

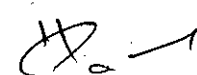
20.08.2019

B.P. No. 71/2018
Niaz Ali vs Govt

Learned counsel for the petitioner present. Mr. Muhammad Bilal learned Deputy District Attorney present. Learned counsel for the petitioner submitted order dated 08.04.2019 of the appellate authority and stated that as a result of judgment dated 22.11.2007 under implementation, the respondent department conducted de-novo inquiry and vide order dated 02.05.2018 the petitioner was dismissed from service, however upon filing departmental appeal, against the order dated 02.05.2018, the appellate authority took lenient view vide order dated 08.04.2019 and reinstated the petitioner in service while converting the punishment into forfeiture of one (01) year approved service and that the period during which the petitioner remained out to service, was treated as leave without pay.

In view of above, the present execution petition be consigned to the record room being not pressed.


In case the petitioner feels aggrieved against the office order dated 08.04.2019, he may adopt legal/proper remedy against the same in accordance with law/rules on the subject. No order as to costs.


(Muhammad Hamid Mughal)
Member
Camp Court, A/Abad

ANNOUNCED.
20.08.2019

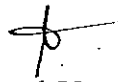
20.02.2019

Clerk to counsel for the petitioner present. Mr. Muhammad Bilal, DDA for respondents present. Clerk to counsel for the appellant requested for adjournment. Adjourned. Case to come up for further proceedings on 18.04.2019 before S.B at camp court Abbottabad.


(M. Amin Khan Kundi)
Member
Camp Court Abbottabad


18.04.2019

None for the petitioner present. Mr. Muhammad Bilal, DDA alongwith Mr. Shmriaz Khan, ASI for respondents present. Case to come up for further proceedings on 17.06.2019 before S.B at camp court Abbottabad.


(Ahmad Hassan)
Member
Camp Court A/Abad

17.06.2019

None for the petitioner present. Mr. Muhammad Bilal, DDA for respondents present. Notice be issued to the petitioner and his counsel for appearance. Case to come up for further proceedings on 20.08.2019 before S.B at camp court Abbottabad.


(Ahmad Hassan)
Member
Camp Court A/Abad


01.08.2018

Mr. Malik Shakeel Khan, Advocate counsel for the petitioner present. None for the respondents present. However, Mr. Muhammad Riaz Painsdakhel, Asst: AG for respondents present. Let fresh notices be given to the respondents for 15-10-18 implementation report before S.B at camp court Abbottabad.


Chairman


15.10.2018

Petitioner in person present. Mr. Shamraiz Khan, ASI alongwith Mr. Usman Ghani, District Attorney for the respondents present. Implementation report not submitted. Learned District Attorney requested for adjournment. Adjourned. To come up for implementation report on 19.12.2018 before S.B at camp court, Abbottabad.


Member
Camp Court, A/Abad

19.12.2018

Mr. Sajid Iqbal, Advocate submitted fresh wakalat nama on behalf of the appellant. Mr. Shamriaz, ASI alongwith Mr. Usman Ghani, District Attorney for respondents present. Implementation report submitted which is placed on file. Case to come up for further proceedings/arguments on 20.02.2019 before S.B at camp court, Abbottabad.


Member
Camp Court, A/Abad

FORM OF ORDER SHEET

Execution Petition No. 71/2018

S.No.	Date of order Proceedings	Order or other proceedings with signature of Judge
1	2	3
1	09.03.2018	<p>The Execution Petition of Mr. Niaz Ali submitted to-day by Malik Shakeel Khan Advocate, may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR 8/3/18</p>
2-	12/03/18	<p>This Execution Petition be put up before S. Bench on- <u>26/03/18</u>.</p> <p style="text-align: right;"><i>[Signature]</i> MEMBER</p>
26.03.2018		<p>Counsel for the petitioner present. Notice be issued to the respondents for implementation report for 10.05.2018 before S.B.</p> <p style="text-align: right;"><i>[Signature]</i> (Muhammad Amin Khan Kundi) Member</p>
10.05.2018		<p>The Tribunal is non-functional due to retirement of our Hon'ble Chairman. Therefore, the case is adjourned. To come up for same on 01.08.2018.</p> <p style="text-align: right;"><i>[Signature]</i> Reader</p>

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

Execution Petition no. 71/2018

C.M. No. _____/2018

In

Appeal No. 1196/2013

Niaz Ali Khan.....(Petitioner)

VERSUS

District Police Officer and others.....(Respondents)

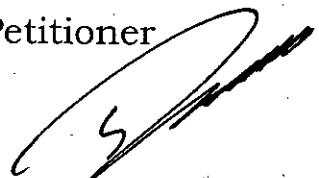
I N D E X

S.No	Description of Documents	Annex	Pages
1.	Petition		1-3
2.	Affidavit		4
3.	Addresses of the parties		5
4.	Copy of judgment dated 22/11/2017	A	7-8
5.	Copy of application	B	9-10
6.	Wakalat Nama		11

Petitioner

Through

Dated: 09/03/2018


Malik Shakeel Khan
Advocate High Court,
Peshawar.
Cell No. 0346-9566554

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

Execution Petition No 71/2018

C.M. No. _____/2018

In

Appeal No. 1196/2013

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 277

Dated 09/03/2018

Niaz Ali Khan S/o Tarique Khan Ex-Constable, R/o Near
G.H.S Boys High School, Shakul Bandi Tehsil and District
Abbottabad.....(Petitioner)

VERSUS

1. District Police Officer, Abbottabad.
2. Deputy Inspector General of Police, Hazara Region,
Abbottabad.
3. Provincial Police Officer (IGP) Khyber Pakhtunkhwa.
4. Secretary to Home Department, Government of Khyber
Pakhtunkhwa, Peshawar.....(Respondents)

**APPLICATION FOR IMPLEMENTATION OF
THE ORDER OF THIS HON'BLE TRIBUNAL
AND INITIATING CONTEMPT OF COURT
PROCEEDING AGAINST THE
RESPONDENTS, WHO REFUSED TO
IMPLEMENT THE ORDER DATED
22/11/2017 PASSED IN APPEAL NO.
1196/2013 OF THIS HON'BLE TRIBUNAL.**

Respectfully Sheweth:

Brief Facts of the petition are as under:

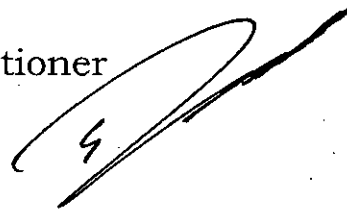
1. That petitioner has filed an appeal before this Hon'ble Tribunal, which was decided in favour of petitioner vide order dated 22/11/2017. (Copy of judgment dated 22/11/2017 is attached as annexure "A").
2. That this Hon'ble Tribunal directed the respondents in his judgment that ***"hold denovo proceedings in accordance with the law within a period of 90 days from the date of receipts of this judgment, failing which the appellant shall be reinstated in service"***.
3. That the petitioner filed an application along with judgment, but the respondents was finally refused to implement the order/ judgment of this Hon'ble Tribunal. (Copy of application for implementation is attached as annexure "B").

4. That petitioner was compelled to visit numerous offices for perusal of his case, but in vain.
5. That the respondents willfully not obey the order of this Hon'ble Tribunal for reluctant to prolong the matter.
6. That the respondent conducts directly amounts to contempt of Court.

It is, therefore, requested that the respondent may please be directed to implement the order of this Hon'ble Tribunal dated 22/11/2017 passed in Service Appeal No. 1196/2013 and the petitioner may kindly be reinstated in service with all back benefits, and contempt of Court proceeding may kindly be initiated against the respondent.

Petitioner

Through



Malik Shakeel Khan
Advocate High Court,
Peshawar.

Dated: 09/03/2018

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

C.M. No. _____/2018

In

Appeal No. 1196/2013

Niaz Ali Khan.....(Petitioner)

VERSUS

District Police Officer and others.....(Respondents)

AFFIDAVIT

I, Niaz Ali Khan S/o Tarique Khan Ex-Constable, R/o
Near G.H.S Boys High School, Shakul Bandi Tehsil and
District Abbottabad, do hereby solemnly affirm and declare
that all the contents of the accompanying **Application** are true
and correct to the best of my knowledge and belief and nothing
has been concealed from this Hon'ble Tribunal.

Niaz Ali
DEPONENT



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

C.M. No. _____/2018

In

Appeal No. 1196/2013

Niaz Ali Khan.....(Petitioner)

VERSUS

District Police Officer and others.....(Respondents)

ADDRESSES OF THE PARTIES

PETITIONER:

Niaz Ali Khan S/o Tarique Khan Ex-Constable, R/o Near
G.H.S Boys High School, Shakul Bandi Tehsil and District
Abbottabad.

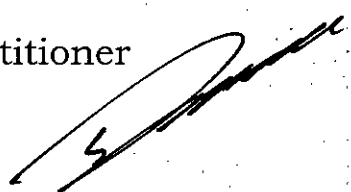
RESPONDENTS:

1. District Police Officer, Abbottabad.
2. Deputy Inspector General of Police, Hazara Region,
Abbottabad.
3. Provincial Police Officer (IGP) Khyber Pakhtunkhwa.
4. Secretary to Home Department, Government of Khyber
Pakhtunkhwa, Peshawar.

Petitioner

Through

Dated: 09/03/2018


Malik Shakeel Khan
Advocate High Court,
Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT ABBOTTABAD

Service Appeal No. 1196/2013

Date of Institution... 02.08.2013

Date of decision... 22.11.2017



Niaz Ali Khan S/o Tarique Khan Ex-constable,
R/O near G.H.S Boys High School, Shakul Bandi Tehsil and District
Abbottabad. ... (Appellant)

Versus

1. District Police Officer, Abbottabad and 3others.
.... (Respondents)

MR. ABDUL AZIZ KHAN TANOLI,
Advocate

For appellant.

MR. KABIR ULLAH KHATTAK
Additional Advocate General

For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. AHMAD HASSAN,

CHAIRMAN
MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: Arguments of the learned counsel
for the parties heard and record perused.

FACTS

2. The appellant was discharged from service on 15.11.2011 w.e.f 13.11.2011
against which he filed departmental appeal on 12.04.2013 which was rejected on
01.07.2013 thereafter the appellant filed the present service appeal on 30.07.2013. The

ATTESTED

(Signature)
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

charge against the accused is involvement in a Harabah case regarding which FIR was chalked out on 13.11.2011.

ARGUMENTS

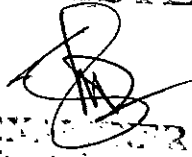
3. The learned counsel for the appellant argued that the FIR was chalked out on 13.11.2011 and the appellant was removed on 15.11.2011 in exercise of the power under Police Rules 12.21 of 1934. Learned counsel for the appellant further argued that no enquiry has been conducted by the department. That no show cause notice was issued to the appellant. That the appellant could not be discharged under the above mentioned rules. Regarding late submission of departmental appeal the learned counsel for the appellant argued that the appellant was arrested on the very first day of the chalking of FIR and he remained in custody till 25.03.2013 when the court acquitted him of the charge. That he filed departmental appeal within 30 days of his release from jail and his departmental appeal is within time.

4. On the other hand, the learned Addl. Advocate General argued that the departmental appeal is time barred which fact has been mentioned by the appellate authority in order of rejection dated 01.07.2013 therefore, the present service appeal is also time barred. He further argued that under 12.21 Police Rules, 1934 there was no need of holding of any enquiry or issuing any notice as the said rules do not provided for any such requirement.

CONCLUSION.

5. Admittedly the appellant was incarcerated right from the first day of chalking of FIR. He as admittedly released from jail on 25.03.2013 at the time of acquittal and then

ATTESTED


 JUDGE
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

he filed departmental appeal. There is no evidence that the appellant was communicated the impugned order in jail. The departmental appeal is therefore within time and for that matter the present service appeal is also within time.

6. Coming to Rule 12.21 of the Police Rules the said rules deals with inefficiency. The constable can be discharged if he is proved to be inefficient or unlikely to be proved an inefficient police officer. He cannot be discharged for misconduct. The impugned order relates not to inefficiency but to a misconduct of the appellant for his involvement in a criminal case. It is also an established position of administrative law that even a probationer if terminated/discharged on the ground of misconduct then notice is must to the civil servant because misconduct carries a stigma for whole life which the department cannot decide without notice to the aggrieved civil servant. In this regard judgments reported as PLD 1985 SC 134, 1993 SCMR 603, 1410 and PLD 1994 SC 222 are relevant.

7. As a sequel to the above discussion, the impugned order cannot be sustained in the eyes of law. The appeal is accepted and the department is directed to hold denovo proceedings in accordance with the law within a period of 90 days from the date of receipt of this judgment, failing which the appellant shall be reinstated in service. Parties are left to bear their own costs. File be consigned to the record room.

Announced

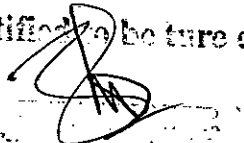
22-11-2017

SD/- Niaz Muhammad Khan,

Chairman

Cantt Const A/Abad.

Certified to be true copy



Khyber Pakhtunkhwa
Civil Tribunal,
Peshawar

SD/- Ahmad Hassan,

Member.

Before The K-P-K Small Tribunal at

Niaz Ali Khan s/o Tanzeel Khan Ex Constable
R/O near G. H. S Boys High School, Shakal Bandi
Teh & Dis Abbottabad ———— App Petitioner.

- (1) District Police officer. ^{V/S.} Abbottabad
(2)
(3)

Respondents

Application for implementation of Judgment
of this Honourable Court passed in Appeal
NO 1196/2013 | dated 22/11/12

Respectfully Sheweth =

- (1) That the Respondent Department - Discharge
the app petition from his service on 15-11-2011
- (2) that the petitioner filed Appeal NO 1196/13
against the impugned order dated 15-11-2011
Before this Honourable Tribunal copy of Appeal
is Annexed AS Annexure (A)
- (3) That this Honourable Tribunal on acceptance
of Appeal of the petitioner Respondents was directed
to conduct De novo proceeding in accordance with
the Law within a period of 90 days from the
Date of receipt of Judgment, failing which
the appeal shall be reinstated in service.

that the petitioner after obtaining copy of Judgment from this Honorable court submitted along with application before for implementation of Judgment before Respondents on _____ through T.C.S as well as personal copy of application for implementation of Judgment and T.C.S Receipt is Annexed as Annexure C & D

(5) That Respondents, after received of Judgment of this Honorable court issued charge sheet to petitioner. copy of charge sheet & Annexure (E)

(6) That the petitioner submitted his reply of the charge sheet much before the time which was given by the Respondents for reply copy of Reply is Annexure F

(7) That the time period which was given by this Honorable court to Respondent for conduct of Regular inquiry is also all ready been elapsed. but the inquiry ~~was~~

(8) That the Respondent Report not only uptill now concluded the ^{mat} inquiry but not recorded the statement of the any witnesses or complaint.

(9) That according to the Direction of Judgment of this Honorable court now Respondent has no right to conduct the inquiry or conclude the inquiry against the petitioner.

(10) That Respondent failed to conduct the inquiry against the petitioner in accordance with the judgment of this Honorable court

It is therefore Respectfully prayed that on
acceptance of this petition Respondent
Respondents may graciously be directed to
reinstiate the petitioner in his Service with
all back benefits in accordance with
the For Judgment of this Honorable Court
may be Petitioner

قیمت
50 روپے



29475

ایڈوکیٹ: _____
بار کونسل ایسوسی ایشن نمبر: _____
رابطہ نمبر: 0346-9566554

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: _____

مخانب:	دعویٰ:
Petitioner	_____
بنام ڈی بی او	علت نمبر:
اسٹریٹ آبار ولسٹرہ	_____
	مورخہ:

	جرم:

	تھانہ:

باعت تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

آن مقام لکھنؤ کیلئے مسکت شکل خان کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 913/2018

_____ واد شد _____
مقام _____ کے لیے منظور ہے

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

Petitioner
Niaz Ali

وکالت نامہ

کورٹ فیس

بعدالت سروس ٹریڈنگ (پبلک لٹریچر) ایسٹ ایڈ۔ KPR

عنوان: نیاز علی نام DPO ایسٹ ایڈ۔

منجانب: نیاز علی - ایسٹ ایڈ / اسٹیٹ

نوعیت مقدمہ:

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کارروائی متعلقہ آن مقام

ساحرا حاصل اسٹریٹنگ ایسٹ ایڈ

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا نیز وکیل صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برصفت دہینے اقبال دعویٰ اور بصورت دیگر ذکر کرانے اجراء

وصولی چیک روپیہ و مرضی دعویٰ کی تصدیق اور اس پر دخل کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کی کل یا کسی جزوی کارروائی کے لئے کسی اور وکیل یا محکمہ صاحب کالونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار

بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور وہی ہی اختیارات ہوں گے اور اس کا ساختہ پر ساختہ مجھ کو منظور قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔

نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر محکمہ مقرر کردہ میں کوئی جزو چھایا ہو تو وکیل صاحب موصوف

مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست براد استجارت نائش بیخہ مفلسی کے دائرہ کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

بمقام: نیاز علی
المقوم: Accepted
۲۴.5.20۲۰

السید

نیاز علی - سٹیٹ / اسٹیٹ ٹریڈنگ وکیل ہونے

BEFOR THE SEVICE TRIBUNAL OF KHYBER PAKHTUNKHWA

PESHAWAR.

E-P No. 71/18

Niaz Ali Khan S/O Tarique Khan Ex-Constable , R/O Near G.H.S Boys High School ,Shakhul Bandi Tehsil And District Abbottabad.....(Petitioner)

Versus

1. District Police Officer, Abbottabad.
2. Deputy Inspector General Of Police ,Hazara Region, Abbottabad.
3. Provincial Police Officer (IGP) Khyber Pakhtunkhwa.
4. Secretary To Home Department , Government Of Khyber PakhtunKhwa , Peshawar.....(Respondents)


COMPLIANCE REPORT

it is submitted that in compliance of judgment dated 22-11-2017_khyber pakhtunkhwa service tribunal in service appeal No 1192/2013 respondents initiated the denovo inquiry against the petitioner . He was issued fresh charge sheet alongwith the summary of allegation and proper departmental inquiry was initiated by appointing SP investigation Abbottabad as inquiry officer (copy of charge sheet and statement of allegation are attached herewith) .

The inquiry officer after completion of inquiry submitted finding wherein the petitioner was found guilty and recommended for major punishment . In light of the recommendation of inquiry officer the petitioner was dismissed Vid: Order No 1539 dated 02-05-2018 by respondent.

(Copy of inquiry findings and dismissal order attached herewith)

Submitted please.


DSP LEGAL

ABBOTTABAD

(نیا علی 601)

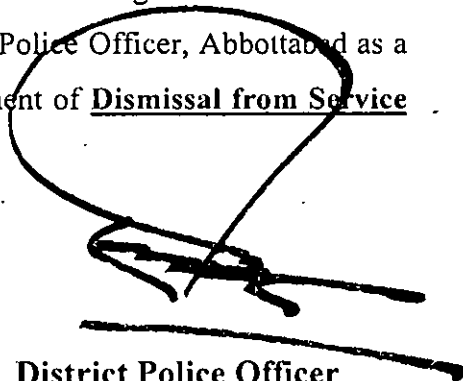
ORDER

In compliance with the judgment of Honorable Service Tribunal Peshawar Appeal No. 1196/2013 and Worthy Deputy Inspector General of Police Enquiry & Inspection Khyber Pakhtunkhwa vide letter No. 58/E&I dated 10-01-2018, Constable Niaz Ali No. 601 who was arrested on the pointation of complainant of case FIR No. 852 dated 13-11-2011 U/S 17(3) Haraba/347/506/365/389 PPC PS Cantt., for receiving Rs. 50,000/- and on body search Mobile Phone, Pistol 30 Bore, Service Card and Pocket Phone were also recovered from him, besides nude pictures of complainant and friends found in his Phone as reported in the FIR was charge sheeted accordingly.

He was issued Charge Sheet along with statement of allegations as per order of Honorable Court Mr. Abdul Aziz Afridi, SP Investigation Abbottabad was appointed as Enquiry Officer. He conducted proper departmental enquiry against the delinquent officer and recorded statements of all concerned. After conducting proper departmental enquiry, the Enquiry Officer submitted his findings, wherein allegations have been proved. Consequently he was issued Final Show Cause Notice and sent to his home address through local Police of PS Cantt: but he refused to receive Final Show Cause Notice. An advertisement was published through local Newspaper Daily Shamal Abbottabad on 12-04-2018 for him to receive the Final Show Cause Notice within 07 days but he failed to collect/receive the same.

Therefore, in exercise of the powers vested in the undersigned under of Police Disciplinary Rules-1975, I, Syed Ashfaq Anwar PSP, District Police Officer, Abbottabad as a competent authority, am constrained to award him the punishment of Dismissal from Service with immediate effect.

Order announced.


District Police Officer
Abbottabad

No.1539-42/PA 2 - 05 - 2018

CC.

1. Deputy Inspector General of Police Enquiry and Inspections, Khyber Pakhtunkhwa Peshawar.
2. DSP, Legal Abbottabad for necessary action.
3. Establishment Assistant/Pay Officer DPO Office Abbottabad.
4. OASI DPO Office alongwith complete Enquiry File containing 85 pages for completion of record.

OB - NO - 137

2 - 5 - 18


District Police Officer
Abbottabad

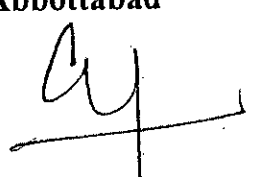
OFFICE OF THE DISTRICT POLICE OFFICER, ABBOTTABAD

No: 510 /PA, Dated Abbottabad, the 24/02/2018.

FINAL SHOW CAUSE NOTICE
(Unit Rule (3) KPK Police Rules, 1975)

1. That you Constable Niaz Ali No. 601, rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunkhwa Police Rules 1975 for following misconduct;
 - I. In compliance with the judgment of Honorable Service Tribunal Camp Court at Abbottabad appeal No.1196/2013 and Worthy Deputy Inspector General of Police Enquiry & Inspection Khyber Pakhtunkhwa vide letter No. D/S/E&I dated 10-01-2018, you were arrested on the pointation of complainant of case FIR No. 852 dated 13-11-2011 U/S 17 (3) Haraba/347/506/365/389 PPC PS Cantt. You were called on Mobile Phone to receive Rs. 50,000/-. On body search Mobile Phone, Pistol 30 Bore, Service Card and Pocket Phone were also recovered from you. Your Mobile Phone was operated on which nude pictures of complainant and friends were found as reported in the FIR, which is tantamount to gross misconduct.
 - II. During proper departmental enquiry the allegations have been proved against you.
2. That by reason of above, as sufficient material is placed before the undersigned therefore it is decided to proceed against you in general Police proceedings without aid of enquiry officer;
3. That the misconduct on your part is prejudicial to good order of discipline in the Police force.
4. That your retention in the police force will amount to encouragement of inefficient Police officers;
5. That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action against you by awarding one or more of the kind punishments as provided in the Rules.
6. You are, therefore, called upon to Final Show Cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 for the misconduct referred to above.
7. You should submit reply to this Final Show Cause Notice within 07 days of the receipt of the notice failing which an ex parte action shall be taken against you.
8. You are further directed to inform the undersigned that you wish to be heard in person or not.
9. Grounds of action are also enclosed with this notice.


District Police Officer
Abbottabad



CHARGE SHEET

1) I Syed Ashfaq Anwar (PSP) District Police Officer Abbottabad as competent authority hereby charge you Constable Naiz Ali No. 601 as explained in the attached statement of allegations.

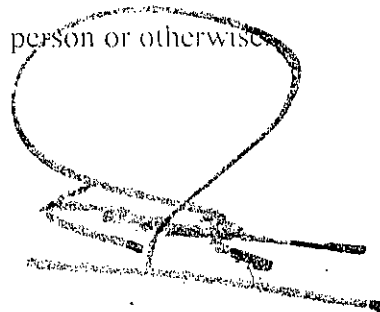
2) You appear to be guilty of misconduct under Police disciplinary Rules 1975, and have rendered yourself liable to all or any of the penalties specified in the said Police Disciplinary Rules.

3) You are therefore, directed to submit your written defense within seven days on the receipt of this Charge Sheet in the Enquiry Officer.

4) Your written defense, if any shall reach the Enquiry Officer with in the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall follow against you.

5) Intimate whether you desire to be heard in person or otherwise.

6) A statement of allegations is enclosed.



SYED ASHFAQ ANWAR (PSP)
District Police Officer
Abbottabad



DISCIPLINARY ACTION

I Syed Ashfaq Anwar (PSP) District Police Officer Abbottabad, as Competent Authority of the opinion that you Constable Naiz Ali No. 601 rendered yourself liable to be proceeded against as you committed the following act/omission within the meaning of Police Disciplinary Rules 1975.

STATEMENT OF THE ALLEGATIONS

i. In compliance with the judgment of Honorable Service Tribunal Camp Court at Abbottabad appeal No.1196/2013 and Worthy Deputy Inspector General of Police Enquiry & Inspection Khyber Paktunkhawa vide letter No. 58/E&I dated 10-01-2018, you were arrested on the pointation of complainant of case FIR No. 852 dated 13-11-2011 U/S 17 (3) Haraba / 347/506/365/389 PPC PS Cantt. You were called on Mobile Phone to receive Rs. 50,000/-. On ~~his~~ body search Mobile Phone, Pistol 30 Bore, Service Card and Pocket Phone were also recovered, ~~from~~ Your Mobile Phone was operated on which nude pictures of complainant and friends were found as reported in the FIR, which is tantamount to gross misconduct.

2). For the purpose of scrutinizing your conduct with reference to the above allegations, Mr. Abdul Aziz Khan Afridi SP Investigation is appointed as Enquiry Officer.

3). The Enquiry Officer shall in accordance with the provision of this ordinance, provide reasonable opportunity of hearing to the accused, record finding and make within 25 days of the receipt of this order, recommendation as to punishment or the appropriate action the accused.

4). The accused a well conversant representative of departmental shall in the proceedings on the date, time and place fixed by the Enquiry Officer.

SYED ASHFAQ ANWAR (PSP)
District Police Officer
Abbottabad

No: 27 /PA. Dated Abbottabad the 19/01/2018.
CC:

1. Constable Naiz Ali No. 601 with the direction to submit his defense within 07 days of the receipt of this statement of allegations and also to appear before the Enquiry Officer of the date, time and place fixed for the purpose of departmental proceedings.

**FINDING OF DENOVO DEPARTMENTAL ENQUIRY AGAINST
CONSTABLE NIAZ ALI NO: 601**

BACKGROUND:-

In compliance with the Judgment of Honorable Service Tribunal Camp Court at Abbottabad appeal No: 1196/2013 and Worthy Deputy Inspector General of Police Enquiry & Inspection Khyber Pakhtunkhwa vide letter No: 58/E&I dated 10-01-2018, Charge Sheet & Summary of allegations No: 29/PA dated 19-01-2018 issued by your good office with regard to Denovo inquiry against constable Naiz Ali No: 601 that, *"you were arrested on the pointation of complainant of case FIR No: 852 dated 13-11-2011 u/s 17(3) Haraba /347/506/365/389 PPC PS Cantt. You were called on Mobile Phone to receive Rs. 50,000/-. On body search Mobile Phone, Pistol 30 bore, Service Card and Pocket phone were also recovered from you. Your Mobile Phone was operated on which nude pictures of complainant and friends were found as reported in the FIR, which is tantamount gross misconduct"* and I was appointed as enquiry officer.

The judgment passed by the Honorable Service Tribunal Camp Court, Abbottabad, in Service Appeal No: 1196/2013, titled Niaz Ali Khan S/O Tariq Khan Ex-Constable, R/O near G.H.S Boys High School, Shakul Bandi Tehsil & District, Abbottabad VS District Police Officer, Abbottabad and 03 other respondents, the appeal of said Constable was accepted and the department was directed to "hold de-novo proceedings in accordance with the law".

PROCEEDINGS:-

During the course of enquiry the following officials/civilians were called upon /summoned by the undersigned and their statement were got recorded also the cross question session was made which are placed on file.

1. SI Muhammad Aslam Khan I/C PP Khotiyala, Abbottabad.
2. ASI Muhammad Riaz of PP Kohala.
3. Constable Rustum No: 80 of PS Mangal.
4. Constable Zaheer Safdar No: 635 of Police Lines, Abbottabad.
5. Constable Mehboob Khan No: 51 of PS City.
6. Asif Ali S/O Muhammad Banaras R/O Lamba Banda, Jhangi, Abbottabad.
7. Noman Khan S/O Abdul Jalil R/O Lamba Banda, Jhangi, Abbottabad.
8. Constable Niaz Ali No: 601 (Accused official)

The applicant of the case vide FIR No: 852 dated 13-11-2011 u/s 17(3) Haraba /347/506/365/389 PPC PS Cantt, Muhammad Zarrar Ehtisham S/O Major Ehtisham caste Pathan R/O Army School of Physical Training Kakul, Abbottabad with called upon by the undersigned time and again through SHO concerned but he miserably failed to join the enquiry proceedings.

During the course of investigation ASI Saleem Khan arrested all the accused and after completion of investigation complete challan was submitted to the competent court of law.

Thereafter, Constable Niaz Ali was awarded Major Punishment of Discharge from service under the rule 12-21 being less than 03 years service at his credit. The accused official submitted an appeal to the Worthy Regional Police Officer, Hazara Region for re-instatement in service after his release but was turned down by the competent authority and then he moved his appeal in service tribunal. In the instant case all the charged accused were acquitted by the competent court of law due to lack of evidence by the prosecution/ on technical grounds.

All the witnesses /officials /civilians were heard in person one by one who had taken the plea that:-

1. STATEMENT OF SI MUHAMMAD ASLAM I/C PP KHOTIYALA, ABBOTTABAD.

He stated in his statement that on 13-11-2011 he while posted as ASI Investigation Police station Cantt, Abbottabad. Investigation of the case vide FIR No: 852 dated 13-11-2011 u/s 17(3) Haraba /347/506/365/389 PPC was handed over to him by OII PS Cantt. He along with SHO and police party arrested the two accused on the pointation of complainant of the case who disclosed their names as Niaz Ali (Constable) and Baber Zaib s/o Aurangzeb. On the body search of Niaz Ali one Wireless pocket phone, 01 pistol, 02 Magazines loaded with cartridges, and CNICs were recovered. Thereafter, both the accused were arrested and after obtaining custody they were interrogated. Statements u/s 161 Cr.p.c of the accused were recorded and after completion of investigation both the accused were sent to judicial district jail. Both the accused were found guilty during investigation.

2. STATEMENT OF ASI MUHAMMAD RIAZ OF PP KOHALA, ABBOTTABAD.

Riaz Khan stated in his statement that while he was posted at PS Cantt, on 23-11-2011 Mr. Fawad Khatak produced a wireless set in his presence and handed over the same to the I.O of the case Muhammad Aslam in case vide FIR No: 852 dated 13-11-2011 u/s 17 (3) Haraba /347/506/365/389 PPC. Later on, the I.O made separate (fard) which was signed by him and constable Chanzaib No: 38 also. He further stated that his statement u/s 161 Cr.P.C is present in case file which is correct.

3. STATEMENT OF CONSTABLE RUSTUM NO: 80 OF PS MANGAL.

He stated in his statement that during the year 2011 he was posted at PS Cantt, on 19-11-2011 ASI Aslam Khan was conducting the investigation of the case vide FIR No: 852 dated 13-11-2011 u/s 17 (3) Haraba /347/506/365/389 PPC Cantt, he was also accompanied by him. In his presence one Noman alias Nomi s/o Abdul Jalil caste Pathan r/o Lamba Banda produced a Honda Motor Cycle bearing No: 9640-STL, Model 2002 to the I.O by stating that 10/12 days before

incident he took the same from Niaz Ali and Baber Zaib now he returning the same.

4. STATEMENT OF FC ZAHEER SAFDAR NO: 635 OF POLICE LINES.

He stated that he while posted at Magazine guard on 20-11-2011 he had lost his purse with cash amount Rs. 1000, CNIC and police Service Card. After two week his purse was left by somebody on magazine guard in which amount Rs 1000/- and CNIC were missing. Later on, his CNIC was recovered from the possession of Constable Niaz Ali who was also deputed on magazine guard during the days of incident. He further stated that now he is sure that his CNIC and amount Rs 1000/- was also stolen by Constable Niaz Ali.

5. STATEMENT OF CONSTABLE MEHBOOB KHAN NO: 51 OF PS CITY.

He stated in his statement that on 14-11-2011 he along with ASI Aslam Khan took the accused with him for pointation. On the way near Manserha Ada at Eid-gah they stopped and made pointation of incident. Thereafter, they left for Mandian Kaghan Colony for further pointation, where at the roof of one banglow they made pointation.

6. STATEMENT OF ASIF ALI S/O MUHAMMAD BANARAS R/O LAMBA BANDA P.O JHANGI, ABBOTTABAD.

He stated in his statement that prior to the incident he did not know Niaz Ali. He met with Niaz Ali on the shop of Noman where he handed over one CNIC of unknown person to him for sending to his real owner. During investigation the same was recovered from the Niaz Ali in this connection the local police called them and was arrested in the said case and were sent to district jail. He further stated that he being innocent was released from the court and was innocently involved in the case.

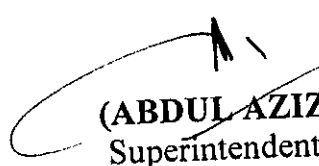
7. STATEMENT OF NOMAN KHAN S/O ABDUL JALIL R/O LAMBA BANDA P.O PUBLIC SCHOOL ABBOTTABAD.

He stated in his statement that on 09-11-2011 before the registration of case vide FIR No: 852 dated 13-11-2011 u/s 17(3) Haraba /347/506/365/389 PPC Cantt, one shoaib Ahmed r/o Mirpur brought motor cycle No: 9640 for repairing. Later on local police came on his shop and enquired whether the same moter cycle was taken away by Niaz Ali from his shop or otherwise. He disclosed that local police directed him to brought the motorcycle to PS which will be handed over to him after clearance. The motorcycle was not handed over to them by the local police while he got the same Motor Cycle on Superdari from concerned court. He also furnished the copy of affidavit in this regard.

CONCLUSION:-

Keeping in view the facts and circumstance narrated above, the undersigned minutely examined the case file as well as statement of all concerned recorded during enquiry process. The defaulter official was given ample opportunity during cross examination. The undersigned came to the conclusion that, he had less then 03 year service at his credit and he involved himself in different criminal activities. He was rightly charged in the case and dismissed from service under Police Rules 12-21 by the competent authority. Although criminal charge leveled against accused official have not been proved on technical grounds in trial court but according to the evidence available on record, charges against the defaulter official Constable Niaz Ali has been proved and he is found guilty for the allegations mentioned in the charge sheet & summary of allegations, Therefore, he is recommended for major Punishment.

Submitted please.


(ABDUL AZIZ AFRIDI)
Superintendent of Police,
Investigation, Abbottabad.

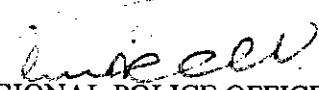
ORDER


This order is hereby passed to dispose off departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules 1975 submitted by Constable Niaz Ali No: 601 of Abbottabad against the order of punishment i.e. **Dismissal from service** awarded to him by the District Police Officer, Abbottabad vide his OB No: 137, dated 02.05.2018.

Facts leading to punishment awarded to him are that he while posted at Police Lines Abbottabad was arrested on the pointation of complainant of case FIR No. 852 dated 13.11.2011 u/s 17(3) Haraba /347/506/389 PPC Police Station Cantt: Abbottabad. Therefore, he was **discharge form service under P.R 12-21 vide OB No. 388 dated 15.11.2011** by the then District Police Officer, Abbottabad in accordance with rules. Applicant field a departmental appeal before the then Regional Police Officer, Hazara Region Abbottabad which was rejected. Consequently he Preferred Service Appeal No. 1192/2013 before the Honorable Service Tribunal which was accepted on 22.11.2017 with the direction that "**Department is directed to hold Denovo Proceeding in accordance with law within a period of 90 days form the date of receipt of this judgment**". In compliance of judgment dated 22-11-2017 Khyber Pakhtunkhwa Service Tribunal in service Appeal No. 1192/2013 denovo enquiry was initiated against the applicant, he was issued fresh charge sheet along with the summary of allegation and proper departmental enquiry was conducted by SP Investigation Abbottabad. The Enquiry officer, after completion of enquiry submitted his finding report wherein the applicant was found guilty and recommended for major punishment. In light of the recommendation of enquiry he was **dismissed from service vide Order No. 1539 dated 05.02.2018** by the competent authority accordingly.

After receiving his appeal, comments of DPO Abbottabad were obtained which were examined/ perused. He was called in O.R on 04.04.2019, heard him in person. The undersigned went through the case file and reference para No: 14 page No: 8 of the Court proceeding in which the Judge observed that owing to weak prosecution version benefit of doubt is to be given to the accused. Court also observed that Denovo enquiry be conducted within 90 days and that had not been conducted within stipulated time frame. Hence by taking lenient view he is to be reinstated in service and punishment be converted into forfeiture of one year approved service. The period during which he remained out of service is treated as leave without pay.

No. 1218 /PA, dated Abbottabad the 81/4 2019. 2
Copy of above is forwarded to the District Police Officer, Abbottabad w/r to his office letter No: 823/Legal, dated 21-02-2019 for information and necessary action. Service Roll & Fauji Missal containing enquiry file are returned for your office record.


REGIONAL POLICE OFFICER
Hazara Region Abbottabad


REGIONAL POLICE OFFICER
Hazara Region Abbottabad