A SIDE AND ORDER DATED 29-05-2017
 No.4713/ES MAY KINDLY BE MODIFIED TO

THE EXTENT OF REMAINING PUNISHMENT

Registrar 23/6/17

Respectfully Sheweth:

1. That the appellant was appointed as Assistant Sub Inspector
in Police Department on 23-07-2010.

2. That the appellant was performing his services with the entire satisfaction of their high-ups and due to the hard work, commitment and dedication of the petitioner, the appellant was promoted to the rank of sub inspector in the year 2016
3. That the appellant well performed his duty on different Police stations but the appellant was blamed for the allegation of incompetency cum irresponsibility, carelessness, incapability and close association with criminal as well as drug peddlers.
~~(COPY OF charge sheet)~~ **is Attached as annexure A)**
4. That departmental inquiry was initiated against the appellant; appellant produced a comprehensive reply before the inquiry officer and forwarded his detailed record of his performance.
(All such documents are placed on departmental inquiry file)
5. That after conducting the inquiry, inquiry Officer submitted his finding before the respondent no 2 vide his office endorsement No.753/PA, (OPS) Dated 10-03-2017, recommending him as under:

“That action by the alleged official against criminal and drug peddlers during his posting as SHO is satisfactory and the rest of the allegations against him could not be proved. Kindly in view of the above the subject inquiry may kindly be filed”
6. That on said baseless allegation the respondent no 1 passed an impugned Order O.B No 1038 Dated 2-5-2017 by awarding major punishments, reverting to the Rank of ASI and Forfeiture of his five years qualified service. **(Copy of impugned order is attached as annexure B)**

7. That the appellant filed departmental appeal before the respondent no 1 which was partially allowed on 29-05-2017 No.4713/ES And appellant is restored to his original Rank of Sub Inspector and his Forfeiture of five years approved service is reduced to three years. **(Copy of Departmental Appeal order is attached as annexure C & D)**

That being Aggrieved by the order OB No.1038 Dated 02-05-2017 passed by the respondent no 2 then Partially Allowed order Dated 29-05-2017 No.4713/ES by respondent No1 in Departmental Appeal filed by the Appellant, Approached this Honourable Tribunal on the following Grounds.

GROUND:

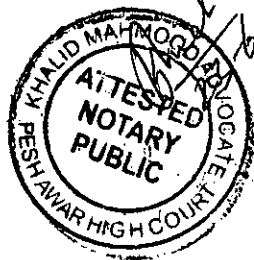
- A. That the impugned order OB No.1038 Dated 02-05-2017 passed by the respondent no 2 then Partially Allowed order Dated 29-05-2017 No.4713/ES by respondent No1 is illegal, unlawful and against natural justice.
- B. That the impugned order is totally unfair, biased and not according to circumstances of the case in hand.
- C. That during course of departmental inquiry neither any evidence was brought against the appellant nor did any person was examined to sustain the allegation.
- D. That the allegation against appellant is baseless and without any proof but awarding major punishment which is against the basic principles of service rules.
- E. That enquiry officer has not examined even a single witness against the appellant to support the baseless allegation and

the alleged inquiry so far conducted against the appellant is against the norm of justice.

- F. That the appellant was not properly adopted the way of inquiry and no final show cause was issued to the appellant which is unjust and against the law.
- G. That the harsh punishment awarded by respondent is not according to the Law and it is no where mentioned in either police or other service rules.
- H. That the appellant has not been treated in accordance with law as provided and guaranteed under the constitution of 1973.
- I. That any other ground may be forwarded at the time of arguments with the kind permission of this Hon, ble court.

It is therefore humbly prayed that on acceptance of this appeal, the Order O.B NO 1038 DATED 02-05-2017 passed by the respondent no 2 may graciously be set aside and order Date 29-05-2017 No. 4713/ES may kindly be modified to the extent of remaining punishment

AND Any other remedy which the court deems fit & proper may also be granted in favour of the petitioner against the respondents with cost.



S.M.F.
Appellant

Through

RAHMAN ULLAH

ADVOCATE

5

IN THE SERVICE TRIBUNAL ,K.P.K PESHAWAR

Service Appeal No. _____/2017

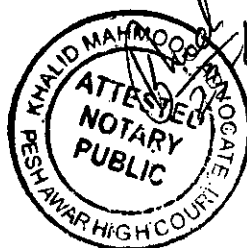
Saifullah khan S/o Sherullah Khan R/o Near Sugar Mills, Post office Shareef
Abad Tehsil & District Mardan.....**Appellant**

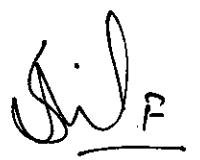
VERSUS

District police officer Mardan and others.....**Respondents**

Affidavit

I, Saifullah khan S/o Sherullah Khan R/o Near Sugar Mills, Post office Shareef
Abad Tehsil & District Mardan, do hereby solemnly declare on oath that contents
of this appeal are true and correct to the best of my knowledge and belief and
nothing has been concealed from this Honourable Court.




DEPONENT

OFFICE OF THE
DISTRICT POLICE OFFICER
MARDAN

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

CHARGE SHEET


I, Dr. Mian Saeed Ahmad (PSP), District Police Officer, Mardan, as competent authority, hereby charge SI Saifullah Khan as per attached Statement of Allegations:

1. By reasons of above, you appear to be guilty of **misconduct** under Police Rules, 1975 and have rendered yourself liable to all **the** penalties specified in Police Rules, 1975.

2. You are, therefore, required to submit your written defense within **07 days** of the receipt of this Charge Sheet to the Enquiry Officer, as the case may be.

3. Your written defense, if any, should reach 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, ex-parte action shall follow against you.

4. Intimate whether you desired to be heard in person.


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

ATTESTED





OFFICE OF THE
DISTRICT POLICE OFFICER
MARDAN

Tel: 0937-9230109
Fax: 0937-9230111
Email: dpo_mardan@yahoo.com
Facebook: District Police Mardan
Twitter: @dpo_mardan

No. 4406-11 /PA

Dated 15 / 15 /2017

ORDER ON ENQUIRY OF SI SAIFULLAH

This order will dispose-off a departmental enquiry under Police Rules 1975 initiated against the subject Police Officer, under the allegations that while posted as SHO Police Station Lund Khwar, now in-charge Kot Police Station Shahbaz Garh, was placed under suspension and closed to Police Lines on account of his incompetency, irresponsibility, carelessness, incapability and close association with criminals as well as drug peddlers vide this office OB No.422 dated 10.02.2017, issued vide order/endorsement No.1968-72/EC dated 16.02.2017, who was later-on, re-instated in service provisionally vide OB No.724 dated 16.03.2017, issued vide order/endorsement No.3023-26/EC dated 16.03.2017.

In the light of above allegations, the delinquent officer was proceeded against departmentally through SP Operations Mardan, vide this office Disciplinary Action No. 1723-69/PA dated 20.02.2017, who after fulfilling necessary process, submitted his Finding Report to this office vide his office letter No. 753/PA(Ops) dated 10.03.2017, holding responsible the alleged officer for the allegations leveled against him with recommending him for major punishment, including one step reversion to the rank of ASI & forfeiture his five years qualified service.

Final Order

SI Saifullah Khan was heard in person in O.R held in this office on 1.5.2017, but he failed to produce any plausible/cogent reasons in his defense, therefore he is hereby awarded major punishments by reverting to the rank of ASI, forfeiture of his five years approved service & is reinstated in service from the date of suspension with counting his suspension period back with immediate effect, in exercise of the power vested in me under Police Rules 1975.

O.B No. 1234

Dated 15 / 15 /2017.

District Police Officer,
Mardan.

Copy forwarded for information to:-

1. The Deputy Inspector General of Police Mardan Region-I, Mardan, please.
2. The SP Operations Mardan.
3. The SDPO Takht-Bhai with reference to his office letter No.371/ST dated 15.02.2017
4. The Pay Officer (Police Office) for n/action.
5. The E.C (Police Office) Mardan for n/action.
6. The OSI (Police Office) Mardan with () Sheets for n/action.

ATTESTED

**OFFICE OF THE
DISTRICT POLICE OFFICER
MARDAN**

Tel: 0937-9230109
Fax: 099230111
Email: dpo_mardan@yahoo.com
Facebook: District Police Mardan
Twitter: @dpomardan

No.4406-11/PA

Dated 2.5.2017

ORDER ON ENQUIRY OF SI SAIFULLAH

This order will dispose-off a departmental enquiry under police Rules (not readable) initiated against the subject Police Officer, under the allegations that while posted as SHO police Station Lund Khwar, now in-charge Kot Police Station Shahbaz Garh, was placed under suspension and closed to Police Lines on account of his incompetency, irresponsibility, carelessness, incapability and close association with criminals as well as drug peddlers vide this office OB No.422 dated 10.02.2017, issued vide order/ endorsement No.1968-72/EO dated 16.02.2017, who was later-on, re-instated in service provisionally vide OB No.723 dated 16.03.2017, issued vide order/ endorsement No.3023-26/EC dated 16.03.2017.

In the light of above allegations, the delinquent officer was proceeded again departmentally through SP Operations Mardan, vide this office Disciplinary Action No.176396-PA dated 20.02.2017, who after fulfilling necessary process, submitted his Finding Report to this office letter No.753/PA (Ops) dated 10.03.2017, holding responsible to alleged officer for the allegations leveled against him with recommending him for major punishment, including one step reversion to the rank of ASI & forfeiture his five years qualified service.

Final Order

SI Saifullah Khan was heard in person in O.R held in this office on 1.5.2017, but he failed to produce any plausible/cogent reasons in his defense, therefore, he is hereby awarded major punishments by reverting to the rank of ASI, forfeiture of his five years approved (nor readable) & is reinstated in service from the date of suspension with counting his suspension period (not readable) with immediate effect, in exercise of the power vested in me under Police Rules 1975.

O.B No.1638

Dated 2.5.2017

1 (8) 4 C1
21

BEFORE THE DEPUTY INSPECTOR GENERAL OF POLICE MARDAN REGION -1

MARDAN

Subject: APPEAL AGAINST THE ORDER O.B NO. 1038 DATED 02-05-2017 OF DISTRICT POLICE OFFICER MARDAN, WHERE BY THE APPELLANT WAS AWARDED THE PUNISHMENT "REVERSION TO THE RANK OF ASI, FORFEITURE OF 05 YEARS APPROVED SERVICE".

R/Sir,

It is submitted that:

Facts:

The DPO Mardan had issued charge sheet No.1768-69/P.A Dated 20-02-2017 against the Appellant with the following allegations:-

" That whereas, SI Saifullah khan, while posted as SHO PS Lund Khwar, now under suspension police lines, as per report of SDPO Takht Bhai vide his office letter No.371/ ST Dated 15-02-2017, complaining therein that the (SI Saifullah Khan) is an incompetent, irresponsible, carelessness, incapable officer beside in close associations with criminals and drug peddlers. (Copy of charge sheet attached).

1. That in the light of above charge sheet, a departmental inquiry was initiated against the appellant. SP operation Mardan was appointed as inquiry officer. In response to the charge sheet, the appellant produced a comprehensive reply before the inquiry officer. The appellant rebutted all the allegations leveled against him and put forward his detailed record of his performance while posted as SHO PS Lund khwar before the E.O too. All such documents are already placed on departmentally inquiry file. After conducting the inquiry, SP operation Mardan submitted his finding before the DPO Mardan vide his office endorsement No. 753/PA, (OPS) Dated 10-03-2017, recommending him as under:

"Thataction by the alleged official against criminal and drug peddlers during his posting as SHO is satisfactory and the rest of the allegations against him could not be proved. Kindly in view of the above the subject inquiry may kindly be filed "(inquiryfinding No.753/PA (Ops) dated 10-03-2007 is attached).

2. That after perusal of the above mentioned inquiry finding, on 20-03-2017, the same was returned to SP operation (E.O)Mardanfor verbal discussion. The SP operation changed the above Inquiry finding and drafted a second inquiry finding carrying the same endorsement No. as that of first inquiry finding. Astonishing to see that the first Inquiry findings was dropped and the appellant was recommended for major punishment, including one step reversion to the rink of ASI and forfeiture of his 05 years qualified service. In the light of the second enquiry finding the appellant was awarded the proposed punishment vide OB No 1038 dated 02.05.2017 and hence the present appeal.(copy of OB No 1038 dated 02.05.2017 is enclosed)

GROUNDS:

1. That the appellant father namely Sherullah khan was sub inspector in police department. In year 2009, SI Sherullah Khan remained posted as SHO PS Rustam. On 04-06-2009, he was martyred in a terrorist / target killing on RustamBunair road. Being the real son of Shaheed Sherullah khan, the appellant was enlisted as PASI in police department on 23-07-2010. The appellant remained posted at various police station and was promoted to the rank of sub inspector in the year 2016.

ATTESTED



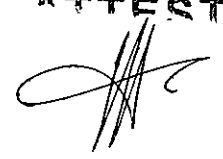
- 2
C 2
2
2. That the appellant was blamed for the allegations of incompetency cum irresponsibility, carelessness, incapability and close association with criminals as well as drug peddlers. On 17-01-2017, the appellant was posted as SHO PS Lundkhwar and remained there till 15-02-2017. During this one month, the appellant performed his duty with zeal and efficiency. And for the said period the performance was above standard.
 3. That beside the recovery of huge quantity of arm and ammunition, the appellant also recovered 2937 Grams Charas, two letter wine followed by the arrest of 09 P.Os wanted in heinous offences. Moreover the appellant was also rewarded by commendation certificates with cash at different occasion during the service. All such performance indicates the competency, responsibility and capability of the appellant in one month only.
 4. That it would not be out of place to mention here, that during course of departmental inquiry neither any evidence was brought against the appellant nor did any person was examined to sustain the allegations.
 5. That the allegation of association with criminals and drug peddlers is baseless. These allegations are totally false and superficial. Neither the competent authority has remarked such like remarks in the ACRs of the Appellant nor has the Appellant been asked regarding such type of allegation, during his whole service. All such allegations could not be proved by the E.O as per his first inquiry finding.
 6. The punishment of five years of forfeiture of qualified service is not according to the law and it is nowhere mentioned in either police or other service rules.
 7. That the appellant was not given "final show cause notice". While according inquiry punishment of reduction it is mandatorily under the law.
 8. That by blaming the appellant with such allegations and the harsh punishment awarded to the appellant will destroy the bright future / service career of appellant.
 9. That the appellant is married with 04 kids' .the father of the appellant is already martyred in terrorism and the entire shaheed family is dependent upon the police service of the appellant.

Keeping in view the facts and circumstances mentioned above, the appeal of appellant may kindly be accepted and order of DPO Mardan issued vide O.B No.1038 dated 02-05-2017 be set aside please. In greater interest of justice.

Yours obediently,


ASI SAIF ULLAH

In charge kot Police station Shahbaz Ghari

ATTESTED


(9) 7

D

ORDER.

This order will dispose-off the appeal preferred by ASI Saif Ullah Khan of Mardan District Police against the order of District Police Officer, Mardan, whereby he was awarded Punishments by Reverting him to the rank of ASI and Forfeiture of Five Years approve service vide OB No. 1038 dated 02.05.2017.

Brief facts of the case are that, he while posted as SHO PS Lund Khwar Mardan, was suspended and closed to Police Lines on account of his incompetency, irresponsibility, carelessness, incapability and close association with criminals as well as drug peddlers. In the light of above allegations, the delinquent officer was proceeded against departmentally through SP Operations Mardan, who after fulfilling necessary process, submitted his findings to the District Police Officer, Mardan holding him responsible for the allegations leveled against him and recommended him for Major punishment, including one step reversion to the rank of ASI & forfeiture his five years qualified service. The delinquent officer was heard in person in orderly Room by the District Police Officer, Mardan, but he failed to produce any plausible/cogent reasons in his defence, therefore he was awarded punishments of reversion to the rank of ASI and forfeiture of approved service for five years by the District Police Officer, Mardan.

He was called in orderly room held in this office on 24.05.2017 and heard him in person. Since both the punishments of reversion to Lower rank & Forfeiture of approved service for five years is too harsh, therefore keeping in view his future careers, the appellatant is restored to his original rank of SI and his Forfeiture of five years approved service is reduced to three years.

ORDER ANNOUNCED

(Muhammad Alam Shinwari) PSP
Regional Police Officer,
Mardan

No. 4713 /ES, Dated Mardan the 29-05- /2017.

Copy to District Police Officer, Mardan for information and necessary action w/r to his office Memo: No. 331/LB dated 12.05.2017. The Service Roll is returned herewith.

ATTESTED





15

81342

ایڈووکیٹ/دستخط:

بار کونسل اہلکار ایسوسی ایشن نمبر: BC-15-5981

رابطہ نمبر: 0305-9797454

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: سیکرٹری جنرل، خیر خواہ پشاور

منجانب: Appellant	دعویٰ: کسوی اہل
سینٹ اللہ خان	علت نمبر: 733/2017
بنام	مورخہ:
ڈی ای سی مری	جرم:
	تھانہ:

باعت تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ
 آن مقام لکھنؤ در میکلے رحمان اسٹیٹ صاحب کو وکیل مقرر
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقرر حالت و فیصلہ برطاعت دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل نگرانی و نظریاتی پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہو گا اور صاحب
 مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ
 میں جو خرچہ ہر جانہ اتوائے مقدمہ کے سبب سے ہوگا وہ وکیل موصوف وصول کرنے کا حقدار ہوگا کوئی تاریخ پیشی مقام
 دورہ یا مد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم:

کے لئے منظور ہے۔

(Saifullah Khan)

Handwritten signature

Handwritten signature

نوٹ اس وکالت نامہ کی نوکالی ناقابل قبول ہوگی۔

Handwritten signatures and notes at the bottom left.

(C)

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

Service Appeal No. 733/2017

Saifullah Khan.....Appellant.

VERSUS

District Police Officer, District Mardan & others .. Respondents.

Parawise comments by respondents are submitted as below:-

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 and locus standi.
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.

REPLY ON FACTS

1. Pertains to record, hence, no comments.
2. Pertains to record, however, he while being SHO PS Lund Khwar, Mardan, was found incompetent, irresponsible, careless, incapable and keeping close associations with the criminals as well as drug-peddlers.
3. Correct to the extent of his performance duty at various Police Stations but during his posting as SHO PS Lund Khwar he was noticed incompetent & irresponsible, hence, departmental inquiry was initiated against him, wherein, he was found guilty to the extent of allegations cited in Para-2 above.
4. Correct but his reply in this regard was not found satisfactory.
5. The respondent No. 02 competent authority did not agree with the recommendations of the inquiry officer and punished him in accordance with rules/law.
6. Incorrect. The impugned order vide OB No. 1038 dated 02.05.2017 was passed by the respondent No. 02 and the penalty awarded was based on sound & legal grounds. **(Copy of order is attached as Annexure-A)**
7. Correct, hence, no comments.


REPLY ON GROUNDS:


- A. Incorrect as both the orders are legal, lawful & in accordance with the principles of natural justice.
- B. Incorrect as the two orders are fair, unbiased & according to the circumstances of the case in hand.
- C. Incorrect. Proper inquiry was conducted as per rules/law.
- D. Incorrect. The allegations carried vide order OB No. 1038 are factual, hence, proceeded as deserved against appellant.
- E. Incorrect. Proper inquiry as per rules/law was conducted.
- F. Incorrect, and baseless, hence, denied. Reply has been given above.
- G. Incorrect as the appellant is a member of disciplined force, so, the allegations carried against appellant are not pardonable rather require to be dealt more harsh and as per rules/law.
- H. Incorrect. The appellant was dealt according to law & there is no violation of any article of the Constitution, 1973.

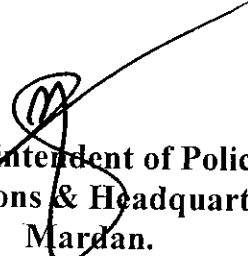
I. The respondents also seek permission of this Honourable Tribunal to further/additional, if any, grounds etc. at the time of arguments.

PRAYER:-

It is, therefore, requested that appellant's appeal, being devoid of merits & legal ground may be dismissed.


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


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


**Superintendent of Police,
Operations & Headquarters,
Mardan.
(Respondent No. 03)**

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

Service Appeal No. 733/2017

Saifullah Khan.....Appellant.

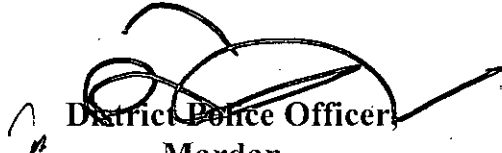
VERSUS

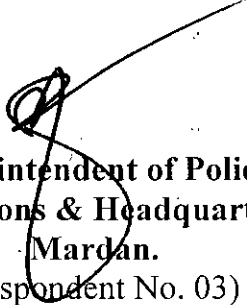
District Police Officer, District Mardan & othersRespondents.

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.


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


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


**Superintendent of Police,
Operations & Headquarters,
Mardan.
(Respondent No. 03)**

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

Service Appeal No. 733/2017


Saifullah Khan.....Appellant.

VERSUS

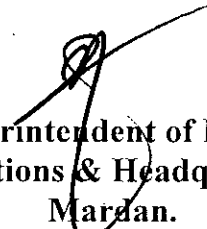
District Police Officer, District Mardan & others .. Respondents.

AUTHORITY LETTER.

Mr. Atta-ur-Rahman Khan Sub-Inspector Legal, (Police) Mardan is hereby authorized to appear before the Honourable High Court, Peshawar in the above captioned writ petition on behalf of the respondents. He is also authorized to submit all required documents and replies etc as representative of the respondents through the Advocate General, Khyber Pakhtunkhwa, Peshawar.


Deputy Inspector General of Police,
Mardan Region-1, Mardan
(Respondent No. 01)


District Police Officer
Mardan
(Respondent No. 02)


Superintendent of Police,
Operations & Headquarters,
Mardan.
(Respondent No. 03)



B
=

7
2

**OFFICE OF THE
DISTRICT POLICE OFFICER
MARDAN**

Tel: 0937-9230109
Fax: 0937-9230111
Email: dpo_mardan@yahoo.com
Facebook: District Police Mardan
Twitter: @dpo_mardan

No. 4406-11 IPA

Dated 21.5 2017

ORDER ON ENQUIRY OF SI SAIFULLAH

This order will dispose-off a departmental enquiry under Police Rules 1975 initiated against the subject Police Officer, under the allegations that while posted as SHO Police Station Lund Khwar, now In-charge Kot Police Station Shahbaz Garh, was placed under suspension and closed to Police Lines on account of his incompetency, irresponsibility, carelessness, incapability and close association with criminals as well as drug peddlers vide this office OB No.422 dated 10.02.2017, issued vide order/endorsement No.1968-72/EC dated 16.02.2017, who was later-on, re-instated in service provisionally vide OB No.729 dated 16.03.2017, issued vide order/endorsement No.3023-26/EC dated 16.03.2017.

In the light of above allegations, the delinquent officer was proceeded against departmentally through SP Operations Mardan, vide this office Disciplinary Action No. 1755-69/PA dated 20.02.2017, who after fulfilling necessary process, submitted his Finding Report to this office vide his office letter No. 753/PA(Ops) dated 10.03.2017, holding responsible the alleged officer for the allegations leveled against him with recommending him for major punishment, including one step reversion to the rank of ASI & forfeiture his five years qualified service.

Final Order

SI Saifullah Khan was heard in person in O.R held in this office on 1.5.2017, but he failed to produce any plausible/cogent reasons in his defense, therefore he is hereby imposed major punishments by reverting to the rank of ASI, forfeiture of his five years approved service & is reinstated in service from the date of suspension with counting his suspension period with immediate effect, in exercise of the power vested in me under Police Rules 1975.

O.B No. 1235

Dated 21.5 2017.

*District Police Officer,
Mardan.*

Copy forwarded for information to:-

1. The Deputy Inspector General of Police Mardan Region-I, Mardan, please.
2. The SP Operations Mardan.
3. The SDPO Takht-Bhai with reference to his office letter No.371/St dated 15.02.2017
4. The Pay Officer (Police Office) for n/action.
5. The E.C (Police Office) Mardan for n/action.
6. The OSI (Police Office) Mardan with () Sheets for n/action.

TESTED

[Signature]

①
Government of Khyber Pakhtunkhwa
Office of the Regional Police Officer,
Mardan
Phone No. 0937-9230115 Fax No. 0937-9230115

To: The Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.

No. _____/ES.

08, September, 2017.

Subject: APPEAL (SI SAIF ULLAH).

Memo:

Kindly refer to your office Memo: No. S/4096/17 dated 17.07.2017 on the subject noted above.

It is submitted that the appellant while posted as SHO Police Station Lund Khawar, Mardan was suspended and closed to Police Lines on account of his incompetency, irresponsibility, carelessness, incapability and close association with criminals as well as drug peddlers. In the light of above allegations, the delinquent Officer was proceeded against departmentally through SP Operation, Mardan, who after fulfilling necessary process, submitted his findings to the District Police Officer, Mardan holding him responsible for the allegations leveled against him and recommended him for Major punishment, including one step reversion to the rank of ASI & Forfeiture of his five years qualified service. The delinquent Officer was heard in person in orderly room by the District Police Officer, Mardan, but he failed to produce any plausible/cogent reasons in his defence, therefore he was awarded punishment of reversion to the rank of ASI and Forfeiture of approved service for five years by the District Police Officer, Mardan.

He submitted an appeal to the Regional Police Officer, Mardan for restoration of original rank of SI & Forfeiture of five years approved service, which was examined and his punishment of reversion to Lower rank & Forfeiture of approved service for five years was too harsh, therefore the appellant was restored to his original rank of SI and his Forfeiture of five years approved service is reduced to three years vide this office order endorsement No. 4713/ES dated 29.05.2017.

It is worth mentioning here that the appellant has not instituted service appeal before the Honourable Service Tribunal Khyber Pakhtunkhwa, Peshawar.

His service roll alongwith Fuji Missal is submitted for further necessary action please.

EC/insp. Legal
For retention
[Signature]
DPO Mardan

Regional Police Officer,
Mardan.

No. 6865 /ES.

Copy to District Police Officer, Mardan for information w/r to his office
Memo: No. 464/LB dated 01.08.2017.

782/LB
11/9/17

8285
11.9.17

[Signature]
Regional Police Officer,
Mardan

Reads, Legal
Place an appellant's
Service appeal
file

[Signature]
DPIC
11/9