ORDER
14.09.2021

Appellant alongwith his counsel Mr. Arbab Saif-ul-Kamal, Advocate, present. Mr. Muhammad Raziq, Head Constable alongwith Mr. Riaz Ahmed Paindakhel, Assistant Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file of Service Appeal bearing No. 10013/2020 titled "Luqman Versus Superintendent of Police, Hqrs: Peshawar and two others", the instant appeal is accepted and the appellant is reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
14.09.2021

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

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

16.03.2021 Due to tour of Camp Court Abbottabad and shortage of Members at Principal Bench Peshawar, the case is adjourned to 25.05.2021 before S.B.

Reader

25.05.2021 Counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG alongwith Muhammad Raziq, H.C for the respondents present.

Representative of the respondents seeks further time to submit written reply/comments. Respondents are directed to submit the written reply/comments in office within 10 days. If the written reply/comments are not submitted within the stipulated time, the office is directed to submit the file with a report of non-compliance. File to come up for arguments on 14.09.2021 before the D.B.

Chairman

24.12.2020 Counsel for the appellant present.

It is duly noted in the impugned order dated 17.03.2020 that during departmental proceedings against the appellant the opinion from DSP (Legal) was obtained. In the opinion, it was clearly laid that the enquiry officer had not recorded the statement of complainant of the FIR. That, the statement of accused was also not made part of the record by the enquiry officer. In addition, further shortcomings in the enquiry were pinpointed in the opinion. In view of the legal opinion a fresh enquiry was constituted, however, the enquiry officer could not bring home the allegations against the appellant through convincing evidence. On the other hand, the competent authority went on to penalize the appellant with major penalty of removal from service.

In view of the available record and arguments of learned counsel, instant appeal is admitted to regular hearing subject to all just exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 16.03.2021 before S.B.

Appellant Deposited
Security & Process Fee

Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 10015 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	03/09/2020	The appeal of Mr. Majid Ullah 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. REGISTRAR
2-		This case is entrusted to S. Bench for preliminary hearing to be put up there on 19/10/2020 CHAIRMAN
19.10.2020		The legal fraternity is observing strike today, therefore, the case is adjourned to 24.12.2020 on which date to come up for preliminary hearing before S.B. (Muhammad Jamal Khan) Member (Judicial)

The appeal of Mr. Majidullah son of Niz Ali Ex-F Constable no. 5668 PS Tatara Peshawar received today i.e. on 27.08.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1- Annexures-I & K of the appeal are illegible which may be replaced by legible/better one.
2- Copy of rejection order of departmental appeal in respect of appellant mentioned in the memo of appeal is not attached with the appeal which may be placed on it.

No. 2583 /S.T,

Dt. 02/09 /2020

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Saadullah Khan Adv. Pesh.

Re-submitted after removing the objections.

3-9-20

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. _____/2020

Majid Ullah versus SP & Others

I N D E X

S. No	Documents	Annex	P. No.
1.	Memo of Appeal		1-4
2.	FIR dated 24-02-2020	"A"	5
3.	Suspension order dated 26-02-2020	"B"	6
4.	Charge Sheet / Allegations, 26-02-20	"C"	7-8
5.	Bail Application dated 04-03-2020	"D"	9-10
6.	Enquiry Report dated 10-03-2020	"E"	11-12
7.	Final Show Cause Notice dated 10-03-20	"F"	13
8.	Reply to FSCN dated 10-03-2020	"G"	14
9.	Letter dated 11-03-2020	"H"	15
10.	Released on Bail order dated 13-03-20	"I"	16-17
11.	Rectification order dated 16-03-2020	"J"	18
12.	Dismissal order dated 17-03-2020	"K"	19
13.	Representation dated 16-04-2020	"L"	20
14	Rejection order dated 10-07-2020	"M"	21

Appellant

Through

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

Dated 25-08-2020

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

10015
S.A No._____/2020

Majid Ullah S/O Niaz Ali,
R/o Battagram Charsadda,
Ex. F. Constable No. 5668,
PS; Tatara Peshawar. . . . . Appellant

Versus

1. Superintendent of Police,
   Hqrs: Peshawar.

2. Capital City Police Officer,
   Peshawar.

3. Provincial Police Officer,
   KP, Peshawar. . . . . Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974 AGAINST OB. NO. 892 DATED 17-03-2020 OF R. NO. 01, WHEREBY APPELLANT WAS DISMISSED FROM SERVICE OR OFFICE ORDER NO. 812-17 / PA DATED 10-07-2020 OF R. NO. 02 WHEREBY REPRESENTATION OF APPELLANT WAS REJECTED FOR NO LEGAL REASON:

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth;

1. That appellant was enlisted in service as Foot Constable on 01-01-2012 and served the department till the date of dismissal from service.

2. That on 24-02-2020 complainant Muhammad Sharif S/O Ghulam Rasool R/O Talagung District Chakwal presently Khazana Sugar Mill Peshawar lodged report in PS: Chamkani against unknown persons u/s 365A PPC by snatching huge amount from him. (Copy as annex "A")

3. That on 26-02-2020, appellant was suspended from service by R. No. 01. (Copy as annex "B")

4. That on 26-02-2020, appellant was served with Charge Sheet along with Statement of Allegation to the affect:-

"That you FC Luqman No. 2739, FC Majid No. 5668 and FC Hamid No. 5193 were involved in a criminal case mentioned above which amounts to gross misconduct on his part and is against the discipline of the force. The said Charge Sheet was not served upon him, so did not reply the same. (Copy as annex "C")

5. That in-fact the occurrence was of 22-02-2020 which was altered into 24-02-2020 (cutting seems quite evident) by the local police, yet appellant etc, were taken into custody on 22-02-2020 and not on 24-02-2020, so after rejection of Bail Application from the court of law, approached to Peshawar High Court, Peshawar for release on bail on 04-03-2020. (Copy as annex "D")

6. That enquiry report was finalized by Deputy Superintendent of Police (Security) Civil Secretariat Peshawar who submitted the same before the authority on 10-03-2020 for onward action. The enquiry was not conducted as per the mandate of law. (Copy as annex "E")

7. That on 10-03-2020, appellant was served with Final Show Cause Notice which was not replied as at the same time he was in Jail. (Copies as annex "F" & "G")

8. That on 11-03-2020, R. No. 01 wrote letter to Inquiry Officer that enquiry was conducted in haphazard manner which would give benefit to the accused in appeal for reinstatement in service. (Copy as annex "H")

9. That on 13-03-2020, appellant was released on bail by the hon'ble Peshawar High Court Peshawar. (Copy as annex "I")

10. That on 16-03-2020, Inquiry Officer did try to rectify the deficiency in enquiry. (Copy as annex "J")

11. That on 17-03-2020, appellant was dismissed from service under Police Rules 1975 by R. No. 01. (Copy as annex "K")

12. That on 16-04-2020, appellant submitted representation before R. No. 02 for reinstatement in service which was rejected on 10-07-2020. Copy of the same was received from the office on 24-08-2020. (Copies as annex "L" & "M")

Hence this appeal, inter alia, on the following grounds:-

GROUNDS:

a. That the story narrated by the complainant as well as by the department is totally against the fact. The complainant as well as the respondents relied upon video regarding abduction of the complainant clearly shows that he in presence of another police officials sit in the vehicle at his own discretion and was never abducted by the appellant.

b. That complainant seems to be highly player as he himself is involved in such like cases.

c. That enquiry was not conducted as per the mandate of law because when the enquiry report was submitted to the authority for onward action against the appellant, he pointed out numerous deficiencies in the same.

d. That appellant was arrested on 22-02-2020. He was at the same time being the bar but no Charge Sheet or Statement of Allegations was served upon him in the Jail.

e. That as and when Final Show Cause Notice is served upon the defaulter, it is mandatory for the authority to supply him whole proceedings of the enquiry but in the case in hand the same lacks despite the fact that at the same time appellant was in Jail, so he was unable to submit comprehensive reply to the Final Show Cause Notice.

f. That no statement of any witnesses was recorded in the presence of appellant nor he was afforded opportunity of cross examination, being mandatory.

g. That the matter was not dealt with as per the mandate of law, so is of no legal effect.

h. That complainant is habitual in adverse activities and makes complaints to mint money. From his appearance in the video he does not seem to be Painter.

i. That whole of the story narrated in the FIR is manipulated, concocted and based on malafide.

It is, therefore, most humbly prayed that on acceptance of appeal, order dated 17-03-2020 and 10-07-2020 of the respondents be set aside and appellant be reinstated in service with all consequential benefits, with such other relief as may be deemed proper and just in circumstances of the case.

Appellant

Through

Saadullah Khan Marwat

Arbab Saiful Kamal

Amjad Nawaz
Advocates.

Dated 25-08-2020

A 5

انسپکٹر جنرل پولیس صوبہ سرحد فارم نمبر ۲۴ — گورنمنٹ پرنٹنگ پریس پشاور، چاپ نمبر 2288/13 فارم سٹور [illegible] 20.06.2011 [illegible] ضمنی فارم (پولیس)

کاؤنٹر فائل

فارم نمبر ۲۴_۵(۱)

ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ ۱۵۴ مجموعہ ضابطہ فوجداری۔

تھانہ ______ 5 ______ ضلع ______

نمبر چکنی [illegible] تاریخ [illegible]

۱۔	تاریخ ووقت رپورٹ	396 [illegible] — 08:00 وقت [illegible]
۲۔	نام وسکونت اطلاع دہندہ مستغیث	37803-4431880-7 / 03124188283 — [illegible] 17:30 وقت 25 [illegible]
۳۔	مختصر کیفیت جرم (معہ دفعہ) حال اگر کچھ لیا گیا ہو۔	محمد [illegible] ولد غلام رسول سکنہ [illegible] ضلع چکوال [illegible]
۴۔	جائے وقوعہ فاصلہ تھانہ سے اور سمت	365A
۵۔	نام وسکونت ملزم	[illegible]
۶۔	کاروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو	
۷۔	تھانہ سے روانگی کی تاریخ ووقت	[illegible]

ابتدائی اطلاع نیچے درج کرو بطور سپشل رپورٹ

[illegible] درخواست مستغیث [illegible] مضمون ذیل ہے۔ بخدمت جناب ایس ایچ او صاحب تھانہ [illegible] عالی [illegible] گزارش ہے کہ میں [illegible] رنگ کے ٹھیکے کرتا ہوں۔ کل [illegible] کو [illegible] روپے [illegible] لاکھ روپے [illegible] کے انتظار میں کھڑا تھا جب بوقت [illegible] ایک [illegible] گاڑی [illegible] میں چار کس [illegible] جن کو [illegible] پر [illegible] مجھے بتایا کہ ہم پولیس والے ہیں اور مجھے [illegible] ساتھ بٹھا کر [illegible] میں [illegible] ایک [illegible] لاکھ روپے [illegible] مجھے ایک [illegible] میں [illegible] ایک کمرہ [illegible] لاکھ روپے کا مطالبہ کیا۔ [illegible] 03138120020 [illegible] تین لاکھ روپے [illegible] 839779 [illegible] 20 [illegible] 3 [illegible] 25 [illegible] درج [illegible]

[illegible] 25-2-20

AUAS

3

"B" 6

ORDER

The following officials are hereby placed under suspension and closed to Police Lines with immediate effect due to involvement in a criminal case vide FIR No.396 dated 24.02.2020 u/s 365-A PS Chamkani.

S #	Name & No.	Place of posting
01	FC Luqman No.2739	PS Tatara
02	FC Majid Ullah No.5668	PS Tatara
03	FC Hamid No.5193	Police Lines

Charge sheet & summary of allegation are being issued to them separately. The E.O is directed to complete enquiry within stipulated period as desired by the W/CCPO.

SUPERINTENDENT OF POLICE
HEADQUARTERS PESHAWAR

O.B No 663
Dated 26/2/2020

No. 525-36/PA/SP/H.Qrs: dated Peshawar, the 26-2-/2020

Copy forwarded to:

1. The Capital City Police Officer, Peshawar.
2. The SSP Operations Peshawar.
3. DSP Civil Secretariat & DSP H.Qrs: Peshawar
4. Pay Officer
5. CRC/OASI /FMC

Attested

"C" 7

CHARGE SHEET

I, Superintendent of Police, Headquarters, Capital City Police Peshawar, as a competent authority, hereby, charge that FC Luqman No.2739, FC Majid No.5668 & FC Hamid No.5193 of Capital City Police Peshawar with the following irregularities.

"That you FC Luqman No.2739, FC Majid No.5668 & FC Hamid No.5193 were involved in a criminal case vide FIR No.396 dated 24.02.2020 u/s 365-A PS Chamkani. This amounts to gross misconduct on your part and is against the discipline of the force."

You are, therefore, required to submit your written defence within seven days of the receipt of this charge sheet to the Enquiry Officer committee, as the case may be.

Your written defence, if any, should reach the Enquiry Officer/Committee within the specified period, failing which it shall be presumed that have no defence to put in and in that case ex-parte action shall follow against you.

Intimate whether you desire to be heard in person.

A statement of allegation is enclosed.

SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

8

DISCIPLINARY ACTION

I, Superintendent of Police, Headquarters, Capital City Police Peshawar as a competent authority, am of the opinion that FC Luqman No.2739, FC Majid No.5668 & FC Hamid No.5193 has rendered him-self liable to be proceeded against under the provision of Police Disciplinary Rules-1975

STATEMENT OF ALLEGATION

"That FC Luqman No.2739, FC Majid No.5668 & FC Hamid No.5193 was involved in a criminal case vide FIR No.396 dated 24.02.2020 u/s 365-A PS Chamkani. This amounts to gross misconduct on his part and is against the discipline of the force."

For the purpose of scrutinizing the conduct of said accused with reference to the above allegations an enquiry is ordered and Mr. Niaz Muhammad is appointed as Enquiry Officer.

2. The Enquiry Officer shall, in accordance with the provisions of the Police Disciplinary Rules, 1975, provide reasonable opportunity of hearing to the accused officer, record his finding within 30 days of the receipt of this order, make recommendations as to punishment or other appropriate action against the accused.

3. The accused shall join the proceeding on the date time and place fixed by the Enquiry Officer.

SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

No. 45 /E/PA, dated Peshawar the 26/2 /2020

1. DSP Civil Sect is directed to finalize the aforementioned departmental proceeding within stipulated period under the provision of Police Rules-1975.
2. Official concerned

AM-D

D

9

BEFORE THE PESHAWAR HIGH COURT PESHAWAR

CrM BA NO 628-P /2020

1) Majid

2) Hamid sons of Niaz Khan
R/o Shabqadar Sarwani Distt: Charsadda Presently
Residing at Pakha Gulam Peshawar.

3. Luqman Khan s/o Meharban Shah
R/o Nisata Distt: Charsadda Presently
Residing at Ring Road Peshawar.....Petitioners

VERSUS

1. The Sate.

2. Muhammad Sharif s/o Ghulam Rasool
R/o Talagang Distt: Checkwal presently
Residing at Khazana
Sugar Mills Peshawar.....Respondents.

Case FIR NO 396 Dated 25/2/2020
U/S 365-A. P.S. Chamkani (Peshawar)

Application for the released of the accused /petitioners on bail till the final disposal of the case.

FILED TODAY
Deputy Registrar
04 MAR 2020

Respectfully Sheweth:-

1. That the accused/ petitioners stand charged in the instant case by the complainant and since their arrest they are in judicial lock up in Central Prison Peshawar. (Copy of FIR is annex "A")

2. That the accused /petitioners submitted bail application for their release in the court of ATC, Peshawar, but the same was dismissed on 3/3/2020. (Order is annex B & C)

3. That now the accused/ petitioners seeks their released on bail on the following ground amongst other:-

ATTESTED
EXAMINER
Peshawar High Court

GROUNDS.

A. That the accused/ petitioners are innocent in the instant case and have been implicated falsely and maliciously for ulterior motive by the complainant

B. That the accused/ petitioners have not been charged in the FIR

Attested

C. That there is no identification parade of the accused/ petitioners , to connect the accused/ petitioners with the commission of offence.

D. That there is no confession of the accused/ petitioners in the instant case .

E. That there is no direct or indirect evidence against the accused/ petitioners on the file.

F. That the recovery of cash amount planted against some of the accused/ petitioners , are the cash money taken from the House of the accused/ petitioners and the same are the personal belonging of the petitioners and are not the case property at all.

G. That the complai9nant after his satisfaction also exonerated the accused/ petitioners from the case in hand and has got no objection on the grant of bail .

H. The charged against the accused/ petitioners requires further probe in the case and such, the case of the accused/ petitioners requires inquiry.

I. That the accused/ petitioners ready to furnish reliable sureties for the entire satisfaction of this Hon:ble Court.

It is therefore, most humbly prayed that on acceptance of this bail application , the accused/ petitioners may graciously be released on bail till the final disposal of the case.

FILED TODAY
Deputy Registrar
04 MAR 2020

Petitioners

Through

(Husain Ali)
Advocate, Peshawar.

NOTE:-

As per instruction of our client certified that no such bail application has been filed by the petitioner, before this Hon:ble Court.

Advocate

CERTIFIED TO BE TRUE COPY
EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 87 of
Qanun-e-Shahadat Order 1984
14 MAR 2020

ATTESTED
EXAMINER
Peshawar High Court

E 11

Subject: **INQUIRY AGAINST FC LUQMAN KHAN NO. 2739, FC MAJIDULLAH NO.5668, HAMID KHAN5 NO5193 CCP PESHAWAR**

Memo:

Please refer to your office letter No.45/E/PA, dated 26/02/2020 on the subject cited above.

ALLEGATIONS:-

That Constable Luqman No.2739, FC majidullah5668, and FC Hamid khan 5193 was involved in a criminal case vide FIR No.396 dated 24.02.2020 u/s 365 A PS Chamkani.

PROCEEDINGS:-

To dig out the real fact the alleged officials was behind the bar therefore the undersigned visits the Central Jail Peshawar where the Jail authority produces the alleged official. Charge sheet and summary of allegation was served upon them. They were personally heard one by one. They were also cross examined however their statement were not recorded as they demand time for reply.

To further verify the inquiry posting record of the all alleged officials were obtained from OSI Branch. Which reveals that Constable Hamid has been remain posted in different Police Station and suspended on 26.06.2019.While reinstated in service on 17.01.2020. His service record also examined which reveals, that another inquiry vide Senior Superintendent of Police Operation, Peshawar letter No.108-12/PA dated 10.01.2020 was awarded the punishment of forfeiture of 01 year approved service. His service record is full of bad entries.

The posting record of FC Luqman was examined which shows that he has remained posted is different Police Station. His posting record also examined by undersigned which reveals that he has a bad entries and has awarded minor punishment vide OB No.1006 dated 29.08.2017. Posting record of FC Majid Ullah was examined which shows that he is also remain posted at best Police Stations of the District Peshawar like Pharipura, Chamkani, Hayatabad, His service record examined which reveals that's there is fourteen bad entries (L.w.o Pay E/drill & warning). While one minor punishment vide OB No.1476 dated 20.06.2019.

The OII of PS Chamkani Inspector Mukhtiyar Khan was summoned appear before the undersigned and his statement recorded. He stated that he is the CO Rural Circle Peshawar Investigation. FIR No.396 dated 25.02.2020 u/s 365-A was handed over to him for investigation. In which the SHO of PS Chamkani arrested the three alleged officials. Who were produce by the CO to the concerned Court but the custody was refused by the Judge and they was sent to judicial lockup. He also produces two photographs of the vehicles in which the abducty was kidnapped for ransom. Attached with enquiry file.

Similarly he also produced the photographs near Peshawar Motorway toll plaza in which the all the accused has been shown and they are sitting the abductees namely Muhammad shareef.

The SHO of Police Station Insp: Hafeez -Ur- Rahman who submitted his reply and stated that he has lodge a FIR No.396 dated 25.02.2020 u/s 365-A PS Chamkani and have arrested the accused Namely Hamid, Majid s/o Maj Ali r/o Sarwarni Charsadda and Luqman s/o Mahraban Shah village of Nisata Charsadda and has recovered Rs: 8000/- Rupees from the possession of Luqman and Rs: 10,550/- from the possession of Majid Khan.

12

The witness of the recovery of the recovery memo FC Muhammad Zubair No.173 was also examined and his statement recorded he verify the statement of SHO.

To further verify the allegations the ex-SHO PS Tatara Hamayun khan was summoned who stated that he transfer Luqman and Majid FCs from PS Pharipura to PS Tatara on 23/1/2020.on general duty. While on 23/2/2020 above name constables were absented.

The Moharrar of PS Tatara MASI Gulzar was summoned appear before the undersigned and his statement recorded. He stated that constable Majid and Luqman were deputed for duty in plain clothes on the direction of SHO and their proceeding /return was attached with SHO. In this connection he produces some DD reports which are also attached.

The MASI of the police line was summoned who appear before the undersigned and recorded his statement. He stated that constable Hamid No.5193 has absented on 07/01/2020.valid DD no 104 and still absent.

To further verify the allegations the complaint of the case namely Sharif-Ud-Din s/o Gulam Rasool r/o talagang District Chakwal present khazana sugar mill was summoned through SHO PS/Khazana. But he could not appear before the undersigned to record his statement.

The replies of the alleged officials was received which is un satisfactory.

FINDING:-

After going through the inquiry papers statements of the witness and statements of the alleged officials and cross examinations the undersigned came to the conclusion that there is sufficient evidence on case file which connect the alleged officials with the allegations. All allegations has been proved and the alleged found guilty of gross misconduct. They are not deserved to be remain in Police department.

Keeping in view the above mentioned factors under Police 1975 Rule 4(1), (b) they are recommended for major penalty.

(Niaz Muhammad)
Deputy Superintendent of Police
(Security), Civil Secretariat,
Peshawar.

No. 56 /R, Dated 10 / 03 /2020
Encl (6)

issue Final Show Cause Notice

W/SP/HQrs

SP Hqrs 10/3/20

Attested

F 13

FINAL SHOW CAUSE NOTICE

I Superintendent of Police, Headquarters, Capital City Police Peshawar, as competent authority, under the provision of Police Disciplinary Rules 1975 do hereby serve upon you, FC Luqman No.2739, FC Majid No.5668 & FC Hamid No.5193 the final show cause notice.

The Enquiry Officer, DSP Civil Secretariat, after completion of departmental proceedings, has recommended you for major punishment for the charges/allegations leveled against you in the charge sheet/statement of allegations.

And whereas, the undersigned is satisfied that you FC Luqman No.2739, FC Majid No.5668 & FC Hamid No.5193 deserve the punishment in the light of the above said enquiry report.

And as competent authority, has decided to impose upon you the penalty of minor/major punishment under Police Disciplinary Rules 1975.

1. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

2. If no reply to this notice is received within 7 days of its receipt, in normal course of circumstances, it shall, be presumed that you have no defence to put in and in that case as ex-parte action shall be taken against you.

SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

No. 4516/PA, SP/HQrs: dated Peshawar the 16/3/2020. 16/3

Copy to official concerned

9/3/20

H 15

G 14

بحوالہ Showcase No PA/4 St 10-3-2020 میں معروض ہوں کہ
اسوقت ہم جیل میں ہے اور ہم مکمل طور مینٹلی ڈسٹرب
ہیں لہذا جیل سے نکلنے کے بعد اپنا بیان دوں گا
بس یہی میرا بیان ہے۔

ماجد خان پائلٹ نمبر 5668

10/3/2020

[signature]

OFFICE OF THE
SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR
Phone No. 091-9210737
No. 52 /PA, Dt. 11_3_/2020

TO: The DSP Security (F.O),
Civil Secretariat, CCP Peshawar

Subject: **DEPARTMENTAL ENQUIRY AGAINST FC LUQMAN NO.2739, FC MAJID NO.5568 & FC HAMID NO.5[illegible]**

Memo

The subject enquiry is returned herewith with the remarks that Enquiry Officer has not recorded statement of the complainant (Abductees) who is star witness in this case. Enquiry Officer was supposed to record his statement and ensure identification of the alleged constables charged for the misconduct. Apart from it, statement of accused constables has also not been placed in the inquiry report. Moreso, the E.O in his report [illegible] presence of accused constables inside Motor Car through [illegible] has been attached which can show presence of [illegible] constables inside the car while abducting the complainant which [illegible] their guilty.

Therefore, E.O is directed to collect incriminating evidence to connect the accused with the commission of their misconduct which is heinous in nature but instead of doing so, he completed the instant enquiry in a slipshod manner, which will ultimately give benefit to accused in their subsequent appeal for re-instatement. It is further directed that the enquiry may be completed in all respect and then forwarded to the undersigned for final decision, Please.

Encl: (Complete enquiry file)

SUPERINTENDENT OF POLICE
HQRS: PESHAWAR

H 15

OFFICE OF THE
SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR
Phone No. 091-9210737
No 258 /PA, Dt: 11/3/2020

TO: The DSP Security (E.O),
Civil Secretariat, CCP Peshawar

Subject: **DEPARTMENTAL ENQUIRY AGAINST FC LUQMAN NO.2739, FC MAJID NO.5668 & FC HAMID NO.5193**

Memo:

The said inquiry is returned herewith with the remarks that Enquiry Officer has not recorded statement of the complainant (Abductees) who is star witness to the case. Enquiry Officer was supposed to record his statement and ensure identification of the alleged constables charged for the said misconduct. Apart from it, statement of accused constables has also been not incorporated in the inquiry report. More-so, the E.O in his report has admitted presence of accused constables, inside Motor Car through photographs but no photo has been attached which can show presence of the alleged constables inside the car while abducting the complainant which cost shadow on proving their guilty.

Therefore, E.O is directed to collect incriminating evidence to connect the accused with the commission of their misconduct which is heinous in nature but instead of doing so, he completed the instant inquiry in haphazard manner, which will definitely give benefit to accused in their subsequent appeal for re-instatement. It is further directed that the enquiry may be completed in all respect and then forwarded to the undersigned for final decision, Please.

Encl: (complete enquiry file)

SUPERINTENDENT OF POLICE
HQRS: PESHAWAR

I 16

[redacted]

JUDGMENT SHEET
HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT

Cr. Misc. (BA) No. 628-P/2020.

Majid and two others
Vs
The State and another

Date of hearing 13.03.2020

Petitioner (by) Mr. Hussain Ali Advocate

State (by) Mr. Moin-ud-Din AAG

Complainant (by) Mr. Muhammad Sharif in person.

JUDGMENT

MUHAMMAD NASIR MAHFOOZ, J.- Through the instant petition, accused-petitioners, Majid, Hamid and Luqman, seek their release on bail in case FIR No.396, dated 25.02.2020 under section 365-A PPC registered at Police Chamkani, Peshawar.

2. Arguments heard and record perused.

3. As per contents of FIR, compaliant has not directly charged any one for the commission of offence but later on, petitioners were charged on suspicion for the commission of offence which does not find any corroboration from the record available on file till this

ATTESTED
EXAMINER
Peshawar High Court

day of investigation. It appears that the petitioners are not directly involved in the commission of offence and thus, entitled to be released on bail being a case of further inquiry, though the complainant has submitted an affididavit, whereby the petitioners have been absolved from any liability in the commission of offence but being non-compoundable offence, it could not be considered for grant of bail.

4. In view of the above, the instant bail application is allowed and the accused-petitioners are admitted to bail, provided each one of them furnishes bail bonds in the sum of Rs.2,00,000/- with two local sureties each in the like amount to the satisfaction of learned trial Court. The sureties shall be reliable and men of means.

JUDGE

Announced
13.03.2020

(S.B) Hon'ble Mr. Justice Muhammad Nasir Mahfooz

Noor Shah

No. 3149
Date of Presentation of Application 13/3/20
No of Pages 4+2
Copying fee
Total 16
Date of Preparation of Copy 14/3/20
Date of Delivery of Copy 14/3/20
Received By

CERTIFIED TO BE TRUE COPY
EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 87 of
the Qanun-e-Shahadat Order 1984
14 MAR 2020

J 18

Reference Attached

Subject: **INQUIRY AGAINST FC LUQMAN KHAN NO. 2739, FC M NO.5668, HAMID KHAN5 NO.5193 CCP PESHAWAR**

Memo:

In continuation to this office letter No. 45/E/PA dated 10.03.2020 on the subject cited above.

The inquiry was sent to the high-ups for further proceedings but it was back sent to the undersigned with the following deficiencies.

1. That the statement of the complainant/abducted namely Muhammad Sharif r/o Talagang Punjab has not been recorded.

2. That the statement of the alleged official has not been recorded.

3. That the Photographs of the vehicles in which the complainant was kidnapped is also not available.

To complete the inquiry report the complainant was summoned through SHO Khazana, on 11.03.2020 to produce the complainant but he reported back that he searched the complainant but he does not known by anybody and his repot was attested by village councillor Namely Nazim Haji Basharat Khan.

The case file FIR No.396 dated 24.02.2020 was examined in which the CO Investigation Circle/Rural Inspector Mukhtiyar Khan has recorded the statement of the complainant before the Judicial Magistrate. Copy of 164 Cr.PC is attached on flag (N).

Similarly the statement of the witness of the recovery memo has also been recovered shown with flag (P).

The photographs of the vehicle is attached with flag (I, M).

The statements of the alleged officials has been shown with flags (C, D, E).

All the deficiencies has been completed. The report is submitted.

(Niaz Muhammad)
Deputy Superintendent of Police
(Security), Civil Secretariat,
Peshawar.

No. 63 /R, Dated 16 / 03 /2020

E-4 (89)

W/SP/HQrs

PA

For legal procedure

17/03/2020

K 19

ORDER

This office order relates to the disposal of formal departmental enquiry against FC Luqman Khan No.2739, FC Majid Ullah No.5668 & FC Hamid Khan No.5193 involved in criminal case vide FIR No.396 dated 24.02.2020 u/s 365-A PS Chamkani.

In this regard, they were placed under suspension & issued charge sheet and summary of allegations. DSP Civil Secretariat was appointed as Enquiry Officer. He conducted the enquiry & submitted his report/finding that there is sufficient evidence is available in case file to connect the alleged officials with the allegations leveled against them & found them guilty. The E.O further recommended major punishment for the defaulter officials vide No.56/R, dated 10.03.2020.

Upon the finding of E.O, they issued final show cause notice to which they received in Central Jail Peshawar & replied but their replies found unsatisfactory.

Upon which, opinion of DSP Legal was sought. He opined that "the E.O has not recorded statement of the complainant (abductees) who is star witness to the case. Enquiry Officer was supposed to record his statement and ensure identification of the alleged constables charged for the said misconduct. Apart from it, statement of accused constables has also been not incorporated in the inquiry report. More-so, the E.O in his report has admitted presence of accused constables, inside Motor Car through photographs but no photo has been attached which can show presence of the alleged constables inside the car while abducting the complainant which cost shadow on proving their guilty. The E.O may collect incriminating evidence to connect the accused with the commission of their misconduct which is heinous in nature."

In light of DSP Legal opinion, the enquiry papers were again referred to E.O with direction to collect evidence vide letter No.758/PA dated 11.03.2020. He conducted re-enquiry and submitted his report that complainant was called through SHO but he reported that he could not trace out the complainant. The case file was again examined and statement of Inspector Mukhtiar Khan CO Investigation Rural was recorded. Moreover, statement of the defaulter officials, witness of recovery memo: and photograph of vehicle has already been shown & attached.

In the light of the above discussion, recommendations of E.O & other material available on record it is proved beyond any shadow of doubt that they are guilty of this misconduct and not deserve an iota of leniency as such black sheep bring bad name for Police department. Therefore, they are hereby dismissed from service under Police & Disciplinary Rules-1975 with immediate effect.

SUPERINTENDENT OF POLICE
HEADQUARTERS, PESHAWAR

OB. NO. 892 / Dated 17/3/2020

No. 860-66 /PA/SP/dated Peshawar the 17/3/2020

Copy of above is forwarded for information & n/action to:

- ✓ Capital City Police Officer, Peshawar.
- ✓ DSP/HQrs, Peshawar.
- ✓ Pay Office, OASI,
- ✓ CRC & FMC along-with complete departmental file.

Attd

بعدالت جناب سروس ٹریبونل صوبہ سرحد پشاور

منجانب اپیلانٹ

ماجد اللہ بنام محکمہ پولیس

دعویٰ اپیل

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی وجواب دہی وکل کاروائی متعلقہ آں بمقام پشاور کیلئے مسعود اللہ خان مروت ایڈووکیٹ ہائی کورٹ کو وکیل مقرر کرکے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب کو کرنے راضی نامہ وتقرر ثالث وقبیصلہ برحلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور عرضی دعویٰ اور درخواست ہرقسم کی تصدیق اور اس پر دستخط کرانے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی ونظرثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا بیرسٹر قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور قبول ہوگا دوران مقدمہ میں جو خرچہ وہرجانہ التوا مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب موصوف ہوں گے نیز بقایا وخرچہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حدسے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔

لہٰذا وکالت نامہ لکھ دیا کہ سند رہے۔

المرقوم 25-08-20

الـعـبـد — الـعـبـد — الـعـبـد

ارباب سیف اکمال
ایڈووکیٹ

مسعود اللہ خان مروت
ایڈووکیٹ

ماجد

انجد نواز
ایڈووکیٹ

عظمیٰ ایڈووکیٹ

No 49 - CB
7 - 4 - 2020

No. 418 PA-CCPO
Dt. 30-04-2020
Encl:

بحضور جناب سی سی پی او صاحب پشاور

اپیل برائے بحالی ملازمت برخلاف فیصلہ ایس پی ہیڈ کوارٹرز محررہ مورخہ 17.03.2020

جناب عالی! سائلان حسب ذیل عرض رساں ہیں۔

۱۔ یہ کہ سائلان کو بروئے حکم بالا ایس پی ہیڈ کوارٹر صاحب نے ملازمت سے برطرف کیا ہے۔ (نقل فیصلہ لف ہے)۔

۲۔ یہ کہ سائلان کیخلاف جو جھوٹی دعویداری زیر دفعہ 365-A ہوئی تھی، اس میں سائلان برضمانت رہا ہو چکے ہیں اور تاحال ٹرائیل ہونا باقی ہے۔

۳۔ یہ کہ جب تک سائلان ٹرائیل میں مجرمان نہ گردانے جائیں، تب تک سائلان کو ملازمت سے برخاست کرنا قانون و انصاف سے ماورا ہے۔

۴۔ یہ کہ سائلان نے اپنے فرائض کی بجا آوری میں کبھی کوئی کوتاہی نہیں کی ہے اور کبھی بھی اپنے مجاز افسران کو شکایت کا موقع نہیں دیا ہے۔

۵۔ یہ کہ سائلان بال بچہ دار لوگ ہیں اور سائلان کو ملازمت سے برخاست کرنا سائلان کے بال بچوں کے منہ سے نوالہ چھیننے کے مترادف ہے۔

لہذا آپ صاحبان سے عاجزانہ اپیل ہے کہ بمنظوری اپیل ہذا، سائلان کو ملازمت پر بحال کرنے کا حکم صادر فرمائیں۔

المرقوم: 16.04.2020

ماجد اللہ (بیلٹ نمبر 5668)
0303-8293290

DSP sb Legal
Per comments pl.

PA CCPO
3/4

FMC
Put up record pl

Dy. Supdt: Police
Legal, CCP Peshawar

M 21

OFFICE OF THE
CAPITAL CITY POLICE OFFICER
PESHAWAR
Phone No. 091-9210989
Fax No. 091-9212597

ORDER

This order will dispose of departmental appeal preferred by **Ex- Cosntable Majid Ullah No. 5668 of PS Tatara** who was awarded the major punishment of "**dismissal from service**" under Police Rules-1975 by SP/HQrs Peshawar vide OB No.892, dated 17-03-2020.

2- The allegations leveled against him were that he alongwith FC Luqman No.2739 of PS Tatara and FC Hamid Khan No.5193 of Police Lines Peshawar was placed under suspension vide OB No.663, dated 26-02-2020 and proceeded against departmentally for involvement in criminal case vide FIR No. 396, dated 24-02-2020 u/s 365-A Police Station Chamkani.

3. The SP/HQrs Peshawar issued him proper Charge Sheet and Summary of Allegations. DSP/ Civil Secretariat Peshawar was appointed as enquiry officer to scrutinize the conduct of the delinquent official. The enquiry officer after conducting proper departmental enquiry into the matter, submitted his finding vide which he recommended the appellant for major punishment. The competent authority after perusal of the finding of the enquiry officer issued him Final Show Cause Notice to which his reply was received and found unsatisfactory. Hence he was awarded the above major punishment of dismissal from service.

4- He was heard in person in OR. During personal hearing the appellant failed to submit any plausible explanation in his defence. **Therefore, his appeal for setting aside the punishment awarded to him by SP/HQrs Peshawar vide OB No. 892, dated 17-03-2020 is hereby dismissed/rejected.**

(MUHAMMAD ALI KHAN) PSP
CAPITAL CITY POLICE OFFICER
PESHAWAR.

No. 806-11 /PA dated Peshawar the 10/07/2020

Copies for Information and n/a to the:-

1. SP/HQrs Peshawar.
2. OSI/CRC.
3. Accountant CCP.
4. FMC along with FM
5. Official concerned.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.10015/2020.

Majid Ullah Ex- Constable No.5668 of CCP, Peshawar.....**Appellant.**

VERSUS.

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others. **Respondents.**

REPLY BY RESPONDENTS NO. 1, 2, &3.

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS.

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has not come to Hon'able Tribunal with clean hands.
4. That the appellant has no cause of action and locus standi.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from Honorable Tribunal.
7. That the appeal is not maintainable being devoid of any merit.

FACTS:-

(1) Correct to the extent that the appellant was appointed as constable in the year 2012 in the respondent department. It is worth to mention here that he has not a clean service record on his credit as he contains 14 bad entries and 01 minor punishment in his service. (copy of bad entries list annexure as "A")

(2) Incorrect. The appellant along with two others constable (Luqman No.2739 and constable Hamid khan No.5193) involved himself in a criminal case vide FIR No.396 dated 24.02.2020 u/s 365-A PS Chamkani. In this regard he was issued charge sheet with statement of allegations. DSP Secretariat was appointed as Enquiry Officer, who after conducting a thorough probe into the matter submitted his findings report, wherein he held the appellant guilty of gross misconduct. Upon the findings of enquiry officer he was issued final show cause notice, which he received and replied, but his reply was found unsatisfactory. After fulfilling all codal formalities, he was awarded major punishment of dismissal from service. (Copy of charge sheet, statement of allegations, enquiry report, and final show cause notice are annexed as annexure "B" "C" "D" "E").

(3) Correct to the extent that the appellant along with two others constable were placed under suspension and issued them charge sheet with statement of allegations. Proper departmental enquiry was conducted against him, wherein the allegations leveled against him were proved beyond any shadow of doubt. The appellant committed a

gross misconduct by involving himself in heinous case of kidnapping which has defamed the image of police department in the eyes of general public.

(4) Incorrect. Charge sheet with statement of allegations was served upon him. Regular inquiry was conducted and thereafter he was issued a final show cause notice hence after fulfilling all the codal formalities he was awarded the major punishment of dismissal from service.

(5) Incorrect. Besides booking down in criminal case a proper departmental enquiry into the charges was also initiated by the competent authority, wherein he was found guilty of the charges as such he was awarded punishment as per gravity of his misconduct. Furthermore, criminal and departmental proceedings are two different entities which can run side by side.

(6) Incorrect. Proper departmental enquiry was conducted as per law/rules and the enquiry officer reported that charges leveled against the appellant were proved. The whole enquiry was conducted purely on merit. The appellant was provided full opportunity of defense, but the appellant failed to defend himself. After fulfilling all the codal formalities he was awarded the major punishment.

(7) Incorrect. The appellant was issued final show cause notice to which he received and also submitted his written reply, but his reply was found unsatisfactory.

(8) Para is totally incorrect and misleading. Infact before finalization of enquiry the competent authority remanded the enquiry back to the enquiry officer for completion of lacuna left therein. After fulfilling all the codal formalities he was awarded the major punishment.

(9) Para pertains to record of the court, hence needs no comments.

(10) Incorrect. Para already explained in detailed in the above para.

(11) Correct to the extent that the competent authority before imposing the major punishment had completed all codal formalities and an ample opportunity of self defense was provided, but the appellant failed to prove himself innocent.

(12) Incorrect. The appellant filed departmental appeal which after due consideration was filed rejected because the allegations leveled against him were proved.

That appeal of the appellant being devoid of merits and limitation may be dismissed on the following grounds.

GROUNDS:-

a. Incorrect. Proper departmental enquiry was conducted against him. During the course of enquiry, the appellant failed to rebut the charges and the enquiry officer conducted thorough probe into the matter and found the appellant guilty of the charges. After fulfilling of all codal formalities, he was awarded major punishment of dismissal from service by the competent authority.

b. Para not related. Furthermore, the duty of police is to protect life, property and liberty of citizens, preserve and promote public peace but he despite being a

member of disciplined force deviated himself from his lawful duty and indulged himself in misconduct.

c. Incorrect. Para already explained in the above paras.

d. Incorrect. The appellant was issued charge sheet with statement of allegations to which he received. Proper opportunity of defense was provided to appellant. He failed to defend the charges leveled against him. The enquiry officer after detail probe reported that the charges were proved. Proper opportunity of defense was provided to the appellant, but he failed to defend himself.

e. Incorrect. After completion of the enquiry proceedings, the appellant was issued final show cause notice to which he replied, but his reply was also found unsatisfactory.

f. Incorrect. Detail departmental enquiry was conducted against him in accordance with law/rules. Enquiry officer after detailed probe into the matter reported that the charges against the appellant were proved. The appellant was provided full opportunity of defense to prove himself innocent, but he failed to prove himself innocent.

g. Incorrect. The appellant was treated as per law/rules. The charges leveled against him were proved. Presence of such black sheep in police force and any kind of leniency will encourage the misuse of authority. The appellant was found guilty of misconduct.

h. Incorrect. The appellant being a member of a disciplined force committed gross misconduct. The charges leveled against him were stand proved, hence he was awarded the major punishment.

i. Incorrect and based on misleading. Infact the appellant failed to rebut the charges during the course of enquiry and the inquiry officer conducted thorough probe into the matter and found the appellant guilty of the charges.

PRAYER.

In view of the above, and keeping in view the gravity of slackness, willful negligence and misconduct of appellant, it is prayed that appeal being devoid of merit may kindly be dismissed with cost please.

Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.

Capital City Police Officer,
Peshawar.

Superintendent of Police,
HQrs, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.10015/2020.

Majid Ullah Ex- Constable No.5668 of CCP, Peshawar.....**Appellant.**

VERSUS.

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others. **Respondents.**

AFFIDAVIT.

We respondents 1, 2 and 3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.

Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.

Capital City Police Officer,
Peshawar.

Superintendent of Police,
HQrs, Peshawar.

"A"

1. **Name of Official** **MAJID ULLAH NO.5668 SO NIAZ ALI**

   R/O Afghan Colony PS Faqir Abad Distt: Peshawar

2. **Date of Birth** 30.03.1992
3. **Date of enlistment** 01.01.2012
4. **Education** **10th**
5. **Courses Passed** **Recruit**
6. **Total qualifying service** 08 years, 01 Month & 05 days.
7. **Good Entries** **Nil**

Bad Entries (L.W.O Pay, E/Drill & Warning)

1. 09 days leave without pay vide OB No.3327 dt: 30.10.2018
2. 02 days E/drill vide OB No.2190 dt: 26.05.2017
3. 01 day E/drill vide OB No.3463 dt: 19.09.2017
4. 01 day E/drill vide OB No.2757 dt: 14.07.2015
5. 01 day E/drill vide OB No.396 dt: 29.01.2018
6. 01 day E/drll vide OB No.3272 dt 31.08.2015
7. 03 days leave without pay vide OB No.296 dt: 11.04.2018
8. 02 days leave without pay vide OB No.413 dt: 22.05.2012
9. Warning be carful in future vide OB No.597 dt: 13.07.2012
10. 01 day E/drill vide OB No.580 dt: 09.07.2012
11. 01 day E/drill vide OB No.523 dt: 26.06.2012
12. 01 day leave without pay vide OB No.01 dt: 01.01.2015
13. 14 days leave without pay vide OB No.98 dt: 26.01.2015
14. 10 days leave without pay & 05 days E/drill vide OB No.202 dt: 19.02.2015

Minor Punishment

1. 01 Week Quarter Guard vide OB No. 1476 dt: 20.04.2016

8. **Major Punishment**

Nil

Punishment (Current)

- **Awarded the major punishment dismissed from service on the charged o involement in case vide FIR No.396 date 24.02.2020 u/s 365-A PS Chamkan vide OB No.892 dated 17.03.2020 by SP/HQrs Peshawar.**

eave Account

tal leave at his credit	Availed leaves	Balance
388 days	Nil	388 Days

CRC

"B"

CHARGE SHEET

I, Superintendent of Police, Headquarters, Capital City Police Peshawar, as a competent authority, hereby, charge that FC Luqman No.2739, FC Majid No.5668 & FC Hamid No.5193 of Capital City Police Peshawar with the following irregularities.

"That you FC Luqman No.2739, FC Majid No.5668 & FC Hamid No.5193 were involved in a criminal case vide FIR No.396 dated 24.02.2020 u/s 365-A PS Chamkani. This amounts to gross misconduct on your part and is against the discipline of the force."

You are, therefore, required to submit your written defence within seven days of the receipt of this charge sheet to the Enquiry Officer committee, as the case may be.

Your written defence, if any, should reach the Enquiry Officer/Committee within the specified period, failing which it shall be presumed that have no defence to put in and in that case ex-parte action shall follow against you.

Intimate whether you desire to be heard in person.

A statement of allegation is enclosed.

SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

DISCIPLINARY ACTION

I, Superintendent of Police, Headquarters, Capital City Police Peshawar as a competent authority, am of the opinion that FC Luqman No.2739, FC Majid No.5668 & FC Hamid No.5193 has rendered him-self liable to be proceeded against under the provision of Police Disciplinary Rules-1975

STATEMENT OF ALLEGATION

"That FC Luqman No.2739, FC Majid No.5668 & FC Hamid No.5193 was involved in a criminal case vide FIR No.396 dated 24.02.2020 u/s 365-A PS Chamkani. This amounts to gross misconduct on his part and is against the discipline of the force."

For the purpose of scrutinizing the conduct of said accused with reference to the above allegations an enquiry is ordered and Mr. Niaz Muhammad is appointed as Enquiry Officer.

2. The Enquiry Officer shall, in accordance with the provisions of the Police Disciplinary Rules, 1975, provide reasonable opportunity of hearing to the accused officer, record his finding within 30 days of the receipt of this order, make recommendations as to punishment or other appropriate action against the accused.

3. The accused shall join the proceeding on the date time and place fixed by the Enquiry Officer.

SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

No. 45 /E/PA, dated Peshawar the 26/2/2020

1. DSP Civil Sect is directed to finalize the aforementioned departmental proceeding within stipulated period under the provision of Police Rules-1975.
2. Official concerned

SP/HQ.rs/E/Rizwan/New punishment folder/Charger sheet new

"D" 2nd enquiry 89

Reference Attached

Subject: **INQUIRY AGAINST FC LUQMAN KHAN NO. 2739, FC MAJIDULLAH NO.5668, HAMID KHAN5 NO.5193 CCP PESHAWAR**

Memo:

In continuation to this office letter No. 45/E/PA dated 10.03.2020 on the subject cited above.

The inquiry was sent to the high-ups for further proceedings but it was back sent to the undersigned with the following deficiencies.

1. That the statement of the complainant/abducted namely Muhammad Sharif r/o Talagang Punjab has not been recorded.

2. That the statement of the alleged official has not been recorded.

3. That the Photographs of the vehicles in which the complainant was kidnapped is also not available.

To complete the inquiry report the complainant was summoned through SHO Khazana, on 11.03.2020 to produce the complainant but he reported back that he searched the complainant but he does not known by anybody and his repot was attested by village councillor Namely Nazim Haji Basharat Khan.

The case file FIR No.396 dated 24.02.2020 was examined in which the CO Investigation Circle/Rural Inspector Mukhtiyar Khan has recorded the statement of the complainant before the Judicial Magistrate. Copy of 164 Cr.PC is attached on flag (N).

Similarly the statement of the witness of the recovery memo has also been recovered shown with flag (P).

The photographs of the vehicle is attached with flag (I, M).

The statements of the alleged officials has been shown with flags (C, D, E).

All the deficiencies has been completed. The report is submitted.

(Niaz Muhammad)
Deputy Superintendent of Police
(Security), Civil Secretariat,
Peshawar.

No. 63 /R, Dated 16 / 03 /2020
E-4 (89)

W/SP/HQrs

PA
For legal procedure
SP/HQ
17/03/2020

Subject: **INQUIRY AGAINST FC LUQMAN KHAN NO. 2739, FC MAJIDULLAH NO.5668, HAMID KHAN5 NO5193 CCP PESHAWAR**

Memo:

Please refer to your office letter No.45/E/PA, dated 26/02/2020 on the subject cited above.

ALLEGATIONS:-

That Constable Luqman No.2739, FC majidullah5668, and FC Hamid khan 5193 was involved in a criminal case vide FIR No.396 dated 24.02.2020 u/s 365 A PS Chamkani.

PROCEEDINGS:-

To dig out the real fact the alleged officials was behind the bar therefore the undersigned visits the Central Jail Peshawar where the Jail authority produces the alleged official. Charge sheet and summary of allegation was served upon them. They were personally heard one by one. They were also cross examined however their statement were not recorded as they demand time for reply.

To further verify the inquiry posting record of the all alleged officials were obtained from OSI Branch. Which reveals that Constable Hamid has been remain posted in different Police Station and suspended on 26.06.2019.While reinstated in service on 17.01.2020. His service record also examined which reveals, that another inquiry vide Senior Superintendent of Police Operation, Peshawar letter No.108-12/PA dated 10.01.2020 was awarded the punishment of forfeiture of 01 year approved service. His service record is full of bad entries.

The posting record of FC Luqman was examined which shows that he has remained posted is different Police Station. His posting record also examined by undersigned which reveals that he has a bad entries and has awarded minor punishment vide OB No.1006 dated 29.08.2017. Posting record of FC Majid Ullah was examined which shows that he is also remain posted at best Police Stations of the District Peshawar like Pharipura, Chamkani, Hayatabad, His service record examined which reveals that's there is fourteen bad entries (L.w.o Pay E/drill & warning). While one minor punishment vide OB No.1476 dated 20.06.2019.

The OII of PS Chamkani Inspector Mukhtiyar Khan was summoned appear before the undersigned and his statement recorded. He stated that he is the CO Rural Circle Peshawar Investigation. FIR No.396 dated 25.02.2020 u/s 365-A was handed over to him for investigation. In which the SHO of PS Chamkani arrested the three alleged officials. Who were produce by the CO to the concerned Court but the custody was refused by the Judge and they was sent to judicial lockup. He also produces two photographs of the vehicles in which the abducty was kidnapped for ransom. Attached with enquiry file.

Similarly he also produced the photographs near Peshawar Motorway toll plaza in which the all the accused has been shown and they are sitting the abductees namely Muhammad shareef.

The SHO of Police Station Insp: Hafeez -Ur- Rahman who submitted his reply and stated that he has lodge a FIR No.396 dated 25.02.2020 u/s 365-A PS Chamkani and have arrested the accused Namely Hamid, Majid s/o Maj Ali r/o Sarwarni Charsadda and Luqman s/o Mahraban Shah village of Nisata Charsadda and has recovered Rs: 8000/- Rupees from the possession of Luqman and Rs: 10,550/- from the possession of Majid Khan.

(11)

The witness of the recovery of the recovery memo FC Muhammad Zubair No.173 was also examined and his statement recorded he verify the statement of SHO.

To further verify the allegations the ex-SHO PS Tatara Hamayun khan was summoned who stated that he transfer Luqman and Majid FCs from PS Pharipura to PS Tatara on 23/1/2020.on general duty. While on 23/2/2020 above name constables were absented.

The Moharrar of PS Tatara MASI Gulzar was summoned appear before the undersigned and his statement recorded. He stated that constable Majid and Luqman were deputed for duty in plain clothes on the direction of SHO and their proceeding /return was attached with SHO. In this connection he produces some DD reports which are also attached.

The MASI of the police line was summoned who appear before the undersigned and recorded his statement. He stated that constable Hamid No.5193 has absented on 07/01/2020.valid DD no 104 and still absent.

To further verify the allegations the complaint of the case namely Sharif-Ud-Din s/o Gulam Rasool r/o talagang District Chakwal present khazana sugar mill was summoned through SHO PS/Khazana. But he could not appear before the undersigned to record his statement.

The replies of the alleged officials was received which is un satisfactory.

FINDING:-

After going through the inquiry papers statements of the witness and statements of the alleged officials and cross examinations the undersigned came to the conclusion that there is sufficient evidence on case file which connect the alleged officials with the allegations. All allegations has been proved and the alleged found guilty of gross misconduct. They are not deserved to be remain in Police department.

Keeping in view the above mentioned factors under Police 1975 Rule 4(1), (b) they are recommended for major penalty.

(Niaz Muhammad)
Deputy Superintendent of Police
(Security), Civil Secretariat,
Peshawar.

No. 56 /R, Dated 10 / 03 /2020

Encl (61)

Issue Final Show Cause Notice

SP Tal 10/3/20

W/SP/HQrs

"E"

(44) (7)

FINAL SHOW CAUSE NOTI

I Superintendent of Police ters, Capital City Police Peshawar, as competent authority, under the provision of Police Disciplinary Rules 1975 do hereby serve upon you, FC Luqman No.2739, FC Majid No.5668 & FC Hamid No.5193 the final show cause notice.

The Enquiry Officer, DSP Civil Secretariat, after completion of departmental proceedings, has recommended you for major punishment for the charges/allegations leveled against you in the charge sheet/statement of allegations.

And whereas, the undersigned is satisfied that you FC Luqman No.2739, FC Majid No.5668 & FC Hamid No.5193 deserve the punishment in the light of the above said enquiry report.

And as competent authority, has decided to impose upon you the penalty of minor/major punishment under Police Disciplinary Rules 1975.

1. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

2. If no reply to this notice is received within 7 days of its receipt, in normal course of circumstances, it shall, be presumed that you have no defence to put in and in that case as ex-parte action shall be taken against you.

SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

No. 45/E /PA, SP/HQrs: dated Peshawar the 10/3 /2020. 10/3

Copy to official concerned

وصول شد

9/3/20

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A No. 10015/2020

Majid Ullah versus Superintendent & Others

REJOINDER

Respectfully Sheweth,

PRELIMINARY OBJECTION

All the 07 Preliminary Objections are illegal and incorrect. No reason in support of the same is ever given as to why the appeal is barred by law and limitation, bad for mis and non-joinder of parties, , has not come to the hon'ble court with clean hands, has no cause of action, estopped by his own conduct, concealment of material facts and not maintainable.

ON FACTS

1. Admitted correct to the extent of appointment, while rest of the para is not correct. Previous laxities, if any, cannot form basis for further punishment.

2. Not correct. Appellant never involved himself in any adverse activity. Rest of the para is not correct. At the same time, he was not on duty and in such like cases identification parade is must which was not done in the case in hand.

3. Admitted correct to the extent of suspension, yet no proper enquiry was held as per the mandate of law. No Charge Sheet was ever served upon appellant. In fact it was a private transaction regarding sale of vehicle between two private persons on purchase of vehicle and remaining amount. No terms and conditions of service was ever violated.

4. Not correct. Neither appellant was served with Charge Sheet nor proper enquiry was conducted in the matter as is evident from the same.

5. Not correct. The para of the appeal is correct regarding custody of appellant on 22-02-2020 and not on 24-02-2020.

6. Not correct. The para of the appeal is correct regarding non conduct of regular enquiry.

7. Not correct. No Final Show Cause Notice was ever served upon appellant as at the same time, he was behind the bar, which fact was well within the knowledge of respondents. The authority after scrutinizing the record regarding conduct of enquiry himself admitted the fact that enquiry was not conducted in accordance with law.

8. Not correct. Remand of the enquiry back to the Inquiry Officer itself speaks that the same was not conducted as per the mandate of law.

9. Admitted correct by the respondents regarding release on bail in the matter.

10. Not correct and as stated earlier, when the authority himself admitted that enquiry was not conducted as per the mandate of law, so no opportunity of rectification under the law exists.

11. Admitted correct to the extent of dismissal from service.

12. Not correct. The para of the appeal is correct regarding submission of appeal, its rejection and receipt of the copy of order on 24-08-2020.

GROUNDS:

a. Not correct. Complainant was sitting with other police officials in the police vehicle which were not brought on surface.

b. Not correct. Complainant himself is involved in many adverse activities.

c. Not correct. The ground of the appeal is correct regarding conduct of enquiry not per the mandate of law.

d. Not correct. During the enquiry proceeding, appellant was behind the bar and in such like situation, issuing of Show Cause Notice

and Charge Sheet becomes meaningless not served upon appellant.

e. Not correct. Perhaps the Inquiry Officer has completed the so called enquiry report in his room and not in accordance with law as at the same time, appellant was behind the bar. The Inquiry Officer was legally bound to go to Jail for the purpose.

f. Not correct and as above in ground "C". The ground of appeal is correct regarding non opportunity of cross examination.

g. Not correct. The matter was not dealt with as per the mandate of law. Of course, police is full of back sheep's, yet not the appellant.

h. Not correct. Appellant has no concern with the subject matter.

i. Not correct. When Inquiry Officer never met with appellant for enquiry, then how the charges become proved.

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

Appellant

Through

Saadullah Khan Marwat
Advocate,

Dated: 30-06-2021

AFFIDAVIT

I, Majid Ullah 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.

I reaffirm the same on oath once again to be true and correct as per the available record.

KHALID MAHMOOD ADVOCATE ATTESTED NOTARY PUBLIC PESHAWAR HIGH COURT

DEPONENT