

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

Amended Service Appeal No. 1146/2019

Date of Institution ... 16.09.2019

Date of Decision ... 21.01.2021

Fazal-e-Amin, Ex-Assistant Grade Clerk, Special Branch, Khyber Pakhtunkhwa,
Peshawar. ... (Appellant)

VERSUS

The Provincial Police Officer, Government of Khyber Pakhtunkhwa, Peshawar and
two others. ... (Respondents)

Present:

SYED NOMAN ALI BUKHARI, --- For Appellant.
Advocate

MR. MUHAMMAD RIAZ KHAN PAINDAKHEL, --- For respondents.
Assistant Advocate General

MR. HAMID FAROOQ DURRANI, --- CHAIRMAN
MR. MIAN MUHAMMAD --- MEMBER(Executive)

JUDGEMENT.

HAMID FAROOQ DURRANI, CHAIRMAN:- Syed Noman Ali Bukhari,
Advocate submitted Wakalatnama in his favour executed by the appellant. Made
part of the record.

02. - The appellant is aggrieved from order dated 15.01.2019 issued by the
respondent No.2/ Deputy Inspector General of Police, Special Brach, Khyber
Pakhtunkhwa Peshawar. His departmental appeal, preferred before the respondent
No.1 was not responded to.

03. We have heard the learned counsel for the appellant, learned Assistant Advocate General on behalf of the respondents and have also gone through the available record.

04. At the outset, learned counsel for the appellant referred to the impugned order dated 15.01.2019 and stated that the Deputy Inspector General of Police, Special Branch, Peshawar/ respondent No.2 was not a competent officer, for the purpose of discipline, in the cases of ministerial staff of police. Referring to Section-44 of the Khyber Pakhtunkhwa Police Act, 2017 it was contended that only the Provincial Police Officer was the competent authority to pass such orders. The impugned order was, therefore, void and could not sustain.

Learned Assistant Advocate General opposed the argument of learned counsel for the appellant and contended that by virtue of notification dated 28.12.2015, the Regional Police Officer was delegated the powers of disciplinary action against ministerial staff. In his view, the appellant was rightly proceeded against and awarded major penalty of compulsorily retirement by the Deputy Inspector General of Police, Special Branch.

05. It is a matter of record that the appellant was issued charge sheet for misconduct detailed therein on 18.10.2018. The exercise was under taken by SSP/Admin Special Branch, Khyber Pakhtunkhwa, Peshawar while on the other hand, the impugned order dated 15.01.2019 was passed by the DIG, Special Branch. Reading Section-44 of Khyber Pakhtunkhwa Police Act, 2017 in juxtaposition to the statement of allegations as well as the impugned order, it becomes clear that neither the competent authority/ Provincial Police officer, issued the charge sheet nor the impugned order was passed by him. It shall be useful to reproduce hereunder the relevant part of Statute *ibid*:-

Ministerial staff etc.---(1) Subject to rules, Provincial Police Officer, may appoint ministerial staff and other employees to assist the Police.

(2) Any person employed under sub-section (1) shall be under the direction and control of Provincial Police Officer.

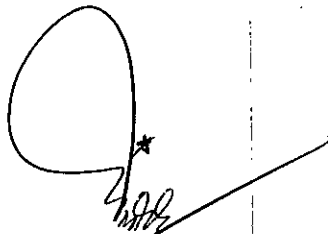
(3) The powers of direction and control referred to in sub-section(2) shall include the powers of discipline and dismissal.

(4) Subject to rules, Provincial Police Officer, may delegate his powers and authority under this section to an officer of appropriate rank.

In the circumstances of the case and in view of the above noted provision of law, we have no other option but to hold that the impugned order was *corum-non-judice* for all intents and purposes. Having been issued by an incompetent official/officer it can only be termed as void ab-initio. At the cost of repetition, it is noted that the Provincial Police Officer was the only competent authority for the purpose of case in hand. The respondents could not produce any instrument regarding delegation of powers of PPO, as provided by the law *ibid* in favour of some other officer. The notification dated 28.12.2015, as relied upon by learned Assistant Advocate General, was undeniably issued in the year 2015, much before the coming into force of Khyber Pakhtunkhwa Police Act, 2017.

06. For what has been noted above, the appeal in hand is allowed as prayed for. The parties shall, however, bear their respective costs. File be consigned to the record room.

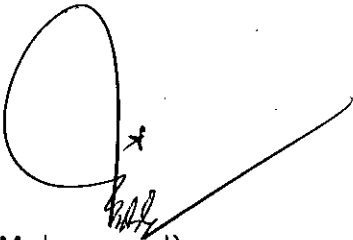

ANNOUNCED
21.01.2021



(MIAN MUHAMMAD)
MEMBER(E)



(HAMID FAROOQ DURRANI)
CHAIRMAN

S.No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	21.01.2021	<p><u>Present.</u></p> <p>Syed Noman Ali Bukhari, ... For Appellant Advocates</p> <p>Mr. Muhammad Riaz Khan Paindakhel, ... For respondents Assistant Advocate General</p> <p>Vide our detailed judgment of today consisting of three pages placed on file, the appeal in hand is allowed as prayed for. The parties shall, however, bear their respective costs. File be consigned to the record room.</p> <p><u>ANNOUNCED</u> 21.01.2021</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  (Mian Muhammad) Member(E) </div> <div style="text-align: center;">  Chairman </div> </div>

19.11.2020

Appellant in person present.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Appellant requests for adjournment as his counsel is indisposed. Adjourned. To come up for arguments on 21.01.2021 before D.B.



(Atiq ur Rehman Wazir)
Member (E)



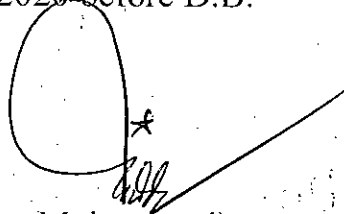
(Rozina Rehman)
Member (J)

21.07.2020

Appellant present in person.

Mr. Muhammad Jan learned Deputy District Attorney alongwith Javid Iqbal DSP (Legal) for the respondents present.

Appellant requested for adjournment as his counsel is not available. Adjourned. To come up for arguments on 11.08.2020 before D.B.



(Mian Muhammad)
Member (E)



(Rozina Rehman)
Member (J)

11.08.2020

Due to summer vacations case to come up for the same on 14.10.2020 before D.B.




Reader

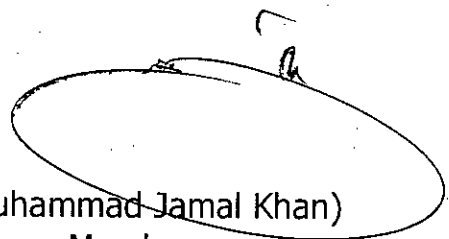
14.10.2020

Appellant in person present. Mr. Kabirullah Khattak learned Additional Advocate General alongwith Suleman Reader for respondents present.

Former requests for adjournment that his counsel is busy before Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 19.11.2020 before D.B.



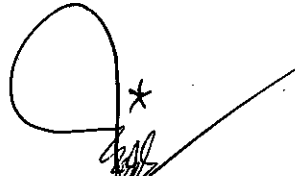
(Atiq-Ur-Rehman Wazir)
Member



(Muhammad Jamal Khan)
Member

12.03.2020

Appellant with counsel present. Asst: AG
alongwith Mr. Suleman, Legal Reader for respondents
present. Appellant is directed to submit member copy
with complete annexure attached with the main service
appeal. Adjourned. To come up for arguments on
28.04.2020 before D.B.


Member


Member

*Due to covid-19- the case is
adjourned. To come up for the same
on - 09-07-2020*


Reader

09.07.2020

Due to COVID19, the case is adjourned to 21.07.2020 for
the same as before.


Reader

16.01.2020

Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, learned counsel for the applicant is not available today. Mr. Ziaullah, Deputy District Attorney for the respondents present. Adjourned to 23.01.2020 for arguments before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

23.01.2020

Due to general strike of Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Mr. Kabirullah Khattak, Additional AG for the respondents present. Adjourned to 07.02.2020 for arguments before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

07.02.2020


Counsel for appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Adjournment requested. Adjourned to 25.02.2020 for arguments before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

25-2-2020

The Bench is incomplete
Therefore case is adjourned
to 12-3-2020


Reader

08.11.2019

Appellant with counsel and Mr. Suleman, Legal Reader for respondents alongwith Addl: AG for the respondents present.

Written reply on behalf of the respondents submitted which is placed on file. To come up for arguments on 27.11.2019 before D.B. The appellant may furnish rejoinder, if any, on the date fixed

Chairman

27.11.2019

Counsel for the appellant present. Mr. Usman Ghani, District Attorney for respondents present. Learned counsel for the appellant submitted rejoinder which is placed on file. Adjourn. To come up for arguments on 10.12.2019 before D.B.

Member

Member

10.12.2019

Appellant in person and Mr. Usman Ghani, District Attorney alongwith Mr. Nisar Ahmad for the respondents present.

Due to general strike of Khyber Pakhtunkhwa Bar Council learned counsel for the appellant is not available today. Adjourned to 16.01.2020 for arguments before D.B.

(Ahmad Hassan)
Member

(M. Amin Khan Kundi)
Member

24.09.2019

Counsel for the appellant present.

Contends that the impugned order dated 15.01.2019 imposing major penalty of compulsory retirement from service was passed by an officer (D.I.G) who was not competent for the purpose. In that regard learned counsel referred to an order dated 19.05.2016 whereby the appellant was confirmed in BPS-16 by the Inspector General of Police Khyber Pakhtunkhwa Peshawar and stated that the IGP was competent for the purpose of imposing any penalty. Further contends that the impugned order was void, therefore, any delay in submission of departmental appeal by the appellant was to be disregarded. Relied on 2014-OSCMR-1189.

The appeal in hand is admitted to regular hearing subject to all just exceptions, in view of available record and arguments of learned counsel. The appellant is required to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 25.10.2019 before S.B.


Chairman

25.10.2019

Appellant in person present. Mr. Zia Ullah learned Deputy District Attorney alongwith Suleman Inspector Legal for the respondents present.

Representative of the respondents requests for time to furnish requisite reply/comments. Granted. To come up for written reply/comments on 08.11.2019 before S.B.


Chairman

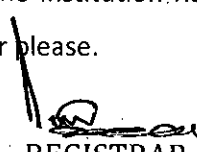

ADP
Security & Process Fee
24-9-2019

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 1146/2019 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	16/09/2019	<p>The appeal of Mr. Fazal-e-Amin presented today by Mr. Rizwanullah Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 16/9/19</p>
2-	17/09/19.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>24/09/19.</u></p> <p style="text-align: right;"> CHAIRMAN</p>

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

Amended Service Appeal No. 1146/2019

1. Fazal-e-Amin Ex-Assistant Grade Clerk, Special Branch Khyber Pakhtunkhwa, Peshawar.

APPELLANT

VERSUS

1. The Provincial Police Officer, Government of Khyber Pakhtunkhwa.

RESPONDENTS

I N D E X

S.No	Particulars	Annexure	Pages #
1	Service Appeal	-	1-9
2	Affidavit	-	10
3	Copy of appointment order	A	11
4	Copy of promotion order	B	12-13
5	Copy of confirmation order	C	14
6	Copy of Charge Sheet alongwith statement of allegations	D	15-16
7	Copy of reply	E	17
8	Copy of inquiry report	F	18-22
9	Copy of show cause notice	G	23
10	Copy of reply to the show cause notice	H	24
11	Copy of impugned order	I	25
12	Copy of departmental appeal	J	26-27
13	Copy of rejection Order	K	28
14	Acceptance order of Departmental appeal of Muhammad Naeem	L	29-30
15	Wakalatnama	-	-


Appellant

Through


147

Rizwanullah
M.A. LL.B

Advocate High Court, Peshawar

Dated: 15-9-2015

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

Amended Service Appeal No. 1146 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1255

Dated 16-9-2019

1. Fazal-e-Amin Ex-Assistant Grade Clerk, Special Branch Khyber Pakhtunkhwa, Peshawar.

APPELLANT

VERSUS

1. The Provincial Police Officer, Government of Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police, Special Branch Khyber Pakhtunkhwa, Peshawar.
3. The Senior Superintendent of Police (Admn) Special Branch Khyber Pakhtunkhwa, Peshawar.

RESPONDENTS

**APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 AGAINST THE
ORDER DATED 15-01-2019 PASSED BY
THE DEPUTY INSPECTOR GENERAL OF
POLICE, SPECIAL BRANCH KHYBER
PAKHTUNKHWA, (RESPONDENT NO. 2)
WHEREBY THE APPELLANT WAS
AWARDED MAJOR PENALTY OF
RETIREMENT FROM SERVICE
AGAINST WHICH A DEPARTMENTAL
APPEAL WAS FILED WITH THE
PROVINCIAL POLICE OFFICER,
KHYBER PAKHTUNKHWA,
(RESPONDENT NO. 1) ON 02-07-2019 BUT
THE SAME WAS REJECTED ON
27-08-2019.**

Filed to-day

Registrar

16/9/19.

Prayer in Appeal

By accepting this appeal, the impugned orders dated 15-01-2019 and 27-08-2019 may very graciously be set aside and the appellant may kindly be reinstated in service with full back wages and benefits.

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

Respectfully Sheweth,

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

1. That the appellant joined the Police Department in capacity as junior clerk (B-5) on 28-04-1987. He was promoted as officiating Assistant Grade Clerk (B-14) on 18-02-2012. He completed his probation period successfully and then confirmed accordingly. He was also granted BPS-16 on account of general upgradation on 19-05-2016. He had 32 years unblemished service record to his credit.

(Copy of appointment order, promotion order and confirmation order are appended as Annex-A, B and C respectively)

2. That the appellant was performing his duty with great zeal, zest and devotion but strangely, he was served with a charge sheet alongwith statement of allegations. It would be advantageous to reproduce herein the said allegations so as to know the legal and factual aspect of the same.

1. That you while posted as Record Keeper ASB Special Branch has put up a National Status verification case which was to NADRA as Pakistani

National vide letter No. 9105/Security, dated 22-05-2018 in respect of Mr. Waris Khan s/o Haji Anar Gul while the said dispatch number was left blank in the dispatch register.

2. Your this act amounts to gross misconduct and speaks highly adverse on your part warranting stern disciplinary action against you under the relevant Rules of Khyber Pakhtunkhwa, Government Servants (Efficiency and Discipline Rules, 2011)

(Copy of Charge Sheet alongwith statement of allegations is appended as Annex-D)

3. That the appellant submitted an elaborate and exhaustive reply, denied the allegations and also termed it as fallacious, malicious and misconceived. He stated that he neither received any reply from the AGO City Peshawar (Assistant Group Officer) regarding disputed case nor he put up such case before the Competent authority. He further stated that he neither sent any letter to NADRA nor he quoted any number on the said letter. He clarified that it is the duty and responsibility of the dispatcher to write number on any letter before issuing the same. He further clarified that the letter in question was issued at the back of appellant and that he had no knowledge about it. He therefore, prayed that he was innocent and as such he may kindly be exonerated of the allegations levelled against him in the charge sheet.

(Copy of reply is appended as Annex-E)

4. That the above reply was not found satisfactory and inquiry was conducted in utter violation of law as there was no iota of evidence to

connect the appellant with the commission of so-called misconduct. But despite thereof, the Enquiry Officer held him guilty of the allegations and recommended him for appropriate punishment under the Rules. Moreover, it was further held that the instant inquiry may be considered as preliminary inquiry and proper Departmental Inquiry may be initiated against Runner/Office Orderly Nabi Amin No. 594/SB. This direction by itself makes the report of inquiry officer as dubious and questionable one as in case, if the above employee is found guilty in subsequent inquiry then, what would be the fate of those employees who were innocent and were awarded punishment in utter disregard of law.

(Copy of inquiry report is appended as Annex-F)

5. That the appellant was served with a show cause notice on 24-12-2018 who furnished reply on 01-01-2019 and took the same stance as enumerated in reply to the charge sheet.

(Copy of show cause notice and its reply are appended as Annex-G and H respectively)

6. That thereafter, the appellant was awarded major penalty of compulsory retirement from service vide order dated 15-01-2019 passed by the Deputy Inspector General of Police (Respondent No. 2) illegally.

(Copy of impugned order is appended as Annex-I)

7. That the appellant felt aggrieved by the said order, filed a departmental appeal with the Provincial Police Officer, Khyber Pakhtunkhwa on 02-07-2019 but the same was rejected/filed on 27-08-2019 and no reason whatsoever was given therein.

(Copy of departmental appeal and its rejection order are appended as Annex-J & K)

8. That the appellant is the sole bread earner of a large family who is jobless since the impugned orders.
9. That the appellant now files this appeal before this Hon'ble Tribunal inter-alia on the following grounds within the statutory period of law.

GROUND OF APPEAL

- A. That respondents have not treated appellant in accordance with law, rules and policy on the subject and acted in violation of **Article 4 of the Constitution of Islamic Republic of Pakistan, 1973**. Therefore, the impugned orders are not sustainable in the eye of law.
- B. That the so-called inquiry was conducted in utter violation of law as neither any witness was examined in the presence of appellant nor he was provided any opportunity of cross examination. Similarly, he was also not provided any chance to produce his defence in support of his version. The above defect in enquiry proceeding is sufficient to declare entire process as sham and distrustful. Right of fair trial is a fundamental right by dint of which a person is entitled to a fair trial and due process of law. The appellant has been deprived of his indispensable fundamental right of fair trial as enshrined in **Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973**. It is worthwhile to mention here that Muhammad Ibrahim Senior Clerk/Dispatcher ASB section, candidly admitted before the inquiry officer that **"he is working as Dispatcher in ASB section since 23-09-2016 and still serving there. His job is to quote a reference number on the letter and dispatch it to quarter concerned. As far as the present case is concerned, he disclosed that the column in Dispatch Register left blank as Runner/Orderly to SSP Intelligence Nabi Amin came alongwith the case and asked him that SP Intelligence requires dispatch number. He accordingly gave dispatch number to him on a chit however Nabi Amin neither appeared nor hand over the case. He**

requested that Nabi Amin is the real culprit and he may be questioned on the matter". This admission on the part of above official is not only clear manifestation of innocence of appellant but also makes the allegations levelled against him as baseless, frivolous and unfounded. Therefore, the findings of the Enquiry Officers are perverse and are not sustainable under the law. Hence, the impugned orders passed on the bases of such findings are against the spirit of administration of justice.

- C. That the (respondent No.2) was under statutory obligation to have considered the case of appellant in its true perspective and also in accordance with law and to see whether the inquiry was conducted in consonance with law and that the allegations thereof were proved against the appellant without any shadow of doubt or otherwise. But he has overlooked this important aspect of the case without any cogent and valid reasons and awarded him major penalty of retirement from service. Thus, the impugned orders are bad in law.
- D. That the Appellant Authority (respondent No.1) was legally bound to have applied his independent mind to the merit of the case by taking notice about the illegality and lapses committed by the Enquiry Officer as well as respondent No.2 as enumerated in Para-B & C above. But he did not bother for the same and rejected the departmental appeal without any cogent reasons. Mere holding that "the appeal is perused and filed" would not fulfil the requirement of speaking order by virtue of section 24-A of the General Clause Act, 1897 as well as law laid down by august Supreme Court of Pakistan in various judgments. Hence, the impugned orders are not tenable under the law.
- E. That the appellant was served with a charge sheet alongwith statement of allegation by the SSP (Respondent No. 3) whereas the impugned order dated 15-01-2019 was passed by the DIG (Respondent No. 2) and both the above officers claimed to be the "Competent Authority" as evident from the said documents despite

the fact that the Provincial Police Officer (Respondent No. 1) was alone the Competent Authority under the relevant Rules to have initiated disciplinary action against the appellant and concluded it to logical end. It is well settled law that when the basic order or act regarding initiation of departmental proceedings is without lawful authority and void then the entire superstructure built on it would fall on the ground automatically as per law laid down by the august Supreme Court of Pakistan in various judgments. Thus, the impugned orders are liable to be set-aside on this count alone.

F. That the appellant was serving as Record Keeper, ASB section at the relevant time whereas, Muhammad Naeem was the in-charge of the said section. The inquiry officer held them guilty of the allegations and then the respondent No. 2 awarded them major penalty of retirement from service. They filed separate departmental appeals but it is not only shocking but also ironic that the appeal filed by the appellant was rejected by slipshod manner while, the other appeal of Muhammad Naeem was accepted and the major penalty was converted into minor penalty of **“withholding of one year increment with cumulative effect”**. This is a disparity and anomaly and is also violation of **Article 25 of the Constitution of Islamic Republic of Pakistan, 1973** which has unequivocally laid down that all citizens placed in similar circumstances are entitled to equal treatment and protection of law. The Hon'ble Supreme Court of Pakistan through various judgments has maintained that equal treatment is the fundamental right of every citizen. Reliance can be placed on **2002-SCMR-71 & 2007-SCMR-410(d)**. The relevant citations are as under:-

2002-SCMR-71
(citation-c)

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

2007-SCMR-410(d)

(citation-d)

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

Hence, the impugned orders are bad in law.

(Copy of order whereby,
departmental appeal of
Muhammad Naeem was
accepted is appended as
Annex-L)

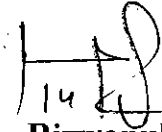
- G.** That the impugned orders are against law, facts of the case and norms of natural justice. Therefore, the same are not tenable under the law.
- H.** That the respondent No. 1 and 2 have passed the impugned orders in mechanical manner and the same are perfunctory as well as non-speaking and also against the basic principle of administration of justice. Thus, these orders are not warranted under the law.
- I.** That the impugned orders are based on conjectures and surmises. Hence, the same are against the legal norms of justice.
- J.** That the appellant would like to seek the permission of this Hon'ble Tribunal to advance some more grounds at the time of arguments.

In view of the above narrated facts and grounds, it is, therefore, humbly prayed that by accepting this appeal, the impugned orders dated 15-01-2019 and 27-08-2019 may very graciously be set aside and the appellant may kindly be reinstated in service with full back wages and benefits.

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


Appellant

Through


Rizwanullah
M.A. LL.B

Dated: 15/09/2019

Advocate High Court, Peshawar.

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

Amended Service Appeal No. _____/2019

- 1. Fazli Ameen Ex-Assistant Grade Clerk, Special Branch Khyber Pakhtunkhwa, Peshawar.

APPELLANT

VERSUS

- 1. The Provincial Police Officer, Government of Khyber Pakhtunkhwa and others.

RESPONDENTS

AFFIDAVIT

I, Fazal-e-Amin Ex-Assistant Grade Clerk, Special Branch Khyber Pakhtunkhwa, Peshawar, do hereby solemnly affirm and declare that the contents of the accompanied service appeal are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.



[Signature]
Deponent

FOR PUBLICATION IN THE NWFP POLICE GAZETTE PART-II.

ORDERS BY THE DY:INSPECTOR GENERAL OF POLICE, HQRS:NWFP PESHAWAR:
NOTIFICATION.

dated Peshawar the 28-4-87!

NO. 63 /E-III APPCI TENDR/POSTING:- Following candidates are appointed as Jr:Clerks(25-5) purely on temporary basis in the NWFP Police Deptt; with effect from the dates they actually reports for duty to their places of postings. Their appointment is subject to medical fitness and verification of character and antecedents etc.

On appointment they are posted in the offices as noted against each:-

S.NO.	NAME, PARENTAGE AND FULL ADDRESS.	PLACE OF POSTING.
1.	Mr. Fazli Amin s/o Mohammad Amin village Kaggala PO Bader Teh:3 Distt: Peshawar.	Kohat Range
2.	Mr. Faridoon Khan Naib Qasid Hazara Range Office, Abbottabad.	Hazara Range.
3.	Mr. Ghulam Ishfaq s/o Ghulam Nabi Village and Tehsil Hangu Distt: Kohat	Kohat Range.
4.	Mr. Amir-ur-Rehman s/o Saifur Rehman Mohallah Sheikh Junaid Abad P.O.3 O/S Lahori Gate PS Gulbahar Peshawar City.	Halakand Range.
5.	Mr. Nisar-ul Haq s/o Amir-ul Haq Village Pathi Khurd PO Takht-Bai Tehsil & Distt: Mardan.	Halakand Range
6.	Mr. Israil Khan s/o Zar Wali Khan Village & PO Takhti Nasrati Teh: Distt: Karak.	Kohat Range.
7.	Mr. Saghoor Ahmad Qureshi s/o Mohammad Akhtar Qureshi Supdt: Range Office, Peshawar.	Mardan District.

The conditions of their services will be as under:-

1. Their services are liable to be terminated on 14 days notice without assigning any reason.
2. They will pass type test/departmental training etc; within two years of their service as Jr:Clerk failing which their services will be dispensed with.

(ISRAH MOHAMMAD KHAN)

DY:INSPECTOR GENERAL OF POLICE,
HQRS:NWFP PESHAWAR. *1*

Contd.....Page (2)

Attested

Appellant

(2)

W. 312-24/S-III Dated Peshawar, the 28. 4. 1937.

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

1. Dy:Inspector General of Police, Kohat Range Kohat.
2. Dy:Inspector General of Police, Hazara Range Abbottabad.
3. Dy:Inspector General of Police, Malakand Range Swat.
4. Supdt: estt: CPC Peshawar;
5. Asstt: Secret. CPC Peshawar with spare 3 copies.
6. Mr. Fazli Amin s/o Mohammad Amin village Kagga wala PO Badaber
Ette & Distt: Peshawar.
7. Mr. Faridoon Khan Haib Qasid c/o Range Office, Hazara
8. Mr. Ghulam Ishfaq s/o Ghulam Haib village and Tehsil Mangu
District Kohat.
9. Mr. Amir-uz-ur-Rehman s/o Saifur Rehman Mohallah Sheikh Junaid
Abad NO. 3 O/S Lahori Gate ES Gulbahar Peshawar City.
10. Mr. Nisar-ul-Haq s/o Amir-ul-Haq village Pathi Khurd PO
Takht Bai Tehsil & Distt: Mardan.
11. Mr. Israil Khan s/o Zar Wali Khan Village & PO
Takhti Nasrati Tehs. Distt: Karak.
12. Mr. Sagheer Ahmad Qureshi s/o Mohammad
Akhtar Qureshi Supdt: Range Office, Peshawar.

*** **

Annex B (12)

**FOR PUBLICATION IN THE KHYBER
PAKHTUNKHWA POLICE GAZETTE PART-II,
ORDERS BY THE PROVINCIAL POLICE OFFICER
KHYBER PAKHTUNKHWA, PESHAWAR.**

NOTIFICATION

Dated: 18/12/2012

No. 3058 / E-III, PROMOTION AS OFFG: ASSISTANT GRADE CLERK BPS-14.

Having been approved by the DPC held on 15.02.2012, the following Senior Clerks are hereby promoted as Offg: Assistant Grade Clerk in BPS-14 (8000-610-26300) with immediate effect.

S. NO.	NAME OF OFFICER	S. NO.	NAME OF OFFICER
1	Hastam Khan	15	Muhammad Israr
2	Ghulam Muhammad	16	Naimatullah
3	S. Yawar Ali Shah	17	Khial Faqir
4	Said Nabi	18	Ghulam Ashafaq
5	Farooq Qaisar	19	Fazal Khalig
6	Muhammad Zahid Ali	20	Noor Rehman
7	Fazal Azeem	21	Muhammad Iqbal
8	Amjad Ali	22	Jafar Shah
9	Tehseenullah	23	Hamid Khan
10	Muzakkir Shah	24	Haseebullah
11	Amir -ur- Rehman	25	Sher Nawab
12	Fazli Amin	26	Meher Gul
13	Arshad ul Wahab	27	Sardar Hussain
14	Shoukat Hayat	28	Syed Sabz Ali Shah

Their promotion will take effect from the date they actually taken over the charge of their higher responsibilities.

No. 3031 / E-III, TRANSFER /POSTING: - On promotion as offg: Assistant Grade Clerk BS-14 they are hereby transferred and posted places as noted against each with immediate effect.

S#	NAME & PRESENT POSTING	TO	S#	NAME & PRESENT POSTING	TO
1	Hastam Khan of Special Branch	Special Branch	15	Muhammad Israr of Mardan Region	Mardan Region
2	Ghulam Muhammad of Bannu Region	DI Khan Region	16	Naimatullah of Special Branch	PTC Hangu
3	S. Yawar Ali Shah of CPO Peshawar	Accountant CPO	17	Khial Faqir of Kohat Region	Kohat Region
4	Said Nabi of Investigation Nowshera	Inv: Nowshera	18	Ghulam Ashafaq of Kohat Region	Kohat Region
5	Farooq Qaisar of CCP	CCP	19	Fazal Khalig of Mardan Region	Mardan Region

Attested

[Signature]
Applicant

6.	Muhammad Zahid Ali of Mardan Region	FRP KPK	20	Noor Rehman PA to AIG/Establ: CPO	CPO as E-II I
7.	Fazal Azeem of Special Branch	Special Branch	21	Muhammad Iqbal of Karak district	FRP KPK
8.	Mujad Ali of Charsadda District	FRP KPK	22	Jafer Shah of CCP Peshawar	FRP KPK
9.	Mehsteenullah of Legal Branch CPO	CPO Peshawar	23	Hamid Khan of DCT/SB KPK	Kohat Region
10.	Auzakkir Shah of Operation Room CPO	Operation Room CPO Peshawar.	24	Haseebullah of CPO Peshawar	CPO Estab: E-II 2 nd
11.	Amir-ur-Rehman of DCT/SB KPK	DCT/SB KPK	25	Sheer Nawab Liberian CPO	Liberian he will draw pay from Elite Force KPK till further order
12.	Fazli Amin of Special Branch	Special Branch	26	Meher Gul of CCP Peshawar	CCP Peshawar
13.	Arshad ul Wahab of CPO Budget Branch	Elite Force KPK	27	Sardar Hussain of Budget Branch CPO	Budget Branch CPO
14.	Shoukat Hayat of "C" Branch CPO	"C" Branch CPO He will draw pay from Elite Force KPK till further order	28	Syed Sabz Ali Shah of Traffic KPK	Elite Force KPK

(Signature)
(KHALID MASOOD)
 Addl: IGP/Headquarters,
 For Provincial Police Officer,
 Khyber Pakhtunkhwa
 Peshawar

No 3040-59/EIII

1. Addl: IGP/Headquarters Khyber Pakhtunkhwa Peshawar.
2. Addl: IGP/Elite Force Khyber Pakhtunkhwa Peshawar
3. Addl: IGP/Special Branch Khyber Pakhtunkhwa Peshawar
4. Capital City Police Officer, Peshawar.
5. Commandant FRP KPK.
6. DisG, DIKhan, Bannu, Mardan, Kohat and DCT/SB KPK.
7. Commandant PTC Hangu.
8. AIG/Establishment CPO Peshawar.
9. AIG/Finance CPO Peshawar
10. AIG/Legal CPO Peshawar
11. AIG/Traffic KPK.
12. SP/Investigation Nowshera
13. Registrar CPO Peshawar.
14. Office Supdt: Secret CPO Peshawar.

Annex - C

(14)

**Copy of Order Endst: No.3002/E-V dated 13.05.2016 From Inspector General of Police
KhyberPakhtunkhwa to Addl: Inspector General of Police Special Branch Khyber
Pakhtunkhwa Peshawar.**

ORDER

Having been completed successfully on (01) year probation period, the following Asstt: Grade Clerks (BPS-16) are hereby confirmed in the light of Government Khyber Pakhtunkhwa, Establishment and Administration Department Peshawar's Notification No. SOR-VI/E&AD/1-3/2009/Vol-VIII dated 16.02.2016 from the date as noted against their names:-

S.NO	NAME OF ASSTT: GRADE CLERK	PARENT DISTRICT	DATE OF PROMOTION AS ASSISTANT GRADE CLERK	DATE OF CONFIRMATION AS ASSISTANT GRADE CLERK
1	XXXXXXXXXXXXX	XXXXXXXXXXXXX	XXXXXXXXXXXXX	XXXXXXXXXXXXX
2	Hastam Khan	Peshawar	18.02.2012	19.02.2013
3 to 9	XXXXXXXXXXXXX	XXXXXXXXXXXXX	XXXXXXXXXXXXX	XXXXXXXXXXXXX
10	Inam Ullah II	Peshawar	30.07.2007	31.07.2008
11 to 16	XXXXXXXXXXXXX	XXXXXXXXXXXXX	XXXXXXXXXXXXX	XXXXXXXXXXXXX
17	Muhammadi Gul	Peshawar	27.11.2007	28.11.2008
18 to 69	XXXXXXXXXXXXX	XXXXXXXXXXXXX	XXXXXXXXXXXXX	XXXXXXXXXXXXX
70	Fazali Amin	Peshawar	18.02.2012	19.02.2013
71 to 73	XXXXXXXXXXXXX	XXXXXXXXXXXXX	XXXXXXXXXXXXX	XXXXXXXXXXXXX
74	Naimat Ullah	Peshawar	18.02.2012	19.02.2013
75 to 88	Muhammad Naeem	Charsadda	06.09.2012	07.09.2013
89 to 128	XXXXXXXXXXXXX	XXXXXXXXXXXXX	XXXXXXXXXXXXX	XXXXXXXXXXXXX
129	Khan Faraz	Charsadda	22.07.2013	23.07.2014
130 to 147	XXXXXXXXXXXXX	XXXXXXXXXXXXX	XXXXXXXXXXXXX	XXXXXXXXXXXXX
148	Muhammad Farooq	Peshawar	22.07.2013	23.07.2014
149 to 153	XXXXXXXXXXXXX	XXXXXXXXXXXXX	XXXXXXXXXXXXX	XXXXXXXXXXXXX

Sd/-

Addl: IGP, Hqrs:

For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

**OFFICE OF THE ADDL: INSPECTOR GENERAL OF POLICE SPECIAL BRANCH KHYBER
PAKHTUNKHWA PESHAWAR.**

No. 2836-40 /EB. Dated, Peshawar the

19 / 05 / 2016.

Copy of the above is forwarded to all Concerned in Special Branch.

EA/SB

Superintendent of Police Admn:
For Addl: Inspector General of Police
Special Branch Khyber Pakhtunkhwa
Peshawar

Attested

[Signature]
Appellant

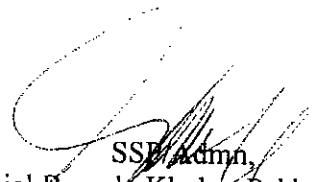
CHARGE SHEET

Annex - D

15

I, Qasim Ali, SSP/Admn Special Branch, Khyber Pakhtunkhwa Peshawar, as a competent authority, under Rule 5 (b) of Khyber Pakhtunkhwa, Govt servants (Efficiency & Discipline) Rules, 2011 hereby charge you Assistant Fazal-e-Amin as follows:-

- 2) That you while posted as Record Keeper ASB Special Branch has put up a National Status verification case which was to NADRA as Pakistani National vide letter No.9105/Security, dated 22.05.2018 in r/o Mr. Waris Khan s/o Haji Anar Gul while the said dispatch number was left blank in the dispatch register.
- 3) Your this act amounts to gross misconduct and speaks highly adverse on your part warranting stern disciplinary action against you under the relevant Rules of Khyber Pakhtunkhwa, Government Servants (Efficiency and Discipline) Rules, 2011.
- 4) By reasons of the above, you appear to be guilty of misconduct under Rule 4 of Khyber Pakhtunkhwa Govt. servants (Efficiency and Discipline) Rules, 2011 and has rendered you liable to all or any of the penalties specified in the Rules ibid.
- 5) You are, therefore required to submit your written defense within **Seven days** of the receipt of this charge sheet to the Enquiry Committee/Enquiry Officer as the case may be.
- 6) Your written defense, if any, should reach the Enquiry Officer / Enquiry committee within the specified period, failing which it shall be presumed that you have no defense to put in and in that case and ex-parte action shall follow against you.
- 7) Intimate whether you desire to be heard in person.
- 8) A statement of allegations is enclosed.


SSP/Admn,
Special Branch, Khyber Pakhtunkhwa,
Peshawar.

Attest


Appellant


(16)

DISCIPLINARY ACTION.

I, Qasim Ali, SSP/Admn: Special Branch, Khyber Pakhtunkhwa Peshawar, am of the opinion that Assistant Fazal e Amin while posted as Record Keeper ASB of this Establishment rendered himself liable to be proceeded against departmentally, as he has committed the following acts / omissions within the meaning of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

- 2) That he while posted as Record Keeper ASB Special Branch has put up a National Status verification case which was to NADRA as Pakistani National vide letter No.9105/Security, dated 22.05.2018 in r/o Mr. Waris Khan s/o Haji Anar Gul while the said dispatch number was left blank in the dispatch register.
- 3) His this act amounts to gross misconduct and speaks highly adverse on his part warranting stern disciplinary action against him under the relevant Rules of Khyber Pakhtunkhwa, Government Servants (Efficiency and Discipline) Rules, 2011.
- 4) For the purpose of enquiry against the said accused with the reference to the above allegation Mr. Irshad is appointed as Enquiry Officer to conduct enquiry under Rule 10 (1) (a) of the ibid rules.
- 5) The Enquiry Officer / Enquiry Committee shall, in accordance with the provision of the said Rules, provide reasonable opportunity of hearing to the accused, record and submit its findings and make within 30-days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused officer.
- 6) The defaulter official is directed to attend the proceedings on the date, time and place fixed by the Enquiry Officer.

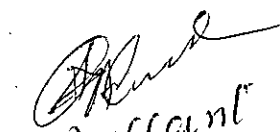

SSP Admn:
Special Branch Khyber Pakhtunkhwa,
Peshawar.

No. 5643 /EB: dated Peshawar the, 18/10/2018.

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

1. The Enquiry Officer.
2. Assistant Fazal e Amin.

Attested


Appellant

جناب عالی:-

بحوالہ 5643/EB مورخہ 18.10.2018 چارج شیٹ عرض ہے کہ جس ویریفیکیشن کیس میں سائل کو چارج کیا گیا ہے وہ من سائل نے پٹ اپ کی ہی نہیں تھی۔ چونکہ متعلقہ AGO سے اس میں میرے پاس جواب نہیں آیا تھا لہذا وہ ASB ریکارڈ پر پنڈنگ تھا جو کہ من سائل کی ASB میں پوسٹنگ تک AGO سے جواب موصول نہیں ہوا تھا لہذا اس میں جو بھی جواب نادر کو گیا ہے وہ سائل کے ریکارڈ کے بغیر گیا ہے اور من سائل اس سے قطعی لاعلم ہے۔ مزید یہ کہ سائل بطور ریکارڈ کیپر تعینات تھا اور اس وجہ سے ڈیپج رجسٹر سے بھی تعلق نہیں رکھتا تھا۔

علاوہ ازیں من سائل نے اپنا ٹوٹل عرصہ ملازمت 31 سال مختلف دفاتر میں ڈیوٹی سرانجام دی ہے اور اپنی تعیناتی کے دوران اپنی ڈیوٹی ہمیشہ نہایت خوش اسلوبی اور جانفشانی سے ادا کی ہے اور افسران بالا کو کبھی بھی کسی قسم کی شکایت کا موقع نہیں دیا ہے۔

لہذا گزارش کی جاتی ہے کہ من سائل کو بالا وجوہات کے پیش نظر عائد شدہ الزامات سے بری الزمہ قرار دے کر چارج شیٹ ہذا کو فائل کیا جائے۔

من سائل اس سلسلے میں زبانی عرض معروض کے لیے OR میں پیش ہونا چاہتا ہے۔

آپ کا فرمانبردار

24/10/19
فضل امین اسٹنٹ
متعینہ پولیکل سیشن

Attest

Appellant

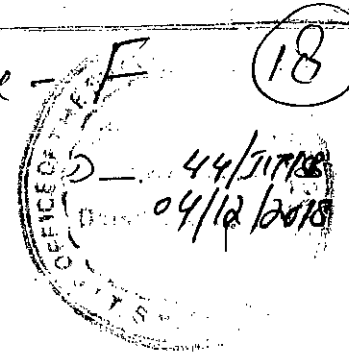
24/10/18

24/10/18

Annex - F

18

1



ENQUIRY REPORT

AGAINST:

1. Assistant Muhammad Naeem Ex-Incharge ASB Section.
2. Assistant Fazal-e-Amin Ex-Record keeper ASB Section.
3. Senior Clerk Muhammad Ibrahim Dispatcher ASB Section.

BACKGROUND:

A fake/bogus letter was sent to NADRA by this establishment regarding National status verification of Waris Khan s/o Haji Anar Gul verified as Pakistani National vide letter No. 9105/Security dated 22.05.2018 and the said dispatch number was deliberately left blank in the dispatch register while the reference number of the fake/bogus letter is mentioned in Dak book. The signature of SP Intelligence was obtained fraudulently on the said fake/bogus letter which bears the initial of Incharge ASB Muhammad Naeem.

The competent authority assigned the task of departmental proceedings against the above mentioned officials to probe the matter.

PROCEEDINGS:

The brief facts of the proceedings are mentioned below:

Charge sheet/ statement of allegations were served on the defaulter officials for initiating proper disciplinary proceedings against them wherein it was alleged:

That you while posted in ASB section, a fake/bogus letter was sent to NADRA by this establishment regarding National status verification of Waris Khan s/o Haji Anar Gul verified as Pakistani National vide letter No. 9105/Security dated 22.05.2018 and the said dispatch number was deliberately left blank in the dispatch register while the reference number of the fake/bogus letter is mentioned in Dak book.

Attested

[Signature]
Appreciated

I was nominated as enquiry officer by the competent authority vide letters No. 5642/EB, 5643/EB and 5644/EB dated 18.10.2018. On receipt of the enquiry, relevant case material was sought from the ASB section, Special Branch and in order to find out the truth of the matter, the following were summoned and examined. The brief resume of the statements of the below named persons are reproduced for convenience:-

1. Assistant Muhammad Naeem, Ex-Incharge ASB Section.
2. Assistant Fazal-e-Amin, Ex-Record keeper ASB Section.
3. Senior Clerk Muhammad Ibrahim, Dispatcher ASB Section.
4. Waris Khan s/o Haji Anar Gul r/o Noor Colony, outside Yakatoot, Wazir Bagh road near superior Science College, Peshawar.
5. Constable Nabi Amin No. 594/SB Office Orderly to SSP Intelligence.
6. Wajid Ali s/o Niaz Ali Ex Project E-enablement of Special Branch employee.
7. Senior Clerk Akhtar Hussain Incharge ASB Section.
8. SI Sehat Ali Khan AGO City.

Statement of Muhammad Naeem, Ex-Incharge ASB section.

He stated that the allegation leveled against him is totally baseless and having no concern with him. Quoting reference numbers on the letters is the responsibility of dispatcher. The dispatcher has left reference number 9105 blank in the dispatch register and there after quoted the same on the letter and further entered the said number in the Dak book which shows the mal practice of the dispatcher. The dispatcher will be in better position to answer:-

- Why he left the reference number blank in the dispatch register.
- Why he quoted the blank number on the letter.
- Why he made entry of the letter in the Dak book for delivery.

Statement of Assistant Fazal-e-Amin, Ex-Record keeper ASB Section.

He stated that his duty in the capacity of Record keeper was to put up reply to Incharge ASB regarding verification of National status case submitted by the field offices of this establishment.

Attested
M. Ullahani

He did not put up the case of Waris Khan as the same was still pending with AGO City Peshawar. He further replied that whatever reply sent to NADRA by the dispatcher was not in his knowledge. Being Record keeper, he had no concern with the Dispatch Register. At the end, he flatly denied the allegation leveled against him.

Statement of Senior Clerk Muhammad Ibrahim, Dispatcher ASB Section.

He stated that he is working as dispatcher in ASB section since 23.09.2016 and still serving there. His job is to quote a reference number on the letter and dispatch it to quarter concerned. As far as the present case is concerned, he disclosed that the column in Dispatch Register left blank as Runner/Orderly to SSP Intelligence Nabi Amin came along with the case and asked him that SP Intelligence requires dispatch number. He accordingly gave dispatch number to him on a chit however Nabi Amin neither appeared nor handover the case. He requested that Nabi Amin is the real culprit and he may be questioned on the matter.

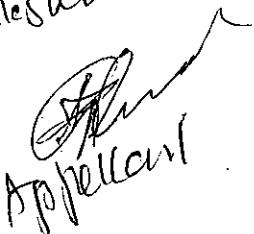
Statement of Waris Khan s/o Haji Anar Gul r/o Noor Colony, outside Yakatoot, Wazir Bagh road near superior Science College, Peshawar.

He stated that his CNIC on suspicion was blocked by NADRA in the year 2013 and he struggled to get himself verified as Pakistani National from Joint Verification Committee but failed. His friend Qari Abdul Rahim (late) at that time contacted Wajid Ali of IT section in Special Branch for the needful. Wajid Ali received Rs. 25000/- for his clearance as Pakistani National and very soon Special Branch sent letter to NADRA wherein he was declared as Pakistani National and resultantly he received Pakistani CNIC. He further stated that Wajid Ali is acquainted to Qari Abdul Rahim (late).

Statement of Constable Nabi Amin No. 594/SB Office Runner/Orderly to SSP Intelligence.

He stated that the ASB staff (under enquiry for issuance of bogus verification letter to NADRA in respect of Waris Khan s/o Haji Anar Gul) disclosed his name in the fraud. However he categorically stated that neither he has relation or acquaintance with Waris Khan nor any concern with ASB section.

Attested


Appellant

Statement of Wajid Ali s/o Niaz Ali Ex Project E-Enablement of Special Branch employee.

He categorically denied the claim of Waris Khan s/o Anar Gul that he received Rs. 25000/- from Qari Abdul Rahim (late) for declaring Waris Khan as Pakistani National. Further stated, that neither he has acquaintance with Waris Khan nor with Qari Abdul Rahim (late). He explained that he was project employee in IT section of Special Branch since 20.07.2012 to 23.06.2018 and having no concern with ASB section.

Statement of Senior Clerk Akhtar Hussain Incharge ASB Section.

He stated that he has been posted as Incharge ASB section on 17.07.2018. In the dispatch register of ASB section, a blank column regarding letter No. 9105/S dated 21.05.2018 is present meaning there by that this reference number is not used and its record is present. Later on, this reference number was mentioned in the Dak book which was sent and received by the NADRA. The Incharge security section at that time was Assistant Muhammad Naeem whose initial is present on the letter.

Statement of SI Sehat Ali Khan AGO City.

He stated that he conducted enquiry regarding Waris Khan s/o Anar Gul r/o Munshi Abad Zargar Abad. During the course, it transpired that suspect Waris Khan along with his brother Pervez Khan, Karim Khan, Mehmood Khan, Ajmal Khan and Wakif Khan, came Pakistan from Shershai, Afghanistan several years ago. His National status verification is still pending in his office because suspect Waris Khan failed to produce documentary evidence to show his existence in Pakistan prior to 1978 as per present SOP issued by the Ministry of Interior Government of Pakistan. The son of Waris Khan named Ibrahim is running a Jewelry shop in Jalalabad, Afghanistan and cousins named Haji Wahab and Haji Raees Khan are in possession of Afghan Citizen Card. According to his ground check, Waris Khan is an Afghan National.

CONCLUSION:

After going through the charge, summary of allegation and statements of accused officials, I am on the considered view that the bogus/fake verification report of National status in respect of

Attest
Signature
Appreciated

Waris Khan s/o Anar Gul has been prepared by Runner/Office Orderly Nabi Amin No. 594/SB in active connivance of Assistant Muhammad Naeem Ex-Incharge ASB, Assistant Fazal-e-Amin Ex-Record keeper and Senior Clerk Muhammad Ibrahim Dispatcher. Normally, Incharge ASB is overall responsible of ASB business and in the instant case the letter bears his initial which shows that he was part of the fraud as letter was forwarded to SP Intelligence for signature. Secondly Senior Clerk Muhammad Ibrahim Dispatcher left blank the column in Dispatch Register while mentioned the same letter in the Dak book which shows his malafide. Assistant Fazal-e-Amin Record keeper is also responsible for this blunder as he did not take pain to check the record of subject verification case. In view of above, all accused officials are guilty of committing this fraud by making fake/bogus letter wherein an Afghan was declared Pakistani National illegally. On the contrary, the verification is still pending in Field office, Special Branch City and in this connection AGO City made a statement. In view of above, appropriate punishments may be awarded to all accused officials as per rules and law.

After enquiry it is crystal clear that Runner/Office Orderly Nabi Amin No. 594/SB is also involved there for the sake of justice, the instant enquiry may be considered as preliminary enquiry and proper departmental proceedings may be initiated against Runner/Office Orderly Nabi Amin No. 594/SB. Besides legal action u/s 419/420/468 PPC is suggested against Waris Khan s/o Anar Gul. A letter may also be addressed to NADRA wherein Waris Khan may be declared as an Afghan National in the light of statement submitted by AGO City.

Attested

[Handwritten Signature]
Applicant

[Handwritten Signature]
Superintendent of Police, JIT,
Special Branch, KP, Peshawar.

FINAL SHOW CAUSE NOTICE.

Annex-6

23

I, Muhammad Karim Khan, DIG/Special Branch KP, Peshawar being competent authority under Rule 5(b) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, issue this final show cause notice to you **Assistant Fazal e Amin** on the following grounds:-

That you while posted as Record Keeper ASB Special Branch has put up a National Status verification case which was ^{sent} to NADRA as Pakistani National vide letter No.9105/Security, dated 22.05.2018 in r/o Mr. Waris Khan s/o Haji Anar Gul while the said dispatch number was left blank in the dispatch register.

After going through the findings of the Enquiry Officer, the material available on record and other connected papers, I am satisfied that you have committed the misconduct being defined under Rule 2(l) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011. As a result thereof, I Muhammad Karim Khan DIG/Special Branch Khyber Pakhtunkhwa Peshawar as competent authority has tentatively decided to impose major punishment upon you under Rule 4 of Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules 2011.

You are therefore, directed through this Final Show Cause to reply **within 07 days** as to why the aforesaid penalty should not be imposed upon you.

In case your reply is not received within stipulated period, it shall be presumed, that you have no defense to put. In that case an ex-parte action shall be taken against you.

Also state as to whether you desire to be heard in person.

Copy of finding of the enquiry officer is enclosed.

(MUHAMMAD KARIM KHAN)PSP
Dy: Inspector General of Police,
Special Branch KP, Peshawar

No. 11- /EB, Dated Peshawar, the 24 /12/2018.

Copy to Assistant Fazal e Amin of Special Branch.

Encl (05)

Attested

Appellant

جناب عالی:-

بحوالہ 7615/EB مورخہ 24/12/2018 فائنل شوکاژ نوٹس

عرض ہے کہ جس وی ریفلکشن کیس میں سائل کو چارج کیا گیا ہے وہ من سائل نے پٹ اپ کیا ہی نہیں تھا چونکہ متعلقہ AGO سے اس میں میرے پاس جواب نہیں آیا تھا لہذا وہ ASB ریکارڈ پر پنڈنگ تھا جو کہ من سائل کی ASB میں پوسٹنگ تک AGO سے جواب موصول نہیں ہوا تھا لہذا اس میں جو بھی جواب نادر کو گیا ہے وہ سائل کے ریکارڈ کے بغیر گیا ہے اور من سائل اس سے قطعی لاعلم ہے۔ مزید یہ کہ سائل بطور ریکارڈ کیپر تعینات تھا اور اس وجہ سے ڈسپنچ رجسٹر سے بھی تعلق نہیں رکھتا تھا۔

مزید یہ کہ انکوآری آفیسر صاحب نے انکوآری رپورٹ میں جس غلطی کے بنا پر من سائل کو قصور وار ٹھہرایا ہے سائل کا اس لیٹر کے ساتھ کوئی سروکار ہی نہیں ہے کیونکہ سائل ایک ریکارڈ کیپر ہے جس کو لیٹر یا کسی قسم کے دستاویز کے ڈسپنچ کرنے کا کوئی اختیار نہیں۔ لہذا سائل مطلقاً اس ذمہ داری سے مبرا ہے۔

علاوہ ازیں من سائل نے اپنا ٹوٹل عرصہ ملازمت 31 سال مختلف دفاتر میں ڈیوٹی سرانجام دی ہے اور اپنی تعیناتی کے دوران اپنی ڈیوٹی ہمیشہ نہایت خوش اسلوبی اور جانفشانی سے ادا کی ہے اور افسران بالا کو کبھی بھی کسی قسم کی شکایت کا موقع نہیں دیا ہے۔

لہذا گزارش کی جاتی ہے کہ من سائل کو بالا وجوہات کے پیش نظر عائد شدہ الزامات سے بری الزمہ قرار دے کر فائنل شوکاژ نوٹس کو فائل کرنے کا حکم صادر فرمایا جائے سائل تا عمر دعا گور ہے گا۔
من سائل اس سلسلے میں زبانی عرض معروض کے لیے پیش ہونا چاہتا ہے۔

آپ کا فرمانبردار

Attest

Asst. Secy
Asst. Secy

19/12/2018
فضل امین اسٹنٹ
متعینہ پولیٹیکل سیکشن

Annex-I

25

ORDER

This order will dispose of departmental proceedings against Assistant Grade Clerk Fazle Amin of this establishment. The brief facts of the case are that the defaulter official while posted as Record Keeper ASB Section/SB has put up a National Status verification case which was sent to NADRA as Pakistan National vide letter No.9105/Security, dated 22.05.2018 in r/o Mr. Waris Khan s/o Haji Anar Gul while the said dispatch number was left blank in the dispatch register. In addition, fake verification reply letter was sent to NADRA wherein the mentioned suspect Waris Khan (Afghan National) was declared Pakistani citizen.

In this regard, proper departmental proceedings were initiated under Khyber Pakhtunkhwa (Efficiency and discipline) Rules 2011 by issuing Charge Sheet and Statement of Allegations against the defaulter Assistant Grade Clerk Fazle Amin. Mr. Muhammad Irshad SP/JIT, Special Branch was appointed as Enquiry Officer to probe into the matter.

The Enquiry officer, after conducting detailed enquiry, found the defaulter official guilty of misconduct in his finding/conclusion.

The defaulter official was issued Final Show Cause Notice vide No.7615/EB, dated 24-12-2018, besides heard in person on 07-01-2019 by the undersigned. His reply to Final Show Cause Notice is not satisfactory, therefore, I, Muhammad Karim Khan Dy: Inspector General of Police, Special Branch, KP, Peshawar being the competent authority impose upon him major penalty of compulsory retirement from service under Khyber Pakhtunkhwa (Efficiency and Discipline) Rules 2011 with immediate effect.

(Muhammad Karim Khan)PSP
Deputy Inspector General of Police,
Special Branch, Khyber Pakhtunkhwa,
Peshawar.

No. 676 /EB, Dated Peshawar, the 15 / 01 /2019.

Copy to all concerned.

Attest

[Handwritten signature]
Appellate

To,

Annex - J (26)

The Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.

**SUBJECT:- DEPARTMENTAL APPEAL/MERCY PETITION AGAINST THE
ORDER DATED 15.01.2019**

Respected Sir,

In this regard it is submitted that I have rendered about 32 years qualifying years service in Ministerial Cadre having no even a single adverse entry in my entire Service. Therefore, it is justified with the contention:-

1. That the Petitioner is completely innocent and has falsely been raped in the instant issues avoiding the real facts and defaulter official involved in the subject matter.
2. That the Petitioner has categorically stated before the Enquiry Officer by repeating the evidences that his duty in the capacity of Record Keeper was to just to put up the reply received to the Incharge ASB regarding verification of National Status cases submitted by the field staff posted in the sub offices of Special Branch, Khyber Pakhtunkhwa. Similarly, the case of Waris Khan was not put up by the Petitioner and it was still pending due to no receiving in the said Section. But the Enquiry Officer completely ignored the stance of Appellant and submitted the recommendations in a haphazard manner which shows his incapability to conduct the Enquiry from each and every aspects of the Enquiry.
3. The Petitioner has also asserted before the Enquiry Officer that being a Record Keeper the Petitioner has got no concern with the Dispatch Register but the Enquiry Officer has adopted a flagrant violation of the Law neither recorded any evidence in this respect nor any finding is available in the Enquiry Report to dig out the facts existing in the matter.
4. That the entire proceedings have been conducted in slipshod and quibble manners, hence, not tenable in the eye of law and doesn't fulfill the requirements of Enquiry in accordance with law and is clear case of violation in the matter.
5. That no opportunity of cross examination¹ was extended to the Petitioner during the course of Enquiry Proceedings which was his right as mentioned in E & D Rules being an excusatory part to resolve the issue in merit.
6. That the Enquiry Report was not provided to the Petitioner for submission of reply to the Final Show Cause Notice which is essential in the Course of Enquiry to give an opportunity for defense of the charges leveled against him which has clearly been mentioned in the clauses of E & D Rules properly.
7. That the Enquiry Officer in his Findings has established malafide on the part of other co accused directly while the Petitioner was held responsible for negligence to this effect only which doesn't fulfill the necessities of Justice and even leads to injustice. Nothing was proved during the Enquiry Proceedings through a single piece of evidence which shows his raw handling in the Enquiry. ¹

Attest



[Signature]
Appellant

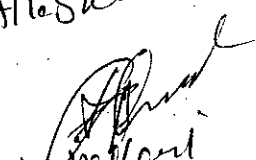
27

8. That even during the courses of Enquiry nothing was brought on the record against the Petitioner to establish his involvement in the matter and the same was completed precipitately he is required to be castigation.
9. That during the relevant days of submission of Appeal before the Worthy Inspector General of Police, Khyber Pakhtunkhwa, the Petitioner was hospitalized and conducted surgery of Intestines due to prolepses Hemorrhoidectomy disease vide enclosed Medical Prescriptions and Discharge Slip etc: concerning with my illness.
10. That the Petitioner is completely/entirely innocent and has unblemished Service Record.
11. In view of above, it is therefore requested that on acceptance of the Departmental Appeal/Mercy Petition the impugned order may kindly be set aside and the Petitioner may kindly be re instated in Service with all back /consequent benefits accordingly.

Almighty Allah will give you the best return of it.

Yours Obediently


(Fazal E Amin) 21/7/19
Ex-Assistant Grade Clerk
Special Branch, Khyber Pakhtunkhwa,
Peshawar.


Attest

Appellor



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

No. 4/106 /E-V, dated Peshawar the 27 / 8 /2019

To: - Mr. Fazal-E-Amin,
Ex-Assistant Grade Clerk,
Special Branch Khyber Pakhtunkhwa,
Peshawar.

Annex - K (28)

Subject: - MERCY PETITION.

Memo:-

Reference your Mercy Petition dated 02.07.2019, you are hereby informed that your Mercy Petition was perused and facts checked. After perusal, the competent authority has filed the Mercy Petition.

(SYED ANIS-UL-HASSAN)

Registrar

For Inspector General of Police,
Khyber Pakhtunkhwa Peshawar.

Attest

Appellant



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

Ph: 091-9210545, Fax No. 091-9210927, Email: OSEstabV@gmail.com

No. 6/07-15 /E-V, dated Peshawar the, 28-08 /2019

Amner-L

19

ORDER

This order is hereby passed to dispose off a departmental appeal preferred under the E&D Rules-2011 by Assistant Grade Clerk Mr. Muhammad Naeem.

2. Background of the case is that the petitioner has been awarded major punishment of compulsory retirement from service by the DIG/Special Branch, KP Peshawar on the following charges:-

“A fake/bogus letter was sent to NADRA by this establishment regarding National status verification of Waris Khan s/o Haji Anar Gul verified as Pakistani National vide letter No. 9105/Security dated 22.05.2018 and the said dispatch number was deliberately left blank in the dispatch register while the reference number of the fake/bogus letter is mentioned in Dak book. The signature of SP Intelligence was obtained fraudulently on the said fake/bogus letter which bears the initial of Incharge ASB Muhammad Naeem”.

On 26th August, 2019, the petitioner was heard in person in Orderly Room, who denied the charges leveled against him. On 27.08.2019 the Enquiry Officer Mr. Irshad Khan was also called & discussed the case file with all aspects who also confirmed non-involvement of the petitioner in the matter, but held him responsible for negligence being Incharge of the relevant section.

The Enquiry file was thoroughly gone through & from the perusal of the case file, the following were pointed out:-

1. No malafide intention was found on part of the petitioner but being Incharge of the relevant section, his negligence & poor supervision over his staff in the instant case cannot be ignored.
2. Waris Khan s/o Haji Anar Gul r/o Noor Colony, Wazir Bagh, Peshawar, stated in his statement that he has paid Rs. 25000/- to Wajid Ali of I.T Section of Special Branch.
3. One Nabi Amin orderly of SSP/Investigation has played primary role in the case as revealed by Senior Clerk Muhammad Ibrahim dispatcher of ASB Section in his statement.

From the perusal of the case file & whole episode, the undersigned came to the conclusion that the petitioner has no malafide role in the case. He has long service of 31-years & is due for superannuation in the year 2028.

Attest


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

Ph: 091-9210545, Fax No. 091-9210927, Email: OSEstabV@gmail.com

/E-V, dated Peshawar the, _____/2019

Keeping in view of above facts, his major punishment of compulsory retirement is set aside with immediate effect. Period he remained out of service is treated as leave without pay. However, for showing negligence, poor supervision over his subordinate staff, he is awarded minor punishment of withholding of one year increment with cumulative effect.

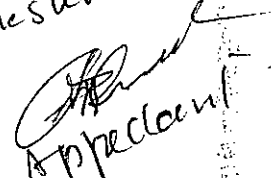
Order announced


(DR. ISHTIAQ AHMED) PSP/PPM
Additional Inspector General of Police,
Headquarters, Khyber Pakhtunkhwa,
Peshawar

Endst: No. & date even.

Copy forwarded to the:-

1. Deputy Inspector General of Police, Special Branch, KP Peshawar.
2. Accountant General, Khyber Pakhtunkhwa.
3. Deputy Inspector of Police, HQrs, Khyber Pakhtunkhwa, Peshawar.
4. AIG/Establishment, KP Peshawar.
5. PA to Add: IGP/HQrs, KP Peshawar.
6. Registrar, Central Police Office Peshawar.
7. Office Supdt: Secret, CPB Branch & Incharge Central Registry Cell.

Attest

Approver

Before the Honble Service Tribunal, KPK,
Peshawar

بعدالت

Service Appeal

Fazal-e-Amin

(Appellant) 2ء بنجانء
بنام

VS.

Provincial Police Officer
and others.

مورء

مقدم

جزم

باعث تحریر آنکہ

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

Rizwanullah Ahamd Peshawar

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زر میں پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی

اور منسوخی نیز دائر کرنے اپیل گزارانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت

مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے

تقرر کا اختیار ہوگا۔ اور صاحب مقرر شاہہ ٹوبھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے

اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے

سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں

گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

المترقوم 13th September 2019

Attested & accepted

کے لئے منظور ہے۔

Peshawar

مقام

12/9/2019

Appellant

BEFORE THE HONORABLE SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1146 / 2019.

Fazal Amin Ex Assistant.....(Appellant)

VERSUS

Inspector General of Police and others.....(Respondents)

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(49)

BEFORE THE HONORABLE SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1146 / 2019.

Fazal Amin Ex-Assistant.....(Appellant)

VERSUS

Inspector General of Police and others.....(Respondents)

SUBJECT: **COMMENTS ON BEHALF OF RESPONDENTS**

RESPECTIVELY SHEWETH:

PRELIMINARY OBJECTIONS:-

- a) The appeal is not based on facts.
- b) The appeal is not maintainable in its present form.
- c) The appeal is bad for miss-joinder and non-joinder of necessary parties.
- d) The appellant is estopped to file the appeal by his own conduct.
- e) Appeal is bad by law and limitation.
- f) The appellant has not come to this Honorable Tribunal with clean hands.
- g) The appellant has got no cause of action to file present Service Appeal.

FACTS

1. First portion of this Para regarding appellant's enlistment in Police Department as Junior Clerk in the year 1987 is correct however, the remaining Para subject to proof.
2. That being the member of discipline force and posted as Record Keeper in ASB Special Branch, appellant committed gross misconduct by putting up a National Status Verification Case which was sent to NADRA as Pakistani National vide Letter No. 9105/Security, dated 22.05.2018, in respect of Mr. Waris Khan s/o Haji Anar Gul and the said Dispatch No. mentioned in the Letter was left blank in the Dispatch Register. In this connection appellant was proceeded against departmentally by issuing proper Charge Sheet, statement of Allegations and proper enquiry was conducted in which appellant proved guilty then after enquiry Final Show Cause Notice under E&D Rules 2011. Which the appellant replied however, the same was

(2)

found un-satisfactory therefore, being Competent Authority he was awarded major punishment in accordance with law/ rules. (Copy of Charge Sheet, summary of allegations, inquiry and final show cause notice are annexed as A, B, C & D respectively).

3. Correct to the extent however, the reply of the appellant was not satisfactory therefore, the Competent Authority, issued the impugned order.
4. This Para is already explained at Para No. 3 of Facts. However, proper inquiry was conducted according to law/ rules.
5. Correct to the extent that appellant submitted reply to the Show Cause Notice however, the same was not found satisfactory therefore, he was proceeded against departmentally by deputing Enquiry Officer.
6. Correct. Being Record Keeper appellant was held responsible for the fake/ bogus subject Verification Case thereby, guilty of making fake/ bogus matter wherein, an Afghan was declared as Pakistani National illegally.
7. That the appellant preferred a departmental appeal against the order dated 15.01.2019, which was thoroughly examined by the Competent Authority and was filed in accordance with law.
8. This Para is irrelevant hence, no comments.
9. That the present Service Appeal of the appellant is not maintainable on the following Grounds.

GROUND:-

- A. Incorrect. That the appellant has been treated in accordance with law/ rules and no Article of Constitution of Islamic Republic of Pakistan, 1973 has been violated by answering respondents.
- B. Incorrect. That the enquiry initiated against the appellant was quite legal and in accordance with law/ rules. Proper departmental enquiry proceeded against the appellant by deputing Enquiry Officer by fulfilling all codal formalities under the relevant rules of Khyber Pakhtunkhwa, Government Servants (Efficiency & Disciplinary Rules, 2011). Show Cause Notice, Statement of Allegations, Charge Sheet & Final Show Cause have been served upon the appellant to which he replied but the same was

found un-satisfactory. Furthermore, statement of other officials have also been recorded and in light of these statements, the allegations leveled against the instant appellant was stood proved hence, major penalty was imposed against the appellant keeping in view the gravity of his misconduct.

- C. Incorrect. As explained above.
- D. Incorrect. Enquiry was conducted in accordance with law/ rules and the allegations leveled against the appellant stood proved during course of enquiry.
- E. Incorrect. In this Para, the appellant stated that the order dated 15.01.2019, passed by DIG/ Special Branch (Respondent No. 2) is illegal as he was not the Competent Authority. However, this stance taken by appellant is incorrect as the powers have been delegated to DIG vide Notification No. 8511/ E-V dated 28.12.2015, thereby meaning that DIG Special Branch is the Competent Authority to take disciplinary action against instant appellant. (Copy of Notification is annexed as "A").
- F. Incorrect. Proper enquiry was conducted against the appellant by deputing Enquiry Officer in the matter who after fulfilling after all codal formalities, submitted his findings wherein, he also held responsible the appellant being Record Keeper for his blunder as he did not take pain to check the record of subject verification case. Furthermore, no disparity, anomaly and violation of any Article of Constitution have been violated by the respondents. Furthermore, every one involved in the fake/ bogus verification case has been punished according to the gravity of misconduct he committed hence, the plea taken by the appellant that Muhammad Naeem has been treated leniently is wrong and illogical.
- G. Incorrect. The order dated 15.01.2019, passed by respondent No. 2 is just and quite legal and no norms of natural justice has been violated by answering respondents.
- H. Incorrect. As explained above at Para No. G of Grounds.
- I. Incorrect. As explained in preceding Paras.
- J. That the respondents may also be allowed to raise additional grounds at the time of arguments.

PRAYER:-

In view of the above, it is humbly prayed that on acceptance of Para-wise comments, the instant Service Appeal may kindly be dismissed being meritless with cost.

Jawad

Senior Superintendent of Police,
Admin, Special Branch,
Khyber Pakhtunkhwa, Peshawar.

[Signature] (Respondent No. 3)

Star

Deputy Inspector General of Police,
Special Branch,
Khyber Pakhtunkhwa, Peshawar.

(Respondent No. 2)

[Signature]

Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

(Respondent No. 1)

(5)

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

Service Appeal No. 1146/2019


Fazal Amin Ex-Assistant (Appellant)

VERSUS


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

AUTHORITY LETTER


Nisar Khan Addl: SP Security/Legal, Special Branch, Khyber Pakhtunkhwa, Peshawar is hereby authorized to appear on behalf of the **Respondents No. 1 to 3** before the Hon'ble Khyber Pakhtunkhwa Service Tribunal Peshawar. He is also authorized to submit all required documents and replies to the Service Appeal No. 1146/2019.


Senior Superintendent of Police/Admn
Special Branch, Khyber Pakhtunkhwa,
Peshawar.

 Respondent No. 03


Deputy Inspector General of Police,
Special Branch, Khyber Pakhtunkhwa,
Peshawar.

Respondent No. 02


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

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

Service Appeal No. 1146/2019

Fazal Amin Ex-Assistant (Appellant)


VERSUS

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

AFFIDAVIT

I, **Nisar Khan Addl: SP Security/Legal**, Special Branch, Khyber Pakhtunkhwa, Peshawar do hereby solemnly affirm and declare on oath that the contents of reply in response to the Service Appeal cited above are true and correct to the best of my knowledge and belief and nothing has been concealed from the Honorable Tribunal.

DEPONENT



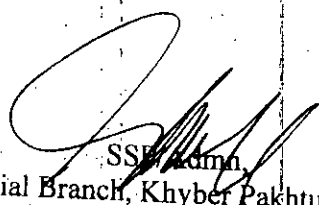
Nisar Khan Addl: SP Security/Legal,
Special Branch, Khyber Pakhtunkhwa,
Peshawar
16101-7264625-5

CHARGE SHEET

6

I, Qasim Ali, SSP/Admn Special Branch, Khyber Pakhtunkhwa Peshawar, a competent authority, under Rule 5 (b) of Khyber Pakhtunkhwa, Govt servants (Efficiency & Discipline) Rules, 2011 hereby charge you Assistant Fazal-e-Amin as follows:-

- 2) That you while posted as Record Keeper ASB Special Branch has put up a National Status verification case which was to NADRA as Pakistani National vide letter No.9105/Security, dated 22.05.2018 in r/o Mr. Waris Khan s/o Haji Anar Gul while the said dispatch number was left blank in the dispatch register
- 3) Your this act amounts to gross misconduct and speaks highly adverse on your part warranting stern disciplinary action against you under the relevant Rules of Khyber Pakhtunkhwa, Government Servants (Efficiency and Discipline) Rules, 2011.
- 4) By reasons of the above, you appear to be guilty of misconduct under Rule 4 of Khyber Pakhtunkhwa Govt. servants (Efficiency and Discipline) Rules, 2011 and has rendered you liable to all or any of the penalties specified in the Rules ibid.
- 5) You are, therefore required to submit your written defense within **Seven days** of the receipt of this charge sheet to the Enquiry Committee/Enquiry Officer as the case may be.
- 6) Your written defense, if any, should reach the Enquiry Officer / Enquiry committee within the specified period, failing which it shall be presumed that you have no defense to put in and in that case and ex-parte action shall follow against you.
- 7) Intimate whether you desire to be heard in person.
- 8) A statement of allegations is enclosed.


SSP/Admn,
Special Branch, Khyber Pakhtunkhwa,
Peshawar.

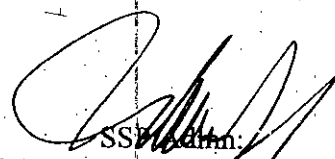
(8)

DISCIPLINARY ACTION.

I, Qasim Ali, SSP/Admn: Special Branch, Khyber Pakhtunkhwa Peshawar, am of opinion that Assistant Fazal e Amin while posted as Record Keeper ASB of this Establishment rendered himself liable to be proceeded against departmentally, as he has committed the following acts / omissions within the meaning of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

- 2) That he while posted as Record Keeper ASB Special Branch has put up a National Status verification case which was to NADRA as Pakistani National vide letter No.9105/Security, dated 22.05.2018 in r/o Mr. Waris Khan s/o Haji Anar Gul while the said dispatch number was left blank in the dispatch register.
- 3) His this act amounts to gross misconduct and speaks highly adverse on his part warranting stern disciplinary action against him under the relevant Rules of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.
- 4) For the purpose of enquiry against the said accused with the reference to the above allegation Mr. _____ is appointed as Enquiry Officer to conduct enquiry under Rule 10 (1) (a) of the ibid rules.
- 5) The Enquiry Officer / Enquiry Committee shall, in accordance with the provision of the said Rules, provide reasonable opportunity of hearing to the accused, record and submit its findings and make within 30-days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused officer.
- 6) The defaulter official is directed to attend the proceedings on the date, time and place fixed by the Enquiry Officer.


SSP/Admn.
Special Branch Khyber Pakhtunkhwa,
Peshawar.

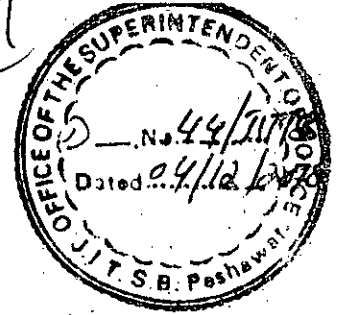
No. 5643 /EB: dated Peshawar the, 18/10/2018.

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

1. The Enquiry Officer.
2. Assistant Fazal e Amin.

Recd
18/10/18

ENQUIRY REPORT



AGAINST:

1. Assistant Muhammad Naeem Ex-Incharge ASB Section.
2. Assistant Fazal-e-Amin Ex-Record keeper ASB Section.
3. Senior Clerk Muhammad Ibrahim Dispatcher ASB Section.

BACKGROUND:

A fake/bogus letter was sent to NADRA by this establishment regarding National status verification of Waris Khan s/o Haji Anar Gul verified as Pakistani National vide letter No. 9105/Security dated 22.05.2018 and the said dispatch number was deliberately left blank in the dispatch register while the reference number of the fake/bogus letter is mentioned in Dak book. The signature of SP Intelligence was obtained fraudulently on the said fake/bogus letter which bears the initial of Incharge ASB Muhammad Naeem.

The competent authority assigned the task of departmental proceedings against the above mentioned officials to probe the matter.

PROCEEDINGS:

The brief facts of the proceedings are mentioned below:

Charge sheet/ statement of allegations were served on the defaulter officials for initiating proper disciplinary proceedings against them wherein it was alleged:

That you while posted in ASB section, a fake/bogus letter was sent to NADRA by this establishment regarding National status verification of Waris Khan s/o Haji Anar Gul verified as Pakistani National vide letter No. 9105/Security dated 22.05.2018 and the said dispatch number was deliberately left blank in the dispatch register while the reference number of the fake/bogus letter is mentioned in Dak book.

I was nominated as enquiry officer by the competent authority vide letters No. 5642/EB, 5643/EB and 5644/EB dated 18.10.2018. On receipt of the enquiry, relevant case material was sought from the ASB section, Special Branch and in order to find out the truth of the matter, the following were summoned and examined. The brief resume of the statements of the below named persons are reproduced for convenience:-

1. Assistant Muhammad Naeem, Ex-Incharge ASB Section.
2. Assistant Fazal-e-Amin, Ex-Record keeper ASB Section.
3. Senior Clerk Muhammad Ibrahim, Dispatcher ASB Section.
4. Waris Khan s/o Haji Anar Gul r/o Noor Colony, outside Yakatoot, Wazir Bagh road near superior Science College, Peshawar.
5. Constable Nabi Amin No. 594/SB Office Orderly to SSP Intelligence.
6. Wajid Ali s/o Niaz Ali Ex Project E-enablement of Special Branch employee.
7. Senior Clerk Akhtar Hussain Incharge ASB Section.
8. SI Sehat Ali Khan AGO City.

Statement of Muhammad Naeem, Ex-Incharge ASB section.

He stated that the allegation leveled against him is totally baseless and having no concern with him. Quoting reference numbers on the letters is the responsibility of dispatcher. The dispatcher has left reference number 9105 blank in the dispatch register and there after quoted the same on the letter and further entered the said number in the Dak book which shows the mal practice of the dispatcher. The dispatcher will be in better position to answer:-

- Why he left the reference number blank in the dispatch register.
- Why he quoted the blank number on the letter.
- Why he made entry of the letter in the Dak book for delivery.

Statement of Assistant Fazal-e-Amin, Ex-Record keeper ASB Section.

He stated that his duty in the capacity of Record keeper was to put up reply to Incharge ASB regarding verification of National status case submitted by the field offices of this establishment.

Conclusion

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He did not put up the case of Waris Khan as the same was still pending with AGO City Peshawar. He further replied that whatever reply sent to NADRA by the dispatcher was not in his knowledge. Being Record keeper, he had no concern with the Dispatch Register. At the end, he flatly denied the allegation leveled against him.

Statement of Senior Clerk Muhammad Ibrahim, Dispatcher ASB Section.

He stated that he is working as dispatcher in ASB section since 23.09.2016 and still serving there. His job is to quote a reference number on the letter and dispatch it to quarter concerned. As far as the present case is concerned, he disclosed that the column in Dispatch Register left blank as Runner/Orderly to SSP Intelligence Nabi Amin came along with the case and asked him that SP Intelligence requires dispatch number. He accordingly gave dispatch number to him on a chit however Nabi Amin neither appeared nor handover the case. He requested that Nabi Amin is the real culprit and he may be questioned on the matter.

Statement of Waris Khan s/o Haji Anar Gul r/o Noor Colony, outside Yakatoot, Wazir Bagh road near superior Science College, Peshawar.

He stated that his CNIC on suspicion was blocked by NADRA in the year 2013 and he struggled to get himself verified as Pakistani National from Joint Verification Committee but failed. His friend Qari Abdul Rahim (late) at that time contacted Wajid Ali of IT section in Special Branch for the needful. Wajid Ali received Rs. 25000/- for his clearance as Pakistani National and very soon Special Branch sent letter to NADRA wherein he was declared as Pakistani National and resultantly he received Pakistani CNIC. He further stated that Wajid Ali is acquainted to Qari Abdul Rahim (late).

Statement of Constable Nabi Amin No. 594/SB Office Runner/Orderly to SSP Intelligence.

He stated that the ASB staff (under enquiry for issuance of bogus verification letter to NADRA in respect of Waris Khan s/o Haji Anar Gul) disclosed his name in the fraud. However he categorically stated that neither he has relation or acquaintance with Waris Khan nor any concern with ASB section.

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Statement of Wajid Ali s/o Niaz Ali Ex Project E-Enablement of Special Branch employee.

He categorically denied the claim of Waris Khan s/o Anar Gul that he received Rs. 25000/- from Qari Abdul Rahim (late) for declaring Waris Khan as Pakistani National. Further stated, that neither he has acquaintance with Waris Khan nor with Qari Abdul Rahim (late). He explained that he was project employee in IT section of Special Branch since 20.07.2012 to 23.06.2018 and having no concern with ASB section.

Statement of Senior Clerk Akhtar Hussain Incharge ASB Section.

He stated that he has been posted as Incharge ASB section on 17.07.2018. In the dispatch register of ASB section, a blank column regarding letter No. 9105/S dated 21.05.2018 is present meaning there by that this reference number is not used and its record is present. Later on, this reference number was mentioned in the Dak book which was sent and received by the NADRA. The Incharge security section at that time was Assistant Muhammad Naeem whose initial is present on the letter.

Statement of SI Sehat Ali Khan AGO City.

He stated that he conducted enquiry regarding Waris Khan s/o Anar Gul r/o Munshi Abad Zargar Abad. During the course, it transpired that suspect Waris Khan along with his brother Pervez Khan, Karim Khan, Mehmood Khan, Ajmal Khan and Wakif Khan came Pakistan from Shershahi, Afghanistan several years ago. His National status verification is still pending in his office because suspect Waris Khan failed to produce documentary evidence to show his existence in Pakistan prior to 1978 as per present SOP issued by the Ministry of Interior Government of Pakistan. The son of Waris Khan named Ibrahim is running a Jewelry shop in Jalalabad, Afghanistan and cousins named Haji Wahab and Haji Raees Khan are in possession of Afghan Citizen Card. According to his ground check, Waris Khan is an Afghan National.

CONCLUSION:

After going through the charge, summary of allegation and statements of accused officials, I am on the considered view that the bogus/fake verification report of National status in respect of

DISCIPLINARY ACTION.

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Waris Khan s/o Anar Gul has been prepared by Runner/Office Orderly Nabi Amin No. 594/SB in active connivance of Assistant Muhammad Naeem Ex-Incharge ASB, Assistant Fazal-e-Amin, Ex-Record keeper and Senior Clerk Muhammad Ibrahim Dispatcher. Normally, Incharge ASB is overall responsible of ASB business and in the instant case the letter bears his initial which shows that he was part of the fraud as letter was forwarded to SP Intelligence for signature. Secondly Senior Clerk Muhammad Ibrahim Dispatcher left blank the column in Dispatch Register while mentioned the same letter in the Dak book which shows his malafide. Assistant Fazal-e-Amin Record keeper is also responsible for this blunder as he did not take pain to check the record of subject verification case. In view of above, all accused officials are guilty of committing this fraud by making fake/bogus letter wherein an Afghan was declared Pakistani National illegally. On the contrary, the verification is still pending in Field office, Special Branch City and in this connection AGO City made a statement. In view of above, appropriate punishments may be awarded to all accused officials as per rules and law.

After enquiry it is crystal clear that Runner/Office Orderly Nabi Amin No. 594/SB is also involved there for the sake of justice, the instant enquiry may be considered as preliminary enquiry and proper departmental proceedings may be initiated against Runner/Office Orderly Nabi Amin No. 594/SB. Besides legal action u/s 419/420/468 PPC is suggested against Waris Khan s/o Anar Gul. A letter may also be addressed to NADRA wherein Waris Khan may be declared as an Afghan National in the light of statement submitted by AGO City.


Superintendent of Police, JIT,
Special Branch, KP, Peshawar.

(14)

FINAL SHOW CAUSE NOTICE.

I, Muhammad Karim Khan, DIG/Special Branch KP, Peshawar being competent authority under Rule 5(b) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, issue this final show cause notice to you **Assistant Fazal e Amin** on the following grounds:-

That you while posted as Record Keeper ASB Special Branch has put up a National Status verification case which was ^{sent} to NADRA as Pakistani National vide letter No.9105/Security, dated 22.05.2018 in r/o Mr. Waris Khan s/o Haji Anar Gul while the said dispatch number was left blank in the dispatch register.


After going through the findings of the Enquiry Officer, the material available on record and other connected papers, I am satisfied that you have committed the misconduct being defined under Rule 2(l) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011. As a result thereof, I Muhammad Karim Khan DIG/Special Branch Khyber Pakhtunkhwa Peshawar as competent authority has tentatively decided to impose major punishment upon you under Rule 4 of Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules 2011.

You are therefore, directed through this Final Show Cause to reply **within 07 days** as to why the aforesaid penalty should not be imposed upon you.

In case your reply is not received within stipulated period, it shall be presumed that you have no defense to put. In that case an ex-parte action shall be taken against you.

Also state as to whether you desire to be heard in person.


Copy of finding of the enquiry officer is enclosed.


(MUHAMMAD KARIM KHAN)PSP
Dy: Inspector General of Police,
Special Branch KP, Peshawar

No.7615 /EB, Dated Peshawar, the 24 /12/2018.

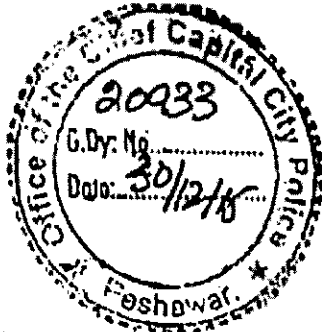
Copy to Assistant Fazal e Amin of Special Branch.

Encl(05)


26/12/18

"A"

(15)



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

Ph: 091-9210545 Fax: 091-9210927

FOR PUBLICATION IN THE KHYBER PAKHTUNKHWA,
POLICE GAZETTE PART-II ORDERS OF THE INSPECTOR
GENERAL OF POLICE, KHYBER
PAKHTUNKHWA, PESHAWAR.

NOTIFICATION

No 8511 /E-V, DISCIPLINARY ACTION:- The Competent Authority while exercising powers conferred on him under article 31 of Police Order 2002, has accorded approval for delegating powers of disciplinary action against Ministerial Staff to RPO/DPO as detail mentioned below.

S NO	DESIGNATION	ACTION IS TO BE TAKEN AGAINST
1.	Regional Police Officers.	Office Supdts: (BS-17), Stenographers (BS16), Asstt: Grade Clerks (BS-16) and Steno Typists (BS-14)
2.	District Police Officers.	Senior Clerks (BS-14), Junior Clerk (BS-11) and NQ/Class-IV (BS 1-4).

(MIAN MUHAMMAD ASIF) PSP
Addl: IGP, Hqrs:
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No 8512-8615 /E-V

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

1. All Additional Inspectors General of Police in Khyber Pakhtunkhwa.
2. All RPOs in Khyber Pakhtunkhwa.
3. Capital City Police Officer, Peshawar.
4. All DisG in Khyber Pakhtunkhwa.
5. Commandants, FRP and PTC, Hangu.
6. All DPOs in Khyber Pakhtunkhwa.
7. All AlsG in Khyber Pakhtunkhwa.
8. Director, IT, Khyber Pakhtunkhwa, Peshawar
9. Director, FSL, Khyber Pakhtunkhwa, Peshawar.
10. Commandant, CPC University Campus, Peshawar.
11. Deputy Director Audit, CPO, Peshawar.
12. Registrar, CPO, Peshawar.
13. Budget Officer, CPO, Peshawar.
14. All Office Supdts: in CPO, Peshawar.
15. Incharge Central Registry, CPO, Peshawar.

CC-P
Committed to all command
Seen.

30/12

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

Service Appeal No. 1146/2019

1. Fazal-e-Amin Ex-Assistant Grade Clerk, Special Branch Khyber Pakhtunkhwa, Peshawar.

APPELLANT

VERSUS

1. The Provincial Police Officer, Government of Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police, Special Branch Khyber Pakhtunkhwa, Peshawar.
3. The Senior Superintendent of Police (Admn) Special Branch Khyber Pakhtunkhwa, Peshawar.

RESPONDENTS

**REJOINDER ON BEHALF OF
APPELLANT IN THE ABOVE
CAPTIONED APPEAL**

RESPECTFULLY SHEWETH,

PRELIMINARY OBJECTIONS

a-g. All the preliminary objections raised by the respondents are incorrect, baseless and not in accordance with law and rules rather the respondents are estopped by their own conduct to raise any objection.

FACTS

1. As the first portion of the Para was admitted as correct by the respondents however, the remaining reply is incorrect as the respondents were legally bound to have scanned the relevant record in respect of appellant and offered its reply but they took no pain to do so. Hence, this portion is also deemed as admitted.

2. Para No. 2 is incorrect, misconceived and hence denied as the appellant acted justly, fairly, honestly and also in accordance with law but he was served with a charge sheet alongwith statement of allegations. He submitted an elaborate and exhaustive reply and also termed it as fallacious, malicious and misconceived. Moreover, the inquiry was conducted in utter violation of law as there was not iota of evidence to connect the appellant with the commission of so-called misconduct. It is worthwhile to mention here that the appellant was served with a charge sheet alongwith statement of allegation by the SSP (respondent No. 3) whereas the impugned order dated 15-01-2019 was passed by the DIG (respondent No. 2) and they both claimed to be the Competent Authority as evident from the above documents despite the fact that the Provincial Police Officer (Respondent No. 1) was alone the Competent Authority under the relevant Rules to have

initiated disciplinary action against the appellant and concluded it to logical end. It is well settled law that when the basic order or act regarding initiation of departmental proceedings is without lawful authority and void then the entire superstructure built on it would fall on the ground automatically as per law laid down by the august Supreme Court of Pakistan in various judgments. Thus, the impugned orders are liable to be set-aside on this count alone.

3. As the first portion of Para was admitted as correct by the respondents however, the reply regarding remaining Para is incorrect and that of appeal is correct.
4. Para-4 is incorrect and that of appeal is correct.
5. No rejoinder is offered as Para was admitted as correct by the respondents.
6. Para-6 is incorrect and that of appeal is correct.
7. As the first portion of the Para was admitted as correct by the respondents however, the reply regarding remaining Para is incorrect and that of appeal is correct.
8. Para-8 is incorrect and that of appeal is correct.

9. Para-9 is incorrect as the appellant has a good prima-facie case to invoke the jurisdiction of this Hon'ble Tribunal for relief.

GROUND

- A. Para-A is incorrect and that of appeal is correct.
- B. Para-B is incorrect, misconceived and hence denied as the inquiry was not conducted in a manner prescribed by law as neither any witness was examined in the presence of appellant nor he was provided any opportunity of cross examination. Similarly, he was also not provided any chance to produce his defence in support of his version. The above defect in enquiry proceeding is sufficient to declare entire process as sham and distrustful. Right of fair trial is a fundamental right by dint of which a person is entitled to a fair trial and due process of law. The appellant has been deprived of his indispensable fundamental right of fair trial as enshrined in Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973. It is pertinent to mention here that Muhammad Ibrahim Senior Clerk/Dispatcher ASB section, candidly admitted before the inquiry officer that **“he is working as Dispatcher in ASB section since 23-09-2016 and still serving there. His job is to quote a reference number on the letter and dispatch it to quarter concerned. As far as the present case is concerned, he disclosed that the column in Dispatch Register left blank as Runner/Orderly to SSP Intelligence Nabi Amin came alongwith the case and asked him that SP Intelligence**

requires dispatch number. He accordingly gave dispatch number to him on a chit however Nabi Amin neither appeared nor hand over the case. He requested that Nabi Amin is the real culprit and he may be questioned on the matter". This admission on the part of above official is not only clear manifestation of innocence of appellant but also makes the allegations levelled against him as baseless, frivolous and unfounded. Therefore, the findings of the Enquiry Officer are perverse and are not sustainable under the law. Hence, the impugned orders passed on the bases of such findings are not tenable.

- C. Para-C is incorrect and that of appeal is correct.
- D. Same reply as offered in Para-B above.
- E. Para-E is incorrect as the DIG (respondent No. 2) was not added as Competent Authority in the impugned Notification dated 28-12-2015. Moreover, the respondents failed to furnish any reply in respect of charge sheet alongwith statement of allegation which was issued by SSP (respondent No. 3) who was not competent under the law to do so. Hence, the same is deemed as admitted by the respondents.
- F. Para-F is incorrect and detail reply offered in Para-B above.
- G. Para-G is incorrect and that of appeal is correct.
- H. Same reply as offered in Para-G above.
- I. Para-I is incorrect and that of appeal is correct.

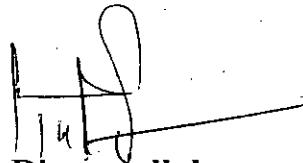
J. Arguments are restricted to the positions taken in the pleadings.

It is therefore, respectfully prayed that while considering the above rejoinder, the appeal may kindly be accepted with special costs.


Appellant

Through

Dated: 25-11-2019


Rizwanullah
M.A. LL.B
Advocate High Court, Peshawar.

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

Service Appeal No. 1146/2019

1. Fazal-e-Amin Ex-Assistant Grade Clerk, Special Branch Khyber Pakhtunkhwa, Peshawar.

APPELLANT

VERSUS

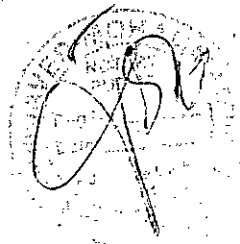
1. The Provincial Police Officer, Government of Khyber Pakhtunkhwa, Peshawar and others.

RESPONDENTS

AFFIDAVIT

I, Fazal-e-Amin Ex-Assistant Grade Clerk, Special Branch Khyber Pakhtunkhwa, Peshawar hereby solemnly affirm and declare that the contents of the accompanied rejoinder are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.

ATTESTED



[Signature]
DEPONENT

VAKALAT NAMA

NO. 1146 / 2019

IN THE COURT OF Kp Service Tribunal

Fazal-e-Amin

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

PPD

(Respondent)
(Defendant)

I/We, Fazal-e-Amin

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

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

Dated _____/20



(CLIENT)

ACCEPTED



SYED NOMAN ALI BUKHARI
Advocate High Court Peshawar.

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 186 /ST

Dated 27 / 01 / 2021


To

The Deputy Inspector General of Police, Special Branch,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: - JUDGMENT IN APPEAL NO. 1146/2019, MR. FAZAL E AMIN.

I am directed to forward herewith a certified copy of Judgement dated 21.01.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.