BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1861/2022

Irfan Khan s/o Jehangir Khan, Ex-Sub-Inspector/SHO, Police Station Prang, District Charsadda now Assistant Sub-Inspector FRP, HQrs.

.....Appellant

V E R S U S

District Police Officer, Charsadda & others

.....Respondents

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RESPONDENTS

Through

Shah Jehan, ASI
Charsadda

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

Service Appeal No. 1861/2022

Irfan Khan s/o Jehangir Khan, Ex-Sub-Inspector/SHO, Police Station Prang, District Charsadda now Assistant Sub-Inspector FRP, HQrs.

.....Appellant

VERSUS

District Police Officer, Charsadda & others

.....Respondents

REPLY/PARAWISE COMMENTS BY RESPONDENTS.

Respectfully Sheweth:

Preliminary Objections:

1. That appellant has not approached to this Hon'ble tribunal with clean hands.
2. That the appellant has suppressed actual facts/factual position from this Hon'ble tribual.
3. That the appeal of appellant is not based on facts.
4. That the appeal of appellant is bad for non-joinder and misjoinder of necessary parties.
5. That the appellant is estoped by his own conduct to file the present appeal.

REPLY ON FACTS:

1. Para correct. However, it is worth to mention that on the complaint/application of Mst: Fahmida no legal action was taken against Wasif s/o Mujahid by the appellant. **Copy of application is annexed as "A".**
2. Para correct to the extent that on 17.01.2022 "Murasila" was scribed by ASI Wajid Khan at DHQ Hospital Charsadda regarding the killing of Mst: Fahmida and Mst: Amina. Wisal Khan s/o Behramand Khan (husband of deceased Fahmida) charged accused Bacha Khan s/o Aslam Khan and Kashif s/o Mujahid for the murder of his wife and sister-in-law.
3. Para correct to the extent that "Murasila" was incorporated into FIR No. 34 dated 17.01.2022 u/s 302/34-PPC Police Station Prang. **Copy of FIR is annexed as "B".**
4. Para correct.
5. Para not related.
6. Para correct to the extent that on 26.01.2022 appellant was issued Show Cause Notice with the allegations that he while posted as SHO Police Station Prang charged accused Bacha Khan etc being irrelevant accused, instead of accused Wasif s/o Mujahid as nominated by complainant in the case FIR No.34 dated 17.01.2022 u/s 302/34-PPC PS Prang and favoured accused Wasif. **Copy of show cause notice is annexed as "C".**

7. Para correct to the extent that nominated accused in the aforementioned FIR namely Bacha Khan submitted application before respondent No.1 against the appellant wherein he alleged that by taking illegal gratification from the actual accused he (appellant) wrongly charged him and Kashif s/o Mujahid in the FIR, hence requested for initiation of departmental action against the appellant. **Copy of application of Bacha Khan is annexed as "D".**

8. Para correct to the extent that appellant submitted his reply to the Show Cause Notice, but the respondent No.1 being competent authority, found his reply as unsatisfactory and ordered for departmental proceedings. **Copy of reply to the show cause notice is annexed as "E".**

9. Para correct to the extent that on 11.02.2022 the appellant was issued Charge Sheet alongwith Statement of allegations. **Copy of charge sheet and statement of allegations is annexed as "F".**

10. Para correct to the extent that reply to the Charge Sheet was submitted by the appellant. **Copy of reply to the charge sheet is annexed as "G".**

11. Para correct to the extent that in connection with the departmental proceeding against the appellant, departmental inquiry was conducted through SP Investigation Charsadda. The inquiry officer after fulfillment of all legal and codal formalities submitted his report wherein allegations against the appellant were proved and was recommended for suitable punishment. **Copy of departmental inquiry is annexed as "H".**

12. Para correct to the extent that before awarding punishment appellant was issued Final Show Cause Notice on 03.03.2022 to which he submitted his reply but the same was found unsatisfactory hence was awarded major punishment of reversion in rank i.e from Sub-Inspector to Assistant Sub-Inspector. **Copy of final show cause notice, reply and reversion order are annexed as "I", "J" & "K".**

13. Para already explained.

14. Para correct to the extent that appellant moved departmental appeal before appellate authority i.e respondent No.2. **Copy of departmental appeal is annexed as "L".**

15. Para correct to the extent that on the departmental appeal of the appellant, Denovo inquiry was conducted through SP Investigation Mardan, on the direction of respondent No.2. The enquiry officer in his recommendation stated that the delinquent Police officer being posted as SHO was under obligation to take legal action on the application submitted by deceased Mst: Fahmida and his stance regarding unawareness of the said application is not plausible rather bereft of any substance. He further recommended that it was the foremost duty of SHO to take action on all applications filed directly to him or marked to his subordinates for proceeding. Hence, on this count the appellant was recommended for punishment. **Copy of order for Denovo inquiry vide RPO**

office No.2690/ES dated 04.04.2022 is annexed as "M" and findings on denovo inquiry is annexed as "N".

16. Incorrect. Respondent No.2 being appellate authority filed his appeal on the grounds that being SHO it was his duty to take legal action on the application of deceased Mst Fahmida, also discuss the involvement of accused Wasif with the complainant party and also include that application in the FIR but appellant did not bother to do so therefore, ignoring a very important piece of evidence as given by the murdered lady herself. Resultantly, the accused Wasif was given a huge favour by the appellant. **Copy of RPO order is annexed as "O".**

17. Para not related.

18. Para correct to the extent that appellant moved revision petition before respondent No.3 but the same was rejected. However, as in punishment order no period had been specified therefore, while disposing of revision petition the appellate board decided that time period is specified for two years in accordance to FR29. **Copy of revision/mercy petition and order No. S/2874-80/22 dated 25.11.2022 is annexed as "P".**

19. That appeal of appellant is liable to be dismissed on the following grounds amongst the others.

GROUNDS:

A. Incorrect. Prior to the registration of FIR No.34 dated 17.01.2022 u/s 302/34-PPC PS Prang deceased Mst Fahmida had submitted a complaint against Wasif but Wasif was nominated in the FIR which extended favour to him.

B. Para already explained.

C. Incorrect. Nominated accused namely Bacha Khan submitted complaint to respondent No.1 wherein he alleged that by taking illegal gratification from the actual accused he (appellant) wrongly charged him and Kashif s/o Mujahid in the FIR and given huge favour to accused Wasif.

D. Para already explained.

E. Incorrect. Inquiry officer made recommendation after going through all the record as well as keeping in view facts and circumstances matter.

F. Incorrect. Inquiry officer is only supposed to suggest that guilt of the defaulter official has been proved or otherwise and is not supposed to suggest major or minor punishment.

G. Para already explained.

H. Para already explained.

I. Incorrect. Appellant was provided ample opportunity of defending himself but he failed to produce any cogent evidence in his defense and the orders were passed by the authorities after due deliberation and perusing the entire record.

J. Incorrect. There is no doubt in both the inquiries because in the first inquiry the inquiry officer in his recommendations suggested suitable punishment be awarded to the appellant under Khyber Pakhtunkhwa Police Rules 1975. During Denovo inquiry the inquiry officer stated in his recommendation that being

posted as SHO PS Prang he was under obligation to take legal action on the application of submitted by deceased Mst Fahmida as stance regarding unawareness of the appellant from the said application was not plausible rather bereft of any substance. Hence on this count the inquiry officer recommended the appellant for punishment.

K. Incorrect. Appellant was provided the opportunity of personal hearing through orderly room but he failed to

L. That the respondents seek permission of this Hon'ble Tribunal for further additional grounds at the time of arguments.

Prayer:

Keeping in view the facts above, it is therefore humbly prayed that the appeal of appellant being without merit and substance, may kindly be dismissed with cost.

District Police Officer,
Charsadda
(Respondent No.1)

Regional Police Officer,
Mardan, Region, Mardan
(Respondent No.2)

Provincial Police Officer,
Khyber Pakhtunkhwa,
(Respondent No.3)

(5)

Annexure — A

بخدمت جناب SHO صاحب تھانہ [illegible]

مدعیہ: مسماۃ حمیدہ زوجہ وصال ساکنہ سید اکمل
کوارٹر [illegible]
بنام: وزیر حسین ولد عجائب ساکنہ گل آباد [illegible]

جناب عالی!

گزارش ہے کہ سائلہ [illegible] میں [illegible]
[illegible] ساکنہ [illegible]
[illegible] میں
[illegible] موجود تھی کہ اسی دوران
وزیر حسین ولد عجائب ساکنہ گل آباد [illegible]
[illegible] میں [illegible]
[illegible] اور [illegible]
[illegible] شروع کیے اور [illegible]
جان سے مارنے کی دھمکی دی [illegible] ملزم
[illegible] اور [illegible]
استدعا ہے کہ الزام علیہ [illegible]
[illegible] قانونی کارروائی کی جائے

[illegible]
مسماۃ حمیدہ زوجہ وصال ساکنہ سید [illegible]
کوارٹر [illegible]

S-05-RSA-
ASI [illegible]
05-01-022

[illegible signatures]

(6) Annexure — B

0314-9070… 3
17102-4392017-3
0345 1567731

S - 12

پنجاب پولیس / خیبر پختونخوا فارم نمبر ۲۴

فارم نمبر ۲۴-۵ (۱)

قائل 1-17101-0389608-1 ملزم حاضر

ابتدائی اطلاعی رپورٹ

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

تھانہ [illegible]	ضلع چارسدہ
نمبر 27 / 34	تاریخ 17-1-22 وقت 13:30 بجے

۱۔	تاریخ و وقت رپورٹ	17-1-22 وقت 14:50 بجے
۲۔	نام و سکونت اطلاع دہندہ / مستغیث اور اس کا کی موبائل فون نمبر	وصال خان [illegible] — 17-1-22 وقت 15:40 بجے
۳۔	مختصر کیفیت جرم (معہ دفعہ) حال اگر کچھ لیا گیا ہو۔	302/34
۴۔	جائے وقوعہ فاصلہ تھانہ سے اور سمت	[illegible]
۵۔	نام و سکونت ملزم	[illegible]
۶۔	کاروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو	[illegible]
۷۔	تھانہ سے روانگی کی تاریخ و وقت	[illegible]

ابتدائی اطلاع نیچے درج کرو

[illegible]

HB [illegible] 17-1-2022

(7)

Annexure C

SHOW CAUSE NOTICE

I, Sohail Khalid, District Police Officer, Charsadda as competent authority under Police Disciplinary Rules, 1975, do hereby serve you, SI Irfan Khan, Police Lines Charsadda (the then SHO PS Prang), as follow:

1. You SI Irfan Khan, while posted as SHO PS Prang, charged accused Bacha Khan etc being irrelevant accused instead of accused Wasif s/o Mujahid r/o Sheikhan Abad Sardheri as nominated by complainant in the case FIR No.34 dated 17.1.2022 u/s 302/34 PPC PS Prang and favoured accused Wasif for the reason best known to you. Your this act is not only contrary to the rules and discipline but also shows your indulgence in gratification and unfair means.

2. Being a responsible police officer, your act is highly objectionable. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty mentioned under the above mentioned rules.

3. You are therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within seven 07-days of its delivery in the normal course of circumstances, it shall be presumed that you have no defense to put in and in that case as ex-parte action shall be taken against you.

SOHAIL KHALID (PSP)
DISTRICT POLICE OFFICER
CHARSADDA

No. 551 /PA Dated 26/01/2022

(8)

Annexure - D

بخدمت جناب ڈسٹرکٹ پولیس آفیسر صاحب چارسدہ

منجانب: ۔ بادشاہ خان ولد اسلم خان ساکن گڑھی شہباز خان پڑانگ چارسدہ

بنام: ۔ عمران خان سابقہ SHO تھانہ پڑانگ حال پولیس لائن چارسدہ مسئول علیہ

عنوان: ۔ درخواست برائے قانونی کارروائی برخلاف مسئول علیہ

جیسا کہ مسئول علیہ نے اپنے عہدے کا ناجائز فائدہ اٹھا کر

اتحاد اور جرم کو قائل کر دیا پولیس کی وردی میں غلط طریقے سے قائل کو

مقدمہ علت 36 مورخہ 17-01-2022 جرم PPC 302/34 تھانہ پڑانگ

منجانب FIR اندراج کرنے کا ترتیب دیا ہے جس میں دربار عالیہ ہیں

اپنے جرم کا اعتراف بھی ریکارڈ پر موجود ہے اور بھی مطلوب ہے

جناب عالی! سائل حسب ذیل گزارش ہے

1۔ یہ کہ سابقہ SHO پڑانگ نے اصل ملزمان کے ساتھ ملی بھگت کر کے رشوت لیکر

سائل اور کا نسف ولد محمد جمیل کو اس میں نامزد کیا گیا ہے جو کہ سراسر

ظلم و زیادتی پر مبنی فعل ہے اور اصل قاتل کا کردار ادا کیا ہے

2۔ یہ کہ ایسے پولیس افسر کا محکمہ پولیس میں مزید رہنا محکمے کے ساتھ ظلم ہے

لہٰذا استدعا ہے کہ مسئول علیہ کے خلاف محکمانہ کارروائی کے ساتھ ساتھ

سائل کی جانب قانونی کارروائی کرنے کا حکم صادر فرمایا جائے۔ فقط انصاف کرتا

محررہ 27-01-2022

العبد 17101-0404156-1

سائل بادشاہ خان

27/01/2022

Better Copy

جناب عالی!

بحوالہ شو کاز نوٹس نمبری 551مورخہ 26.01.22مجاریہ جناب DPOصاحب چارسدہ معروض خدمت ہوں کہ من عرفان خان SIسابقہ SHOتھانہ پڑانگ پر یہ الزام ہے کہ بحوالہ مقدمہ علت 34 مورخہ 17.01.22جرم 302/34-PPC تھانہ پڑانگ مقتولین مسماۃ آمنہ دختر محمود اور مسماۃ فہمیدہ زوجہ وصال دختر محمود ساکنان گڑھی شہباز کی قتل کی دعویداری غلط قلمبندی کیگئی تو اس سلسلے میں حقیقت یہ ہے کہ روز وقوعہ بمقام کیجولٹی ہسپتال مسمی وصال ولد بہرہ مند سکنہ نوشہرہ روڈ مرکز کورونہ جو کہ مقتولہ مسماۃ فہمیدہ کا شوہر ہے نے بموجودگی برادر مقتولین مسمی خادم ولد محمود سکنہ گڑھی شہباز و دیگر بے شمار رشتہ داران میں واجد خان ASIکی قتل دعویداری برخلاف باچہ خان ولد اسلم ، کاشف ولد مجاہد کرکے واجد خان ASIنے انکی رپورٹ ضبط تحریر میں لاکر جسکی باقاعدہ مقتولین کے بھائی خادم خاضرہ نے تائید کی ہے اسکے علاوہ بوقت رپورٹ ہسپتال میں موجود میڈیا کو بھی خادم مذکروہ نے بیان بھی دیا ہے جسکی ویڈیو کلپ موجود ہے جوکہ چاک شدہ FIRکی تائید کرتا ہے۔ بوقت رپورٹ مدعیان نے کاشف وغیرہ کا زکر کیا ہے اور نہ ہی دیگر کسی نے بوقت چاکیدگی مراسلہ کوئی ایسی بات کہی تھی جن سے واصف مذکورہ کی ملزمیت مراسلہ میں تحریر کیا جا سکتا۔ جہاں تک پولیس کی تفتیش کی بات ہے تو پہلے ہی ضمنی میں من SHOکی کاوشوں سے واصف ولد مجاہد ساکن گل آباد سرڈھیری جو مقتولین کا حقیقی بھانجا ہے کو شامل تفتیش کیا جا کر باقاعدہ طور پر مقدمہ میں چارج کیا گیا ہے۔

من سابقہ SHOنے بحثیت SHOجو بھی کاروائی کی ہے وہ قانون کی مطابق کی ہے اس تمام کاروائی میں من SHOکی کوئی غفلت یا بد نیتی شامل نہیں ہے۔ من سائل کا تبادلہ مورخہ 18.06.21کو بحثیت SHOتھانہ پڑانگ ہوکر 18.06.21تا 21.01.22یعنی اس چھ مہینوں کے دورانیہ میں 13عدد کلاشنکوف 131عدد پستول 2عدد کالا کوف 9عدد بندوق تین عدد رائفل 12602مختلف بور کارتوس 8675گرام چرس 125گرام آئس 990گرام افیون کے علاوہ 56مجرمان اشتہاریوں کی گرفتاری کا پراگرس کیا ہے۔ جس کی باقاعدہ تفصیل ہمراہ لف قابل ملاحظہ ہے۔ مختصراً یہ کہ من سابقہ SHOنے اس قلیل عرصہ میں اپنا ڈیوٹی

Annexure-E

(9)

365
3/2/22

جناب عالی!

[illegible] DPO [illegible] 551 / 26-02-22 [illegible]

[illegible] SHO [illegible]

[illegible] PPC 302.34 [illegible]

[illegible]

[illegible] FIR [illegible]

[illegible] SHO [illegible]

[illegible] SHO [illegible] 18 6/21 [illegible] SHO [illegible] 15 6/21 [illegible]

21 1/22 [illegible] (13) [illegible] (131) [illegible]

(2) [illegible] (9) [illegible] 12602 [illegible]

[illegible] (56) [illegible] 9424 [illegible] 155 [illegible] 5675 [illegible]

[illegible] SHO [illegible]

انتہائی ایمانداری، بدنیتی سے پاک اور قانون کے دائرہ میں رہ کر سرانجام دی ہے۔

استدعا ہے کہ مندرجہ حقائق کو مد نظر رکھتے ہوئے سائل کی شوکاز نوٹس بلا کسی کاروائی کے داخل دفتر کیجاوے۔

تاحیات دعا گو رہونگا۔

عرفان خان SI متعینہ پولیس لائن چارسدہ۔

0336-8685582

(10)

امداد اعانت کری - بدقسمتی ہے جو آپ اپنے قانون سے دائرہ عمل [illegible]
دی ہے - استدعا ہے ہمارے حقائق تو ویزا لو کر کے ہمارے مسائل [illegible]
پولیس بلا کسی کارروائی تے داخل دفتر کیا ہے ...
حالات دعا گو دیو [illegible]

C-37-123

مورخہ [illegible] قیصر پولیس [illegible] حاجرہ
0336-8685282

(11)

Annexure – F

OFFICE OF THE
DISTRICT POLICE OFFICER, CHARSADDA
PHONE# 091-9220400 FAX#091-9220401
EMAIL: charsaddadpo@yahoo.com

CHARGE SHEET UNDER KPK POLICE RULES 1975

I, **Sohail Khalid**, District Police Officer Charsadda, as competent authority hereby charge you SI Irfan Khan, as follows.

That you SI Irfan Khan, while posted as SHO PS Prang, Charged accused Bacha Khan etc being irrelevant accused instead of accused Wasif s/o Mujahid r/o Sheikhan Abad Sardheri as nominated by Complainant in the case FIR No. 34 dated 17.01.2022 u/s 302/34 PPC PS Prang and favored accused Wasif for the reason best known to you. Your act is not only contrary to the rules and discipline but also shows your indulgence in gratification and unfair means. In this regard a show cause notice was issued to you but reply to the show cause notice was found unsatisfactory.

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

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

DISTRICT POLICE OFFICER
CHARSADDA

0345-9685582

(12)

OFFICE OF THE
DISTRICT POLICE OFFICER, CHARSADDA
PHONE# 091-9220400 FAX#091-9220401
EMAIL: charsaddadpo@yahoo.com

DISCIPLINARY ACTION UNDER KPK POLICE RULES -1975

I, Sohail Khalid, District Police Officer Charsadda, as competent authority am of the opinion that SI Irfan Khan, has rendered himself liable to be proceeded against as he has comitted the following acts/omissions within the meaning of section -02 (iii) of KPK Police Rules-1975.

STATEMENT OF ALLEGATIONS

That he SI Irfan Khan, while posted as SHO PS Prang, Charged accused Bacha Khan etc being irrelevant accused instead of accused Wasif s/o Mujahid r/o Sheikhan Abad Sardheri as nominated by Complainant in the case FIR No. 34 dated 17.01.2022 u/s 302/34 PPC PS Prang and favored accused Wasif for the reason best known to him. His act is not only contrary to the rules and discipline but also shows his indulgence in gratification and unfair means. In this regard a show cause notice was issued to him but reply to the show cause notice was found unsatisfactory.

This amounts to grave misconduct on his part, warranting Departmental action against him.

For the purpose scrutinizing the conduct of the said official, Mr. Sajjad Khan SP Investigation Charsadda, is hereby deputed to conduct proper departmental enquiry against the aforesaid official, as contained in section -6 (l) (a) of the afore mentioned rules. The enquiry officer after completing all proceedings shall submit his verdict to this office within (10) days. SI Irfan Khan, is directed to appear before the enquiry officer on the date, time and placed fixed by the later (enquiry officer) a statement of charge sheet is attached herewith.

DISTRICT POLICE OFFICER
CHARSADDA

No. 131 /HC, dated Charsadda the 11-2 /2022

CC:

1. Mr. Sajjad Khan SP Investigation Charsadda (Enquiry Officer)
2. SI Irfan Khan

0334-8685582

Better Copy

بیان از ان عرفان خان SI

بحوالہ چارج شیٹ نمبری 191 مورخہ 11.02.22 مجاریہ جناب DPO صاحب چارسدہ مشمولا معروض خدمت ہوں کہ من عرفان خان SI سابقہ SHO تھانہ پڑانگ پر یہ الزام ہے کہ بحوالہ مقدمہ علت 34 مورخہ 17.01.22 جرم P P C - 3 2 4 / 3 4 تھانہ پڑانگ مقتولین مسماۃ آمنہ دختر محمود اور مسماۃ فہمیدہ زوجہ وصال دختر محمود ساکنان گڑھی شہباز پڑانگ کی قتل کی دعویداری غلط قلمبند کیگئی تو اس سلسلے میں حقیقت یہ ہے کہ روز وقوعہ بمقام کچولٹی ہسپتال چارسدہ مسمی وصال ولد بہرہ مند سکنہ مرزا گان پڑانگ جو کہ مقتولہ مسماۃ فہمیدہ کا شوہر ہے نے بموجودگی برادر مقتولین مسمی خادم جان ولد محمود سکنہ گڑھی شہباز ودیگر بے شمار رشتہ داران میں واجد خان A S I تھانہ پڑانگ کی قتل دعویداری برخلاف باچہ خان ولد اسلم ، کاشف ولد مجاہد کرکے واجد خان A S I نے انکی رپورٹ بشکل مراسلہ ضبط تحریر میں لاکر جسکی باقاعدہ مقتولین کے بھائی خادم مذکورہ نے تائید کی ہے اسکے علاوہ بوقت رپورٹ ہسپتال میں موجود میڈیا گروپ کو بھی مقتولین کے وارث حقیقی خادم مذکورہ نے بھی وہی بیان دیا ہے جسکی باقاعدہ ویڈیو کلپ موجود ہے جوکہ چاک شدہ F I R کی تائید کرتا ہے۔ بوقت رپورٹ مدعیان نے واصف وغیرہ ذکر کیا تھا اور نہ ہی دیگر موجودگان میں سے کسی نے بوقت چاکیدگی مراسلہ کوئی ایسی بات کہی تھی جن سے واصف مذکورہ کی ملزمیت مراسلہ میں تحریر کیا جا تا۔ جہاں تک پولیس کی تفتیش کی بات ہے تو پہلے ہی ضمنی میں من S H O کی کاوشوں سے واصف ولد مجاہد ساکن گل آباد سرڈھیری جو مقتولین کا حقیقی بھانجا ہے کو شامل تفتیش کیا جا کر باقاعدہ طور پر مقدمہ میں چارج کیا گیا ہے۔جو کہ بروقت گرفتارہوکر بروئے راضی نامہ عدالت سے ضمانت پر ہے۔

من سابقہ S H O نے بحثیت S H O جو بھی کاروائی کی ہے وہ قانون کی مطابق کی ہے اس تمام کاروائی میں من سابقہ S H O کی کوئی غفلت یا بد نیتی شامل نہیں ہے۔ اس سلسلہ میں میں بے گناہ ہوں۔

استدعا ہے کہ مندرجہ بالا حقائق کو مد نظر رکھتے ہوئے سائل کی چارج شیٹ بلا کسی کاروائی کے داخل دفتر کیجاوے۔

تاحیات دعا گو رہونگا۔

عرفان خان SI متعینہ پولیس لائن چارسدہ۔

0336-8685582

(13)

Annexure-6

بیان [illegible]

[illegible] 191/11.2.22 [illegible]

[illegible]

[illegible] PPC 302-34 [illegible]

[illegible]

[illegible] FIR [illegible]

[illegible]

[illegible]

0336 8685562

Annexure-H

DEPARTMENTAL ENQUIRY AGAINST SI IRFAN KHAN (THE THEN SHO PS PRANG), PRESENTLY POLICE LINES CHARSADDA.

The instant enquiry against SI Irfan Khan was ordered vide Endst: No. 191/HC dated 11-02-2022, with the allegation that he while posted as SHO PS Prang charged accused Bacha Khan etc being irrelevant accused instead of accused Wasif s/o Mujahid r/o Sheikhan Abad Sardheri as nominated by complainant in the case FIR No. 34 dated 17.01.2022 u/s 302/34 PPC PS Prang and favored accused Wasif for the reason best known to him. His act is not only contrary to rules and discipline but also shows his indulgence in gratification and unfair means. In this regard a show cause notice was issued to him but reply to the same was found un-satisfactory.

He was charge sheeted to-gather with statement of allegations and the undersigned was nominated as enquiry officer.

➢ **PROCEEDINGS:-**

During the course of enquiry, the alleged SI Irfan Khan was called to the office of the undersigned. He was heard in person and his statement was recorded.

➢ **Statement of SI Irfan Khan (the then SHO PS Prang):**

He stated that on the day of occurrence complainant Wisal s/o Behramand r/o Merzagan Prang (husband of deceased Mst: Fahmeeda) in the presence of Khadim Jan (brother of deceased ladies) and others close relatives, were present in Casualty DHQ Hospital Charsadda, made report to ASI Wajid Khan regarding murder against the accused Bacha Khan s/o Aslam and Kashif s/o Mujahid .Upon which ASI Wajid drafted Murasila, which was duly supported by Khadim Jan (brother of both the deceased). Beside it, the said Khadim Jan also narrated the said statement before the media group/representatives, already present there. (Video clipping available) which supported the version of FIR. Further stated that at the time of lodging FIR, the complainant neither disclosed the name of Wasif nor any other relative disclosed name of the said Wasif or other person while drafting murasila, as to mention his name as accused in the Murasila. As far as Investigation of the case is concerned, during 1st Zemni report, accused Wasif (nephew of both deceased) was associated in Investigation process and then he was properly charged/arrested in the case. Later-on the accused was released on bail by the Court on the basis of compromise.

He further stated that being posted as SHO PS Prang, he performed all the proceeding according to the Law/Rules and no negligence or dishonesty is involved on his part and further requested that the instant charge sheet may kindly be filed please, (statement at annexure-A).

➢ During the course of enquiry the following Police official, complainant and accused parties were also summoned to the office, they were heard in person and their statements were recorded:-

i. ASI Wajid Khan PS Prang.
ii. ASI Fazal Nabi PS Prang.
iii. IHC Habib Ullah Moharrar PS Prang.
iv. FC Jehanzeb No. 1824.
v. FC Kifayat No. 436.
vi. FC Naeem No. 1673.
vii. FC Arshad No. 602. (Casualty)

(15)

viii. FC Fayaz No. 743. (Casualty)
ix. FC Fawad No. 485.
x. FC Farman No. 443.
xi. FC Habib No. 1835.
xii. FC Khan Muhammad.(DSB)
xiii. Wisal Khan (complainant).
xiv. Badshah Khan s/o Aslam Khan (accused).
xv. Kashif s/o Mujahid Gul (accused).
xvi. Wasif Ullah (accused)
xvii. Khadim Ullah Jan (brother of deceased)
xviii. Iftikhar Ali (Jirga Leader)

➢ **Statement of Wisal Khan (complainant)**

He stated that on 05.01.2022 we were present in his house, Wasif alongwith other person came to his house for killing his wife Mst: Fahmeeda and sister- in- law Mst: Amina. In this regard he informed the local Police, they reached and taken to Police station, where lodged the report. Then they sifted to from village to Bhosa khel. On 17.01.2022 he was present at village Ghari Hameed Gul Mian in connection with the laboring, was informed that his wife and sister-in-law were killed by someone and their dead bodies are lying in the house. He immediately reached home and found Mst: Fahmeeda and Amina were killed. The local Police were also present on the spot, he told the SHO that Wasif, Izaz and Khadim Jan are his accused. The dead bodies were brought to Hospital where he also reported to the local Police against the accused Wasif, Izaz and Khadim Jan and fixed his finger on the report. After postmortem, he takes the dead bodies to the house Badshah khan my (wife-brother-in-law/humzulf). After 03 days the Police nominated Badshah Khan for the offence and later-on the elder of the locality namely Iftikhar etc came and agreed him for compromise, he patched up the matter on the following condition.

1. That the opposite party i.e Wasif will arrange 2nd marriage for Wisal (complainant) and bound for given a house, then compromise was affected by him. The stamp paper is available in the court.

Further stated that accused Kashif and Izaz were arrested by the Police while Wasif and Khadim Jan have got their BBA. The Jirga elders have assured him that they shall arrange 2nd marriage as well as a house. (Statement at annexure-B).

➢ **Statement of Badshah Khan(Accused/applicant).**

He has repeated his stance. (Statement at annexure-C).

➢ **Statements of ASI Wajid Khan, ASI Fazal Nabi and others Police officials,** reveals that on the day of occurrence, complainant Wisal, Khadim Jan, (brother of both the deceased) and all others close relatives of the deceased were present in the Casualty Hospital DHQ Charsadda. The complainant Wisal after proper discussion/consultation with Khadim Ullah Jan has nominated/charged accused Badshah Khan and Kashif for the commission of offence. Hence ASI Wajid Khan drafted the Murasila, also read out in Pashto to the complainant and then sent to Police station through Constable Jehanzeb No. 1824. Upon which a proper case vide FIR No. 34 dated 17.01.2022 u/s 302/34-PPC PS Prang was registered against the above named nominated accused.

- During enquiry, it was found that deceased Mst: Fahmeeda, has already produced an application against the said Wasif etc: to the SHO PS Prang on 05.01.2022, which was marked to ASI Fazal Nabi of PS Prang on same day, but the said ASI did not take any legal action in-time upon her complaint. Later-on the said applicant (Mst: Fahmeeda) was killed, (statement at annexure-D).

- Detail of family relation between the deceased, complainant and accused party is as under:-

S. No.	Name of deceased ladies	Relation with the complainant	Relation with the accused
1	Mst: Fahmeeda	Wife	i. (Sister-in-law of accused Badshah Khan) ii. (Sister of Khadim Jan) iii. (maternal Aunty of Kashif) iv. (maternal Aunty of Wasif)
2	Mst: Amina (un-married)	Sister-in-law	i. (Sister-in-law of accused Badshah Khan) ii. (Sister of Khadim Jan) iii. (maternal Aunty of Kashif) iv. (maternal Aunty of Wasif)

During the course of Investigation, accused Wasif s/o Mujahid and Khadim Ullah Jan was also charged/arrested in the case by the local Police, they later-on released on bail by the Court on the basis of compromise(Copy of Court order attached vide Annex: E).

As per statements of Iftikhar Ali, Kashif, Wasif Ullah, Khadim Jan, that neither any Police Officers/official had demanded nor they have given any illegal gratification to Police personnel. (Copy attached vide Annexure-F)

Furthermore, Iftikhar Ali being elder of the area/Jirga member, disclosed that he was also present with both the parties from the day of occurrence until the Jirga process, SI Irfan Khan suggested both the complainant Wisal and Khadim Ullah for the registration of the case. Then complainant Wisal after discussion/consultation with Khadim Jan (brother of deceased), charged accused Badshah Khan and Kashif for the murder of his wife Mst: Fahmeeda and his sister-in-law Mst: Amina. After ¾ days accused Wasif and Izaz were charged. Later-on the matter was patched-up between the parties on compromise basis. He being Jirga elder paid an amount of Rs. 200,000/-(two lac) to accused Badshah Khan with one Sheep as "Ozar".

It is worth to mention here that on 23.02.2022 both the complainant and accused parties were called through telephone operator to appear before the undersigned for cross examination, but except the complainant Wisal and accused Badshah Khan, the rest appeared, while Izaz and Wasif (accused party), shows their presence in district Mansehra.

On 24.02.022, they were again contacted, Badshah Khan disclosed that he has shifted to Michni area, while phone number of complainant Wisal was coming off.

Accused Kashif and Iftikhar Ali "Jirga elder" stated on Oath that neither any Police officer has demanded any illegal gratification from them nor they given.

During the course of cross examination, ASI Wajid Khan disclosed that he was present at Casualty, when Khadim Jan (brother of deceased) reached there, started crying that he will report regarding the occurrence against accused Badshah Khan. In that time the said Khadam Jan also narrated the said story before the media group/representatives, present at Casualty DHQ Hospital. While complainant Wisal insisted that he will charge accused Kashif. Then they separated from the people and made discussion with each other, and after discussion complainant Wisal charged both the accused i.e Kashif and Badshah Khan for the commission of crime.

FINDINGS.

i. That there was already an ill-well exist between the deceased Mst: Fahmeeda with her nephew accused Wasif, as earlier on 05.01.2022, she submitted an application to the SHO PS Prang against the said accused (Wasif).

ii. That no legal action was taken in-time by the local Police upon the said application/complaint, resultantly incident took place,(copy attached at Annexure-G)

iii. That application dated 05.01.2022 moved by deceased Mst: Fahmeeda, also supports the stance of complainant Wisal, as the complainant told the SHO that Wasif, Izaz and Khadim Jan are his accused but the SHO did not charged them.

iv. That the SI Irfan Khan influenced/convinced the complainant for not charging the accused Wasif.

v. That SI Irfan Khan took advantage of his official position and provided undue favour to the accused Wasif etc.

vi. That SI Irfan Khan was found guilty of the allegations levelled against him.

RECOMMENDATION:

Keeping in view the above facts/circumstance and statements recorded reveals that: -

i. The allegations levelled against SI Irfan Khan (the then SHO PS Prang) has been proved/established. Therefore, he is recommended for suitable punishment under KPK Police Rules-1975.

(18)

ii. ASI Fazal Nabi PS Prang is found guilty for not taking immediate action upon the written application/complaint of Mst: Fahmeeda, as he also admitted in his reply that he takes the same as light. Due to his such gross negligence, 02-precious lives were expired. Thus he is recommended for strict departmental action,

Submitted, please.

No. _____/PA
Dated _____/2022

Superintendent of Police,
Investigation, Charsadda.

(19) Annexure-J

FINAL SHOW CAUSE NOTICE

Whereas, the charge of negligence was referred to enquiry officer for General Police Proceedings, contained u/s 5(3) Police Rules 1975.

AND

Whereas, the enquiry officer has submitted his findings, recommending you for suitable action.

AND

Whereas, I am satisfied with the recommendation of the enquiry officer that you SI Irfan Khan, while posted as SHO PS Prang, Charged accused Bacha Khan etc being irrelevant accused instead of accused Wasif s/o Mujahid r/o Sheikhan Abad Sardheri as nominated by Complainant in the case FIR No. 34 dated 17.01.2022 u/s 302/34 PPC PS Prang and favored accused Wasif for the reason best known to you. Your act is not only contrary to the rules and discipline but also shows your indulgence in gratification and unfair means. In this regard a show cause notice was issued to you but reply to the show cause notice was found unsatisfactory.

2. Thus the act amounts to gross misconduct and renders you liable for punishment, under Police Rules 1975.

3. Therefore, I, Sohail Khalid, District Police Officer, Charsadda in exercise of the powers vested in me under rules 5(3) (a) (b) of Police Rules 1975, call upon you to explain as to why the proposed punishment may not be awarded to you.

4. Your reply should reach the undersigned within 07-days of receipt of this notice, failing which disciplinary action pertaining to your dismissal from service will be taken ex-parte.

5. You are at liberty to appear in person before the undersigned for personal hearing.

DISTRICT POLICE OFFICER
CHARSADDA

No. _____/HC
Dated _____/2022

(20) Annexure-J

بیان ازاں عمران خان SI

جناب عالی!

بحوالہ شوکاز نوٹس نمبری 238/HC مورخہ ۱۰/۸/022 از جانب
جناب DPO صاحب چارسدہ مشمولہ حروفی ہدایت ہوں۔ کہ من عرفان خان SI
سابقہ SHO تھانہ ترنگ پر الزام ہیکہ بحوالہ مقدمہ علت 34 مورخہ 07-01-022 جرم
302-34 PPC تھانہ ترنگ مقتولین سماۃ آمنہ دختر محمود اور سماۃ تہمینہ زوجہ
وصال دختر محمود ساکنان گرڈھی شہباز خان ترنگ کے قتل کی ذمہ داری غلط تعین
کی گئی ہے۔ تو اس سلسلہ میں حقیقت یہ ہے کہ روز وقوعہ بمقام کچوڑی ہسپتال چارسدہ
مسمی وصال ولد بہرہ مند ساکنہ بزرگان ترنگ جو کہ مقتولہ سماۃ تہمینہ کا
شوہر ہے۔ بموجودگی برادر مقتولین مسمی خادم خان ولد محمود ساکنہ گرڈھی شہباز ترنگ
و دیگر بے شمار رشتہ داران میں واجد علی ASI تھانہ ترنگ کو قتل کی ذمہ داری
برخلاف باچا خان ولد اسلم، کاشف ولد بہادر کے واجد علی ASI نے آنکی رپورٹ
بشکل مراسلہ ضبط تحریر میں لا کر چکی۔ باقاعدہ مقتولین کی بھائی خادم مذکورہ
نے تائید کی ہے۔ اسکے علاوہ بوقت رپورٹ ہسپتال میں موجود میڈیا گروپ کو بھی مقتولہ
کے وارث حقیقی بھائی خادم مذکورہ نے واضح طور پر یہ بیان دیا ہے۔ جسکی باقاعدہ ویڈیو کلپ
موجود ہے۔ جبکہ چاک شدہ FIR کی تائید کرتا ہے بوقت رپورٹ نہ مدعیان نے واصف وغیرہ
ذکر کیا ہے۔ اور نہ ہی دیگر موجودگان میں سے کسی نے بوقت رپورٹ مراسلہ کوئی ایسی بات کہی تھی
جس سے واصف مذکورہ کا ملزم بحیثیت مراسلہ میں تحریر کیا جاتا جہاں تک پولیس کی تفتیش کی بات
ہے تو ایسے ہی کچھ دنوں میں من SHO کے کاوشوں سے واصف ولد جواہر ساکنہ گل آباد سرڈھیری جو
مقتولین کا حقیقی بھانجا ہے۔ کو شامل تفتیش کیا جا کر باقاعدہ طور پر مقدمہ میں چارج کیا گیا
جو کہ سردست گرفتار ہو کر عدالت سے ضمانت پر ہے۔ من سابقہ SHO نے بحیثیت SHO جو بھی کاروائی کی
وہ قانون کے مطابق ہے۔ اس تمام کاروائی میں من سابقہ SHO کی کوئی غفلت یا بدنیتی شامل نہیں ہے
اس سلسلہ میں میں بے گناہ ہوں۔
استدعا ہے کہ مندرجہ بالا حقائق کو مدنظر رکھتے ہوئے سائل کی شوکاز نوٹس کو بلا کسی کاروائی داخل
دفتر کیا جائے۔ تاحیات دعاگو رہوں گا۔

عرفان خان SI تعینات پولیس لائن چارسدہ 0336-5655582

Annexure - K

(21)

ORDER

This order will dispose of the departmental enquiry against SI Irfan Khan, while posted as SHO PS Prang. Charged accused Bacha Khan etc being irrelevant accused instead of accused Wasif s/o Mujahid r/o Sheikhan Abad Sardheri as nominated by Complainant in the case FIR No. 34 dated 17.01.2022 u/s 302/34 PPC PS Prang and favored accused Wasif for the reason best known to him. His act is not only contrary to the rules and discipline but also shows his indulgence in gratification and unfair means. In this regard a show cause notice was issued to him but reply to the show cause notice was found unsatisfactory. On the above allegation he was issued Charge Sheet together with statement of allegations under Sub Section 3, Section 5 of Police Rules 1975. Mr. Sajjad Khan SP Investigation Charsadda was nominated as inquiry officer for probing into the matter by conducting departmental inquiry against him and he after fulfillment of codal formalities has submitted his findings.

Subsequently, SI Irfan Khan, was issued Final Show Cause Notice U/S 5(3) Police Rules 1975 reply to which was received but found unsatisfactory.

After going through the enquiry papers and recommendation of the enquiry officer, wherein the officer has been found guilty hence he is hereby awarded the major punishment of revertion to the substantive rank of Assistant Sub-Inspector with immediate effect.

DISTRICT POLICE OFFICER
CHARSADDA

O.B No 265
Date 4/03/2022
No. 274-76 /HC, dated Charsadda the 04/03 /2022
CC.
Pay Officer
EC/FMC

(22)

Annexure - L

Before the Hon 'able Regional Police Officer Mardan, Region 1 Mardan

Through: Proper Channel

Subject: **Departmental Appeal u/r 11(2) of Police Rules 1975 (Amended 2014), against the impugned order, Passed by Worthy DPO Charsadda vide order No.274-76/HC dated 04.03.2022.**

Respected Sir,

The appellant respectfully prefers this appeal against the impugned order of Worthy DPO Charsadda, inter-alia on the following grounds, amongst others. (Order is enclosed as Annexure-A).

PRELIMINARIES:

1. The worthy inquiry officer did not follow prescribed procedure as per rule 6 of KP Police Rules 1975 (Amended 2014) as no cross opportunity was provided to the appellant, therefore contains legal infirmity and the finding report is void abinitio and Coram non judice, thus not tenable. **(Reliance is placed on reported judgment 2005 PLC (CS) page 1544)**
2. **As per rule 6 of police rule 1975, the inquiry officer shall inquire into the charge and may examine such oral or documentary evidence in support of the charge or in defense of accused as may considered necessary and the witnesses against him"** no evidence in support of charge except witness Wisal Khan (interested one and not eye witness) has been recorded as well no opportunity of cross examination provided to appellant, nor hearing on day to day base was held and prescribed time limitation for conclusion of inquiry was also violated hence the finding report is void-abi-nitio rather not sustainable.
3. The worthy inquiry officer with in the meaning of **Rule 6(v) of rule 1975** had only to submit cogent grounds to connect the appellant with alleged charge but no ground has so far been collected and brought on record, therefore, recommendation of inquiry officer is without jurisdiction and that too not provided under the Police Rules1975.**Competent authority is not bound to follow report of inquiry officer, was of recommendatory nature, as per reported judgement 2005 SCMR, page 1610.**
4. Personal hearing is mandatory as per **reported judgments 2005 PLC(CS) 1982** and 1987 PLC (CS) 810 but the appellant was not provided the opportunity of personal hearing to explain the circumstances behind the alleged charge, hence condemned unheard, therefore whole proceedings involve much more irregularities / illegalities and impugned order is not sustainable, under the eyes of law,**reliance is placed on reported judgement 1987 PLC(CS),page 870.**
5. The impugned order is very much harsh and not reasonable.**Quantum of punishment must appropriate, compatible and reasonable, having been**

observed by learned superior court in reported judgment 1988 PLC (CS),page 179.

6. The appellant has been treated discriminately, involving infringement of rights, therefore, the awarded punishment in principle violates Pakistan Constitution 1973 and prevailed laws.

7 **Reliance is placed on 2005 PLC (CS)1559: Fault of appellant at the most could be turned as negligence (the appellant though do not accede/admit) for which a minor penalty would suffice.....Appellant had more than 10 years with clean record of service as low paid subordinate which also deserves due consideration before imposition of major penalty under given circumstances.**

8. **The recorded evidence before worthy inquiry officers, if nakedly examined there is nothing to establish the charges i.e favor to Wisal and receiving of illegal gratification. The worthy inquiry officer only condemned the appellant for not taking action on the application, submitted on 05.01.2022 by deceased party against Wasif, it is sworn that the same application was not in notice and knowledge of appellant, rather brought in notice by PS staff.**

ON FACTS:

i. Short facts are that accused Bacha khan etc were booked vide FIR No.34 dated 17.01.2022 u/s 302/34 PPC by PS Prang instead of accused Wasif, thereby favored him (Wasif) through gratification and unfair means.

ii. The appellant was issued charge sheet for act of misconduct which was properly answered but not considered by worthy inquiry officer as well worthy authority DPO Charsadda.**(Copy attached as Annexure-B)**

iii. On submission of finding report by worthy inquiry officer SP (investigation Charsadda), the authority without going into the merits of the case, **passed the impugned order dated 04.03.2022 and awarded major punishment of reversion to the substantive rank of ASI.**

GROUNDS OF APPEAL:

The impugned order of DPO Charsadda, is assailable on the following grounds.

1. The impugned orders are unjust, unlawful and without authority hence coram non judice and void abenetio.
2. The inquiry proceedings have not been conducted as per law, within the meaning of police rules 1975 and due to procedural lapses, irregularities/illegalities, the finding report is not tenable.
3. The alleged charge is not justifiable and is considerable on the following few stances:-

   i. As per record, the double murder occurrence was reported to ASI wajid khan in DHQ hospital Charsadda by complainant Wisal khan, duly verified by khadim jan which was incorporated in the shape of murasilla and dispatched to police station Prang for registration of case and FIR was registered

accordingly. **What does law on the subject speak/provide, which could be ignored or otherwise. section 154 CrPC reads as under;**

"Every information relating to commission of a cognizable offence, if given orally to an officer in charge of police station, shall be reduced to writing by him or under has direction and be read over to the informant and every such information whether given in writing or reduced to writing as aforesaid shall be signed by the person giving it" Report was lodged to ASI wajid khan and as per legal process case was registered against nominated accused, which did not contain any malafide or favor to any body else.The appellant as such is not involved in the process from report of the complainant up to registration of case hence is innocent. **(Murasilla is attached as annexure-C)**

ii. Total 18 witnesses have been examined wherein only Wisal, not present on the spot have charged the complainant namely Wasif, Izaz, khadim jan who were arrested in the case without delay but none of the witness in the statement brought eye witness account, supporting the act of illegal gratification, having been received by the appellant or any favor accorded . **What does police rules 1934 speaks about the act of illegal gratification.**Needless to say that corruption charge / persistent corruption requires solid materials but here on record, nothing in support is available. **Rules regarding proceedings against Police Officers reported to be corrupt or involved in corrupt practices, attractrules 16.39 r/w 16.16 PR 1934 wherein corruption record is required to be maintained on personal file, character role or fauji missal and attested copy thereof shall be furnished to the Police Officer concerned, but such record has not been maintained or is not available against me hence the act of gratification/brief does not carry legal footings.**

iii. Findings of worthy inquiry officer is based on hearsay as no direct or indirect evidence has been collected or brought on record to connect the appellant with alleged misconduct **(2005 PLC (C.S)page 559)**

iv. Worth to clarify that worthy inquiry officer in his finding report has observed that accused Kashif and jirga elder Iftikhar Ali stated on oath that neither any police officer has demanded illegal gratification from them nor they given so **what a surprising situation that he (inquiry officer) in recommendation stance that allegation against appellant has been proved/ established and recommended suitable punishment.**

v. Since the appellant has joined this august force, he performed dedicatedly, honestly, efficiently and to the entire satisfaction of superiors. The awarded penalty shall cause irreparable loss to the appellant and his family.

(25)

vi. The appellant belongs to middle class family, the service is his only source of earning and **the awarded penalty in reduction of rank** shall be huge financial loss to him, his carrier as well family repute, for no good reasons, hence requires sympathetic consideration.

4. There is not an iota of evidence, recorded by worthy inquiry officer who could link or connect the appellant with the alleged charges i.e. receipt of gratification and favor to accused Wasif, the finding report is based on surmises and conjectures.
5. The whole inquiry proceedings and the report based thereupon ,are based on malafide, partiality and the impugned order dated **04.03.2022** has been passed in clandestine manner, total disregard to the available record, the law and rules on the subject, the norms of justice and fair play.

PRAYER

Apropos, it is humbly prayed that by accepting this appeal, the impugned order dated **04.03.2022 (reduction in rank to the post of ASI)** may very kindly be set aside and restore to previous status to the rank of SI, to meet the ends of justice.

Sincerely yours

Ex-SI Irfan khan

(Appellant)

16-3-22

26

Annexure – M

Scanned with CamScanner

BIO DATA OF ASI IRFAN KHAN FOR APPEARING IN ORDERLY ROOM.

Description of applicant	Charges	Grounds for appeal	Remarks/Comments by DPO/Charsadda on appeal	Orders passed by the Region Chief
Name Irfan Khan **Rank ASI** **District Charsadda** **Date of Enlist 21.09.2010 as PASI** **Good :- 03** **Punishment** **Bad:- Nil** **Minor:- Nil** **Major: - 01** 1. **Reverted from Officiating Rank of Sub Inspector to the substantive rank of ASI vide DPO/Charsadda OB: No. 265 dated 04.03.2022.** No. 2690/E1 dt: 14-04-22 Encl: S. Record F. Missal	He while posted as SHO PS Prang, charged accused Bacha Khan etc being irrelevant accused instead of accused Wasif s/ Mujahid resident of Sheikhan Abad Sardhen as nominated by complainant in case FIR No. 34 dated 17.01.2022 u/s 302/34-PPC PS Prang and favored accused Wasif for the reason best known to him. In this regard a Show Cause Notice was issued to him but his reply was received perused and found unsatisfactory. He was issued Charge Sheet and statement of allegations and SP Investigation, Charsadda was nominated as Enquiry Officer for probing into the matter by conducting departmental enquiry against him and he after fulfillment of codal formalities has submitted his findings. He was issued Final Show Cause Notice to which his reply was received and found satisfactory After going through the enquiry papers and recommendation of the enquiry Officer, the delinquent Officer has been found guilty, therefore, awarded major punishment of reversion to the substantive rank of ASI with immediate effect.	**Plea of the appellant is attached F/A**	He while posted as SHO PS Prang, charged accused Bacha Khan etc in case FIR No. 34 dated 17.01.2022 u/s 302/34-PPC PS Prang, being irrelevant accused, instead of actual accused Wasif for the reason best known to him In this regard charge sheet & summary of allegations were issued to the accused officer and Mr. Sajjad Khan, Superintendent of Police, Investigation Charsadda was nominated as enquiry officer, with the direction to conduct proper departmental proceeding and submit his finding. After conducting proper departmental proceedings, he submitted his finding, duly endorsed vide letter No. 461/PA/Invest dated 28.02.2022, wherein enquiry officer recommended the accused official for suitable punishment, hence he was awarded the aforementioned punishment. On receipt of finding of the enquiry officer, final show cause notice was issued to the accused officer vide this office No. 249/HC dated 02.03.2022. Reply to the final show cause was received and found unsatisfactory Perusal of the record further reveals that the order passed by this office was strictly in accordance with the law and all codal formalities were adopted. His appeal is not worth considerable, hence recommended to be filed.	SP/Inv Mardan to hold an enquiry and submit report in 7 days [illegible]

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Annexure – N

OFFICE OF THE
SUPERINTENDENT OF POLICE
INVESTIGATION MARDAN
Phone No. 0937-9230121
Fax No. 0937-9230321
Email:invmdn@gmail.com

No. 303 /PA/Inv: Dated 27 / 05 / 2022.

To: The Regional Police Officer,
Mardan.

Subject: **DEPARTMENTAL ENQUIRY AGAINST SI IRFAN KHAN (NOW ASI) THEN SHO PS PARANG DISTRICT CHARSADDA.**

Memo:

Kindly refer to your office diary No. 2690/ES dated 04.04.2022, on the subject cited above.

The enquiry in hand was entrusted to undersigned by the Worthy Regional Police Officer, Mardan vide his office dairy No. 2690/ES dated 04.04.2022 for conducting De- novo enquiry proceeding against delinquent officer ASI Irfan Khan the then SHO PS Prang district Charsadda Facts leading to the issues in question are as under:-

BRIEF HISTORY:-

Whereas, SI Irfan Khan while posted as then SHO Prang District Charsadda charged accused Bahkan being irrelevant accused instead of accused Wasif s/o Mujahid r/o Sheikhan Abad Serdheri as nominated by complainant in case vide FIR No. 34 dated 17.01.2022 u/s 302/34 PPC PS Prang and favored accused Wasif for the reason best known to him . His act is not only contrary to rules and discipline but also shows his indulgence in gratification and unfair means. In this regard a Show Cause Notice was issued to him but reply to the same was found unsatisfactory.

He was served Charge Sheet and the enquiry was marked to SP/Inv: Charsadda wherein in the light of enquiry proceedings he was found guilty and punished with the reversion of rank. (SI to ASI)

In this connection the alleged officer submitted an appeal for lenience to the worthy Regional Police Officers, Mardan.

PROCEEDINGS:-

To ascertain the facts enquiry was conducted into the matter against ASI Irfan Khan the then SHO PS Prang , on account of the above allegations leveled against him and the following relevant officers / officials & Personnel

were summoned and heard in the Office of undersigned and their statements and cross examinations were recorded.

01. ASI Irfan Khan the then SHO Prang
02. ASI Fazal Nahi Khan PS Pang
03. ASI Wajid PS Prang
04. IHC Habib Ullah Moharrar PS Prang
05. LHC Irshad MM PS Pang
06. LHC Arshid No. 602 (Casualty)
07. Iftikhar Ali (Jirga Leader)
08. Kashif ullah S / o Mujahid Gul (accused)

While Khadim Ullah , Badshah Khan and Wasif Khan were time and again contacted but failed to appear before the undersigned (DD reports are attached).

FACTS AND FINDING:-

During the course of enquiry it was found that the deceased Mst: Fahmeeda has already produced an application against the said Wasif etc to the SHO PS Prang on 05.01.2022 which was marked to ASI Fazal Nabi of PS Prang on the same day but the said ASI did not take any legal action in time upon her complaint . Later on the said applicant (Mst: Fahmeeda) was killed.

During the course of Investigation accused Wasif s/o Mujahid and Khadim Ullah Jaan were also charged / arrested in the said case by the local Police. Later on they were released on bail by the court on the basis of compromise copy of court orders are attached. As per statements neither any Police officer / official had demanded nor any body have given any illegal gratification to Police personnel.

Furthermore, Iftikhar Ali being elder of the area / Jirga member disclosed that he was also present with both the parties from the day of occurrence until the Jirga process SI Irfan Khan suggested both the complaint Wisal and Khadimullah for the registration of case. Then complainant Wisal after discussion / consultation with Khadim Jaan (Brother of deceased) charged accused Badshah Khan and Kashif for the murder of his wife Mst: Fahmeeda and his sister in law Mst: Amina . After ¾ days accused Wasif and Izaz were also charged. Later on the matter was patched up between the parties on compromise basis. He being Jirga elder paid an amount of Rs. 200,000 / - (Two lac) to accused Badshah Khan with one sheep as "Ozar ".

During the course of cross examination ASI Wajid Khan and LHC Arshid No. 602, disclosed that they were present at casualty, when Khadim Jaan

mother of deceased reached there and started crying that he will report the occurrence against accused Badshah Khan, at that time the said Khadim Jaan also narrated the said story before the media group / representatives, present at casualty DHQ Hospital Charssada. While complainant Wisal insisted that he will charge accused Kashif. After discussion with Khadimullah complainant Wisal charged both the accused i.e. Kashif and Badshah Khan for the offence.

RECOMMENDATION:-

Keeping in view the statement of all concerned , facts circumstances and materials available on record the undersigned came to the conclusion that the allegation leveled against the defaulter officer ASI Irfan are not proved as nothing could come to surface to substantiate the involvement of the said officer in charging an irrelevant person . However, being posted as SHO he was under obligation to take legal action on the application submitted by Mst; Fahmeeda deceased as his stance regarding unawareness of the said application is not plausible rather bereft of any substance. As it is the formost duty of SHO to do take into consideration all applications filed directed to him are marked to his subordinate for proceeding. Hence, on this count the appellant is recommended for awarding Minor Punishment if agreed please.

Superintendent of Police,

(30) Annexure - C

ORDER.

This order will dispose-off the departmental appeal preferred by **ASI Irfan Khan No. P/462** of Charsadda District against the order of District Police Officer, Charsadda, whereby he was awarded major punishment of reduction in rank from Sub Inspector to his substantive rank of ASI vide OB: No. 265 dated 04.03.2022. The appellant was proceeded against departmentally on the allegations that he while posted as SHO Police Station Prang, District Charsadda, charged accused Bacha Khan etc being irrelevant accused instead of accused Wasif s/o Mujahid resident of Sheikhan Abad Sardheri as nominated by complainant in case FIR No. 34 dated 17.01.2022 u/s 302/34-PPC Police Station, Prang District Charsadda and favored accused Wasif for the reason best known to him.

In this regard a Show Cause Notice was issued to him but his reply was received perused and found unsatisfactory.

Therefore, proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and Superintendent of Police Investigation, Charsadda was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities submitted his findings wherein he found the delinquent Officer guilty for the misconduct and recommended him for suitable punishment. The deceased Mst: Fahmeeda had submitted an application to SHO Prang (present appellant) in which she had mentioned two names who wanted to kill her. However, no legal action was taken as a result the said tragic incident took place.

He was issued Final Show Cause Notice. His reply to the Final Show Cause Notice was received, perused and found unsatisfactory. Therefore, the District Police Officer, Charsadda awarded him major punishment of reduction in rank from Sub Inspector to his substantive rank of ASI vide office OB: No. 265 dated 04.03.2022.

Feeling aggrieved from the order of District Police Officer, Charsadda, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 01.04.2022.

Hence, in order to make thorough probe into the issue, de-novo enquiry proceedings were entrusted to the Superintendent of Police Investigation, Mardan vide this office endorsement No. 2690/ES dated 04.04.2022. The enquiry Officer after conducting thorough probe submitted his report vide his office letter No. 303/PA/Inv: dated 27.05.2022 stated therein that the delinquent Officer being posted as SHO was under obligation to take legal action on the application submitted by deceased Mst: Fahmeeda, and his stance regarding unawareness of the said application is not plausible rather bereft

of any substance. The enquiry Officer further recommended that it is the foremost duty of SHO to take action on all applications filed directly to him or marked to his subordinates for proceeding. Hence, on this count the appellant is recommended for punishment.

The appellant was again summoned and heard in person in orderly room held in this office on 07.06.2022 but this time too he failed to advance any cogent reason to justify his innocence.

It is worth mentioning that an application was filed by Mst: Fahmeeda (deceased) wherein she had requested the appellant being SHO of the Police Station, for taking legal action against accused Wasif as she feared that he would kill her but he did not bother to take any action and resultantly the murder took place and 02 precious lives were lost. The appellant cannot be exempted on this score that his subordinate i.e Head Constable Fazal Nabi No. 698 had not taken the action on the application of aforementioned deceased lady, as being SHO Police Station Prang, he was responsible for each and every affair pertaining to his Police Station.

It is further added that when the incident of murder took place, an application was already filed by the above named deceased lady against accused Wasif and it was in full knowledge of the SHO and it was his duty to take into consideration that application also and discuss the involvement of accused Wasif with the complainant party and also to include that application in the FIR but he did not bother to do so therefore, ignoring a very important piece of evidence as given by the murdered lady herself. Resultantly the accused Wasif was given a huge favor.

Based on the above, **I, Yaseen Farooq, PSP Regional Police Officer, Mardan,** being the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being bereft of any substance.

Order Announced.

Regional Police Officer,
Mardan.

No. 4389-92 **/ES, Dated Mardan the** 23/06 **/2022.**

Copy forwarded for information and necessary action to the:-

1. Capital City Police Officer, Peshawar.
2. Commandant FRP Khyber Pakhtunkhwa, Peshawar.
3. District Police Officer, Charsadda
4. Superintendent E-III CPO/Peshawar.

(*****)

(32)

To,

The Provincial Police Officer,
Kyber Pukhtoonkhwa,
Peshawar.

Subject:

REVISION / MERCY PETITION AGAINST OB. NO. 265 DATED 04-03-2022 OF DPO CHARSADDA WHEREBY MAJOR PUNISHMENT OF REVERSION TO THE RANK OF ASSISTANT SUB-INSPECTOR FROM THE RANK OF SUB-INSPECTOR WAS IMPOSED UPON APPELLANT OR OFFICE ORDER NO. 4389-92/ES DATED 23-06-2022 REGIONAL POLICE OFFICER MARDAN WHEREBY DEPARTMENTAL APPEAL OF APPELLANT WAS REJECTED FOR NO LEGAL REASON.

Respectfully sir,

1. That on 05-01-2022, Mst. Fehmida wife of Wisal R/o Saeed Gul Quarters Charsadda submitted application to appellant, that Wasif S/O Mujahid R/O Gulabad Sardheri without permission entered in to her house started altercation, became annoyed, beated her and open pistol and threatened for killing. He be arrested and legal action against him be taken. The said application was marked to ASI Fazal Nabi for necessary action on the said date.

2. That on 17-01-2022, Murasla was scribed by ASI Wajid Khan at DHO Hospital Charsadda under section 302/34 PPC for killing the said Mst. Fehmida and Mst. Amina. Bacha Khan S/o Aslam Khan, Kashif S/o Mujahid Khan were charged for the commission of offence by Wisal Khan S/o Behramand Khan.

3. That the said Murasla was incorporated in to FIR No. 34, dated 17-01-2022, PS Praang, under section 302/34 PPC. Complainant Wisal khan reported the matter to SHO as under:-

"He was present in village Hamid Gul, got information of the incident that his wife Mst. Fehmida and her sister-in-law, Mst. Amina are lying dead in his home. He, after completion of investigation and satisfaction, charged accused Bacha Khan S/o Aslam Khan and Kashif Khan S/o Mujahid Khan".

4. That on 21-01-2022, appellant was suspended from service for inefficiency and charge of corruption.

5. That on 26-01-2022, the legal heirs of Mst. Fehmida deceased patched up the matter with accused was Wasifullah S/o Mujahid Gul, Muhammad Khadim Ullah S/o Mehmood Khan and Izzat Ullah S/o Safdar Ali. It seemed that their names have become on surface in the matter during investigation of police.

6. That on 26-01-2022, appellant was served with Show Cause Notice by R. No. 01 with allegation that he while posted as SHO PS Praang charged accused Badshah Khan, etc, being irrelevant instead of accused Wasif in the said FIR and favored accused Wasif for the reason best known to him which act was contrary to the rules and discipline by indulging in gratification and unfair means.

7. That on 27-01-2022, after patching up the matter with accused party, the said Badshah Khan submitted application before DPO Charsadda for initiating legal proceedings against appellant by misusing his power and facilitated real culprits, so he be proceeded legally for the same.

8. That on 03-02-2022, appellant submitted reply to the Show Cause Notice by denying the allegations relying upon the contents of the Murasla and FIR.

9. That on 11-02-2022, DPO Charsadda served appellant with charged Sheet and Statement of Allegations on the same charges contained in the Show Cause Notice.

10. That the said charge sheet was replied by appellant in the aforesaid manner as of Show Cause Notice.

11. That inquiry in to the matter was initiated and after completing the same, the Inquiry Officer submitted enquiry report before the authority on 28-02-2022 and recommended appellant for suitable punishment under KP Police Rules, 1975. ASI Fazal Nabi was also found guilty for not taking prompt action on the written application/complaint of Mst. Fehmida. The said ASI was also reverted to the post of Constable.

12. That on 03-03-2022, appellant was served with Final Show Cause Notice on the aforesaid allegation which was replied by denying the same as was done in the Show Cause Notice and charge sheet.

13. That on 04-03-2022, major punishment of reversion from the rank of Sub-Inspector to the rank of Assistant Sub-Inspector was imposed upon the appellant by DPO Charsadda.

14. That on 16-03-2022, appellant submitted comprehensive representation before RPO Mardan for restoration to the original rank of SI with all consequential benefits.

15. That on the representation of appellant, De-Novo enquiry was conducted by SP (Inv) Mardan on the direction of Regional Police Officer Mardan and then he was recommended for minor punishment vide enquiry report dated 27-05-2022.

16. That representation of appellant was rejected on 23-06-2022 by Regional Police Officer Mardan for no legal reason, despite the fact that he was recommended for minor punishment.

17. That in the progress report, appellant has shown his efficiency as SHO of the PS since June, 2021 till January, 2022. (Copy attached)

Hence this appeal, inter alia, on the following grounds:

GROUNDS:

a. That the matter was reported to the Police Station by complainant Wisal Khan, husband of deceased Mst. Fehmida and appellant was legally bound to register FIR as per his versions and not otherwise.

b. That no favoritism was made to anyone by appellant in the matter.

c. That very strange, in the Show Cause Notice and Charge Sheet, DPO Charsadda leveled allegations of in-efficiency and corruption against appellant and not of influence of someone. In the statements recorded by Inquiry Officer, Iftikhar Ali, Kashaf, Wasifullah, Khadim Jan, etc. stated in categorical manner. That no gratification was ever made to appellant.

d. That when none demanded any gratification, then how appellant was termed guilty.

e. That recommendation of I.O in respect of appellant was in total disregard of the statements of both the parties recorded in the matter.

f. That no opportunity of cross examination over the witnesses was ever provided to appellant, being mandatory. No major punishment was suggested by the Inquiry Officer for appellant.

g. That appellant carried out all the proceedings according to law/rules and no negligence, in-efficiency or dishonesty was shown nor was pointed out by the I.O in the inquiry report.

h. That Murasla was scribed by ASI Wajid Khan in DHQ Hospital Charsadda by complainant Wisal Khan duly verified by Khadim Jan. Appellant only converted Murasla in to FIR as per Law.

i. That the authorities miserably failed to take the stance of appellant narrated in the Show Cause Notice and Charge Sheet but with closed eyes passed replies the impugned orders which are not only sustainable under the law but are against the rules.

j. That former / first enquiry dated 28-02-2022 and subsequent enquiry dated 27-05-2022 created doubts in respect of punishments and then benefit of doubt shall go in favor of appellant and not to the department. He shall be exonerated from the base less charges.

k. That no personal hearing was afforded to appellant so both the orders are not per the mandate of law rather based on malafide and discrimination.

It is, therefore, most humbly prayed that on acceptance of the Revision / Mercy Petition, order dated 04-03-2022 and 23-06-2022 of the respondents be set aside and appellant be restored to the rank of Sub-Inspector with all consequential benefits.

Appellant

Irfan Khan S/O Jehangir Khan,
Ex Sub-Inspector / SHO,
Police Station Prang,
District Charsadda, Now
Assistant Sub-Inspector
FRP Hqrs: Peshawar
Cell No. 0336-8685582

Dated 05-07-2022

(36)

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

7015
30-11-22

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by **ASI Irfan Khan No. P/462 (the then SI).**

The petitioner was awarded punishment of reduction in rank from SI to substantive rank of ASI by District Police Officer, Charsadda vide OB No. 265, dated 04.03.2022 on the allegations that he while posted as SHO Police Station Prang, Charsadda charged accused Bacha Khan etc being irrelevant accused instead of accused Wasif s/o Mujahid r/o Sheikhan Abad Sardheri as nominated by complainant in case FIR No. 34, dated 17.01.2022 u/s 302/34-PPC Police Station Prang, Charsadda and favored accused Wasif for the reason best known to him. The deceased Mst: Fahmeeda submitted an application to the applicant wherein she had requested for taking legal action against accused Wasif as she feared that he would kill her but he did not bother to take any action and resultantly the murder took place and two (02) precious lives were lost. His appeal was rejected by Regional Police Officer, Mardan vide order Endst: No. 4389-92/ES, dated 23.06.2022.

Meeting of the Appellate Board was held on 10.11.2022, wherein the petitioner was present and heard in detail. During hearing, the officer admits that an application was submitted by the deceased against the accused however no action was taken. This fact was also overlooked during the registration of the case.

The appeal therefore is without merit and therefore rejected. However, as no period is specified, therefore, the Board decided that time period is hereby specified for two years in accordance to FR 29.

Sd/-
MUHAMMAD ALI BABAKHEL, PSP
(UNPM, NSWC)
Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar.

No. S/ 2874-80 /22, dated Peshawar, the 25-11 /2022.

Copy of the above is forwarded to the:

1. Regional Police Officer, Mardan. Two service books, one Fauji Missal and one enquiry file of the above named appellant received vide your office Memo: No. 5783/ES, dated 30.08.2022 is returned herewith for your office record.
2. District Police Officer, Charsadda.
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. Office Supdt: E-III, CPO Peshawar.
7. Officer concerned.

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

(37)

GOVERNMENT OF KHYBER PAKHTUNKHWA
OFFICE OF THE DISTRICT POLICE OFFICER CHARSADDA
PHONE# 091/9220400 FAX# 091-9220401
EMAIL: charsaddadpo@yahoo.com

Authority Letter in Service Appeal No.1861/2022 -Title ASI Irfan Khan.

Mr. Shah Jehan, Assistant Sub-Inspector Legal, is hereby authorized to appear before the Khyber Pakhtunkhwa Service Tribunal, Peshawar in the above captioned Service Appeal on behalf of answering respondents. He is also authorized to submit all required documents and replies etc as representative of the answering respondents through the Additional Advocate General, Khyber Pakhtunkhwa Peshawar.

District Police Officer,
Charsadda
(Respondent No.1)

Regional Police Officer,
Mardan, Region, Mardan
(Respondent No.2)

Provincial Police Officer,
Khyber Pakhtunkhwa,
(Respondent No.3)

(38)

BEFORE THE HONOURABLE KPK SERVICES TRIBUNAL PESHAWAR

Service Appeal No. 1861/2022

Irfan Khan s/o Jehangir Khan, Ex-Sub-Inspector/SHO, Police Station Prang, District Charsadda now Assistant Sub-Inspector FRP, HQrs.

.....Appellant

VERSUS

District Police Officer, Charsadda & others

.....Respondents

AFFIDAVIT

I, Shah Jehan, ASI (representative of the department) do hereby solemnly affirm and declare on Oath that contents of the parawise comments are true and nothing has been concealed from this Hon'ble Tribunal.

DEPONENT:

CNIC No.17101-9377155-1

Cell # 0310-9898096

ATTESTED
ZAHOOR KHAN ADVOCATE
District Court Peshawar

3/2023