

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1524/2019

Date of Institution ... 01.11.2019

Date of Decision ... 05.01.2022

Mr. Niaz Hussain, Ex-Inspector (BPS-16), Counter Terrorism Department, Mardan
Region at Mardan. ... (Appellant)

VERSUS

The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and two others.
... (Respondents)

Taimur Ali Khan,
Advocate ... For Appellant.

Javed Ullah,
Assistant Advocate General ... For respondents

AHMAD SULTAN TAREEN ... **CHAIRMAN**
ATIQU-UR-REHMAN WAZIR ... **MEMBER (EXECUTIVE)**

JUDGMENT

ATIQU-UR-REHMAN WAZIR MEMBER (E):-

Brief facts of the

case are that the appellant while serving as SHO of a police station, was charged in FIR Dated 29-07-2017 U/Ss 419/420/468/471/171PPC/15AA. The appellant was departmentally proceeded against on the same charges and was ultimately dismissed from service vide order dated 09-11-2017. The appellant filed departmental appeal followed by service appeal No 267/2018. This tribunal vide its judgment dated 03-05-2019 re-instated the appellant with direction to the respondents to conduct de-novo inquiry. Because of de-novo proceedings, the appellant was again removed from service vide impugned order dated 23-08-2019. The appellant filed departmental appeal against the impugned order, which was also rejected vide order dated 07-10-2019, but in the meanwhile th

appellant was acquitted of the charges by a competent court of law vide order dated 12-10-2017 hence the instant service appeal with prayers that the impugned orders dated 23-08-2019 and 07-10-2019 may be set aside and the appellant may be re-instated in service with all back benefits.

02. Learned counsel for the appellant has contended that the impugned orders are against law, fact and norms of natural justice, hence not tenable and liable to be set aside; that the appellant has not been treated in accordance with law, as such the respondents violated Article-4 and 25 of the Constitution; that the removal was solely made on the ground of negligence and lack of supervision on part of the appellant, but negligence does not come within the definition of misconduct, therefore on the ground of negligence major punishment cannot be awarded; that the appellant was not associated with the process of inquiry and the whole proceedings were conducted ex-parte, therefore the impugned orders are illegal and void ab initio; that no chance of personal hearing and personal defense has been afforded to the appellant and the whole inquiry proceedings were conducted in absence of the appellant; that no show cause notice has been served upon the appellant prior to issuance of the impugned orders; that no regular inquiry has been conducted, which is must before imposition of major penalty of dismissal; that the appellant was discharged from FIR vide judgment dated 12-10-2017, as the whole story of FIR against the appellant was false, frivolous and baseless; that once the appellant was acquitted of the criminal charges, he cannot be penalized for the same charges departmentally; that as per FR-54, where an accused civil servant is acquitted of the charges, he shall be re-instated in service, but the appellant was not treated in accordance with law; that in the de-novo inquiry the appellant has been exonerated from the charges by the inquiry officer, but the respondents without taking into consideration the inquiry report and recommendations, imposed major penalty of removal from service;

that the impugned order is based on conjecture and surmises, as such the respondents failed to establish any of the charge leveled against the appellant.

03. Learned Assistant Advocate General for the respondents has contended that in pursuance of judgment dated 03-05-2019 of this tribunal, de-novo proceedings were initiated against the appellant and statements of the witnesses were recorded in presence of the appellant and after establishing the charges, the appellant was awarded with appropriate punishment of removal from service vide order dated 23-08-2019; that while conducting inquiry against the appellant, the appellant has been treated in accordance with law with no violation of any right of the appellant nor provision of Constitution; that proper opportunity of defense was afforded to the appellant and the appellant was not left unheard; that proper inquiry to this effect was conducted, where charges leveled against the appellant had been proved and he was found guilty of the misconduct.

04. We have heard learned counsel for the parties and have perused the record.

05. In order to sensitize the respondents about departmental proceedings, it would be expedient to point out some inherent flaws in disciplinary proceedings by police department, where actions are initiated in blatant violation of law and rule. In the instant case, being involved in a criminal case, the respondents were required to suspend the appellant from service under section 16:19 of Police Rules, 1934, which specifically provides for cases of the nature. Provisions of Civil Service Regulations-194-A also supports the same stance, hence the respondents were required to wait for the conclusion of the criminal case, but the respondents hastily initiated departmental proceedings against the appellants and dismissed him from service before conclusion of the criminal case. It is a settled law that dismissal of civil servant from service due to pendency of criminal case against him would be bad unless such official was found guilty by competent court of law. Contents of FIR would remain unsubstantiated allegations, and based on the

same, maximum penalty could not be imposed upon a civil servant. Reliance is placed on PLJ 2015 Tr.C. (Services) 197, PLJ 2015 Tr.C. (Services) 208 and PLJ 2015 Tr.C. (Services) 152. The respondents however did not honor their own rules and dismissed the appellants in violation of rules.

06. The appellant was re-instated for the purpose of de-novo inquiry and because of de-novo proceedings, the appellant was again removed from service inspite of the fact, that he was exonerated of the charges by competent court of law from the same charges, upon which he was proceeded against and was ultimately removed from service. It is pertinent to mention that prosecution itself sought discharge of the appellant from FIR on the ground that nothing tangible was proved against the appellant to connect the appellant with the commission of offense and upon request of prosecution, the appellant was discharged from FIR vide order dated 12-10-2017 by the competent court of law. In 2012 PLC (CS) 502, it has been held that if a person is acquitted of a charge, the presumption would be that he was innocent. Moreover, after acquittal of the appellant in the criminal case, there was no material available with the authorities to take action and impose major penalty. Reliance is placed on 2003 SCMR 207, 2002 SCMR 57 and 1993 PLC (CS) 460.


07. As per provisions contained in Section 16:3 of police rules, 1934, the respondents were bound to re-instate the appellant after earning acquittal from the same charges, upon which the appellant was dismissed from service, but the respondents despite his acquittal, removed him from service and did not take into consideration the verdict of the court as well as of Police Rules, 1934. The respondents also violated section-54 of Fundamental Rules by not re-instating the appellant after earning acquittal from the criminal charges. In a manner, the appellant was illegally kept away from performance of his duty. Needless to mention that the charges so leveled are based on presumption as nothing has been proved against the appellant, whereas an accused cannot be convicted on

presumptions. Prosecution has to prove the guilt of an accused beyond all reasonable doubt. Reliance is placed on 1991 SCMR 244 and 2002 PLC (CS) 503. Record is silent as to whether any de-novo inquiry was conducted as no inquiry report is available on file to ascertain as to how the appellant was proceeded against. In case of charge of misconduct, a regular inquiry was to be conducted, which had not been done in case of the appellant. In cases of awarding major penalty, a proper inquiry was to be conducted in accordance with law, wherein a full opportunity of defense was to be provided to the civil servant; otherwise, the whole proceedings would be illegal and nullity in the eye of law. Reliance is placed on 2004 SCMR 316. Respondents however cannot absolve themselves from proving the charge beyond any reasonable doubt and the burden shifted to the accused only when the prosecution succeeded in establishing the presumption of guilt. Reliance is placed on 2021 SCMR 408.

08. We are of the considered opinion that the appellants has not been treated in accordance with law and he was illegally kept away from performance of duty as he was acquitted of the same charges by the competent court of law as well as nothing was proved against him departmentally. In view of the foregoing, the instant appeal is accepted. The impugned orders dated 23-08-2019 and 07-10-2019 are set aside and the appellant is re-instated in service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
05.01.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN



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


ORDER
05.01.2022

Appellant alongwith his counsel present. Mr. Javed Ullah, Assistant Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the instant appeal is accepted. The impugned orders dated 23-08-2019 and 07-10-2019 are set aside and the appellant is re-instated in service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
05.01.2022


(AHMAD SUETAN TAREEN)
CHAIRMAN


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

30.08.2021


Due to summer vacations, the case is adjourned to 21.10.2021 for the same as before.


READER

21.10.2021

Junior to counsel for the appellant and Mr. Javaidullah, Asstt. AG alongwith Gulzad Khan, S.I (Legal) for the respondents present.

Former seeks adjournment due to engagement of learned senior counsel for the appellant before the Hon'ble Peshawar High Court today. Request is accorded. To come up for arguments on 04.02.2022 before the D.B.

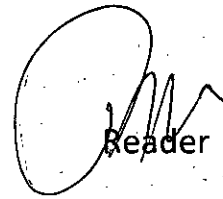

(Salah-ud-Din)
Member(J)


Chairman

Case was noted on Counsel for the Appellant. Am Jha
21/12/21
Azam (Ch.)

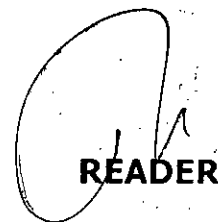
03.12.2020

Due to non-availability of D.B, the case is adjourned to 10.02.2021 for the same as before.


Reader

10.02.2021

Due to COVID-19, the case is adjourned for the same on 01.04.2021 before D.B.



READER


01.04.2021

Appellant present through counsel.

Kabir Ullah Khattak learned Additional Advocate General alongwith Gulzad Khan A.S.I for respondents present.

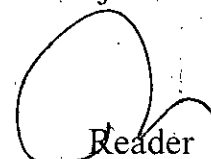
Former made a request for adjournment; granted. To come up for arguments on 30 / 04 / 2021 before D.B.


(Atiq ur Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

30.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 30.08.2021 for the same as before.


Reader

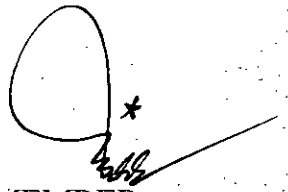
01.04.2020

Due to public holiday on account of COVID-19, the case is adjourned to 24.06.2020 for the same. To come up for the same as before S.B.


Reader

24.06.2020

Appellant in person present. Addl:AG for respondents present. Written reply not submitted. Requested for time to submit the same on the next date of hearing. Adjourned. To come up for written reply/comments on 11.08.2020 before S.B.


MEMBER

11.08.2020

Junior to counsel for the appellant and Addl. AG alongwith Wajid Ali, ASI for the respondents present.

Respondents have furnished parawise reply which are placed on record. The matter is assigned to D.B for arguments on 03.12.2020. The appellant may furnish rejoinder, within one month, if so advised.


Chairman

28.01.2020 Clerk to counsel for the appellant present and seeks adjournment as learned counsel for the appellant is not available. Adjourn. To come up for preliminary hearing on 18.02.2020 before S.B.



Member

18.02.2020 Learned counsel for the appellant present. Preliminary arguments heard.

The appellant (Ex-Inspector) has filed the present service appeal against the order dated 23.08.2019 whereby he was awarded major penalty of removal from service and against the order dated 07.10.2019 through which his departmental appeal was rejected/filed.

Submissions made by the learned counsel for the appellant need consideration. The present service appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for reply. To come up for written reply/comments on 01.04.2020 before S.B.

Appellant Deposited
Security & Process Fee
18/2/20



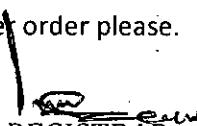


Member

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1524/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	13/11/2019	<p>The appeal of Mr. Niaz Hussain resubmitted today by Mr. Noor Muhammad Khattak 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 13/11/19</p>
2-	10.01.2020	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>10/01/2020</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>Nemo for appellant.</p> <p>Notice be issued to appellant/counsel for preliminary hearing on 28.01.2020 before S.B.</p> <p style="text-align: right;"> Chairman</p>

P-24

The appeal of Mr. Niaz Hussain Ex-Inspector Counter Terrorism department Mardan received today i.e. on 01.10.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be attested.
- 2- Annexures of the appeal may be flagged.
- 3- Copy of discharge order mentioned in para-3 of the memo of appeal is not attached with the appeal which may be placed on it.
- 4- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1937 /S.T,

Dt. 5/11 /2019.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Noor Muhammad Khattak Adv. Pesh.

Note:

Sir,

*All objections have been removed,
hence re-submitted today dated 13/11/2019.*

Sp
13/11/2019

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 1524 /2019

NIAZ HUSSAIN

V/S

POLICE DEPTT:

INDEX

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APPELLANT

THROUGH:

NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 1524 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1536

Dated 01-11-2019

Mr. Niaz Hussain, Ex-Inspector (BPS-16),
Counter Terrorism Department, Mardan Region at Mardan

..... **APPELLANT**

VERSUS

- 1- The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2- The Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa Peshawar.
- 3- The Senior Superintendent of Police, CTD, Central Zone, Khyber Pakhtunkhwa, Peshawar.

..... **RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 23-08-2019 WHEREBY THE APPELLANT HAS BEEN REMOVED FROM SERVICE AND AGAINST THE APPELLATE ORDER DATED 07-10-2019 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT IS REGRETTEED WITH NO GOOD REASONS

PRAYER:

That on acceptance of this appeal the impugned orders dated 23-08-2019 and 07-10-2019 may very kindly be set aside and the appellant may be re-instated into service with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Briefs facts giving rise to the present appeal are as follows:-

- 1) That the appellant while posted as SHO Police Station Counter Terrorism Department, Mardan was charged in the FIR No.492 dated 29-7-2017 U/S 419/420/468/471/171/PPC and 15AA P.S Lund Khwar in an offence not committed by the appellant but was incorporated by his ex: gunman namely Ishfaq Ali. (Copy of the FIR is attached as annexure..... **A**).
- 2) That it is pertinent to mention here that constable Ishfaq Ali No. 182 was suspended through Mad No.9 dated 4-7-2017 by the oral direction of DSP Operation as an inquiry was initiated against

Filed to-day
Registrar
01/11/19

Re-submitted to-day
and filed.
Registrar
13/11/19

Constable Ishfaq Ali. (Copy of the Mad No.9 is attached as annexure.....**B**).

3) That vide order dated 12-10-2017 the Honorable Judicial Magistrate, Takht Bhai discharged the appellant from the above mentioned FIR. (copy of the discharge order is attached as annexure.....**C**).

4) That on the basis of the mentioned FIR a Show cause notice was issued, wherein the following charges were leveled against the appellant.

i) That he (appellant) is reportedly involved in the transportation and smuggling of Non Custom Paid (NCP) Vehicles vide FIR No. 492 u/s 419-420-468-471-171/PPC/ 15AA, dated 29-07-2017 PS Lund Khwar, Mardan.

ii) That on his direction, his gunman namely Ishfaq Ali No.182 received the NCP Vehicle from one Haji Hayat Khan r/o Bara Khyber Agency for Transportation to Sakhakot.

*iii) That your performance as SHO CTD Mardan remained poor.(Copy of the show cause notice is attached as annexure.....**D**)*

5) That following the show cause notice major penalty of dismissal from service was imposed on the appellant vide order dated 09-11-2017. That feeling aggrieved from the mentioned order the appellant preferred departmental appeal followed by Service Appeal No.267/2018, which was partially accepted and the appellant was reinstated to his service, however, the respondents were directed to conduct de-novo inquiry in to the matter vide judgment dated 3.5.2019. (Copies of the dismissal order, Departmental appeal & judgment is attached as annexure.....**E, F & G**).

6) That in compliance with the judgment of the august Service Tribunal the competent authority initiated De-novo inquiry against the appellant. That an inquiry was initiated in to the matter to dig out the real story and culprits in the matter. (Copies of the charge sheet, statement of allegation and reply attached as annexure **H & I**).

7) That following the inquiry report and recommendations therein astonishingly and surprisingly the competent authority award major punishment of removal from service to the appellant vide order dated 23-08-2019. (Copy of the impugned order dated 23-08-2019 is attached as annexure..... **J**).

8) That feeling aggrieved from the impugned removal order dated 23.08.2019 the appellant preferred Departmental appeal before the Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa,

Peshawar but the same was rejected vide order dated 07.10.2019. Copy of the departmental appeal and rejection order dated 07.10.2019 are attached as annexure.....K & L).

- 9) That appellant feeling aggrieved from the impugned orders and having no other remedy preferred the instant appeal on the following grounds amongst others.




Grounds:

- A. That the impugned orders dated 23.8.2019 and 07.10.2019 are against the law, facts, rules, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B. That appellant has not been treated by the respondents Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.
- C. That the removal was solely made on the ground of negligence and lack of supervision on the part of appellant but it is pertinent to mention here that negligence is not come within the definition of misconduct; therefore, on the ground of negligence major punishment cannot be awarded. The same view has been laid down by the Supreme Court and High Courts in a number of judgments.
- D. That the appellant was not associated with the inquiry and the whole proceeding is conducted ex-parte, therefore the impugned order dated 23.8.2019 and 07.10.2019 are illegal and void ab initio.
- E. That no chance of personal hearing and personal defense has been provided to the appellant and the whole inquiry proceeding is conducted in the absence of the appellant.
- F. That no show cause notice has been served on the appellant prior to the issuance of impugned orders dated 23.8.2019 which is glaring illegality on the part of competent authority.
- G. That no regular inquiry has been conducted in the matter of the appellant, which is as per Supreme Court Judgments is necessary in punitive actions against the Civil servants.
- H. That it is important to mention here that according to the Fundamental Rule-54, where an accused civil servant is acquitted from the charges he shall be re-instated into services. But the most important point in the instant case is that the appellant was discharged from all the allegations leveled in the FIR and the case is not even put in court for regular hearing. Hence the whole story in the

FIR against the appellant was false, Frivols, and baseless. Therefore if there is no case than there should be no departmental punishment.

- I. That the appellant inspite of discharge from the above mentioned FIR has been declared guilty departmentally and has been imposed Major penalty of Removal from service. That this act of the competent authority is the clear violation of the judgments on the point that **"when there is no conviction there would be no Departmental punishment"**.
- J. That in the Denovo proceedings the appellant has been exonerated from the allegations by the inquiry officer but the respondents without taking into consideration the inquiry report and recommendations straight away imposed major penalty of removal from service. Copy of the report is attached as annexure **M.**
- K. That the impugned order dated 23.8.2019 is based on conjecture and surmises and as such the Department failed to establish any of the allegations leveled against the appellant.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed far.

APPELLANT

NIAZ HUSSAIN
THROUGH

NOOR MUHAMMAD KHATTAK
KAMRAN KHAN
&

MIRZAMAN SAFI
ADVOCATES



A-5

ضلع: مردان

تھانہ: لونڈخوڑ

تاریخ وقت وقوعہ: 29/07/2017 وقت: 16:00 بجے

علت: 492

تاریخ وقت رپورٹ 29/07/2017 وقت 16:30 بجے	چاکیدگی پرچہ 29/07/2017 وقت 16:55 بجے
نام و سکونت اطلاع دہندہ مستغیث	ذاکر خان
جرم	419/420/468/471/171PPC/15AA
جائے وقوعہ فاصلہ تھانہ سے	نزدیکی ہاتھیان
نام ملزم	(۱) اشفاق علی ولد میر علی سکند اکوڈھیری (۲) محمد عدنان ولد علی محمد فیاض سکند شہقد رحال شیخ ملتان (۳) نیاز حسین خان انسپٹر CTD، حاجی حیات کارخانوں ہاؤس (۴) آفتاب سکند سخاکوٹ
کاروائی	برسیدگی مراسلہ مقدمہ درج رجسٹرڈ کیا گیا
تھانہ سے روانگی	سبیل ڈاک

ابتدائی اطلاع نیچے درج کرو:۔ مراسلہ موصولہ منجانب ذاکر خان SI انچارج چوکی عمر آباد سے بدست لقمان HC

بہ مضمون ذیل ہے۔ بخدمت SHO صاحب تھانہ لونڈخوڑ امروز میں معلوم لقمان HC، خورشید 951 شہاب 2666 بسلسلہ گشت و ناکہ بندی بمقام جیوڑ روڈ نزد جرندہ موجود تھا۔ کہ اس دوران جانب عمر آباد سے ایک لینڈ کروزر نمبری UB 001/ICT Islamabad برنگ سفید نہایت تیز رفتاری سے آتا ہوا جسکو بغرض چیکنگ ٹھہرانے کا اشارہ کر کے ڈرائیور گاڑی نے رکنے کی بجائے گاڑی کی تیز رفتار اور بھی تیز کر کے جبکہ تعاقب بذریعہ پرائیویٹ گاڑی کر کے اور ساتھ ہی بذریعہ وائرس چوکی ہاتھیان کو اطلاع پاس کر کے وہاں پر موجود پولیس پارٹی کی مدد سے گاڑی قابو کر کے گاڑی میں دو جوان العمر اشخاص سوار تھے۔ ڈرائیورنگ سیٹ پر موجود شخص نیچے اترتے ہی ہاتھ میں پستول لیتے ہوئے کہا۔ میں پاک آرمی میں کپٹن ہوں آپ لوگ ہمیں چیک نہیں کر سکتے اور ساتھ سروس کارڈ پیش کیا۔ اسکے ساتھ فرنٹ سیٹ پر موجود شخص جو مسلح بہ رائفیل M4 تھا۔ نے ریفیٹ پر اپنا نام اشفاق علی ولد میر علی سکند اکوڈھیری حال کنسٹیبل CTD مردان نے انسپٹر نیاز حسین CTD مردان کا گن مین بتلایا۔ اور انسپٹر نیاز حسین کے ہدایت پر کپٹن عدنان کو ملاکنڈ ایجنسی کے حدود تک پہنچا رہا تھا۔ جبکہ گفتگوں پر شک گزر کر تصدیق کرتے ہوئے۔ کپٹن جبکہ نام محمد عدنان علی ولد محمد فیاض ساکن شہقد رحال شیخ ملتان معلوم ہوا۔ ہر دو کسان کو قابو کر کے ملزم محمد عدنان کے قبضے سے ایک ضرب پستول 9MM بون نمبری LYG 881 مع کاش تین عدد میگزین محمولہ 50 عدد کارتوس جبکہ ملزم اشفاق کے قبضہ سے ایک ضرب رائفیل M4/Carbeno نمبری W472538 بمع دو عدد میگزین 60 کارتوس بلا لائسنس برآمد کر کے ہر دو کسان نے سرسری انٹرویو لگیشن۔ پر بتلایا کہ گاڑی حاضرہ کے متعلق اسکے پاس کوئی دستاویزات نہیں ہے۔ اور وہ نیاز حسین انسپٹر CTD کے ہدایت پر اس گاڑی کو مبلغ -/60000 روپے کر ایہ پر حدود سخاکوٹ پہنچا رہے تھے۔ یہ گاڑی حاجی حیات سکند کارخانوں ہاؤس ایجنسی کی ملکیت ہے۔ اور اور قبل ازیں بھی انھوں نے 17 عدد مختلف قسم کے گاڑیوں کو سخاکوٹ کو پہنچائے۔ وہاں پر آفتاب نامی شخص کو حوالہ کرتے ہیں۔ اور نیاز حسین انسپٹر CTD اپنے بنگلہ واقع SMT میں گاڑیوں پر CTD کے سرکاری نمبر پلیٹ لگا کر ہم اسکے ہدایت پر سخاکوٹ ملاکنڈ ایجنسی پہنچا فتاب کے حوالہ کرتے ہیں۔ اور انسپٹر نیاز حسین ہمیں معقول معاوضہ دیتا ہے۔ سر بدست اسلحہ جعلی کارڈ اور گاڑی متذکرہ بالا بروئے فرد قبضہ پولیس میں کر کے ہر دو ملزمان حاضرہ نیاز حسین انسپٹر CTD حاجی حیات اور آفتاب مذکورین بالا کو مرتکبان جرم ہالا کے پاکر ملزمان اشفاق اور محمد عدنان حاضرہ کو حسب ضابطہ گرفتار کر کے جبکہ نیاز حسین حاجی حیات اور آفتاب کی گرفتاری درپیش رکھ کر مراسلہ بغرض قائمی مقدمہ بدست لقمان HC ارسال تھانہ ہے تفتیش کی جاوے۔ دستخط انگریزی ذاکر خان SI انچارج چوکی عمر آباد مورخہ 29/07/2017 کاروائی تھانہ مراسلہ حرف بہ حرف درج بالا ہو کر نقول FIR مع مراسلہ بغرض تفتیش حوالہ شعبہ تفتیش کی جائے۔ پرچہ گزارش ہے۔

Attested
H

سلام ایضاقی 0342-962828
16102-6898966-5

فارم نمبر ۲۳۱

KPK فارم نمبر ۳۲
مدیر محمد رفیق علی
0342-3501413
0342-2854773
ابتدائی اطلاع رپورٹ

ابتدائی اطلاع نسبت قابل دست اندازی پولیس رپورٹ شدہ زبردفعہ ۱۵۳ مجموعہ ضابطہ نوعداری

خانہ نمبر	نوٹ ذرا	ضلع	مدران
	17	علی	تاریخ وقت و وقوع $29 \frac{07}{17}$ وقت 16:00 ع
۱	تاریخ و وقت رپورٹ	$29 \frac{07}{17}$ وقت 16:35 ع	جاگدیزی پورہ $29 \frac{07}{17}$ وقت 16:55 ع
۲	نام و سکونت اطلاع دہندہ مستغیث	شاخہ کارڈ نمبر / موبائل نمبر	ڈاکٹر خان ہری
۳	مختصر کیفیت جرم (معدہ دفعہ) حال اگر کچھ لیا گیا ہو		419-4120-4188-471-171-158 A
۳	جائے وقوعہ فاصلہ تھانہ سے اور سمت	نزدیکی کی جگہ تھانہ	جای پنا ماراں باٹہ (۱) انتصاب
۵	نام و سکونت ملزم	شاخہ کارڈ نمبر / موبائل نمبر / پتہ / شناختی نمبر	دراختہ کھریاں ٹولہ خیر شاہ سنکڑہ شہید محل شیخ شمسون
۶	کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہو تو وجہ بیان کرو	برسرہ اطلاع درج درج دستہ کھریاں	
۷	تھانہ سے روانگی کی تاریخ و وقت		بہ سبیل ڈاک

ابتدائی اطلاع نیچے درج کرو۔ ملزم درجولہ دستاویزات ڈاکر خان ہری، پنجاب پولیس کوارٹرز سے
پر وقت 16:00 بجے ملحقہ HC پر موصول ہوئی ہے۔ ملزم SHO صاحب تھانہ کو نزدیکی طور پر موصول ہو گیا تھا۔ انتصاب
2006ء سلسلہ گشتی دنیا کو بنیادی طور پر نزدیکی طور پر موصول ہو گیا تھا۔ انتصاب
ملزمی UB-0001 نمبر سے ملزمی کی شناخت ہوئی ہے۔ انتصاب
ملزمی UB-0001 نمبر سے ملزمی کی شناخت ہوئی ہے۔ انتصاب
ملزمی UB-0001 نمبر سے ملزمی کی شناخت ہوئی ہے۔ انتصاب

ماریج

(6) (50)

ماریج وقت وقوع 29 17 07 وقت 16100 ع
 ماریج وقت وقوع 29 17 07 وقت 16130 ع
 جائے وقوع نزدیکی جاہان

419/420/468/471

17/1/5AA

یہ صفحہ SHH0 صوبہ مہاراجہ کوئٹہ

اعزیز میں مع لغمان HC جوڑیڈ 951 سیمٹاب 2666 سلیڈ گیسٹ وٹاڈ سٹریٹ ٹھکانا جھوڑ روڈ نزد
 جرنیلہ موجود تھا کراسن دوران جانب غر آنما سے ایک سٹریٹ گزیروں UB 001 رنگ سفید نمائید
 تیز رفتاری سے آتا تھا جسکو جھونک چنگ ٹھکانے کا اشارہ کرتے ڈرائیور گاڑی بے رحمی کی بجائے گاڑی
 کی رفتار اور تیز کرنے کے جھکا ٹھکانے تیز رہا اسٹیٹ گاڑی کرنے اور ساتھ میں سرورم دائرہ سبوں یا لیگان
 کو اطلاع پائے گی دنیاں پر وجود ہو گیا یارنی کی مدد سے گاڑی مافور کے گاڑی میں دو جوان الہراشخاص
 سوار تھے ڈرائیور سٹریٹ پر موجود ٹھکانے سے اترتے ہیں مافور میں پہول پنے ہے کیا کر میں پاک آتی ہیں
 کیسٹ میں آپ ڈرگ ہیں جیک بنا کرتے اور ساتھ میں سرورم گاڑی پیش کیا ایک ساتھ فرنٹ سٹریٹ پر
 موجود ٹھکانے جو سٹیج م رائل یا 37 ٹکانے درمیان پر ایسا نام اشتعال علی در میر علی سکہ اکوڈ ٹھکانے حال
 کیسٹ CTD خردان اور اینسٹر بیار جسٹن CTD درون کا کھن میں تیار یا اور اینسٹر بیار جسٹن کے صوابیہ
 پر کیسٹ خردان کو بلا سٹریٹ ایجنسی کے حدود میں بنا لیا اسٹریٹ جسٹن پر سٹریٹ گزیر کے بعد پھر پنے ہے
 کیسٹ جھکا نام محمد خردان علی وہ محمد ضیاء ساکنہ شہر حال پنج نلوٹا بھوم سہرا پر دو خردان کو مافور کے
 مرف خردانوں کے بھر سے ایک عرب بیول 9777 فرم برن EBI 474 کاش میں عدد میٹر میں 50 (50) ہزار
 گاڑیوں جیکو ملام اشتعالی کے بھر سے ایک عرب رائل م4 کے 2538 474 لکھ دو عدد میٹر میں
 (60) گاڑیوں پلاس براٹھ کر کے در دو خردان نے سہرہ سہرا اور سٹریٹ میں پر سٹریٹ گزیر کے مافور کے معلق اپنے
 پائے کوئی دستاویزات بیارے اور وہ سٹریٹ جسٹن اینسٹر CTD کے بھولتے پر اس گاڑی کو مبلغ 60000 روپے
 لاکھ ہر عدد روپے بھارت پر بھارت سے یہ گاڑی مافی صاف سکہ کار خانوں بارہ ایسی کی مڈلینے اور میں
 اریں میں اصولی سہرا 17 عدد مختلف قسم کے گاڑیوں کو سٹریٹ چوچا وہاں پر اصحاب ہاں شخص کو دوا
 میں اور سٹریٹ جسٹن اینسٹر CTD اپنے سٹریٹ واج SMT میں گاڑیوں پر CTD کے سہرا سٹریٹ بھولتے
 ہم ایک بھولتے پر سٹریٹ ملا سٹریٹ ایجنسی چوچا اقباب کے جوا کرتے ہیں اور اینسٹر بیار جسٹن میں صوبہ
 صوبہ ریٹ کے سرپرست آئیم حل کارڈ اور گاڑی میٹر وہ بالا لوفے در قسم ٹو میں مہرا کے ہر دو خردان
 حافہ بیار جسٹن اینسٹر CTD جان صیات اور اصحاب خردانوں بالا کو مڈلین جہاں بالا کے پاک خردان اشتعال
 اور محمد خردان حافہ کو صاف مٹا لیم گرفتار کر کے جیکو بیار جسٹن جان صیات اور اصحاب کی دستاویزات کو
 تمام بھولتے مافی خردو سٹریٹ لغمان HC ارسال کرنے یعنی لکھانے

SI P P Umiri P Bad
 29-7-17

0-5-A-5 درمیانی ماحول پر 5 ملو میر 20-25-26 مقامات پر 15-20-25-26 وقت 20-25-26
 0-5-A-5 درمیانی ماحول پر 5 ملو میر 20-25-26 مقامات پر 15-20-25-26 وقت 20-25-26
 0-5-A-5 درمیانی ماحول پر 5 ملو میر 20-25-26 مقامات پر 15-20-25-26 وقت 20-25-26

Handwritten signature or stamp.

B. 7
CTD 6

درمانی کلینک

فعلیہ 9 روزہ ماہ 3 4 7
2017

الملاح نیاز حسین SHK مدت 25:15 بجے 4/7/17

رسوالت ریڈر صاحب اور ڈاکٹر لیشن صاحب نے تدریس
فون الملاح دعا کے کئی اشعار 182 صحت عارف
انٹرویو جلی آرہے تھے۔ افسر بالا مطلقاً کا حکم
کے کئی اشعار مذکورہ کی مطلقاً کی رپورٹ درج ذیل
کے کئی اشعار مذکورہ کو مطلع کیا جائے یہاں آدھ
اطلاع درج ہو کر کئی اشعار مذکورہ مطلقاً کو مطلع
کنہ تصنیفات تھا۔ جو بہت سے اشعار ہیں یہاں
مطلقاً کے اشعار اور تصنیفات و جو درج کی ہریت

جناب عالی کو تشریح کیا گیا ہے



ATTESTED
SHO / CTD / Warden
Rogan

MM-2
MM-fs CTD M/L
29.7.2017

Attested

BEFORE THE COURT OF ALLAQA JUDL: MAGISTRATE, TAKHT BHAJ

STATE.....VS.....ASHFAQ ALI AND OTHERS

Subject:

APPLICATION FOR THE DISCHARG OF THE ACCUSED NIAZ HUSSAIN AND AFTAB FROM THE CHARGES LEVELLED AGAINST THEM, IN CASE FIR NO. 492 DATED 29-07-2017 U/S 419/420/468/171 PPC 15AA, P.S LUND KHWAR.

Brief Facts of the Case: -

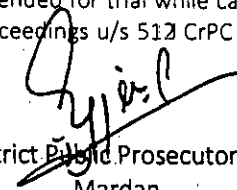
That on 29-07-2017 the complainant namely Zakir Khan SI was on routine gusht at Jewar road near Jlanda at Umar Abad, in the mean while a land cruiser bearing registration No. UB001 Islamabad white colour was signaled to stop for the purpose of checking, but instead of stoppage the driver of the said vehicle speeds up the vehicle but over powered by the police party, the driver discloses his name Adnan while other discloses his name Ashfaq Ali being gunman of the Niaz Hussain Inspector CTD. He (Ashfaq Ali) further discloses that on the instance/ directions of inspector CTD Niaz Hussain, he used to transfer the vehicle on payment of Rs. 60000/- to the premises of Malakand Agency. From the possession of accused Ashfaq Ali one rifle M4 No. 472538, 02 magazines 60 live rounds were recovered while from the possession of accused Adnan one Pistol 9MM no. 881, 3 magazines and 50 live rounds were recovered. That accused Ashfaq Ali further discloses that previously Seventeen/ Eighteen vehicles were shifted to Malakand Agency. The complainant also charged Aftab Hayat Khan for the commission of offence.

Grounds for Discharge.

- 1: That no recovery in the shape of vehicle or rifle or any other incriminating article being recovered from the possession of above name accused.
- 2: That both the above name accused (Niaz Hussain and Aftab) were not present at the time of occurrence.
- 3: That as per article 38 Qanoon e Shahadat order 1984 "The statement of co-accused to police officer is not admissible, in this respect reliance is made on MLD 2014 page 316 and YLR 2016 LHC page 1891.
- 4: That as per article 39 Qanoon e Shahadat order 1984 "That the confession of an accused to police officer cannot be made basis for conviction wisdom is sought from judgement: MLD 2001 page 807 and PCRLJ 1999 page 1469.
- 5: That as per murasila allegation levelled against the accused namely Niaz Hussain and Aftab that he used to shift the vehicle to Malakand Agency by using/affixing government No. Plates but no such recovery was affected from the possession of both the accused rather No. Plate UB 001 Islamabad.
- 6: that as per allegation no person / accused was arrested to whom the vehicle were shifted nor the IO brought on record such evidence.
- 7: ✓ That in such like circumstances the trial of the accused would be a futile exercise, wastage of precious time of the court and the ultimate result would be the acquittal of the accused. So keeping in view the above facts, circumstances and available evidence on record, there are sufficient reasons for non-prosecution of the Case U/S 4 sub (c) clause (ii) of the Prosecution Act 2005.

NOTE:- On 29-07-2017, 25-08-2017 and on 06-10-2017 the learned Judicial Magistrate directed district Public prosecutor to submit the case for trial therefore as per direction the local police submitted the case file to the office of undersigned on date 07-10-2017 at office closing time. As recovery of vehicle along with other incriminating article are directly affected from the possession of accused Ashfaq Ali and Adnan therefore case against these two are recommended for trial while case against the accused Hayat Khan is recommended for proceedings u/s 517 CrPC as he is absconded.


Assistant Public Prosecutor
Mardan


District Public Prosecutor
Mardan





OFFICE OF THE,
DY: INSPECTOR GENERAL OF POLICE,
COUNTER TERRORISM DEPARTMENT,
KHYBER PAKHTUNKHWA, PESHAWAR
Ph # 091-9218093-94 Fax # 091-9218031.

No. 11830 /PA Dated 06/10 /2017.

FINAL SHOW CAUSE NOTICE.

1. WHEREAS, You Inspector Niaz Hussain of this Unit while posted as SHO CTD Mardan rendered yourself for disciplinary proceedings by committing gross misconduct and negligence in duty. A Charge Sheet based on the following allegations was issued to you and enquiry committee comprising by Fazal-i-Hamid SSP/Int&Sur CTD and Quaid Kamal DSP HQrs:/CTD was constituted for scrutinizing your conduct reference to charges leveled against you.

- i) That he is reportedly involved in the transportation and smuggling of Non Custom Paid (NCP) Vehicles vide FIR No. 492 u/s 419/420/468/471/171PPC/15AA, dated 29-07-2017 PS Lund Khwar District Mardan.
- ii) That on his direction, his gunman namely Ishfaq Ali No. 182 received the NCP Vehicle from one Haji Hayat Khan r/o Bara Khyber Agency for transportation to Sakhakot.
- iii) That your performance as SHO CTD Mardan remained poor.

2. WHEREAS, the enquiry committee carried out proper departmental proceedings against you. Opportunity of personal hearing and production of defense was provided to you. Committee also examined your reply submitted in response to Charge Sheet. The committee found you guilty for the charges leveled against you, made recommendation for award of Major Punishment i.e "Dismissal from Service".

3. AND WHEREAS, on going through the finding and recommendation of enquiry committee, material placed on record and other connected papers including your defense placed on file, I satisfied that you have committed gross mis-conduct and are guilty of charges leveled against you as per Charge Sheet/Statement of allegations conveyed to you vide 8709-13/PA/CTD dated 01-08-2017, which stands proved and recommended to be awarded Major Punishment under the said Rules.

4. NOW THEREFORE, I Mubarak Zeb PSP, Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa as competent authority have tentatively decided to impose upon you, any one or more penalties including the penalty of "Dismissal from Service" under Police Rules 1975 (amended in 2014)

ATTESTED

Attested
[Signature]

(10)



You are therefore, issued Final Show Cause Notice to explain within seven (07) days of the receipt of the notice as to why the aforesaid penalty should be imposed upon you. If your reply was not received within stipulated period than it shall be presumed that you have no defense to offer and ex-parte action shall be taken against you and also intimate whether you wish to be heard in person or not.

Copy of enquiry report is enclosed.

(MUBARAK ZEB) PSP
Deputy Inspector General of Police,
CTD, Khyber Pakhtunkhwa,
Peshawar.

Inspector Niaz Hussain,
Now Closed to CTD HQrs:-

ATTESTED

Attest



OFFICE OF THE,
DY: INSPECTOR GENERAL OF POLICE,
COUNTER TERRORISM DEPARTMENT,
KHYBER PAKHTUNKHWA, PESHAWAR
Ph # 091-9218093-94 Fax # 091-9218031.

No. 13/46-53/PA Dated 09/11 /2017.

E-11

ORDER

This order is passed today on 08-11-2017 to dispose of departmental proceedings initiated against Inspector Niaz Hussain (under suspension) while posted as SHO PS CTD Mardan Region.

Inspector Niaz Hussain presently under suspension and closed to CTD HQrs: Peshawar was charge sheeted under the Khyber Pakhtunkhwa Police Rules 1975 (amended 2014) on the score of the following allegations:-

- i) That you are reportedly involved in the transportation and smuggling of Non Custom Paid (NCP) Vehicles vide FIR No. 492 u/s 419/420/468/471/171PPC/15AA, dated 29-07-2017. PS Lund Khwar District Mardan.
- ii) That on your direction your gunman namely Ashfaq Ali No. 182 received the NCP Vehicle from one Haji Hayat Khan r/o Bara Khyber Agency for transportation to Sakhakot.
- iii) That your performance as SHO CTD Mardan remained poor.

For conducting probe into the allegations leveled against Inspector Niaz Hussain an enquiry committee consisting of Mr. Fazl-e-Hamid SSP/Int & Sur CTD and Mr. Qaid Kamal DSP HQrs: CTD Khyber Pakhtunkhwa was constituted. The enquiry committee found the officer guilty as **Inspector Niaz Hussain has close ties with criminal namely Munawar @ Adnan Ali through whom he used to smuggle NCP Vehicles, the enquiry committee recommended him for major punishment as dismissal from service.**

Inspector Niaz Hussain was called and heard in person. His verbal and written reply to Final Show Cause Notice were perused. Enquiry papers were also perused in detail.

The enquiry committee have found the officer guilty of the charges of involvement in transportation and smuggling of Non Custom Paid Vehicle, Thereby bringing a bad name to the reputation of the department. He is guilty of gross misconduct.

In the light of findings/recommendations of the Enquiry Committee and available record against Inspector Niaz Hussain the then SHO PS CTD Mardan, **I, Mubarak Zeb, Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa** being competent authority, hereby imposes the major punishment "Dismissal from service" with immediate effect.

Order announced.

Attested
[Signature]

[Signature]
(MUBARAK ZEB) PSP
Deputy Inspector General of Police,
CTD, Khyber Pakhtunkhwa,
Peshawar.

Endst: No. & date even.

Copy of the above is forwarded to the:-

1. The Inspector General of Police, Khyber Pakhtunkhwa.
2. All Addl IGP/Khyber Pakhtunkhwa.
3. Deputy Inspector General of Police, HQrs: Khyber Pakhtunkhwa.
4. Regional Police Officer, Mardan.
5. Senior Superintendent of Police/Ops CTD Central Zone.
6. Superintendent of Police. CTD Mardan.
7. Superintendent of Police/HQrs: CTD.
8. Officer concerned.

ATTESTED
[Signature]

بخدمت جناب انسپکٹر جنرل آف پولیس خیبر پختون خواہ پشاور

عنوان!
F-12

محکمانہ اپیل منجانب نواز حسین خان انسپکٹر CTD برخلاف حکم محررہ 09/11/2017 جسکی رو سے ڈی آئی جی CTD صاحب نے ایپیلٹ کو

(Dismissal from Service) سزا دی ہے۔

استدعا برائے اپیل

بمنظور اپیل ہذا فیصلہ محررہ 09/11/2017 کو کا عدم و منسوخ قرار دیکر سائل کو باعزت نوکری پر اپنے پوسٹ پر بحال کرنے کا حکم صادر فرمائے۔

جناب عالی!

سائل ایپیلٹ حسب ذیل عرض رساں ہے۔

1- یہ کہ سائل تھانہ سی ٹی ڈی مردان ریجن میں بطور SHO تعینات تھا اور اپنی ڈیوٹی ذمہ داری، ایمانداری اور خوش اسلوبی سے ادا کر رہا تھا اور دوران ڈیوٹی سائل نے 13 مجرمان اشتہاری گرفتار کئے اور 7 عدد کلاشنکوف بمعدہ دیگر 19 عدد پستول 10 عدد خودکش جیکٹ 145 گلو بارود بشمول دیگر اشیاء قبضہ میں لئے ہیں۔

2- یہ کہ مورخہ 29/07/2017 کو ذرا کر خان SI کی رپورٹ پر مقدمہ علت 492 مورخہ 29/07/2017 زیر دفعہ 419/420/468/471/171/15AA تھانہ لونڈ خوڑ میں درج رجسٹرڈ ہوا جس میں سائل کو بے گناہ اور غلط طور پر گرفتار شدہ ملزم اشفاق جو کی سی ٹی ڈی کا اہلکار تھا کے کہنے پر پھنسا یا گیا حالانکہ بوقت وقوعہ من انسپکٹر اپنی ڈیوٹی پر چار سہ میں موجود تھا اور مذکورہ اشفاق کنٹینیل بوجہ انکوائری سے معطل تھا اور مورخہ 24/07/2017 سے ڈیوٹی سے غیر حاضر تھا۔

3- یہ کہ من انسپکٹر چونکہ مقدمہ ہذا میں بے گناہ تھا تو فوری طور پر من سائل ایپیلٹ نے اپنے آپ کو پولیس کے حوالہ کیا اور عدالت نے من انسپکٹر کو ضمانت پر رہا کیا اور بعد عدالت نے من انسپکٹر کو مقدمہ سے بروئے حکم محررہ 12/10/2017 ڈسچارج کیا۔
(نقل FIR مارک A ہے۔ جبکہ نقل معطلی مارک B ہے۔ جبکہ نقل مدغیر حاضری مارک C ہے)۔
(نقل حکم محررہ 12/10/2017 مارک D ہے۔)

4- یہ کہ بروئے چارج شیٹ مورخہ 01/08/2017 ڈی آئی جی CTD صاحب نے محکمانہ کارروائی کرتے ہوئے من انسپکٹر کو چارج شیٹ جاری کیا جس میں تین قسم کے الزامات لگائے گئے جو کہ ذیل ہیں۔

1- یہ کہ من سائل نان کسٹم پیڈ گاڑیوں کے سگنگ میں ملوث ہے اور میرے خلاف مقدمہ علت بالا درج رجسٹرڈ ہے۔

2- یہ کہ من انسپکٹر کے کہنے پر کنٹینیل اشفاق علی نمبر 182 نان کسٹم پیڈ گاڑیاں خیبر ایجنسی سے سٹاکوٹ لاتا تھا۔

3- یہ کہ بطور SHO سی ٹی ڈی من انسپکٹر کی کارکردگی مایوس کن رہی۔ (نقل چارج شیٹ لف مارک E ہے۔)

5- یہ کہ ڈی آئی جی CTD نے محترم فضل حامد SSP، قائد کمال خان DSP، ہیڈ کوارٹر کو انکوائری آفر مقرر کر کے رپورٹ بمعہ الزامات حوالہ کی۔
(نقل statment of allegations لف مارک F ہے۔)

6- یہ کہ مذکورہ بالا افسران صاحبان نے انکوائری کر کے ڈی آئی جی CTD نے من انسپکٹر کو فائل شوکا ز نوٹس جاری کیا جس کا جواب من انسپکٹر نے تفصیلاً دے دیا
(نقل فائل شوکا ز نوٹس لف مارک G ہے۔ جبکہ جواب من انسپکٹر لف مارک H ہے۔)

7- یہ کہ ڈی آئی جی CTD نے بروئے حکم محررہ 09/11/2017 من انسپکٹر کو Dismissal from Service کی سزا دی جو کہ خلاف قانون ہے۔

استدعا
میں

خلاف واقعات ہے اور پولیس رولز کے خلاف ہونے کی وجہ سے کالعدم قرار دینے کے قابل ہے۔

(نقل حکم محررہ 09/11/2017 لف مارک اے۔)

اب من ایپلانٹ درج ذیل نکات پر حکم محررہ 09/11/2017 کو کالعدم قرار دینے و منسوخ کرنے اور من ایپلانٹ کو نوکری پر بحال کرنے کی استدعا کرتے ہیں۔

نکات :-

- A یہ کہ حکم محررہ 09/11/2017 خلاف قانون خلاف واقعات اور خلاف پولیس رولز ہیں لہذا قابل اخراج ہے۔
- B یہ کہ چارج شیٹ میں میرے خلاف جو الزامات لگائے گئے تھے ان میں سے ایک بھی میرے خلاف ثابت نہیں ہوا کیونکہ درج بالا FIR میں من سائل کو عدالت نے باعزت ڈسچارج کیا۔ جہاں تک کنسٹیبل اشفاق کا تعلق ہے تو وقوعہ کے دنوں میں وہ تھانہ سے غیر حاضر تھا۔ لہذا اُسکے کئے ہوئے جرم کو من ایپلانٹ پر ڈالا نہیں جاسکتا اور نہ ہی انکو ازری رپورٹ میں اس بابت کوئی شہادت آئی ہوئی ہے۔ جہاں تک بطور SHO میری کارکردگی کا تعلق ہے تو میں نے فائل شوکار نوٹس کے جواب میں اپنی کارکردگی کی بابت تفصیلی جواب لکھا ہے۔
- C یہ کہ من ایپلانٹ کے خلاف چارج شیٹ میں جو الزامات لگائے گئے تھے چونکہ وہ ثابت نہ ہوئے تو ڈی آئی جی CTD نے حکم محررہ 09/11/2017 میں میری سزا کی جو وجہ پیش کی ہے وہ یہ کہ من انسپکٹر کے ملزم منور عرف عدنان کے ساتھ قریبی تعلقات ہے اور اسکے ذریعے نان کسٹم پیڈ گاڑیاں سمگل کرتا تھا۔ لیکن چارج شیٹ میں اس قسم کا کوئی الزام نہیں لگایا گیا ہے جس کی وجہ سے من ایپلانٹ اس نسبت کوئی Defence پیش نہ کر سکا۔
- D یہ کہ بوقت وقوعہ FIR نمبر 492 من سائل برائے نمبر 7 مورخہ 29/07/2017 چار سده میں بمعہ دیگر شراف ڈیوٹی پر موجود تھا (نقل نمبر 7 لف مارک ل ہے۔)
- E یہ کہ ملزم عدنان علی کے ساتھ من انسپکٹر کے کوئی بھی روابط نہ تھے اور نہ ہی اس نسبت انکو ازری افسر نے کوئی ٹھوس ثبوت ریکارڈ پر لائے ہیں۔
- F یہ کہ انکو ازری افسران نے ایک طرفہ کارروائی کرتے ہوئے من ایپلانٹ کو سنا تک نہیں بدیں وجہ حکم مذکورہ بوجہ یک طرفہ ہونے کے قابل اخراج ہے۔

لہذا استدعا ہے کہ بمحظور راپیل ہذا حکم محررہ 09/11/2017 کو کالعدم / خارج کر کے من ایپلانٹ کو نوکری پر بحال کرنے کا حکم صادر فرمائیں۔

مورخہ :- 15/11/2017

ایپلانٹ / سائل

نیاز حسین خان ولد شاہ زلی خان سکند نواں کلے رستم تحصیل ضلع مردان۔

Attested
ہا

ATTESTED

G-14

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 267/2018

Date of institution ... 26.02.2018

Date of judgment ... 03.05.2019



Niaz Hussain S/o Shah Zali Khan
R/o Rustam District Mardan

... (Appellant)

VERSUS

1. Inspector General of Khyber Pakhtunkhwa, Central Police Officer, Peshawar.
2. Deputy Inspector General of Police CTD Khyber Pakhtunkhwa Peshawar.

... (Respondents)

**APPEAL UNDER SECTION-4 OF KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER
VIDE NO. 13146-53/PA DATED 09.11.2017 OF DEPUTY
INSPECTOR GENERAL OF POLICE CTD KP PESHAWAR.**

Mr. Rahman Ullah, Advocate.

.. For appellant.

Mr. Riaz Ahmad Paindakhel, Assistant Advocate General

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. AHMAD HASSAN

.. MEMBER (EXECUTIVE)

DISSENTING JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Counsel for the

appellant present. Mr. Riaz Ahmad Paindakhel, Assistant Advocate General
alongwith Mr. Wajid Ali, ASI for the respondents present. Arguments heard
and record perused.

2. Brief facts of the case as per present service appeal are that the appellant
was serving in Police Department as Inspector. He was imposed major penalty
of dismissal from service vide order dated 09.11.2017 by the Deputy Inspector
General of Police on the allegation.

ATTESTED

EXAMINE
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

M. Amin Khan
3.5.2019

(i) that he was reportedly involved in the transportation and smuggling of Non Custom Paid (NCP) vehicles vide FIR No. 492 under sections 419/420/468/471/171PPC/15AA dated 29.07.2017 PS Lund Khwar District Mardan.

(ii) That on his direction his gunman namely Ishfaq Ali No. 182 received the NCP vehicle from one Haji Hayat Khan r/o Bara Khyber Agency for transportation to Sakhakot.

(iii) That his performance as SHO CTD Mardan remained poor.

The appellant filed departmental appeal before the Inspector General of Khyber Pakhtunkhwa Peshawar on 15.11.2017 which was not responded within the stipulated period hence, the present service appeal on 26.02.2018.

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

4. Learned counsel for the appellant contended that the appellant was serving as Inspector in Police Department. It was further contended that the appellant was imposed major penalty of dismissal from service vide order dated 09.11.2017 by the Deputy Inspector General of Police on the aforesaid allegations. It was further contended that the departmental proceeding against the appellant was initiated mainly on the grounds that he was involved in the aforesaid criminal case but the appellant was totally innocent in the said criminal case that is why that the prosecution submitted application for discharge of the appellant in the said criminal case before the competent court which was accepted and the appellant Naiz Hussain was discharged from the aforesaid criminal case vide detailed order dated 12.10.2017 passed by the Judicial Magistrate Takht Bahi. It was further contended that the appellant was serving in Police Department since 2003 but there was not complaint against the appellant nor any criminal proceeding or any departmental proceeding was

ATTESTED

EXAMINED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Naiz Hussain
3.5.2019

initiated till the present departmental proceeding. It was further contended that as per schedule first Police Rules, 1975 the competent authority of Inspector was DPO/SSP but in the present departmental proceeding, charge sheet, statement of allegation and show-cause notice was issued to the appellant by the Deputy Inspector General of Police and the impugned order was also passed by the Deputy Inspector General of Police instead of DPO/SSP therefore, the impugned order is illegal and void. It was further contended that the allegations against the appellant are baseless and without any proof. It was further contended that neither proper inquiry was conducted nor the appellant was associated in the so-called inquiry nor opportunity of cross examination, personal hearing and defence was provided to the appellant therefore, 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 Assistant Advocate General for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was serving in Police Department as Inspector. It was further contended that a proper departmental proceeding was initiated against the appellant on the aforesaid allegation. It was further contended that the criminal proceeding has no bearing/effect on the departmental proceeding therefore, the discharge of the appellant from criminal case does not help the appellant in departmental proceeding. It was further contended that proper regular department ^{al m} proceeding was conducted and after fulfilling all the codal formalities the appellant was rightly imposed major penalty of dismissal from service on the recommendation of inquiry committee report. It was further contended that though charge sheet, statement of allegation and show-cause notice was issued by the Deputy Inspector General of Police and the major penalty was also imposed to the appellant by the Deputy Inspector General of

M. Anwar
3.5.2019

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

APPEALED

Police and as per schedule first of Police Rules, 1975 the competent authority of the inspector/appellant was DPO/SSP but the order of higher authority should always be maintained and the impugned order cannot be set-aside only on this ground and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant was serving in Police Department as Inspector. The record further reveals that departmental proceeding was initiated against the appellant on the aforesaid allegation. The record further reveals that inquiry was conducted by the inquiry committee and the inquiry committee have recorded the statement of witnesses namely Zakir Khan S.I Incharge Chowki Umer Abad, Mazhar Ali ASI I.O case FIR No. 492 under sections 419/420/468/471/171PPC/15AA dated 29.07.2017 PS Lund Khwar District Mardan and Khan Muhammad ASI Muharrar PS CTD Mardan. Copy of the statement of the aforesaid witnesses were also furnished by the representative of the department at the time of arguments which shows that the statements of said witnesses were recorded by the inquiry committee during the inquiry proceeding on 09.08.2017 and 16.08.2017 but the appellant was neither provided opportunity of cross examination nor the statement of witnesses were recorded by the inquiry committee in the presence of the appellant therefore, the appellant was condemned unheard, as opportunity of cross examination to the appellant on the aforesaid witnesses was the fundamental right of the appellant therefore, the inquiry committee has violated the principle of natural justice and the appellant has been deprived from his defence through cross-examination 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 the respondent-department to conduct de-novo inquiry in the mode and manner prescribed by rules.

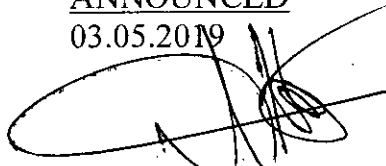
ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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7. Before parting with the judgment it is observed that since the service appeal has been partially accepted and the department have been directed to conduct de-novo inquiry and as per Police Rules, 1975 first schedule the competent authority to the extent of rank of inspector is DPO/SSP therefore, it would be proper to direct concerned DPO/SSP to issue charge sheet, statement of allegation as well as final show-cause notice and pass order deem appropriate in de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
03.05.2019



(AHMAD HASSAN)
MEMBER

Muhammad Amin
(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

Certified to be true copy

ENAB DINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 17-10-2019
 Number of words 2000
 Copying Fee 22-
 Urgent 4-
 Total 26
 Name of Copyiest _____
 Date of Completion of Copy 17-10-19
 Date of Delivery of Copy 17-10-19

(DENOVO PROCEEDINGS)

H - (19)

CHARGE SHEET.

1) I, SENIOR SUPERINTENDENT OF POLICE, CTD CENTRAL ZONE KHYBER PAKHTUNKHWA as a Competent Authority, hereby charge you Inspector Niaz Hussain of this Unit as follows:-

- I. That you was reportedly involved in the transportation and smuggling of Non Custom Paid (NCP) Vehicles vide FIR No 492 u/s 419/420/468/471/171 PPC 15AA dated 29.307.2017 PS Lund Khwar District Mardan.
- II. That on your direction, your gunman namely Ishfaq Ali No 182 received the NCP Vehicle from One Haji Hayat Khan r/o Bara Khyber Agency for transportation to Sakhakot.
- III. That your performance as SHO PS CTD Mardan remained poor.

By reason of the above, you appear to be guilty of misconduct under Police Rules, 1975 read with amendment 2014 have rendered yourself liable to all or any of the penalties specified in the Rules:-

- 2). You are, therefore required to submit your written defence within 7 days of the receipt of this Charge Sheet to the Enquiry Officer as the case may be.
- 3). Your written defence, if any, should reach to the Enquiry Officer within the specified period failing which it shall be presumed that you have no defence to put in and in that case, exparte action will be taken against you .
- 4). You are also at liberty, if you wish to be heard in person.
- 5). Statement of allegation is enclosed.

Senior Superintendent of Police,
CTD, Central Zone, Khyber,
Pakhtunkhwa.

Attended
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SUMMARY OF ALLEGATIONS.

I, Senior Superintendent of Police, Central Zone CTD Khyber Pakhtunkhwa, am of the opinion that Inspector Niaz Hussain of this Unit has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning of Police Rules, 1975 read with Police Ordinance, 2002.

STATEMENT OF ALLEGATIONS.

- I. That he was reportedly involved in the transportation and smuggling of Non Custom Paid (NCP) Vehicles vide FIR No 492 u/s 419/420/468/471/171 PPC 15AA dated 29.307.2017 PS Lund Khwar District Mardan.
- II. That on his direction, his gunman namely Ishfaq Ali No 182 received the NCP Vehicle from One Haji Hayat Khan r/o Bara Khyber Agency for transportation to Sakhakot.
- III. That his performance as SHO PS CTD Mardan remained poor.

2). For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, Mr. Shoukat Khan SP, CTD Peshawar Region is appointed as Enquiry Officer, to conduct re-enquiry (Denov Proceedings) under the Rules.

3). The Enquiry Officers, shall, in accordance with the provision of the Police Rules, 1975 read with amendment 2014) provide reasonable opportunity of hearing to the accused, record its findings and make within 15 days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused.

No 8625-²⁶EC/CTD

Dated Peshawar the 20/6 2019.

Copy of above is forwarded to:-

- 1). Enquiry Officer directed to initiate departmental proceedings against the accused under the relevant Rules.
- 2). Inspector Niaz Hussain to appear before the Enquiry Officer on the date time and place fixed by the Enquiry Officer for the purpose of enquiry proceedings.

Attended
[Signature]

Senior Superintendent of Police,
CTD, Central Zone, Khyber
Pakhtunkhwa.

[Signature]

جناب عالی:-

جواب بحوالہ ڈی نو انکوائری نمبری 8625-26/EC/CTD مورخہ 20/06/2019 مجاریہ ایس ایس پی

صاحب سی ٹی ڈی خیبر پختونخواہ پشاور

معروض خدمت ہوں کہ من انسپکٹر کے خلاف De-Novo انکوائری کے چارج شیٹ میں الزامات ہیں۔

- (1) یہ کہ من انسپکٹر NCP گاڑیوں کی سمگلنگ میں ملوث ہے۔ جس کی نسبت مقدمہ علت 492 مورخہ 9/07/2017 مجرم نمبر 419/420/468/471/171-PPC/15AA تھانہ لونڈخوڑ درج رجسٹرڈ ہے۔
- (2) یہ کہ سائل کے گن میں کنسٹیبل اشفاق علی بیلٹ نمبر 182 نے نان کسٹم پیڈ گاڑی حاجی حیات خان ساکنہ باڑہ خیبر ایجنسی سے وصول کر کے سائل کے حکم پر مذکورہ گن میں متذکرہ NCP گاڑی سٹاکاؤٹ ملاکنڈ ایجنسی لے جا رہا تھا۔
- (3) یہ کہ بحیثیت SHO سی ٹی ڈی مردان سائل کی کارکردگی ناقص رہی۔

جناب عالی:-

- (1) من انسپکٹر نے سال 2006 میں محکمہ پولیس خیبر پختونخواہ میں بحیثیت PASI شمولیت اختیار کی کیونکہ سائل کے والد شاز علی خان شہید سب انسپکٹر متعین تھانہ متھرا ضلع پشاور نے سال 2003 میں دہشت گردی کی اندھا دھند فائرنگ کی وجہ سے جام شہادت نوش کیا اور والد کی شہادت کے بعد سائل اپنے خاندان جو کہ 7 افراد پر مشتمل ہے کا واحد کفالت دار ہے۔
- من انسپکٹر کے خلاف یہ الزام ہے کہ میں NCP گاڑیوں کی سمگلنگ میں ملوث ہوں اور اس نسبت تھانہ لونڈخوڑ میں متذکرہ بالا مقدمہ بھی درج رجسٹرڈ ہے۔ یہ الزام حقیقت کے برعکس ہے۔ کیونکہ بحیثیت ذمہ دار پولیس آفیسر اس قسم کے مکروہ دھندہ میں ملوث ہونا سمجھ سے بالاتر ہے۔ میرے خلاف مقدمہ بالا بغیر کسی حقیقت کے درج رجسٹرڈ ہو کر اس ضمن میں نہ تو کوئی چشم دید گواہ دستیاب ہے۔ اور نہ کوئی ایسی دیگر واقعاتی شہادت صفحہ مشمل پر موجود ہے جس سے یہ مفروضہ واضح ہو سکے کہ واقعی من انسپکٹر اس قسم کی غیر قانونی دھندہ سے وابستہ ہے۔ من انسپکٹر نے اپنے 11 سال کی نوکری میں اپنے فرائض نہایت خوش اسلوبی سے انجام دئے ہیں اور آج تک افسران بالا کو کسی قسم کی شکایت کا موقع نہیں دیا ہے۔ کسی شخص کی ذاتی نفل اور بے بنیاد الزام جیسا کہ مقدمہ بالا کے مضمون میں ذکر شدہ ہے۔ کسی دوسرے بے گناہ شخص کو مورد الزام نہیں ٹھرایا جاسکتا۔ سائل کے خلاف ایک ایسے شخص کے زبانی بیان پر مقدمہ درج رجسٹرڈ کیا گیا جس کا سائل کے ساتھ کسی قسم کا اظہار نہیں تھا جو کہ مروجہ قوانین اور انصاف کے تقاضوں کے سراسر منافی ہے۔ مذید براں وقوعہ کے دن سائل بحکم افسران بالا بحوالہ نفل مد 7

اللہ

روزنامہ 29/07/2017 وقت 09:10 بجے معدیگر ہمایان کے سرکاری ڈیوٹی کے لئے ضلع چارسدہ جا کر جو بعد فراغت سرکاری ڈیوٹی بحوالہ نقل بد نمبر 9 روزنامہ 29/07/2017 وقت 15:20 بجے تھانہ سی ڈی واپس آیا ہوں۔

اس کے بعد سائل صابر گل خان DSP انوسٹی گیشن سی ڈی مردان ریجن کی طرف سے بذریعہ موبائل فون اطلاع ملی کہ حکم افسران بالا دفتر RIU سی ڈی مردان آجائیں۔ سائل نے حکم کی من و عن تعمیل کرتے ہوئے فوری طور پر متذکرہ دفتر پہنچ گیا۔ دفتر سے پہلے سے موجود جناب SP آپریشن سی ڈی خیبر پختونخواہ کے ساتھ ملاقات ہو کر جس نے بعد میں اپنے ساتھ گاڑی میں بٹھا کر کہا کہ دفتر جناب DPO صاحب مردان چلتے ہیں جو افسران بالا کی حکم کی تعمیل کرتے ہوئے صاحب موصوف کے ساتھ گاڑی میں بیٹھ کر دفتر DPO صاحب پہنچ گئے۔ جہاں پر DPO مردان نے SP آپریشن کی موجودگی میں سائل کو ہتھکڑیاں لگا کر گرفتار کر کے سی پولیس اسٹیشن مردان میں بند بہ حوالات تھانہ کیا۔ مقامی تھانہ لونڈ خوڑنے کا رڈ گرفتاری میں سائل کو ہاتھیاں بازار لونڈ خوڑ میں گرفتار کرنے کا ذکر کیا ہے۔ کہ من انسپکٹر مورخہ 29/07/2017 بوقت 17:00 بجے وہاں سے گرفتار کیا گیا ہے۔ حالانکہ مندرجہ بالا زبانی حقائق، حالات و واقعات اور آفسران بالا آنکھوں دیکھا حال کے باوجود سائل کی گرفتاری ہاتھیاں بازار میں لانا ایک اور فرضی کہانی ہے۔

(2) یہ الزام کہ کنسٹیبل اشفاق بیلٹ نمبر 182 سائل کے ساتھ بحیثیت گنر تعینات ہے۔ اور اس نے سائل کے حکم پر NCP گاڑی مسمی حاجی حیات خان ساکن باڑہ خیبر ایجنسی سے وصول کر کے سخا کوٹ کیلئے روانہ کی۔ وضاحت ضروری ہے۔ کہ واقعی مذکورہ اشفاق کچھ عرصہ تک سائل کے ساتھ تعینات رہا ہے۔ لیکن کنسٹیبل اشفاق کو سائل نے ان کے ذاتی وجوہات پر معطلی سے پہلے سائل نے گنری سے ہٹایا تھا۔ مگر مذکورہ کنسٹیبل مورخہ 04/07/2017 کو حکم آفسران بالا معطل ہو چکا ہے جس کی نسبت محرر تھانہ نے باقاعدہ اطلاع بحوالہ نقل مد نمبر 09 روزنامہ 04/07/2017 رپورٹ بھی درج کی ہے۔ اور مذکورہ کے خلاف پہلے ہی سے حکمانہ کارروائی جاری تھی۔ مزید برآں مذکورہ کنسٹیبل مورخہ 24/07/2017 سے اپنی سرکاری ڈیوٹی سے غیر حاضر بھی ہوا تھا جو کہ مورخہ 09/08/2017 کو بحوالہ مد نمبر 10 تھانہ حاضر آیا ہے۔ جو تقریباً 15 یوم تک اپنی سرکاری ڈیوٹی سے غیر حاضر رہا ہے۔ لہذا افسران بالا کے حکم پر معطل شدہ اور اپنی سرکاری ڈیوٹی سے غیر حاضر شدہ کنسٹیبل کو اپنے ساتھ بحیثیت گنر ساتھ رکھنا سمجھ سے بالاتر ہے۔ برائے قانون ہر بندہ اپنے ذاتی اور سرزد افعال کا خود ذمہ دار ہوتا ہے۔ اور دوسروں کے سرزد شدہ ذاتی افعال کی ذمہ داری بغیر کسی ٹھوس ثبوت کے کسی بے گناہ شخص کے کھندوں پر ڈالنا انصاف کے تقاضوں کے منافی ہے۔ جہاں پر خود ساختہ، بے بنیاد الزامات کی بنیاد پر FIR نمبر 492 درج کی تھی۔ اس سے پہلے ڈسٹرکٹ پبلک پراسیکیوٹر مردان نے سائل کو ڈسچارج کیا تھا۔ جو کہ بعد میں جوڈیشل مجسٹریٹ تحت بھائی ضلع مردان نے بھی مورخہ 12/10/2017 کو سائل کو ڈسچارج کیا اور سائل کو بے گناہ قرار دیا۔

(حکم DPP، حکم مجسٹریٹ لف ہے)

یہ الزام کہ بحیثیت سی ڈی مردان سائل کی کارکردگی ناقص ہے۔ تو یہاں یہ امر قابل ذکر ہے۔ کہ من انسپکٹر تقریباً ایک سال تک بحیثیت SHO سی ڈی مردان تعینات رہا ہوں۔ اور اپنے عرصہ تعیناتی میں اپنی ڈیوٹی بلا خوف و خطر سرانجام دے کر آفسران بالا کسی قسم کی

احمد علی

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شکایت کا موقع نہیں دیا ہے۔ اور ایک سال کے طویل عرصے تک بحیثیت SHO سی ٹی ڈی تعینات رہنا فرض شناسی و دلیری و اعتماد کا منہ بولتا ثبوت ہے۔ دوران تعیناتی سائل کی کارکردگی اس ثبوت سے واضح ہے متذکرہ عرصہ میں 07 کلاشکوف 19 پستول، 448 کارٹوس مختلف ساخت 02 (RRG 7) گن 24 عدد گولے، 31 عدد مارٹشل، 07 عدد مارٹر گن، 10 عدد خودکش جیکٹ، 145، کلو بروڈ، 08 عدد IDEs، 27، گز تار، 146 عدد ہینڈ گریپ، 145 عدد سیفٹی فیوز، 65 عدد ڈیٹونیسٹر، 61 گز پرائم کارڈ، 08 عدد ریوٹ کٹرولر، 17 عدد ریسیور، 14 کلو گرام بیرنگ، 15 عدد بیٹریاں، 81 بیٹری سیل، 2140 روپے فنڈ، 11000 روپے پھتہ خوری رقم، 03 عدد موٹر سائیکل، 11 عدد موبائل فون، 01 موٹر کار، 02 عدد مغویان کی بازیابی اور دستگیر دی جیسے جرائم میں ملوث 13 ملزمان اشتہاری کی گرفتاری شامل ہے۔ یہاں یہ متذکرہ کرنا بھی بے جا نہ ہوگا۔ کہ اپنے عرصہ تعیناتی میں سائل کو افسران بالا کی طرف سے کسی قسم کی اظہار وجوہ نوٹس یا چارج شیٹ وغیرہ بھی نہیں دئے گئے ہیں۔ جو کہ سائل کی بے داغ فرائض منصبی کی عکاسی ہے۔ یہاں پر یہ امر قابل ذکر ہے کہ سائل نے قبل ازیں اپنی سزا و انکوائری کے خلاف سروس ٹریبونل میں درخواست دائر کیا تھا۔ جس پر قانونی کارروائی کرتے ہوئے معزز سروس ٹریبونل نے انکوائری کی خلاف قانون و رد قرار دیا ہے۔ اور سائل کی سزا بھی کالعدم قرار دی ہے۔ جس سے بات روز روشن کی طرح عیاں ہوتی ہے۔ کہ سائل بے گناہ تھا اور اس کے ساتھ زیادتی ہوئی تھی۔

مندرجہ بالا حالات و واقعات اور حقائق کی روشنی میں یہ بات روز روشن کی طرح عیاں ہے۔ کہ سائل کے خلاف جملہ کارروائی متذکرہ ایک بنی بنائی داستان ہے۔ جس کا حقیقت سے کوئی تعلق نہیں لہذا استدعا ہے کہ انصاف کے تقاضوں کو مد نظر رکھتے ہوئے سائل کے خلاف چارج شیٹ میں لگائے گئے الزامات بغیر کسی قانونی کارروائی کے داخل دفتر فرمائے تاکہ سائل اپنے فرائض منصبی دوبارہ سنبھال کر اپنے ملک و قوم کی خدمت کر سکے۔

تحریر: 22/06/2019

سائل
آپکا تابع فرمان انسپکٹر نیاز حسین خان نمبر 45/MR
سی ٹی ڈی ہیڈ کوارٹر پشاور

Attended
of



OFFICE OF THE,
DEPUTY INSPECTOR GENERAL OF POLICE,
COUNTER TERRORISM DEPARTMENT,
KHYBER PAKHTUNKHWA, PESHAWAR.

J-24

ORDER

In compliance with the Judgment of Honorable Service Tribunal announced in service appeal No 267/2018 and also conveyed by CPO, Peshawar vide his office Endst: No 2906/Legal dated 23.05.2019 so far relates to Ex- Inspector Niaz Hussain of this Unit who has been dismissed from his services on the following allegations vide this office order Endst: No 13146-53/PA dated 09.11.2017:-

- i. That he was reportedly involved in the transportation and smuggling of Non Custom Paid (NCP) Vehicles vide FIR No 492 u/s 419/420/468/471/171 PPC /15AA dated 29.07.2017 PS Lund Khwar District Mardan.
- ii. That on his direction his gunman namely Ashfaq Ali NO 182 received that NCP Vehicle from One Haji Khan r/o Bara Khyber Agency for transportation to Sakhakot.
- iii. That his performance as SHO CTD Mardan remained poor.

In consequence he was proceeded departmentally by issuing him Charge Sheet alongwith summary of allegation vide this office 8709-13/PA dated 01.08.2017 Dismissal from Services". Later On, he also submitted an appeal before Worthy Inspector General of Police, Khyber Pakhtunkhwa but the appeal was rejected vide this office order Endst: No S/1066-74/18 dated 22.03.2018.

Feeling aggrieved, the defaulter officer filed service appeal No 267//2018 in Service Tribunal Khyber Pakhtunkhwa. On 03.05.2019 Service Tribunal partial accepted the appeal and announced Judgment wherein it was directed that "the concerned DPO/SSP to issue charge sheet, statement of allegations as well as final show cause notice and pass order deem appropriate in the denovo enquiry"

In consequence upon the judgment of Honorable Service Tribunal, the undersigned perused his previous service record and agreed with the recommendation of the enquiry officer stating therein that "Major Punishment" may be awarded to the said Inspector for keeping such like criminal mind/bad character (Cosntable as gunman) which shows his negligence and lack of supervision on his part.

Now, I SENIOR SUPERINTENDENT OF POLICE, CENTRAL ZONE CTD, PESHAWAR being a competent authority in exercise of the powers vested in me vide Police Rules, 1975 (amendment 2014) is hereby ordered to award him "Major Punishment of Removal from Service".

Encl: 164 Pages

Attested
[Signature]

Senior Superintendent of Police,
CTD, Central Zone,
Peshawar.

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No/227-IEC/CTD

Dated Peshawar the 23/08/2019

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

- i. Worthy Inspector General of Police, Khyber Pakhtunkhwa Peshawar w/r to his office memo No 2686/CPO/IAB/C&E-dated 30.07.2019.
- ii. AIG. Legal CPO. Peshawar.

attested
[Signature]
SP/HR/CTD
29.08.2019
Superintendent of Police IEC/MS
CTD Khyber Pakhtunkhwa
Peshawar

To
The Inspector General of Police Department,
Khyber Pakhtunkhwa, Peshawar.

R - 25

Subject: **DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 23-08-2019, WHEREBY MAJOR PENALTY OF REMOVAL FROM SERVICE HAS BEEN IMPOSED ON THE APPELLANT**

Respected sir,

The appellant submit as under:-

- 1) That the appellant while posted as SHO Police Station Counter Terrorism Department, Mardan was charged in the FIR No.492 dated 29-7-2017 U/S 419/420/468/471/171/PPC and 15AA P.S. Lund Khwar in an offence not committed by the appellant but was incorporated by his ex: gunman namely Ishfaq Ali. **(Copy of the FIR is attached as annexure..... A).**
- 2) That it is pertinent to mention here that constable Ishfaq Ali No. 182 was suspended through Mad No.9 dated 4-7-2017 by the oral direction of DSP Operation as an inquiry was initiated against Constable Ishfaq Ali. **(Copy of the Mad No.9 is attached as annexureB).**
- 3) That vide order dated 12-10-2017 the Honorable Judicial Magistrate, Takht Bhai discharged the appellant from the above mentioned FIR. **(copy of the discharge order is attached as annexure.....C).**
- 4) That on the basis of the mentioned FIR a Show cause notice was issued, wherein the following charges were leveled against the appellant.
 - i) ***That he (appellant) is reportedly involved in the transportation and smuggling of Non Custom Paid (NCP) Vehicles vide FIR No. 492 u/s 419-420-468-471-171/PPC/ 15AA, dated 29-07-2017 PS Lund Khwar, Mardan.***
 - ii) ***That on his direction, his gunman namely Ishfaq Ali No.182 received the NCP Vehicle from one Haji Hayat Khan r/o Bara Khyber Agency for Transportation to Sakhakot.***
 - iii) ***That your performance as SHO CTD Mardan remained poor.***
- 5) That following the show cause notice major penalty of dismissal from service was imposed the appellant vide order dated 09-11-2017. That feeling aggrieved from the mentioned order the appellant preferred departmental appeal followed by Service Appeal

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No.267/2018, which was partially accepted and the appellant was re-instated to his service, however, the respondents were directed to conduct de-novo inquiry in to the matter vide judgment dated 3.5.2019. **(Copy of the judgment is attached as annexure.....D).**

6) That in compliance with the judgment of the service Tribunal the competent authority initiated Denovo inquiry against the appellant. That an inquiry was initiated in to the matter to dig out the real story and culprits in the matter. **(Copies of the charge sheet, statement of allegation and reply attached as annexure E, F, & G).**

7) That following the inquiry report and recommendations therein astonishingly and surprisingly the competent authority award major punishment of removal from service to the appellant vide order dated 23-08-2019. **(Copy of the impugned order dated 23-08-2019 is attached as annexure..... H).**

8) That feeling aggrieved the appellant preferred the instant departmental appeal on the following grounds amongst others.

Grounds:

A. That the impugned removal order dated 23.8.2019 is against the law, facts, rules, norms of natural justice and materials on the record hence not tenable and liable to be set aside.

B. That the removal was solely made on the ground of negligence and lack of supervision on the part of appellant but it is pertinent to mention here that negligence is not come within the definition of misconduct; therefore, on the ground of negligence major punishment cannot be awarded. The same view has been laid down by the Supreme Court and High Courts in a number of judgments.

C. That the appellant was not associated with the inquiry and the whole proceeding is conducted ex-party, therefore the impugned order dated 23.8.2019 is illegal and void ab anitio.

D. That no chance of personal hearing and personal defense has been provided to the appellant and the whole inquiry proceeding is conducted in the absence of the appellant.

E. That no show cause notice has been served on the appellant prior to the issuance of impugned order dated 23.8.2019 which is glaring illegality on the part of competent authority.

Subscribed
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- F. That no regular inquiry has been conducted in the matter of the appellant, which is as per Supreme Court Judgments is necessary in punitive actions against the Civil servants.
- G. That the appellant inspite of discharge from the above mentioned FIR has been declared guilty departmentally and has been imposed Major penalty of Dismissal from service. That this act of the competent authority is the clear violation of the judgments on the point that **"when there is no conviction there would be no Departmental punishment"**.
- H. That the impugned order dated 23.8.2019 is based on conjecture and surmises and as such the Department failed to establish any of the allegations leveled against the appellant.

It is, therefore, most humbly prayed that on acceptance of this Departmental appeal the impugned order dated 23-08-2019 may kindly be set aside and the appellant may please be re-instated in to service with all back benefits.

Dated: 6.9.2019

Attested
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APPELLANT
Niaz Hussain
Niaz Hussain
Ex-Inspector CTD, Mardan.

ORDER.

In compliance with the Judgment of Honorable Service Tribunal announced in service appeal No 267/2018, Ex-Inspector Niaz Hussain of this Unit was proceeded departmentally by Senior Superintendent of Police, CTD Central Zone Peshawar vide his office order issued under Endst: No 11227-28/EC dated 23.08.2019 on the following score of allegations that:

- i. He was reportedly involved in the transportation and smuggling of Non Custom Paid (NCP) Vehicles vide FIR No 492 u/s 419/420/468/471/171 PPC 15AA dated 29.07.2017 PS Lund Khwar District Mardan.
- ii. That on his direction his gunman namely Ashfaq Ali No 182 received that NCP Vehicle from One Haji Khan r/o Bara Khyber Agency for transportation to Sakhakot.
- iii. That his performance as SHO CTD Mardan remained poor.

After completion of all codal formalities and perusal of relevant records, Senior Superintendent of Police, CTD Central Zone Peshwar awarded him Major punishment of "REMOVAL FROM SERVICE".

Feeling aggrieved, The appellant Mr. Niaz Hussain Ex-Inspector submitted an appeal for withdrawal of Major Punishment awarded to him. The undersigned gone through the enquiry file / relevant record in detail but his reply / contention was not found satisfactory.

Therefore in exercise of power conferred upon me, I DEPUTY INSPECTOR GENERAL OF POLICE CTD KHYBER PAKHTUNKHWA PESHAWAR, being a competent authority, his appeal is hereby rejected / filed, and the punishment awarded to him shall stand as it is.

Deputy Inspector General of Police,
CTD, Khyber Pakhtunkhwa,
Peshawar. o/c

Dated Peshawar the 07/10/2019.

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No 12853- /EC/CTD

Copy of above is forwarded for information and necessary action to all concerned in CTD Khyber Pakhtunkhwa, Peshawar.

Attended
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VAKALATNAMA

Before the MP Service Tribunal, Peshawar

_____ OF 2019

Niaz Hussain

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Police Department

(RESPONDENT)
(DEFENDANT)

I/We Niaz Hussain

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2019

Etis

CLIENT

Accepted

NOOR MOHAMMAD KHATTAK

SHAHZULLAH YOUSAFZAI

KAMRAN KHAN

&

MIR ZAMAN SAFI

ADVOCATES

OFFICE:

Flat No.3, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.

Mobile No.0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Appeal No. 1524 of 2019.

Mr. Niaz Hussain, Ex-Inspector (BPS-16).....(Appellant/Petitioner)

Versus

1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
1. The Deputy General of Police, CTD, Khyber Pakhtunkhwa, Peshawar.
3. The Senior Superintendent of Police, CTD, Central Zone, Khyber Pakhtunkhwa, Peshawar.

.....(Respondents)

PARAWISE REPLY BY RESPONDENTS 1,2,3:-

Respectfully Sheweth

Preliminary Objections

1. That the appeal is not maintainable in its present form.
2. That the appellant has got no cause of action.
3. That the appellant is estopped by his own conduct to file the present appeal.
4. That the appellant has not come to this Honorable Tribunal with clean hands and has concealed material facts.
5. That the appeal is bad for misjoinder and non-joinder of necessary parties.
6. That the appeal is badly barred by law & limitation.

Facts

Respectfully Sheweth

1. Correct to the extent that the appellant was charged in moral turpitude offence vide case FIR No. 492 dated 29.07.2017 u/s 419-420-468-471-171PPC-15AA PS Lund Khwar, on the charges that with the connivance of appellant, Ashfaq Ali No. 182 (gunman of appellant) received the NCP vehicle from one Haji Hayat Khan r/o Bara Khyber Agency for transportation to Skhakot Appellant and others were found responsible for the offence during criminal investigation copy of Challan copy enclosed as annexure "A".
2. Correct to the extent that accused Ashfaq Ali was suspended on 04.07.2017.
3. Pertains to record of court, hence no comments. Besides criminal charges appellant performance as SHO CTD Mardan was very poor.
4. Incorrect Proper charge sheet with statement of allegation was issued to the appellant during course of denovo proceedings.
5. Pertains to record, needs no comments.
6. Pertains to record of Honorable Tribunal, needs no comments.
7. Correct to the extent that proper denovo enquiry under KP Police Rules 1975 was initiated wherein proof and the statements were recorded in presence of accused and after establishing of charges, appellant was given appropriate punishment in accordance with facts and rules.
8. Correct to the extent that legal order of respondent No. 03 was assailed before respondent No. 02 through unsound reasons, which was filed in accordance with rules.
9. Incorrect appellant has wrongly challenged the legal and valid orders of respondents before the Honorable Tribunal through invalid grounds.

GROUNDS:


- A. Incorrect: Both the orders were passed in accordance with law, facts and materials on record.
- B. Incorrect: appellant was treated in accordance with facts, rules and respondents have never violated any rights or provision of constitution while conducting enquiry against the appellant.
- C. Incorrect: in departmental proceeding the charges of involvement in moral turpitude offence and poor performance / supervision of appellant being gross misconduct was established through independent sources / evidence. Thus appropriate punishment under the rules was awarded to appellant by competent authority.
- D. Incorrect: as explained above proper opportunities of personal hearing and defense were given to the appellant in de-novo enquiry by appellant authority during hearing of departmental appeal, but he failed to convince enquiry officer and authority.
- E. Incorrect: As explained above all opportunities of self defense and hearing were provided to appellant during probe.
- F. Incorrect: as explained above proper enquiry was conducted under the rules by observing all the codal formalities
- G. Incorrect: proper enquiry under KP Police Rules 1975 against the appellant was conducted wherein the charges were proved.
- H. Incorrect: All the allegations were proved against the appellant during departmental enquiry and de-novo enquiry therefore, he was awarded major punishment. Criminal proceeding dose not effect the departmental proceeding. Appellant was discharged from the charges due to lack of judicial proof but in departmental proceeding gross misconduct has been proved against him.
- I. Incorrect, detail reply has already been explained in proceeding Paras.


- J. Incorrect, all the allegations leveled against the appellant were proved during de-novo enquiry and appellant was recommended for major punishment by enquiry officer.
- K. Incorrect, all the allegations leveled against the appellant were proved and he was awarded major punishment after observing all codal formalities.

PRAYER:

Keeping in view the above facts, it is humbly prayed that the appeal of the appellant is devoid of legal force may kindly be dismissed with costs.


**Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No.1)**


**Deputy Inspector General of Police,
CTD, Khyber Pakhtunkhwa, Peshawar.
(Respondent No.2)**


**Senior Superintendent of Police,
CTD, Central Zone, Khyber Pakhtunkhwa,
Peshawar.
(Respondent No.3)**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Appeal No. 1524 of 2019.

Mr. Niaz Hussain, Ex-Inspector (BPS-16).....(Appellant/Petitioner)

Versus


1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar & Two others.


.....(Respondents)**AFFI**

AFFIDAVIT

We, the below mentioned respondents do here by solemnly affirm and declare on oath that the contents of reply submitted is correct and true to the best of our knowledge and belief and that nothing has been kept concealed from this Honorable Court.


Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No.1)


Deputy Inspector General of Police,
CTD, Khyber Pakhtunkhwa, Peshawar.
(Respondent No.2)


Senior Superintendent of Police,
CTD, Central Zone, Khyber Pakhtunkhwa,
Peshawar.
(Respondent No.3)

Annex - A

ایگزیزٹل پوسٹل KPK فارم نمبر ۳۷
مدام محمد رفیق علی
فائل

۵۷۴۳۰۲۸۵۷۳
ابتدائی اطلاع رپورٹ

ابتدائی اطلاع نسبت قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ ۱۵۳ مجموعہ ضابطہ فوجداری

تعداد	لوزڈ ڈسٹری	خلع	مددکار
۱۷	عالمی ۴۹۲	پیش وقت ۲۹/۱۷	وقت ۱۶:۰۰
۱- تاریخ وقت رپورٹ	۲۹/۱۷	وقت ۱۶:۳۵	چاکرانی بیچ ۲۹/۱۷
۲- نام و سکنٹ اطلاع دہندہ مستغیث شخائی کارڈ نمبر / سوال نمبر		ذکر حال ہے	
۳- مختصر کیفیت جرم (معد دفعہ) حال اگر کچھ لیا گیا ہو۔	۴۱۹-۱۱۲۵-۱۱۷۱-۱۱۷۱-۱۱۷۱-۱۱۷۱		
۴- جائے وقوعہ فاصلہ تعداد سے اور دست	نزدیکی جہان آباد		
۵- نام و سکنٹ ملزم شناختی کارڈ نمبر / سوال نمبر	ذکر حال ہے		
۶- کاروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا تو وہ بیان کرے			
۷- تعداد روٹی کی کاروائی وقت			برسبیل ڈائر

ابتدائی اطلاع۔ تپتے درج کرو۔ مرسلہ جو جواب مختصاً مذکر حال ہے انچارج ڈسٹریکٹ آباد ہے۔
بدست نمران ۱۱۷۱ بر لوٹن ڈیل جے ٹیڈ ۱۱۷۱ صاحبہ۔ صاحبہ نے فرزند خود امیر عزیز بی بی سے مل کر ۱۱۷۱ فرسٹر ایڈیشن سٹیٹ
۲۶۶۶ لسٹ گشت کیا کہ وہی کھانہ جیوڑا فرزند خود امیر عزیز کی جانب سے ایک لکھڑی گورن
بڑی UB-001 پر مل سنبھڑ نہایت ضروری سے انہوں نے اپنے فرزند پر ٹیکہ لگوانے کا ارادہ کرنے کا ذکر
گزارش میں دیکھی ہے۔ گاڑی کی رشتہ داروں میں سے کسی ایک سے اپنے گاڑی کے ڈرائیور
وایس ڈی جی جی ایف کے اطلاع پامس کرنے کے لیے پیش کیا گیا ہے۔ گاڑی کی رشتہ داروں میں سے کسی ایک سے
اپنی گاڑی کی رشتہ داروں میں سے کسی ایک سے اپنے گاڑی کے ڈرائیور کو اپنے گاڑی کے ڈرائیور
آب ٹور میں بہت سارے گاڑی کے ڈرائیور سے اپنے گاڑی کے ڈرائیور کو اپنے گاڑی کے ڈرائیور
۱۱۷۱ کے ساتھ ساتھ اپنے گاڑی کے ڈرائیور سے اپنے گاڑی کے ڈرائیور کو اپنے گاڑی کے ڈرائیور
درمان ماٹین میں برلا با اور اپنے گاڑی کے ڈرائیور سے اپنے گاڑی کے ڈرائیور کو اپنے گاڑی کے ڈرائیور
پر ٹیکہ لگوانے کے لیے اپنے گاڑی کے ڈرائیور سے اپنے گاڑی کے ڈرائیور کو اپنے گاڑی کے ڈرائیور
کو فالو کرنے کے لیے اپنے گاڑی کے ڈرائیور سے اپنے گاڑی کے ڈرائیور کو اپنے گاڑی کے ڈرائیور
ملزم امین کے خلاف اپنے گاڑی کے ڈرائیور سے اپنے گاڑی کے ڈرائیور کو اپنے گاڑی کے ڈرائیور
کے برکھانہ فرسٹ انسٹروکشن پر اپنے گاڑی کے ڈرائیور سے اپنے گاڑی کے ڈرائیور کو اپنے گاڑی کے ڈرائیور
انسٹروکشن پر اپنے گاڑی کے ڈرائیور سے اپنے گاڑی کے ڈرائیور کو اپنے گاڑی کے ڈرائیور
حیثیت سنگھ ماروں بازو امین کے خلاف اپنے گاڑی کے ڈرائیور سے اپنے گاڑی کے ڈرائیور کو اپنے گاڑی کے ڈرائیور
کو نیچا دیا گیا ہے۔ اپنے گاڑی کے ڈرائیور سے اپنے گاڑی کے ڈرائیور کو اپنے گاڑی کے ڈرائیور
۱۱۷۱ کے ساتھ ساتھ اپنے گاڑی کے ڈرائیور سے اپنے گاڑی کے ڈرائیور کو اپنے گاڑی کے ڈرائیور
پر ٹیکہ لگوانے کے لیے اپنے گاڑی کے ڈرائیور سے اپنے گاڑی کے ڈرائیور کو اپنے گاڑی کے ڈرائیور
نمران ۱۱۷۱ کے ساتھ ساتھ اپنے گاڑی کے ڈرائیور سے اپنے گاڑی کے ڈرائیور کو اپنے گاڑی کے ڈرائیور
کو فالو کرنے کے لیے اپنے گاڑی کے ڈرائیور سے اپنے گاڑی کے ڈرائیور کو اپنے گاڑی کے ڈرائیور

۱۱۷۱ (۱) (۱) (۱) (۱) (۱) (۱)

دستی رسید

419 / 4201468
 492 / 2017
 ۷۰
 نیاز استخفاف و غیره
 احمد الکریمی خان
 Si / Ali
 درج و سبب
 ۱۱/۱۱/۱۱

قریب علیہ تعزیرات مجرمات کی روایت جہانمی سے دھوکہ کرایا
 رہنما PPP صاحب اثر کو معزالت کی دستاویزیاں

۱۱-۱۱-۱۱

۲۴۹ (۲۰۱) قتل مثل یولین کوٹا لہذا یہ درج

۲۲ / ۱۱ / ۲۲ کو مستانہ پانچویں سال

۱۱-۱۱-۱۱

۱۱-۱۱-۱۱

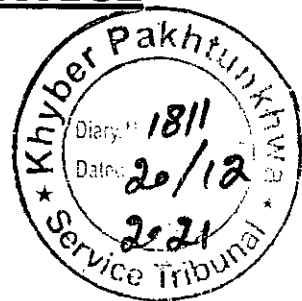
علاج

ابتدائی اطلاع لینت قابل دست اندازی پورے

تاریخ و وقت رپورٹ	17 جولائی 1992	طبع	مدیران
1- تاریخ و وقت رپورٹ	29/07/92 وقت 16:30 ع	تاریخ	وقت و وقت 29/07/92 وقت 16:30 ع
2- نام و سکونت اطلاع دہندہ مستفیض	شاخنی کاروانبر/سوپالک نمبر	چاکھائی پرچہ	29/07/92 وقت 16:30 ع
3- مختصر کیفیت جرم (محدہ دفعہ) حال اگر کچھ لیا گیا ہو	ڈاکر خلیل سی	پوسٹل 9mm (30)	
4- جائے وقوعہ فاصلہ قحانہ سے اور سمت	419-420-468-471-771-155A	نزدیکی والی	419-420-468-471-771-155A
5- نام و سکونت ملزم	شاخنی کاروانبر/سوپالک نمبر	شاخنی کاروانبر/سوپالک نمبر	
6- کاروائی جو تحقیق کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا تو وجہ بیان کرو	کاروائی جو تحقیق کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا تو وجہ بیان کرو	کاروائی جو تحقیق کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا تو وجہ بیان کرو	
7- قحانہ سے رداگی کی تاریخ و وقت	قحانہ سے رداگی کی تاریخ و وقت	قحانہ سے رداگی کی تاریخ و وقت	

ابتدائی اطلاع نیچے درج کرو۔ ملزم درج ذیل معائنات ڈاکر خلیل سی، اچالچ دی، غازی، بھارتی، لہان، 114، 115، 116، 117، 118، 119، 120، 121، 122، 123، 124، 125، 126، 127، 128، 129، 130، 131، 132، 133، 134، 135، 136، 137، 138، 139، 140، 141، 142، 143، 144، 145، 146، 147، 148، 149، 150، 151، 152، 153، 154، 155، 156، 157، 158، 159، 160، 161، 162، 163، 164، 165، 166، 167، 168، 169، 170، 171، 172، 173، 174، 175، 176، 177، 178، 179، 180، 181، 182، 183، 184، 185، 186، 187، 188، 189، 190، 191، 192، 193، 194، 195، 196، 197، 198، 199، 200، 201، 202، 203، 204، 205، 206، 207، 208، 209، 210، 211، 212، 213، 214، 215، 216، 217، 218، 219، 220، 221، 222، 223، 224، 225، 226، 227، 228، 229، 230، 231، 232، 233، 234، 235، 236، 237، 238، 239، 240، 241، 242، 243، 244، 245، 246، 247، 248، 249، 250، 251، 252، 253، 254، 255، 256، 257، 258، 259، 260، 261، 262، 263، 264، 265، 266، 267، 268، 269، 270، 271، 272، 273، 274، 275، 276، 277، 278، 279، 280، 281، 282، 283، 284، 285، 286، 287، 288، 289، 290، 291، 292، 293، 294، 295، 296، 297، 298، 299، 300، 301، 302، 303، 304، 305، 306، 307، 308، 309، 310، 311، 312، 313، 314، 315، 316، 317، 318، 319، 320، 321، 322، 323، 324، 325، 326، 327، 328، 329، 330، 331، 332، 333، 334، 335، 336، 337، 338، 339، 340، 341، 342، 343، 344، 345، 346، 347، 348، 349، 350، 351، 352، 353، 354، 355، 356، 357، 358، 359، 360، 361، 362، 363، 364، 365، 366، 367، 368، 369، 370، 371، 372، 373، 374، 375، 376، 377، 378، 379، 380، 381، 382، 383، 384، 385، 386، 387، 388، 389، 390، 391، 392، 393، 394، 395، 396، 397، 398، 399، 400، 401، 402، 403، 404، 405، 406، 407، 408، 409، 410، 411، 412، 413، 414، 415، 416، 417، 418، 419، 420، 421، 422، 423، 424، 425، 426، 427، 428، 429، 430، 431، 432، 433، 434، 435، 436، 437، 438، 439، 440، 441، 442، 443، 444، 445، 446، 447، 448، 449، 450، 451، 452، 453، 454، 455، 456، 457، 458، 459، 460، 461، 462، 463، 464، 465، 466، 467، 468، 469، 470، 471، 472، 473، 474، 475، 476، 477، 478، 479، 480، 481، 482، 483، 484، 485، 486، 487، 488، 489، 490، 491، 492، 493، 494، 495، 496، 497، 498، 499، 500، 501، 502، 503، 504، 505، 506، 507، 508، 509، 510، 511، 512، 513، 514، 515، 516، 517، 518، 519، 520، 521، 522، 523، 524، 525، 526، 527، 528، 529، 530، 531، 532، 533، 534، 535، 536، 537، 538، 539، 540، 541، 542، 543، 544، 545، 546، 547، 548، 549، 550، 551، 552، 553، 554، 555، 556، 557، 558، 559، 560، 561، 562، 563، 564، 565، 566، 567، 568، 569، 570، 571، 572، 573، 574، 575، 576، 577، 578، 579، 580، 581، 582، 583، 584، 585، 586، 587، 588، 589، 590، 591، 592، 593، 594، 595، 596، 597، 598، 599، 600، 601، 602، 603، 604، 605، 606، 607، 608، 609، 610، 611، 612، 613، 614، 615، 616، 617، 618، 619، 620، 621، 622، 623، 624، 625، 626، 627، 628، 629، 630، 631، 632، 633، 634، 635، 636، 637، 638، 639، 640، 641، 642، 643، 644، 645، 646، 647، 648، 649، 650، 651، 652، 653، 654، 655، 656، 657، 658، 659، 660، 661، 662، 663، 664، 665، 666، 667، 668، 669، 670، 671، 672، 673، 674، 675، 676، 677، 678، 679، 680، 681، 682، 683، 684، 685، 686، 687، 688، 689، 690، 691، 692، 693، 694، 695، 696، 697، 698، 699، 700، 701، 702، 703، 704، 705، 706، 707، 708، 709، 710، 711، 712، 713، 714، 715، 716، 717، 718، 719، 720، 721، 722، 723، 724، 725، 726، 727، 728، 729، 730، 731، 732، 733، 734، 735، 736، 737، 738، 739، 740، 741، 742، 743، 744، 745، 746، 747، 748، 749، 750، 751، 752، 753، 754، 755، 756، 757، 758، 759، 760، 761، 762، 763، 764، 765، 766، 767، 768، 769، 770، 771، 772، 773، 774، 775، 776، 777، 778، 779، 780، 781، 782، 783، 784، 785، 786، 787، 788، 789، 790، 791، 792، 793، 794، 795، 796، 797، 798، 799، 800، 801، 802، 803، 804، 805، 806، 807، 808، 809، 810، 811، 812، 813، 814، 815، 816، 817، 818، 819، 820، 821، 822، 823، 824، 825، 826، 827، 828، 829، 830، 831، 832، 833، 834، 835، 836، 837، 838، 839، 840، 841، 842، 843، 844، 845، 846، 847، 848، 849، 850، 851، 852، 853، 854، 855، 856، 857، 858، 859، 860، 861، 862، 863، 864، 865، 866، 867، 868، 869، 870، 871، 872، 873، 874، 875، 876، 877، 878، 879، 880، 881، 882، 883، 884، 885، 886، 887، 888، 889، 890، 891، 892، 893، 894، 895، 896، 897، 898، 899، 900، 901، 902، 903، 904، 905، 906، 907، 908، 909، 910، 911، 912، 913، 914، 915، 916، 917، 918، 919، 920، 921، 922، 923، 924، 925، 926، 927، 928، 929، 930، 931، 932، 933، 934، 935، 936، 937، 938، 939، 940، 941، 942، 943، 944، 945، 946، 947، 948، 949، 950، 951، 952، 953، 954، 955، 956، 957، 958، 959، 960، 961، 962، 963، 964، 965، 966، 967، 968، 969، 970، 971، 972، 973، 974، 975، 976، 977، 978، 979، 980، 981، 982، 983، 984، 985، 986، 987، 988، 989، 990، 991، 992، 993، 994، 995، 996، 997، 998، 999، 1000

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR



C.M. NO. _____/2021

IN

Service Appeal No. 1524/2019

Put up to the worthy chair-man with relevant app-nt

NIAZ HUSSAIN

V/S

POLICE DEPTT:

APPLICATION FOR EARLY HEARING OF THE ABOVE TITLED SERVICE APPEAL

Respectfully Sheweth:

1. That, the above title service appeal is pending adjudication before this Honourable Court, which is fixed for hearing on **04-02-2022**.
2. That, applicants have preferred the instant appeal against his removal from service order in the year 2019.
3. That the case is an old one and ripped for arguments.
4. That, valuable rights of the applicant/appellant are involved in the instant appeal therefore, needs to fix at an earlier date.
5. That the interest of justice demands that such like matter be heard as early as possible to meet the ends of justice and also to meet the principles of access to justice.

It is therefore, most humbly prayed that on acceptance of this application the above titled appeal may kindly be fixed for an early convenient date.

APPLICANT/APPELLANT

Through:

NOOR MUHAMMAD KHATTAK,
Advocate High Court,
Peshawar

Deadw
Put in 1st week of Jan, 2022
05/01

D.B.F
22.10.21
TO
4.2.22

20/12/21



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No. 125 /ST Dated: 19 /01/2022

All communications should
be addressed to the Registrar
KPK Service Tribunal and not
any official by name.

Ph:- 091-9212281
Fax:- 091-9213262


To,

The Senior Superintendent of Police,
CTD, Central Zone,
Khyber Pakhtunkhwa,
Peshawar.

SUBJECT: JUDGMENT IN APPEAL NO.1524/2019 Mr. Niaz Hussain.

I am directed to forward her with certified copy of judgment
Dated 05-01-2022 passed by this tribunal on the above subject for strict
compliance

Encl: As a above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

VAKALAT NAMA

NO. _____/2021

IN THE COURT OF KP Service Tribunal, Peshawar

Niaz Hussain (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Police Deptt. (Respondent)
(Defendant)

I/We, Niaz Hussain

Do hereby appoint and constitute **Taimur Ali Khan, Advocate High Court Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.


I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/2021



(CLIENT)

ACCEPTED


TAIMUR ALI KHAN
Advocate High Court
BC-10-4240
CNIC: 17101-7395544-5
Cell No. 0333-9390916

OFFICE:

Room # FR-8, 4th Floor,
Bilour Plaza, Peshawar,
Cantt: Peshawar

مردان عنوان
فیصلہ پیشی موصولہ
11A
نمبر مقدمہ
118
100/2



Order-1
12.10.2017

Complete Challan submitted by prosecution today

Be registered.

SPP for the state present. Accused namely Niaz Husain alongwith counsel namely Muhammad Ayub Khan Advocate present. Counsel for the accused namely Niaz Husain pointed out opinion of Assistant Public Prosecutor and District Public Prosecutor Mardan, available on file which is meant for discharge of accused namely Niaz Husain and Aftab from the charges leveled against them in case FIR No.492 dated 29.7.2017 under section 419/420/468/471/171/15 AA of P.S Lund Khwarh. Opinion perused alongwith other available record as ground for discharge taken by the prosecution are taken as such:

3
12/10/17

Judicial Magistrate/Civil Judge-IV
Jakht Bhai, Mardan

1. That no recovery in the shape of vehicle or any other incriminating articles affected from the possession of accused particularly Niaz Husain. Niaz Husain was not present at th time of occurrence, statement of co-accused to the police officer is not admissible, as per Art-39 of QSO 1984 confession before police officer cannot be made basis of conviction, allegation leveled against accused Niaz Husain and Aftab for using official number plats for shifting of non-custom paid vehicle have not such support and as no recovery whatsoever has been made. No person has been arrested to whom such delivery was required to be done.
2. Besides above mentioned grounds record also reveals that investigation is completed which is silent regarding any direct connection of Niaz Husain and Aftab. No such previous complaint, any criminal proceedings, any departmental inquiry against Niaz Husain and similarly no criminal record prior to this case against Aftab has been located or annexed with record by the local police or

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14 OCT 2017

Examiner Copying Branch
Sessions Court Mardan

12/10/17

Contd;

prosecution, while record reveals that accused Ashfaq Ali was suspended by the concerned office sequel to Daily Diary No.16 dated 24.7.2017 of Mardan region CTD which was prior to institution of this case. Copy of Daily Diary No.9 dated 04.7.2017 also reveals that suspension order of constable Ashfaq No.182 was also ordered by the concerned DSP office and the same also reveals that the said Ashfaq was under inquiry prior to lodging of instant FIR. No recovery of amount Rs.60,000/- has been made. Haji Hayat the alleged accused, still not arrested. No record acquired by police/prosecution regarding alleged 17/18 vehicles as per FIR. Accused as per record namely Niaz Husain, is public servant and has been suspended till decision of department proceedings. When inquiry has already been conducted against Niaz Husain by the same police but no such iota of evidence yet produced by the police concerned or prosecution on the record to connect Niaz Husain with commission of offence rather complete Challan have been submitted which shows nothing but oral allegations against accused Niaz Husain and Aftab as well absconder Hayat like they are charged on the statement of co-accused which version as per record have no corroboration or support. Pertinent to mention that prosecution is seeking discharge of accused Niaz Husain and Aftab on the ground above mentioned. So in such like circumstances keeping in view whole of the gathered record particularly the inquiry/department inquiry against Niaz Husain, Niaz Husain is hereby discharged, subject to findings of departmental proceedings or any other concurrent findings while notice be issued to rest of the

accused for 26/10/17

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14 OCT 2018

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Sessions Court Mardan

دستور بار سردار و طالب اور کونڈ

Application No	16747
Date of Presentation of Application	19-10-17
Date of Copy Prepared	19-10-17
Page No.	2-7
Signature	[Signature]
Date	19-10-17

(Muhammad Haroon)
Judicial Magistrate, Takht Bhai.

Judicial Magistrate/Civil Judge-V
Takht Bhai, Mardan

12/10/17