

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 7951/2020

Date of Institution ... 15.07.2020
Date of Decision ... 03.12.2021

Tariq Mehmood, Head Constable No.322/P District Police
Swabi, now posted in Swabi.

... (Appellant)

VERSUS

Regional Police Officer, Mardan and one another.

... (Respondents)

Wasil Khan,
Advocate

... For appellant.

Muhammad Adeel Butt,
Additional Advocate General

... For respondents.

Rozina Rehman

... Member (J)

Atiq ur Rehman Wazir

... Member (E)

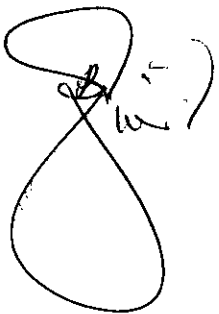
JUDGMENT

Rozina Rehman, Member(J): Brief facts of the case are that appellant has been serving in the Police Department since 20.12.1990. He was promoted to the post of A.S.I and during the month of February, 2020, he was posted in P.S Yar Hussain District Swabi. On the eventful night i.e. 12.02.2020 he alongwith Bakht Muhammad and Fazal Ullah were on Mobile Gasht in Government vehicle. In the meanwhile, he received information from S.H.O of Police Station Yar Hussain with direction to proceed towards Police Station as S.H.O had some information about terrorists. He, therefore, rushed in Government vehicle while S.H.O alongwith other constables were in private motorcar. They reached there and held Barricade/Nakabandi. In the meanwhile a white color motorcar coming

from Yar Hussain side at 1:30 a.m. was signaled to stop but the driver accelerated the speed and hit Constable Pir Gohar Ali who later on succumbed to his injuries, while F.I.R No.67 was registered against the culprits. An inquiry was initiated against the Police party who took part in the Nakabandi at midnight, where-after appellant was awarded major punishment of reduction in rank from A.S.I to Hawaldar for period of two years. Being aggrieved, he filed departmental appeal which was dismissed. Hence, the present service appeal.

2. We have heard Wasil Khan Advocate learned counsel for appellant and Muhammad Adeel Butt, learned Additional Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

3. Wasil Khan Advocate, learned counsel for appellant submitted that impugned orders dated 23.04.2020 and 24.06.2020 are illegal, against law and rules as the appellant has not committed any misconduct or negligence towards the performance of his official duty and being subordinate to S.H.O of Police Station Yar Hussain, appellant was bound to obey his orders to accompany him for the said Nakabandi. He argued that there is nothing on file which could show that the appellant failed to perform his official duty professionally and that he displayed any cowardice in his performance of duty. He submitted that the S.H.O (S.I Asif Ullah) was also proceeded against departmentally and was dismissed from service by the D.P.O vide order dated 09.03.2020 but his revision petition under Rule 11-A of Khyber Pakhtunkhwa Police Rules, 1975 was accepted and his major punishment of dismissal was converted into minor punishment of withholding increment for two years with cumulative effect vide order



dated 06.08.2020. Learned counsel, therefore, requested for reinstatement of appellant in service with all back benefits.

4. Conversely, learned A.A.G submitted that appellant held Nakabandi in highly non-professional manner which led to the martyrdom of Constable Pir Gohar Ali. It was further argued that proper departmental inquiry was initiated and during inquiry, appellant was found guilty for the misconduct and he was awarded major punishment of reduction in rank for a period of two years.

5. From the record it is evident that S.H.O. of Police Station Yar Hussain District Swabi held Nakabandi at midnight which led to the martyrdom of Constable Pir Gohar Ali No.317 vide case F.I.R No.67 dated 12.02.2020 U/S 302/353/427/7-ATA Police Station, Yar Husain. S.H.O Asif Ullah was dismissed from service by District Police Officer, Swabi vide O.B No.305 dated 09.03.2020. The present appellant Tariq Mehmood A.S.I was also charged and proceeded against departmentally on the same allegations and was awarded major punishment of reduction in rank from Assistant Sub Inspector to the rank of Head Constable for a period of two years vide order of District Police Officer, Swabi dated 23.04.2020. S.H.O Asif Ullah filed departmental appeal which was rejected by R.P.O however, his revision petition under Rule 11-A of Khyber Pakhtunkhwa Police Rules, 1975 was accepted and his major punishment of dismissal was converted into minor punishment of withholding increment for two years with cumulative effect. The punishment awarded by D.P.O was held to be a bit harsh and the act of holding Nakabandi was declared not willful on the part of S.H.O. It was also held that informing seniors about each and every Nakabandi is not mandatory. The present appellant being an A.S.I at the relevant time was subordinate to S.H.O



and he was supposed to obey the orders of his senior. For holding Nakabandi at the relevant time was the order of S.H.O and the said act was not declared illegal or non-professional in the case of S.H.O, therefore, the present appellant being subordinate to the .S.HO at the relevant time could not be held responsible for the act of his senior.

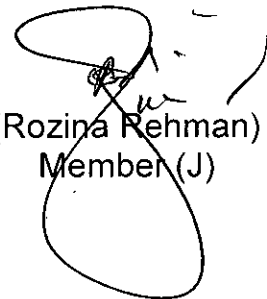
6. In this view of the matter, this appeal is allowed as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

03.12.2021



(Atiq ur Rehman Wazir)
Member (E)



(Rozina Rehman)
Member (J)


Order
03.12.2021

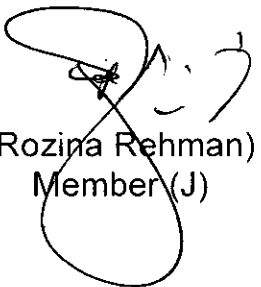
Appellant present through counsel.

Muhammad Adeel Butt, learned Additional Advocate General alongwith Fazal Subhan H.C for respondents present. Arguments heard and record perused.

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

Announced.
03.12.2021


(Atiq ur Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

01.11.2021

Appellant present through counsel.

Kabir Ullah Khattak learned Additional Advocate General alongwith Fazl Subhan H.C for respondents present.

The learned Member (Judicial) is on leave, therefore, case is adjourned. To come up for arguments on 03.12.2021 before D.B.


Chairman

28.12.2020

Appellant is present in person. Mr. Asif Masood Ali Shah, Deputy District Attorney and Mr. Fazal Subhan, Head Constable, for the respondents are also present.

Representative of the department submitted written reply, which is placed on record. File to come up for rejoinder and arguments on 01.04.2021 before D.B.



(MUHAMMAD JAMAL KHAN)
MEMBER


01.04.2021

Appellant present alongwith counsel.

Kabirullah Khattak, Additional Advocate General for respondents present.

A request was made for adjournment. Adjourned. To come up for rejoinder and arguments on 13-7-2021 before D.B.


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

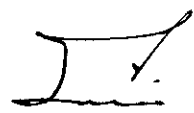

(ROZINA REHMAN)
MEMBER (JUDICIAL)

13.07.2021

Clerk of counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Clerk of counsel for the appellant stated that learned counsel for the appellant is unable to attend the Tribunal today due to strike of Lawyers. Adjourned To come up for arguments before the D.B. on 01.11.2021


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


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

11.09.2020

Counsel for the appellant present.

Contends that in the purported regular enquiry the appellant was not allowed to cross examine the witnesses appearing against him. Further, previous service record and red entries were also taken into consideration while passing the impugned order dated 23.04.2020. The act of respondents was neither called for nor justifiable under the law.

Subject to all justice exceptions, instant 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 09.11.2020 before S.B.

Appellant Deposited
Security & Process Fee

11/9/20

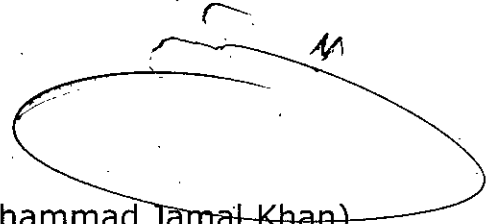


Chairman

09.11.2020

Appellant is present in person. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Fazal Subhan, Head Constable, for the respondents are also present.

Written reply on behalf of respondents not submitted. Representative of the department requests for time to furnish written reply/comments on the next date of hearing. Adjourned to 28.12.2020 on which date file to come up for written reply/comments before S.B.



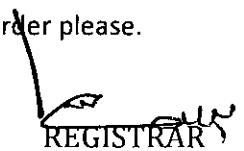

(Muhammad Jamal Khan)
Member (Judicial)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 7951 /2020


1S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	15/07/2020	<p>The appeal of Mr. Tariq Mahmood resubmitted today by Mr. Shakeel Ahmad Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>11/09/2020</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

The appeal of Mr. Tariq Mahmood Head Constble No. 322/P District Police Swabi received today i.e. on 06.07.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- ✓ 1- Copy of FIR mentioned in para-2 of the memo of appeal (Annexure-A) is not attached with the appeal which may be placed on it.
- ✓ 2- Copy of reply to charge sheet mentioned in the memo of appeal is not attached with the appeal which may be placed on it.
- 3- Annexures of the appeal are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.

No. 1374 /S.T,


Dt. 06-07 /2020.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Shakeel Ahmad Khan Adv.
Charsadda.

*File complete
to be submitted
with
6/21/20*

- Resubmitted after doing the
needful & removing the deficiency mentioned


15/07/2020.

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

Service Appeal No. 7951 /2020

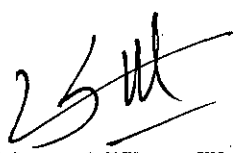
Tariq MahmoodAppellant
Versus

Regional Police Officer, Mardan and others..... Respondents

I N D E X

S.No.	Description of documents.	Annex:	Pages.
1)	Memo of appeal with affidavit.	---	1 - 7
2)	Addresses of the parties.	---	8
3)	Attested copy of FIR with better copy	A	9 - 10
4)	Attested copies of charge sheet with statement of allegations.	B - C	11 - 12
5)	Attested copies of statements	D	13 - 16
6)	Attested copy of the report is enclosed as Annexure "E"	E	17 - 18
7)	Attested copies of final show cause notice and reply	F - G	19 - 20
8)	Attested copy of order No. OB 397 dated 23.04.2020	H	21
9)	Attested copy of the grounds of appeal	I	22 - 26
10)	Attested copy of order dated 24.06.2020	J	27 - 28
11)	Wakalatnama	---	29

Appellant
Through


Shakeel Ahmad Khan Hashtnagri
Advocate High Court
District Courts Charsadda.

Dated: 03.07.2020

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BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

Service Appeal No. 7951 /2020.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 6040

Dated 06/07/2020

Tariq Mahmood, Head Constable No.322/P
District Police Swabi now posted in Swabi.....Appellant
Versus

- 1) Regional Police Officer, Mardan
- 2) The District Police Officer, Swabi..... Respondents

APPEAL U/S 4 OF THE SERVICES
TRIBUNAL ACT, 1974 AGAINST
ORDER NO.3882-83/ES DATED
24.06.2020 WHEREBY THE
DEPARTMENTAL APPEAL OF
APPELLANT WAS REJECTED BY
RESPONDENT NO.1 AND ORDER
BEARING O.B. NO.397 DATED
23.04.2020 ISSUED BY RESPONDENT
NO.2 THROUGH WHICH APPELLANT
WAS AWARDED MAJOR
PUNISHMENT OF REDUCTION IN
RANK FROM A.S.I. TO HEAD
CONSTABLE FOR A PERIOD OF TWO
YEARS WAS CONFIRMED.

Filed to-day

Registrar

6/7/2020

Re-submitted to-day
and filed.

Registrar

15/7/2020

Prayer in appeal

On acceptance of this service appeal, both the orders referred to above passed by respondents being illegal, not in consonance with the service

rules and against law and appellant may kindly be ordered to be reinstated on the post of Assistant Sub Inspector from the date of his reduction in rank and with all other back benefits.

Respectfully Sheweth;

Facts of case in brief are:

- 1) That appellant is serving in police department since 20.12.1990 and during this period he remained posted in various police stations. He was promoted to the post of A.S.I. and during the month of February, 2020 he remained posted in P.S. Yar Hussain, Swabi as ASI.

- 2) That on the eventful night i.e. 12.02.2020 the appellant along with Bakht Muhammad FC No.651, Fazalullah FC No.1033 were on Mobile Gasht in Govt. vehicle of the illaqa. The vehicle was driven by driver Abdul Amin No.48. In the meanwhile the appellant received information from SHO P.S. Yar Hussain ordering him to reach the police station as the SHO Asif Ihsanullah Khan had some information about some terrorists to pass through Dhobian, Garhi Kapoora road Mardan from the side of Yar Hussain. The appellant along with his above named police officials were in Govt. vehicle while the SHO along with Gohar Ali FC No.317 and Uneed FC No.254 were in private motor car. They reached the above place and made Nakabandi and took position there on the road. In the meanwhile at 01:30 am a white colour motorcar came from Yar Hussain side, which was signaled by SHO to stop but its driver accelerated its speed and tried to over run the police contingents in order to avoid their arrest. The police personnel laid down on the ground but Gohar Ali FC was injured due to hitting of motorcar. The terrorist while escaping from the place of Nakabandi started firing at

police party and in self defence police party also fired at them. due to the act of accused the rifle of injured Gohar Ali FC was also damaged. Gohar Ali FC was shifted to the local hospital but he succumbed to his injuries in the hospital. During the investigation the names of accused came to be (1) Azmat Shah s/o Rehmat Shah R/o Jamrud Peshawar (driver of the car) Afzal Dad s/o Fareed Dad R/o Haji Abad, Shergarh Mardan and Muhammad Nabi s/o Gul Agha R/o Afghanistan presently Wali Abad near Airport, Peshawar regarding the incident lodged report vide FIR No.67 dated 12.02.2020 u/s 302/353/427/7 ATA of P.S. Yar Hussain. (Attested copy of FIR is Annexure "A").

- 3) That thereafter respondent No.2 ordered inquiry against the above said police party who took part in the nakabandi at midnight. For the conduct of enquiry Ihsan Shah DSP Swabi was made inquiry officer who after completion of inquiry proceedings recommended major punishment for the appellant. Before initiating inquiry proceedings appellant was charge sheeted and statement of allegation was also given to him, to which he replied. (Attested copies of documents i.e. charge sheet with statement of allegations are annexed as Annexure "B and C").
- 4) That during inquiry, statements of concerned officers/ officials were recorded. (Attested copies of statements are annexed as Annexure "D").
- 5) That the inquiry office submitted his report to respondent No.2 wherein he without any legal and proper reason/ justification recommended punishment for appellant. (Attested copy of the report is enclosed as Annexure "E").
- 6) That on receipt of report of inquiry officer, respondent No.2 served final show cause notice on the appellant who submitted his reply to

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the same. (Attested copies of final show cause notice and reply are enclosed as Annexure "F and G").

- 7) That thereafter respondent No.2 passed order bearing No.O.B No.397 dated 23.04.2020 whereby he awarded major punishment of reduction in rank to appellant and in this way his rank from ASI was reduced to Hawaldar for period of two years. (Attested copy of order No.OB 397 dated 23.04.2020 is annexed as Annexure "H").
- 8) That the appellant feeling aggrieved from the said order No. OB 397 dated 23.04.2020 filed departmental appeal before respondent No.1 through proper channel. (Attested copy of the grounds of appeal is annexed as Annexure "I").
- 9) That respondent No.1 for no good grounds dismissed the departmental appeal of the appellant vide order No.3882-83/ES dated 24.06.2020. (Attested copy of above mentioned order is annexed as Annexure "J").
- 10) That feeling aggrieved from the orders dated 24.06.2020 and 23.04.2020, the appellant prefers the instant service appeal inter alia on the following grounds amongst others.

GROUND:

- A) That both the impugned orders dated 23.04.2020 and 24.06.2020 passed by respondents are illegal, void ab-initio, against law and rules on the subject and liable to be set aside.
- B) That both the respondents fell in error to pass the impugned orders mentioned above, because the appellant has not committed any misconduct, negligence or inefficiency towards the performance of his official duty and being subordinate to SHO of P.S. Yar Hussain he was bound to obey his orders to accompany him for the said Nakabandi, hence the impugned order mentioned above being illegal are liable to be set aside.

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- C) That there is nothing on enquiry file in the statements of the witnesses that the appellant has not performed his official duty professionally but has displayed any cowardice in its performance further on the basis of the same he can be awarded such a nature that on the basis of the same he can be awarded such punishment because the respondents have not uttered a word in their orders that the appellant was ever served with notices of any misconduct committed by him, as such the orders passed by respondents and impugned before his Hon'ble Tribunal are totally illegal, void ab-initio and without jurisdiction, hence liable to be set aside.
- D) That since the appellant has committed no negligence in the performance of his professional duty in the incident occurred during Nakabandi resulting in the martyrdom of Pir Gohar Ali constable who was gunman of the SHO, then how and why the appellant can be held responsible for his martyrdom, as such the orders passed by respondents are not speaking and legal orders and only based on malafide towards the appellant, hence are liable to be set aside.
- E) That the police rules are clear on the point that subordinates should obey the orders of their superiors and that is why being subordinate to SHO. The appellant has obeyed the orders of SHO to accompany him to the place of Nakabandi, but this aspect of the case has not been given due consideration in the impugned orders, as such both the order of respondents are liable to be set aside.
- F) That there is also no reference in the impugned orders that the appellant had ever involved in any malpractice but instead he has performed his official duty honestly and to the best of his ability, hence on this ground too the impugned orders are liable to be set aside.
- G) That there are other grounds too which shall be agitated during arguments but with the kind permission of this Hon'ble Tribunal.

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It is, therefore, humbly prayed that on acceptance of this Service Appeal, both the orders passed by respondents may very graciously be set aside and order for reinstatement on his original post i.e. Assistant Sub Inspector w.e.f. the date of his reduction in rank may kindly be passed, with all back benefits.



Appellant

Through



Shakeel Ahmad Khan Hashtnagri
Advocate High Court
District Courts Charsadda.

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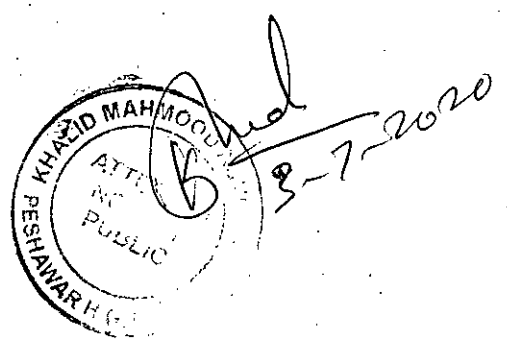
BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL.
PESHAWAR.

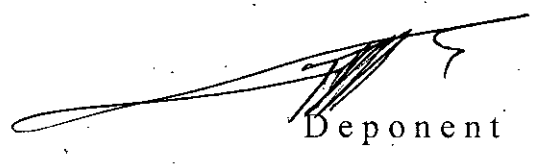
Service Appeal No. _____/2020

Tariq MahmoodAppellant
Versus
Regional Police Officer, Mardan and others..... Respondents.

AFFIDAVIT

I, Tariq Mahmood, Head Constable No.322/P District Police Swabi now posted in Swabi do hereby affirm and declare on oath that the contents of the **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.




Deponent

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

Service Appeal No. _____/2020

Tariq MahmoodAppellant
Versus

Regional Police Officer, Mardan and others..... Respondents

ADDRESSES OF THE PARTIES

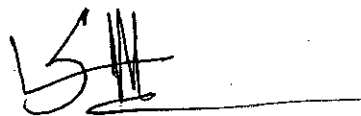
APPELLANT:

Tariq Mahmood, Head Constable No.322/P
District Police Swabi now posted in Swabi

RESPONDENTS:

- 1) Regional Police Officer, Mardan
- 2) The District Police Officer, Swabi

Appellant
Through



Shakeel Ahmad Khan Hashtnagri
Advocate High Court
District Courts Charsadda.

Affected
KSA

(a)

"A"

ایڈیشنل پولیس سپرنٹنڈنٹ

ابتدائی اطلاع رپورٹ

تاریخ

ابتدائی اطلاع سب سے قابل دست اندازی پولیس، پورٹ میرٹھ، ہریانہ کی طرف سے دی گئی

تاریخ: یارحین 20 67
 وقت: 12:02:15 بجے
 مقام: 30 30

1	تاریخ، وقت، پورٹ	12-20:02:15 بجے
2	ہیرو اساتذہ اطلاع دینے والی شخصیت	آصف احمد اصوان الہدی SHO
3	مقام کی پتہ (جو لوگوں کو اطلاع دیا گیا ہے)	PP 324-353 NC TATA-427
4	جائے وقوعہ کا تفصیلی پتہ اور صورت دو بیان گروہ کی موجودگی اور دیگر ہائیڈرو پورٹ	
5	ہیرو اساتذہ کا نام	
6	گواہی پر تفتیش سے حقائق کی ابتدائی اطلاع درج کرنے میں وقت ہوا اور توجیہ بیان کرنا	گروہ کی موجودگی اور دیگر ہائیڈرو پورٹ
7	تفتیش کی تاریخ اور وقت	بطور پیشکش ہر اس وقت

ابتدائی اطلاع نیچے درج کرو۔ ماسٹر محمد ہولکر نے اپنے آصف احمد اصوان الہدی سے تعلق منسلک کہنے پر اطلاع دی کہ ان کی جگہ پورٹ میں واقع ہے۔ پورٹ میں واقع ہے اور وہاں گروہ کی موجودگی اور دیگر ہائیڈرو پورٹ کی اطلاع دی گئی ہے۔ پورٹ میں واقع ہے اور وہاں گروہ کی موجودگی اور دیگر ہائیڈرو پورٹ کی اطلاع دی گئی ہے۔ پورٹ میں واقع ہے اور وہاں گروہ کی موجودگی اور دیگر ہائیڈرو پورٹ کی اطلاع دی گئی ہے۔ پورٹ میں واقع ہے اور وہاں گروہ کی موجودگی اور دیگر ہائیڈرو پورٹ کی اطلاع دی گئی ہے۔ پورٹ میں واقع ہے اور وہاں گروہ کی موجودگی اور دیگر ہائیڈرو پورٹ کی اطلاع دی گئی ہے۔

(ابو رضا علی آسی)
 Asi - P5-4H
 12-02-20

تعمیرات و تعمیرات

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ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ ۱۵۴ مجموعہ ضابطہ فوجداری

ضلع صوابی

تھانہ یار حسین

تاریخ وقت وقوعہ 12.2.20 وقت 01.30 بجے

نمبر 67

۱۔	تاریخ و وقت 12.2.20 وقت 02.15 بجے	چاکیدگی پرچہ 12.02.20 وقت 02.45 بجے
۲۔	نام سکونت اطلاع دہندہ مستغیث	آصف احسان اللہ SHO
۳۔	مختصر کیفیت جرم (معد دفعہ) حال اگر کچھ لیا گیا ہو۔	PPC 324-353/7ATA-427
۴۔	جائے وقوعہ فاصلہ تھانہ سے اور سمت	دوبیان گڑھی کپورہ روڈ نزد دو بیان گریڈ سٹیشن جانب غرب جنوب بفاصلہ 5/6 کلومیٹر از تھانہ
۵۔	نام سکونت ملزم	
۶۔	کاروائی جو تفتیش کے متعلق کی گئی اگر اطلاع کرنے میں توقف ہو تو وجہ بیان کرہ	برسیدگی مراسلہ مقدمہ ہذا درج رجسٹر کیا گیا
۷۔	تھانہ سے رواگلی کی تاریخ و وقت	بطور سپیشل رپورٹ

ابتدائی اطلاع نیچے درج کرو۔

مراسلہ موصولہ منجانب آصف احسان اللہ SHO بدست فضل اللہ 1031 موصول ذیل ہے۔ محرر تھانہ یار حسین مخبر خاص نے اطلاع دی کہ چند کسان دہشت گرد علاقہ تھانہ یار حسین کے حدود میں کس واردات کی نیت سے داخل ہو چکے ہیں جو کہ سفید موٹر کار میں ہیں جن کی آمد بہ راستہ دو بیان متوقع ہے۔ اس اطلاع پر میں معہ گوہر علی 317 جنید 254 بسواری گاڑی موٹر کار پر ایویٹ طارق محمود ASI بخت محمد 651 فضل اللہ 1033 بسواری موبائل سرکاری نمبری A9824 تھیل ڈرائیور عبدالامین 48 شدت پسندوں کی گرفتاری کے لئے دوبیان گڑھی کپورہ روڈ نزد دو بیان گریڈ سٹیشن ناکہ بندی کئے ہوئے تھا کہ بوقت 01.30 بجے یار حسین کی جانب سے ایک موٹر کار نہایت تیز رفتاری سے آتا ہوا ہم نے روکنے کا اشارہ کر کے ڈرائیور موٹر کار نے روکنے کے بجائے اپنی جائز گرفتاری سے بچنے اور مزوم عزائم کی حصول کی خاطر گاڑاں مزید تیز کر کے ہم پولیس پارٹی پر موٹر کار بہ ارادہ قتل چڑھانے کی کوشش کی پر پولیس نے کچے کنارے پر اپنے آپ کو گرایا جبکہ ہمراہی ام کنستبل گوہر علی 317 موٹر کار کی زد میں آکر شدید زخمی ہو کر بےوش ہوا شدت پسندوں نے ہم پولیس پر بہ ارادہ قتل فائرنگ بھی کی ہم پولیس پارٹ نے بھی شدت پسندوں کو قابو کرنے کے لئے فائرنگ کی مگر شدت پسند اپنی موٹر کار برنگ سفید بلا نمبری میں بہ طرف مردان فرار ہوئے شدید زخمی کنستبل کا سرکاری رانفل میں نقصان رسیدہ ہو چکا ہے مجروح کنستبل گوہر علی 317 کے نقشہ ضرر مرتب کر کے بغرض فوری علاج مردان ہسپتال زیر حفاظت کنستبل بخت محمد 651 طارق محمود ASI بھجوایا گیا۔ نقصان رسیدہ سرکاری رانفل SMG اٹھا کر بروئے فرد قبضہ پولیس میں کر کے مضمون رپورٹ سے صورت جرم بالا کاپائی جا کر افسران بالا کو بطور سپیشل رپورٹ اطلاع دی گئی مراسلہ بغرض قائمی مقدمہ بدست فضل اللہ 1033 تھانہ ارسال ہے۔ دستخط انگریزی آصف احسان اللہ sho تھانہ یار حسین مورخہ 12.2.20 پس آمدہ مراسلہ حرف بہ حرف درج صدر ہو کر پرچہ بجرم فوق مرتب کر کے نقول FIR معہ مراسلہ بمراہ تفتیش حوالہ انویسٹی گیشن سٹاف کئے جاتے ہے پرچہ بطور سپیشل رپورٹ گزارش ہے۔

امجد خان ASI

مد 10 اطلاع / رپورٹ MMC وقت 03.20 بجہ مورخہ 03.20 مورخہ 12.2.20 اس وقت طارق خان
ASI کے بذریعہ ٹیلی فون اطلاع دی کہ مجروح کنسٹیبل گوہر علی شاہ جنکو من SI نے بغرض علاج معالجہ مردان
ہسپتال لایا تھا ہسپتال میں زخموں کی تاب نہ لا کر جان بحق ہو چکا ہے۔ لہذا اطلاع درج کر کے افسران بالا
صاحبان کو اطلاع دی جائے جبکہ دفعات PPC 324-352-427/7ATA میں دفعہ 302 کی ایزادگی
کی جاویں۔ جبکہ میں نعش کو بغرض پوسٹ مارٹم سول ہسپتال یار حسین لے جا رہا ہوں۔ اطلاع درج روز نامچہ ہو کر
تفتیشی افسر کو اطلاع دی گئی۔

جناب عالی۔ نقل برطابق اصل ہے۔ MHC PS YH 12.2.20

چالان مکمل واپسی موصول ہو کر حوالہ جواد حسین کیا جاتا ہے۔

Annexure

B

Annexure

B

10

CHARGE SHEET

Whereas I am satisfied that formal enquiry as contemplated by Khyber Pakhtunkhwa Police Rules 1975 is necessary and expedient.

And whereas I am of the view that the allegations if established would call for Major/Minor penalty as defined in Rules 4(b) a & b of the aforesaid Rules.

Now therefore as required by Rules 6(1) of the aforesaid Rules I **Imran Shahid, PSP,QPM, District Police Officer, Swabi** charge you **ASI Tariq Mehmood**, on the basis of statement of allegations attached to this charge sheet.

In case your reply is not received within seven days without sufficient cause it will be presumed that you have no defence to offer and exparte action will be taken against you.

[Signature]

District Police Officer,
Swabi.

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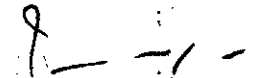
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[Signature]
District Police Officer, Swabi.

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SUMMARY OF ALLEGATIONS.

It is alleged that ASI Tariq Mehmood, while posted to Police Station Yar Hussain, held Nakabandi in an unprofessional manner which resulted in Martyrdom of Constable Pir Gohar No.317. He also displayed cowardice in performance of duty. All this speaks of his inefficiency, negligence and amounts to gross mis-conduct, hence summary of allegation.

Mr. Ihsan Shah, DSP, Swabi, is appointed to conduct proper departmental enquiry against him.


District Police Officer,
Swabi.

No. 28 /CC/PA

Dated: 25/02 /2020

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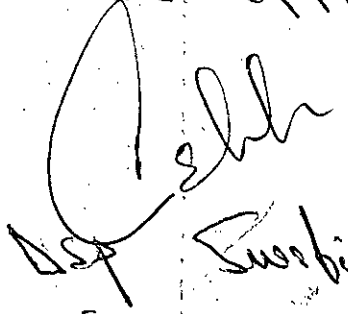
Rec. Ihsan Shah

Steno/Reader

Call the official


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District Police Officer, Swabi


DSP Swabi
25.2.2020

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Annex

D

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 نے بددیانتی سے بیان کیا کہ میں مچھولے سے موہنپنڈ سنسٹیشن پر
 کہ اس دوران میں موہنپنڈ افسر کو اطلاع ملنے کے بعد اس وقت اس واقعہ
 اور سقانیہ کے حکام S.H.O سیکٹر گاڑی میں ڈال کر نگرہ
 موہنپنڈ نقرہ طائر محمود ۴۸ اور ڈیپٹی سیکرٹری عبدالرحمن ۴۸
 سقانیہ سے روانہ ہوئے۔ سقانیہ کے دوران میں سقانیہ کے سیکرٹری
 دوسرا سیکٹر S.H.O صاحب کو موجودگی میں شروع کی
 تاکہ شروع کے دوران آگے موٹر کار پر شاہ سفید جانب پارک
 سے نیابتی سیکرٹری سے آگے آیا گیا۔ اس کو S.H.O صاحب نے
 ڈیپٹی سیکرٹری کا اشارہ کرتے ڈیپٹی سیکرٹری کو موٹر کار سے موٹر سائیکل
 کرتے ہم پولیس ہاؤس کے لیے موقع پر پہنچا اور وہ قتل کی جگہ
 اس دوران میں نقرہ اور سنسٹیشن اسٹیشن کے پاس سے
 خود کو گرا کر جان بچا کر اجیت سنسٹیشن کو یہ 37 کار
 زمین آگے ہوئی حالت میں سیکرٹری کے پاس گیا۔ اس دوران
 موٹر کار سواروں نے ہم پولیس ہاؤس کے پاس پہنچا۔ اس دوران
 کہ ہم پولیس ہاؤس کے پاس پہنچا اور اس واقعہ کے فائرنگ
 کے سلسلے میں سقانیہ کے سیکرٹری کو اطلاع دی گئی اور وہ
 کار موقع سے فرار ہوا۔ اطلاع کے حالات کے مطابق سقانیہ کے سیکرٹری
 والا کہ اس وقت سے فرار ہوا۔ اطلاع کے حالات کے مطابق سقانیہ کے سیکرٹری
 زخمی کے ساتھ لائے ہوئے جان بچ کر فرار ہوا۔ سقانیہ کے سیکرٹری
 کو درست ہے اور صفت سے سنسٹیشن پر پہنچا۔

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District Police Officer, Swabi.



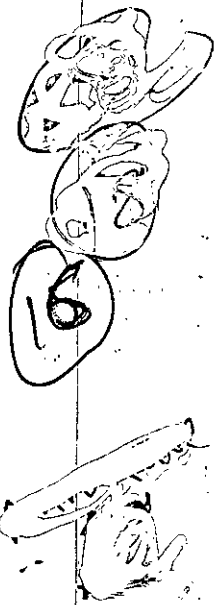
کے پورا پورے بیان کیا کہ میں موصول کے قومیوں گشت پر تھا کہ اس دوران عورتوں اور بچوں کو بندھ کر ڈاکٹر لیس سٹیٹ اطلاع علی نہ کھانہ والی آ جاؤ۔ کھانہ پڑا اور حکم 440 صاحب سٹا پر گاڑی میں ڈال کر ہمراہ عورتوں لفظی طائف محمود آئی اور ڈاکٹر عبدالرحمن 48 کھانہ سے روانہ ہو کر کھانہ و بیباں سردیوں اور نذر گھر پڑا مشفق دو بیباں نامہ بندی 440 صاحب کی موجودگی میں شروع کی تاکہ بندی کے دوران ایسا عورتوں کا رہنا سفید جانب پارکس سے بہا بہت تیز رفتاری سے آتا ہوا جس کو 440 صاحب نے خود روکنے کا اشارہ کر کے ڈاکٹر عورتوں کا رے عورت خرید کر لے کر ہم پولیس باڈی پر موقع پر ہم اور وہ قتل کر دیا اس دوران علی لفظی اور کنسپل انڈیز خریدیں کی جانے میں خود کو گرا کر جان کی ہے حکم کنسپل گو پیر 317 کا ایک روم میں آپرے ہوئے ہوئے اس دوران عورتوں کا سوراخوں نے ہم پولیس باڈی پر ہم اور وہ قتل کر دیا تھا۔ جو بتا ہم پولیس باڈی کے حلقہ جان کی گمانی اور عورتوں کا کو قانون کے قائل ہوا کی فائز کی فگر ان کی ناراضگی کی وجہ سے عورتوں کا موقع سے فراد ہوا۔ حکم قانون 440 صاحب نے موقع آفران باڈی نوش میں لا کر کنسپل عورتوں کو ہسپتال پہنچا کر جوید میں انھوں کی جان برف ہونے کا واقعہ ہوا۔ ایسی عورتوں کے جو کہ واپس آئے اور حقیقت پر عینی ہے۔

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(BM)

صد
0315-9322645

ATTESTED.
District Police Officer, Swabi.



نے جو بیانے بیان کیا تم میں سے قحان ارصہ سے ہے تھا۔ اس کے
 دستانے Sec ارصہ سے ماہر نے بتلایا تم سے اتنا دستانے
 کے مطابق نام بندہ کی طرف ہے اور ساتویں مویشی گشتے نفری
 کو Sec ماہر نے قحان کو دیا قحان سے ساتویں گاڑی سے ڈال کر
 ہراہ مویشی نفری طاق خود دستانے ASI محبت محمد ASI FC نظر اللہ
 1533 ڈرائیور عبدالہ سے 48 قحان سے بعد پورے مقام دستانے برص
 بعد نگر ڈرائیونے بیان نام بندہ Sec ماہر صاحب مویشی
 میں شروع کی نام بندہ کے بعد ان کے موٹر کار بھیج برتے
 سفیر طاب ارصہ سے پہلے تندر تارے سے اتنا ہوا جس کو
 Sec ماہر نے خود دستانے کا اشارہ کرتے ڈاٹوڈ موٹر کار کے موٹر
 میں پورے تندر کے ہم لوہے پارٹے پر پر موقع پر اسے ملے چڑھائے
 اسے دستانے ملے نفری اور تشیلک انسپد نے قحان سے قحان کے
 کے قحان کی گاڑی کے چارے دستانے تشیلک کے قحان کے گاڑی کے
 اکٹریے ہوئے ہوا اسے دستانے موٹر کار سے واروں کے ہم لوہے پارٹے
 پر اسے ملے تندر کے پارٹے کے۔ جو ہم لوہے پارٹے کے ملزماں کے
 گرنٹاری موٹر کار کا پارٹے کے کا لہر ہوا پارٹے کے پارٹے کے
 کے پارٹے کی وجہ سے موٹر کار کے موقع سے فراد ہوا۔ حمل حالات کے
 Sec ماہر نے پر موقع اشارے پارٹے کے قحان سے ہاے تشیلک
 شروع تو ہسپتال کے چھا کر جو بعد سے دستانے کے تارے کے لئے
 ہوئے طاب بحق ہوئے۔ یہ سب سب سے جو تم درستہ اور حقیقت
 رہیں ہے۔

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PIO
District Police Officer, Swabi.

Annexure
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DY: No. 185 /S.
DATED: / 01/ 2020.

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SUBJECT: DEPARTMENTAL ENQUIRY AGAINST ASI TARIQ MEHMOOD OF POLICE STATION YAR HUSSAIN.

It is submitted that Departmental enquiry against the above named official was entrusted to the undersigned vide Endst: No. 28/CC/PA, dated 25-02-2020; the allegations are as under: -

SUMMARY OF ALLEGATIONS: -

It is alleged that ASI Tariq Mehmood of Police Station Yar Hussain, held Nakabandi in an unprofessional manners, which resulted in the martyrdom of Constable Pir Gohar No. 317. He also displayed cowardice i performance of duty.

PROCEEDINGS: -

Consideration upon the above allegations, the delinquent ASI Tariq Mehmood Khan alongwith the Constables deputed with him were called to the office of the undersigned. They were heard in person and recorded their statements, which are as under: -

STATEMENT OF ASI TARIQ MEHMOOD: -

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He stated that on 12.02.2020, he was on routine patrolling duty/ Ghusht along with Constable Bakht Muhammad No. 651, Abdullhah No. 1033 and Abdul Ameen No. 48/DVR in the jurisdiction of PS Yar Hussain. Meanwhile, the then SHO PS Yar Hussain, SI Asif Ullah, informed to hold Nakabandi in front of Grid Station nearby Dubian Interchange. During the Nakabandi at night, a white Car coming from Yar Hussain side at high speed was signaled to stop by the SHO but the Driver intentionally ran over the Car on Police Party, which resulted in the martyrdom of Constable Pir Gohar No. 317, and the delinquent ASI and other Constables fortunately survived in the incident. The delinquent further stated that the culprits also open fired on Police party. Subsequently, Police Party also open fired on the Car but due to dark and high speed they managed to flee away. The delinquent has also disclosed in his statement that there was no negligencé or malafide in the incident.

STATEMENT OF CONSTABLE BAKHT MUHAMMAD NO. 651: -

He stated in his written statement that he was on routine Gasht/ patrolling with ASI Tariq Mehmood Khan in the area. Meanwhile, the then SHO PS Yar Hussain Asif Ullah Khan, directed through Wireless Call to return to Police Station. At Police Station, the SHO directed him to load barricades in Police vehicle. He further stated that they held Nakabandi in front of Grid Station nearby Dobian Interchange. During the Nakabandi at night, a white Car coming from Yar Hussain side at high speed, was signaled to stop by the SHO but the Driver intentionally ran the Car on Police Party, which resulted in the martyrdom of Constable Pir Gohar No. 317 and the delinquent ASI alongwith

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District Police Officer, Swat

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other Constables fortunately survived the incident. The delinquent further stated that the culprits also open fired on Police party. Subsequently, Police Party also opened fire on the Car but due to dark and high speed they managed to flee away.

Moreover, the two other constables also recorded the same statements as of Constable Bakht Muhammad, which were perused by the undersigned and included in the subject enquiry. The service book of the delinquent ASI was also perused and found that there is large number of red entries.

FINDINGS: -

Keeping in view the above discussion, observations and the statements of Police Officials, it has surfaced that the delinquent ASI was being experienced and senior most official failed to assist the SHO to arrange the Nakabandi properly. Moreover, the delinquent ASI didn't bother to chase the culprits after the incident nor informed the next Police Post/Police Station to apprehend the culprits, and thereby showed cowardice and inefficiency.

In addition, the undersigned also perused the service book of the delinquent ASI and found that ASI Tariq Mehmood has previously been awarded with 05 times of minor punishment and 01 time of compulsory retirement on account of corrupt practices.

RECOMMENDATION: -

After nut shell discussion, it is concluded that the allegations against ASI Tariq Mehmood have been proved. Therefore, he is recommended for "Major punishment", please.

Certified to be True Copy.

[Signature]
Sub-Divisional Police Officer,
SWABI.

PA
Issue ESCN

9 - - -

DPO Swabi
10-03-2020

ATTESTED

[Signature]
District Police Officer, Swabi.

Annexure

FINAL SHOW CAUSE NOTICE

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Whereas you **ASI Tariq Mehmood**, while posted to Police Station Yar Hussain, held Nakabandi in an unprofessional manner which resulted in Martyrdom of Constable Pir Gohar No.317. He also displayed cowardice in performance of duty. All this speaks of his inefficiency, negligence and amounts to gross mis-conduct.

In this connection you were charge sheeted and served with summary of allegation and **DSP, Swabi**, was appointed to conduct proper departmental enquiry. The enquiry officer held enquiry and submitted his findings, wherein, he found you **ASI Tariq Mehmood**, guilty for the mis-conduct and recommended for Major punishment.

Therefore, it is proposed to impose Major/Minor penalty including dismissal as envisaged under Rules 4(b) of the Khyber Pakhtunkhwa Police Rules 1975.

Hence, I, **Imran Shahid, PSP, QPM**, District Police Officer, Swabi in exercise of powers vested in me under Rules 5(3) of the Khyber Pakhtunkhwa Police Rules 1975 call upon you **ASI Tariq Mehmood**, to show cause finally as to why the proposed punishment should not be awarded to you.

Your reply should reach to the office of the undersigned within seven days of the receipt of this notice failing which it will be presumed that you have no explanation to offer.

You are also at liberty to appear for personal hearing before the undersigned.

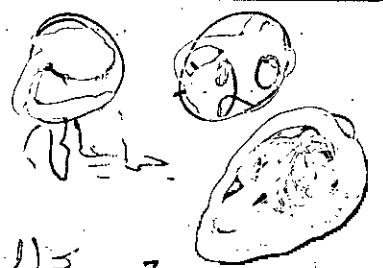
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District Police Officer,
Swabi.

Handwritten signature and date: 10-03-2021

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District Police Officer, Swabi.

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ظالمات میں گلازوں میں جارح جا۔ 2000 عام سے ہوا
صرفی خدمتوں میں میرا ویسی بیان ہے جو کسی
نے دوران انوائسری، انوائسری آفسیر کو دی ہے
جو تم درست اور حقیقت پر مشتمل ہے

Ammer
20

10.03.2020

Certified to be True Copy.

ATTESTED

District Police Officer, Swabi.

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI

ORDER

ANNEXURE H



This order of mine is going to dispose of departmental enquiry against ASI Tariq Mehmood while posted to Police Station Yar Hussain, held Nakabandi in an unprofessional manner which resulted in Martyrdom of Constable Pir Gohar No.317. He also displayed cowardice in performance of duty. All this speaks of his inefficiency, negligence and amounts to gross mis-conduct.


Therefore, he was served with Charge Sheet and Summary of allegations. DSP, Swabi was appointed as Enquiry Officer. The Officer conducted proper departmental enquiry, collected evidence and recorded statements of all concerned. He submitted his findings, wherein he found ASI Tariq Mehmood, guilty for the mis-conduct and recommended him for Major Punishment. The undersigned perused the enquiry papers, and by agreeing with the recommendation of Enquiry Officer. Served him with a Final Show Cause Notice, The reply of final show cause notice was perused, and found unsatisfactory besides he was also heard in Orderly Room but he failed to offer any plausible explanation in his defense.

Certified to be True Copy.

Therefore, I, **Imran Shahid, PSP, QPM** District Police Officer, Swabi, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules 1975, **ASI Tariq Mehmood** is hereby awarded, Major Punishment of reduction in rank from Assistant Sub Inspector to the rank of Head Constable for a period of two years with immediate effect. He is re-instated into service from the date of his suspension.

O.B No. 397

Dated 23.04/2020


District Police Officer,
Swabi.

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI

No. 1401-06 /PA, dated Swabi, the 24/04 /2020.

Copies to the: -

1. Deputy Inspector General of Police Maradan Region I Mardan for favor of Information, please.
2. DSP Swabi.
3. DSP H.Qrs
4. Pay Officer.
5. Establishment Clerk.
6. Fauji Missal Clerk.

ATTESTED


District Police Officer, Swabi.

(1208)

22

Amended

Before the Honourable Deputy Inspector
General of Police, Mardan Region Mardan.

Through: Proper Channel

Departmental Appeal No. / 2020

Tarig Mahmood Asi / now reverted to Head
Constable of Police Station Yar Hussain
at present Police Line Sawabi

(Appellant)

Versus

The District Police Officer District Swabi

(Respondent)

Departmental Appeal against order No.
397 dated: 23/4/2020 issued by respondent/
Authority whereby Appellant's rank
from Asi was reduced to Head Constable
for two years with immediate effect.

Prayer:

on Acceptance of this Departmental
Appeal order dated 23/4/2020 regarding
reduction in rank of Appellant from
Asi to Head Constable of passed by
Respondent / Authority may very
graciously be set aside and the



Appellant may very kindly be re-instated on the post of Assistant Sub Inspector with all back benefits.

Respectfully sheweth:-

The Appellant respectfully submits his Appeal as under:-

Facts :

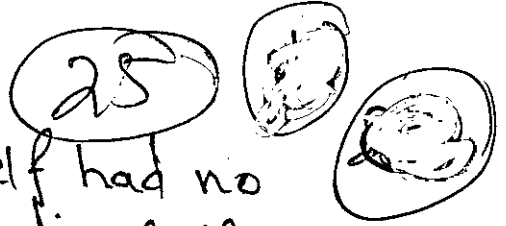
- 1) That the Appellant was serving as Assistant Sub Inspector in police force District Sawabi and presently in police lines Sawabi.
- 2) That on the fateful night the Appellant alongwith constables namely Balcht Mahmood, Faqullah and others was on mobile gusht in the Illaga of police station Yar Hussain when received information to come to police station. Accordingly they came to police station where STo, Sub Inspector Asifullah ordered him to put stoper in the vehicle as he wanted to manage Nakabandi regarding certain information received to him about some Terrorists. Accordingly stoper was put in the vehicle and the STo accompanied him alongwith other police constable including constable Pir Gohar Ali No: 317. on reaching Dobian, Gihari Kapoora road nakabandi on the Direction of STo was made. In the meanwhile a motor car appeared from Yar Hussain

side which was signalled by the police Nafri but the driver of the Motor car speed up its speed by hitting constable Pir Gohar Ali who was seriously injured. An encounter also took place between the police personnels and culprits but they escaped towards Mardan side. The injured constable was shifted by Appellant and constable Bakht Muhammad to Bacha Khan Medical complex Mardan side but his life could not be saved and he died there. The SHO through Muxasib registered case F.I.R. against the culprits.

3) That in the matter Departmental enquiry was conducted to whom the Appellant submitted his reply to charge sheet, explanation and reply to final show cause notice but the same were termed unsatisfactory, hence impugned order was passed (Impugned order is enclosed).

Grounds of Appeal

- A) That the order of Respondent regarding reduction in rank of Appellant is illegal, void-ab-initio, without lawful authority against facts and material available on record, law and Rules, on the subject and principle of Natural Justice, hence untenable.
- B) That the Appellant being subordinate of SHO Asifullah, on his direction had accompanied him to the place



of Nakabandi and he himself had no planning to do the nakabandi, as this fact is very much clear from the explanation of Asifullah Khan SHO, as such Appellant has performed his duty honestly and did not commit any misconduct, hence the impugned order is totally against the police Rules on the subject, against facts and material available on record and liable to be set aside.

- C) That the Appellant was duty bound to obey the orders / directions of his superiors especially SHO Asifullah to accompany him for Nakabandi, as he was his subordinate.
- D) That if he would have disobeyed the orders / directions of SHO Asifullah, then he would have committed misconduct, however, he had no fault of his own in the murder of Pir Gohar Ali Constable as such the impugned order being harsh and void-ab-initio is untenable and liable to be set aside.
- E) That the Appellant did not show any inefficiency or commit any misconduct in his whole service and was/is obedient to his superiors, hence the impugned order is not sustainable.
- F) That the Appellant has a large family members dependant upon ^{him} and by lowering his rank his pay has decreased and this has caused him monetary loss in pay and he will not be in a



position to feed his large family members with the present pay in these hard days, hence on humanitarian ground too the impugned order is liable to be set aside.

G) That there are other grounds too, but the same will be agitated before your honour at the time of arguments, with your kind permission.

It is therefore humbly prayed that on acceptance of this Departmental Appeal, the impugned order dated: 23/2/2020 may very kindly be set aside and Appellant may be re-instated as Assistant Sub Inspector (ASI) from the date of his reduction in rank, with all back benefits.

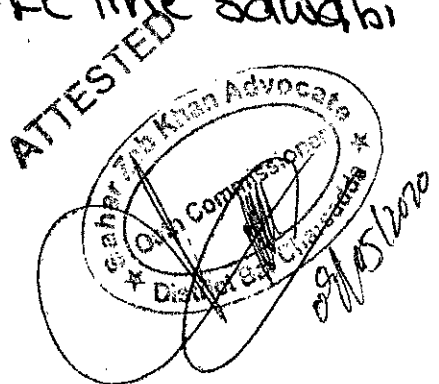
Dated: 9/5/2020.

Your's obediently

~~Signature~~
Appellant Tariq Mahmood
ASI now reverted/
lowered to the rank
of Head Constable
Police line Sawabi

Affidavit

I, Appellant Tariq Mahmood Khan now reverted to post of Head Constable Police line Sawabi do hereby solemnly affirm and declare that the content of this Appeal are true to the best of my knowledge & belief and nothing has been concealed from this forum.



ORDER.

ANNEXURE
A B M E R

27

J

This order will dispose-off the departmental appeal preferred by Head Constable Tariq Mehmood No. 322/P of Swabi District Police against the order of District Police Officer, Swabi, whereby he was awarded major punishment of reduction in rank from substantive rank of ASI to Head Constable vide OB: No. 397 dated 23.04.2020. The appellant was proceeded against departmentally on the allegations that he while posted at Police Station Yar Hussain, held Nakabandi in a highly non professional manner at midnight. This act of the appellant led to the martyrdom of Constable Pir Gohar No.317 vide case FIR No.67 dated 12.02.2020 U/S 302/353/427/7-ATA Police Station Yar Hussain.

Proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and Sub Divisional Police Officer, Swabi was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities submitted his findings wherein he found the delinquent Officer guilty of misconduct and recommended him for major punishment.

Certified to be True Copy.

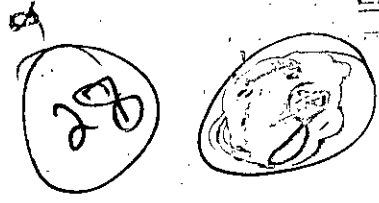
He was issued Final Show Cause Notice to which his reply was received and found unsatisfactory. He was also provided opportunity of self defense by summoning him in the orderly Room held in the office of District Police Officer, Swabi. But he failed to advance any cogent reason in his defense. Hence, he was awarded major punishment of reduction in rank from substantive rank of ASI to Head Constable vide OB: No. 397 dated 23.04.2020.

Feeling aggrieved from the order of District Police Officer, Swabi, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 16.06.2020.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations against the appellant have been proved beyond any shadow of doubt. The appellant being a responsible Police Officer was supposed to discharge his official duties in a professional manner. But he displayed cowardice in performance of duty which speaks his negligence and inefficiency. Resultantly due to his negligent and casual attitude, a precious life was lost and the above named Constable embraced

ATTESTED

District Police Officer, Swabi.



martyrdom. Moreover, the appellant failed to present any cogent justification which could warrant interference in the order passed by the competent authority.

Keeping in view the above, I, **Sher Akbar, PSP S.St Regional Police Officer, Mardan**, being the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being devoid of merit.

Order Announced.

[Signature]
**Regional Police Officer,
Mardan.**

No. 3882-8³ES, Dated Mardan the 24-06-2020.

Copy forwarded for information and necessary action to the:-

1. Capital City Police Officer, Peshawar.
2. District Police Officer, Swabi for information and necessary w/r to his office Memo: No. 61/Insp: Legal dated 05.06.2020. His service record is returned herewith.

(*****)

Certified to be True Copy.



OB/EC/Insp: Legal

For n/a

[Signature]
DPO Swabi
26-6-2020

ATTESTED

[Signature]
District Police Officer, Swabi.

[Large handwritten signature]
718
28.06.20

200

50	35056			
ایڈویکیٹ:				
بار کونسل ایسوسی ایشن نمبر:	BC-11-1382			
رابطہ نمبر:	BC-11-1460			
	0333-9313113			

BC-11-1382

بار کونسل ایسوسی ایشن نمبر: BC-11-1460

رابطہ نمبر: 0333-9313113

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: حمیر پختونخواہ سروس ٹریڈینگز پشاور

مخاب: اپیلانٹ	دعوی: اپیل
طارق محمود	علت نمبر:
بنام	مورخہ:
پولیس ڈویژن	جرم:
	تھانہ:

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ
 آن مقام کسٹنڈر کیلئے اسکریپٹس ایڈووکیٹس ایسوسی ایشن پشاور
 کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعوی اقبال دعوی 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 نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کارروائی کے واسطے اور ذمین یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

طارق محمود
 عبدالحق
 سائنس
 صوبہ

المرقوم: 06/07/2020
 DESHAWAR BAR ASSOCIATION
 KHYBER PAKHTUNKHWA
 واہ

مقام کسٹنڈر کے لیے منظور ہے۔



نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔

6/7/2020

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No. 7951/2020.

Tariq Mehmood Ex-ASI now Head Constable..... Appellant

VERSUS

1. Regional Police Officer, Mardan
& Others.....**Respondents.**

WRITTEN REPLY BY RESPONDENTS.

Preliminary Objections.

1. That the appellant has got no cause of action and locus standi to file the present appeal.
2. That the appeal is bad due to misjoinder and nonjoinder of necessary parties.
3. That the appeal is barred by law & limitation.
4. That the appellant has not come to this Tribunal with clean hands.
5. That this Hon'ble Tribunal has got no jurisdiction to entertain the present appeal.
6. That the instant appeal is not maintainable in its present form.
7. That the appellant concealed the material facts from this Hon'ble Tribunal.
8. That the appellant has been estopped by his own conduct to file the appeal.

REPLY ON FACTS.

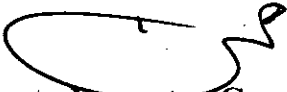
1. Para No. 01 of appeal pertains to service record, hence need no comments.
2. Para No. 02 of appeal to the extent of incident reported vide FIR No. 67 dated 12.02.2020 u/s 302/353/427/7ATA PS Yar Hussain is correct, however, appellant held nakabandi in a highly non-professional manner as a result of which Constable Pir Gohar No. 317 was martyred.
3. Para No. 03 of appeal to the extent of departmental enquiry on account of above misconduct is correct.
4. Para No. 4 of appeal to the extent of joining enquiry proceedings and recording of statement is correct.
5. Para No. 5 of appeal is incorrect. During departmental enquiry, appellant was found guilty for the misconduct and on recommendation of Enquiry Officer, he was awarded major punishment of reduction in rank for a period of two years.
6. Para No. 6 of appeal to the extent of service of Final Show Cause Notice is correct, however the reply of Final Show Cause Notice was not satisfactory, hence awarded major punishment of reduction in rank.
7. Para No. 7 of appeal to the extent of major punishment is correct.

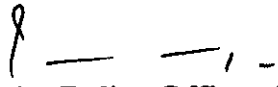
8. Para No. 8 of appeal to the extent of filing of departmental appeal is correct, however the same was rejected being devoid of merits by the respondent No. 1.
9. Para No. 9 of appeal is incorrect. Reply already given vide para above.
10. That the orders of department are quite legal in accordance with rules and the instant appeal is groundless, which is liable to be dismissed.

GROUND.

- A. Incorrect. The orders of respondents are quite legal in accordance with law/rules.
- B. Incorrect. During departmental enquiry, the allegations against appellant was proved, on account of which he was awarded major punishment.
- C. Incorrect. The allegations against appellant have been proved beyond any shadow of doubt.
- D. Incorrect. Reply already given vide para above.
- E. Incorrect. Reply already given vide para above.
- F. Incorrect. Appellant was awarded major punishment of reduction in rank through speaking order.
- G. That the respondents will also raise additional grounds at the time of hearing with kind permission of this Hon'ble Tribunal.

Keeping in view the above narrated facts, it is humbly prayed that the instant appeal being devoid of merits may very kindly be dismissed with costs, please.


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


**District Police Officer Swabi,
(Respondent No. 2)**

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No. 7951/2020.

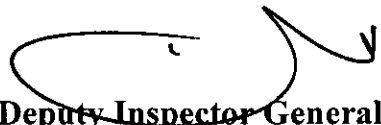
Tariq Mehmood Ex-ASI now Head Constable..... Appellant

VERSUS

1. **Regional Police Officer, Mardan
& Others..... Respondents.**

AFFIDAVIT:-

We the respondent No. 1 to 2 do hereby solemnly affirm and declare on oath that the contents of the written reply are correct/true to the best of our knowledge / belief and nothing has been concealed from the honorable Tribunal.


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


**District Police Officer Swabi,
(Respondent No. 2)**

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No. 7951/2020.


Tariq Mehmood Ex-ASI now Head Constable..... Appellant

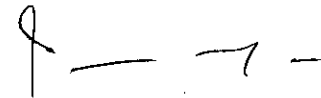
VERSUS

1. **Regional Police Officer, Mardan
& Others..... Respondents.**

POWER OF ATTORNEY.

We, the respondent No. 1 to 2 do hereby appoint Mr. Faheem Khan Inspector Legal Swabi as special representative on our behalf in the above noted appeal. He is authorized to represent us before the Tribunal on each and every date fixed and to assist the Govt: Pleader attach to Tribunal.


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


**District Police Officer Swabi,
(Respondent No. 2)**



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

NO.SOB-II/HD/3-1/SNE/DIR LOWER
Dated Peshawar, the 16th November, 2021

To

The Medical Superintendent,
DHQ Hospital, Timergara

Subject: - **MINUTES OF THE MEETING REGARDING SNE FOR THE YEAR 2020-21 ON
02.03.2021 AT 03:00 PM.**

I am directed to refer to your letters No. 4884 dated 09.09.2021 on the subject noted above and to enclose herewith a copy of letter No. BOVI/FD/4-38/2015-16/VOL-II dated 09.11.2021 received from Budget Officer-VI Govt: of Khyber Pakhtunkhwa Finance Department for further necessary action at your end, please.

Encls: as above.

(MUHAMMAD ISRAR)
SECTION OFFICER (BUDGET-II)

Recd of the Dir
Dir of Timergara
No 371
1/12/2021

Mr. Saleem - 107
/ Court case
Saleem DMS
Relieved
DMS
N/A



**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT**

Finance Department Civil Secretariat Peshawar

<http://www.finance.gkp.pk>

[facebook.com/GoKPFD](https://www.facebook.com/GoKPFD)

twitter.com/GoKPFD

NO.BVI/FD/4-38/2015-16/VOL-II

Dated Peshawar the 09-11-2021

To,

The Secretary to Government of Khyber Pakhtunkhwa,
Health Department, Peshawar.

L.No. 8843
Date 12.11.21
Secretary Health

Subject: MINUTES OF THE MEETING REGARDING SNE FOR THE YEAR 2020-21 ON 02-03-2021 AT 03:00 PM

Dear Sir,

I am directed to refer to your department's letter No. SOB-II/HD/3-1/SNE/Dir Lower dated 21-10-2021 on the subject noted above and to state that the case may be reconsidered in light of minutes of the meeting held on 02-03-2021 under the Chairmanship of Deputy Secretary (B-IV), Finance Department (copy attached for ready reference) and then take-up the subject case with this department accordingly.

Yours faithfully

Budget Officer-VI

Encl. as above

Copy forwarded to Project Director, Timergara Medical College Dir Lower.

Budget Officer-VI

RL convey 11/3/11
12/11/21
And
11/11/21

SSH (B&D)

AS - (DEV)

AS - MTI

CH - HSRU

CPO

DS - (B&D)

DS - Drugs

SO - B-I

SO - B-II ✓

10/11

Subject: MINUTES OF THE MEETING REGARDING SNE FOR THE YEAR 2020-21 ON 02-03-2021 AT 03:00 PM

A meeting on the subject cited above was held under the Chairmanship of Deputy Secretary (B-IV), Finance Department Govt. of Khyber Pakhtunkhwa on 02-03-2021 at 03:00PM in his office. List of participants is attached.

2
At the outset, the Chair welcomed the participants and asked the Medical Superintendent District Health Officer Dir Lower to apprise the forum about the issue involved in the instant case. The MS DHO Dir Lower informed that Health department had issued a notification on 12-07-2006 containing that all the Muslim sweepers appointed before 2006 may be adjusted against the posts of Ward Orderly, Chowkidar, Mali, Dai, Aya and other Class-IV posts on seniority basis and no fresh appointment of Muslims will be made on the post of sweeper thereafter. The MS Dir Lower further informed the forum that during 2009 some Class-IV were appointed against the posts of sweeper. Ideally, these posts were required to be filled by the minority as envisaged by the Health Department policy letter circulated in 2006. But due to the Non-Availability of minority populace in Malakand Division, these posts were filled from Muslims of the area.

3
On 16-02-2017 Health Department issued a fresh notification containing lines about the adjustment of Muslim sweepers appointed before 2006 against the Class-IV posts depriving the Sweepers appointed after 2006. This notification created a sense of discrimination among the sweepers appointed after 2006 and they approached Service Tribunal for adjustment against the vacant class-IV posts. The Service Tribunal ordered Health Department to adjust appellants against the posts of Class-IV and also take strict disciplinary action against those responsible for violating Health Department policy.

4
The chair asked the representative of Health department that whether any disciplinary action being taken against the defaulters for violating the standing policy of Health Department? The representative had no solid answer for this. The chair concluded that Health Department should address the following points to proceed further in the matter:-

- i) Why Health Department has not taken any disciplinary action /criminal proceedings against those responsible for appointing Muslim sweepers in violation of the policy decision dated 12-07-2006.
- ii) Why Health Department didn't file appeal in the High Court against the decision of Service Tribunal dated 13-12-2018.
- iii) Adjusting these sweepers against Class-IV posts will have huge financial implications so why Health Department did not consider the same before doing unnecessary recruitment.

Meeting ended with the vote of thanks from and to the chair.



GOVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT

Finance Department Civil Secretariat Peshawar

<http://www.finance.gkp.pk>

[facebook.com/GoKPDF](https://www.facebook.com/GoKPDF)

twitter.com/GoKPDF

NO. B.VI/FD/4-38/2014-15/Vol-IV

Dated Peshawar the 16-03-2021

To,

The Secretary to Govt. of Khyber Pakhtunkhwa
Health Department, Peshawar.

Subject:-

**MINUTES OF THE MEETING REGARDING SNE FOR THE YEAR 2020-21 ON
02-03-2021 AT 03:00 PM**

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith a copy of minutes of the meeting held on 02-03-2021 at 03:00 PM under the Chairmanship of Secretary, Finance Department Khyber Pakhtunkhwa in his office for compliance and further necessary action please.

Yours faithfully,

ENCL. AS ABOVE

2
18/3

Tahab Th
Budget Officer-VI

INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. S/ 3210 /20, dated Peshawar the 06/08/2020.

ORDER

This order will dispose of the Revision Petition preferred by **Ex-SI Asif Ullah** under Rule 11-A of Khyber Pakhtunkhwa Police Rules 1975 (amended 2014) against the order of his dismissal from service passed by District Police Officer, Swabi vide OB No. 305, dated 09.03.2020.

Brief facts of the case are that appellant while posted as SHO Police Station Yar Hussain, held Nakabandi in a highly non professional manner at Midnight without bringing into the notice of any supervisory officer and without credible information, which led to the martyrdom of Constable Pir Gohar No. 317 vide case FIR No. 67, dated 12.02.2020 u/s 302/353/427/7-ATA Police Station Yar Hussain. His appeal was rejected by Regional Police Officer, Mardan vide order Endst: No. 3505-6/ES, dated 03.06.2020.

Perusal of the record reveals that the petitioner is a young man, son of a shaheed had arranged Naka Bandi for some criminal elements in which accidentally a constable was hit by a speedy vehicle, on which departmental proceedings were initiated against him and he was dismissed.

Going through the file, the punishment does not seem to commensurate with the so called guilt i.e. not informing by him his seniors regarding holding Naka Bandi and not arranging Naka Bandi in professional way.

The punishment seems to have a bit harsh, because the act was not willful on his part and informing seniors about each and every Naka Bandi is not mandatory, being a young officer, son of shaheed, he is given a chance, hence his major punishment of "**Dismissal**" is converted into minor punishment of "**withholding increment for two years with cumulative effect**".

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

Sd/-

DR. ISHTIAQ AHMED, PSP/PPM
Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar.

No. S/ 3211-20 /20,

Copy of the above is forwarded to the:

1. Regional Police Officer, Mardan.
2. District Police Officer, Swabi.
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/Establishment, Khyber Pakhtunkhwa, Peshawar.
7. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
8. Office Supdt: E-III, CPO, Peshawar.

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