

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 16408/2020

Date of Institution ... 10.12.2020

Date of Decision ... 02.02.2022

Haji Muhammad S/O Muhammad Noshad, R/O Ghalader Koroona, Nowshera,
Sub-Inspector Police Station Hayatabad Peshawar.

... (Appellant)

VERSUS

Additional Inspector General of Police, HQRs, Khyber Pakhtunkhwa Peshawar and
others.

... (Respondents)

Arbab Saiful Kamal,
Advocate

... For Appellant

Muhammad Adeel Butt,
Additional Advocate General

... For respondents

AHMAD SULTAN TAREEN
ATIQU-UR-REHMAN WAZIR

...
...

CHAIRMAN
MEMBER (EXECUTIVE)

JUDGMENT

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

Brief facts of the

case are that the appellant, while posted as SHO of a police station, was proceeded against on the charges of misconduct and was ultimately awarded with major punishment of compulsory retirement from service vide order dated 09-03-2020, against which the appellant filed departmental appeal dated 26-03-2020, which was accepted vide order dated 03-06-2020 to the extent of conversion of major punishment of compulsory retirement into major penalty of reduction in rank from the substantive rank of Sub-Inspector to his substantive rank of ASI. The appellant filed revision petition dated 09-06-2020, which was accepted vide order dated 12-11-2020 to the extent of conversion of reduction in rank into time scale for three years, hence the instant service appeal with prayers that the

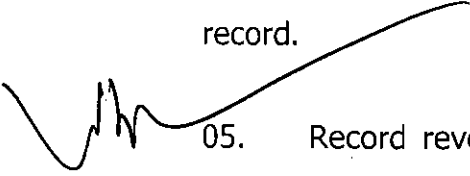
impugned order dated 12-11-2020 may be set aside and the appellant may be restored to his original rank of sub-inspector and the penalty of time scale may be set aside and the appellant may be held entitled to all back benefits.

02. Learned counsel for the appellant has contended that the appellant has not been treated in accordance with law, hence his rights secured under the Constitution has badly been violated; that the impugned orders are against law, facts and norms of natural justice, therefore not tenable and liable to be set aside; that the inquiry was not conducted as per mandate of law as no statement of any concerned was recorded in presence of the appellant nor the appellant was afforded opportunity to cross-examine such witnesses; that the appellant being SHO Operation had no concern with the investigation, but he in his own capacity had performed well by arresting the proclaimed offenders; that the allegation so leveled are general in nature, which however, were not proved by the inquiry officer; that the appellant had strong reservations against the inquiry officer and to this effect, had submitted written appeal before the authority to change the inquiry officer, but the inquiry officer was not changed and the one who conducted inquiry was biased, hence submitted a biased report; that all the proceedings were conducted in one day i.e. 09-03-2020, which is beyond understanding of the appellant; that the appellant was due for promotion to the post of inspector but was deprived of his due right due to the case in hand; that conversion of penalty would impliedly means that the penalty so awarded was not in consonance with law.

03. Learned Additional Advocate General for the respondents has contended that during his tenure as SHO, the appellant reportedly received illegal gratification and provided un-necessary help to most notorious proclaimed offenders namely Yousaf Amir, who was involved in number of heinous crimes; that the appellant was proceeded against on the same charges and proper inquiry to this effect was conducted; that during the inquiry proceedings the charges

leveled against him proved, hence the appellant was awarded with major punishment of compulsory retirement from service vide order dated 09-03-2020; that such penalty was converted into another major penalty of reduction in rank by the appellate authority vide order dated 03-06-2020; that the revision granting authority further decreased the punishment into time scale for three years; that the appellant has been treated in accordance with law and was rightly penalized, hence his instant appeal being devoid of merit may be rejected.


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




05. Record reveals that the appellant during his tenure as SHO, arrested a proclaimed offender namely Yousaf Amir vide Roznamcha dated 14-01-2020, whereas the appellant was served with charge sheet/statement of allegation dated 20-01-2020 containing the allegation of receipt of illegal gratification and providing un-necessary help to the said proclaimed offender, who was already arrested by the appellant on 14-01-2020. Placed on record is an inquiry report conducted against the appellant, which would show that the inquiry officer did not touch the allegations leveled against the appellant, rather commented on the arrest of the proclaimed offender, which according to him was a planned arrest. The inquiry officer failed to establish the charges leveled against him, despite he was recommended for appropriate punishment. The inquiry officer did not bother to record statement of witnesses to show that the appellant had received some illegal gratification or to establish his connections with the proclaimed offender. Main task of the inquiry officer was to prove such allegations with solid evidence, but the inquiry officer badly failed to prove such allegations, hence the inquiry officer preferred to punish the appellant only based on presumptions; facts however, had to be proved and not presumed. Reliance is placed on 2002 P L C (CS) 503 and 2008 S C M R 1369.

06. We have observed that the punishment of compulsory retirement was converted into reduction in time scale for a period of three years, but such penalty is not available in Police Rules, 1975 (amended 2014), hence the appellant was awarded with wrong penalty, which is illegal and on this score alone, the impugned order is liable to be set aside. The appellate board has also noticed that the penalty so awarded is harsh and the appellant was recommended for penalty of reduction in time scale, which penalty however in neither available in minor punishment nor in major punishment in Police Rules, 1975. We are of the considered opinion that neither any charge was established against the appellant nor the appellant was treated in accordance with law, hence we are inclined to accept the instant appeal. The impugned orders including the penalty of reduction in time scale for three years are set aside and the appellant is restored to his original rank with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
02.02.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN


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

ORDER

02.02.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondent present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, we are inclined to accept the instant appeal. The impugned orders including the penalty of reduction in time scale for three years are set aside and the appellant is restored to his original rank with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

02.02.2022



(AHMAD SULTAN TAREEN)
CHAIRMAN



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

04.05.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 22.06.2021 for the same as before.



Reader

22.06.2021

Junior to counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG for the respondents present.

Respondents have furnished reply/comments through office. Placed on file. Learned counsel states that a similarly placed service appeal No. 5685/2020 has been fixed for 17.08.2021 and requested that instant appeal may also be clubbed with the same. This appeal is entrusted to D.B for arguments. To come on 17.08.2021 alongwith Service Appeal No. 5685/2020.



Chairman

17.08.2021

Since 17.08.2021 has been declared as Public holiday on account of Moharram, therefore, case is adjourned to 18.10.2021 for the same as before.




Reader

18.10.2021

Clerk of counsel for the appellant and Mr. Muhammad Adeel Butt, Addl.

Due to general strike of the bar, learned counsel for the appellant is not in attendance. Case to come up for arguments on 25.02.2022 before the D.B.



(Salah-ud-Din)
Member(J)





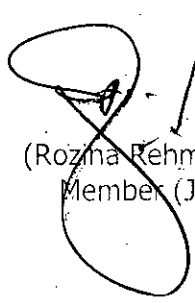
Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 16408 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	22/12/2020	<p>The appeal of Mr. Haji Mohammad resubmitted today by Mr. Saadullah Khan Marwat Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>08/02/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	08.02.2021	<p>Appellant present through counsel. Preliminary arguments heard. File perused.</p> <p>Points raised need consideration. Admitted to regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to respondents for written reply/comments. To come up for written reply/comments on 04.05.2021 before S.B.</p> <p style="text-align: right;"> (Rozina Rehman) Member (J)</p>

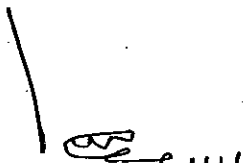
Appellant Deposited Security & Process Fee
22/2/21

The appeal of ~~Mr.~~ Mr. Haji Muhammad Sub-Inspector of Police Station Hayat Abad Peshawar received today i.e. on 10.12.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Page no. 16 and 24 of the appeal are illegible which may be replaced by legible/better one.

No. 4037 /S.T,


Dt. 10/12 /2020


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Saadullah Khan Marwat Adv. Pesh.

Sir

Re-submitted after removing
the objections.


22-12-20

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

S.A. No. _____ /2020

Haji Muhammad

versus

Add: IGP Hqrs: & Others

I N D E X

S. No.	Documents	Annex	P. No.
1.	Memo of Appeal		1-5
2.	Naqal Mad, dated 14-01-2020	"A"	6
3.	Charge Sheet / Allegations	"B"	7-9
4.	Letter dated 06-02-2020	"C"	9
5.	Reply to Charge Sheet	"D"	10-11
6.	Enquiry dated 03-03-2020	"E"	12-13
7.	Final Show Cause Notice dated 09-03-20	"F"	14
8.	Reply to FSCN dated 09-03-2020	"G"	15
9.	Order dated 09-03-2020	"H"	16
10.	Departmental appeal dated 26-03-20	"I"	17-18
11.	Rejection order dated 03-06-2020	"J"	19-20
12.	Revision Petition dated 09-06-20	"K"	21-23
13.	Order dated 12-11-2020	"L"	24

Appellant

Through



Saadullah Khan Marwat
Advocate
21-A, Nasir Mansion,
Shoba Bazaar, Peshawar
Ph: 0300-5872676
0311-9266609

Dated: 10-12-2020

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 16408 /2020

**Khyber Pakhtukhwa
Service Tribunal**

Diary No. 16352

Dated 10/12/2020

Haji Muhammad S/O Muhammad Noshad,
R/O Ghalader Koroona, Nowshera,
Sub-Inspector Police Station Hayatabad
Peshawar Appellant

Versus

1. Additional Inspector General
of Police, HQRs, KP, Peshawar.
2. Provincial Police Officer,
KP, Peshawar.
3. Regional Police Officer,
Mardan
4. District Police Officer,
Swabi Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974
AGAINST ORDER NO 8/4565 DATED 12-11-2020
OF ADDITIONAL INSPECTION GENERAL OF
POLICE HQRs: KP, PESHAWAR, WHEREBY
PENALTY OF REDUCTION FROM THE RANK OF SUB-
INSPECTOR INTO RANK OF ASSISTANT SUB
INSPECTOR IS CONVERTED INTO TIME SCALE FOR A
PERIOD OF THREE YEARS:**

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth;

1. That on 28-03-1988, appellant was appointed as Constable and on satisfactory performances of services promoted to the rank of Head Constable. The said process of promotion was in-vogue when he was further promoted to the rank of Assistant Sub-Inspector and thereafter to the rank of Sub-Inspector in the year, 2016.

Filed to-day
W. W. W.
Registrar

10/12/2020

**Re-submitted to-day
and filed.**
W. W. W.
Registrar
10/12/20

2. That appellant during the aforesaid period served in various Police Stations and no complaint, whatsoever, was advanced against him.
3. That on 01-01-2020, appellant was posted as SI / SHO in Police Station Kalu Khan and when assumed the charge and on going through the record, he came to know that Police Station Kalu Khan was encircled by notorious criminals, outlaws and Proclaimed Offenders whereby numerous FIRs were registered against them in the Police Station. Appellant tried his best to eradicate the criminals and then on 14-01-2020, Naqal-e-Mad No. 20 was registered whereby one PO, namely Yousaf Amir alias Amir S/O Said Ghafoor R/O Kalu Khan was on account of his best performances was arrested on the said date which arrest was brought into the knowledge of high ups. (Copy as annex "A")
4. That due to the aforesaid dedicated performances, appellant was, in utter dis-regard, served with Charge Sheet along with Statement of Allegations by R. No. 04 to the effect by receiving illegal gratification and providing un-necessary help to the notorious PO namely Yousaf Amir alias Amir. (Copy as annex "B")
5. That in the said Charge Sheet, Janzada SDPO Swabi was appointed as Inquiry Officer to conduct proper departmental enquiry against appellant into the matter.
6. That appellant was in inimical position with the said SDPO as he demanded to hand over vehicles impounded by him in other cases which demand was flatly refused as the same were required in Investigation, so on 06-02-2020 (wrongly written as 06-01-2019). Appellant submitted application before R. No. 04 showing no confidence in the said SDPO / Inquiry Officer. The said letter was marked to DSP Topi for enquiry on 06-02-2020. (Copy as annex "C")
7. That the said Charge Sheet was replied by appellant, giving back ground of the Charge Sheet and denied the Allegations. (Copy as annex "D")

8. That enquiry into the matter was initiated but the same was not conducted as per the mandate of law without recording statement of witnesses / concerned, yet on 03-03-2020, the objected Inquiry Officer submitted Inquiry Report to the authority and recommended appellant for award of suitable punishment, if approved by the authority. (Copy as annex "E")
9. That on 09-03-2020, appellant was served with Final Show Cause Notice by R. No. 04 without supplying departmental proceedings to him which was replied on the said date. i.e. 09-03-2020 and denied the allegations. (Copies as annex "F" & "G")
10. That on 09-03-2020, major punishment of compulsory retirement from service was imposed upon appellant by R. No. 04. (Copy as annex "H")
11. That on 26-03-2020, appellant submitted departmental appeal before R. No. 03 for reinstatement in service which was rejected by him on 03-06-2020. (Copy as annex "I" & "J")
12. That on 09-06-2020, appellant submitted Revision / Mercy Petition before R. No. 02 which was accepted on 12-11-2020 to some extent and major penalty of reduction from the rank of SI to ASI was converted into time scale for a period of three (03) years. Such punishment is also major punishment in law. (Copies as annex "K" & "L")

Hence this appeals, inter alia, on the following grounds:

GROUND S:

- a. That in the body of appeal, it was asserted that Police Station, Kalu Khan was encircled by Criminals / Robbers / Thieves / Outlaws / Proclaimed Offenders especially, by Yousaf Amir who was involved in numerous FIRs for different crimes.
- b. That prior to posting of appellant in PS Kalu Khan, no one showed any bravery to arrest the notorious Proclaimed Offenders, Amir to show performance to the high ups. Appellant arrested the said PO on 14-01-2020. The high-ups were ethically and legally bound to award him Commendation Certificates and cash prizes but

instead, he was booked for proceedings despite the fact that he has shown no confidence over the Inquiry Officer due to personal grudges / enmity.

- c. That even then, the Inquiry was not conducted as per the mandate of law as no statement of any concerned was recorded nor appellant was afforded opportunity of cross examination what to speak of providing self-defense and personal hearing in the matter, being mandatory.
- d. That in the matter appellant was awarded major punishment of compulsory retirement from service which was modified into major punishment of reduction in rank from SI to ASI, meaning thereby that no relief was awarded to him in the matter.
- e. That appellant was SHO of the PS on Operation side and has nothing to do with Investigation, he in his own capacity performed his official duties up to the mark and cannot compel the court to do this or that.
- f. That general allegations were leveled against appellant of receiving illegal qualification and providing unnecessary help to the PO, yet in fact the same has no concern with him nor no proof to this effect was brought on surface by the respondents.
- g. That as and when no confidence was shown by the appellant over the Inquiry Officer, it was mandatory for the authority to change the same. All the proceeding against him were based on malafide.
- h. That astonished and the interesting one is that all the proceedings were carried out on one and the same date, i.e. 09-03-2020, serving with Final Show Cause Notice, reply to the same and punishment.
- i. That Inquiry Officer recommended appellant for "**suitable punishment**" and not for major penalty, so the orders are illegal on this score alone.
- j. That appellant was due for promotion to the post of Inspector but was deprived from the same due to the case in hand.

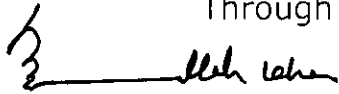
- k. That though the authority converted major punishment to subsequent major punishment of time scale for a period of three (03) years by converting major penalty of reduction from the rank from SI to ASI.
- l. That as and when the authority intervened in the penalty, then there was no need, under the law, to impose subsequent major penalty into Time Scale, meaning thereby that the former penalty was not per the mandate of law.

It is, therefore, most humbly prayed that on acceptance of the appeal, order dated 12-11-2020 of the R. No. 01 be set aside and appellant be restored to his original rank of Sub-Inspector with all consequential benefits.

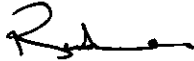


Appellant

Through



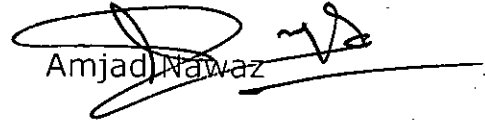
Saadullah Khan Marwat



Miss Rubina Naz



Arbab Saiful Kamal



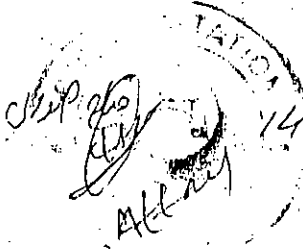
Amjad Nawaz

Dated: 10-12-2020

Advocates

تفاهت کا ارظان

تقریباً 20 روزہ تک



وقت 8.30ء فریم 14 سے 16 سالانہ
 بار بار لکھ فراموش نہ ہونے سے
 اس طرح سے جسم اسٹیپل ہوا اور وہ
 جسم میں اسٹیپل ہوا اور وہ
 28 فریم 19 جسم 324
 28 فریم 19 جسم 324
 28 فریم 19 جسم 324
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 28 فریم 19 جسم 324

جاری
عزت
الاولیٰ

دائیں اوردہ نیز حضانہ خوردگی اور
 پریم سے جسم اسٹیپل ہوا اور وہ
 28 فریم 19 جسم 324
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تقریباً 20 روزہ تک

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B

7

CHARGE SHEET

Whereas I am satisfied that formal enquiry as contemplated by Khyber Pakhtunkhwa Police Rules 1975 is necessary and expedient.

And whereas I am of the view that the allegations if established would call for Major/Minor penalty as defined in Rules 4(b) a & b of the aforesaid Rules.

Now therefore as required by Rules 6(1) of the aforesaid Rules I **Imran Shahid, PSP**, District Police Officer, Swabi charge you **SI Hajji Muhammad** on the basis of statement of allegations attached to this charge sheet.

In case your reply is not received within seven days without sufficient cause it will be presumed that you have no defence to offer and exparte action will be taken against you.

Date of Presentation of Application: 16-3-2020
Copying Fee: NIL
Total Pages: (12)
Name of Copying: Rashid Ali
Date of Copying: 19-3-2020
Date of Delivery: 19-3-2020

9-1-1-
District Police Officer,
Swabi.

ATTESTED
[Signature]
District Police Officer, Swabi.

[Signature]

SUMMARY OF ALLEGATIONS

It is alleged that SI Hajji Muhammad, while posted as SHO Police Station Kalu Khan received illegal gratification and provided unnecessary help to the most notorious PO namely Yousaf Aamir alias Aamir S/o Said Ghafoor R/o Kalu Khan who was involved in the following different cases: -

1. Case FIR NO. 96 Dated 28.01.2019 U/s 324/34 PPC PS Kalu Khan
2. Case FIR NO. 299 Dated 09.4.2019 U/s 506/452/354/34 PPC PS Kalu Khan
3. Case FIR NO. 332 Dated 21.04.2019 U/s 324/109/34 PPC PS Kalu Khan
4. Case FIR NO. 507 Dated 14.06.2019 U/s 506/447/511 PPC PS Kalu Khan
5. Case FIR NO. 813 Dated 13.10.2019 U/s 324/353 PPC PS Kalu Khan
6. Case FIR NO. 964 Dated 06.12.2019 U/s 9-DCNSA/11-BCNSA PS Kalu Khan
7. Case FIR NO. 1004 Dated 16.12.2019 U/s 302 PPC PS Kalu Khan
8. Case FIR NO. 1005 Dated 16.12.2019 U/s 324 PPC PS Kalu Khan

All this shows inefficiency, lack of interest in official work and misconduct on the part of SI Hajji Muhammad, which entails proper departmental action, hence summary of allegations..

MR. JAN ZADA, SDPO SWABI is appointed to conduct proper departmental enquiry against him.

District Police Officer,
Swabi

No. 07 /CC/PA,
Dated. 30 / 01 / 2020.

ATTESTED
PIO
District Police Officer, Swabi.

7 named allegations

*Amir
14/1/20*

*Amir
14/1/20*

"C" 9

لوکس لائن

سائیکل

عزیز چارج ٹیبل نمبر 07/CC/1388
 28-01-2020
 عدالت اور جج صاحب محترم کے سامنے اور عدالت قانونی اور جج صاحب
 کے قلم نامہ انوائس اور نوٹس کے ساتھ 05/01/2020 کو پیش کیا گیا اور
 عدالت میں سائیکل اور نوٹس انوائس کے ساتھ عدالت میں پیش کیا گیا اور
 5/1/2020 کو عدالت میں اور عدالت کے پاس DSP کے نوٹس کے ساتھ عدالت میں
 عدالت میں سے سائیکل پر عدالت کے پاس سے عدالت میں سے عدالت میں
 عدالت میں سے سائیکل پر عدالت کے پاس سے عدالت میں سے عدالت میں
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Confidential
 Inspiring officer
 Jan 2020
 SDPO

اپنا
 0317-9658989
 6/01/20
 ایک لوکس لائن میں

Sir,
 Forwarded
 DSP/RC, Swabi
 06-02-2020

DSP/RC Topi
 For enquiry
 9/6/2

ATTESTED
 PIP
 District Police Officer, Swabi.

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Copy of Charge sheet

10

صہا۔ عالا بہ امر قابل ذکر ہے کہ دوران گفتاری بطور SHO
 میں مسائل کے حرم اشتہاری کے ٹھکانوں پر مختلف اوقات
 پر جمعہ روزی کی جو اس دوران مختلف اسکیم پر آمد کر کے
 مقدمات درج، عسکر کے جس میں قابل ذکر امر ہے
 کہ صہا پر آمد کردہ اسکیمات کو دوران گفتاری ملزم نے
 اسکیم سے اس کے رہنے مکانی کا قتل کیا گیا تھا جس کی جسکو
 پر یہ تصدیقی کے لیے FSL لٹا اور پھر اس کی رپورٹ مثبت موصول
 ہو کر شامل میں کی گئی۔

صہا۔ عالا دوران گزارش ہے کہ میرے خلاف حوالہ الزامات
 عائد کیے گئے ہیں وہ صہا از وقت میں کہو تاکہ ملزم کا نام
 ٹریٹل ہو گا اور بعد ٹریٹل ملزم کی ملزمت اور گناہی ثابت
 ہوگی اور اگر خدا نخواستہ ملزم مقدمات میں مستقبل میں
 ہو جائے اور پہلے میں میں مسائل کے کسی قسم کی کوٹھی یا غیر قانونی
 رسیدات ثابت ہو توٹ مجھے قصور وار ٹھہرایا جائے۔ صہا نے جمعہ کارڈ
 صہا ملزم کو کسی صورت کوئی بھی غیر قانونی رسیدات یا رعایت نہیں دی جائے
 ہو توٹ میں مقدمہ میں سے گناہ کیوں مسائل کی رپورٹری درج دفتر کے
 کی اس کے عالجی جائے مسائل یا صہا دیا گیا ہے۔

0317-9658989

17201-2276184-1



حالی عدالت کی اس کے لئے رسیدات یا رعایت

ATTESTED
 District Police Officer, Swabi.

بیان اذان کی حاجی محمد ستار، SHO ٹھکانہ کالو خان حال پولیس اسٹیشن

بجائے بیان کیا کہ میرے خلیفہ خارج سٹٹ میں علامہ زید الزماں نے بنیاد اور اصل جھانڈی کے برعکس ہیں۔ اصل جھانڈی کھجوروں ہے کہ میں سائل کو کھجور عرصہ قبل ٹھکانہ کالو خان میں بطور SHO تعینات کیا گیا۔ جس وقت میں سائل کی تعیناتی کی گئی تو اس وقت علاقہ کالو خان کے حالات کراہم اور امن و عافیت کے لحاظ سے کھجور سازگار نہ تھے اور علاقہ کالو خان میں دیگر جرائم پیشہ افراد کے علاوہ ایک بہ نام زمانہ محرم اشٹاری یوسف عرف عامر علامہ غفور کے علاقے شریف ٹوٹوں کا جہاں حرام کر لگایا تھا۔ سائل کی تعیناتی کے بعد میری اولیٰ شرحی علاقے میں داخل اور لوگوں کاں وصال کی حفاظت یعنی سنانا اور مزدکورہ بہ نام زمانہ کر سمنٹ کو قانون کی گرفت میں لانا تھا۔ اس مقدمے کے لیے میں نے علاقے میں معزز ترین کا رہنما و محال کیا اور انعامی خدمات میں حاصل کی اور اللہ کے فضل و کرم سے میں سائل کو کامیابی حاصل ہوئی اور محرم اشٹاری یوسف عرف عامر کو مورخہ 14/01/2020 کو صحت مندرجہ ضابطہ گرفتار کر کے ٹھکانے کے حوالہ میں بند کیا اور تفتیش کے لیے ریجنل انسپکشن آف محتاج خان کے حوالے کیا۔ جس کے خارج سٹٹ میں علامہ عقوبات میں حلزم کو روک کر کھجور سٹٹ میں کر کے پیم حراست پولیس حاصل کی دوران پولیس حراست میں سائل نے بطور افسر ریجنل محتاج خان میں تعینات کیے تفتیشی افسر کے ساتھ مل کر تعاون اور مقدمے کی کامیابی کے لیے ہمیں اس کی تفتیش کی جس کا واضح ثبوت صرف پیش ہر موجود ہے۔

Attested
 9/1/2021

[Handwritten Signature]

ATTESTED
 P.O.
 District Police Officer, Swabi.

E 12

DY: No. 95 /TP
DATED: 03/03/2020

SUBJECT: DEPARTMENTAL ENQUIRY AGAINST SI HAJJI MUHAMMAD CONDUCTED BY MR. IFTIKHAR ALI DSP TOPI.

Memo:

It is submitted that the subject departmental enquiry against SI: Hajji Muhammad was entrusted to the undersigned vide Endst: No.07/CC/PA dated 28.01.2020 on the following allegation.

ALLEGATIONS.

It is alleged that SI Hajji Muhammad, while posted as SHO Police Station Kalu Khan received illegal gratification and provided unnecessary help to the most notorious PO namely Yousaf Aamir alias Aamir s/o Said Ghafoor r/o Kalu Khan who was involved in the following different cases:-

1. Case FIR No.96 dated 28.01.2019 u/s 324/34 PPC PS Kalu Khan.
2. Case FIR No.299 dated 09.04.2019 u/s 506/452/34 PPC PS Kalu Khan.
3. Case FIR No.332 dated 21.04.2019 u/s 324/109/34 PPC PS Kalu Khan.
4. Case FIR No.507 dated 14.01.2019 u/s 506/447/511 PPC PS Kalu Khan.
5. Case FIR No.813 dated 13.10.2019 u/s 324/353 PPC PS Kalu Khan.
6. Case FIR No.964 dated 06.12.2019 u/s 9-DCNSA/11-BCNSA PS Kalu Khan.
7. Case FIR No.1004 dated 16.12.2019 u/s 302 PPC PS Kalu Khan.
8. Case FIR No.1005 dated 16.12.2019 u/s 324 PPC PS Kalu Khan.

All this shows inefficiency, lack of interest in official work and misconduct on part of the SI: Hajji Muhammad.

PROCEEDING.

During the course of enquiry the undersigned summoned the delinquent officer SI: Hajji Muhammad Khan the then SHO Police Station Kalu Khan and IO of the cases SI: Mokhtaj Khan for recording statement and provision of relevant record. Case files of the above FIR numbers also perused and discussed with the IO in detail.

CONCLUSION.

From perusal of the relevant documents, case files and secret enquiry, it is evident that:-

1. PO Yousaf Aamir @ Aamir s/o Said Ghafoor r/o Kalu Khan was most wanted PO to the local Police and involved in the aforementioned criminal cases. He was arrested by the delinquent officer SI: Hajji Muhammad on 14.01.2020 at 07:00 AM and confined in the lock-up at 08:30 AM vide DD No.20 dated 14.01.2020. Soon after the arrest at 09:00 AM on the same day he was brought to court in private vehicle despite the fact that government vehicle was parked in Police Station. The court concern granted him 02 days custody for interrogation and necessary verification. After expiry of two days custody he was admitted in judicial lock-up Swabi.
2. Being SHO Police Station the delinquent officer was required to keep this notorious PO in custody atleast 24 hours as defined in 61 CrPC for tactfully interrogation and achievement of fruitful information in the above cases.

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ATTESTED
[Signature]
District Police Officer, Swabi.

3. Arrest of the accused, preparation of apprehension documents in so short time and production before the court creates several doubts and depict melafidy on part of the delinquent officer.

4. As PO Aamir was most notorious and had personal blood feud enmities in the village. But at the time of arrest no weapon was recovered from his possession, which also create doubts and clearly showed that he was arrested by the planted plane.

5. Secret enquiry carried out, which revealed that PO Aamir was entrusted to the delinquent officer SI: Haji Muhammad on behalf of Inspector Ijaz Ali. In this regard CDR of the delinquent officer mobile cell number (Haji Muhammad – 0317-9658989 and Insp: Ijaz Khan No. 0332-9595295) got and found contact on

(i) 13.01.2020 at 23:06 hrs:

(ii) 14.01.2020 at 07:38 hrs:

All these clearly showed that bargaining was done from the night on 13.01.2020 at 23:06 hrs: and next day on 14.01.2020 morning, accused Aamir was peacefully handed over him which depict illegal gratifications.

RECOMMENDATIONS:-

In view of the above allegations leveled against the delinquent officer SI: Hajji Muhammad the then SHO Police Station kalu khan proved and he is recommended for the award of SUITABLE punishment, if approved please.

[Signature]
Sub Divisional Police Officer
DOPI.(Swabi)

4 was executed
in two days
with no
objection
the
would be
a good officer

ATTESTED

[Signature]
District Police Officer, Swabi.

PA
Group FSCN

[Signature]
DPO/Swabi
04-03-2020

[Signature]

H 16



OFFICE OF THE DISTRICT POLICE OFFICER, SWABI.

ORDER.

This order of mine is going to dispose of departmental enquiry against SI Haji Muhammad. He while posted as SHO Police Station Kalu Khan, he received illegal gratification and provided unnecessary help to the most notorious PO Namely Yousaf alias Aamir S/O Said Ghafoor R/O Kalu Khan who was involved in the following different cases:-

1. Case FIR No.96 Dated 28.01.2019 U/S 324/34 PPC PS Kalu Khan.
2. Case FIR No.299 Dated 09.04.2019 U/S 506/452/354/34 PPC PS Kalu Khan.
3. Case FIR No.352 Dated 21.04.2019 U/S 324/109/34 PPC PS Kalu Khan.
4. Case FIR No.507 Dated 14.08.2019 U/S 506/447/511 PPC PS Kalu Khan.
5. Case FIR No.813 Dated 13.10.2019 U/S 324/353 PPC PS Kalu Khan.
6. Case FIR No.968 Dated 06.12.2019 U/S 9-DCNSA/11-BCNSA PPC PS Kalu Khan.
7. Case FIR No.1904 Dated 16.12.2019 U/S 302 PPC PS Kalu Khan.
8. Case FIR No.1005 Dated 16.12.2019 U/S 324 PPC PS Kalu Khan.

All this shows of his inefficiency, lack of interest in official work and mis-conduct on the part of him, which is highly against the discipline and amounts to gross mis-conduct.

Therefore, he was served with Charge Sheet and Summary of allegations. DSP, Topi was appointed as Enquiry Officer. The Officer conducted proper departmental enquiry, collected evidence and recorded statements of all concerned. The enquiry officer submitted his findings, wherein he found SI Haji Muhammad guilty for the mis-conduct and recommended him for suitable Punishment. The undersigned perused the enquiry papers, and by agreeing with the recommendation of Enquiry Officer. Served him with a Final Show Cause Notice, The reply of final show cause notice was received, perused and found unsatisfactory besides he was also heard in Orderly Room but he failed to offer any plausible explanation in his defense.

Therefore, I, Imran Shahid, PSP, QPM, District Police Officer, Swabi, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules 1975, hereby award SI Haji Muhammad, Major Punishment of compulsory retirement from service, with immediate effect.

O.B. No. 306
Dated 09-3-2020.

(IMRAN SHAHID) PSP, QPM
District Police Officer, Swabi.

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI

No. 813-17 /PA. dated Swabi, the 10/03/2020.

Copies to the:-

1. DSP, HQrs.
2. Pay Officer.
3. Establishment Clerk.
4. Pooji Missal Clerk.
5. Official concerned

ATTESTED

District Police Officer, Swabi.

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI.**ORDER**

This order of mine is going to dispose of departmental enquiry against SI Haji Muhammad. He while posted as SHO Police Station Kalu Khan, he namely Yousaf alias Aamir S/o Said Ghafoor R/o Kalu Khan who was involved in the following different cases:-

1. Case FIR No.96 dated 28.01.2019 U/S 324/34 PPC PS Kalu Khan.
2. Case FIR No. 299 dated 09.04.2019 U/S 506/452/354/34 PPC PS Kalu Khan.
3. Case FIR No.332 dated 21.04.2019 U/S 324/109/34 PPC PS Kalu Khan.
4. Case FIR No.507 dated 14.06.2019 U/S 506/447/511 PPC PS Kalu Khan.
5. Case FIR No.813 dated 13.10.2019 U/S 324/353 PPC PS Kalu Khan.
6. Case FIR No. 964 dated 06.12.2019 U/S 9DCNSA/11-BCNSA PPC PS Kalu Khan.
7. Case FIR No. 1004 dated 16.12.2019 U/S 302 PPC PS Kalu Khan.
8. Case FIR No.1005 dated 16.12.2019 U/S 324 PPC PS Kalu Khan.

All this shows of his inefficiency, lack of interest in official work and mis conduct on the part of him, which is highly against the discipline and amounts to gross mis conduct.

Therefore, he was served with Charge Sheet and Summary of allegations. DSP, Topi was appointed as Enquiry officer. The officer conducted proper departmental enquiry, collected evidence and recorded statements of all concerned. The enquiry officer submitted his findings, wherein he found SI Haji Muhammad guilty for the mis conduct and recommended him for suitable Punishment. The undersigned perused the enquiry papers, and by agreeing with the recommendation and enquiry officer. Served him with a Final Show Cause notice, the reply of final show cause notice was received perused and found unsatisfactory besides he was also heard in Orderly Room but he failed to offer any plausible explanation in his defense.

Therefore, I Imran Shahid, PSP, QPM, District Police Officer, Swabi, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules 1975, hereby award SI Haji Muhammad, major punishment of compulsory retirement from service with immediate effect.

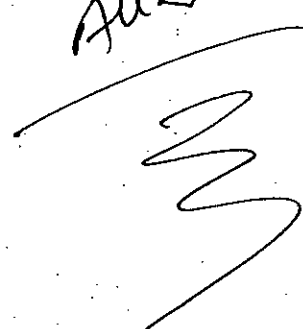
O.B No. 306
Dated: 09.03.2020

sd/-
Imran Shahid PSP, QPM
District Police Officer, Swabi

Office of the District Police Officer, Swabi.
No.813-17/PA, Dated Swabi, the 10.03.2020.

Copies to the:-

1. DSP, HQrs
2. Pay Officer
3. Establishment Clerk.
4. Fauji Missal Clerk.
5. Official Concerned.

Imran Shahid


حکومت صبا کے ذیلی اسپتال خیر آباد کو لکھیں مردان اور خیر آباد

معلوم: قلم نامہ اسپتال خیر آباد کے بارے میں صحت مند 10/11/2016

306 فروری 2016 - 3-9

صحت مند، معلوم اسپتال صحت مند خیر آباد

1) یہ مسائل لکھ کر 5/11/16 کو خیر آباد کے طبی افسران سے پیش کیے گئے۔
تعمیراتی امور کے لیے خیر آباد کے اسپتال کو لکھ کر صحت مند خیر آباد کے
موجودہ حالات پر لکھا گیا۔

2) یہ مسائل نے پیشہ ورانہ صلاحیت و بروئے کار لانے کے لیے خیر آباد کے
تعمیراتی امور کے لیے خیر آباد کے اسپتال کو لکھ کر صحت مند خیر آباد کے

3) اسپتال کو لکھ کر صحت مند خیر آباد کے اسپتال کو لکھ کر صحت مند خیر آباد کے
اسپتال کو لکھ کر صحت مند خیر آباد کے اسپتال کو لکھ کر صحت مند خیر آباد کے

4) یہ مسائل نے لکھ کر صحت مند خیر آباد کے اسپتال کو لکھ کر صحت مند خیر آباد کے
اسپتال کو لکھ کر صحت مند خیر آباد کے اسپتال کو لکھ کر صحت مند خیر آباد کے

5) یہ مسائل نے لکھ کر صحت مند خیر آباد کے اسپتال کو لکھ کر صحت مند خیر آباد کے
اسپتال کو لکھ کر صحت مند خیر آباد کے اسپتال کو لکھ کر صحت مند خیر آباد کے

6) یہ مسائل نے لکھ کر صحت مند خیر آباد کے اسپتال کو لکھ کر صحت مند خیر آباد کے
اسپتال کو لکھ کر صحت مند خیر آباد کے اسپتال کو لکھ کر صحت مند خیر آباد کے

7) یہ مسائل نے لکھ کر صحت مند خیر آباد کے اسپتال کو لکھ کر صحت مند خیر آباد کے
اسپتال کو لکھ کر صحت مند خیر آباد کے اسپتال کو لکھ کر صحت مند خیر آباد کے

8) یہ مسائل نے لکھ کر صحت مند خیر آباد کے اسپتال کو لکھ کر صحت مند خیر آباد کے
اسپتال کو لکھ کر صحت مند خیر آباد کے اسپتال کو لکھ کر صحت مند خیر آباد کے

9) یہ مسائل نے لکھ کر صحت مند خیر آباد کے اسپتال کو لکھ کر صحت مند خیر آباد کے
اسپتال کو لکھ کر صحت مند خیر آباد کے اسپتال کو لکھ کر صحت مند خیر آباد کے

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اور اس کے بعد میں 8 دسمبر کو جا کر "تیسری" FIR کی پیشکش کی اور
میں نے اس کے بعد اس کے ساتھ ساتھ اس کے ساتھ ساتھ اس کے ساتھ ساتھ

26/3/2020 کو اس کے ساتھ ساتھ اس کے ساتھ ساتھ اس کے ساتھ ساتھ

26/3/2020

0317-9858989

0345-6453347

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OR
19-5-20

ORDER.

This order will dispose-off the departmental appeal preferred by Ex-Sub Inspector Haji Muhammad No. P/65 of Swabi District Police against the order of District Police Officer, Swabi, whereby he was awarded major punishment of compulsory retirement from service vide OB: No. 306 dated 09.03.2020. The appellant was proceeded against departmentally on the allegations that he while posted as SHO Police Station, Kalu Khan, received illegal gratifications and extended favour to the most notorious proclaimed offender namely Yousaf alias Aamir s/o Said Ghafoor resident of Kalu Khan. He was involved in the following different criminal cases registered in Police Station Kalu Khan District Swabi:-

1. FIR No.96 Dated 28.01.2019 U/S 324/34 PPC.
2. FIR No.299 Dated 09.04.2019 U/S 506/452/354/34 PPC.
3. FIR No.332 Dated 21.04.2019 U/S 324/109/34 PPC.
4. FIR No.507 Dated 14.06.2019 U/S 506/447/511 PPC.
5. FIR No.813 Dated 13.10.2019 U/S 324/353 PPC.
6. FIR No.964 Dated 06.12.2019 U/S 9-DCNSA/11-BCNSA PPC.
7. FIR No.1004 Dated 16.12.2019 U/S 302 PPC.
8. FIR No.1005 Dated 16.12.2019 U/S 324 PPC.

Proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and Sub Divisional Police Officer Topi was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities submitted his findings wherein he found the delinquent Officer guilty of misconduct and recommended him for suitable punishment.

He was issued Final Show Cause Notice to which, his reply was received and found unsatisfactory. He was also provided opportunity of self defense by summoning him in the Orderly Room held in the office of District Police Officer, Swabi. But he failed to advance any cogent reason in his defense. Hence, he was awarded major punishment of compulsory retirement from service vide OB: No. 306 dated 09.03.2020.

Feeling aggrieved from the order of District Police Officer, Swabi, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 19.05.2020.


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RPO, Marsdan

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations against the appellant have been proved. As Incharge of Police Station, he was not supposed to extend favours to the criminal. However, keeping in view, the length of his service as well as poor financial background of the appellant, the undersigned is constrained to take a lenient view of the misconduct of the appellant.

Based on the above, I, Sher Akbar, PSP S.St Regional Police Officer, Mardan, being the appellate authority, hereby modify the major punishment of compulsory retirement from service into major punishment of reduction in rank from the substantive rank of Sub Inspector to his substantive rank of ASI.

Order Announced.

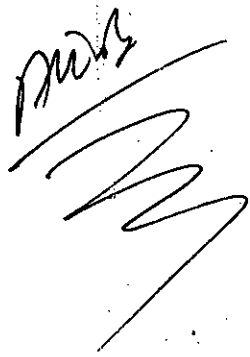

Regional Police Officer,
Mardan.

No. 3503-4 /ES, Dated Mardan the 03-06 /2020.

Copy forwarded for information and necessary action to the:-

1. Capital City Police Officer, Peshawar.
2. District Police Officer, Swabi for information and necessary w/r to his office Memo: No. 54/Insp: Legal dated 22.04.2020. His service record is returned herewith.

(*****)



RPO, Mardan.

K² 21

KTO,

The Provincial Police Officer,
Kyber Pukhtoonkhwa,
Peshawar.

Subject:

REVISION / MERCY PETITION AGAINST O/B NO. 306 dated 09-03-2020 OF R. NO. 01, WHEREBY APPELLANT WAS COMPULSORY RETIRED FROM SERVICE AND OFFICE ORDER NO. 3503-04 / ES DATED 03-06-2020 OF R. NO. 02, WHEREBY MAJOR PUNISHMENT OF COMPULSORY RETIREMENT FROM SERVICE INTO MAJOR PUNISHMENT OF REDUCTION IN RANK FROM SUB-INSPECTOR INTO RANK OF ASSISTANT SUB INSPECTOR WAS MODIFIED.

Respectfully sir,

1. That on 28-03-1988, appellant was appointed as Constable and on satisfactory performances of services promoted to the rank of Head Constable. The said process of promotion was in-vogue when he was promoted to the rank of Assistant Sub-Inspector and thereafter to the rank of Sub-Inspector in the year, 2016.
2. That appellant during the aforesaid period served in various Police Stations and no complaint, whatsoever, was advanced against him.
3. That on 01-01-2020, appellant was posted as SI / SHO in Police Station Kalu Khan and when assumed the charge and on going through the record, he came to know that Police Station Kalu Khan was encircled by notorious criminals, outlaws and Proclaimed Offenders whereby numerous FIRs were registered against them in the Police Station. Appellant tried his best to eradicate the criminals and then on 14-01-2020, Naqal-e-Mad No. 20 was registered whereby one PO namely Yousaf Amir alias Amir S/O Said Ghafoor R/O Kalu Khan was entered and on account of his bes performance, the said PO was arrested on the said date which arrest was brought into the knowledge of high ups.

4. That due to the aforesaid dedicated performances, appellant was, in utter dis-regard, served with Charge Sheet along with Statement of Allegations to the effect receiving illegal gratification and providing un-

necessary help to the notorious PO namely Yousaf Amir alias Amir by R. No. 01.

- 5. That in the said Charge Sheet Janzada SDPO Swabi was appointed as Inquiry Officer to conduct proper departmental enquiry against appelland into the matter.

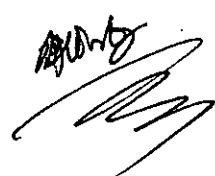
That appelland was in inimical position with the said SDPO as he demanded to hand over vehicles impounded by him in cases which demand was flatly refused as the same were required in Investigation, so on 06-02-2020 (wrongly written as 06-01-2020). Appelland submitted application before R. No. 01 showing no confidence in the said SDPO / Inquiry Officer. The said letter was marked to DSP Topi for enquiry on 06-02-2020.

- 6. That the said Charge Sheet was replied by appelland by giving back ground of the Charge Sheet and denied the Allegations.
- 7. That enquiry into the matter was initiated but the same was not conducted as per the mandate of law without recording statement of witnesses / concerned, yet on 03-03-2020, the objected Inquiry Officer submitted Inquiry Report to the authority and recommended appelland for award of suitable punishment, if approved by the authority.
- 8. That on 09-03-2020, appelland was served with Final Show Cause Notice by R. No. 01 without supplying departmental proceedings to him which was replied on the said date. i.e. 09-03-2020 and denied the allegations.
- 9. That on 09-03-2020, major punishment of compulsory retirement from service was imposed upon appelland by R. No. 01.
- 10. That on 26-03-2020, appelland submitted departmental appeal before R. No. 02 for reinstatement in service which was rejected by him on 03-06-2020.

Hence this Revision Petition, Inter Alia, on the following grounds:

GROUND S:

- a. That in the body of appeal, it was asserted that Police Station, Kalu Khan was encircled by Criminals / Robbers / Thieves / Outlaws / Proclaimed Offenders especially, by Yousaf Amir who was involved in numerous FIRs for different crimes.



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- b. That prior to posting of appellant in PS Kalu Khan, no one showed any bravery to arrest the notorious Proclaimed Offenders, Amir to show performance to the high ups. Appellant arrested the said PO on 14-01-2020. The high-ups were ethically and legally bound to award him Commendation Certificates and cash prizes but instead, he was booked for proceedings despite the fact that he has shown no confidence over the Inquiry Officer due to personal grudges / enmity.
- c. That even then, the Inquiry was not conducted as per the mandate of law as no statement of any concerned was recorded nor appellant was afforded opportunity of cross examination what to speak of providing self-defense and personal hearing in the matter being mandatory.
- d. That in the matter appellant was awarded major punishment of compulsory retirement from service which was modified into major punishment of reduction in rank from SI to ASI, meaning thereby that no relief was awarded to him in the matter.
- e. That appellant was SHO of the PS on Operation side and has nothing to do with Investigation, he in his own capacity performed his official duties up to the mark and cannot compel the court to do this that.
- f. That general allegations were leveled against appellant of receiving illegal qualification and providing unnecessary help to the PO, yet in fact the same has no concern with him nor no proof to this effect was brought on surface by the respondents.
- g. That as and when no confidence was shown by the appellant over the Inquiry Officer, it was mandatory by the authority to change the same. All the proceeding against him were based on malafide.
- h. That appellant was due for promotion to the post of Inspector but was deprived from the same due to the case in hand.

It is, therefore, most humbly prayed that on acceptance of the Revision / Mercy Petition, orders dated 09-03-2020 and 03-06-2020 of the authorities be set aside and appellant be restored to his original rank of Sub-Inspector with all consequential benefits.

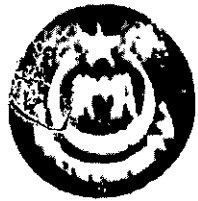
Dated 09-06-2020



Appellant

Haji Muhammad

S/O Muhammad Noshad,
EX-SI/SHO, P.S Kalu Khan.
District Swabi
Cell No. 0317-9658989



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR

No. S/ 4566

20, dated Peshawar the 18/11/2020

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by ASI Haji Muhammad (the then SI). The applicant was compulsorily retired from service by District Police Officer, Swabi vide (D) No. 106, dated 09.01.2020 on the allegations that he while posted as SHO PS Kahu Khan, received illegal gratification and extended favour to the most notorious proclaimed offender namely Yousof alias Asmit s/o Sahi Chahoon s/o Kahu Khan. He was involved in the following different criminal cases registered in PS Kahu Khan District Swabi:

- i. FIR No. 96, dated 28.01.2019 u/s 324/34 PPC
- ii. FIR No. 299, dated 09.04.2019 u/s 506/452/354/34 PPC
- iii. FIR No. 332, dated 21.04.2019 u/s 324/100/34 PPC
- iv. FIR No. 507, dated 14.06.2019 u/s 506/447/511 PPC
- v. FIR No. 813, dated 13.10.2019 u/s 324/353 PPC
- vi. FIR No. 964, dated 06.12.2019 u/s 9-DXNSA/11-ICNSA PPC
- vii. FIR No. 1004, dated 16.12.2019 u/s 302 PPC
- viii. FIR No. 1005, dated 16.12.2019 u/s 324 PPC

The Appellate Authority i.e. Regional Police Officer, Mardan converted his punishment of compulsory retirement from service into reduction in rank from substantive rank of Sub Inspector to his substantive rank of ASI vide order Encls: No. 3503-4/ES, dated 03.06.2020.

Meeting of the Appellate Board was held on 05.11.2020, wherein the petitioner was present and heard in detail.

There is long service of 32 years, 07 months & 08 days at the credit of petitioner. The Board is of the opinion that penalty imposed on petitioner is harsh and the Board decided that his rank of Sub-Inspector is hereby restored and penalty of reduction from the rank of SI to ASI is converted into time scale for a period of three years.

Sd/

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

No. S/ 4566-75/20.

Copy of the above is forwarded to the:

1. Regional Police Officer, Mardan. Two Service Books, one Service Roll and one Fauji Missal of the above named ASI received vide your office Memo: No. 3919-20/ES, dated 25.06.2020 is returned herewith for your office record.
2. District Police Officer, Swabi.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-III, CPO Peshawar.
8. Officer concerned.

(SALMAN CHAUDHRY)
Deputy Inspector General of Police, HQrs:
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

**OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR**

No. 8/4565 /20 dated Peshawar the 12.11.2020

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule 1975 (amended 2014) submitted by ASI Haji Muhammad (the then NI). The applicant was compulsory retired from service by District Police Officer, Swabi vide OB No. 380 dated 09.03.2020 on the allegations that he while posted as SHO PS Kalu Khan, received illegal gratification and extended favour to the most notorious proclaimed offender namely Yousaf alias Aamir S/o Shah Ghafoor R/o Kalu Khan. He was involved in the following different criminal cases registered in PS Kalu Khan District Swabi.

- i. Case FIR No.96 dated 28.01.2019 U/S 324/34 PPC PS Kalu Khan.
- ii. Case FIR No. 299 dated 09.04.2019 U/S 506/452/354/34 PPC PS Kalu Khan.
- iii. Case FIR No.332 dated 21.04.2019 U/S 324/109/34 PPC PS Kalu Khan.
- iv. Case FIR No.507 dated 14.06.2019 U/S 506/447/511 PPC PS Kalu Khan.
- v. Case FIR No.813 dated 13.10.2019 U/S 324/353 PPC PS Kalu Khan.
- vi. Case FIR No. 964 dated 06.12.2019 U/S 9DCNSA/11-BCNSA PPC PS Kalu Khan.
- vii. Case FIR No. 1004 dated 16.12.2019 U/S 302 PPC PS Kalu Khan.
- viii. Case FIR No.1005 dated 16.12.2019 U/S 324 PPC PS Kalu Khan.

The appellate Authority i.e. Regional Police Officer, Mardan converted his punishment of compulsory retirement from service into reduction in rank from substantive rank of Sub Inspector to his substantive rank of ASI vide order Endst No. 3503-4/ES, dated 03.06.2020.

Meeting of the appellate Board was held on 05.11.2020, wherein the petitioner was present and heard in detail.

There is long service of 32 years 07 months and 08 days at the credit of petitioner. The Board is of the opinion that penalty imposed on petitioner is harsh and the board decided that his rank of Sub Inspector is hereby restored and penalty of reduction from the rank of SI to ASI is converted into time scale for period of three years.

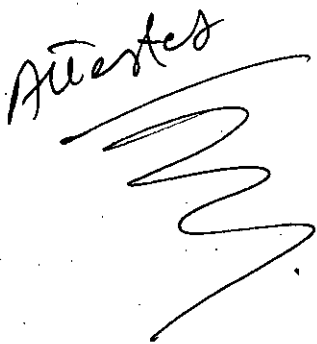
sd/
Dr. Ishtiaq Ahmed, PSP/ PPM
Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar.

No. S/ 4666-75/20.

Copy of the above is forwarded to the:-

1. Regional Police Officer, Mardan. Two service Books, one service Roll and one Fauji Missal of the above named ASI received vide your office Memo: No.3919-20/ES, dated 25.06.2020 is returned herewith for your office record.
2. District Police Officer, Swabi.
3. PSO to IGP/ Khyber Pakhtunkhwa, CPO Peshawar.
4. AIF/ Legal Khyber Pakhtunkhwa Peshawar.
5. PA to Addl: IGP HQrs: Khyber Pakhtunkhwa Peshawar.
6. PA to DIG/ HQrs: Khyber Pakhtunkhwa Peshawar.
7. Office Supdt: E-III, CPO Peshawar.
8. Officer Concerned.

sd/
Salman Choudhry
Deputy Inspector General of Police, HQrs:
For Inspector General of Police,
Khyber Pakhtunkhwa Peshawar.

Attested


یعدالت چٹائی سرسٹریٹ ٹریڈنگ کمپنی پرائیویٹ لمیٹڈ

مختراب ایڈووکیٹ

حاجی محمد خان

دعویٰ اپیل

باعتباری شکریمہ ایٹیکہ

مستندہ سند جرمینا بالائیں ایسی طرف سے واسطے پیروی و جواب دہی وکیل کاروائی متعلقہ آن مقام اپنا اور کیلئے اسکا اڈا سٹیشن سے ایڈووکیٹ ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحبہ موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحبہ کو کہنے والی نامہ و آقر شاکت و تیسرا برتلاف دینے جواب دہی اور قابل دعویٰ اور لکھنؤ ڈگری کرنے اجراء اور دعویٰ چیک در پیہ اور مرضی دعویٰ اور درخواست ہر قسم کی تعلیق اور اس پر دستخط کرنے کا اختیار ہوگا نیز بھرتی عدم پیروی یا ڈگری کی طرفہ یا اپیل کی برآمدگی اور سوسٹی ٹریڈنگ ڈگری کرنے اپیل نگران و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ منکر کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مشاور قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور اس پر مقدمہ شاہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساتھ پر داغ منطوقہ قبول ہوگا اور دوران مقدمہ میں جو فرجیہ و ہرجانہ التواء مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحبہ کو صرف ہوں گے نیز بقایا و فرجیہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام روبرہ پر ہو یا عدست باہر ہو تو وکیل صاحبہ یا ہمد نہ ہوں گے کہ پیروی مذکور کریں۔

لہذا کالت نامہ دیکھ دیا کہ سند ہے۔

المرقوم 20-12-10

القصد القصد القصد

11-
ارباب نیف اتمال
ایڈووکیٹ

محمد اللہ خان
ایڈووکیٹ

محمد کوانز
ایڈووکیٹ

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 16408/2020.

Haji Muhammad Ex-SI Appellant

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar

& Others..... Respondents.

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①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 16408/2020.

Haji Muhammad Ex-SI

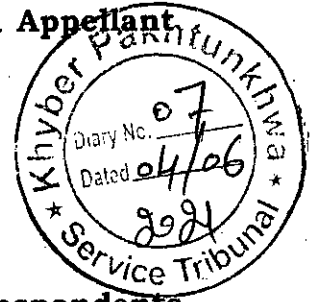
Appellant

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar

& Others.....

Respondents.



WRITTEN REPLY BY RESPONDENTS.

Respectfully Sheweth:

Preliminary Objections.

1. That the appellant has got no cause of action and locus standi to file the present appeal.
2. That the appeal is bad due to misjoinder and nonjoinder of necessary parties.
3. That the appeal is barred by law & limitation.
4. That the appellant has not come to this Tribunal with clean hands.
5. That this Hon'ble Tribunal has got no jurisdiction to entertain the present appeal.
6. That the instant appeal is not maintainable in its present form.
7. That the appellant concealed the material facts from this Hon'ble Tribunal.
8. That the appellant has been estopped by his own conduct to file the appeal.

REPLY ON FACTS.

1. Para No. 01 of appeal pertains to service record, hence need no comments.
2. Correct to the extent that the appellant served in various Police Stations, but during service his performance was not upto the mark.
3. Para No. 03 of appeal to the extent of posting of appellant as SHO is correct. However, during his posting as SHO, he received illegal gratification and provided unnecessary help to most notorious proclaimed offender namely Yousaf Amir who was involved in number of heinous cases.
4. Para No. 04 of appeal is correct to the extent of issuance of Charge Sheet on account of receiving illegal gratification and providing unnecessary help to a notorious proclaimed offender namely Yousaf Amir.
5. Para No. 05 of appeal to the extent of departmental enquiry is correct, however on the request of appellant, the Enquiry Officer was changed and enquiry was entrusted to another officer during which the allegations against appellant stand proved.
6. Para No. 06 of appeal is incorrect. Reply already given vide para above.

7. Para No. 07 of appeal is correct to the extent that appellant recorded his statement, but he could not submit any plausible explanation in support of his defense.
8. Para No. 08 of appeal is incorrect. After proper departmental enquiry, appellant was found guilty for the misconduct.
9. Para No. 09 of appeal is correct to the extent that in the light of recommendations of Enquiry Officer, appellant was served with Final Show Cause Notice, however his reply was found unsatisfactory.
10. That after personal hearing appellant was awarded major punishment of compulsory retirement from service by respondent No. 4, which was later on modified by the appellate authority.
11. Para No. 11 of appeal is incorrect. The departmental appeal of appellant was partially accepted by the respondent No. 3 by modifying the order of compulsory retirement into reduction in rank from the substantive rank of Sub Inspector to ASI.
12. Para No. 12 of appeal is correct to the extent of filing of revision petition which was partially accepted and the order of reduction in rank was converted into time scale for the period of three years.

GROUND.


- A. Incorrect. Appellant while posted as SHO PS Kalu Khan received illegal gratification and provided unnecessary help to one notorious proclaimed offender namely Yousaf Amir involved in number of heinous cases.
- B. Incorrect. Appellant in the capacity of SHO PS Kalu Khan misuses his official powers by extending illegal support to the criminal, which is gross misconduct on his part. On the complaint of appellant, enquiry was entrusted to other officer for probing the real facts in order to meet the ends of natural justice.
- C. Incorrect. Proper departmental enquiry was conducted during which appellant was found guilty for the misconduct and before passing final order, all the opportunities of defense and personal hearing were afforded to appellant. All the statements were recorded in his presence with ample opportunity of cross exam.
- D. Incorrect. Appellant was treated in accordance with law/rules and the punishment awarded by the respondents are quite legal and under the rules.
- E. Incorrect. Appellant while posted as SHO was also responsible for the investigation. Report u/s 173 CrPc in criminal case is always being submitted to Court by SHO of Police Station.
- F. Incorrect. The allegations against appellant have been proved beyond any shadow of doubt.


3


- G. Incorrect. After showing no confidence over Enquiry Officer, the enquiry proceedings was entrusted to another officer, however during enquiry, appellant was found guilty for the misconduct and he was recommended for punishment.
- H. Incorrect. After fulfillment of codel formalities, appellant was awarded punishment in accordance with law/rules.
- I. Incorrect. During enquiry, the allegations against appellant stand proved and Enquiry Officer recommends him for punishment.
- J. Incorrect. Appellant was found guilty for the misconduct and awarded major punishment, hence not entitled for promotion.
- K. Incorrect. The department has already taken lenient view by partially accepting the appeal/revision of appellant through speaking order.
- L. Incorrect. The orders of respondents are quite legal in accordance with law/rules.

Prayer.

Keeping in view the above narrated facts, it is humbly prayed that the instant appeal being devoid of merits may very kindly be dismissed with costs, please.


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


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


**Deputy Inspector General of Police,
Mardan Region-I Mardan
(Respondent No. 3)**


**District Police Officer Swabi,
(Respondent No. 4)**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 16408/2020.

Haji Muhammad Ex-SI Appellant

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar

& Others..... Respondents.

AFFIDAVIT:-

We the respondent No. 1 to 4 do hereby solemnly affirm and declare on oath that the contents of the written reply are correct/true to the best of our knowledge / belief and nothing has been concealed from the honorable Tribunal.

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

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

**Deputy Inspector General of Police,
Mardan Region-I Mardan
(Respondent No. 3)**

**District Police Officer Swabi.
(Respondent No. 4)**

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A No. 16408/2020

Haji Muhammad Khan

versus

PPO & Others

REJOINDER

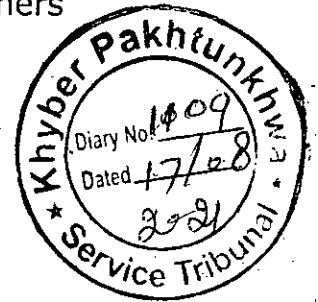
Respectfully Sheweth,

PRELIMINARY OBJECTION

All the 08 Preliminary Objections are illegal and incorrect. No reason in support of the same is ever given as to why appellant has no cause of action, locus standi, mis and non-joinder of necessary parties, barred by limitation and law, unclean hands, without jurisdiction, not maintainable, concealment of material facts and estoppel.

ON FACTS

1. Admitted correct regarding promotion step by step.
2. Admitted correct regarding posting of appellant in various Police Stations. Rest of the para regarding performance is without any proof.
3. Admitted correct by respondents to the extent of posting of appellant as SHO in Police Station Kalu Khan for less than a month. As for as receipt of illegal gratification and provided help to Proclaim Offender Yousaf Amir is without proof. (Copies attached)
4. Admitted correct by respondents to the extent of Charge Sheet. As for as receiving of illegal gratification and help to Proclaim Offender is without proof.
5. Admitted correct regarding objection over IO being inimical to appellant.
6. Not correct. The Para of the appeal is correct regarding none handing over vehicle required for investigation.



7. Admitted correct to the extent of reply to the Charge Sheet supported by cogent reasons.
8. Not correct. The enquiry was not conducted as per the mandate of law but the objected Inquiry Officer submitted report to the authority for imposition of suitable punishment.
9. Admitted correct to the service of Final Show Cause Notice but the enquiry proceedings were not supplied with the Final Show Cause Notice to the appellant.
10. Admitted correct to the extent of major punishment of compulsory retirement from service without personal hearing.
11. Not correct. The departmental appeal was rejected on 03-06-2020 and not modified at that time.
12. Admitted correct to the extent of submission of Revision Petition which was partially accepted and the penalty of reduction from the rank of SI to ASI was converted into forfeiture of timescale for three years. Such punishment also comes into the ambit of major punishment.


GROUNDS:

All the grounds of the appeal are legal and correct while that of the reply are illegal and incorrect. The same are re-affirmed once again.

It is, therefore, most humbly prayed that the appeal be accepted as prayed for.


Appellant

Through


Saadullah Khan Marwat
Advocate,

Dated: 16-08-2021

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A No. 16408/2020

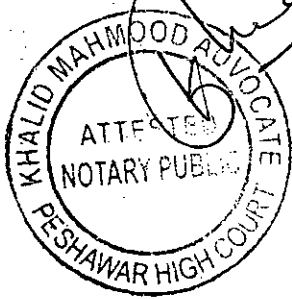
Haji Muhammad Khan

versus

PPO & Others

AFFIDAVIT

I, Haji Muhammad Khan, appellant do hereby solemnly affirm and declare that contents of the **Appeal & rejoinder** are true and correct to the best of my knowledge and belief while that of reply of respondents are illegal and incorrect.




DEPONENT

تورک مسیونری

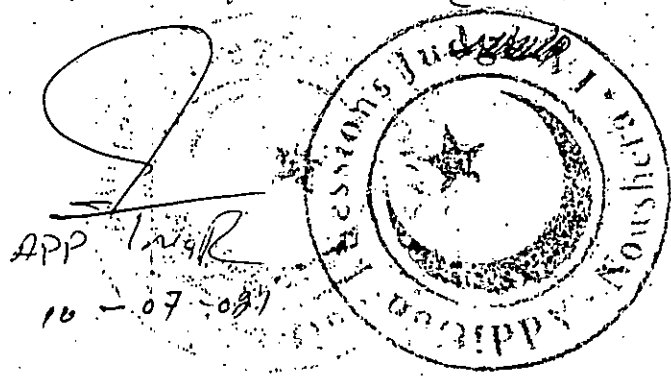
کسب و کار - مسکن دین تاجه صد فو شیره

سازمان قرضه

مبلغ 413 لری 04/08/59 crisa 92 کفنه مسکن

صالح شرفان

مقام عقول باه مسکن دین تاجه صد فو شیره
تورک مسیونری



Atesta

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تقاریر کا روزنامہ 2020ء

قوانین کا اعلان

15 آگسٹ 2020ء کو صبح 8:45 بجے اور عصر 1:45 بجے کے وقت

حاضر ہونے والے طلبہ کو متعارف کرانے کے لیے سنا جانے والی تقریریں اور ان کی اہمیت

تقاریر کا اعلان حاضر آیا، جناب عالی!



PS-KK

01-01-2021

Handwritten signature and name 'Arshad'.

8

PW-04

09.06.2021

Statement of Haji Muhammad Khan SI posted Casualty
LRH, Peshawar on Oath.

Stated that during the days of occurrence, I was posted at PS Kalu Khan. after completion of investigation by the I.O, he handed over the case file to me for submission of complete challan which I accordingly submitted on 16.01.2020 which is Ex:PW-4/1. Today I have seen the same which is correct and correctly bears my signature.

XX.... It is incorrect to suggest that I have blindly submitted the case file without going through the same.

R.O & A.C
09.06.2021

Signature
SI, Kalu Khan

[Handwritten signature]



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 826 /ST

Dated: 31-3-2022

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

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


To

The District Police Officer,
Government of Khyber Pakhtunkhwa,
Swabi.

Subject: JUDGMENT IN APPEAL NO. 16408/2020 MR. HAJI MUHAMMAD.

I am directed to forward herewith a certified copy of Judgement dated 02.02.2022 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR