

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No.10296/2020

Date of Institution ... 07.09.2020
Date of Decision ... 12.01.2023

Fayaz Ali (Ex-LHC No. 506) S/o Amanat R/o Shehbaz Garhi, District
Mardan.

... (Appellant)

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and three
others.

... (Respondents)

Javid Iqbal Gulbella
Advocate

... For appellant

Naseer Ud Din Shah
Assistant Advocate General

... For respondents

Mrs. Rozina Rehman

... Member (J)

Miss Fareeha Paul

... Member (E)

JUDGMENT

ROZINA REHMAN, MEMBER (J): The appellant has invoked the
jurisdiction of this Tribunal through above titled appeal with the prayer
as copied below:

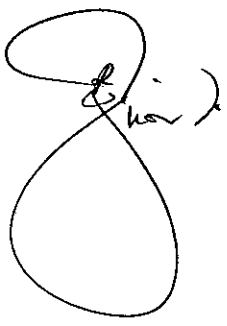
“That on acceptance of this appeal the office order
dated 01.12.2019 of the office of District Police Officer
Mardan whereby the appellant has been dismissed from
service & the impugned office order dated 07.02.2020 of the
office of Regional Police Officer Mardan, whereby the
departmental appeal of the appellant was turned down may

graciously be set aside and by doing so the appellant may very graciously be reinstated into service with all back benefits.”

2. Brief facts of the case are that appellant was appointed as constable in the police department. He was performing his duties at District Police Mardan, where from he was transferred to Special Branch, Police Lines Peshawar. It was in the back drop of February/March 2019 when appellant was charged in three different criminal cases. He was suspended vide order dated 21.02.2019 being involved in criminal cases registered at police station Sehikh Maltoon Mardan and lastly he was dismissed form service vide impugned order dated 01.12.2019. Feeling aggrieved he preferred departmental appeal which was dismissed. He then moved another appeal to the office of Inspector General of Police KP but the same was not responded to, hence the present service appeal.

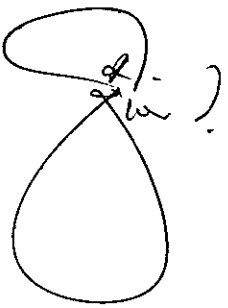
3. We have heard Javid Iqbal Gulbella, Advocate learned counsel for the appellant and Naseer Ud Din Shah, learned Assistant Advocate General for respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Javid Iqbal Gulbella Advocate, learned counsel for the appellant submitted that impugned orders are wrong, illegal against law and facts hence not tenable and liable to be set aside. He contended that no proper inquiry was ever conducted in the case of appellant and that he was never heard in person. No opportunity of cross examination was ever afforded to the appellant and that he was condemned unheard. He



submitted that appellant was charged in false criminal cases and that his absence was not intentional but due to his nomination in the false and frivolous cases. That no charge sheet alongwith statement of allegations was ever issued to the appellant and that no show cause notice was issued which is mandatory provision of law. Lastly, he submitted that the appellant was acquitted in all the three criminal cases, therefore, it was requested that he may be reinstated into service with all back benefits

5. Conversely, learned AAG submitted that the appellant was charged in 3 different criminal cases vide FIR No. 89 dated 20.02.2019 U/S 387/506/420/411/34 PPC, FIR No. 90 dated 21.02.2019 U/S 392/347/167/420 PPC and FIR No. 98 dated 01.03.2019 U/S 406/387/420/411/167/34 PPC at Police Station Sheikh Maltoon, Mardan due to which he was suspended by the competent authority. That being the member of police force, he was supposed to surrender himself to the local police, if he was innocent but instead he went into hiding to avoid his lawful arrest. He contended that he was properly proceeded against departmentally by issuing him charge sheet with statement of allegations and inquiry was entrusted to the then SDPO city Mardan who provided full opportunity to the appellant to produce evidence but fiasco and that after fulfillment of all legal and codal formalities he was awarded major punishment of dismissal from service which does commensurate with the gravity of misconduct of the appellant.



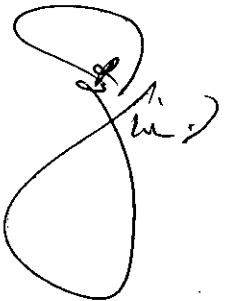
6. We have heard learned counsel for the parties and perused the record carefully. From the record it is evident that departmental proceedings were initiated against LHC Fayaz Ali No. 506 under the allegations that he while posted at Special Branch KP was placed under suspension and closed to police lines vide order dated 10.04.2019 on account of his involvement in three different criminal cases. The detail whereof is given below:

1. FIR No. 89 dated 20.02.2019 U/S 387/506/420/34 PPC
2. FIR No. 90 dated 21.02.2019 U/S 392/347/167/420 PPC
3. FIR No. 98 dated 01.03.2019 U/S 406/387/420/411/167/34 PPC

From the impugned order dated 01.12.2019 it is evident that the allegations against the appellant were just in respect of his involvement in three different criminal cases. He alongwith one Amanat Khan were acquitted of the charges leveled against him vide FIR No. 89 dated 20.02.2019 by the learned ASJ-I Mardan vide order dated 14.01.2021. In case FIR No. 90 dated 21.02.2019, the present appellant was acquitted by the learned Judicial Magistrate-I Mardan on 17.03.2020. He was also acquitted in case FIR No. 98 dated 01.03.2019 by the learned ASJ-VI, Mardan vide order dated 04.12.2019. The inquiry report was produced by the respondents and is available on file. It was simply mentioned therein that LHC Fayaz Ali while posted at special branch had arranged baseless press conference of the below mentioned cases in which he was charged.

1. FIR No. 88 dated 20.02.2019 U/S 387/506/420/34 PPC
2. FIR No. 90 dated 21.02.2019 U/S 392/347/167/420 PPC
3. FIR No. 98 dated 01.03.2019 U/S 406/387/420/411/167/34 PPC

From perusal of inquiry report against the appellant it becomes crystal clear that the inquiry was not in respect of his involvement in three different criminal cases rather it was conducted as allegedly he had arranged baseless press conference in respect of three criminal cases. Admittedly he did nothing regarding press conference as it was never agitated that he attended the press conference. The arrangement of press conference was never proved as no cogent evidence was produced in this regard and the inquiry officer held responsible the present appellant for arranging a baseless press conference and that he was of bad character. On one hand he was awarded major punishment for his involvement in three criminal cases while on the other hand he was just held responsible for arranging a baseless press conference in respect of criminal cases. There is no absence on the part of the appellant except his involvement in criminal cases and he was acquitted in all the three cases by competent courts of law. So far as limitation is concerned present appellant was dismissed from service vide order dated 01.12.2019. He preferred departmental appeal on 24.12.2019 and his appeal was decided by Regional Police Officer Mardan on 07.02.2020 which shows that his appeal was well within time. He then preferred revision petition under Section 11-A of Police Rules 1975 which also met the same fate vide order dated 16.11.2020. However, his revision petition was decided during pendency of his service appeal. Law favours adjudication on merits and procedural technicalities should not be allowed to stand in the way of administration of justice.




7. It has been held by the superior fora that all acquittals are certainly honorable. There can be no acquittal which may be said to be dishonorable. Nomination/Involvement of the appellant in criminal case was the only ground on which he had been dismissed from service and the said ground had subsequently disappeared through his acquittal, making him re-emerge as a fit and proper person entitled to continue his service.

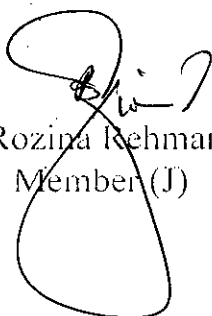
8. It is established from the record that charges of his involvement in criminal case ultimately culminated in honorable acquittal of the appellant by the competent court of Law. In this respect we have sought guidance from 1988 PLC (CS) 179, 2003 SCMR 215 and PLD 2010 Supreme Court, 695.

9. For the above mentioned facts and circumstances, this appeal is allowed as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

12.01.2023


(Fareeha Patel)
Member (E)


(Rozina Rehman)
Member (J)

ORDER

12.01.2023


Appellant present through counsel.

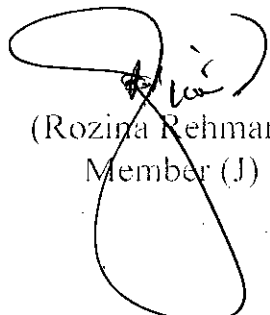
Naseer Ud Din Shah learned Assistant Advocate General for respondents present. Arguments heard. Record perused.

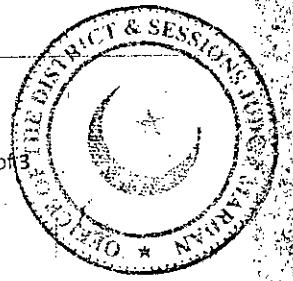
Vide our detailed judgment of today placed on file, instant service appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

12.01.2023


(Freeha Paul)
Member (E)


(Rozina Rehman)
Member (J)



IN THE COURT OF SYED KAMAL HUSSAIN SHAH,
ADDITIONAL SESSIONS JUDGE-I, MARDAN.

"State ... versus ... Amanat & others"
Case No. 79/SC of 2020

ORDER—31
Dt: 14.01.2021

1. APP for State is present. Accused facing trial Amanat Khan and Fayaz Ali are present on bail alongwith their counsel. Co-accused Mst.Saba Gul remained at large. Learned counsel for complainant is present.
2. This order is directed to decide fate of application submitted by learned defense counsel for the acquittal of accused facing trial under Section 265-C Cr.P.C, charged in the instant case FIR No.89 dated 20.02.2019 under Sections 506/387/420/ 411/34 PPC read with Section 15AA and Section 119 of Police Act, 2017 of Police Station Sheikh Maltoon, Mardan.
3. Arguments on application moved under Section 265-K Cr.P.C for acquittal of accused facing trial Amanat Khan and Fayaz Ali heard and record perused. For ready reference relevant contents and averments of the subject application are reproduced here under:
- "2)— That, in the instant case complainant has recorded his statement regarding innocence of accused facing trial.
- 3)— That, in the instant case prosecution is nothing but just to waste precious time of this Honourable Court."
4. Learned defense counsel in support of the above referred application argued that the complainant has not charged the accused facing trial in his statement. In this respect he referred to the statement of complainant recorded as PW-1 available on case file. He added that keeping in view testimony of complainant the continuation of proceedings in the instant case may be wastage of precious time of Court, therefore, requested an order of acquittal in favour of accused facing trial by deriving wisdom of the law contained in Section 265-K Cr.P.C.

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27 JAN 2021

Examiner Copying Branch
Session Court Mardan

"State ... versus ... Amanat & others"
Case No. 79/SC of 2020

ORDER—31 (Contd:)

Dt; 14.01.2021

- 12)
5. Learned State counsel and learned private counsel for complainant did not oppose the subject application.
6. Perusal of record reveals that after framing of formal charge prosecution evidence was summoned. In this connection statement of complainant was recorded on 27.11.2019 in the capacity of PW-1. During cross-examination he admitted that the occurrence took place on 14.02.2019, while he reported the matter with the delay of six days. He further admitted that I have not disclosed any source of satisfaction in my report neither explained the cause of delay. That, I do not know about the said occurrence. None have snatched any amount from my possession. I do not know accused Fayaz nor charging him and in this respect I have sworn an affidavit before the High Court. During cross-examination from the State counsel the complainant PW-1 further admitted that eye-witness Usman also accompanied me to police station and he did not thumb impress any document. In his volunteer statement the complainant PW-1 deposed that he went to police station for charging accused facing trial Amanat for my outstanding amount.
7. The above statements of complainant/PW-1 do make it clear that he is not charging the accused facing trial for the alleged commission of offence. As per available record he is the only star witness and alleged affectee. In the face of his backing out of his position to charge accused facing trial for the alleged offences the prosecution is certainly not in a position to prove anything potential against accused facing trial. This Court agree with learned defence counsel that further continuation and prolongation of trial in hand may be of no use and the same may not benefit the prosecution in any way. Therefore, by deriving wisdom of the law contained in Section 265-K Cr.P.C the accused facing trial namely Amanat Khan and Fayaz Ali are acquitted of the charges leveled against them, keeping in view statements of complainant.

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Session Court Mardan

"State ... versus ... Amanat & others"
Case No.79/SC of 2020

ORDER—31 (Contd:)
Dt; 14.01.2021

8. Meanwhile, learned State counsel submitted an application for discharge of the absconding co-accused Mst.Saba Gul under Section 4-C (ii) of Prosecution Act read with Sections 494 and 265-D Cr.P.C from the charges levelled against her with contention that on the face of record there is no material and solid evidence to connect the absconding co-accused Mst.Saba Gul with the commission of offence by taking into account above-referred statements of star witness of the case in hand. The same is marked-A. While agreeing with the opinion of prosecution the absconding co-accused Mst.Saba Gul wife of Zawar Ali is hereby discharged from the liability of offences u/Sections 506/387/420/411/34 PPC in absentia. Accused Amanat Khan and Fayaz Ali are on bail; therefore, their bail bonds stand cancelled and the sureties are discharged from their liabilities towards bail bonds. As per record the case property i.e. motorcar bearing No.LXD-7199 has already been returned to accused facing trial Fayaz Ali on superdari by learned ASJ-II Mardan vide order dated 03.04.2019. Rest, if any be dealt with in accordance with law subject to expiry of the period provided for appeal/revision.

File be consigned to record room after its completion and compilation.

ANNOUNCED:
Dt; 14.01.2021

(Signature)
(Syed Kamal Hussain Shah)
Additional Sessions Judge-I,
Mardan.

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Session Court Mardan

ضیاء الحق ولد امانت فا 396 س 396

Name of Applicant	
Date of	831
Dt	14-01-21
	27-01-21
	27-01-21
Urgent	P=09
Signed of	<i>(Signature)</i>
Date of Delivery	27-01-21

(9)
PW-----01
27.11.2019

Statement of Safer s/o Hukam Khan resident of Ghala Dher
Mardan on Oath.....

On the day of occurrence i.e 14.02.2019 at about 20:30 hours, I along with my relative Usman s/o Sardar was coming from Pakistan Chowk Mardan through motorcycle Ghani 70 CC applied for black in colour and was going to our home when reached near Khyber Bank Sector Market Sheikh Maltoon a motorcar bearing No. LXD 7199 while in colour was already parked there. A person signaled to stop upon the said signal I stopped and the person disclosed himself as police officer and asked about our CNIC. Similarly, he also showed his police card and thereafter boarded me in his motorcar at front seat and directed my relative to follow us, meanwhile an unknown lady also boarded at the rear seat of the said motorcar. They made round in sector "E" and told me that you have illicit relation with the said lady and you are also involved in other criminal cases. He parked the car near the Khyber bank and snatched Rs.30,000/- from my pocket, Rs.15000/- was fell down from my pocket in the said motorcar. The said police officials told me of picking the same. He also demanded Rs.20,000/- more which was not available with me at the time of occurrence, therefore, he from his mobile phone called accused facing trail Amanat s/o unknown resident of Sandamar and resultantly he immediately reached to the spot. He indentified me and taken the responsibility for the payment of Rs.20,000/- from me. On next day I paid Rs.4000/- to the said accused facing trial Amanat and promised

RAJIB MUHAMMAD
Additional District & Sessions Judge-II
Mardan

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27 JAN 2021

Examiner Copying Branch
Session Court Mardan

20)
PW-----01
27.11.2019

2

him for payment of Rs.16000/- for the coming Friday. I have also asked about the name of the said police official on which he disclosed that his name is Shafi who is in police department and his present post is at P.S Shekh Maltoon, Mardan. I personally inquired the matter and found that Amanat disclosed the wrong name and identity. The name of the said accused was Fayaz s/o Amanat resident of Shahbaz Garhi who is also involved in such like offences and charged the above mentioned accused for the commission of offence. Thereafter, we went to P.S Sheikh Maltoon on dated 20.02.2019 and report the matter at about 1910 hours. My report was chalked out in the shape of FIR, my report was read over to me and I after admitting the same to be correct, correctly thumb impressed the same. Usman Khan s/o Sardar also endorsed my report and correctly thumb impressed the same. IO prepared the site plan at my instance as well as at the eye witness Usman. I charge accused facing trial Fayaz and Amanat for the commission of offence.


RAJA MUHAMMAD SHOAIB KHAN
Additional District & Sessions Judge-II
Mardan

XX..... It is correct that the occurrence of 14.02.2019, while I reported the matter with the delay of six days. It is also correct that I have not disclosed any source of satisfaction in my report neither explained the cause of the delay. It is correct that the spot of occurrence is market and surrounded by Banks, where usually security guard are always present there. I have made hue and cry at the time of occurrence but the security guard had not attracted towards us. I have not mentioned this fact in my report. It is correct that on every bank

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27 JAN 2021

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Session Court Mardan

211
PW-----01
27.11.2019

3

CCTV cameras are installed. I have mentioned the said camera before the IO at the time of spot inspection. It is correct that at BBA stage I recorded my statement before the ADJ-III dated 28.02.2019, wherein I stated that I have only charge accused Amanat for threatening me. I do not know about the said occurrence. None have snatched any amount from my possession. I do not know accused Fayaz nor charging him, and in this respect I have sworn an affidavit before the High Court. I have got no objection if this Hon'ble Court acquit the accused facing trial. At this stage APP for the state request for hostile of the witness. I have not visited the spot again. It is incorrect to suggest that I have charged the accused facing trial at the behest of the local police of P.S SMT. (Request is allowed)

XX..... On behalf of State. I am dealing at vegetable market Mardan. Usman is my cousin. I left my house at about 0800 hours and returned to home 16:00/17:00 hours. I cannot say that on which time I returned to my home on 14.02.2019. Police obtained my thumb impression in the register. Eye witness Usman also accompanied me to police station and he did not thumb impress on any document. It is incorrect to suggest that today I am falsely deposing just to save the skin of the accused facing trial from the clutches of law. Self stated that I went to police station for charging accused facing trail Amanat for my outstanding amount. It is incorrect to suggest that myself stated statement is after thought and I am concealing the real fact from the court today. It is further incorrect to suggest that as I have effected

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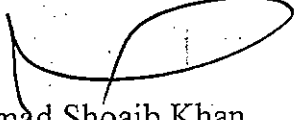
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Examiner Copying Branch
Session Court Mardan

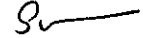
PW-----01
27.11.2019

compromise with the accused facing trial outside the court, therefore,
I am giving concessional statement and favouring the accused facing
trial.

RO & A.C
27.11.2019


Raja Muhammad Shoaib Khan,
AD& SJ-II, Mardan.

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27 JAN 2021

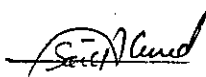
Examiner Copying Branch
Session Court Mardan


23)

Statement of APP for the state and counsel for the complainant

We abandon PW Usman Khan s/o Sardar being won over.


Fazal Qayum Khattak, APP
29.11.2019


Mr. Sajjad Ahmad, advocate
District Court, Mardan


Raja Muhammad Shoaib Khan
AD&SJ-II, Mardan

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27 JAN 2021

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Session Court Mardan

24)

PW-1 Statement of Safer son of Hukam Khan resident of Ghala Dher (complainant) on oath:

Previously my statement was recorded as PW-1. I stand by the relevant statement after reframing of charge. Therefore, my statement dated 27.11.2019 may kindly be considered.

XXn. Both the accused facing trial were not previously known to me. The occurrence has taken place on 14.02.2019 and on the same day I visit the PS and narrated the story against unknown accused. On 20.02.2019 the local police summoned me where they forced me to charge accused Amanat and Fayaz. Today both the accused facing trial are present in the court. They are not the persons who committed the occurrence. I have satisfied myself that both the accused are charged through the police with their own ill will against the accused facing trial. It is correct that one Wajid Ali is the brother of accused facing trial Amanat who charge DSP Ijaz in a criminal case.

RO&AC:dt:05.01.2020

R.S

Syed Kamal Hussain Shah
Additional Sessions Judge-I, Mardan

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[Signature]

27 JAN 2021

Examiner Copying Branch
Session Court Mardan

18th Nov. 2022

Lawyers are on strike today.

Case is adjourned to 12.01.2023 for arguments before the DB. Office is directed to notify the next date on the notice board as well as website of the Tribunal.



(Fareeha Paul)
Member(E)



(Rozina Rehman)
Member(J)

25th July 2022

Appellant in person present. Mr. Kabirullah Khattak,
Additional Advocate General alongwith Mr. Atta-ur-Rehman,
Inspector (Legal) for respondents present.

Appellant requested for adjournment on the ground
that his counsel is not available today. Adjourned. To come
up for arguments on 10.10.2022 before the D.B.



(Salah-Ud-Din)
Member (J)

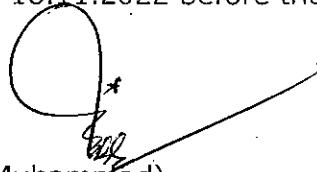


(Kalim Arshad Khan)
Chairman

10.10.2022

Junior of learned counsel for the appellant present. Mr. Atta-Ur-
Rehman, Inspector (Legal) alongwith Mr. Muhammad Riaz Khan
Paindakhel, Assistant Advocate General for the respondents present.

Junior of learned counsel for the appellant requested for
adjournment on the ground that learned counsel for the appellant is busy
in the august Peshawar High Court, Peshawar. Adjourned. To come up for
arguments on 18.11.2022 before the D.B.



(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)

01.12.2021

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Khayal Roz, Inspector for respondents present.

Written reply/comments not submitted. Representative of the respondents seeks time to submit written reply/comments. Adjourned. To come up for written reply/comments on 02.02.2022 before S.B.




(MIAN MUHAMMAD)
MEMBER (E)

02.02.2022

Junior of learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Add: AG alongwith Mr. Khalid, HC for respondents present.

Written reply on behalf of respondents submitted which is placed on file. A copy of the same is also handed over to the junior of learned counsel for the appellant. Adjourned. To come up for rejoinder/arguments on 27.05.2022 before D.B.




(Attiq Ur Rehman Wazir)
Member(E)

27th May, 2022

Clerk of the counsel present. Mr. Muhammad Riaz Khan Paindakhel, Asstt. AG for respondents present.

Arguments could not be heard due to general strike of the bar. Adjourned. To come up for arguments on 25.07.2022 before D.B.



(Fareeha Paul)
Member (E)



(Kalim Arshad Khan)
Chairman

02.09.2021

Junior of counsel for the appellant present.

Junior of learned counsel for the appellant requested for adjournment on the ground that the learned counsel for the appellant is not available today. Adjourned. To come up for preliminary hearing before the S.B on 4.10.2021.

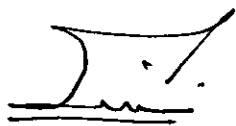

(MIAN MUHAMMAD)
MEMBER (E)

04.10.2021

Mr. Tahir Khan, Advocate, for the appellant present.
Preliminary arguments heard.

Points raised need consideration, hence the appeal is admitted to regular hearing subject to all legal and valid objections. The appellant is directed to deposit security and process fee within 10-days, where-after notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments before the D.B on 01.12.2021.

Appellant Deposited
Security & Process Fee


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

P

06.01.2021

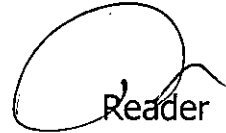
Mr. Sajid Amin, junior to the senior counsel is present for appellant. According to him uncle of senior counsel has died, therefore, he cannot attend the Tribunal today and requested for adjournment. Request is allowed. The appeal is adjourned to 06.04.2021 on which date file to come up for preliminary hearing before S.B.



(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

06.04.2021

Due to demise of the learned Chairman, the Tribunal is non-functional, therefore, case is adjourned to 13.07.2021 for the same as before.



Reader

13.07.2021

Junior to counsel for the appellant present. Senior Counsel is not in attendance due to strike of the lawyers. Adjourned to 05.10.2021 before S.B.



Chairman

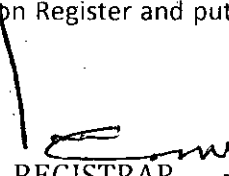


Early hearing application
is accepted.
Fixed for 02/09/2021.

Form-A

FORM OF ORDER SHEET

Court of _____

Case No.- 10296 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge		
1	2	3		
1-	07/09/2020	<p>The appeal of Mr. Fayyaz Ali presented today by Mr. Javed Iqbal Gulbella Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2-</p>	26.10.2020	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>26/10/2020</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>Appellant in person present.</p> <p>Lawyers are on general strike, therefore, case is adjourned to 06.01.2021 for preliminary hearing, before S.B.</p> <p style="text-align: right;"> (Rozina Rehman) Member (J)</p>

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

In Re S.A 10296 /2020

Fayyaz Ali, Ex- Constable

VERSUS

Inspector General of Police and others


INDEX

<i>S#</i>	<i>Description of Documents</i>	<i>Annex</i>	<i>Pages</i>
1.	Grounds of Appeal.		1-8
2.	Affidavit.		9
3.	Copy of Condonation application		10-12
4	Addresses of parties		13
5.	Copy of order No. 6923/EB Dated 12-12-2018	"A"	14
6	Copy of suspension order dated 21.02.2019	"B"	15
7	Copy of impugned office order No. 8359-62/PA dated 01.12.2019	"C"	16
8	Copy of the Departmental Appeal dated 24.12.2019 & order dated 07.02.2020	"D" & "D1"	17-17B
9	Copy of 2 nd Departmental Appeal dated 27.02.2020	"E"	18-19
10	Copy of acquittal order dated 04.12.2019	"F"	20-27
11	Other documents	"G"	28-31
11	Wakalat Nama		32

Dated: 07/09/2020


Appellant

Through


JAVED IQBAL GULBELA,
Advocate High Court
Peshawar.

Off Add: 9-10A Al-Nimrah Centre, Govt College Chowk
Peshawar

①

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

In S.A 10296 /2020

Fayyaz Ali (Ex-LHC No. 506) S/o Amanat R/o
Shehbaz Garhi, District Mardan.

-----**(Appellant)**

Khyber Pakhtunkhwa
Service Tribunal

VERSUS

Diary No. 985

Dated 7/9/2020

1. Inspector General of Police, Khyber Pakhtunkhwa.
2. District Police Officer – DPO Mardan.
3. Sub-Divisional Police Officer, Mardan.
4. Regional Police Officer Mardan.

-----**(Respondents)**

**APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL
ACT -1974 AGAINST THE IMPUGNED
DISMISSAL ORDER NO. 8359-62/PA
DATED 01/12/2019 OF THE OFFICE OF
DISTRICT POLICE OFFICER MARDAN,
WHEREBY THE APPELLANT WAS
DISMISSED FROM SERVICE AND HIS
DEPARTMENTAL APPEAL WAS
TURNED DOWN VIDE IMPUGNED
ORDER NO. 1387/ES DATED 07-02-2020
BY THE REGIONAL POLICE OFFICER
MARDAN IN A CLASSICALLY CURSORY
AND WHIMSICAL MANNER.**

Filed to-day

Registrar

7/9/2020

Respectfully Sheweth,

1. That after being envisaged with the ordeals
and inquisitions of Selection Process, the

Appellant got inducted onto the rolls of the highly prestigious department of police, whereby the Appellant always performed his duties with full zeal and zest and have never left any stone unturned in performance of his duties and proved his mental, wetted skills and potential for rendering meritorious services being sole reasons winning the hearts of high-ups and was appraised on certain junctures for his work ethic and behavior.

2. That the Appellant was performing his duties at District Police Mardan, from where, he was transferred to Special Branch, Police Lines Peshawar vide Order No. 6923/EB Dated 12-12-2018. **(Copy of order No. 6923/EB Dated 12-12-2018 is Annexed herewith as annexure "A")**.
3. That it was in the backdrop of February/March 2019 that when the Appellant was charged in 03 criminal cases being frivolous and without any ground or purpose.
4. That it is a human nature that if someone is booked in criminal cases, to clean himself of the charges levelled against him, one has to

abscond, and same has been done by the Appellant, which was beyond his control, hence the Appellant was unable to perform his duty. It is pertinent to mention here that during the action packed days, the Appellant surrendered himself before the Court of Law against the charges and was busy in contesting his case, thus was not in a position to join his duties.

5. That the service of the Appellant was suspended from the rolls of respondent department vide Order Dated 21-02-2019 on the ground of his involvement in criminal cases registered at Police Station Sheikh Maltoon. (Copy of suspension order dated 21.02.2019 is annexed herewith as Annexure "B").
6. That no inquiry whatsoever took place in the presence of the Appellant nor was ever heard in person and thus the final abominable step came up.
7. That ultimately the Appellant was dismissed from service vide the impugned office order No. 8359-62/PA dated 01.12.2019 of the Office of District Police Officer Mardan in a classical, cursory and whimsical manner,

leaving behind no other choice but to move a Departmental Appeal. (Copy of impugned office order No. 8359-62/PA dated 01.12.2019 of the Office of District Police Officer Mardan is annexed herewith as Annexure "C").

8. That feeling aggrieved from the supra-mentioned acts of the respondent department, the Appellant moved a Departmental Appeal dated 24.12.2019 to the office of Regional Police Officer Mardan for his reinstatement into service, but there was no light to the end of the tunnel and the Departmental Appeal of the Appellant was turned down vide Office ORDER No. 1387/ES Dated 07-02-2020 of the office of Regional Police Officer Mardan. (Copy of the Departmental Appeal dated 24.12.2019 & order dated 07.02.2020 is annexed herewith as Annexure "D" & "D1" respectively).
9. That feeling aggrieved, the Appellant moved another Departmental Appeal dated 27.02.2020 to the Office of Inspector General of Police Khyber Pakhtunkhwa but the same was simply shelved and till date, no action whatsoever has been taken on that. (Copy of Departmental Appeal dated 27.02.2020 is annexed herewith as Annexure "E").

10. That it is pertinent to mention here that the Appellant has already been acquitted of the charges levelled against him in two cases, and there is likelihood that he might be acquitted in 3rd FIR as well as the appellant is falsely implicated in that 3rd case as well, like the other two cases. (Copy of acquittal order dated 04.12.2019 of the Additional Session Judge-VI Mardan is annexed herewith as Annexure "F").

11. That even in-spite of lapse of this long period, the appeal of the Appellant has not been decided, hence the instant Service Appeal upon the following grounds, inter alia:-

Grounds:

- A. That the impugned dismissal order is wrong, illegal, void ab-initio and is not sustainable at all.
- B. That the impugned dismissal order is unwarranted, illogical and against the Rules thereof, hence not maintainable at all.
- C. That no proper inquiry was ever conducted in case of the Appellant, nor the Appellant was ever heard in person, nor was ever allowed to cross examine any witness and thus the Appellant was condemned unheard.

- D. That the Appellant was charged in a criminal case and was absconding, thus could not report to the department and on the other hand the department took the same as deliberate absence from duty and was proceeded against departmentally.
- E. That even the Appeal of the Appellant was simply shelved by the Respondent Inspector General of Police Khyber Pakhtunkhwa without any rem or reason, nor the Appellant was ever summoned by the Appellate Authority as per Appeal Rules 1986 and thus the appellant was double jeopardized.
- F. That no inquiry was ever conducted nor any inquiry dispensation order was ever issued, even then the major penalty of dismissal was imposed upon the Appellant which is against the law & governing rules therein.
- G. That no charge sheet no statement of allegations was ever issued to the Appellant even no Final Show Cause Notice was ever issued to the Appellant which is mandatory provision of law, even if no inquiry is made or advised or dispend with.
- H. That as per the dictum and laws governing the land, it is a prime-facie fact that where a law require a thing to be done, than that has

to be done in a particular manner & not otherwise.

- I. That the appellant has already been declared as innocent by the competent court of law acquitting him of the charges levelled against him, which was ample proof of the innocence of the appellant.
- J. That the appellant belongs to a poor family, and is the only earning hand in the whole family to look after them.
- K. That the appellant has served the Respondent Department for many years and that too unblemished, without any complaint ever against, on part of the appellant.
- L. That from every angle the appellant is liable to be re-instated into service with all back benefits.
- M. That any other ground not raised here may graciously be allowed at the time of arguments.

It is, therefore, humbly prayed that on acceptance of the instant appeal, the impugned office order No. 8359-62/PA, dated 01/12/2019 of the office of District Police Officer Mardan whereby the appellant has been dismissed from Service & the impugned office order No.1387/ES, dated 07.02.2020 of the office of regional police officer Mardan, whereby the departmental appeal of the appellant was


turned down may graciously be set-aside and by doing so the appellant may very graciously be re-instated into Service with all back benefits.

Any other relief not specifically asked for may also graciously be extended in favour of the appellant in the circumstances of the case.

Dated: 07/09/2020.


Appellant

Through


Javed Iqbal Gulbela
Saghir Iqbal Gulbela
Ahsan Sardar
&
Tahir Khan
Advocates, High Court
Peshawar.

NOTE:-

No such like appeal for the same appellant, upon the same subject matter has earlier been filed by me, prior to the instant one, before this Hon'ble Tribunal.


Advocate.

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

In Re S.A _____/2020

Fayyaz Ali, Ex- Constable

VERSUS


Inspector General of Police and others

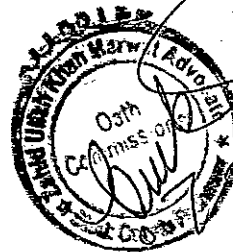
AFFIDAVIT

I, **Fayyaz Ali (Ex-LHC No. 506) S/o Amanat R/o Shehbaz Garhi, District Mardan**, do hereby solemnly affirm and declare that all the contents of the accompanied appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Tribunal.


DEPONENT

Identified By :


Javed Iqbal Gulbela
Advocate High Court
Peshawar.



BEFORE THE HON'BLE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA, PESHAWAR.

In Re S.A _____/2020

Fayyaz Ali, Ex- Constable

VERSUS

Inspector General of Police and others

APPLICATION FOR CONDONATION OF DELAY

Respectfully Sheweth,


1. That the Appellant is filing the accompanying appeal the contents of which may graciously be considered as integral part of the instant petition.
2. That the Appellant had preferred the 2nd departmental Appeal within time from the impugned dismissal order, but as the Appellant was busy in contesting his criminal cases and after that in COVID-19 Pandemic came, therefore the Appellant could not approached the Hon'ble Service Tribunal within time.
3. That delay in approaching this Tribunal was due to perusing the aforementioned criminal case which was neither intentional, nor was under control of the petitioner.
4. That law also favour adjudication on merits and technicalities of any sort must always be ignored while reaching a just and fair disposal of any les.

5. That for proper disposal of the accompanying case on its merits, the condonation of delay is indispensable.
6. That not only the petitioner has got a prima facie case and having balance of convenience in his favour, but would suffer irreparable loss, if the instant petition is not allowed.

It is, therefore, most humbly prayed that on acceptance of the instant petition, the delay in filing the accompanying appeal i.e almost 70 days, may graciously be condoned and the accompanying appeal may very graciously be decided on its merits.


Petitioner/Appellant

Through


Javed Iqbal Gulbela
&
Advocate, High Court
Peshawar.

Dated :- 07/09/2020

BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

In Re S.A _____/2020

Fayyaz Ali, Ex- Constable

VERSUS

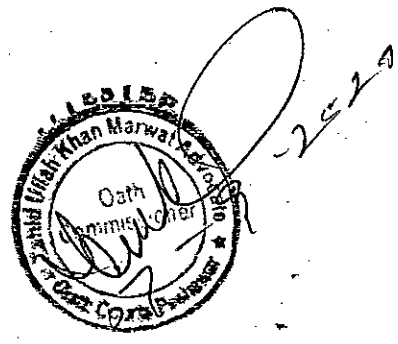
Inspector General of Police and others

AFFIDAVIT

I, Fayyaz Ali (Ex-LHC No. 506) S/o Amanat R/o Shehbaz Garhi, District Mardan, do hereby solemnly affirm and declare that all the contents of the accompanied application are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Tribunal.

[Signature]
DEPONENT

Identified By:
[Signature]
Javed Iqbal Gulbela
Advocate High Court
Peshawar.



**BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

In Re S.A _____/2020

Fayyaz Ali, Ex- Constable

VERSUS

Inspector General of Police and others

ADDRESSES OF PARTIES

APPELLANT.

Fayyaz Ali (Ex-LHC No. 506) S/o Amanat R/o
Shehbaz Garhi, District Mardan.


ADDRESSES OF RESPONDENTS

1. Inspector General of Police, Khyber Pakhtunkhwa.
2. District Police Officer – DPO Mardan.
3. Sub-Divisional Police Officer, Mardan.
4. Regional Police Officer Mardan.

Dated: 07/09/2020


Appellant

Through


Javed iqbal gulbela,
Advocate High Court
Peshawar.

(14)

Ann A

From:- The Dy: Inspector General of Police,
Special Branch Khyber Pakhtunkhwa,
Peshawar.

To:- The Inspector General of Police,
Khyber Pakhtunkhwa Peshawar.

No. 6923 /EB, dated Peshawar the, 12/12/2018.

Subject:- TRANSFER/POSTING OF LOWER SUBORDINATES.

Memo:

Kindly refer to your order No.11041/E-IV, dated 28.11.2018 on the subject cited above.

This office has no objection on the transfer/posting of Constable Fayyaz Ali No 506 from District Police Mardan to this Unit, please.

Sr. Supdt. of Police/Admn:
For Dy: Inspector General of Police
Spl Branch Khyber Pakhtunkhwa
Peshawar.

JAVED IQBAL Gul Bela
Daudgal Law Chamber
Advocate High Court Peshawar
MO: 0345-9405501

(15)
SUSPENSION ORDER

Ann. B

Having being involved in case FIR No.89, dated 20-02-2019, u/s-506-387-420/34, Police station Sheikh Maltoon Town District Mardan, Constable Fayaz Ali (No.506/Mardan) presently posted to Security Section SB/HQrs SB is hereby placed under suspension.

He is hereby closed to SB/HQrs Peshawar.

Departmental proceeding also initiated against him.

Sr. Supdt: of Police, Admn
For Dy: Inspector General of Police
Spl: Branch Khyber Pakhtunkhwa
Peshawar

No. 12/EB; dated Peshawar the, 21/02/2019.

Copy to all concerned.

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
MCC: 0345-9405501



OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpo_mardan@yahoo.com

2019

Ann C

No. 8359-68 /PA

Dated / 17 / 2019

ORDER ON ENQUIRY OF LHC FAYAZ ALI NO.506

This order will dispose-off a Departmental Enquiry under Police Rules 1975, initiated against LHC Fayaz Ali No.506, under the allegations that while posted at Special Branch Khyber Pakhtunkhwa (now under suspension Police Lines), was placed under suspension and closed to Police Lines vide this office OB No.789 dated 10-04-2019, issued vide order/endorsement No.2395-98/OSI dated 10-04-2019 on account of his involvement in the following cases (1) FIR No.89 dated 20-02-2019 U/S 387/506/420/34 PPC PS Sheikh Maltoon, (2) FIR No.90 dated 21-02-2019 U/S 392/347/167/42 PPC PS Sheikh Maltoon, (3) FIR No.98 dated 01-03-2019 U/S 406/387/420/167/34 PS Sheikh Maltoon and proceeded against departmentally through ASP Ali Bin Tariq, the then SDPO City Mardan vide this office Statement of Disciplinary Action/Charge Sheet No.130/PA dated 05-04-2019, who (E.O) after fulfilling necessary process, submitted his Finding Report to this office vide his office letter No.986/S dated 20-05-2019, recommending the alleged official for dismissal from service.

In this connection, the accused official was served with a Final Show Cause Notice, under K.P Police Rules-1975, issued vide this office No.168/PA dated 27-05-2019, to which, his reply was received & marked to SP Investigation Mardan, who vide his office letter No.998/PA/Inv: dated 30-08-2019, concluding that the departmental enquiry may be kept pending till final decision of High Court, as in interim relief the Peshawar High Court has remarked that in the meanwhile, no adverse action shall be taken against the petitioner.

Later-on, the enquiry was re-conducted through Mr. Bashir Ahmad DSP City Mardan, who also recommended the alleged official for major punishment vide his office letter No.1752/S dated 13-11-2019.

Final Order

LHC Fayaz Ali was heard in O.R on 26-11-2019, who failed to satisfy the undersigned, therefore, awarded him major punishment of dismissal from service with immediate effect, in exercise of the power vested in me, under Police Rules-1975.

OB No. 2587

Dated 29/11 2019.

(SAJJAD KHAN) Gu/Beta
District Police Officer, Peshawar
Advocate
Mardan
Mob: 0342-9405504

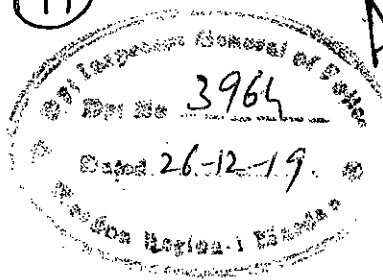
Copy forwarded for information & n/action to:-

- 1) The SP Investigation Wing Mardan.
- 2) The DSP/HQs Mardan.
- 3) The P.O & E.C (Police Office) Mardan.
- 4) The OSI (Police Office) Mardan with () Sheets.

(Comments File)

17

Ann D



To

The Regional Police Officer,
Mardan Range, Mardan.

Subject: PRESENTATION AGAINST THE ORDER OF DPO, MARDAN VIDE NO.8359-69/PA DATED 01.12.2019 (OB NO.2587 DATED 29.11.2019 DISMISSING THE APPELLANT FROM SERVICE.

Respected Sir,

It is submitted as under:-

With reference to the captioned order, whereby I am awarded the punishment of dismissal from service (Copy attached).

It is submitted that the allegations as leveled against me are incorrect, false, illegal and based on retaliation. The impugned order is liable to be set aside and I am entitled to be re-instated into service with continued service benefits, on the following amongst many other grounds:-

1. That the allegations as leveled against me, are incorrect, false and based on retaliation.
2. That the whole of the proceedings are in violation to the relevant disciplinary rules.
3. That mere registration of FIR is no proof of the commission of the offence.
4. That the authority was supposed to have kept the enquiry proceedings, pending till the adjudication of the criminal case by the court.
5. That I was not called to participate in the enquiry.
6. That the alleged inquiry was conducted in my absence, which has no legal force.
7. That the High Court in W.P. No.2498-P/2019 and W.P No.2493-P/2019 had directed that the disciplinary proceedings against the petitioner/my- self may be stopped.
8. That no witness was examined during the inquiry proceedings. Thus, I am condemned unheard.
9. That the material point is not taken in consideration that the referred press-conference was held by my brother, who was falsely, implicated in the case and tortured /maltreated by the DSP Ijaz Abazai and that the FIR, was lodged against him in this respect, which is yet pending adjudication. (copy attached)

It is requested that setting aside the impugned order may be set aside and I may be reinstated into service with back service benefits.

Dated: 24-12-2019

Yours obediently,

EC / DPO Mardan.
For comments.

Puz!

FAYAZ ALI
Ex. LHC No.506
District Mardan

IAVED IQBAL, Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 8345-9405501

NO. 14450/ES
dt 26-12-2019

RPO Mardan.
24/12/19

ORDER.

This order will dispose-off the departmental appeal preferred by Ex-LHC Fayaz Ali No. 506 of Mardan District Police against the order of District Police Officer, Mardan, whereby he was awarded major punishment of dismissal from service vide OB No. 2587 dated 29.11.2019.

The appellant was proceeded against departmentally on the allegations that he, while posted at Special Branch Khyber Pakhtunkhwa, Peshawar was repatriated to parent District Mardan vide Central Police Office, Peshawar order No. 3604-05/E-IV dated 03.04.2019. The delinquent official was placed under suspension and closed to Police Lines, Mardan by the District Police Officer, Mardan vide OB: No. 789 dated 10.04.2019, due to involvement in the following cases:-

- (1) FIR No.89 dated 20-02-2019 U/S 387/506/420/34 PPC PS Sheikh Maltoon.
- (2) FIR No.90 dated 21-02-2019 U/S 392/347/167/42 PPC PS Sheikh Maltoon.
- (3) FIR No.98 dated 01-03-2019 U/S 406/387/420/167/34 PS Sheikh Maltoon.

Proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and SDPO City, Mardan was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities, submitted his findings wherein he recommended the delinquent official for major punishment of dismissal from service.

Keeping in view the recommendations of Enquiry Officer and other material available on record, the delinquent Official was issued Final Show Cause Notice to which his reply was received and found unsatisfactory. He was also heard in Orderly Room held in the office of District Police Officer, Mardan on 26.11.2019, but he failed to advance any cogent reason in his defense. Hence, the delinquent Official was awarded major punishment of dismissal from service by the District Police Officer, Mardan vide OB: No. 2587 dated 29.11.2019.

Feeling aggrieved from the order of District Police Officer, Mardan, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 04.02.2020.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations leveled against the appellant have been proved

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
MOB: 0345-845588

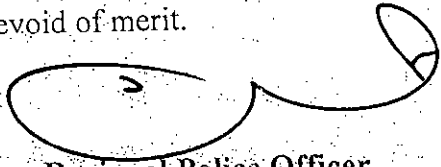
RPO Mardan
31/1/2020

17-B

beyond any shadow of doubt. Besides, the appellant has effected a compromise with the complainant vide case FIR No. 98 dated 01.03.2019 u/s 406/387/420/411/167/34-PPC and Section 119, of Police Act, 2017 Police Station Sheikh Maltoon, Mardan which is tantamount to the admission of his crime. Moreover, 02 heinous criminal cases are still pending adjudication against the appellant. The retention of appellant in Police Force will stigmatize the prestige of entire Police Force. He could not present any cogent justification to warrant interference in the order passed by the competent authority.

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

Order Announced.


Regional Police Officer,
Mardan.

No. 1387 /ES, Dated Mardan the 07-02 /2020.

Copy forwarded to District Police Officer, Mardan for information and necessary w/r to his office Memo: No. 51/LB dated 31.01.2020. His Service Record is returned herewith.

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
MOB: 0345-9405501

AIEC

RPO Mardan

3/1/2020

Ann E

(18)

The inspector General
Police Department, K.P
Peshawar.

Through proper Chanel.

Subject:- Mercy Petition against the order of The R.P.O. Mardan Range Mardan dated 07-02-2020 rejecting the Appeal.

Sir,

With reference to the order of The RPO Mardan vide endorsement No.1389/ES dated 07-02-2020, whereby the Appeal / Representation against the order of The DPO Mardan dated 01-12-2019, (dismissing the Petitioner from service), is rejected and the dismissal order is maintained. (Copy attached).

The impugned orders are liable to be set-aside on the following amongst many other grounds:-

1. That the material fact is not taken into consideration that the allegations as leveled against me are incorrect and false, besides being based on retaliation.
2. That the whole of the proceedings are carried-out in violation of the relevant Rules.
3. That the relevant criminal cases are yet pending trail and the disciplinary proceedings were supposed to have been adjourned sine-die till finalization thereof. Because, mere lodging of FIR is not a proof against the accused person until the completion of trail thereof in the court of law.
4. That I am condemned unheard, as no enquiry was conducted in my presence & I was called to participate in the enquiry proceedings and to cross-examine the witness, if any, appearing on behalf of prosecution, against me. Thus, such inquiry proceedings are nullity in law & it has no legal effect.

5. That the material legal point is not taken into consideration that the Honourable High Court in **JAVED IQBAL** Gul Bela
Daudzai Law Chambers
Advocate High Court Peshawar
Mobile: 345-9405501 No.2498-P/2019 and WP No.2493-P/2019 had directed that the disciplinary proceedings against me, to be stopped. But, insite of the

said direction the disciplinary proceedings in question were not stopped, which is violation of the Court's order.

6. That the factual point is kept out of consideration that the referred press conference was not held by me. Since, my brother, namely Wajid Shahzad Advocate was falsely implicated in the case, who was badly tortured and maltreated by the DSP Mr Ijaz Abazai, personally. Resultantly, FIR was ledged against the Said Ijaz Abazai in this respect.

7. That I was falsely implicated by the local police in case FIR No.98/01-03-2019 of P.s, S.M.T Mardan. Resultantly, the complainant thereof, when appeared before the court of ASJ-IV Mardandering the trail, disowned the lodging of report against me and compromised with me.

(Copy of statement & judgment of the court are attached herewith.)

8. That the rest of the two cases are yet under trial in the court.

9. That it is also not considered that the penalty of dismissal from service is too harsh, in the circumstances of the allegations.

It is requested that setting-aside both the impugned orders, I may kindly be re-instated into service with back service benefits.

Dated:-27-02-2020.

Your's obediently



(Fayaz Ali)

EX-LHC No.506

District Mardan.

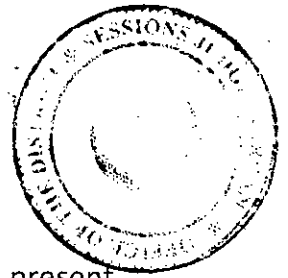
Address:-Mohallah Jamal khel
Shahbaz Garhi Mardan.

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

**IN THE COURT OF FARYAL ZIA MUFTI,
ADDL. SESSIONS JUDGE, VI, MARDAN.**

SESSIONS CASE NO. 160 / *BC*

13-12-19 *MS*



Or.....4
04.12.2019

1. Syed Abdul Mujeeb APP for the State present.
Accused on bail present. Defence counsel present.
Complainant with counsel present.

2. Accused Amanat son of Karim Khan R/O. Ghala Dher
and Fayyaz son of Amanat r/o. Shabaz Garhi involved in
case FIR No. 98 dated. 01.03.2019 under sections.
406/387/420/411/167/34 PPC and 119 Police Act,2017
in Police Station SMT, District Mardan.

At the very outset after put in court the case,
Amir Sardar son of Durran Khan complainant recorded
his statement to the effect that he had patched up the
matter at bail stage by exonerating the present accused
to be innocent and he is no more interested in
prosecution against the accused and has got no
objection if the accused acquitted in the present case.
He produced the compromise documents as Ex.PA (four
pages).

In view of the compromise submitted by the
complainant and statement recorded, the compromise is
accepted and the accused facing trial are acquitted of
the charges leveled against them. They are on bail and
their bail bonds stand discharged. Case property, if any,
be kept intact till the expiry of the period provided for
an appeal/revision.

4. Police record with copy of the order be
returned to the quarter concerned, while the instant
judicial file be consigned to record room after its
completion and compilation.

Announced.
04.12.2019

[Signature]
Faryal Zia Mufti,
ASJ-VI, Mardan.

Certified To Be True Copy

SU
05 MAR 2020

Examiner Copying Branch
Sessions Court Mardan

Name of Applicant	<i>Javed Iqbal</i>
Applicant	<i>4809</i>
Date of	<i>5-3-2020</i>
Date of	<i>5-3-2020</i>
Date of	<i>5-3-2020</i>
No.s of	
Court Fee /	
Urgent fee	<i>10</i>
signed of	<i>[Signature]</i>
Date of	

JAVED IQBAL, Gul Bela
Daudzal Law Chamber
Advocate High Court Peshawar
Mob: 0345-940537

[Handwritten signature]

The State Vs _____
FIR No. 98 dated 1/3/19 u/s 40A/387 P.S. SNA
167/411

Or.....1
2
10/7/19

Complete challan put in court today. PWs exists. Case property exists. Prima facie case exists against the accused. As the case is exclusively triable by the court of Sessions, therefore, u/s 190 Cr.P.C the case be placed before worthy District & Sessions Judge, Mardan for trial.

[Signature]
NADEEM AKHTAR
Judicial Magistrate-I, Mardan

Certified To Be True Copy
u
05 MAR 2020
Examiner Copying Branch
Sessions Court Mardan

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9455501

IN THE COURT OF MUHAMMAD RAUF KHAN
SESSIONS JUDGE, MARDAN

State Vs Amanat

FIR No: 98 Date 01-3-19 U/S 406/387/420/167/34/411 PS SMT

Serial No of Order or Proceedings	Date of Order or Proceedings	Order of other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
Order.....01	<u>16/07/2019</u>	<p>Complete/Supplementary challan received from the Court of learned Judicial Magistrate, Mardan. The same is entrusted to the Court of learned Additional Sessions Judge <u>VI</u>, Mardan for disposal.</p> <p style="text-align: right;">(Muhammad Rauf Khan) Sessions Judge, Mardan</p>
<u>OR-02</u>	<u>22.08.2019</u>	<ol style="list-style-type: none"> Instant file as complete challan entrusted in case captioned above. Be registered. APP for the state present. As per record accused are on bail. Notice be issued against accused as well as their sureties and identifiers for <u>23-11-19</u> <p style="text-align: right;">(FARYAL ZIA MUFTI) ADDITIONAL SESSIONS JUDGE-VI, MARDAN.</p>
<p><u>ORDER-03</u> Dt: 23.11.2019</p> <p>JAVED IQBAL Gul Bela Daudzai Law Chamber Advocate High Court Peshawar</p>		<p>APP for State present. Accused Fayaz Ali and Amanat Khan on bail present. Formalities of Section 265-C Cr.P.C complied with. To come up for framing of charge on <u>04/12/19</u></p> <p style="text-align: right;">(FARYAL ZIA MUFTI) ADDITIONAL SESSIONS JUDGE-VI, MARDAN.</p>

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05 MAR 2020

Examiner Copying Branch
Sessions Court Mardan

OR-02

22.08.2019

ORDER-03

Dt: 23.11.2019

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar

(FARYAL ZIA MUFTI)
ADDITIONAL SESSIONS JUDGE-VI,
MARDAN.

(FARYAL ZIA MUFTI)
ADDITIONAL SESSIONS JUDGE-VI,
MARDAN.



Statement of Amir Sardar son of Durran Khan aged about 57 years resident of Lakki Marwat on oath:

Stated that I am complainant in the present case wherein I had charged the accused at the instance of the police and the accused were arrested who were later bailed out and in this respect I had already recorded my statement that the charge against the accused was made by me at the instance of the police. As at bail stage I have already recorded my statement exonerating the present accused by disclosing him to be innocent in the matter and in case wanted not to be interested in case against him. Like wise, today I also stand by my that statement and state that the accused being innocent in the case, hence I am no more interested in prosecution against the accused and it will be futile exercise. I do not want to burden the prosecution or the worthy court in further proceedings. I have got no objection if the accused may kindly be acquitted in the present case. The compromise documents are Ex.PA (4 pages)

RO & AC. Dated. 04.12.2019.

Amir Sardar

Amir Sardar complainant.
CNIC.No. 11201-0138913-5

ASJ. VI. Mardan.

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05 MAR 2020

Examiner Copying Branch
Sessions Court Mardan

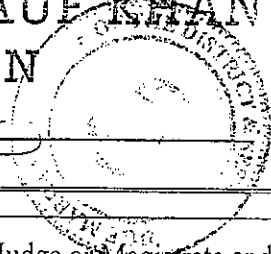
JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

(24)

20-3-19 163 93 165/BBD

IN THE COURT OF MUHAMMAD RAUF KHAN
SESSIONS JUDGE, MARDAN

Fayaz Ali Vs State



Serial No. of Order or Proceedings	Date of Order or Proceedings	Order of other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
Order.....01	09/03/2019	Regular Bail / BBA / B.C.A / Superdari petition / 22-A Cr.P.C petition / Criminal Appeal / Criminal Revision / Misc; Petition submitted. The same is entrusted to the Court of learned Additional Sessions Judge VIII Mardan for disposal.
<p>Name of Applicant</p> <p>Application No. 5000</p> <p>Date of Presentation of Application 18-3-19</p> <p>Date of receipt of copy 20-3-19</p> <p>Date of order copy 20-3-19</p> <p>Number of pages 06</p> <p>Number of copies / Copying fee</p> <p>Stamp of applicant</p> <p>20-3-19</p>	<p>Order----02</p> <p>09.03.2019</p>	<p>EXPA</p> <p>ASJ of Mardan</p> <p>4/12/09</p> <p>(Muhammad Rauf Khan) Sessions Judge, Mardan</p>
<p>Certified To Be True Copy</p> <p>20 MAR 2019</p> <p>Examiner Copying Branch Sessions Court Mardan</p>		<p>BBA petition received from the Court of learned Sessions Judge, Mardan. Be registered. Accused/petitioner present alongwith counsel.</p>
<p>Certified To Be True Copy</p> <p>05 MAR 2020</p> <p>Examiner Copying Branch Sessions Court Mardan</p> <p>4 pages</p>		<p>Accused/petitioner namely <u>Fayaz Ali s/o Amanat Khan resident of Shahbaz Garhi, Tehsil & District Mardan</u> seeks pre-arrest bail in connection with case FIR No.98 dated 01.03.2019 registered under section 406/387/420/167/34 PPC of P.S SMT, Mardan.</p>
<p>JAVED IQBAL Gul Bela Daudzai Law Chambers Advocate High Court Peshawar Mardan 23150-94-5507</p>		<p>Accused/petitioner contends malafide and false implications. The application is supported by an affidavit duly attested against which there is nothing in rebuttal at the moment. In the absence of record, accused/petitioner is admitted to ad-interim pre-arrest bail in the sum of Rs. <u>01 lac</u> (10,000/-) with two sureties each in the like amount to the satisfaction of this Court.</p> <p>Notice and record for <u>16-3-19</u>. Accused/petitioner is directed to join investigation and attend the Court till the final disposal of this petition.</p> <p><u>Announced.</u> 09.03.2019</p> <p>(HINA MEHWISH) Additional Sessions Judge-VIII, Mardan</p>

Fayaz Ali..... VS The State.
BBA Petition

Order---03
16.03.2019

Accused/ petitioner Fayaz Ali on ad-interim pre-arrest bail present alongwith counsel. Complainant in person present alongwith counsel . APP for the State present. Record received.

Through this pre-arrest bail petition, the accused/ petitioners namely Fayaz Ali son of Amanat Khan R/O Shahbaz Ghari District Mardan is seeking the confirmation of his pre-arrest bail in connection with case FIR No.98 dated 01.03.2019 registered u/sec-406,387,420,167,34 PPC at PS SMT, District Mardan wherein the complainant namely Amir Sardar charged the accused/petitioner alongwith others for forcibly snatching an amount of Rs.48,000/- from him through fraud.

At the very out set complainant namely Amir Sardar named above present and stated before the court that he is very much certain that the petitioner/accused Fiaz son of Amanat Khan is not the one who has actually been charged by him being involved in the commission of the offence and submitted affidavit to the fact, wherein he disclosed that he has got no objection on the confirmation of the BBA of the accused/petitioner, as he/ complainant is satisfied regarding the innocence of the accused/petitioner. To this effect the affidavit is Ex.PA, while copy of his CNIC is Ex.PA/1.

Keeping in view the attending situation, though the offence for which the accused/petitioner is charged is non-compoundable but the complainant has submitted an affidavit, wherein he stated that the accused/petitioner Fayaz Ali , who is arrested by the police is not actually the one who has committed the offence and as such has got no objection on the confirmation of the BBA of the accused/petitioner, hence, the application is allowed and the ad-interim pre-arrest bail already granted to the accused/petitioner by this court dated 09.03.2019 stands confirmed on the existing bail bonds.

Copy of this order be placed on judicial as well as police file.

The partial requisitioned record be sent back forthwith to the quarter concerned whereas file of this court be consigned to record room after necessary completion and compilation.

Announced.
16.03.2019

(Hina Melwish)
Additional Sessions Judge-VIII,
Mardan



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20 MAR 2019

Examiner Copying Branch
Sessions Court Mardan

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05 MAR 2020

Examiner Copying Branch
Sessions Court Mardan

محکمات جناب جسٹس اینڈ سیشن جج ہاں سردار

صاف علی آفات خان کنڈ شہباز ٹرہن سردار



۱۷

FIR No 98

Dated 1-3-19

سکا ر وغیرہ

۱

U/S 4062387-400

167134 PPC

SMIT
SUPER Sessions

درخواست عیارات میں از گرفتاری

کتاب عالی سائل / ملزم صبا ذیل مگر فی دستان ہے

یہ کہ ملزم ایک پرائمن پاکستانی شہری ہے اور قانون
خانے والے ہے

یہ کہ سائل / ملزم کی پویس نے بدستور بنا ہے
ملوث بنا ہے

Certified To Be True Copy

20 MAR 2020

05 MAR 2020

Examiner Copying Branch
Sessions Court Mardan

Examiner Copying Branch
Sessions Court Mardan

یہ کہ سائل / ملزم ناروہ تہا ہے

جناب سپر عدنان شاہ فاضل کیا تھا جس میں عدلی نے ترحیف
بیان دیگا روایا کہ سائل / ملزم میرے ملزمان تہا ہے

یہ کہ سائل / ملزم کے غیر موجودگی میں عدالت حضور نے (2)
BBA طان کرے کا حکم جاری فرمایا

دیگر نقاط بوقت بخت با اجازت عدالت حضور پیش ہے

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob. 0345-9405501

بیان میں یہ صفا بیان ہے
کہ کوئی اور خواہش
دوسرے

انرا سرما ہے کہ ملزم



Statement of Amir Sardar son of Durana Khan aged about 56/57 years R/O Lakki Marwat (COMPLAINANT) ON OATH.

Stated that I had charged the unknown accused for commission of the offence. On 26.02.2019 the police official informed us that accused has been arrested and registered the instant FIR against accused Fiaz Ali son of Amanat Khan. Now I have seen the accused Fiaz Ali son of Amanat Khan and I am very much certain that the accused who had committed the offence is not the one Fiaz Ali son of Amanat, who is nominated in the present case FIR by the local police and I am fully satisfied regarding the innocence of the accused/petitioner, therefore I have got no objection if the instant pre-arrest bail of the accused/petitioner named above is confirmed. To this effect my affidavit bearing my signature is Ex PA while copy of my CNIC is

Certified To Be True Copy

EX-PA/1.

RO & AC.

Dated. 16.03.2019



Amir Sardar Khan,
(Complainant)
CNIC No.11201-0138913-5.

Certified To Be True Copy

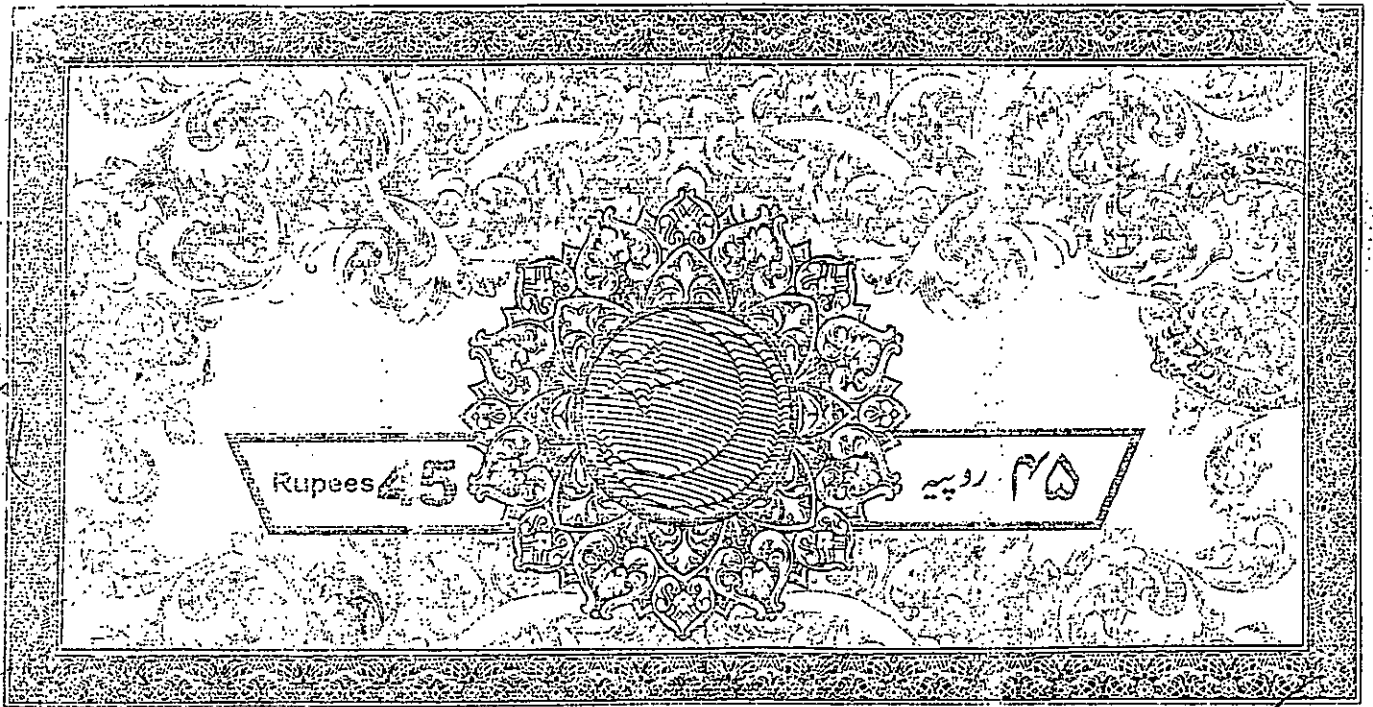
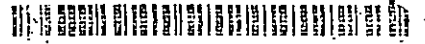
05 MAR 2020

Examiner Copying Branch
Sessions Court Mardan

(Hina Mehwish)

Add: Sessions Judge-VIII,
Mardan

3



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05 MAR 2020

Examiner Copying Branch
Sessions Court Mardan

Certified To Be True Copy

20 MAR 2019

98
Examiner Copying Branch
Sessions Court Mardan

406-387-420-167
34 P.P.C

بانی خلیفہ
محمد شفیع گل
16/3/19

منہ علی سردار ولد دوران سلفہ اسماعیل خلیفہ آبا خلیفہ محمد شفیع گل صاحب نے اپنی طرف سے ایک
منکر مدعی نے ایک تحریری درخواست مورخہ 18-12-8 کو جناب S.A.O شیخ گلشن کو
برخلاف ملزم / ملزمان نامعلوم دی تھی۔ مورخہ 01-2-2019 کو ایس ایس ڈی نے اطلاع دی
کہ ہم نے آپ کے ملزمان کو پکڑا ہے۔ مورخہ 27-2-019 کو جس کے ساتھ شیخ گلشن نے اپنا نو
ایس ایس ڈی خان انسپکٹر آئی نے سادہ کاغذ پر نام لکھ کر دیکھ کر کہ ان لوگوں کے خلاف
بذریعہ 22-A درخواست دعویداری کرو۔ میں نے درخواست 22-A دائر کر کے جو کہ پورے
جناب عبدالعاسم صاحب زیر جو پکڑے گئے اور اس واقعے کے مورخہ 19-3-1 کو میری طرف سے
میاں علی ولد امانت خان وغیرہ کے خلاف F.I.R عدت 98 مورخہ 19-3-1 ص 406-387
تھانہ شیخ گلشن درج رجسٹرڈ کی۔ اب اس میں مدعی نے میاں ولد امانت ساکن شجاع پورہ
مردان کو دیکھ کر اور پوری تسلی کر لی۔ اب میں مدعی شہدہ کو پوری تسلی دیتا ہوں۔
کہ مذکورہ بالا F.I.R میں نامزد ملزم / ملزمان بے گناہ ہے۔ اگر عدالت حضور انور سائیں ایس ایس ڈی
کو متعلقہ خطا میں B.B.A کنفرم کرے تاہم میں اس میں اپنی طرف سے کوئی قدم نہیں کرنا اختیار کیا
ہوگا۔

11201-0138913-5

ایس ایس ڈی سردار ولد دوران خان

مورخہ 16-3-19

ایڈیشنل سیکریٹری، عدالت عالیہ، لاہور۔

میلنگ

ایڈیشنل سیکریٹری، عدالت عالیہ، لاہور۔

11201-013 QP 13-5

9/5/11

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05 MAR 2020
Registrar Criminal Branch
Sessions Court, Muzaffargarh

Certified To Be True Copy
20 MAR 2019
Registrar Criminal Branch
Sessions Court, Muzaffargarh



کرت خط - FRI پوری میں

از دفتر ک 0

10-1-19

محکمہ آرڈر انگریزی نمبر 57/E-17-19 خارجہ خط - PAIG، لاہور

1-1-19

113 (46) 5-1-19 LHC DB قاضی علی 506 کا بیان منسلک ہے

سے میں راجح ان ڈیویشن پر جس کا رقم لکھ کر مندرجہ

تعمیر روایتی لغرض نکلے دئے ہیں اور اس کے بارے میں

اطمینان حاصل کرتے ہیں

10-1-19

JAVED IQBAL Gul Bela
Advocate High Court Peshawar
M.C. 0345-5405397

29

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE, PESHAWAR

Head Constable Fayaz Ali No. 506 of District Police Mardan presently serving in Special Branch Khyber Pakhtunkhwa, Peshawar is hereby repatriated to his parent District Mardan with immediate effect.


(SADIQ BALOCH) PSP
AIG/Establishment

For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
29.03.2019

No. 3604-05 /E-IV dated Peshawar the 03/04/2019

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

1. Dy: Inspector General of Police, Special Branch Khyber Pakhtunkhwa, Peshawar w/r to his Memo No. 3688/EB dated; 20.03.2019
2. District Police Officer, Mardan.

JAVED IQBAL Gul Bela
Dadgar Law Chamber
Advocate High Court Peshawar
Mob. 0345-9405501

GS&PD.1146/66-F.S-400 Books of 200 P-06.02.18/DHQ MardanJobs/Med. 2

Medical No. 2

Rs. 10/

No.

OUT-PATIENTS DEPARTMENT

NAME

Kaya Z

YEARLY NO.

9478

DATE

15/4/19

DISEASE

FACE VALUE RUPEES 10/-

- H/O f
- Vomiting
- G.B.A

- Adviser
- X Ray Skull
- C.B.C

Adm

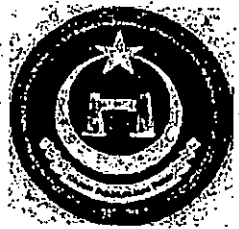
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stul.
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stul.
1m Grant in st.
- Tub cipester 500
- Tub culu p 1m
- Tub Denzur 125
Home 1 in
Compleet bed Rest for
5 days

Medical Officer
DHQ Hospital Mardan

15/4/19

Attested

(31)



**OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN.**

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email dpo_mardan@yahoo.com
Facebook: District Police Mardan
Twitter: @dpomardan

2019


ORDER

LHC Fayaz Ali No. 506, while posted at Special Branch 'now Police Lines Mardan' is hereby placed under suspension with immediate effect, on account of charging in the following criminal cases.

1. FIR No. 89 dated 20.02.2019 u/s 387/506/420/34 PS Sheikh Maltoon Town Mardan.
2. FIR No. 90 dated 21.02.2019 u/s 392//347/167/420 PS Sheikh Maltoon Town Mardan.
3. FIR No. 98 dated 01.03.2019 u/s 406/387/420/167/34 PS Sheikh Maltoon Town Mardan.

OB No. 789

Dated: 10-04-2019


District Police Officer
Mardan

OFFICE OF THE DISTRICT POLICE OFFICER MARDAN.

No: 2395/98/OSI, dated Mardan the 10/04/2019

Copies are forwarded to the:-

1. Deputy Superintendent of Police, HQrs: Mardan.
2. EC.
3. Pay Officer to Stop Pay
4. PA to issue Charge Sheet & summary of allegation to the defaulter Constable.

Attested

قیمت
50 روپے



42210

ایڈوکیٹ: محمد سعید
بار کونسل ایسوسی ایشن نمبر: BL-10-7726
رابطہ نمبر: 0302-5990617

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: سر جسٹس گل محمدی

مخاطب:	دعویٰ:
تیا ض علی بنام حکومت وفاق	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

باعت تحریر آگہ

تیا ض علی

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ ملک انیس اسی کے آن مقام کیلئے جلوہ ارسال / اعتراضات کو پیش کرتے ہوئے انیس اسی کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف 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 کارروائی 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 داخہ 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: 07-09-2020

العبد _____ واہ شد _____ العبد

مقام: لجہ کے لیے منظور ہے۔

Accepted by

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

P-31

C کورب ①

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

Service Appeal No. 10296/2020

Fayaz Ali (Ex-LHC No.506) S/o Amanat R/o Shehbaz Garhi, District
Mardan.....Appellant

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa and others
.....Respondents

Para-wise comments by respondents:-

Respectfully Sheweth,

PRELIMINARY OBJECTIONS

1. That the appellant has not approached this Hon'ble Tribunal with clean hands.
2. That the appellant has concealed the actual facts from this Hon'ble Tribunal.
3. That the appellant has got no cause of action or locus standi to file the instant appeal.
4. That the appellant is estopped by his own conduct to file the instant Service Appeal.
5. **That appeal of the appellant is badly time barred.**
6. That the appeal is unjustifiable, baseless, false, flawless and vexatious and the same is liable to be dismissed with special compensatory cost in favour of respondents.
7. That the appeal is barred by law & limitation.

REPLY ON FACTS

1. Para to the extent of enlistment of appellant in Police Department of appellant pertains to record needs no comments, while rest of the Para is incorrect, because every Police Officer / Official is under obligation to perform his duty regularly and with devotion. But appellant's performance was not satisfactory, moreover, the perusal of service record of the appellant revealed that due to his lethargic attitude his entire service record is tainted with bad entries (**Copy of list of bad entries is attached as Annexure "A"**).
2. Para pertains to record needs no comments.
3. Incorrect. Stance taken by the appellant is baseless, because he has been charged in a cases vide FIR No.89dated 20.02.2019 u/s 387/506/420/34 PPC, FIR No.90dated 21.02.2019 u/s 392/347/167/42 PPC and FIR No.98 dated 01.03.2019 u/s 406/387/420/167/34 PPC Police Station Sheikh Maltoon due to which he was suspended by the competent authority (**Copy of suspension order is attached as annexure "B"**).
4. Incorrect. Plea taken by the appellant is ill founded because the appellant being member of Police Force was supposed to surrender himself to the local Police if he was innocent but instead he went into hiding to avoid him lawful arrest. Moreover, the very conduct of appellant is unbecoming of a disciplined police officer hence, his retention will certainly stigmatize the prestige of entire police force.
5. Correct to the extent that after involvement of appellant in criminal cases, he was suspended as enunciated in police rules 1934.
6. Incorrect. Stance taken by the appellant is totally devoid of merit because he has been properly proceeded against departmentally by issuing him Charge

Sheet with Statement of Allegations and enquiry was entrusted to the then SDPO City Mardan. The enquiry officer during the course of enquiry provided full-fledged opportunity to the appellant to produce evidence/grounds in his defense but in fiasco. However, after fulfillment of all legal and codal formalities, the Enquiry Officer recommended the appellant for awarding major punishment of dismissal from service. In the light of above, the competent authority issued Final Show Cause Notice to the appellant, which was served upon the appellant personally and he duly signed the photo copy of Final Show Cause Notice as token of its receipt and the appellant submitted his reply which was marked to the then SP Investigation Mardan who concluded the departmental enquiry. Later on, the competent authority re conducted the enquiry through Mr. Bashir Ahmad the then DSP City Mardan and after fulfillment of all legal and codal formalities, the Enquiry Officer recommended the appellant for awarding major Punishment. The competent authority summoned & heard the appellant in orderly room on 26.11.2019, but this time too, the appellant failed to justify his innocence therefore, he was awarded major punishment of dismissal from service, which does commensurate with the gravity of misconduct of the appellant **(Copies of charge sheets with statement of allegations , enquiry reports and Final Show Cause Notice are attached as annexure "C, D & E")**.

7. Correct to the extent of dismissal from service of appellant while rest of the Para is incorrect because after fulfilling all legal and codal formalities, the appellant was awarded appropriate punishment which does commensurate with the gravity of misconduct of appellant.
8. Correct to the extent that the appellant preferred departmental appeal which was also decided on merit because the appellant was provided full-fledged opportunity of defending himself by the appellate authority but he bitterly failed to produce any cogent reason in his defense. Therefore, the same was rejected and filed being devoid of merit.
9. Correct to the extent that the appellant preferred revision petition to the Inspector General of Police Khyber Pakhtunkhwa Peshawar, which was rejected in accordance with faith & law/rules. **(Copy of order is attached as annexure "F")**.
10. Incorrect. Plea taken by the appellant is bereft of any substance because criminal and departmental proceedings are two different entities which can run parallel and the fate of criminal case will have no effects on the departmental proceedings. Moreover, release on bail does not mean acquittal from the charges rather the same a release from the custody and in the case of appellant, he has merely been released on bail in 3rd case as alleged by the appellant.
11. That appeal of the appellant is liable to be dismissed on the following grounds amongst the others.

REPLY ON GROUNDS:

- A. Incorrect. Order passed by the competent authority is lawfull, legal, hence, liable to be maintained.

3


- B. Incorrect. Order passed by the competent authority is as per Rules hence, liable to be maintained.
- C. Incorrect. Stance taken by the appellant is totally devoid of merit because he has been properly proceeded against departmentally by issuing him Charge Sheet with Statement of Allegations and enquiry was entrusted to the then SDPO City Mardan. The enquiry officer during the course of enquiry provided full-fledged opportunity to the appellant to produce evidence/grounds in his defense but in fiasco. However, after fulfillment of all legal and codal formalities, the Enquiry Officer recommended the appellant for awarding dismissal from service. In the light of above, the competent authority issued Final Show Cause Notice to the appellant, which was served upon the appellant personally and he duly signed the photo copy of Final Show Cause Notice as token of its receipt and the appellant submitted his reply which was marked to the then SP Investigation Mardan who concluded the departmental enquiry. Later on, the competent authority re conducted the enquiry through Mr. Bashir Ahmad the then DSP City Mardan and after fulfillment of all legal and codal formalities, the Enquiry Officer recommended the appellant for awarding major Punishment. The competent authority summoned & heard the appellant in orderly room on 26.11.2019, but this time too, the appellant failed to justify his innocence therefore, he was awarded major punishment of dismissal from service, which does commensurate with the gravity of misconduct of the appellant.
- D. Incorrect. Stance taken by the appellant is baseless, because he has been charged in cases vide FIR No.89dated 20.02.2019 u/s 387/506/420/34 PPC, FIR No.90dated 21.02.2019 u/s 392/347/167/42 PPC and FIR No.98 dated 01.03.2019 u/s 406/387/420/167/34 PPC Police Station Sheikh Maltoon due to which he was proceeded departmentally under the KP Police Rules 1975..
- E. Incorrect. Plea taken by the appellant is baseless, because he was summoned and heard in detail on 03.11.2020 by the appellate board. The revisionary authority decided the revision petition on merit.
- F. Para already explained needs no comments.
- G. Incorrect. Stance taken by the appellant is totally devoid of merit because he has been properly proceeded against departmentally by issuing him Charge Sheet with Statement of Allegations and enquiry was entrusted to the then SDPO City Mardan. The enquiry officer during the course of enquiry provided full-fledged opportunity to the appellant to produce evidence/grounds in his defense but in fiasco. However, after fulfillment of all legal and codal formalities, the Enquiry Officer recommended the appellant for awarding major punishment of dismissal from service. In the light of above, the competent authority issued Final Show Cause Notice to the appellant, which was served upon the appellant personally and he duly signed the photo copy of Final Show Cause Notice as token of its receipt and the appellant submitted his reply which was marked to the then SP Investigation Mardan who concluded the departmental enquiry. Later on, the competent authority re conducted the enquiry through Mr. Bashir Ahmad the then DSP City Mardan and after


fulfillment of all legal and codal formalities, the Enquiry Officer recommended the appellant for awarding major Punishment. The competent authority summoned & heard the appellant in orderly room on 26.11.2019, but this time too, the appellant failed to justify his innocence therefore, he was awarded major punishment of dismissal from service, which does commensurate with the gravity of misconduct of the appellant.

- H. Para explained earlier needs no comments.
- I. Incorrect. Plea taken by the appellant is bereft of any substance because criminal and departmental proceedings are two different entities which can run parallel and the fate of criminal case will have no effects on the departmental proceedings. Moreover, release on bail does not mean acquittal from the charges rather the same a release from the custody and in the case of appellant, he has merely been released on bail in 3rd case as alleged by him.
- J. Para not related needs no comments.
- K. Incorrect. Plea taken by the appellant is not plausible, because every Police Officer / Official is under obligation to perform his duty regularly and with devotion. But appellant's performance was not satisfactory, moreover, the perusal of service record of the appellant revealed that due to his lethargic attitude his entire service record is tainted with bad entries.
- L. Incorrect. The appellant is not liable to be re-instated into service rather his retention will stigmatize the prestige of police force.
- M. The respondents also seek permission of this honorable tribunal to adduce additional grounds at the time of arguments.

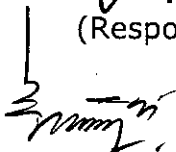
PRAYER:-

It is therefore, most humbly prayed that on acceptance of above submissions, appeal of the appellant may very kindly be dismissed being a badly time-barred and devoid of merits.


Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
 (Respondent No. 01)


Regional Police Officer,
Mardan.
 (Respondent No. 04)


District Police Officer,
Mardan.
 (Respondent No. 02)


Sub-Divisional Police Officer,
Mardan.
 (Respondent No. 03)

5

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,

PESHAWAR.

In Re S.A No. 10296/2020

Fayaz Ali Ex- Constable

VERSUS

Inspector General of Police Khyber Pakhtunkhwa Peshawar & others

Reply to the application for condonation of delay:-

Respectfully Sheweth,


PRELIMINARY OBJECTIONS

1. That applicant has no cause of action to file the instant application.
2. That the application is barred by law.

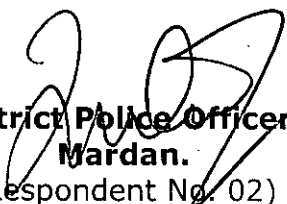
REPLY ON FACTS

1. That the appeal filed by the applicant before this Honorable Tribunal may kindly be dismissed being a badly time-barred.
2. Incorrect. Plea taken by the applicant is not plausible, because he failed to file appeal before the Honorable Service Tribunal within time and tailored the instant story just to cover the limitation issue.
3. Incorrect. Stance taken by the appellant is not plausible needs no comments.
4. Incorrect, plea taken by the applicant is whimsical / concocted rather fanciful hence, liable to be set at naught. As the apex court of Pakistan has held that the question of limitation cannot be considered a "technicality" simpliciter as it has got its own significance and would have substantial bearing on merits of the case.
5. Incorrect. Para earlier explained in the preceding para, hence denied.
6. Stance taken by the applicant is not plausible, his application may be filed being badly time-barred.

Keeping in view the above submission, it is most humbly prayed that the application of the applicant regarding condonation of delay may very kindly be dismissed please.


**Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.**
(Respondent No. 01)


**Regional Police Officer,
Mardan.**
(Respondent No. 04)


**District Police Officer,
Mardan.**
(Respondent No. 02)


**Sub-Divisional Police Officer,
Mardan.**
(Respondent No. 03)

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

Service Appeal No. 10296/2020

Fayaz Ali (Ex-LHC No.506) S/o Amanat R/o Shehbaz Garhi, District

Mardan.....Appellant

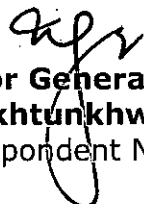
VERSUS

Inspector General of Police, Khyber Pakhtunkhwa and others


.....Respondents

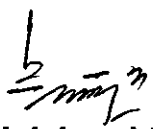
COUNTER AFFIDAVIT.

We, the respondents do hereby declare and solemnly affirm on oath that the contents of the Para-wise comments in the service appeal cited as subject are true and correct to the best of our knowledge and belief and nothing has been concealed from this Honourable Tribunal.


**Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar**
(Respondent No. 01)


**Regional Police Officer,
Mardan.**
(Respondent No. 04)


**District Police Officer,
Mardan**
(Respondent No. 02)


**Sub-Divisional Police Officer,
Mardan.**
(Respondent No. 03)

14. COMMENDATORY ENTRIES—Contd.

Serial No.

①

ORDER

He is hereby awarded a minor punishment of severe and strictly warned to be careful in future with immediate effect.

OB No. $\frac{4200}{13/14/11}$

Asst. Insp.
DPO/Mardan

Appeared in ETEA test for the year 2013 and obtained marks 22.75 vide PPO KPK Deshaevar Memo: No. 6071-6102/E-I, dt: 12/3/2013.

Asst. Insp.
DPO/Mardan

Qualified General Protection Course.

DPO/Mardan

Qualified Finger Print Proficient Course.

OB No. $\frac{448}{22-2-16}$

DPO/Mardan

14. COMMENDATORY ENTRIES - Concl'd.

Serial No.

ORDER

He is hereby awarded minor punishment of Censure while his absence period of 04 days are hereby counted as leave without pay with immediate effect, in exercise of the power vested in me under the Rules 1975.

OB No. 2558

dt 6/11/2017

DPO/Mardao

ORDER

He is hereby awarded minor punishment of Censure and his pay released with immediate effect.

OB No. 353

dt 15/02/18

DPO/Mardao

ORDER

Awarded minor punishment of Censure, for cheating in B-I ETEA Exam: 2018

OB No. 852

dt 18-4-18

DPO/Mardao

G.P. 179
G.P. 179

MS 80000/- J No 162

dt 7/6/18

DPO/Mardao
7/6/18

9

8

15-CENSURES AND PUNISHMENTS.

23

5 Charges:- Absent from Training Programme.

Punishment:- Awarded Warning vide OB No 508 dt. 27/9/07 and Commandant PTC through signal No. 4047-55/9c dt. 2-10-07.

District Police Officer Mardan

Fined Rs: 40/- for his Absence

OB No - 1435
28-4-10

6

DPD/MR

Fined Rs: 300/- for his no existing name plate.

7

OB No: 3463
24-9-011

DPD/MR

1 day extra drill for his absence

OB No 228
25-1-06

8

DPD/MR

1 day extra drill for his absence

OB No. 228
25-1-06

9

DPD/MR

5

15-CENSURES AND PUNISHMENTS.—Contd.

Serial No.

① day extra drill for his absence.

OB No. 422
17-2-2016

6

⑩

~~DPs MR~~

① day extra drill for his absence.

OB No. 422
17-2-2016

7

⑪

~~DPs MR~~

① day extra drill for his absence.

OB No. 465
22-2-2016

8

⑫

~~DPs MR~~

① day extra drill for his absence.

OB No. 465
22-2-2016

9

⑬

~~DPs MR~~

ORDER

He is hereby awarded minor Remission of Censure, for his inefficiency.

OBNO-1391

dt 20-7-18.

⑭

~~DPs MR~~

① day Extra drill awarded for his absence.

OBNO. 45
8/1/08

⑮

~~DPs MR~~

(5)

(9)

(24)

Serial No.

15-CENSURES AND PUNISHMENTS.—Contd.

Awarded him minor punishment of
censure with immediate effect.

OB No. 167
23-1-18

(16)

yr
DPO/Mardan

ORDER

Being charged vide case FIR No. 89
dated 20-2-19 U/s 387/506/420/34 - FIR No. 90 dt 21/2/19
U/s 392/347/167/420, and case FIR No. 98 dt 1.3.19
U/s 406/387/420/167/34 ps Smt. He is hereby
placed under suspension with immediate effect.

OB No. 789

dt 1.10.4.19.

(17)

District Police Officer
Mardan

one day Quarter Guard awarded with
immediate effect.

OB No. 1861

5-9-19

(18)

yr
DPO/Mardan

(6)

Serial No.


15-CENSURES AND PUNISHMENTS.—Concl.

ORDER

Dismissed from service with immediate effect.


CP No. 2587

Dt. 29.11.19.


DPO Mardan


ORDER

The appeal for re-instatement in service is rejected and filed, being devoid of merit vide D.G./MR order Enclt No. 1387/ES dt. 7-2-2020.


DPO Mardan


ORDER

The appeal is rejected vide AIGP HQRS Peshawar order no. 4468/S dt 16/11/22


DPO MARDAN

ORDER

The appeal for re-instatement in service is rejected vide IGP Pesh memo no. 1686/21 dated dt. 20-1-2024


DPO Mardan

16. LEAVE, ABSENCE AND BREAKS IN SERVICE.

All periods not counting as "approved service" to be entered in red ink.

1		2			3	4
DATE		EXTENT			No. of District Order	Description of leave, e. privilege, hospital, sick leave, or furlough, or of absence, or forfeiture of approved service. All entries to be initialed, by Superintendent of Police.
From	To	Years	Months	Days		
1-3-09	to 5-3-09			5	508	Leave w/o pay DPO/MR/da
				19	16/3/09	
				1	497	- do - DPO/MR
					28-1-11	
				1	2689	- do - DPO/MR
					6-12-13	
				1	2681	- do - DPO/MR
					6-12-13	
				2	662	- do - DPO/MR
					14-3-16	
				1	1578	- do - DPO/MR
					22/6/18	
				1	2596	- do - DPO/MR
					7/11/07	
				1	366	- do - DPO/MR
					17/7/08	
				1	2034	- do - DPO/MR
					28/6/10/08	
				(06/07 hours)	1981	- do - DPO/MR/da
					23/9/19	

QRs

NR

121



**OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN.**

Tel No. 0937-9230109 & Fax No. 0937-9230111

Email dpo_mardan@yahoo.com

Facebook: District Police Mardan

Twitter: @dpomardan

2019

ORDER

✓ LHC Fayaz Ali No. 506, while posted at Special Branch 'now Police Lines Mardan' is hereby placed under suspension with immediate effect, on account of charging in the following criminal cases.

1. FIR No. 89 dated 20.02.2019 u/s 387/506/420/34 PS Sheikh Maltoon Town Mardan.
2. FIR No. 90 dated 21.02.2019 u/s 392//347/167/420 PS Sheikh Maltoon Town Mardan.
3. FIR No. 98 dated 01.03.2019 u/s 406/387/420/167/34 PS Sheikh Maltoon Town Mardan.

OB No. 789

Dated 10-04-2019.


District Police Officer
Mardan

OFFICE OF THE DISTRICT POLICE OFFICER MARDAN.

No. 2395-98/OSI, dated Mardan the 10/04/2019

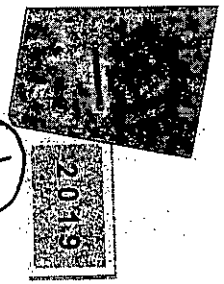
Copies are forwarded to the:-

1. Deputy Superintendent of Police, HQrs: Mardan.
2. EC.
3. Pay Officer to Stop Pay
4. PA to issue Charge Sheet & summary of allegation to the defaulter Constable.



4 (13) (12) C
OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpo_mardan@yahoo.com



No. 130 /PA

Dated 5/4/2019

DISCIPLINARY ACTION

I, Sajjad Khan (PSP), District Police Officer Mardan, as competent authority am of the opinion that LHC Fayaz Ali No.506, himself liable to be proceeded against, as he committed the following acts/omissions within the meaning of Police Rules 1975.

STATEMENT OF ALLEGATIONS

Whereas, LHC Fayaz Ali No.506, while posted at Special Branch K.P, (now under repatriation to Mardan District), has been charged in the cases vide:-

1. FIR No.89 dated 20-02-2019 U/S 387/506/420/34 PPC PS Sheikh Maltoon.
2. FIR No.90 dated 21-02-2019 U/S 392/347/167/42 PPS PS Sheikh Maltoon.
3. FIR No.98 dated 01-03-2019 U/S 406/387/420/167/34 PS Sheikh Maltoon.

For the purpose of scrutinizing the conduct of the said accused Official with reference to the above allegations, ASP Ali Bin Tariq SDPO City is nominated as Enquiry Officer.

The Enquiry Officer shall, in accordance with the provision of Police Rules 1975, provides reasonable opportunity of hearing to the accused Police Officer, record/submit his findings and make within (30) days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused Official.

LHC Fayaz Ali is directed to appear before the Enquiry Officer on the date, time and place fixed by the Enquiry Officer.


(SAJJAD KHAN) PSP
District Police Officer
Mardan



②
⑬

**OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN**

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpo_mardan@yahoo.com

CHARGE SHEET

I, Sajjad Khan (PSP), District Police Officer Mardan, as competent authority, hereby charge LHC Fayaz Ali No.506, while posted at Special Branch K.P, (now under repatriation to Mardan District), as per attached Statement of Allegations.

1. By reasons of above, you appear to be guilty of misconduct under Police Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in Police Rules, 1975.
2. You are, therefore, required to submit your written defense within 07 days of the receipt of this Charge Sheet to the Enquiry Officer, as the case may be.
3. Your written defense, if any, should reach the Enquiry Officers within 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.
4. Intimate whether you desired to be heard in person.


(SAJJAD KHAN) PSP
District Police Officer
Mardan



**OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN**

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpo_mardan@yahoo.com

2019

No. 161 /PA

Dated 24/3 /2019

DISCIPLINARY ACTION

I, Sajjad Khan (PSP), District Police Officer Mardan, as competent authority am of the opinion that LHC Fayaz Ali No.506, himself liable to be proceeded against, as he committed the following acts/omissions within the meaning of Police Rules 1975.

STATEMENT OF ALLEGATIONS

Whereas, LHC Fayaz Ali No.506, while posted at Special Branch K.P, (now under suspension Police Lines Mardan), has arranged baseless Press Conference against Senior Police Officers of the District for the purpose to hinder the investigation process of the below mentioned cases, in which, he has been charged:-

1. FIR No.89 dated 20-02-2019 U/S 387/506/420/34 PPC PS Sheikh Maltoon.
2. FIR No.90 dated 21-02-2019 U/S 392/347/167/42 PPS PS Sheikh Maltoon.
3. FIR No.98 dated 01-03-2019 U/S 406/387/420/167/34 PS Sheikh Maltoon.

Being member of a disciplined/uniformed Force, his act is unacceptable with bringing a bad name against entire Police Force in the eyes of general public.

For the purpose of scrutinizing the conduct of the said accused Official with reference to the above allegations, ASP Ali Bin Tariq SDPO City is nominated as Enquiry Officer.

The Enquiry Officer shall, in accordance with the provision of Police Rules 1975, provides reasonable opportunity of hearing to the accused Police Officer, record/submit his findings and make within (30) days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused Official.

LHC Fayaz Ali is directed to appear before the Enquiry Officer on the date, time and place fixed by the Enquiry Officer.

(SAJJAD KHAN) PSP
District Police Officer
Mardan



15

OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpo_mardan@yahoo.com

CHARGE SHEET

I, Sajjad Khan (PSP), District Police Officer Mardan, as competent authority, hereby charge LHC Fayaz Ali No.506, while posted at Special Branch K.P, (now under suspension Police Lines Mardan), as per attached Statement of Allegations.

1. By reasons of above, you appear to be guilty of misconduct under Police Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in Police Rules, 1975.

2. You are, therefore, required to submit your written defense within 07 days of the receipt of this Charge Sheet to the Enquiry Officer, as the case may be.

3. Your written defense, if any, should reach the Enquiry Officers within 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.

4. Intimate whether you desired to be heard in person.


(SAJJAD KHAN) PSP
District Police Officer
Mardan

From:

The Assistant Superintendent of Police,
City Circle.

To:

The Worthy District Police Officer,
Mardan.

No.

/S dated Mardan the 20/05/2019.

Subject:

ENQUIRY AGAINST CONSTABLE LHC FAYAZ NO.506.

Memo:

Kindly refer to your office diary No.161/PA dated 24.04.2019 and No.130/PA date 05.04.219, on the subject noted above.

STATEMENT OF ALLEGATION.

Whereas, LHC Fayaz No.506, while posted at "Special Branch" KP (now under suspension Police Lines Mardan), has arranged baseless press conference of the below mentioned cases, in which, he has been charged:-

1. FIR No.89 dated 20.02.2019 us/ 387/506/420/34 PPC PS Sheikh Maltoon.
2. FIR No.90 dated 20.02.2019 us/ 392/347 /167/42 PPC PS Sheikh Maltoon.
3. FIR No.98 dated 01.03.2019 us/ 406/387/167/420/34 PPC PS Sheikh Maltoon.

PROCEEDING:-

The defaulter HC Fayaz 506 was summoned after repeatedly calls, copy of charge sheet was served upon him on 02.05.2019 with the direction to submit reply to the charge sheet within (07) days as per rules but failed, his previous record was obtained from establishment clerk, there are 20 bad entries with no good entry was found on his service record.

FINDING.

From the perusal of available record, CD Video/press conference, the enquiry officer came to know that the alleged HC Fayaz No. 506 is held responsible for the above mentioned allegations and also the above criminal record shows his bad character. Furthermore, the alleged HC has no defense to offer, beside this. he is no more interested in police job. He is adversely affecting the rules regulation and discipline of Police. Keeping such man in Police force any more will prove detrimental for Police department.

RECOMMENDATION:-

Keeping the above mentioned facts and figures in view, the defaulter Head Constable is recommended to be immediately dismissed from the service.

Encl: (12)

Sub-Divisional Police Officer,
City Circle, Mardan

17

D/E 25-7-06-
N/C
G/E
B/E 26

From

The Deputy Superintendent of Police,
City Circle.

The Worthy District Police Officer,
Mardan.

No 1758 /S dated Mardan the 13/11/2019.

Subject: DEPARTMENTAL ENQUIRY AGAINST LHC FAYAZ NO.506..

Memo: Kindly refer to your office diary No.161/PA dated 24.04.2019 and No.130/PA dated 05.04.219, on the subject noted above.

STATEMENT OF ALLEGATION.

Whereas, LHC Fayaz No.506, while posted at "Special Branch" KP (now under suspension Police Lines Mardan), has arranged baseless press conference of the below mentioned cases, in which, he has been charged:-

1. FIR No.89 dated 20.02.2019 us/ 387/506/420/34 PPC PS Sheikh Maltoon.
2. FIR No.90 dated 201.02.2019 us/ 392/347 /167/42 PPC PS Sheikh Maltoon.
3. FIR No.98 dated 01.03.2019 us/ 406/387/167/420/34 PPC PS Sheikh Maltoon.

PROCEEDING:-

The defaulter LHC Fayaz 506 was summoned heard at length, cross questioned, he submitted his written reply/statement (which placed at file)

FINDING.

During the process of enquiry it was found that:-

- The alleged LHC Fayaz is habitual criminal because three cases Robbery and Extortion are under hearing in the court against him.
- His previous record was obtained from Establishment Brach, there are 20 bad entries with zero good entry was found on his service record.
- The alleged official LHC Fayaz No.506 has been transferred from special branch Peshawar to District Mardan on complaint basis.

Heard at length, cross questioned, he could not satisfy under the law. Document of service

CONCLUSION /RECOMMENDATION:-

From the perusal of available record, the enquiry officer reached to the conclusion that the alleged LHC Fayaz is held responsible for the above mentioned allegation, and also the above criminal record shows his bad character. Furthermore, the criminal record of the defaulter constable is harming the image of Police Department. Keeping such man in police force anymore will prove pernicious for the department.

Keeping all the above facts in view the under enquiry constable is recommended for major punishment.

Encl: (22)

14-11-19

16/11/19

Sir, He has already been served with FSON vide F/A, to which, his reply was received vide F/B

Deputy Superintendent of Police,
City Circle Mardan.

PA 15/11/19

ابتدائی اطلاع رپورٹ

ابتدائی اطلاع نسبت قابل دست اندازی پولیس رپورٹ شدہ زبردستی ۱۵۲ مجموعہ ضابطہ نو جداری

شیخ مہنون خان سردان (41)

تاریخ وقوع 14/10/2019 وقت 20:30 بج

89

16101 0229253-1	20/10/19	ابتدائی اطلاع دہندہ مستغیث
0312 9319986	خان ساکن غلط نصیر	مقام (محدود) حال اگر کچھ لیا گیا ہو۔
PPC 506 387 420 34	شہرہ خیر پور	مقام سے اور دست
	کمیٹی مارکیٹ شیخ مہنون	مقام
	امانت ولد کریم خان عرف اخوان ساکن سندھ مار	
	نیاض ولد امانت ساکن شہباز ٹرہ	
	معدن کی رپورٹ سرحدی درجہ ضابطہ نو جداری	
	پہل ٹرہ	

ابتدائی اطلاع نیچے درج کرو۔ مستغیث مندرجہ خانہ مرد شمول رشتہ دار
 اعلیٰ عثمان ولد سردار ساکن دیہہ اعلیٰ ٹونٹ صدر ٹافہ قحانہ ریسرچ رپورٹ کرنا ہے کہ سرحدی
 کریمہ بی بی ام حاضرہ باکستان وقت سردان سے اپنے خوش ساکن اے ڈی سی 7000 سرحدی
 APL گیس خورد جاری ہے تمام جائے وقوعہ سبلا 1000 سرحدی کارڈ 2100 سرحدی سید جو کہ بیٹے سے وہاں
 موجود ہے ایک شخص اسم کن نامعلوم نے اشارہ دیکھ کر سے سرحدی نامعلوم سے خورد کو پوسل انیٹر ظاہر
 کر کے رہنا پوسل کارڈ دیکھا کریمہ سے پہلے خورد شائق کارڈ طلب کر کے بعد میں نے صورت میں
 سلا بیٹے کو کہہ کر پھر ام کر عقب آئے خورد اور اس دوران ایک خورد اسم ممکن نامعلوم
 عقب کر کر کارڈ میں جو سردا ہاں سے روانہ ہو کر سرحدی میں حکم دیکر کہ سرحدی بھاری سے پھر
 کے الزامات اور دوسرے منہ مات میں ملوث ہو گئے تاکہ سرحدی دوران سرحدی ایک سرحدی
 رو کھو کر میرے جیب سے سرحدی مبلغ -30000 روپے چھین کر اس دوران کہ سے سرحدی 1500 روپے
 سرحدی رقم سے منہ کیا اور سرحدی 20000 روپے کا خط لکھ کر کے جو میرے پاس مذکور ہے ہے انہوں نے
 اپنے حوالے سے امانت ولد نامعلوم ساکن سندھ مار کو طلب کر کے خورد فرار فرار کر کے سرحدی
 شناخت کے ساتھ باقی رقم کی ذمہ داری امانت مذکورہ نے لی آئی روز میں امانت مذکورہ کو مبلغ
 4000 روپے ادا کر کے بتایا رقم مبلغ -16000 روپے آئندہ جمعہ مبارک کو ادا کر کے کو کہا سرحدی
 ہے امانت مذکورہ سے دوست کے بارے میں معلوم کرنا چاہا تو انہوں نے شنیق نام کا پوسل والا ایڈریس
 قحانہ شیخ مہنون پہا نصیبائی بنوائے میں نے ذاتی طور پر مندرجات کر کے خورد قحانہ امانت پھر
 پھر معلوم ہوا کہ شخص مذکورہ کا نام نیاض ولد امانت ساکن شہباز ٹرہ ہے اور ہم خورد قسم کے واردات
 نہ تھے میں خورد سے دعوہ کر رہی اور خورد قسم قحانہ کا سرحدی پھر کہہ کر امانت ولد نامعلوم خا
 اخوان ساکن سندھ مار (ق) نیاض ولد امانت ساکن شہباز ٹرہ ایک زمانہ اسم ممکن نامعلوم دعوہ کر رہی
 رپورٹ میں دیر سے اس وجہ سے کہ میں منہ مات دیکھ کر اس کے بارے میں قحانہ عثمان خانہ سردار
 دیہہ ام بہرہ والا قحانہ رپورٹ بالائی نامیدی کی اطلاع کارروائی قحانہ سب گنتہ سال رپورٹ درج
 پھر بہرہ والا قحانہ سرحدی باقیہاں دست لکھ کر کے زبردستی فون انکوئی نسبت کی اور نامیدی
 نے نامیدی انکوئی نسبت کی جسکی میں نے سرحدی رپورٹ میں فون انکوئی نسبت سے صورت حد ہاں نامیدی

3

21

The District Police Officer,
Mardan.

Subject: Reply to final show cause Notice dated 12-11-2019

Respected Sir,

The undersignee submits as under:

In reference to final show cause notice bearing No.168/PA, dated 27.05.2019 it is submitted that prior to this written reply the undersignee has submitted in written reply dated 30.05.2019. Further stated that during these days i.e. the issuing of final show cause notice and submission of written reply there was restraining order of the August Peshawar High Court to the effect that no adverse action shall be carried out against the undersignee/petitioner.

Now, in the changed scenario as the writ petition were dismissed, hence the undersignee submits the reply once again. The final show cause notice in which three FIRs has been mentioned is against the law and facts. The mere nomination of an accused in FIR is not the conclusive proof that the accused has committed the offence, rather it is just an allegation which is to be proved by producing cogent and inspiring evidence before a court of law. Hence or the sole ground that a press nominated in FIR could not be suspended or punished because it would amount the awarding of punishment prior to the recording of evidence. Furthermore all the cases registered against the undersignee are highly motivated and planned and have got no connection with the reality and still subjudice before the competent court, hence it would be more appropriate to keep pending the inquiry till the final adjudication of the cases. So for as the second allegation in respect of alleged press conference is concerned it is vehemently denied and

Ijaz *Ali* *22*

Further replied that the said press conference was arranged by Wajid Ali Advocate in respect of maltreatment by DSP Ijaz Abazai consequent upon the maltreatment proper FIR under the relevant section has been registered against the said DSP that all the proceeding against the undersignee against the law and facts and violative of the rules and inquiry have not tenable in the eye of law. That the rest of the grounds will be agitated orally at the time of regular hearing.

Therefore, keeping in view the above points the departmental inquiry may graciously be closed or be kept pending till the decision of the competent court
(As the cases are under trial)

Dated 12-11-2019

Yours obediently,

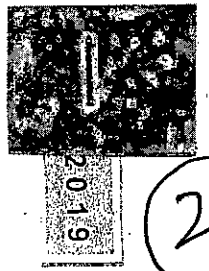
Fayaz Ali

FAYAZ ALI
Belt No.506
LHC



**OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN**

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpo_mardan@yahoo.com



(23)

No. 168 /PA

Dated 27/05/2019

FINAL SHOW CAUSE NOTICE

Whereas, you LHC Fayaz No.506, while posted at Special Branch K.P (now under suspension Police Lines) Mardan) has been charged in the following cases vide:-

1. FIR No.89 dated 20-02-2019 U/S 387/506/420/34 PPC PS Sheikh Maltoon.
2. FIR No.90 dated 21-02-2019 U/S 392/347/167/42 PPS PS Sheikh Maltoon.
3. FIR No.98 dated 01-03-2019 U/S 406/387/420/167/34 PS Sheikh Maltoon.

Besides, you have also arranged baseless Press Conferences against Senior Police Officers of the District for the purpose to hinder investigation process of the above quoted cases, wherein, you have been charged.


In this connection, during the course of Departmental Enquiries conducted by Captain @ Ali Bin Tariq ASP/SDPO/City Mardan vide his Office letter No.986/S dated 20-05-2019, in pursuance of this Office Statement of Disciplinary Action/Charge Sheet Nos.130/PA dated 05-04-2019 and 161/PA dated 24-04-2019, holding responsible you of gross misconduct and recommended for major punishment of dismissal from service.

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


Hence, I Sajjad Khan (PSP) District Police Officer Mardan, in exercise of the power vested in me under Rules 5 (3) (a) & (b) of the Khyber Pakhtunkhwa Police Rules 1975, call upon you to Show Cause Finally as to why the proposed punishment should not be awarded to you.

Your reply shall reach this office within 07 days of receipt of this Notice, failing which; it will be presumed that you have no explanation to offer.

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

Received by 

Dated: 28/5/2019


(SAJJAD KHAN) PSP
District Police Officer
Mardan

Copy to RI/Police Lines (Attention Reader) to deliver this Notice upon the alleged official & the receipt thereof, shall be returned to this office within (05) days positively for onward necessary action.

The District Police Officer,
Mardan.

Subject: Reply to final show cause Notice dated 27/05/2019.

Sir,

Reference the final show cause notices vide endorsement No.168/PA dated 27/05/2019.

It is submitted that I have never indulged myself in the commission of the alleged offences.

All the three FIRs, referred to are incorrect, false, based on malice and retaliation on part of the concerned police officials / officers.

The alleged complaints in case FIR No.89 and FIR No.98, have categorically been denied to have charged me for the offences, mentioned therein. Even they both have stated that they have neither seen me nor charged me.

While, the complainant in case FIR No.90 of Police Station Sheikh Maltoon Town Mardan, has effected compromise with me on account of my innocence there in, after his satisfaction that I had not been involved in the commission of the alleged offence.

Moreover, I had not arranged the alleged press conference. The same was booked by my brother, namely Wajid Ali Advocate in respect of the maltreatment of Mr. Ijaz Abazai, the DSP I had no concern with arranging of the said press conference.

It is added that I have never been provided the relevant charge sheet. The mention thereof in the enquiry report is incorrect and without proof in support of despatch thereof to me. Hence, I was not supposed to submit reply thereto. Moreover I had never been called /noticed to participate in the

SD-AM
discovery = 1.7.19
of HC remarks

proceedings of any such inquiry. Thus, the inquiry, of ay, conducted in my absence, has no legal effect.

Even, if any witness is shown to have been examined during the said so-called inquiry proceedings, his testimony without the test of cross examination, has no weight under the law:

Hence, the alleged enquiry report may be kept out of consideration, being illegal and against the principles of natural justice.

I have report the right of personal hearing under the rules.

It is added that the Peshawar High Court in my cases W.P No.2490-P/2019 and W.P No.2493-P/2019 both titled Fayaz Ali V/S Amir Sardar etc. Fayaz Ali V/S Bilal etc. vide order sheets dated 15.05.2019 has ordered that no adverse action shall be taken against the petitioner, Copies attached herewith.


Hence, adhering to the order of the worthy High Court, referred to above, the present disciplinary proceedings, may please be stopped as the undersigned only nominated accused and not convicted/guilty, hence cannot be burdened on mere allegation.

I reserve the right of hearing under the rules.

It is requested that closing the case in-question, I may be exonerated from the charges as levelled against me and oblige. Needless to mention that if any act which done in bad faith and the undersigned highly keep the department in esteem and proud as member of it.

Dated 30.05.2019

Yours obediently,


Fayaz Ali LHC, No.506
Police Lines, Mardan.

30/5/19



5
**OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN**

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpo_mardan@yahoo.com

26

No. 8359-68 /PA

Dated 1/17/2019

ORDER ON ENQUIRY OF LHC FAYAZ ALI NO.506

This order will dispose-off a Departmental Enquiry under Police Rules 1975, initiated against LHC Fayaz Ali No.506, under the allegations that while posted at Special Branch Khyber Pakhtunkhwa (now under suspension Police Lines), was placed under suspension and closed to Police Lines vide this office OB No.789 dated 10-04-2019, issued vide order/endorsement No.2395-98/OSI dated 10-04-2019 on account of his involvement in the following cases (1) FIR No.89 dated 20-02-2019 U/S 387/506/420/34 PPC PS Sheikh Maltoon, (2) FIR No.90 dated 21-02-2019 U/S 392/347/167/42 PPC PS Sheikh Maltoon, (3) FIR No.98 dated 01-03-2019 U/S 406/387/420/167/34 PS Sheikh Maltoon and proceeded against departmentally through ASP Ali Bin Tariq, the then SDPO City Mardan vide this office Statement of Disciplinary Action/Charge Sheet No.130/PA dated 05-04-2019, who (E.O) after fulfilling necessary process, submitted his Finding Report to this office vide his office letter No.986/S dated 20-05-2019, recommending the alleged official for dismissal from service.

In this connection, the accused official was served with a Final Show Cause Notice, under K.P Police Rules-1975, issued vide this office No.168/PA dated 27-05-2019, to which, his reply was received & marked to SP Investigation Mardan, who vide his office letter No.998/PA/Inv: dated 30-08-2019, concluding that the departmental enquiry may be kept pending till final decision of High Court, as in interim relief the Peshawar High Court has remarked that in the meanwhile, no adverse action shall be taken against the petitioner.

Later-on, the enquiry was re-conducted through Mr. Bashir Ahmad DSP City Mardan, who also recommended the alleged official for major punishment vide his office letter No.1752/S dated 13-11-2019.

Final Order

LHC Fayaz Ali was heard in O.R on 26-11-2019, who failed to satisfy the undersigned, therefore, awarded him major punishment of dismissal from service with immediate effect, in exercise of the power vested in me under Police Rules-1975.

OB No. 2587

Dated 29/11 2019.

(SAJJAD KHAN) PSP
District Police Officer
Mardan

Copy forwarded for information & n/action to:-

- 1) The SP Investigation Wing Mardan.
- 2) The DSP/HQrs Mardan.
- 3) The P.O & E.C (Police Office) Mardan.
- 4) The OSI (Police Office) Mardan with () Sheets.

27

ORDER.

This order will dispose-off the departmental appeal preferred by Ex-LHC Fayaz Ali No. 506 of Mardan District Police against the order of District Police Officer, Mardan, whereby he was awarded major punishment of dismissal from service vide OB No. 2587 dated 29.11.2019.

The appellatant was proceeded against departmentally on the allegations that he, while posted at Special Branch Khyber Pakhtunkhwa, Peshawar was repatriated to parent District Mardan vide Central Police Office, Peshawar order No. 3604-05/E-IV dated 03.04.2019. The delinquent official was placed under suspension and closed to Police Lines, Mardan by the District Police Officer, Mardan vide OB: No. 789 dated 10.04.2019, due to involvement in the following cases:-

- (1) FIR No.89 dated 20-02-2019 U/S 387/506/420/34 PPC PS Sheikh Maltoon.
- (2) FIR No.90 dated 21-02-2019 U/S 392/347/167/42 PPC PS Sheikh Maltoon.
- (3) FIR No.98 dated 01-03-2019 U/S 406/387/420/167/34 PS Sheikh Maltoon.

Proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and SDPO City, Mardan was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities, submitted his findings wherein he recommended the delinquent official for major punishment of dismissal from service.

Keeping in view the recommendations of Enquiry Officer and other material available on record, the delinquent Official was issued Final Show Cause Notice to which his reply was received and found unsatisfactory. He was also heard in Orderly Room held in the office of District Police Officer, Mardan on 26.11.2019, but he failed to advance any cogent reason in his defense. Hence, the delinquent Official was awarded major punishment of dismissal from service by the District Police Officer, Mardan vide OB: No. 2587 dated 29.11.2019.

Feeling aggrieved from the order of District Police Officer, Mardan, the appellatant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 04.02.2020.

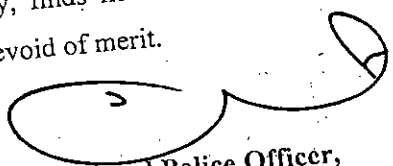
From the perusal of the enquiry file and service record of the appellatant, it has been found that allegations leveled against the appellatant have been proved

28

beyond any shadow of doubt. Besides, the appellant has effected a compromise with the complainant vide case FIR No. 98 dated 01.03.2019 u/s 406/387/420/411/167/34-PPC and Section 119 of Police Act, 2017 Police Station Sheikh Maltoon, Mardan which is tantamount to the admission of his crime. Moreover, 02 heinous criminal cases are still pending adjudication against the appellant. The retention of appellant in Police Force will stigmatize the prestige of entire Police Force. He could not present any cogent justification to warrant interference in the order passed by the competent authority.


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

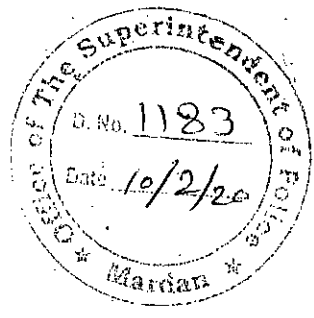
Order Announced.


Regional Police Officer,
Mardan.

No. 1387 /ES, Dated Mardan the 07-02 /2020.

Copy forwarded to District Police Officer, Mardan for information and necessary w/r to his office Memo: No. 51/LB dated 31.01.2020. His Service Record is returned herewith.

OB/EC/DP Legal/OSI
For Mardan

DP/Mardan
7/2



NIC: 11201-0138913-5
0346-7077823

تایید کنندہ: 45/

ابتدائی اطلاع رپورٹ

شیخ ملتون
51
51
51

قبل دست اندازی پولیس رپورٹ شدہ زبردستہ 15/ نومبر ضابطہ جاری

صدران

شیخ ملتون

تاریخ تقریباً: 018-012-2018 وقت 13:00 بجے
18 عدہ 98

1	تاریخ اور وقت رپورٹ	جاگیرگی پر 3/19:01 وقت 14:00 بجے
2	نام و کنٹ اطلاع دہندہ مستفیث	امیر سردار خان دوران خان قوم سردت نمبر 5 سال سابق اسماعیل خان اراجیل
3	شناختی کارڈ نمبر اور ہائل نمبر	51
3	تفصیلی نمبر (موجودہ) ہائل اگر کھلایا گیا ہو	34-167-420-387-406-PPC
3	جائے وقوعہ فاضلہ قائد سے اور دست	طورو لڑائی کمل روڈ نزد طورو CN6 چوک
5	نام و کنٹ لازم	1) امانت ولد کریم خان سکند سندس مار غلم ڈھید
5	شناختی کارڈ نمبر اور ہائل نمبر	2) فیاض ولد امانت سکند شہباز گھر
6	کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا تو بیان کر دیا	میں مقدمہ کی درخواست پیش کردہ یہ مقدمہ متعلقہ تھا
5	تعداد سے روائی نامی تاریخ وقت	بہ سبیل ڈاک

ابتدائی اطلاع شیخ درج کردہ مستفیث، سردار خان نمبر 5 سال سابق اسماعیل خان اراجیل کے خلاف
 ایک تقریری درخواست پیش کر کے یہ اطلاع ملتی ہے۔ مقدمت میں اب 5:10 صاحب فاضلہ مستفیث ملتون
 درخواست، برخلاف 1- امانت ولد کریم خان سکند سندس مار غلم ڈھید، فیاض ولد امانت سکند سندس مار غلم ڈھید
 جناب عالی حضور خدمت میں کہ مورخہ 18-12-80 کو میں یہ سلسلہ شادی خانہ آبادی اپنے دوست سابق سرد
 محمد وارث سکند نام طورو صبرہ کیلئے دیں خود سے تادم طورہ آرہا تھا۔ مورخہ 13:00 بجے میں اس وقت وہ ان لڑکھے روڈ طورو
 CN6 چوک پر آکر روڈ کراس کرتے طورہ لڑائی کمل روڈ پر ایک موٹر کار میں بیٹھ کر چلے گئے۔ وہ اس وقت
 ڈرائیوگ سیٹ پر بیٹھ پارچہ اور مالٹا واسٹ بنا تھا اور خدمت سیٹ میں دو سیرا بیٹا میرا حیران لہر
 نے برت مادی کیٹ سے پیئے ہوئے تھے۔ وہ ڈرائیوگ موجود تھا۔ نے مجھے آواز دیکر پوچھے تھے کہ تم CIA والے ہیں
 تمہارے خلاف انفارمیشن ہے۔ اپنا شناختی کارڈ دکھاؤ۔ میں نے شناختی کارڈ دیکر انہوں نے اپنے سر ایبل
 کرکس کے ساتھ بہ زبان آری و بات شروع کر کے کہنے لگے کہ میں انفارمیشن والا شخص ملا ہوا ہوں۔ ساری سیرا
 کے گھونٹا جیل پر آئے لے جا کر سیرا اتلا ٹی شروع ہوئے دوران تلاش دیکر وہی سیرا کے سیرے میں سے ملے
 (48) ہزار روپیہ نکال کر لگے وہاں پر جو رقم سے آٹھ اور پوچھے تھے کہ ہم واپس آ رہے ہیں۔ تم آدھ لگے۔ ہم
 نے انتظار کر کے وہ واپس نہیں آئے۔ مجھے پتہ چلا کہ یہ لڈ لڈ لوگوں نے پھوٹ لگائی۔ دھوکہ دیا کہ ڈریسنگ روم
 (49) ہزار روپیہ لگے۔ میں نے تلاش، ہم ہزار اور معادلات شروع کر کے آج تک تلاش، ہم ہزار روپیہ لگے۔
 کرنا رہا۔ اب میں نے عملی تصدیق تعلق معلمات اور شناخت کر کے کہ مجھ سے روزہ شروع ہو کر مارٹر D 71
 بزنس مسند از قسم صبرہ بنی مسیحا امانت ولد کریم خان سکند سندس مار غلم ڈھید اور فیاض ولد امانت سکند
 سندس مار غلم ڈھید نے جیل (48) ہزار روپیہ دھوکہ دیا۔ میں نے مارٹر سے اس سلسلہ میں میرا لے عدالت میں درخواست
 دفعہ 22 A صاف ہی دائر کی ہے جس کا حوالہ سیٹ میں پیش کروں گا۔ اس کے بعد کہ میرا درخواست
 امانت ولد کریم، فیاض ولد امانت خان لڑائی کمل روڈ کے ان سے جیہ اصباح (48) ہزار روپیہ ہر آدمی کے لئے
 کیا جائے۔ اگر وہ روٹی نہ لے سکا، امیر سردار ولد دوران خان نمبر 56/5 سال سکند اسماعیل خان اراجیل
 شناختی کارڈ نمبر 5-38913-01201-0138913-5 اور ہائل نمبر 51-7077823-0346-01201-0138913-5
 ولد عباس خان سابق اسماعیل خان اراجیل نامی قوم سردت شناختی کارڈ نمبر 3-6613412-01201-0138913-5
 8984578-0346-01201-0138913-5 ماروئی فاضلہ مستفیث کو درخواست میں درخواست بنا صرف درج بالا نمبروں کے
 سردر دست صورت جو نام بالکل نامی ہے۔ شہد یہ مقدمہ ہذا برخلاف ملزمان بالا درج ہر نمبروں کے لئے FIR
 مذکورہ درخواست تفتیش حوالہ جاری شدہ تفتیش کے جاتے ہیں۔ یہ درخواستیں ہیں۔

51-PPC
3-19

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

16/11/2020

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Ex-LHC Fayaz Ali No. 506. The above named ex-official was dismissed from service by District Police Officer, Mardan vide OB No. 2587, dated 29.11.2019 on the allegations of involvement in following cases:-

- (i) FIR No. 89, dated 20.02.2019 u/s 387/506/420/34 PPC PS Sheikh Maltoon.
- (ii) FIR No. 90, dated 21.02.2019 u/s 392/347/167/42 PPC PS Sheikh Maltoon.
- (iii) FIR No. 98, dated 01.03.2019 u/s 406/387/420/167/34 PPC PS Sheikh Maltoon.

His appeal was rejected by Regional Police Officer, Mardan vide order Endst: No. 1387/ES, dated 07.02.2020.

Meeting of Appellate Board was held on 03.11.2020 wherein petitioner was heard in person.

During hearing, petitioner failed to advance any plausible explanation in rebuttal of the charges.

The applicant has effected compromise with the complainant in case FIR No. 98 dated 01.03.2019 u/s 406/387/420/167/34 PPC PS Sheikh Maltoon which is tantamount to the admission of crime. Moreover, two (02) heinous criminal cases are still pending adjudication against the petitioner. Therefore, the Board decided that his petition is hereby rejected.

Sd/-

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

No. S/ 4468-78/20

Copy of the above is forwarded to the:

1. Regional Police Officer, Mardan. C/S Service Roll and one Fauji Misal of the above named Ex-LHC received vide your office Memo: No. 3743-44/ES, dated 13.06.2020 is returned herewith for your office record.
2. District Police Officer, Mardan.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIC/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

EC/DPO Mdn
For action

Rep/DPO Mdn

(ZAHID BAKAR AFRIDI) PSP/PPM
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

No - 7175/ES
Dt - 12-11-2020

(Enc. 01/01/11)
F. M. (Sd)

23/11/20



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar.

No. S/ 1636 /21, dated Peshawar the 20/08/2021.

30

To : The Regional Police Officer,
Mardan.

911
26-4-21

Subject: - APPLICATION

Memo:

Please refer to your office Memo: No.170/ES, dated 29.03.2021.

The competent Authority has examined and filed the present application of Ex-LHC Fayaz Ali No. 506 for re-instatement in service as his revision petition was discussed in the Appellate Board meeting held on 03.11.2020 in CPO and rejected vide CPO order No.S/4468-78/20, dated 16.11.2020.

The applicant may please be informed accordingly.

Encl: S.Roll
F.Misa
Enquiry File

(NOORAFGHAN)
Registrar,

For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

PPS Mardan
R/EC

780/LB
12-8-21

EC/DPO, Mardan

170 refer to the app...

RPO, Mardan
22/4/21

EC + OSi
For further necessary
action

[Signature]

DSP/L
12-08-2021

31

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

Service Appeal No. 10296/2020

Fayaz Ali (Ex-LHC No.506) S/o Amanat R/o Shehbaz Garhi, District

Mardan.....Appellant

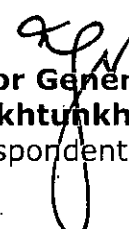
VERSUS

Inspector General of Police, Khyber Pakhtunkhwa and others

.....Respondents

AUTHORITY LETTER.

Mr. Noor Daraz Sub-Inspector Legal Branch, (Police) Mardan is hereby authorized to appear before the Honourable Service Tribunal, Khyber Pakhtunkhwa, Peshawar in the above captioned service appeal on behalf of the respondents. He is also authorized to submit all required documents and replies etc. as representative of the respondents through the Addl: Advocate General/Govt. Pleader, Khyber Pakhtunkhwa Service Tribunal, Peshawar.


**Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar**
(Respondent No. 01)


**Regional Police Officer,
Mardan.**
(Respondent No. 04)


**District Police Officer,
Mardan.**
(Respondent No. 02)


**Sub-Divisional Police Officer,
Mardan.**
(Respondent No. 03)

5/10 SB

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

CM # _____ 2021

In S.A # 10296/2020



Put up to the com. worthy chain - an
with relevant app. - an

Fayaz Ali

Versus

- Deo ch. - an

16/7/21

Inspector General of Police

APPLICATION FOR EARLY HEARING

Respectfully Sheweth,

Shorten the date.

16/7/21

02/09


1. That the captioned case is pending adjudication before this Hon'ble Tribunal & is fixed for 05-10-2021.
2. That the caption case was fixed for this Hon'ble Tribunal but due to strike of lawyers the case was adjourned.
3. That the captioned case is fixed for preliminary hearing & even the case of the Appellant has not been admitted yet.
4. That the petitioner is the only person for earning in his entire family while a prima facie case is also in favour of petitioner.

5. That in the given circumstances of the case, the early fixation of the above titled Appeal is indispensable.

It is, therefore, most humbly prayed that on acceptance of the instant Application, the captioned Appeal may kindly be fixed for an early date of hearing.

Dated: 16-07-2021


Appellant

Through 
Javed Iqbal Gulbela
Supreme Court of Pakistan
&
Hamza Durrani
Advocate Peshawar.

Affidavit:

I, **Fayaz Ali S/o (EX-LHC No.506) S/o Amanat R/o Shehbaz Garhi, District Mardan**, do hereby solemnly affirm & declare on oath that all contents of the instant application are true and correct to the best of my knowledge & belief and nothing has been kept concealed from this Hon'ble Tribunal.




DEPONENT

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

In Re S.A# 10296/2020

Fayaz Ali Ex-constable

Versus

Inspector General of Police Khyber Pakhtunkhwa and Others


INDEX


S#	Description of documents	Page No
1	Rejoinder	1-5
2	Affidavit	6

Dated: 28/05/2022


Appellant

Through


JAVED IQBAL GULBELA,
Advocate Supreme Court
of Pakistan.

& 
SAGHIR IQBAL GULBELA
Advocates High Court
Peshawar.

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

In Re S.A# 10296/2020

Fayaz Ali Ex-constable

Versus

Inspector General of Police Khyber Pakhtunkhwa and Others

REJOINDER ON BEHALF OF THE APPELLANT
TO THE COMMENTS SUBMITTED BY
RESPONDENT S

Respectfully Sheweth,

Reply to the preliminary objections.

All the preliminary objections raised by the Respondents are false, misleading, hypocritic, concocted hence sternly denied. The Appellant has got a good *prima facie* case and balance of connivance lies in the favor of the Appellant. The instant appeal is neither barred by the law nor the same is hit by the such limitation, in fact the appellant had preferred the 2nd departmental appeal within time from the impugned dismissal order, while the delay for filling the service appeal was not deliberately, moreover the appellant also moved condonation of delay application with main appeal, wherein the appellant explain the cogent, true and genuine reason of his delay, liable to be condoned;

furthermore the Appellant has never ever concealed any material facts from this Hon'ble Tribunal and the instant service appeal of the Appellant is well maintainable in its present form.

REPLY ON FACTS:

1. Para no "1" of the comments is incorrect, false, hypocritic, misleading hence sternly denied. While the real with facts is narrated in main appeal.
2. Para no "2" of the comments needs no comments.
3. Para no "3" of the comments is incorrect, misleading, and hypocritic hence sternly denied. While the corresponding para of the main appeal is true and correct.
4. Para no "4" of the comments is Incorrect, misconceiving, hypocritic and misleading hence denied. Moreover true, detail and correct picture are portrait in the corresponding para of the main appeal.
5. Para no "5" of the comments is misleading and misconceiving hence denied; while that of the main appeal is true and correct.
6. Para no "6" of the comments is incorrect, illegal, unlawful and void ab-intio; therefore sternly denied. Moreover true, correct and detail picture is portrait in main service appeal.
7. Para no "7" of the comments is Incorrect, illegal, unlawful and void ab-intio; hence denied. While that of the main service appeal is true and correct.
8. Para no "8" of the comments is incorrect, fabricated, concocted, malicious hence sternly denied. Departmental appeal was turned down based on his personal assumption, which is illegal, unwarranted and is liable to be struck down.

Moreover the corresponding para of the main service appeal is true, legal and correct.

9. Para no "9" of the comments is incorrect, fabricated, malicious, concocted hence sternly denied.
10. Para no "10" of the comments is incorrect, misleading, misconceiving, illegal and unlawful; therefore sternly denied; while that of the main appeal is true and correct.
11. Para no "11" of the comments is fabricated, malicious, concocted hence sternly denied. While that of the main appeal is true and correct.

GROUND:

- A. Para "A" of the comments is incorrect, wrong concocted; hence denied. While that of the main appeal is true and correct.
- B. Para "B" of the comments is incorrect, hypocritic, concocted, hence sternly denied.
- C. Para "C" of the comments is incorrect, misleading, misconceiving, illegal, unlawful and void ab-intio; therefore sternly denied. while the corresponding para of the main service appeal is true and correct.
- D. Para "D" of the comments is incorrect, misleading and illegal; hence no comments.

E. Para "E" of the comments is incorrect, hypocritic, hence sternly denied. while true, correct and detail picture is portrait in the main service appeal.

F. Para "F" of the comments is incorrect, misleading and misconceiving hence denied. while that of the main service appeal is true and correct.

G. Para "G" of the comments is incorrect, illegal, unlawful, void ab-intio, misleading and against the law, Rules and Regulation on subject, therefore sternly denied.

H. Para "H" of the comments is incorrect, hypocritic, fabricated; hence sternly denied.

I. Para "I" of the comments is incorrect, misleading, illegal and unlawful; hence denied. While in addition the dismissal order was passed by competent authority is colorful exercise of discretionary power. Moreover corresponding para of the main service appeal is true and correct.

J. Para "J" of the comments is incorrect and hypocritic hence denied.

K. Para "K" of the comments is incorrect, misleading and hypocritic hence sternly denied. No return or even oral complaint were lodge against the appellant, which is enough to show that appellant was always a pragmatic and devoted fellow of this prestigious department.


L. Para "L" of the comments is incorrect, illegal and misconceiving hence sternly denied.

M. Para "M" of the comments is just formal hence need no comments.

It is, therefore, most humbly prayed that on acceptance of instant Re-joinder, the prayer of appellant in the main service appeal No.10296 may graciously be allowed, as prayed for therein, for the best interest of justice therein.


Dated: 28/05/2022

Through


Appellant

JAVED IQBAL GULBELA,
Advocate Supreme Court of
Pakistan

&


SAGHIR IQBAL GULBELA
Advocate High Court
Peshawar

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

In Re S.A# 10296/2020

Fayaz Ali Ex-constable

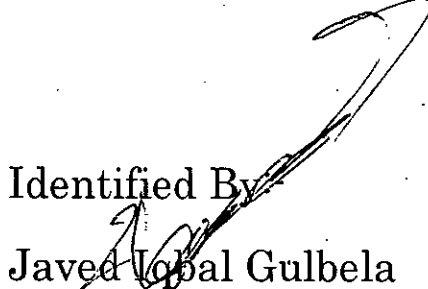
Versus

Inspector General of Police Khyber Pakhtunkhwa and Others

AFFIDAVIT

I, **Fayyaz Alli (Ex-LHC No.506), S/o Amant R/o Shahbaz Garhi, District Mardan**, do hereby solemnly affirm and declare on oath that contents of the Rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble court.


Deponent .

Identified By

Javed Iqbal Gulbela
Advocate Supreme Court
of Pakistan.

