

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 1224/2019

Date of institution ... 07.10.2019
Date of judgment ... 04.03.2020

Ebad Wazir, Ex-Inspector, House No. 28, Street No. 1,
Sector L-2, Phase-3, Hayatabad Peshawar.

... (Appellant)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
2. The Capital City Police Officer, Khyber Pakhtunkhwa Peshawar.
3. The Senior Superintendent of Police (Operations), Khyber Pakhtunkhwa Peshawar.
4. The Senior Superintendent of Police (Investigation), Capital City Police, Peshawar.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 10.06.2019 PASSED BY THE SENIOR SUPERINTENDENT OF POLICE (OPERATIONS), KHYBER PAKHTUNKHWA PESHAWAR WHEREBY THE APPELLANT WAS AWARDED HARSH AND EXTREME PENALTY OF DISMISSAL FROM SERVICE IN UTTER VIOLATION OF LAW. A DEPARTMENTAL APPEAL WAS FILED WITH THE CAPITAL CITY POLICE OFFICER RESPONDENT NO. 2 ON 21.06.2019 BUT THE SAME WAS REJECTED ON 01.10.2019.

M. Amin
4.3.2020

Mr. Rizwanullah, Advocate .. For appellant.
Mr. Muhammad Jan, Deputy District Attorney .. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI .. MEMBER (JUDICIAL)
MR. MIAN MUHAMMAD .. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Appellant

alongwith his counsel and Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Muhammad Raziq, Head Constable for the respondents present. Arguments heard and record perused.

2. Brief facts of the case as per present appeal are that the appellant was serving in Police Department as Inspector. A written

complaint was issued by the DSP (Investigation) Saddar Peshawar to SSP (Investigation) Capital City Police Peshawar against the appellant regarding his misconduct mentioned in the complaint. The same was forwarded by SSP (Investigation) Capital City Police Peshawar to the Capital City Police Officer Peshawar on 08.05.2019 and on the basis of said complaint the Capital City Police Officer passed an order for constitution of inquiry committee under the Chairmanship of Javed Khan Senior Superintendent of Police (Coordination) to probe into the allegations and report. The Committee was further directed to initiate the process forthwith and submit a detail and comprehensive report within three days vide order dated 10.05.2019. A fact finding inquiry was initiated on the basis of aforesaid order and recommended departmental proceeding against the appellant and thereafter, regular inquiry was conducted and the appellant was imposed major penalty of dismissal from service vide order dated 10.06.2019 by the competent authority. The appellant filed departmental appeal on 21.06.2019 which was rejected vide order dated 01.10.2019 hence, the present service appeal on 07.10.2019.

3. Respondents were summoned who contested the appeal by filing written reply/comments.

4. Learned counsel for the appellant contended that as per first schedule of Police Rules 1975, the DPO/SP/SSP is the competent authority ^{for} Inspector rank officer but in the present case the departmental proceeding has been initiated on the direction of Capital City Police Officer Peshawar vide order dated 10.05.2019 therefore, the whole proceeding being initiated on the direction of incompetent authority is illegal and liable to be set-aside. It was

M. Khan
4.3.2020

further contended that the inquiry officer has recorded the statements of Inspector Sher Afzal, Inspector Wajid Shah, Inspector Abdul Ghafoor Khan, Inspector Hafeez-ur-Rehman, Sub-Inspector CTD Awal Sher, Noor Ahmad Shah Bangash Elite Force and Constable Mansoor etc in the regular inquiry proceeding but the appellant was not provided opportunity of cross examination and has deprived the appellant from the right of defense which has rendered the whole proceeding illegal and liable to be set-aside. It was also contended that no copy of inquiry was dispatched with the show-cause notice although the respondent-department was also required to hand over the copy of inquiry report with the show-cause notice, therefore, it was vehemently contended that the appellant was condemned unheard which has rendered the whole proceeding illegal and liable to be set-aside and prayed for acceptance of appeal.

5. On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that on the direction of Capital City Police Officer vide order dated 10.05.2019 only a facts finding inquiry was initiated and in the facts finding inquiry, the inquiry officer has recommended the appellant for departmental proceeding, as such, charge sheet, statement of allegation were issued by the Senior Superintendent of Police (Operation) Peshawar, therefore, it cannot be said that the regular inquiry was initiated on the direction of Capital City Police Officer. It was also contended that as per law, the order of the superior officers always be maintained, therefore, it was contended that the departmental proceeding is not liable to be set-aside only on the ground that the departmental proceeding was

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4.3.2020

initiated on the direction of Capital City Police Officer. It was further contended that a proper charge sheet, statement of allegation was framed by the competent authority and was served upon the appellant. It was further contended that a proper reply to the charge sheet was also furnished by the appellant but the same was found unsatisfactory, therefore, inquiry was conducted wherein the appellant was fully associated. It was further contended that after regular inquiry a final show-cause notice was issued to the appellant to which the appellant submitted reply but the same was also found unsatisfactory, therefore, it was vehemently contended that the appellant was rightly imposed major penalty of dismissal from service after fulfilling all the codal formalities and prayed for dismissal of appeal.

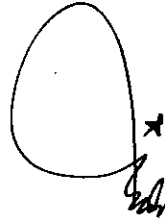
6. Perusal of the record reveals that the appellant was serving in Police Department as Inspector. He was imposed major penalty of dismissal from service vide order dated 10.06.2019 on the allegation of misconduct. The record further reveals that charge sheet, statement of allegation was framed and served upon the appellant, to which the appellant submitted reply but the same was found unsatisfactory, therefore, inquiry was conducted by the inquiry officer against the appellant. During the inquiry proceeding, the inquiry officer has recorded the statements of aforesaid witnesses but the copy of such statement available on record reveals that the inquiry officer has not provided opportunity of cross examination to the appellant meaning thereby the appellant was deprived from right of defence. Moreover, the appellant was also issued final show-cause notice but the copy of inquiry was not handed over to the appellant with the final show-cause notice, therefore, the appellant was

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4.3.2020

5

condemned unheard which has rendered the whole proceeding illegal and liable to be set-aside. As such, we partially accept the appeal, set-aside the impugned order, reinstate the appellant into service with the direction to respondent-department to conduct de-novo inquiry in the mode and manners prescribed under the Police Rules 1975 with further direction to fully associate the appellant in inquiry proceeding by providing him opportunity of cross examination and also hand over copy of inquiry report with the final show-cause notice. The issue of back benefits will be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
04.03.2020



(MIAN MUHAMMAD)
MEMBER

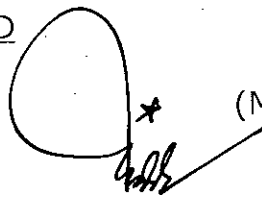

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

04.03.2020

Appellant alongwith his counsel and Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Muhammad Raziq, Head Constable for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of five pages placed on file, we partially accept the appeal, set-aside the impugned order, reinstate the appellant into service with the direction to respondent-department to conduct de-novo inquiry in the mode and manners prescribed under the Police Rules 1975 with further direction to fully associate the appellant in inquiry proceedings by providing him opportunity of cross examination and also hand over copy of inquiry report with the final show-cause notice. The issue of back benefits will be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
04.03.2020



(MIAN MOHAMMAD)
MEMBER



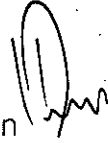
(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

17.01.2020

Appellant in person and Addl. AG alongwith Muhammad Raziq, H.C for the respondents present.

Representative of respondents requests for further time to furnish reply/comments. Adjourned to 14.02.2020 on which date the reply/comments shall positively be submitted.

Chairman



14.02.2020

Appellant alongwith his counsel and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Aziz Shah, Reader for the respondents present. Representative of the department submitted written reply. The same is placed on record. To come up for rejoinder and arguments on 04.03.2020 before D.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

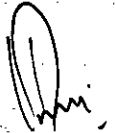
26.11.2019

Counsel for the appellant present.

Contends that upon an application submitted by a DSP, the Capital City Police Officer, Peshawar constituted an enquiry committee. The departmental proceedings culminated into award of major punishment of dismissal from service against the appellant. Referring to Rule-2 read with schedule-1 of the Khyber Pakhtunkhwa Police Rules 1975, learned counsel argued that the CCPO was not competent to have proceeded in the matter by constituting an enquiry committee. In the stated back drop the penal proceedings against the appellant were void ab-initio and not sustainable in view of judgment reported as 2009 SCMR 339, it was added.

In view of available record and arguments of learned counsel, 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 for submission of written reply/comments on 20.12.2019 before S.B.

Chairman



20.12.2019

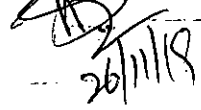
Appellant alongwith counsel and Addl. AG alongwith Muhammad Raziq, Reader for the respondents present.

Representative of respondents seeks time to furnish reply/comments. Adjourned to 17.01.2020 on which date the requisite reply/comments shall positively be furnished.

Chairman



Appellant Deposited
Security & Process Fee

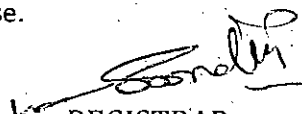


26/11/19

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1224/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	07/10/2019	<p>The appeal of Mr. Ebad Wazir presented today by Mr. Rizwanullah 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>
2-	14/10/19.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>26/11/19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. 1224 /2019

1. Ebad Wazir, Ex-Inspector, House No. 28, Street No. 1, Sector L-2, Phase-3,
Hayatabad Peshawar.

APPELLANT

VERSUS

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

RESPONDENTS

I N D E X

S.No	Particulars	Annexure	Pages #
1	Service Appeal	-	1-11
2	Affidavit	-	12
3	Copy of Appointment Order	"A "	13
4	Copy of complaint	"B"	14
5	Copy of letter	"C"	15
6	Copy of Order of CCPO dated 10-05-2019	"D"	16
7	Copy of p/inquiry report	"E"	17-18
8	Copy of charge sheet alongwith statement of allegations	"F"	19-20
9	Copy of reply	"G"	21-24
10	Copy of acquittal order	"H"	25-28
11	Copy of regular inquiry report dated 28-05-2019	"I"	29-33
12	Copy of show cause notice dated 28-05-2019	"J"	34
13	Copy of reply to the show cause notice	"K"	35-38
14	Copy of impugned order dated 10-06-2019	"L"	39
15	Copy of departmental appeal dated 21-06-2019	"M"	40-43
16	Copy of rejection order dated 01-10-2019	"N"	44
17	Copies of Statements	"O"	45-53
18	Wakalatnama	-	-

Through

Dated: 07-10-2019

Appellant

Rizwanullah

Advocate High Court, Peshawar.

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. 1224 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1347

Dated 07-10-2019

1. Ebad Wazir, Ex-Inspector, House No. 28, Street No. 1, Sector L-2, Phase-3, Hayatabad Peshawar.

APPELLANT

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
2. The Capital City Police Officer, Khyber Pakhtunkhwa Peshawar.
3. The Senior Superintendent of Police (Operations), Khyber Pakhtunkhwa Peshawar.
4. The Senior Superintendent of Police (Investigation), Capital City Police, Peshawar.

RESPONDENTS

**APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 AGAINST THE
IMPUGNED ORDER DATED 10/06/2019
PASSED BY THE SENIOR
SUPERINTENDENT OF POLICE
(OPERATIONS), KHYBER
PAKHTUNKHWA PESHAWAR WHEREBY
THE APPELLANT WAS AWARDED HARSH
AND EXTREME PENALTY OF DISMISSAL
FROM SERVICE IN UTTER VIOLATION
OF LAW. A DEPARTMENTAL APPEAL
WAS FILED WITH THE *Capital City*
POLICE OFFICER RESPONDENT NO. 2 ON**

Filed to day
Registrar
07/10/19

**21-06-2019 BUT THE SAME WAS
REJECTED ON 01-10-2019.**

Prayer in Appeal

By accepting this appeal, the impugned orders dated 10/06/2019 and 01-10-2019 may very graciously be set aside and the appellant may kindly be reinstated in service with full back wages and benefits.

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

Respectfully Sheweth,

Short facts giving rise to the present appeal are as under:-

1. That the appellant joined the Police Department in-capacity as Assistant Sub Inspector (BPS-9) on 06-04-2009 after qualifying test and interview conducted by the Khyber Pakhtunkhwa Public Service Commission. He then rose up to the post of Inspector on account of dedication, devotion and sincerity to his job. He had 10 years unblemished service record to his credit.

(Copy of
Appointment Order
is appended as
Annex-A)

2. That it is very ironic that Mr. Ijaz Abazai, Deputy Superintendent of Police (Investigation) Saddar Peshawar, made a complaint against the appellant to the Senior Superintendent of Police (Investigation) CCP, Peshawar, alleging therein that on the fateful day he was busy in connection with the initial selection process of UN Mission test 2019, when Inspector Ebad Wazir came to him and put some documents regarding his acquittal from the murder case and then used abusive and improper language toward him. He further alleged that he also threatened him for dire

consequences. He therefore, requested for taking disciplinary action against the appellant. The above complaint was frivolous and baseless one and the same was only made to malign and damage the spotless service record of appellant.

(Copy of complaint is appended as Annex-B)

3. That the above complaint was forwarded to the Capital City Police Officer (respondent No. 2) for favourable consideration vide letter No. 1165 dated 08-05-2019 who nominated Mr. Javed Khan Senior Superintendent of Police (Co-ordination) as inquiry officer to probe into the allegation and submit report within three days vide order dated 10-05-2019.

(Copy of letter and Order of CCPO dated 10-05-2019 are appended as Annex-C & D)

4. In compliance with the said order, the inquiry officer finalized the so-called inquiry in haphazard and hasty manner in the absence of appellant and no opportunity whatsoever was given to him to explain his position regarding the allegations contained in the so-called complaint and as such fair trial and due process of law both were denied to him. Resultantly, the inquiry officer held him guilty of the allegations and recommended him for Departmental action vide report dated 14-05-2019.

(Copy of p/inquiry report is appended as Annex-E)

5. That in the light of above inquiry report, the appellant was served with a charge sheet alongwith statement of allegations and Mr. Jehanzeb Khan, Senior Superintendent of Police (I) was nominated to conduct regular inquiry in the matter. It

would be advantageous to reproduce herein the allegations so as to know the legal and factual aspect of the case:

“That a preliminary inquiry conducted by SSP Coordination vide his office Dy No. 91/PA dated 14-05-2019 that complainant Mr. Ijaz Abazai DSP Investigation, Saddar circle Peshawar reported that 08-05-2019 at 1100 hrs while he was present at Malik Saad Shaheed Police Line in order to take UN Mission test. You Inspector Ebad Wazir came towards him and showing your utter disregard to the presence of your high ups and making mockery of norms of discipline and decency, used highly abusive language, threatened an assaulted him”.

(Copy of charge sheet alongwith statement of allegations is appended as Annex-F)

6. That the appellant submitted elaborate and exhaustive reply, denied the allegations and also termed it as fallacious, malicious and misconceived. He stated that on the crucial day, he brought to the kind notice of Mr. Ijaz Abazai, DSP (Investigation) regarding his acquittal from the murder case by the competent court of jurisdiction. But when he heard this news, he infuriated and passed improper and filthy language towards the appellant without any fault on his part. However, the issue was resolved due to mediation by some senior officers. Moreover, he termed the preliminary inquiry as farce and mockery in the eye of law. Therefore, he prayed that he may be exonerated of the allegations levelled against him in the charge sheet.

(Copy of reply and acquittal order are appended as Annex-G & H)

7. That the above reply was not found satisfactory and the inquiry was conducted in utter violation of law and the appellant as well as Ijaz Abazai both were found responsible for such incident vide report dated 28-05-2019.

(Copy of regular inquiry report is appended as Annex-I)

8. That thereafter, the appellant was served with a show cause notice on 28-05-2019. He submitted reply on 10-06-2019 and took the same stance as enumerated in the reply to the charge sheet. Besides, he also termed both the inquiries as perverse and un-sustainable in the eye of law. But this reply too was not deemed satisfactory and the appellant was awarded harsh and extreme penalty of dismissal from service on 10-06-2019 while, no penalty whatsoever was imposed on Ijaz Abazai DSP, despite the fact the he was also held responsible for such dreadful and unpleasant incident.

(Copies of show cause notice, reply and impugned order are appended as Annex- J, K & L)

9. That the appellant felt aggrieved by the said order, filed a departmental appeal with the respondent No. 2 on 21-06-2019 but the same was rejected on 01-10-2019.

(Copy of departmental appeal and rejection order are appended as Annex-M & N)

10. That the appellant is jobless since his dismissal from service.
11. That the appellant now files this appeal before this Hon'ble Tribunal inter-alia on the following grounds within the statutory period of law.

GROUND OF APPEAL

- A. That the Competent Authority has not treated appellant in accordance with law, rules and policy on the subject and acted in violation of **Article 4 of the Constitution of Islamic Republic of Pakistan, 1973**. Therefore, the impugned order is not sustainable in the eye of law.
- B. That the preliminary inquiry was conducted in utter violation of law as neither the appellant was associated with the said inquiry nor any witness was examined in his presence. He was also not provided any chance of cross-examination. Similarly, he was not provided any opportunity to produce his defence in support of his version. The above defect in enquiry proceeding is sufficient to declare entire process as sham and distrustful. Right of fair trial is a fundamental right by dint of which a person is entitled to a fair trial and due process of law. The appellant has been deprived of his indispensable fundamental right of fair trial as enshrined in **Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973**. Besides, the constitution of such inquiry was illegal and without lawful authority as the same was constituted by incompetent authority. The Capital City Police Officer (respondent No. 2) was not competent under Rule-5(4) read with Schedule-I of Khyber Pakhtunkhwa Police Rules, 1975 (amended 2014) to do so and the Senior Superintendent of Police was competent to constitute such inquiry against the appellant. It is well settled law that when initial order or act relating to initiation of proceeding is illegal and without lawful authority then all

subsequent proceedings and actions taken thereon would fall on the ground automatically. Reliance can be placed on the judgment of august Supreme Court of Pakistan reported in 2009-SCMR-339. The relevant citation is reproduced as under:-

2009-SCMR-page-339

Citation-c

----When initial order or act relating of initiation of proceedings was contrary to law and illegal, then all subsequent proceedings and actions taken thereon would have no basis and would fall.

Thus, the preliminary inquiry has no sanctity in the eye of law.

- C. That likewise, regular inquiry was also not conducted in a manner prescribed by law as the Inquiry Officer examined nine witnesses in absence of appellant and no opportunity whatsoever was given to him to cross-examine them in order to impeach the credibility of the testifying witnesses to lessen the weight of unfavorable testimony so as to fulfil the requirement of fair trial and due process of law as enumerated earlier and as such the Inquiry Officer has committed gross illegality by not adhering the mandatory provision of Constitution and law laid down by august Supreme Court of Pakistan in judgments reported as **1997-SCMR-1073-citation(a)** and **2019-SCMR-640**. The relevant citations are as under: -

1997-SCMR-1073

citation(a)

Constitution of Pakistan (1973)--

----Art. 212(3)---Dismissal from service---Enquiry proceedings against civil servant---Person facing

enquiry had right to be associated with its proceedings and entitled to impeach credit of witnesses produced against him through cross examination---Where neither civil servant was associated with enquiry proceedings nor he was allowed opportunity to cross-examine witnesses produced against him, enquiry proceedings and consequential order regarding his dismissal suffered from inherent legal defects---In view of the situation that inefficiency and total ignorance of person appointed as Enquiry Officer entailed unnecessary litigation between the parties Supreme Court directed that departments should make sure that person being appointed as Enquiry Officer is fully conversant with relevant rules so that unwarranted harassment could be averted---Petition for leave to appeal against order of Service Tribunal reinstating the civil servant was dismissed in circumstances.

2019-SCMR-640

Khyber Pakhtunkhwa Emergency Rescue Services Regulations, 2015---

---Reglns. 43, 45(2) & 50---Dismissal from service---Due process not followed---No permission provided to cross-examine witnesses---Where an employee was to be removed from service, which action obviously carried a stigma with it, he was entitled to due process which included fair opportunity to defend himself, cross-examine the witnesses and produce evidence in his defence---Further, he must be confronted with the material on the basis of which he had been issued show cause notice---Employee in question was deprived of his due process rights; he was not confronted with the material on the basis of which the show cause notice had been issued to him and he was not permitted to cross-examine the witnesses who were produced by his employer---Allegation against the employee was that he had quarrelled with his seniors and sent abusive and threatening SMS messages to them, and generally indulged in disorderly behavior---Neither evidence of any obnoxious SMS messages allegedly sent by the employee to his senior officers was placed on record nor was he provided an opportunity to cross-examine any witness that the employer may have produced---Further, there was no evidence that the employee had misbehaved with anybody or refused to perform his duty---Process followed by the employer in dismissing the employee was sketchy, one sided, non-transparent and not supported even by the Khyber Pakhtunkhwa Emergency Rescue Services Regulations, 2015 and the law---High Court had rightly reinstated the employee in service with all back benefits---Petition for leave to appeal was dismissed and leave was refused.

Thus, the findings of the Inquiry Officer are based on conjectures, surmises and suppositions. Therefore, such findings are perverse and unsustainable in the eye of law. Hence, the impugned orders passed on the basis of such findings are against the spirit of administration of justice.

(Statements are
appended as Annex-
O)

- D. That the Competent Authority (respondent No. 3) was under statutory obligation to have considered the case of appellant in its true perspective and also in accordance with law and to see whether the preliminary inquiry and regular inquiry were conducted in consonance with law and that the allegations thereof were proved against the appellant without any shadow of doubt or otherwise. But he has overlooked this important aspect of the case without any cogent and valid reasons and awarded harsh and extreme penalty of dismissal from service to the appellant. Thus, the impugned orders are liable to be set aside on this count alone.
- E. That the Appellant Authority (respondent No. 2) was under statutory obligation to have applied his independent mind to the merit of the case by taking notice about the illegality and lapses committed by the Enquiry Officers as well as the respondent No.3 as enumerated in earlier paras. But he failed to do so and rejected the departmental appeal without any cogent reasons. Therefore, the impugned orders are not tenable under the law.
- F. That it is evident from the inquiry report dated 28-05-2019 that the appellant and Ijaz Abazai (DSP) both were found guilty of the incident. But it is curious to note that the appellant was alone awarded major penalty of dismissal from service

whereas, no punishment whatsoever was imposed on the other officer (Ijaz Abazai DSP). This is a disparity and anomaly and is also violation of **Article 25 of the Constitution of Islamic Republic of Pakistan, 1973** which has unequivocally laid down that all citizens placed in similar circumstances are entitled to equal treatment and protection of law. The Hon'ble Supreme Court of Pakistan through various judgments has maintained that equal treatment is the fundamental right of every citizen. Reliance can be placed on **2002-SCMR-71 & 2007-SCMR-410(d)**. The relevant citation is as under:-

2002-SCMR-71

(citation-c)

---Art. 25---Equality of citizens---Two groups of persons similarly placed could not be treated differently---Dictates of law, justice and equity required exercise of power by all concerned to advance the cause of justice and not to thwart it.

2007-SCMR-410(d)

(citation-d)

**---Art. 25---Equal protection of law--
-Principles---Concept of equal protection of law envisages that a person or class of persons should not be denied the rights, which are enjoyed by other persons in the same situation.**

Hence, the impugned orders are not sustainable under the law.

- G.** That it is also abundantly clear from the above inquiry report that the complainant was not examined to prove the allegations against the appellant without any shadow of doubt. It is well settled law that when complainant did not appear before the inquiry officer and prove such allegations against the employee then such inquiry would be illegal and on its basis no punishment could be imposed upon accused official. Reliance

can be placed on **2005-PLC-CS-1015-citation (g)**. Hence, the impugned orders are not warranted under the law.

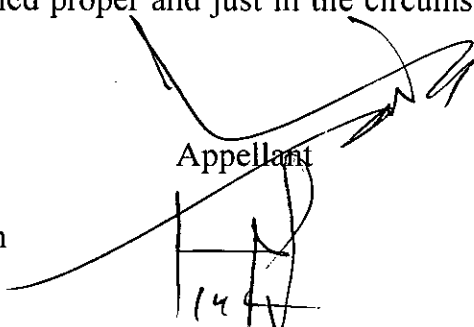
- H.** That the appellant was neither involved in any corruption, misappropriation and moral turpitude. Therefore, such harsh and extreme penalty did not commensurate with the nature of so called misconduct.
- I.** That the impugned orders are suffering from legal infirmities and as such caused grave miscarriage of justice to the appellant.
- J.** That the impugned orders are against law, facts of the case and norms of natural justice. Therefore, the same are not tenable under the law.
- K.** That the appellant would like to seek the permission of this Hon'ble Tribunal to advance some more grounds at the time of arguments.

In view of the above narrated facts and grounds, the impugned orders dated 10-06-2019 and 01-10-2019 may very graciously be set aside and the appellant may kindly be reinstated in service with full back wages and benefits.

Any other relief deemed proper and just in the circumstances of the case, may also be granted.

Through

Appellant


14
Rizwanullah
M.A. LL.B

Dated: 07-10-2019

Advocate High Court, Peshawar.

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2019

1. Ebad Wazir, Ex-Inspector, House No. 28, Street No. 1, Sector L-2, Phase-3, Hayatabad Peshawar.

APPELLANT

VERSUS

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

RESPONDENTS

AFFIDAVIT

I, Ebad Wazir, Ex-Inspector, House No. 28, Street No. 1, Sector L-2, Phase-3, Hayatabad Peshawar, do hereby solemnly affirm and declare that the contents of the accompanied Service Appeal are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.

ATTESTED



07 OCT 2019

DEPONENT

(Handwritten signature)

ORDER

Consequent on the recommendation of NWFP Public Service Commission and approved by PPO NWFP Peshawar vide letter No.3867-73/E-II dated 12.2.2009 and No.5687-91/E-II dated 28.2.2009 against the 25% quota reserved for direct appointment. The following candidates have been approved for appointment as Probation ASIs in Police Department on three years probation in BPS-09 (3820-230-10720) alongwith usual admissible allowances from the date of their arrival in the District subject to the medical fitness and character verification.

They are allotted Range Number and posted to the Districts as noted against their name.

Sr	Name with address	Range Number Allotted	District to which Posted
1	Salim Pervez s/o Ghulam Qasim r/o Street No.1 new Abbadi near Tarin Colony-Mohallah Ghari Saduzai Tank road D.I.Khan	87/D	D.I.Khan
2	Minhaj Sikandar Yar Khan s/o Sikandar Yar Khan r/o Yar House, Yar Street Bannu road D.I.Khan	88/D	D.I.Khan
3	Ebaad Wazir s/o Abdul Wahid r/o House No.28 Street I Sector I, Phase-III Hayatabad Peshawar	89/D	D.I.Khan
4	Inamullah s/o Attaullah r/o Atta House near Faqirni gate Circular road D.I.Khan	90/D	Tank

(DR. ISHTIAQ AHMAD MARWAT) PPM
Regional Police Officer,
Dera Ismail Khan

No. 1164-65 /ES Dated D.I.Khan the 6/04/2009

Copy of above is forwarded for information & necessary action to the:-

- 1. District Police Officer, Tank.
 - 2. District Police Officer, D.I.Khan.
- Necessary gazette notification may be issued accordingly

Their application forms received from CPO NWFP Peshawar are sent herewith.

(DR. ISHTIAQ AHMAD MARWAT) PPM
Regional Police Officer,
Dera Ismail Khan

End. Appl. Form
386
7/4/09
pb/ee/po
Per [Signature]
Attached
Appellant

To: The Senior Superintendent of Police,
Investigation, CCP, Peshawar.

Respected Sir,

It is submitted that today the undersigned was present at Malik Saad Shaheed Police Lines, Peshawar in connection with the initial selection process of UN Mission, 2019, at about 11:00-Hours. Inspector Ijaz Wazir came to me, put some documents and stated in an angry way that he was acquitted in criminal murder trial case, in response I congratulate, but suddenly he use threatening and abusing language and thrown documents towards me and warned me for facing the dire consequences. The undersigned remained calm and did not lose my temper but the said official not only uses abusive language but also uses criminal force towards the undersigned. This all incident has witnessed by all the participants officers in the police lines from all over the KPs, which brings a bad name for the Capital City Police, as well as for the whole department as well.

His this act is not only against the good order of discipline, and amounts to gross mis-conduct but also warrants criminal proceedings within the meaning of section 118-G, Police Act-2017.

In view of the above stated facts, it is, requested to kindly proceed against the above-mentioned police officer under the disciplinary rules as well as under Police Act-2017, for setting an example for other such likeminded officials in the force please.

ATTESTED

Appellant

(IJAZ ABAZAI)
Deputy Superintendent of Police,
Investigation, Saddar Peshawar.

Annex-C

15

CAPITAL CITY POLICE PESHAWAR
OFFICE OF THE
SENIOR SUPERINTENDENT OF POLICE INVESTIGATION PESHAWAR.

No. 445 PA. Dated Peshawar the 05/05/2019

The Capital City Police Officer,
Peshawar.

Subject. COMPLAINT AGAINST INSPECTOR IBAD WAZIR.

Respected Sir,

Please find herewith an application submitted by Mr. Ijaz Ali Dost
Investigation Saddar, wherein he has complained about the behavior and threats
Inspector Ibad Wazir.

His application forwarded for favorable consideration, please.

Senior Superintendent of Police,
Investigation
Capital City Police, Peshawar.

e/c.

ATTESTED

OFFICE OF CAPITAL CITY POLICE OFFICER, PESHAWAR


Sub: Enquiry into the complaint of DSP Ejaz Khan

Order:

The application submitted by DSP Ejaz Khan, forwarded to this office by SSP Investigation vide his office No. 1165/Pa dated 08.05.2019 (copy attached) contains very serious and grave allegations of misconduct by Insp Ebad Wazir against DSP Ejaz Khan in Police Lines, Peshawar.

Therefore, an enquiry committee is hereby constituted under the chairmanship of Mr. Javed Khan SSP Coordination to probe in to the allegations and report.

The Committee is directed to initiate the process forthwith and submit a detailed and comprehensive report within three days.


Capital City Police Officer,

Peshawar

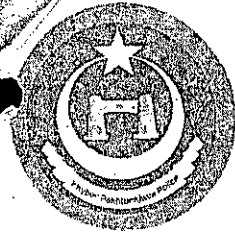
No: 730 dated 10/05/2019

Copy for information:

1. SSP Ops Peshawar
2. SSP Coordination / Enquiry Committee for necessary action.
3. SSP Investigation Peshawar with reference to his above quoted letter

ATTESTED


Attestant



Annea-E

17

17

OFFICE OF THE
SENIOR SUPERINTENDENT OF POLICE,
COORDINATION PESHAWAR.

Phone No. 091-9213757

Fax: 091-9212597

No. 91 /PA,

Dated Peshawar the 14/05 /2019

To: The Capital City Police Officer
Peshawar.

Subject: ENQUIRY INTO THE COMPLAINT OF DSP IJAZ KHAN

Memo: Vide letter No.730, dated 10.05.2019, the instant enquiry was marked to the undersigned.

Allegations:

The complainant Mr. Ijaz Abazai DSP Investigation, Saddar Circle Peshawar, reported to the SSP/Investigation, CCP Peshawar vide letter No. 965/st, dated 08.05.2019 (F/A) that on the same date at 1100 hrs, while he was present at Malik Saad Shaheed Police Lines in order to take UN Mission Test. Inspector Ibad Wazir came towards him, used abusive language against him and threatened him of dire consequences.

TOR: Fact Finding Enquiry

Proceedings:-

The statements of DSP Ijaz Abazai, Ibad Wazir and the following witnesses were recorded:-

1. Mr. Touheed Ullah DSP Admn: PST Hayatabad
2. Mr. Sabir Gul DSP Anticorruption Nowshera
3. Mr. Sardar Gul DSP Operations CPO
4. Mr. Sher Afzal Insp: I/C PAL Peshawar

Findings

In light of the above, it transpired:-

1. That Inspector Ibad Wazir harbor acrimony and rancour against DSP Ijaz, for registering case FIR No. 912, dated 25.11.2018, u/s 302/34 PPC PS AMJ Shah against him in the recent past.
2. In spite of the fact that a detainee died in his lock-up (While he was SHO), Ibad Wazir, un-realistically, seems unhappy with the department and high ups regarding registration of FIR against him.
3. That he did not conceal his anger in this regard which is evident from his statement.
4. That during UN Mission Test, he showed the Court documents (whereby he was acquitted) to DSP Ijaz, who congratulated him but Inspector Ibad Wazir lost his temper and control use abusive language and threatened him of dire consequence.

ATTESTED

Appellant


- 5. That when asked as to, who started the quarrel did not mince words and stated that it was him Ibad Wazir who started the quarrel.
- 6. Allegations against Ibad Wazir stand proved. Showing his utter disregard to the presence of his high ups and making mockery of the norms of discipline and decency, he did not show restraint and continued using abusive language, which must not be condoned.

Recommendation

- I. Departmental action is recommended against Inspector Ibad Wazir.
- II. Preventive measure in this regard are also recommended.

Note:-

Both of the complainant and respondent are Inspectors in BPS-16, but Ijaz Abazai is Senior and currently posted as acting DSP.



 SENIOR SUPERINTENDENT OF POLICE
 COORDINATION PESHAWAR

SSP-ops (Competent Authority)

Please proceed departmentally
as per rules.

ATTESTED


Appellant


 14/05/2018

CHARGE SHEET

Annex - F

(19)

Whereas I, Senior Superintendent of Police, Operations, Peshawar am satisfied that a Formal Enquiry as contemplated by Police Rules 1975 is necessary & expedient in the subject case against you **Inspector Ebad Wazir, CCP Peshawar.**

And whereas, I am of the view that the allegations if established would call for major/minor penalty, as defined in Rule 3 of the aforesaid Rules.

Now therefore, as required by Rule 6 (1) (a) & (b) of the said Rules, I Senior Superintendent of Police, Operations, Peshawar hereby charge you **Inspector Ebad Wazir, CCP Peshawar** on the basis of following allegations:

- That a preliminary enquiry conducted by SSP Coordination vide his office Dy No. 91/PA dated 14.05.2019 that complainant Mr. Ijaz Abazai DSP Investigation, Saddar Circle Peshawar reported that 08.05.2019 at 1100 hrs while he was present at Malik Saad Shaheed Police Lines in order to take UN Mission Test. You Inspector Ebad Wazir came towards him and showing your utter disregard to the presence of your high ups and making mockery of the norms of discipline and decency, used highly abusive language, threatened an assaulted him.
- By doing so, you have committed a gross misconduct and rendered yourself liable for departmental proceedings under Police Rules 1975.

I hereby direct you further under Rule 6 (1) (b) of the said Rules to put forth written defense within 7 days of the receipt of this Charge Sheet to the Enquiry Officer, as to why the action should not be taken against you and also stating at the same time whether you desire to be heard in person.

In case your reply is not received within the specific period to the Enquiry Officer, it shall be presumed that you have no defense to offer and ex-parte action will be taken against you.


SR SUPERINTENDENT OF POLICE,
(OPERATIONS) PESHAWAR

No. 133 E/PA dated Peshawar the 15/05 /2019.

4. That during UN Mission Test, he showed the Court documents (whereby he was acquitted) to DSP Ijaz, who congratulated him but Inspector Ibad Wazir lost his temper and control, use abusive language...

DISCIPLINARY ACTION

20

I, Senior Superintendent of Police Operations, Peshawar as competent authority, am of the opinion that **Inspector Ebad Wazir, CCP Peshawar** has rendered himself liable to be proceeded against, as he has committed the following acts/omission within the meaning of section 03 of the Police Rules 1975.

STATEMENT OF ALLEGATIONS

- That a preliminary enquiry conducted by SSP Coordination vide his office Dy No. 91/PA dated 14.05.2019 that complainant Mr. Ijaz Abazai DSP Investigation, Saddar Circle Peshawar reported that 08.05.2019 at 1100 hrs while he was present at Malik Saad Shaheed Police Lines in order to take UN Mission Test. Inspector Ebad Wazir came towards him and showing his utter disregard to the presence of his high ups and making mockery of the norms of discipline and decency, used highly abusive language, threatened and assaulted him.
- By doing so, he has committed a gross misconduct and rendered himself for departmental proceedings under Police Rules 1975.

For the purpose of scrutinizing the conduct of afore said police official in the said episode with reference to the above allegations Mr. Jehanzeb Khan SSPCI is appointed as Enquiry Officer under Rule 5 (4) of Police Rules 1975.

The Enquiry Officer shall in accordance with the provision of the Police Rules (1975), provide reasonable opportunity of hearing to the accused Official and make recommendations as to punish or other action to be taken against the accused official.


SR SUPERINTENDENT OF POLICE,
(OPERATIONS), PESHAWAR

No. 133 E/PA, dated Peshawar the 15 / 05 / 2019.

Copy to the above is forwarded to the Enquiry Officer for initiating proceeding against the accused under the provision of Police Rules 1975

*Received on
16.05.2019.*

ATTESTED

Appellant

4. That during UN Mission Test, he showed the Court documents (whereby he was acquitted) to DSP Ijaz, who congratulated him but Inspector Ibad Wazir lost his

Annex-G

(21)

Before the Honorable Senior Superintendent of Police (Operations) Peshawar.

Through: Proper Channel

Subject: Reply to Charge Sheet / Summary of Allegations u/r 5(4) KP Police Rules
1975

Dear Sir,

I have the honor to subject charge sheet vide endorsement No 133-E/PA dated 15-5-2019, received on 17.5.2019, preferring my reply, including preliminaries for illegalities / irregularities, having been committed in the preliminary inquiry.

Preliminaries

- a. The preliminary inquiry, conducted by W/SSP (Coord) and finding report dated 14.5.2019 is one-sided, based on biased evidence and is not admissible under the law, I have not been associated with the said proceedings nor I have been given the cross opportunity on witnesses or to adduce defense in my protection, therefore, the proceedings are coram non iudice and void ab initio.
- b. I have been treated discriminately, involved infringement of rights, therefore, the proceedings in principle violates the Pakistan Constitution 1973 and prevailed laws. The Para-02 of the enquiry report further elude upon Psycho-analytical frame work by declaring the undersigned unhappy with the department and high-ups regarding issue duly stand decided by the learned court of law which should ideally need not to be misinterpreted as decided by esteemed court of law Judiciously. I am a law abiding, willing servant, who cannot even think of any friction with Seniors / Superiors. Yes, keeping a strong faith of award of justice, fair outcomes and impartial decision of August Court of Law of Pakistan. I do prefer to seek justice via the most reliable medium which is the Court of Law.
- c. Keeping the dignity of my department on priority clubbed with the quantum of respect due for my seniors, I duly undertake to the best of my knowledge and belief, that I never abuse authority, office or any misconduct and complied all the instructions from my seniors with greater diligence and faith. The matter of my anger management may best be diagnosed/ examined through appropriate expert forums but in view of my demonstrated performance at record in an unbiased manner. The statement referred in to the report submitted by me by no

ATTESTED

Appellant

means establishes my sharp anger or anxiety. Hence, do submit that may not be taken into account while deciding my fate please.

- d. Prior to this ugly event, I never blamed my fellow neither seniors nor High ups for having anything negative from them to me. But this episode at Police Lines where I have submitted to my respected senior officer Mr. Ijaz for seeking his good views in good faith with positive intentions. But, I was not expecting anything adverse from my Senior. but once it was established that his words are not in lighter mode and he means what he is saying (abusing, physical intentions) by then the response was obvious and natural too in self-defense, if verified from the participants at large and not super selected one, may surface the reality. Para-05 of the report based for my charge sheet presented my stance in unjust way, I do agree to the extent that I preferred to share my acquittal with my respected senior and to convey very politely as to exercise the due right by recouring to the court of law in the instant case for redressal of the defamation tried to the undersigned .

Worth mentioning that at the time of alleged mishap, more than 150 officer candidates participated the test for UN mission but the inquiry officer examined only 04 witnesses who are friends / co-villagers / badge-mats of the officer / complainant DSP Mr Ijaz Abazai and overlooked the overwhelming evidence to clarify the circumstances and actual situation. This is worth of reliance that most of the officers, present for interview / test would testify that Mr Ijaz Abazai was the aggressor at the very time and the undersigned was aggressed upon.

Following are the material witnesses I remember of the alleged mishap.

- i. Inspector Wajid Shah
- ii. Inspector Ghafoor
- iii. Inspector Hafeez ur Rehman
- iv. SI Ahmed Rashid
- v. SI Arbab Naeem
- vi. SI Awal Sher
- vii. SI Sajjad Khan
- viii. Constable Noor Bangash
- ix. Constable Mansoor Ali
- x. Others participants of the test, present on the occasion.

ATTESTED

Appellant

The alleged issue was settled / patched up on the very time due to intervention and mediation by some of the senior / junior officers for which I submitted my apology but it again agitated, thereby shows malafide on the part of complainant DSP Mr Ijaz.

It is well versed that the investigating agency in the murder case vide FIR No 912/2018 PS AMJ Shah declared me as innocent but thereafter even the learned Court acquittal vide order dated 6.5.2019. Worth clarifying that as per Superior Court Judgments, depicted as under clearly observed that there are no shades of acquittals and every acquittal is Hon'able acquittal.

- i. PLJ 2011 SC 280.
- ii. 1998 SCMR 1993.
- iii. 2015 SCMR 77.
- iv. 2007 SCMR 855.

On Facts

- 1) On the alleged time of occurrence, a test for UN Mission had been arrange and more than 100 officer were there to participate and conduct the drawing test, the Officer Mr Ijaz Ali used unparliamantry which resulted in altercation in the shape of gossip/ chit chat but he took it serious and abused, mishandled me and also assaulted in presence of more than 150 Police Officer present on the occasion.
- 2) The officers intervned and mediated for which the issued was settled.
- 3) The record would show and testify that DSP Ijaz Ali left no stone unturned in the past to damage not only my carrier but life as well. He vainly tried his best to implicate me in a concocted murder case due to relation with aggrieved party / deceased family but due to the Mercy of Almighty Allah, I protected / saved.
- 4) The said officer never spare an opportunity to harm me in any manner, he can lay his hands and is ousted to destroy my carrier, since his posting to Peshawar.

Grounds:-

1. The principle of natural justice, contained in the reported judgment in NLR 214 (Apr) Quetta is applicable to my case which lays down as under
“The principle of natural justice would be violated only when any proceeding is taken against a person in absentia and without his knowledge” which has been violated in the case of preliminary inquiry against me.
2. The theme and spirit of article 25 Pakistan Constitution 1973 has been vanished / violated as earlier stated in my preliminaries that I have been discriminated and the inquiry report is one sided and based on biased evidence.
3. I have been maligned in the alleged charge for no evidence against me and para 1 of the charge sheet is based on assumptions / presumptions, surmises and

ATTESTED
[Handwritten Signature]
 Appellant

conjectures as no incriminating or substantiating materials could be made available during the proceedings before your good self.

4. I have been suspended in violation of **Rule 16.18 Police Rules 1934 r/w 43 of FR**. It has been provided in the law that **un-necessary suspension should be avoided because it suffers the work and amounts to additional penalty, the circumstances, therefore warrants and justifies my release from suspension**. Moreover, suspension for more than 90 days without extension is in direct conflict with the provision, **contained u/r 6 of the KP Govt Servants (E&D) Rules 2011**.

5. Since, I have joined this force; I performed dedicatedly, honestly and to the entire satisfaction of my superiors. I always acted beyond the call of my duty at the risk of my life and arrested / booked various hardened / desperate criminals, fought against terrorist activities to bring writ of government as well Police Force.

6. It is worth to state that I am law-abiding Govt servant and have always been obedient, humble and amiable throughout my carrier. Moreover, the undersigned himself condemns the ugly incident, happened in presence of respected seniors and I earnestly favour action against the aggressor. May be added here, that Mr Ijaz Abazai has been nurturing ill will against me, since his posting as DSP Subrub.

Prayers:-

Keeping in view the above factual position, with the frame of mind that we the police department are highly disciplined, we do respect our values, social norms and the fundamentals of a Muslim society. The culture of respect with the harmony of obedience, compliance and respecting seniors are ideals of my life and service too. The poor perception drawn through media trails in case of my current situation caused this quantum of pain to me, my elderly parents, and my children to the level beyond my imagination. However, believing in the strong and stout seniors I never lost hope of just and best results. Sir , I do affirms solemnly that i never planned , intended and in future too never incline to think of negative and disrespecting my seniors , fellows and juniors. Hence, my reply may very graciously be considered and this charge sheet be filed please.

With great respect, I would request to be heard in person too please.

Yours obedient
Inspector Ebaad Wazir
Belt No: D-11
CCP Police Lines
Peshawar

Dated: 22 May 2019

ATTESTED

Attested
[Signature]

SSP-Inv
24-05-19

Appellant

Annex-1/1

25

IN THE COURT OF JAVEERIA SARTAJ KHAN,
ADDITIONAL SESSIONS JUDGE-VII, PESHAWAR.

Sessions Case No.40/SC of 2019

The State---VS---Rahat Shah and other

ORDER:4
06-5-2019

Accused Rahat Hussain¹ (constable) and Ibad Wazir (inspector/SHO) on bail present. Imran Muhammad s/o Said Muhammad (complainant/brother of deceased) and Ashfaq s/o Taj Muhammad (injured) in person alongwith SPP for the State present.

The accused namely Rahat Hussain and Ibad Wazir are facing trial in case FIR No.912 dated 26/11/2018 U/S 302/34 PPC, registered at Police Station Agha Mir Jani Shah, Peshawar.

The case was fixed for 27/5/2019 but both the accused alongwith their counsel appeared on 02/5/2019, and submitted an application for early hearing. The said application was allowed and date was fixed for today.

Brief facts of the accused are that the accused named above were charged for the murder of deceased Fida Muhammad alias Foji and for sustaining injuries to one Ashfaq s/o Taj Muhammad. Hence the present FIR.

It is pertinent to mention here that the learned DPP submitted an application for discharge of the accused u/s

U/S
06/05/19

ATTESTED

Appellant

4C-II of the prosecution Act 2015, which is already placed on file.

Today Mr. Muhammad Imran s/o Said Muhammad (complainant/brother of deceased) and Ashfaq son of Taj Muhammad (injured) appeared and informed regarding the compromise effected with the accused facing trial at bail stage. Their joint statement in this respect was recorded, wherein they stated to have patched up the matter with the accused alongwith rest of the legal heirs at bail before arrest stage of accused Rahat Hussain, on basis whereof the pre-arrest bail of the accused Rahat Hussain was confirmed by the learned Additional Sessions Judge-XIV, Peshawar vide order dated 02/4/2019. Attested copies of BBA petition, compromise affidavit and prforma under QDO, Statements of legal heirs of deceased and BBA confirmation order dated 02/4/2019 are placed on file. Perusal of the copies so produced as well as the other case record available on file would show that the deceased Fida Muhammad alias Foji had died whose legal heirs (widow, sons and daughters) had recorded their compromise statements at BBA stage of accused Rahat Hussain for the purpose of confirmation of pre-arrest bail and later on acquittal at trial stage. To the extent of share of diyat of Mst Elsa (minor daughter of deceased), Rs. 3,61,600/- deposited in the court by the

06/05/19

ATTESTED
Appellant

accused party. Today, Imran Muhammad (complainant/brother of deceased) & Ashfaq s/o Taj Muhammad (injured) has reconfirmed the factum of compromise which is still intact in respect of the accused facing trial. They have got no objection upon the acquittal/discharge of accused Rahat Hussain and Ibad Wazir from the charges levelled against them.

Since, the offences u/s 302/34 PPC are compoundable and the complainant party/injured/legal heirs of deceased have patched up the matter with the accused facing trial, have forgiven them in the name of Almighty Allah by waiving off their rights of Qisas & Diyat and have got no objection on their acquittal; hence, keeping in view the compromise between the parties (which seems to be genuine and without any coercion) and the statement of legal heirs of deceased, this court is satisfied that accepting the compromise would be for welfare and in the larger interest of the parties. Resultantly, while accepting the compromise in hand, accused facing trial namely Rahat Hussain s/o Shad Muhammad and Ibad Wazir s/o Abdul Wahid are hereby acquitted/discharged of the charges levelled against them. Accused Rahat Hussain is on bail, his bail bonds stand cancelled and sureties are discharged of their liabilities.

Abusua
06/05/19

ATTESTED

Appellant

The case property be kept intact till the expiry of period of appeal/revision where-after it be dealt in accordance with law.

Record be returned to the quarter concerned, whereas, file be consigned to record room after completion.

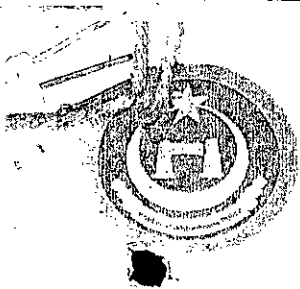
Announced:
06-05-2019

10
Wassuia
JAVERIA SARTAJ KHAN
Additional Sessions Judge-VII,
Peshawar.

06/05/19

ATTESTED

in
Appellant



Annex - I

CAPITAL CITY POLICE PESHAWAR
OFFICE OF THE

29

SENIOR SUPERINTENDENT OF POLICE INVESTIGATION PESHAWAR.

No. 105/E/PA. Dated Peshawar the 28/05/2019

To: The Senior Superintendent of Police,
Operation Peshawar.

Subject: DEPARTEMENTAL INQUIRY AGAINST INSPECTOR IBAD WAZIR.
Memo:

Kindly refer to your office memo: No. 133/E/PA, dated 15.05.2019

ALLEGATIONS

Preliminary inquiry was conducted by SSP Coordination vide his office Dy No. 91/PA dated 14.05.2019 that complainant Mr. Ijaz Khan Abazai, DSP Investigation, Saddar Circle Peshawar reported that on 08.05.2019 at 1100 hrs while he was present at Malik Saad Shaheed Police Lines in order to appear for UN Mission test. Inspector Ibad Wazir approached him and showed his utter disregard towards him. Moreover, he made mockery of the norms of the discipline and decency, used highly abusive language, threatened and assaulted him.

PROCEEDINGS

In order to scrutinize the conduct of DSP Ijaz Khan and Inspector Ibad Wazir, the following Police officers were called on to the office. They also submitted their written statements and were heard in person.

1. Mr. Tauheed Ullah DSP Admn: PTS Hayat Abad.
2. Mr. Sher Afzal Inspector I/C PAL Peshawar.
3. Mr. Wajid Shah Inspector SHO PS Gulbahar.
4. Mr. Ghafoor Khan Inspector SHO Mir Pur Abbot Abad.
5. Mr. Hafeez Ur Rehman Inspector OII PS Gulbahar.
6. Mr. Awal Sher (Reader to SP CTD).
7. Mr. Sajjad Khan SI/PBI.
8. Mr. Noor Bangash of CPO.
9. Mr. Mansoor Ali of CPO.

ATTESTED

Appellant



(30)

CAPITAL CITY POLICE PESHAWAR
OFFICE OF THE
SENIOR SUPERINTENDENT OF POLICE INVESTIGATION PESHAWAR.

No. _____ /PA, Dated Peshawar the ____ / ____ /2019

ANALYSIS OF STATEMENT OF INSPECTOR IBAD WAZIR.

He stated that prior to this ugly event, he never blamed his fellows, neither seniors nor High ups for having anything negative against him. But this episode at Police Lines, he has submitted decision of court to his respected senior officer Mr. Ijaz Khan for seeking his lesson in good faith with positive intentions, because he was not expecting anything adverse from his senior. But he soon established that his words were harsh (Abusive) as well as DSP Ijaz was manhandling him. Therefore his response was obvious and natural in self defence. If verified from the participants at large and not super selected one, the truth may surface. He further stated that para No. 05 of the report based for his charge sheet presented his stance in unjust manner, and have shared his acquittal with his respected senior and conveyed very politely that he will file a case of defamation against him. It is worth mentioning here that at the time of said mishap, more than 150 officers/ candidates participating in the test for UN mission were present but the inquiry officer examined only 04 witnesses who are friends/ co- villagers/ badge-mates of the officer complainant DSP Ijaz Abazai and over-looked the overwhelming evidences to clarify his stance. The alleged issue was settled/ patched up on the very time due to intervention and mediation by some of the seniors/ juniors officers for which he submitted his apology but again lodged an application against Ibad Wazir.

ANALYSIS OF STATEMENT OF TAUHEED ULLAH DSP ADMN: PST HAYAT

ABAD.

He stated in his statement that he was present in Police Lines in connection of UN Mission test, wherein Ibad Wazir and Ijaz Khan shook hands with each other, later on Ibad Wazir handed over some documents to Ijaz Khan. On inquiring Ibad Wazir told Ijaz Khan that this is the evidence of his innocence, wherein Ijaz Khan congratulate him. Furthermore, Ibad Wazir told Ijaz that you have registered an illegal FIR against me and harmed my professional life. Meanwhile exchange of harsh words started between them, and both were deafening on each other and went out from the ground. Later on the matter was patched up by the colleagues between them.

ATTESTED

Appellant



(31)

CAPITAL CITY POLICE PESHAWAR
OFFICE OF THE
SENIOR SUPERINTENDENT OF POLICE INVESTIGATION PESHAWAR.

No. _____ /PA, Dated Peshawar the _____ / _____ /2019

ANALYSIS OF STATEMENT OF INSPECTOR HAFEEZ UR REHMAN.

He stated in his statement that he was present in Police Lines in connection with UN Mission test, wherein Ibad Wazir handed over an order in English to Ijaz Khan. Ibad told him that you have registered an illegal FIR against me and court has acquitted me. He further told that he will approach the court for redressal of his greivences against him. The quarrel started from these words. Ibad Khan went out from there, later on both of them started quarrel with each other near MT shed of Police Lines. Ijaz Khan was too angry and crying that he will complain to CCPO, but Ibad was not present at that time on the spot.

ANALYSIS OF STATEMENT OF INSPECTOR WAJID SHAH SHO PS GULBAHAR.

He stated in his statement that on the day of occurrence when as he reached the ground, some officers were controlling Mr Ijaz Khan who was constantly shouting. Few peoples were taking Ibad Wazir to the office of RI Police Lines. I asked from Inspector Hafeez Ur Rehman about the matter, who narrated him the story.

ANALYSIS OF STATEMENT OF SI SAJJAD KHAN.

He stated that he was not present at the time of incident and arrived after the incident and heard about it.

ANALYSIS OF STATEMENT OF INSPECTOR ABDUL GHAFOOR SHO MIR PUR ABBOT ABAD.

He stated in his statement that on the day of incidence as he reached to the spot, a person was jumping on the barricades towards Ibad Wazir and abusing in Pashto, while other officers were trying to bring to control him. Ibad wazir was in the clutches of RI Razi Khan and warning him for his act. Ibad Wazir further told that he was ignoring him since long but today he conveyed his reservations to DSP Ijaz and he agressed oupon it.

ANALYSIS OF STATEMENT OF MANSOOR ALI COMPUTER OPERATOR CPO.

He stated in his statement that he along with Constable Noor Bangash were present near Ibad Wazir and DSP Ijaz Khan, Ibad Wazir told him that he has

ATTESTED

Appelmas



CAPITAL CITY POLICE PESHAWAR
OFFICE OF THE
SENIOR SUPERINTENDENT OF POLICE INVESTIGATION PESHAWAR.

No. /PA, Dated Peshawar: the / /2019

been acquitted from the court of law in the case. He further added that you have harmed my career and will go to court for redressal of his grievances and gave him a court order. Wherein DSP Ijaz threw back the order towards Ibad, and told him to that come out from Police lines to decide it. He along with Constable Noor Bangush did their best to stop them from quarrel. DSP Ijaz Khan was trying to hound Ibad, while the people clogged him.

ANALYSIS OF STATEMENT OF CONSTABLE NOOR BANGUSH OF ELITE FORCE.

He stated in his statement that he along with Constable Maansoor were present near Ibad Wazir and DSP Ijaz Khan, Ibad Wazir told him that he has been acquitted from the court of law in the case. He further added that you have harmed my career and will go to court for redressal of his grievances and gave him a court order. Wherein DSP Ijaz threw back the order towards Ibad, and told him to that come out from Police lines to decide it. He along with Constable Noor Bangush did their best to stop them from quarrel. DSP Ijaz Khan was trying to hound Ibad, while the people clogged him.

ANALYSIS OF STATEMENT OF INSPECTOR SHER AFZAL I/C PAL

He stated in his statement that as he arrived in Police Lines, where he saw DSP Ijaz Khan fighting with Inspector Ibad Wazir, Ibad Wazir was shouting that you have registered an illegal FIR against me and the court acquitted me. The other officers told DSP Ijaz Khan and took him towards ground. The matter was patched up between them at that time by senior officers.

ANALYSIS OF STATEMENT OF SI AWAL SHER KHAN OF CTD PESHAWAR.

He stated that at the time of occurrence he along with Arbab Naeem Haider were present in the ground, wherein he heard the noise, on reaching the spot it was found that Inspector Ibad Wazir and DSP Ijaz Khan were exchanging harsh words to each other. Ibad Wazir was in normal position, while DSP Ijaz Khan was very aggressive.

ATTESTED

CAPITAL CITY POLICE PESHAWAR
OFFICE OF THE
SENIOR SUPERINTENDENT OF POLICE INVESTIGATION PESHAWAR.

33

No. /PA, Dated Peshawar the / /2019

CONCLUSION.

After thorough examination of statements, the following points are worth to be perused:-

- Discipline is of paramount importance in Police force, and Juniors are liable to pay requisite amount of respect to their seniors.
- In the light of the statements of all the witnesses, it crystal clear that Inspector ibad Wazir has violated the code of conduct with seniors officers and choose an improper place and time to convey his grievences to DSP Ijaz.
- On the other hand DSP Ijaz Khan being a senior too could have handled the situation in a more mature and professional manner, which he failed to do.
- Hence it can be easily established that Ibad Wazir failed to comply the norms of Police force and found guilty and he is liable to be punished.

Submitted please.

ATTESTED

sw
Appellant

Senior Superintendent of Police,
Investigation
Capital City Police, Peshawar.

Issue final showcause
notice

28/5
Senior Superintendent of Police
Operations, Peshawar



Annex: J

34

OFFICE OF THE
SENIOR SUPERINTENDENT OF POLICE,
(OPERATIONS),
PESHAWAR
Phone: 091-9213051

FINAL SHOW CAUSE NOTICE
(Under Police Disciplinary Rules, 1975)

1. I, the undersigned, Senior Superintendent of Police (Operations), Peshawar, a competent authority under the Police Disciplinary Rules, 1975, do hereby serve you Inspector Fiaz Wazir CCP Peshawar as follows:

- (i) that consequent upon the completion of departmental enquiry conducted against you by SSP (Operations) CCP Peshawar who found you guilty of the charges for which you were issued the copy of final award.
- (ii) On receipt through the findings and recommendations of the enquiry officer, the material in record and other connected papers including your defence before the said officers.
- (iii) I am satisfied that you have committed the following conditions:

That you have been found guilty of the charges leveled against you in the charge already issued to you by the enquiry officer.

- 1. As a result thereof, the Competent Authority decided to impose upon you major/minor penalty including dismissal from service under the said Rules.
- 2. You are therefore required to show cause as to why the aforesaid penalty should not be imposed upon you.
- 3. If no reply to this notice is received within 7 days of its delivery, it shall be presumed that you have no defence to put in and in that case an appropriate action shall be taken against you.
- 4. You are at liberty to be heard in person, if so wished.

SR: SUPERINTENDENT OF POLICE,
OPERATIONS, PESHAWAR

No. 555

SPA dated Peshawar on

28/05/2019

To,

**The worthy Senior Superintendent of Police (Operations),
Peshawar.**

Subject:

**FINAL SHOW CAUSE NOTICE
(Under Police Disciplinary Rules, 1975)**

Honorable Sir,

With utmost humility, let me submit, my written reply to the subject Final Show Cause Notice bearing office Endst No. 553/PA dated May, 28, 2019 as under;

1. In view of the parental status of your good-self office being the competent authority in the instant case, I may submit that, Mr. Ijaz Ali (Inspector) DSP (Acting) Investigation, Saddar Circle Peshawar reported the issue in a twisted, perverted and biased manner vide his letter No. 965/St. dated 08.05.2019, thus resulting into the inquiry, but it was conducted in complete departure from the procedure contained under Rule 6 of the KP Police Rules 1975, having not been followed in letter and spirit. The evidence collected during the proceedings doesn't qualify to connect the undersigned with the charge in any way and as such proceedings can't stand the test of judicial scrutiny (SCMR 1998), hence it's my inalienable right to raise reservations on the mode of inquiry and the subsequent findings which are surely centered on mala fide for the desired outcome of the inquiry.
2. By now, I have spent about a decade in KP's brave police force which stood resolute against all odds of spate of terrorism. I have served in this dauntless force during this difficult times and had been posted in the most challenging police stations during this whole period of my decade's long career. Those were the days, when my parents passed through the most painful days of their life, for they spent sleepless nights owing to the daily based terror incidents. I could count those horrific events of my career but in view of giving unnecessary dimension to my reply, I wouldn't.

As hitherto mentioned, the complainant officer reported the event in complete disregard of the actual facts shrouding it. The truth is that on the eventful day, I just informed the complainant officer mannerly about the outcome of the court's decision. The allegations of keeping acrimony and spite towards the complainant officer are totally baseless and equally the charge of abusing him

ATTESTED

Appellant

in any manner is a pack of lies. To the contrary, it was he, who was ominous towards me, surely because of the nature of disposal of the case. The probe made by the Inquiry Officer, on the basis of statements of the witnesses, doesn't solely hold me responsible for the issue but still the whole proceedings were given an intended turn with utter mala fide to hold me accountable and get me punished. Here I deem it pertinent to mention that the accused, who allegedly died in custody and giving rise to FIR No. 912 dated 26.11.2018 u/s 302/34 PPC PS AMJS Peshawar, was relative of/familiar to the complainant officer, who got the FIR registered in entire paradox to the Police's history. Still, the worthy Inquiry Officer couldn't appreciate the actual truths involving the issue and is found resorted to making a choice of holding me guilty at the cost of justice.

3. Awaiting the instant opportunity, I may apprise your honor about the biasness on part of the worthy inquiry officer prior to initiation of the inquiry. Once, as stated, before the start of the inquiry, and after the occurrence, the complainant officer approached the worthy inquiry officer about alleged threats from my side which he i.e. the inquiry officer forwarded to the worthy CPO Peshawar for favorable consideration (F/A). It is thus abundantly clear from the letter that the worthy Inquiry Officer had a favorable inclination towards the complainant officer from the beginning and having so, he couldn't proceed in the inquiry in impartial manner.

4. I may add that, in any kind of employment, let alone civil service and then more specifically Police Force, discipline is a bedrock for maintaining harmony within the rank and file and to achieve the desired objectives. For a decade service in my credit in the KP Police, I have always abided by this fundamental aspect the Police Service, and so have maintained exceptionally cordial relation with my seniors. I have never reported to have flouted service discipline or to be insubordinate to my seniors. Instead, I have served every difficult duty selflessly with desired and expected results for bringing good name to my institution. The worthy Inquiry Officer, on the basis of defective proceedings, contrary to the spirit of the law, held me guilty of violating the code of conduct with seniors. Here I deem it opportune to refer your good-self to the "Conclusions" of the worthy Inquiry Officer.

[Handwritten signature]
ATTESTED

For ease of reference, let me reproduce these as;

CONCLUSIONS

After thorough examination of statements, the following points are worth to be perused: -

- Discipline is of paramount importance in Police force, and Juniors are liable to pay requisite amount of respect to their seniors.
- In the light of the statements of all the witnesses, it is crystal clear that Inspector Ibad Wazir has violated the code of conduct with senior officers and choose an improper place and time to convey his grievances to DSP Ijaz.
- On the other hand DSP Ijaz Khan being a senior too could have handled the situation in a more mature and professional manner, which he failed to do.
- Hence it can be easily established that Ibad Wazir failed to comply the norms of Police force and found guilty and he is liable to be punished.

Shedding light on foregoing findings, let me view that I can't think of disagreeing with the first conclusion.

As about the second conclusion, let me reiterate with all sincerity and affirmation that the worthy Inquiry Officer has wrongly concluded referring impropriety towards me. It's a lopsided finding of the worthy officer, and once the issue is impartially probed, I assure your honor that the result of the inquiry shall be a volte face with my exoneration.

While going through the third conclusion, naively the fraction of the truth has cropped up where reference is made to the immaturity on part of the complainant officer and lack of professionalism on his part in handling the situation. Immaturity and lack of professionalism on part of personnel, especially in police force would certainly play havoc. Notwithstanding this finding, I am made to face departmental proceedings, which if independently inquired into, shall certainly go dead. Let me repeat that I haven't resorted to any misconduct so as to make me guilty there-for.

REJECTED
Appellant

5. Foregoing in view and as I am innocent, I implore that your honor may be pleased to re-examine the decision of imposition of penalty and I may be exonerated from the charges to meet the ends of justice, please.

I further request that I may be heard in person to explain the actual circumstances behind the alleged charge.

While concluding my reply, I beseech your honor to discard the inquiry report, file the show cause notice in view of my foregoing submissions and to exonerate me, please.

Dated: 10.06.2019.

Yours faithfully,

Ebaad Wazir,

Inspector CCP, Peshawar.

ATTESTED

Appellant



OFFICE OF THE
SENIOR SUPERINTENDENT OF POLICE,
OPERATIONS,
PESHAWAR

Annex - 2

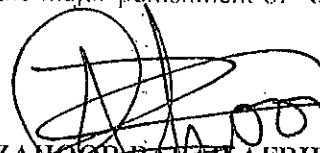
39

ORDER

This office order is hereby passed to dispose of the departmental enquiry proceedings initiated against Inspector Ebad Wazir CCP Peshawar vide this office No.133/E/PA dated 15.05.2019 on the basis of following charges:

That a preliminary enquiry conducted by SSP Coordination vide his office Dy No. 91/PA dated 14.05.2019 that complainant Mr. Ijaz Abazai DSP Investigation, Saddar Circle Peshawar reported that 08.05.2019 at 1100 hrs while he was present at Malik Saad Shaheed Police Lines in order to take UN Mission Test. Inspector Ebad Wazir came towards him and showing his utter disregard to the presence of his high ups and making mockery of the norms of discipline and decency, used highly abusive language, threatened and an assaulted him

2. Senior Superintendent of Police, Investigation Peshawar was appointed as the Enquiry Officer, who carried out a detailed enquiry and established the charges against him. On receipt of the findings of the E.O, he was issued Final Show Cause Notice vide this office No. 553/PA dated 08.05.2019 to which he replied. The same was perused and found unsatisfactory. He was called in Order Room on 10.06.2019 and heard in person. He was provided full opportunity for self-defence. He failed to satisfy the undersigned. The charges leveled against him stand proved beyond any shadow of doubts. Hence, he is hereby awarded the major punishment of "dismissal from service" with immediate effect.


(ZANOOR BAWAR AFRIDI) PSP
Senior Superintendent of Police,
Operations, Peshawar

No. 512-17 /PA. dated Peshawar, the 10/06/2019.

Copy for information and necessary action to:

1. The Capital City Police Officer Peshawar for information please.
2. The Senior Superintendent of Police, Investigation CCP Peshawar. (Enquiry Officer)
3. The SP Hqrs CCP Peshawar
4. EC-H/EC-I/AS/Pay Officer.
5. FMC with complete enquiry file containing _____ pages.

ATTESTED


Appellant

Before the Hon'able Capital City Police Officer,
Peshawar

Subject: Departmental Appeal u/r 11 of Police Rules 1975 (Amended 2014), against the Impugned order. Passed by WISSP (Operations) vide Endost No. 512-17/PA dated 10.06.2019.

Sir,

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

PRELIMINARIES:

1. The inquiry proceedings have not been conducted in accordance with the prevailed rules, contained u/r 6 of Rules 1975 (Amended 2014), as no proper procedure has been followed by worthy inquiry officer nor he has mentioned / shown cogent grounds to connect the appellant with the alleged charge. Moreover, the opportunity of cross examination was not given rather allowed to the appellant as indicated from the statements of witnesses.
 2. As per rule 6(v) of rule 1975, the inquiry officer had to submit cogent grounds to connect the accused officer with alleged charge but no ground has so far been brought on record; therefore, the recommendation of the inquiry officer is not tenable.
 3. Worth clarifying that the appellant was not associated with the preliminary inquiry and the worthy inquiry officer examined only 04 witnesses of his choice, out of more than 150 Police Officers on the occasion of unfortunate mishap, therefore the recommendation for departmental inquiry was without jurisdiction and lawful authority.
 4. It may be submitted here that departmental inquiry proceedings were conducted by worthy SSP (Investigation) who is the immediate boss of complainant DSP Ejaz Abazal but I did not object or challenge before the competent authority as I was not at fault and the alleged mishap was occurred due to aggression of the complainant/DSP Ejaz, hence the act of partiality cannot be excluded or ruled out.
- As per provision, contained u/r 16.2 Police Rules 1934, the punishment of dismissal is to be awarded very cautiously, enunciated as under -
- "Dismissal shall be awarded only for the gravest acts of misconduct or as the cumulative effect of continued misconduct proving incorrigibility

ATTESTED

5
As per
out
Appellant

and complete unfitness for police service. In making such an award regard shall be had to the length of service of the offender" The competent authority awarded major penalty of dismissal to appellant, for no act or attribution to alleged charge, having not been committed Moreover, the appellant served this august force for such a long period of 09/10 years but the length of service was not considered.

6. The finding report of the worthy inquiry officer is self explanatory wherein at para- 3, of the conclusion in finding report, observation whereof is as following, which also amounts to misconduct on the part of DSP Ijaz, further supporting the act of aggression

"On the other hand DSP Ijaz Khan being a senior too could have handled the situation in a more mature and professional manner, which he failed to do so" hence how the role of DSP Ijaz can be ruled out

7. Even for the sake of arguments, if the finding report / recommendation of inquiry officer is admitted for a while (Which is strongly denied), the punishment awarded to appellant is very harsh, arbitrary and contrary to the settled principles and law on the subject, having been reported in judgment 1988 PLS (CS) 179 wherein quantum of punishment is directed to be appropriate, compatible and reasonable qua Act or omission for which an accused official is charged, further supported by judgment 1998 SCMR 2478.

8. Replies to charge sheet and final show cause are self explanatory and worth of consideration by this Hon'able forum, are annexed as Annexure B & B/1

ON FACTS:

1. The appellant was enlisted in this august force, in the year 2009 and since then in recognition of efficient working and outstanding performance, reached to the status as Inspector

2. Short facts are that on the alleged day of mishap, a driving test for UN mission was being fixed / managed and more than 150 Police officers were present that in meanwhile the appellant conveyed the acquittal news from murder charge by the Hon'ble ADJ to the complainant DSP Ijaz Abazai on which he outraged rather infuriated, resulted in hot words to the appellant. The matter was intervened by the participants, gathered for UN mission driving test, subsequently mediated by the participants, on which I also took apology and the dispute was resolved but on the following day the DSP Ijaz Abazai submitted an application against the appellant, hence preliminary inquiry was conducted under the orders of your good self

ATTESTED

Appellant

- 3 The preliminary Inquiry proceedings were one sided and as per law / rules, the appellant was not associated with the proceedings to express his point of view regarding the charge. The worthy inquiry officer SSP (Coor) recommended departmental inquiry, wherein during proceedings before inquiry officer i.e worthy SSP (Investigations), majority of the evidence supported the stance of appellant but was not given any weight or consideration and the worthy inquiry officer recommended punishment to the appellant rather completely overlooked the non-incriminating status of evidence of numbers of police officers. Copies of statements of witnesses enclosed as Annexure C to C/6
- 4 The appellant was issued final show cause notice to which plausible reply was submitted but the stance of appellant was discarded without any cogent reason, followed by dismissal order on the very day. Worth clarifying that though the competent authority has mentioned personal hearing in his order but it is sworn that no such opportunity was given to the appellant to explain the actual circumstances.

GROUNDS OF APPEAL:

The impugned order of WSSP (Operations) is assailable on the following grounds.

- 1. The impugned order is in glaring violation of the principles of natural justice and principle of good governance.
- 2. The inquiry proceedings have not been conducted as per provision, contained under Rule 6 of police rules 1975 as the appellant was not afforded the opportunity of cross examination on the witnesses, examined by worthy inquiry officer.
- 3. There is not an iota of evidence, connecting the appellant prima-facie with the alleged act of misconduct hence cannot be adjudged / assessed from recorded evidence during the course of inquiry.
- 4. The alleged charge is unjustifiable and is considerable under the law of justice, recorded evidence and factuality on the following principle.
 - a. The principle of natural justices would be violated only when an action is taken against a person without his knowledge (NLR 214 April OTA) I swear that the alleged behave on my part that I did not use any un-parliamentary language but only conveyed the acquittal order from murder charge by court of competent jurisdiction, to the complainant Mr Ijaz Khan DSP and in this respect, majority of witnesses before the worthy inquiry officer support this version

ATTESTED

Appellant

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CamScanner

- 5. The whole inquiry proceedings are based on mala-fide, partiality and the impugned order dated 10.06.2019 has been passed in clandestine manner total disregard of the available record, the law and rules on the subject, the norms of justice and fair play Principle of justice would be violated only when action is taken against a person without his knowledge, reported in superior court Judgment NLR 214, April Quetta.
- 6. Perusal of inquiry proceedings clearly reflect that there are no incriminating materials which can condemn the appellant and to substantiate the alleged charge.
- 7. The appellant has spotless service record of 09/10 years and throughout his career he has been awarded, commended and given best postings / blessings. Even the PERs the reporting officer has valued the working which was further blessed by the countersigning officer.
- 8. The appellant belongs to middle class family and the service was his only source of earning and the awarded major penalty of dismissal has caused irreparable loss to the appellant career as well family repute, for no good reasons, hence requires sympathetic consideration.

PRAYER

Above in view, it is humbly prayed that by accepting this appeal, the impugned order dated 10.06.2019 may very kindly be set aside and passed the reinstatement orders of the appellant, to meet the ends of justice.

Dated, 21-06-2019.

Sincerely yours

Ex-Inspector Ebad-Wazir (Appellant)
Peshawar

ATTESTED

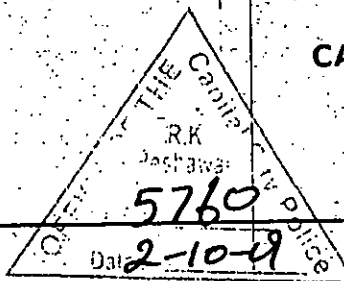
Appellant



OFFICE OF THE *Amex - N* (44)
CAPITAL CITY POLICE OFFICER
PESHAWAR

Phone No. 091-9210989

Fax No. 091-9212597



ORDER.

This order will dispose of the departmental appeal preferred by Ex-Inspector Ebad Wazir who was awarded the major punishment of "Dismissal from Service" under Police Rules-1975 by SSP/Operations Peshawar vide No.512-17, dated 10-06-2019.

2- The allegations leveled against him were that complainant Mr. Ijaz Abazai DSP/Investigation Saddar Circle Peshawar reported that on 08-05-2019 at 1100 hrs while he was present at Malak Muhammad Saad Shaheed Police Lines Peshawar for UN Mission test. Inspector Ebad Wazir came towards him and showing his utter disregard to the presence of his high ups and making mockery of the norms of discipline and decency, used highly abusive language, threatened and assaulted him. In order to probe the above allegations, a preliminary enquiry was conducted by SSP/Coordination Peshawar vide No.91/PA, dated 14-05-2019 in which he was found guilty of the charges leveled against him in the complaint.

3- He was served with Charge Sheet and Summary of Allegations by SSP/Operations Peshawar and Mr. Jehanzeb Khan, SSP/Investigation Peshawar was appointed as enquiry officer to scrutinize the conduct of the officer. The enquiry officer after conducting proper departmental enquiry found him guilty and recommended him for liable punishment. On receipt of finding of the enquiry officer, the SSP/Operations Peshawar issued him final show cause notice to which his reply was also found unsatisfactory. Hence the competent authority awarded him the major penalty of Dismissal from Service under Police Rules 1975.

4- He was called on his Cell Number 03459444020 incorporated in his appeal but the said number was continuously switched off. However on 30-09-2019 his ex-gunman namely Rahat was also informed on his cell number 0332-9141297 at 2020 hrs to inform the Ex-Inspector to appear in OR on 01-10-2019 at 0900 am before the appellat authority, but he failed to appear in OR. The available record placed on file was perused and found that he has committed a gross misconduct in a discipline force by insulting a senior officer in front of other officials gathered for UN test from across the Province at Police Lines Peshawar. Therefore, his appeal for reinstatement in service is hereby rejected/fled.

ATTESTED

(Signature)
 (MUHAMMAD KARIM KHAN)PSP
 CAPITAL CITY POLICE OFFICER,
 PESHAWAR

No. 1365-71 /PA dated Peshawar the 01/10/2019

Copies for information and n/a to the:-

1. SSP/Operations Peshawar.
2. OS/AS/EC-IEC-II/FMC.
3. Officer concerned.

EC-11

بیان برائے ڈسپوزیشن

بیان برائے ڈسپوزیشن میں سے مورف 13/19 کو جو سال SSP سے

preliminary Co-ordination کے تحت - 2019

[Signature]

27-5-19

ڈسپوزیشن میں PSI کے بارے میں

Attested

[Signature]

All-SSP-Inv.
27-05-19.

ATTESTED

[Signature]
Appellant

بیان اداں انیکر شیر افضل

مورخ 08-05-2019 کو میں بلکہ UN میں ڈرائیونگ ٹیسٹ لیکر
 ملکہ سعد شہید پولیس اسٹیشن مشاورت پیش کر اپنی گاڑی CTD ایڈیا
 میں مارک کرتے جب میگزین پولیس اسٹیشن کو بھیجا تو اسل
 دوران شور مچی آواز سن کر دیکھا تو DSP احتزار خان
 انیکر عیار وزیر خان کو بلکڑ کر گھسیٹ کر لے جا رہا تھا اور سادہ
 ہی یہ کہہ رہا تھا کہ تم نے میرے اوپنڈنگ فیر FIR بدع کیا ہے
 اور عدالت نے مجھے بے گناہ قرار دیا ہے۔ تم نے میرے ساتھ
 زیادتی کی ہے۔ اس دوران دیکھا تو ریگڈ افسران بھی DSP
 اعجاز خان بلکڑ کر بھی لے جا کر جا رہے تھے۔ دونوں کے
 درمیان افسران نے خلاعی کرائی۔ اور عیار وزیر خان اوپر
 چلا گیا۔ ہم اعجاز خان نیچے گراؤنڈ کی طرف چلا آیا۔
 یہی میرا بیان ہے جو کہ درست ہے۔

[Signature]
 I/c PAL PESH
 27-05-019

Attested
[Signature]
 SSP-Inu.
 27-05-19

ATTESTED
[Signature]
 Appellant

تاریخ 08-05-19 کو پتھریل پولیس سٹیشن ڈائریکٹوریٹ پولیس سٹیشن جوہلی میں
 پولیس آفیسر ڈائریکٹوریٹ پولیس سٹیشن ڈائریکٹوریٹ پولیس سٹیشن جوہلی میں
 قلمبندی کی خوشامد میں درج ہے تو کہ وہ مسلسل یہی کہہ رہا تھا کہ عدالت کو
 حضور و باہری مسئلہ حل کر دیتے ہیں جبکہ دوسری طرف چند امیران
 و صاحبان انسپکٹر عیاد وزیر کو دفتر RI کی طرف لے جا رہے تھے۔
 میں نے انسپکٹر حفیظ الرحمن سے پوچھا تو اس نے بتایا کہ کچھ دیر قبل انسپکٹر
 عیاد وزیر نے کچھ کاغذات DSP ایجاز کو دیکر کہا کہ اس نے جوہلی
 علاقہ FIR دیکھے تھے کافی ذہنی اذیت پہنچائی ہے اب عدالت کی بجلی بری
 کر دیا ہے۔ اب میں اس کے خلاف عدالت سے رجوع کروں گا۔ جب میں
 حفیظ الرحمن نے بتایا کہ تھانہ کھڑکی کا ارکان ہے تو میں نے عیاد کو وہاں
 سے علی جان کا پتہ چوکہ دیاں سے چلے گئے۔

یہی سہرا بیان ہے جو کہ درست ہے۔

[Signature]
 Smt. G. Bahar
 27-5-19

Attested
[Signature]
 SSP-Inw.
 27-05-19.

ATTESTED
[Signature]
 Appellant

بیان ازاں السید عبدالغفور عمر ۱۴/۹۵ مقیم ۵۱۱۰ قحان، سرگودھا ایسٹ آباد

۲۰۱۹ء

میں نے ۰۸/۰۵/۲۰۱۹ کو جس بھی میٹر لوئس انجینئر کے ساتھ کوئی لین لین میں اپنے اہل خانہ ڈرائیونگ سے جوڑ دیا۔ میں اپنے کچھ دوستوں کے ہمراہ ڈرائیونگ کرتے ہوئے کوئی کرایہ تھا جب کچھ شور شراب ہوئی تو وہ لوگوں کی طرح میں بھی شور شراب والی جگہ کی طرف ڈھیرا تو ایک صاحب ہو گا وہ کھلا نکلے ہوئے اور دستوں میں گلاں دیتے ہوئے عبادت شیر کی طرف دوڑ رہے تھے جن کو کچھ انسپکٹر اور DSP صاحبان پکڑنے کی کوشش کر رہے تھے۔

پھر عبادت شیر کو رازی خان DSP نے پکڑ رکھا تھا جو دستوں میں کبیرا تھا کہ سری زیادتی کر رہے ہو۔ غلط ننگا لے رہے ہو۔ عبادت شیر کو دستوں کے ہمراہ پکڑ کر دفتر R صاحب لایا اور کہا کہ تمہارا حق نہیں تھا کہ تم نے لڑائی کر دی۔ جس نے جواباً بتلایا کہ مذکورہ DSP صاحب نے قبل ازاں اس میں 302 کی FIR دی تھی اور وہ مذکورہ DSP صاحب کو متواجم ignore کرتا ہے۔

میں نے کوشش کرتا ہے کہ اس راستے پر بھی نہ پڑے جہاں ان کا فاسفہ ہو جائے اور فاسفہ ہو اتنی اس نے لگے کہ تو اپنے صاحب سے ملے۔

میں نے اسے گلاں دیاں میں - میرا ہی بیان ہے -

[Signature]
 10554 / SMO / P.S. Mirpur
 05
 27/2019

Attested
[Signature]
 SSP - Inv.
 27-05-19

ATTESTED
[Signature]
 Applicant

سوانہ لڑائی الشہید حضرت لڑائی آج کے شہید

صاف عیانی

حرف ۵۸/۱۹ کو میں نے دیگر فرمایا کہ اس میں ڈرائیور نے سید کے ساتھ
 میں پولیس لائن ٹراؤنڈ میں فروری کے اس دوران DSP صاحب دوسرے
 ایک حکم کا عدالت پر بیان انٹرنی لڈر DSP ایجاز آبادی کو حوالہ لڑے ہوا
 کہ آج سے پہلے حذف عدالت کے آگے گئی جس میں عدالت نے جے پری کر دیا گیا
 اور اس جے پری کے بعد آج DSP کے حذف عدالت سے رجوع کروا دیا
 اس معاملہ پر پہلی سروس سے بیان کیے میں نے عدالت دوسرے کو
 دیاں سے چلائے کو کیا، اور عدالت دوسرے دیاں سے چلائے گیا، ٹھوڑی
 دیر بعد ٹراؤنڈ کے قریب AT پارک سے ٹھوڑی سی آواز میری
 میں ٹراؤنڈ سے اور آبادی کو DSP ایجاز خان آبادی کے بعد آواز میں غصہ
 کی حالت میں کہہ رہا تھا "میں نے اس کو مارا ہے" مگر عدالت دوسرے
 دیاں سے رجوع نہیں کیا جس کو چیتا سائی دیاں سے چلائے دوسرے
 پولیس لائن لے گئے تھے، اور ایجاز خان DSP کو کچھ اعتراض ہو کر ٹراؤنڈ
 کی طرف لڑائی کو سن کر رہے تھے، یہی ہوا بیان ہے

Amir Abbas
 INSP/011 - Ps. GB
 27/05/2019


Attested
 [Signature]
 SSP - Inv.
 27-05-19


ATTESTED
 [Signature]
 [Signature]

بیان آذان اول شیرخان سب انسپکٹری ٹی ڈی پشاور

جناب عالی!

بحوالہ وقوعہ مابین اعجاز خان DSP اور عباد خان وزیر مورخہ 08/05/2019 معروض خدمت ہوں کہ بوقت وقوعہ میں مع SHO چکنی ارباب نعیم حیدر پولیس لائنز گراؤنڈ میں بغرض UN Mission کے ڈرائیونگ ٹیسٹ کیلئے اپنے باری کا انتظار کر رہے تھے کہ اس دوران شور شرابے کی آوازیں سن کر میں مع نعیم حیدر خان گراؤنڈ سے اوپر کے احاطے میں دیکھا کہ عباد وزیر اور DSP اعجاز آپس میں کسی بات پر الجھ پڑے ہیں۔ جب ہم اوپر پہنچے تو عباد خان وزیر کو چند کسان RI رازی خان کی نگرانی میں انکے دفتر لے جا رہے تھے۔ میں اور نعیم حیدر خان نے بھی انکو دفتر RI لے جانے میں مدد کی جبکہ عباد خان وزیر بخوشی خود دفتر کی طرف جا رہے تھے اور نارمل حالت میں تھے جبکہ دوسری طرف اعجاز خان DSP صاحب کے گرد کافی ہجوم تھا اور انکو قابو کرنے کی کوشش جاری تھی اور وہ کافی غصہ میں نظر آ رہے تھے۔ میں نے یہی کارروائی دیکھی ہے باقی مجھے علم نہیں ہے۔


اول شیرخان، سب انسپکٹر
متعینہ CTD/HQ پشاور
27-05-2019

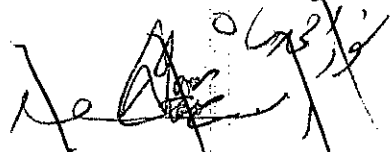
Attested

All
SSP-Inv.
27-05-19

ATTESTED

Appellant

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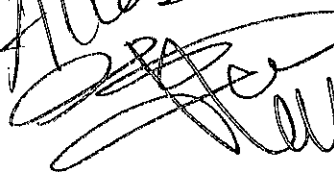
→ 0345-9641540



Sis 1

As per my statement regarding the Incident
 Took place during the Qualifying test for
 United Nations peace mission on 8th May 2019
 So, I was not present at the time
 of incident and I arrived after
 the Incident and heard about
 Incident from other police officers

Sajjad Ahmad
 S.I. Investigators

Attested


SSP - IHO.
 27-05-19.

ATTESTED


 Appellant

صاحب عالی

آخری بار مورخہ 08-05-2019 کو میں امرتسر اور لوہن امرتسر
 نیشنل UN mission ڈرائیو ٹیسٹ Test روٹس لائن آزاد ٹریڈنگ کمپنی
 سے ایک دوران DSP صاحب اعجاز خان، انٹرنیشنل ایلٹ ٹریڈنگ کمپنی
 سے تیار ہے تاکہ ایک دوران عباد وزیر صاحب نے ان کے ساتھ
 3 سالہ کیمپ کے دوران میں عدالت سے رہائی کے دستاویزات دیکھا
 گیا کہ DSP صاحب صاحبان سے عدالت نے مجھے ہماری کاپیاں
 DSP صاحب نے بھی کیا دی۔ بعد میں عباد وزیر صاحب نے DSP
 صاحب کو کہا کہ آپ لوگوں نے صبح کی ساٹھ بجے کی بجائے
 دو بجے آکر میرا نام کیا۔ میں عدالت میں ایک گا حساب لوٹا۔ ایک دن
 DSP صاحب نے وہ نامگزات عباد وزیر صاحب کے قلم سے تیار کیا
 کہ عدالت کو چھوڑ دو، روٹس لائن کے باہر آؤ کہ حساب ہر ایک
 دن عباد وزیر صاحب Stage کی سٹیجوں سے باہر کی طرف روانہ ہوتے اور
 DSP صاحب عقب روانہ ہوتے اور ایک دوران DSP صاحب اور عباد
 وزیر صاحب کے مابین تلخ کلامی ہونے سے پہلے میں نے منظور اور
 صاحب راضی خان عباد وزیر صاحب کو Stage سے باہر لے کر جارہے تھے
 کہ اس دوران DSP صاحب دربار عباد وزیر صاحب کے پیچھے دور
 رہے اور گال گولی ہوئی۔ میں اور R صاحب نے عباد وزیر صاحب
 کو R صاحب کے دفتر لے گئے۔ یہی سارا بیان ہے۔ ایک دوران میں
 اور منظور سٹیجوں میں عباد وزیر صاحب کے پیچھے سے ہوتے تھے۔

ATTESTED
Appellant

Attest
DSP-27-0



بیان اذان کثیر مشورہ کیلئے اپریل 2019ء میں
جناب عالی!

مجھ کو دفعہ عدلیہ میں DSP اعجاز خان اور انسپلر عباد دین خان
 مورخہ 08-05-19 سے ملاوٹ کی صورت میں کچھ وقت سے دفعہ عدلیہ میں اور دفعہ
 candidates - دو ایسٹیشن ڈائریکشن میں کما انتظام کر رہے
 تھے۔ میں اور انسپلر نور بخش صاحب نے کچھ وقت کے دوران عباد
 صاحب کے ساتھ دالے کر کے اسٹریٹنگ اور فیروز صاحب کے ساتھ DSP
 صاحب سے معاملہ چھوڑ کر میں کورٹ سے باعزت پری ہو گیا ہوں
 اور آپ سے میرے ساتھ بیٹے کی یاد دہانی کی ہے، مجھے ڈیڑھ ماہ اور یہ
 ڈیپارٹمنٹ کسٹمر کو نقصان پہنچایا، آپ کو اس نقصان کے ازالے
 کیلئے عدالت لے کر جاؤں گا۔ یہ تو تم آپ کی وجہ سے ہو گیا ہے
 میں میری بدنامی ہوئی ہے۔ جس پر DSP صاحب نے عباد دین کو کورٹ
 کاپی واپس کی تو عباد دین نے دوبارہ DSP صاحب کو دی۔ جس پر
 DSP صاحب نے کاپی عباد دین کے منہ پر دے ماری اور عباد دین
 نے رد عمل میں اس کے منہ پر ماری، جس سے اس کا منہ بھر گیا اور
 DSP صاحب نے اس کو کہا کہ عدالت کو چھوڑو، پوچھنے لائن سے
 باہر نکلو میں صاحب دے دوں گا، جس پر دونوں گراؤنڈ سے اٹھ کر
 stage پر گئے اور زبانی تلخ کلامی ہوئی۔ جس پر میں نے نور بخش اور
 R-1 صاحب نے ہیج بچاؤ کیا اور عباد دین کو R-1 صاحب نے دفتر
 کے کمرے میں رکھا۔ اسی دوران DSP صاحب عباد دین کے پیچھے پیچھے اور آتے
 کی کوششیں کی۔ لیکن وہاں ڈیپوٹی سپر مامور نے اسے ایف اے کے
 پکڑ کر اور اسے یہی بیان کرنا ہوں۔

Attested
 SSP Inw
 27-05-

ATTESTED
 Appellant

محمد علی
 27/5/2019

Before the Honble Chairman,
PPK Service Tribunal.

Service Appeal

(Appellant) بنام 2019

Ebad Wazir

VS

Provincial Police Officer
باعث تحریر آئندہ

موزخہ
مقدمہ
دعوی
جرم

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام Peshawar کیلئے Peshawar

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعوی اور

بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعوی اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی

نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار

ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائنہ التوائے مقدمہ کے سبب سے وہوگا۔

کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

Appellant

Appellant

المرقوم 2 _____ 2019 October _____

المقام Peshawar
وہ العی
کے لئے منظور ہے۔
Advocate

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service appeal No.1224/2019

Ebad wazir Ex- Inspector CCP, Peshawar..... Appellant

Versus

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. Senior Superintendent of Police Operations,
4. Senior Superintendent of Police Investigation..... Peshawar.

Reply on behalf of respondents No.1, 2, 3& 4.

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS.

1. That the appeal is badly time barred.
2. That the appeal is bad for mis-joinder and non-joinder or necessary parties.
3. That the appellant has not come to this court with clean hands.
4. That the appellant has no cause of action.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant concealed the material facts from Honorable Tribunal.

FACTS:-

1. Para No.01 relates to record, however last sentence of the para is totally incorrect, as per his service record, during his short tenure of service, earned 02 minor punishments on account of misconduct hence plea of unblemish record is falsified and baseless.
2. Para No.02 is incorrect, complaint against the appellant was thoroughly enquired by senior officer and a preliminary enquiry was conducted and later on proper departmental enquiry into the framed allegations was carried out wherein charges were squarely stand proved.
3. Para No.03 relates to record, hence needs no comments.
4. Para No.04 is totally incorrect. Infact the matter was preliminary enquired into by SSP Coordination. The enquiry officer after conducting the enquiry, submitted report that the charges leveled against him were proved. After that a proper departmental enquiry was conducted by SSP Investigation in accordance with law/rules, statement of all the concerned were recorded. Wherein the allegations were reported proved beyond any shadow of doubt by the enquiry officer.(copy of preliminary enquiry is annexure as "A")

5. Para No.05 is correct to the extent that charge sheet containing allegations mentioned therein were issued to him in proper and legal manner.
6. Para No.6 totally incorrect and based on misleading material. Police is a disciplined force in which junior ranks officers respect their senior but the appellant being a junior member of the force highly insulted his senior in front of large number of senior & junior rank officers, gathered across the province in the Malik Saad Police Lines for undergoing UN test. His act is highly condemnable therefore was dealt with departmentally on the basis of instant true charges.
7. Para No.7 is incorrect charges framed against the appellant were fully proved during the course of enquiry.
8. Para is incorrect. As explained above appellant was found guilty of the charge therefore punishment as per gravity of his misconduct was awarded to him.
9. Para is incorrect. Appeal of the appellant was thoroughly examined and due considerations was paid but the same being devoid of merit was rejected by appellate authority.
10. Para is incorrect. Appellant being member of disciplined force was supposed to remain in his limits but instead he made mockery to the discipline force.
11. Para No.11 needs no comments.


GROUNDS:-

- A. Incorrect. Appellant has been treated in accordance with law/rules.
- B. Para is incorrect. Departmental proceedings initiated against the appellant are in accordance with law/rules.
- C. Para is incorrect. The appellant was treated as per law/rules. A Proper departmental enquiry was conducted as per law/rules and the enquiry officer reported that charges leveled against the appellant were proved. The whole enquiry was conducted purely on merit. The appellant was provided full opportunity of defense, but the appellant failed to defend himself. After fulfilling all the codal formalities he was awarded the major punishment.
- D. Para is incorrect. Punishment awarded to appellant is in accordance with law and do commensurate with the gravity of misconduct.
- E. Para is incorrect. Departmental appeal of appellant was filed/rejected by the appellate authority after due consideration and showing plausible grounds.
- F. Para is totally incorrect and based on misleading material. In fact charges of undisciplined act were framed against him, which led to imposition of major penalty upon the appellant, is quite legal and justified.

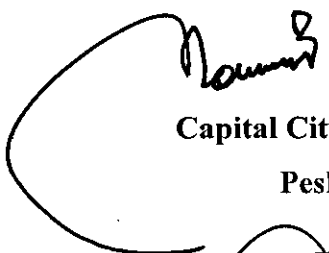
- G. Para is incorrect. In fact the appellant was provided full opportunity of self defense and fully associated with the enquiry proceedings, but he himself avoided opportunity of cross examination.
- H. Para is incorrect. In fact police is a disciplined force and under the Police Rules junior are bound to obey lawful order of seniors but appellant by doing so has made mockery to norms of disciplined force in front of numberless junior and senior ranks officers. Hence punishment awarded is justified and sustainable.
- I. Para is incorrect. Punishment order passed by the competent authority is based on justifiable and genuine grounds.
- J. Para is incorrect. Order passed by the competent authority is based on legal grounds.
- K. Respondents also seek permission of additional grounds at the time of argument.

Prayers:-

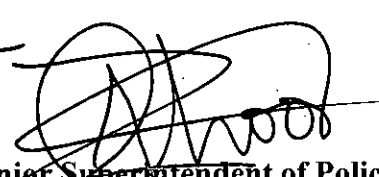
It is, therefore, most humbly prayed that in light of above facts and submission, the appeal of the appellant being devoid of merits, legal footing may be dismissed.




**Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.**



**Capital City Police Officer,
Peshawar.**



**Senior Superintendent of Police,
Operations, Peshawar.**



**Senior Superintendent of Police,
Investigation, Peshawar.**

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service appeal No.1224/2019

Ebad wazir Ex- Inspector CCP, Peshawar..... Appellant

Versus

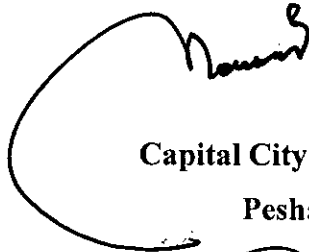
1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. Senior Superintendent of Police Operations,
4. Senior Superintendent of Police Investigation..... Peshawar.

AFFIDAVIT

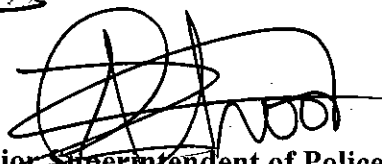
We respondents No. 1 ,2,3 & 4 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.



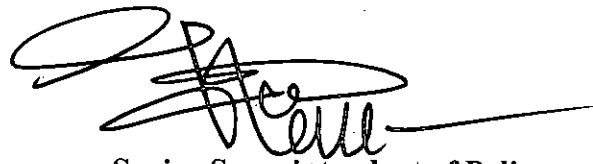
**Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.**



**Capital City Police Officer,
Peshawar.**



**Senior Superintendent of Police,
Operations, Peshawar.**



**Senior Superintendent of Police,
Investigation, Peshawar.**



OFFICE OF
SENIOR SUPERINTENDENT
COORDINATION POLICE,
AR.

Phone No. 091-9215157
Fax: 091-9212597

No. 91 /PA.

Dated Peshawar the 14/05 /2019

To: The Capital City Police Officer
Peshawar.

Subject: **ENQUIRY INTO THE COMPLAINT OF DSP IJAZ KHAN**

Memo: Vide letter No.730, dated 10.05.2019, the instant enquiry was marked to the undersigned.

Allegations:

The complainant Mr. Ijaz Abazai DSP Investigation, Saddar Circle Peshawar, reported to the SSP/Investigation, CCP Peshawar vide letter No. 965/st, dated 08.05.2019 (F/A) that on the same date at 1100 hrs, while he was present at Malik Saad Shaheed Police Lines in order to take UN Mission Test. Inspector Ibad Wazir came towards him, used abusive language against him and threatened him of dire consequences.

TOR: Fact Finding Enquiry

Proceedings:-

The statements of DSP Ijaz Abazai, Ibad Wazir and the following witnesses were recorded:-

1. Mr. Touheed Ullah DSP Admn: PST Hayatabad
2. Mr. Sabir Gul DSP Anticorruption Nowshera
3. Mr. Sardar Gul DSP Operations CPO
4. Mr. Sher Afzal Insp: I/C PAL Peshawar

Findings

In light of the above, it transpired:-

1. That Inspector Ibad Wazir harbor acrimony and rancour against DSP Ijaz, for registering case FIR No. 912, dated 25.11.2018, u/s 302/34 PPC PS AMJ Shah against him in the recent past.
2. In spite of the fact that a detainee died in his lock-up (While he was SHO), Ibad Wazir, un-realistically, seems unhappy with the department and high ups regarding registration of FIR against him.
3. That he did not conceal his anger in this regard which is evident from his statement.
4. That during UN Mission Test, he showed the Court documents (whereby he was acquitted) to DSP Ijaz, who congratulated him but Inspector Ibad Wazir lost his temper and control, use abusive language and threatened him of dire consequence.

5. That when asked as to, who started the quarrel did not mince words and stated that it was him Ibad Wazir who started the quarrel.
6. Allegations against Ibad Wazir stand proved. Showing his utter disregard to the presence of his high ups and making mockery of the norms of discipline and decency, he did not show restraint and continued using abusive language, which must not be condoned.

Recommendation

- I. Departmental action is recommended against Inspector Ibad Wazir.
- II. Preventive measure in this regard are also recommended.

Note:-

Both of the complainant and respondent are Inspectors in BPS-16, but Ijaz Abazai is Senior and currently posted as acting DSP.

Ijaz
SENIOR SUPERINTENDENT OF POLICE
COORDINATION PESHAWAR

SSP-ops (Competent Authority)

Please proceed departmentally
as per rules.

Ijaz

14/05/2018

LKHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1256 /ST

Dated 16-06 2020

To

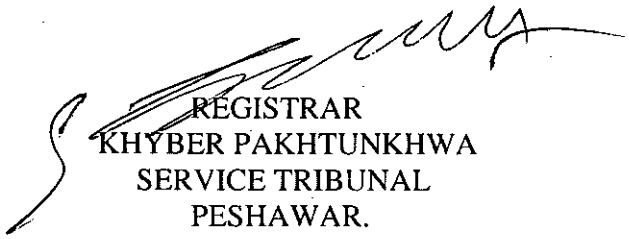
The Senior Superintendent of Police (Operations),
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: -

JUDGMENT IN APPEAL NO. 1224/2019, MR. Ebad Wazir.

I am directed to forward herewith a certified copy of Judgement dated 04.03.2020 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.