

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

Service Appeal No. 5365/2020

Date of Institution ... 04.06.2020

Date of Decision... 02.03.2023

Fayyaz Badshah Ex-Inspector Kohat Police.

... (Appellant)

**VERSUS**

Inspector General of Khyber Pakhtunkhwa Police Peshawar and 02 others.

... (Respondents)

-----  
MR. ATIQ-UR-REHMAN,  
Advocate

---

For appellant.

MR. MUHAMMAD RIAZ KHAN PAINDAKHEL,  
Assistant Advocate General

---

For respondents.

MR. SALAH-UD-DIN  
MS. FAREEHA PAUL

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MEMBER (JUDICIAL)

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MEMBER (EXECUTIVE)

**JUDGMENT:**

SALAH-UD-DIN, MEMBER:- Precise facts surrounding the instant service appeal are that the appellant was proceeded against departmentally on the allegations re-produced as below:-

*"i. That on 05.01.2019, an incident of assault on Police was taken place in the jurisdiction of Sub Division Darra and you alongwith other 10/12 officials duly armed was present at the distance of 150/200 meters from place of incident, but you deliberately did not respond/rescue the Police.*

*ii. That in consultation with other stakeholders, Police has made nakabandis outlets of Darra i.e mattani, highway and Gulshan Abad checkpoints in*



*order to apprehend the suspects/culprits and their vehicles, particularly coal trucks.*

*iii. That you have facilitated about 70/75 vehicles to proceed on un-frequented routes and took Rs. 300/- per vehicles as illegal gratification from them.*

*iv. That reportedly, you are getting illegal gratification from officials deployed at Eagle Fort and grant them illegal leave.*

*v. That you are ill-reputed caused embarrassment for the entire department and reportedly involve in anti-merger activities."*


2. On conclusion of the inquiry, the appellant was awarded major penalty of dismissal from service by Commandant Darra Sub-Division/ District Police Officer Kohat vide order bearing O.B No. 90 dated 10.02.2020. The same was challenged by the appellant through filing of departmental appeal before DIG Kohat Region Kohat, which remained un-responded within the statutory period of 90 days, therefore, the appellant filed the instant service appeal on 04.06.2020. It was during the pendency of the instant service appeal that the departmental appeal of the appellant was decided vide order dated 25.06.2020 and his revision petition was then also rejected vide order dated 04.03.2021 issued from the office of Inspector General of Police Khyber Pakhtunkhwa Peshawar.

3. After admission of the appeal for regular hearing, notices were issued to the respondents, who contested the appeal by way

of filing of joint reply, wherein they refuted the assertion raised by the appellant in his appeal.

4. Learned counsel for the appellant has addressed his arguments supporting the grounds agitated by the appellant in his service appeal. On the other hand, learned Assistant Advocate General for the respondents has controverted the arguments of learned counsel for the appellant and has supported the comments submitted by the respondents.

5. Arguments have already been heard and record perused.



6. The appellant was proceeded against departmentally by issuing him charge sheet as well as statement of allegations on 08.01.2020 and ASP Saddar Kohat was appointed as Inquiry Officer in the matter. We have gone through the inquiry report submitted by the inquiry officer, wherein it is mentioned that the testimony of the SHO, Driver, Subedar etc amply prove that the accused Fayaz Badshah displayed cowardice and did not respond to the call of duty. The respondents have, however not annexed statement of any of the witnesses recorded during the inquiry proceedings. On our query, representative of the respondents categorically stated that no other statement except the documents annexed as page-16 to page 20 with the reply of the respondents are available in record of the respondents. We have gone through the afore-mentioned documents and have observed that the documents as page 17 to 20 are undated applications of Naib Subedar Khan Aslam, addressed to various officers regarding an


amount of Rs. 14300/-, which was spent by him on arrangement of vehicles and Generator for election duty and was not paid to him by the appellant. Similarly, on page-16 of the reply is an application submitted by Subedar Ilyas to the District Police Officer regarding the incident, which took place on 05.01.2020. The said application was submitted on 13.01.2020, while the charge sheet was received by the appellant on 14.01.2020. Even if the afore-mentioned application of the appellant is considered as statement of Subedar Ilyas, no opportunity was afforded to the appellant to cross-examine him, therefore, the same could not be considered as evidence against the appellant. The allegations against the appellant are though grave in nature, however the same have not been substantiated through recording of any cogent evidence during the inquiry proceedings against the appellant.


7. Moreover, the available record does not show that final show-cause notice was issued to the appellant and he was provided copy of the inquiry report. This Tribunal has already held in numerous judgments that issuance of final show-cause notice along with the inquiry report is must under Police Rules, 1975. Reliance is also placed on the judgment delivered by august Supreme Court of Pakistan reported as PLD 1981 SC-176, wherein it has been held that rules devoid of provision of final show cause notice along with inquiry report were not valid rules. Non issuance of final show cause notice and non-supply of copy of the findings of the inquiry officer to the appellant has

caused miscarriage of justice as in such a situation, the appellant was not in a position to properly defend himself in respect of the allegations leveled against him.

8. In view of the above discussion, the appeal in hand is accepted by setting-aside the impugned orders 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  
02.03.2023

  
(FAREEHA PAUL)  
MEMBER (EXECUTIVE)


  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

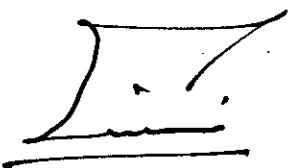
ORDER  
02.03.2023

Appellant alongwith his counsel present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present. Arguments have already been heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand is accepted by setting-aside the impugned orders 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  
02.03.2023

  
(Fareeha Paul)  
Member (Executive)

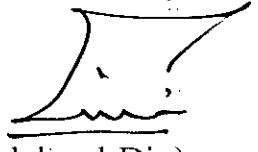
  
(Salah-Ud-Din)  
Member (Judicial)

28.02.2023

Appellant alongwith his counsel present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Arguments heard. To come up for order on 02.03.2023 before the D.B. Parcha Peshi given to the parties.

  
(Fareeha Paul)  
Member (E)

  
(Salah-ud-Din)  
Member (J)

SCANNED  
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Postnet

21.11.2022

Appellant in person present. Mr. Arif Saleem, Steno alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Appellant requested for adjournment on the ground that his counsel is not available today due to strike of lawyers. Adjourned. To come up for arguments on 13.01.2023 before the D.B.



(Mian Muhammad)  
Member (E)

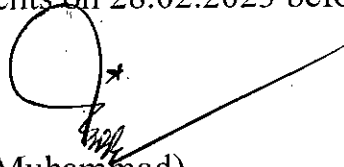


(Salah-Ud-Din)  
Member (J)

13.01.2023

Appellant alongwith clerk of his counsel present. Mr. Muhammad Jan, District Attorney for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to strike of lawyers. Adjourned. To come up for arguments on 28.02.2023 before the D.B.



(Mian Muhammad)  
Member (E)



(Salah-Ud-Din)  
Member (J)

SCANNED  
KPST  
Peshawar

SCANNED  
KPST  
Peshawar




21.07.2022

Junior to counsel for appellant present.

Muhammad Adeel Butt, learned Additional Advocate General alongwith Arif Salim Stenographer for respondents present.

Former made a request for adjournment as senior counsel is busy before the Hon'ble Peshawar High Court Peshawar. Adjourned. To come up for arguments on 27.09.2022 before D.B.

  
(Fareeha Paul)  
Member(E)


  
(Rozina Rehman)  
Member (J)

27.09.2022

Junior to counsel for appellant present.

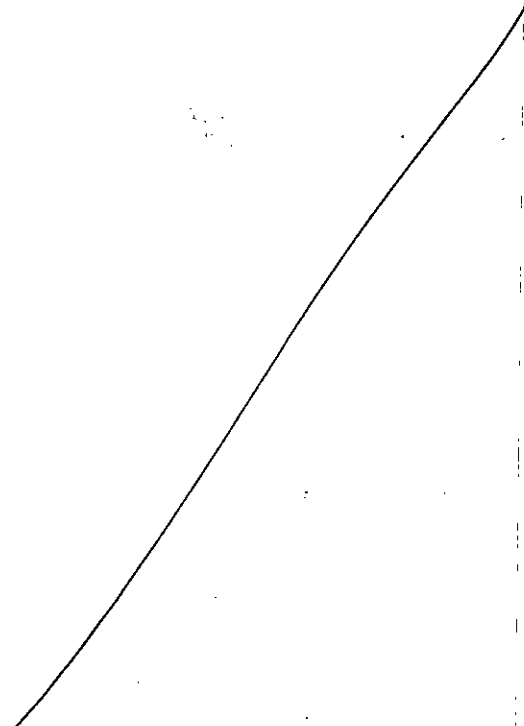
Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Due to general strike of the bar, case is adjourned to 21.12.2022 for hearing before D.B.

  
(Fareeha Paul)  
Member (E)


  
(Rozina Rehman)  
Member (J)





18.01.2022

Appellant in person present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Mr. Arif Saleem, Stenographer for respondents present and submitted reply/comments which are placed on file and copy of the same is handed over to the appellant. To come up for rejoinder if any, and arguments before the D.B on 10.05.2022.




(Atiq-Ur-Rehman Wazir)  
Member (E)

10.05.2022

Junior to counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Junior to counsel for the appellant submitted rejoinder which is placed on file and requested for adjournment as senior counsel for the appellant is not available today. Last opportunity is granted. To come up for arguments before the D.B on 21.07.2022.



(Fareeha Paul)  
Member (E)



Chairman

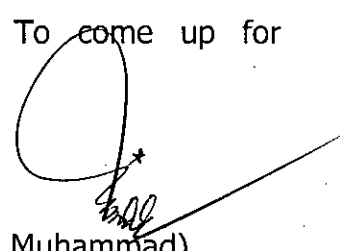
07.12.2021

Counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant advanced his arguments with the plea that the Service Tribunal has been approached against the impugned order of respondent No.3 dated 10.02.2020 whereby major penalty of dismissal from service was imposed on the appellant. The appellant submitted departmental appeal against the impugned order on 17.02.2020. The appellant, thereafter, approached the Service Tribunal on 04.6.2020. However, during pendency of the service appeal, appellate order was passed on his departmental appeal, on 25.06.2020. Learned counsel for the appellant therefore, requested for amendment in the instant service appeal to this extent which was acceded to and amended Service appeal submitted accordingly. It was further contended that the appellant was neither afforded the opportunity of personal hearing nor called in orderly room. The proceedings have not been held in the prescribed manner as no opportunity of cross examination provided to the appellant and no show cause notice issued to the appellant. The impugned order dated 10.02.2020, appellate order dated 25.06.2020 and order on revision petition under Rule 11-A of the Khyber Pakhtunkhwa Police Rules 1975 dated 04.03.2021 are therefore, liable to be set aside and the appellant reinstated in service with all back benefits.

The appeal is admitted to regular hearing subject to all just legal objections including limitation. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to respondents for submission of reply/comments. To come up for reply/comments on 18.01.2022 before S.B.

Amount Deposited  
Security & Process Fee

  
(Mian Muhammad)  
Member(E)

22.04.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 10.08.2021 for the same as before.



Reader

10.08.2021

Since 10.08.2021 has been declared public holiday on account of Ist Muharram, therefore, case to come up for the same on 07.10.2021 before S.B.



Reader

07.10.2021

Appellant alongwith his counsel Mr. Atiq-ur-Rehman, Advocate, present, who submitted fresh Wakalat Nama on behalf of the appellant and requested for adjournment on the ground that he has been engaged today. Adjourned. To come up for preliminary hearing before the S.B on 07.12.2021.



(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

03.09.2020

Counsel for the appellant present.

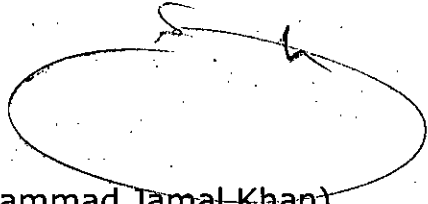
Requests for adjournment in order to further document the brief. The appellant may do so before the next date of hearing. Adjourned to 04.11.2020 for hearing before S.B.

  
Chairman

04.11.2020

Brother of appellant, on behalf of appellant is present.


Since the Members of the High Court as well as of the District Bar Association, Peshawar, are observing strike today, therefore, learned counsel for appellant is not available today. Adjourned to 20.01.2021 on which date to come up for preliminary hearing before S.B.

  
(Muhammad Jamal Khan)  
Member (Judicial)

20.01.2021

Junior counsel for appellant present.

He made a request for adjournment as senior counsel is not available. Adjourned. To come up preliminary on 22.04.2021 before S.B.

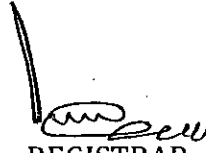
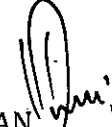

  
(Rozina Rehman)  
Member (J)

Form- A

# FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. - 5365 /2020

1S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	04/06/2020	<p>The appeal of Mr. Fayaz Badshah presented today by Syed Mudasir Pirzada Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR -</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>29/06/20</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2-	29.06.2020	<p>The Worthy Chairman is on leave, therefore, the case is adjourned. To come up on 03.09.2020 before S.B.</p> <p style="text-align: right;"> Reader</p>

BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal 5365 2020

Fayyaz Bad Shah Ex- Inspector Kohat Police

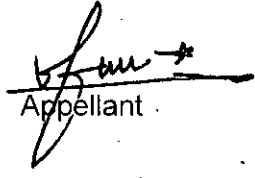
(Appellant)

VERSUS

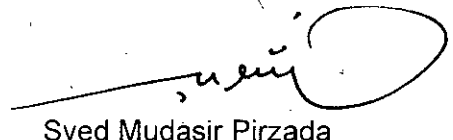
1. INSPECTOR GENERAL OF KPK POLICE PESHAWAR.
2. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT
3. DISTRICT POLICE OFFICER KOHAT. (Respondent)

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5	Copy of charge sheet, reply & FIR	B	9-13
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7	Wakalatnama		

  
Appellant

Through

  
Syed Mudasir Pirzada  
Advocate HC  
0345-9645854

Date 4/6/20

BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Fayyaz Bad Shah Ex- Inspector Kohat Police

(Appellant)  
Khyber Pakhtunkhwa  
Service Tribunal

VERSUS

Diary No. 4659  
Dated 04/6/2020

1. INSPECTOR GENERAL OF KPK POLICE PESHAWAR.
2. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT
3. DISTRICT POLICE OFFICER KOHAT. (Respondent)

**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 10.02.2020 VIDE OB-NO 90 IN WHICH THE RESPONDENT NO:-3 WITHOUT THE AID OF ENQUIRY DIRECTLY AWARD THE MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE WITH IMMEDIATE EFFECT THE APPELLANT PREFERRED DEPARTMENTAL REPRESENTATION DATED 17.02.2020 BUT THE SAME WAS NOT CONSIDERED NOR REJECTED TILL DATE**

Respectfully Sheweth,

With great veneration the instant appeal is preferred by the appellant on the following grounds:-

Facts:

1:-Briefly facts as per impugned order is that on 05.01.2019 an incident and assault on police was taken place in the jurisdiction of Sub Division Darra and you along with other 10/20 officials duly armed was present at the distance of 150/200 meters from the place of incident but you deliberately did not respond/ rescue the police.

2. That in consultation with other stakeholders police has made nakabandies outlests of Darra i.e. mattani highway and Gulshan Abad check posts in order to apprehend the suspects/culprits and their vehicles, particularly coal trucks.

3. That he has facilitated about 70/75 vehicles to proceed on un-frequented routes and took Rs 3000/- per vehicles as illegal qualification from them.

4. The reportedly, he has getting illegal gratification from officials deployed at Eagle Fort and grant them illegal leave.

5. That he was ill-reputed caused embarrassment for the entire department and reportedly involve in anti merger activities (Copy of Impugned order annexed as annexure A)

6. That appellant was served with the charge sheet along with statement of allegation and the appellant had properly submitted his reply which was deliberately not consider nor discussed in impugned order and an ex-partly

Filed to Day  
Registrar  
16/6/2020



proceeding were conducted against the appellant. (Copy of charge sheet etc and reply are annexed as annexure B)

That there is nothing is on the record which connect the appellant with the allegation nor proved and the appellant is blessed with impugned punishment which is not warranted by law.

That an unjust has been done with the appellant by not giving ample opportunity of cross examination as well as not heard in person nor properly enquired the allegation and ex-partly proceedings conducted against the appellant without probing held guilty the appellant without following the prescribed rules relating to enquiry proceedings as per Police Rules 1975 (amended 2014).

That nothing has been proved beyond any shadow of doubt that the appellant has committed any misconduct or tarnished the image of Police department.

That there are numerous good entries in the service record of the appellant which could be verified but this fact has not been taken in consideration while awarding the major punishment which is against to the canon of justice.

That the appellant was neither provided an opportunity to cross examine the witnesses nor to produce defense evidence and the enquiry proceedings accordingly defective. Furthermore the requirements of rules regarding enquiry have not been observed while awarding the impugned punishment.

That the appellant feeling aggrieved from the impugned order prefer departmental representation which was not consider nor entertained till to date (Copy of representation annexed as annexure C)

That the appellant dragged unnecessarily into litigation which is clearly mentioned in 2008 SCMR 725.

That while awarding the impugned major punishment the enquiry report has not been given to the appellant which is very much necessary as per 1991 PLC CS 706 & PLC 1991 584.

Grounds:

- a. That no enquiry has been conducted none from the general public was examined in support of the charges leveled against the appellant. No allegation mentioned above are practiced by the appellant nor proved against any cogent reason against the appellant.
- b. That the appellant was neither intimated nor informed by any source of medium regarding enquiry proceedings for any disciplinary action which shows bias on the part of respondents above.
- c. That the appellant was not heard in person nor called in orderly room and the same fact has also not mentioned in the impugned order that the appellant heard in person which is also against the service rules.

- d. That as per the contents of allegation in the charge sheet and the impugned order are different with each others.
- e. That it is not ascertainable that what element had promoted the competent authority to award punishment to the appellant in hasty manner.
- f. That as per the constitution of Islamic Republic Of Pakistan clearly speaks about the fundamental rights that the fair and transparent enquiry is the right of any employee.
- g. That the punishment is harsh in nature and the appellant is vexed for undone single offence which is against the constitution of Islamic republic of Pakistan 1973.
- h. That the appellant is honest and dedicated one and leave no stone unturned to discharge his duties.
- i. That as per universal declaration of human rights 1948 prohibits the arbitral / discretion.
- j. That the Respondent No-3 has acted whimsically and arbitrary, which is apparent from the impugned order.
- k. That regarding allegation of assault proper FIR was registered.
- l. That the impugned order is not based on sound reasons and same is not sustainable in the eyes of law. The same is based on wrong assumption of facts.
- m. That the departmental enquiry was not conducted according to the rules.
- n. That the impugned order is outcome of surmises and conjecture.

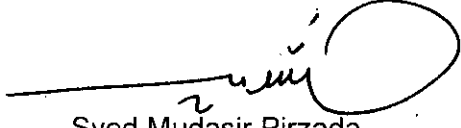
Pray:

In the view of above circumstances it is humbly prayed that the impugned order of Respondent No-3 dated 17.02.2020 Kohat may please be set aside for the end of justice and the appellant may please be graciously re-instate in service with all back benefits.

  
Appellant

Through

Date 4/6/20

  
Syed Mudasir Pirzada  
Advocate HC  
0345-9645854

Certificate:-

Certified that no such like appeal has earlier been filed in this Hon able Service tribunal as per instruction of my client.

List of Books

- 1:- Constitution of Pakistan 1973
- 2:- Police Rules
- 3:- Case Law according to need.

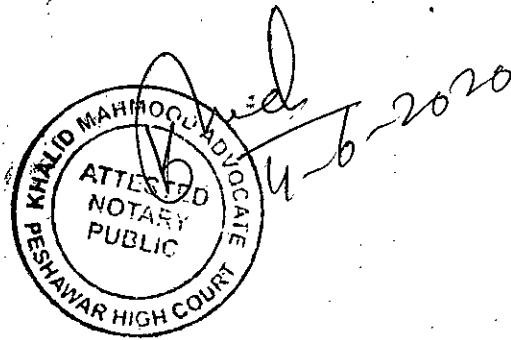
BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal \_\_\_\_\_ 2020

AFFIDAVIT

I, Syed Mudasir Pirzada Advocate, as per instruction of my client do here by solemnly affirm and declare that all the contents of accompanying service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

Advocate



BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Fayyaz Bad Shah Ex- Inspector Kohat Police

(Appellant)

VERSUS

1. INSPECTOR GENERAL OF POLICE KPK PESHAWAR.
2. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT
3. DISTRICT POLICE OFFICER KOHAT. (Respondent)

ADDRESS OF THE PARTIES

APPELLANT :-

Fayyaz Bad Shah Ex- Inspector Kohat Police

RESPONDENTS

1. INSPECTOR GENERAL OF POLICE KPK PESHAWAR.
2. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT
3. DISTRICT POLICE OFFICER KOHAT.

Appellant

Through

Date 4 / 6 / 20

Syed Mudasir Pirzada  
Advocate PHC  
0345-9645854



OFFICE OF THE COMMANDANT,  
DARA SUB DIVISION / DPO KOHAT

Aureanie  
A-  
P-8

ORDER

This order will dispose of departmental proceedings conducted against Erstwhile Khasadar constable Fayaz Badshah under the Khyber Pakhtunkhwa, disciplinary & efficiency Rules.

Facts arising are that on 05.01.2019, an incident of assault on Police was taken place in the jurisdiction of Sub Division Dara and he alongwith other 10/20 officials duly armed was present at the distance of 150/200 meters from place of incident, but he deliberately did not respond/rescue the police.

- ii. That in consultation with other stakeholders, police has made nakabandis outlets of Darra i.e mattani, highway and Gulshan Abad checkpoints in order to apprehend the suspects / culprits and their vehicles, particularly coal trucks.
- iii. That he has facilitated about 70/75 vehicles to proceed on un-frequented routes and took Rs. 3000/- per vehicles as illegal gratification from them.
- iv. That reportedly, he has getting illegal gratification from officials deployed at Eagle Fort and grant them illegal leave.
- v. That he has ill-reputed caused embarrassment for the entire department and reportedly involve in anti merger activities.

For the above, serious / professional misconduct of the accused official, charge sheet alongwith statement of allegations was served upon the accused official. ASP Saddar Kohat, was appointed as enquiry officer to scrutinize the conduct of accused official. The Enquiry officer vide his report, established the charges against the defaulter and were found guilty of the charge leveled against him.

I have gone through the available record and finding of the enquiry officer, which transpires that the accused official had committed a professional gross misconduct on his part.

Therefore, in exercise of powers conferred upon me under the ibid rules I, Capt. @ Mansoor Aman, District Police Officer, Kohat impose a major punishment of dismissal from service on accused Erstwhile Khasadar constable Fayaz Badshah with immediate effect. Kit etc issued be collected.

Announced  
07.02.2020

Commandant,  
Dara Sub Division / DPO Kohat

OB No. 90

Dated 10-2-2020

No. 737-40 /PA dated Kohat the 10-2-2020

- Copy of above is submitted for favour of information to the:-
1. Regional Police Officer, Kohat please
  2. Reader/Pay officer/SRC/OHS for necessary action.
  3. R./L.O for clearance report

Ahmed  
Wahid

Commandant,  
Dara Sub Division / DPO Kohat



Amme one B  
P-9-12  
OFFICE OF THE COMMANDANT,  
DARA SUB DIVISION/DPO KOHAT

No. 63. 23 / PA

Dated 08-1-2020

CHARGE SHEET.

1. CAPT @ MANSOOR AMAN, COMMANDANT, DARA SUB DIVISION/DPO KOHAT, as competent authority under Khyber Pakhtunkhwa, am of the opinion that you Erstwhile Khasadar constable Fayaz Badshah rendered yourself liable to be proceeded under Disciplinary Rules, as you have committed the following act/omissions.

- i. That on 05.01.2019, an incident of assault on Police was taken place in the jurisdiction of Sub Division Dara and you alongwith other 10/20 officials duly armed was present at the distance of 150/200 meters from place of incident, but you deliberately did not respond/rescue the police.
- ii. That in consultation with other stakeholders, police has made nakabandis outlets of Darra i.e mattani, highway and Gulshan Abad checkpoints in order to apprehend the suspects / culprits and their vehicles, particularly coal trucks.
- iii. That you have facilitated about 70/75 vehicles to proceed on un-frequented routes and took Rs. 3000/- per vehicles as illegal gratification from them.
- iv. That reportedly, you are getting illegal gratification from officials deployed at Eagle Fort and grant them illegal leave.
- v. That you are ill-reputed caused embarrassment for the entire department and reportedly involve in anti merger activities.

2. By reasons of the above, you appear to be guilty of misconduct under Rule 3 of the Rules ibid and have rendered yourself liable to all or any of the penalties specified in the Rule 4 of the Rules ibid.

3. You are, therefore, required to submit your written statement within 07days of the receipt of this Charge Sheet to the enquiry officer.

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

4. A statement of allegation is enclosed.

Attest

Commandant,  
Dara Sub Division/ DPO Kohat



OFFICE OF THE COMMANDANT,  
DARA SUB DIVISION / DPO KOHAT

No. 1023-CS/PA

Dated CS-1/2020

10

**DISCIPLINARY ACTION**

I, **CAPT @ MANSOOR AMAN, COMMANDANT, DARA SUB DIVISION / DPO KOHAT** as competent authority, am of the opinion that you **Erstwhile Khasadar constable Fayaz Badshah** have rendered yourself liable to be proceeded against departmentally under Khyber Pakhtunkhwa disciplinary & efficiency rules as you have committed the following acts/omissions:

**STATEMENT OF ALLEGATIONS**

- i. That on 05.01.2019, an incident of assault on Police was taken place in the jurisdiction of Sub Division Dara and you alongwith other 10/20 officials duly armed was present at the distance of 150/200 meters from place of incident but you deliberately did not respond/rescue the police.
- ii. That in consultation with other stakeholders, police has made nakabandis outlets of Darra i.e mattani, highway and Gulshan Abad checkpoints in order to apprehend the suspects / culprits and their vehicles, particularly coal trucks.
- iii. That you have facilitated about 70/75 vehicles to proceed on un-frequented routes and took Rs. 3000/- per vehicles as illegal gratification from them.
- iv. That reportedly, you are getting illegal gratification from officials deployed at Eagle Fort and grant them illegal leave.
- v. That you are ill-reputed caused embarrassment for the entire department and reportedly involve in anti merger activities.

2. For the purpose of scrutinizing the conduct of said accused with reference to the above allegations ASP Saeeda Kohat is appointed as enquiry officer. The enquiry officer shall in accordance with provision of the Police Rule-1975, provide reasonable opportunity of hearing to the accused official, record his findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused official.

The accused official shall join the proceeding on the date, time and place fixed by the enquiry officer.

Commandant  
Dara Sub Division/ DPO Kohat

No. 1023-CS/PA, dated CS-1/2020.

Copy of above to:-

1. \_\_\_\_\_:- The Enquiry Officer for initiating proceedings against the accused under the disciplinary & efficiency rules.
2. The **Accused Official**:- with the directions to appear before the Enquiry Officer, on the date, time and place fixed by him, for the purpose of enquiry proceedings.

Affected  
\_\_\_\_\_



## بخدمت جناب ڈسٹرکٹ پولیس آفیسر صاحب کوہاٹ

۱۱

جناب عالی!

بحوالہ چارج شیٹ نمبری PA/03-102 مورخہ 08-01-2020 من سائل پر الزام لگایا گیا ہے کہ مورخہ 05-01-2020 سب ڈویژن درہ آدم خیل کی حدود میں پولیس پر حملہ کیا گیا۔ اور یہ کہ من سائل بمعدہ 10/12 اہلکاران جائے وقوعہ کے 150/200 میٹر کی دوری پر موجود تھے۔ لیکن من سائل بمعدہ دیگر اہلکاران کوئی مزاحمت نہ کی۔ دوئم یہ کہ دیگر متعلقہ افراد کے مشورہ سے درہ کی خارجی شاہراہوں تخی، ہائی وے اور گلشن آباد پر چیک پوسٹیں قائم کی گئیں۔ تاکہ مظہر بان اور مشتبه کان کو گرفتار کیا جاسکے۔ لیکن بقول چارج شیٹ من سائل 70/75 گاڑیوں کو سہولت پہنچائی۔ اور گاڑیوں کو غیر مصروف راستوں کے عوض مبلغ 3 ہزار روپے فی گاڑی کو چھوڑا۔ اور یہ کہ مبینہ طور پر من سائل ایگل نورث کے اہلکاران سے پھنسی کے عوض رشوت لینے کا عادی ہے۔ اور یہ کہ من سائل قبائلی علاقوں کے ضم ہونے کا خلاف ہے۔

جناب عالی!

درج بالا تمام الزامات کے سلسلے میں نہایت ہی مؤدبانہ جواباً عرض ہے کہ یہ الزام بے بنیاد ہے۔ من سائل نے اپنی حتی المقدور کوشش کے ذریعے سے اور دیگر ذرائع سے بھی بلوس کو بھرپور اس بنانے کے لیے بھرپور اقدام کیے۔ اور ایسا طریقہ کار اختیار کیا کہ جس سے حالات بھی کشیدہ نہ ہوں۔ اور پولیس کو جانی و مالی نقصان کا اندیشہ بھی نہ ہو۔ جہاں تک گاڑیوں سے 3000/- روپے فی گاڑی لینے اور ان کو چھوڑنے اور چھینوں کے عوض ایگل نورث کے اہلکاروں سے رشوت لینے کے الزام کا تعلق ہے۔ تو اس بارے میں عرض ہے کہ یہ الزامات بے بنیاد اور کسی غلط فہمی کا نتیجہ معلوم ہوتے ہیں۔ نہ تو سائل نے کسی گاڑی کو رشوت کے عوض چھوڑا ہے اور نہ ہی ایگل نورث کے اہلکاران سے پھنسی کے عوض رشوت لی ہے۔ اور من سائل کے خلاف یہ الزام کہ وہ قبائلی علاقوں کے انضمام کا مخالف ہے۔ بھی غلط اور بے بنیاد ہے۔ اور ان الزامات کی کوئی حقیقت نہیں۔ اور نہ ہی ان الزامات کو ثابت کرنے کے سلسلے میں کوئی عینی یا واقعاتی شہادت موجود ہے۔ میں نے انضمام کے سلسلے میں حکومت اور فورس کی کافی مدد کی ہے۔

جناب عالی!

من سائل 25 سال بطور خاصہ دار پورے کرچکا ہے۔ اور اس دوران کبھی بھی جھگڑا نہ کارروای کا سامنا نہیں کیا ہے۔ اور نہ ہی کبھی کوئی ٹھکانہ مزایا ہوا ہے۔ من سائل کا سرورس ریکارڈ نہایت صاف اور بے داغ ہے۔ من سائل ایک باعزت گھرانے سے تعلق رکھتا ہے۔ اور ملازمت بھی عزت سے کی ہے۔ من سائل چارج شیٹ میں بیان کیے گئے الزامات میں ملوث ہونے کا سوچ بھی نہیں سکتا۔

جناب عالی!

چارج شیٹ سے معلوم ہوتا ہے کہ پولیس کے خلاف واقعہ کو من سائل اور دیگر کے خلاف الزامات لگا کر واقعات کا رخ بدلنے کی کوشش ہو رہی ہے۔ جو کہ من سائل جیسے قانون اور محکمے کے وفادار شخص اور جانفشانی سے ملازمت کرنے والے شخص کو ملازمت کو داغدار کرنے کے لیے مذکورہ بالا الزامات لگائے گئے ہیں۔ جو کہ درست نہ ہیں۔ اور نہ ہی واقعات کے مطابق ہیں۔ اس احتجاجی ریلی کے موقع پر موجود صوبیدار جاوید، صوبیدار ایس، صوبیدار جان بہادر بھی موجود تھے۔ جن سے بیانات لیے جاسکتے ہیں۔ جس سے حقیقت واضح ہو جائے گی۔ لیکن وقار خان SI/SHO تھانہ درہ آدم خیل نے واقعہ کا سارا لمبہ بوجھ چھ پر ڈالنے کی کوشش کی ہے۔ حالانکہ اس موقع پر کافی کسان صوبیداران اور SHO موجود تھے۔ من سائل بالکل بے گناہ ہے۔ اور ان الزامات میں نہ تو بلواسطہ اور نہ ہی بلاواسطہ ملوث ہے۔ من سائل کے خلاف چارج شیٹ غلط فہمی کا نتیجہ ہے۔ من سائل کو معافی دی جائے۔ اور چارج شیٹ کو بلا مزید کارروائی داخل دفتر کرنے کا حکم صادر فرمایا جائے۔ میں جناب DPO صاحب اور DIG صاحب کو پیش ہونا چاہتا ہوں۔

*Attest*

*فیاض بادشاہ*

متعینہ کنستبل تھانہ KDA

مورخہ 20-01-2020

19

فارم نمبر ۲۳-۵ (۱)

### ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ ۱۵۴۲ مجموعہ ضابطہ فوجداری

درہ آدم خیل	ضلع	کوٹلی
45	تاریخ	5/2020 وقت 4:16:00

سب ڈویژن رپورٹ	5/2020 وقت 17:15	جانکدگی برچہ	5/2020 وقت 4:18:00
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سکونت اطلاع دہندہ مستغیث	0333 9612 426	رقم	324-353-120B-123A-124A-148-149-337A
ریکیٹ جرم (معد دفعہ) حال اگر کچھ لیا گیا ہو۔		رقم	337L-342-436-427-341L-7ATA

توقعہ فاضلہ تھانہ سے اور سمت	کوٹلی روڈ نزد جناح مسجد مکان واضح دیدہ شیر اکی
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دوائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو	سرسید گی فرانسہ فریڈا برچہ دیا جاتا ہے رط
---	---

سب ڈویژن رپورٹ

ابتدائی اطلاع نیچے درج کرو۔ اس وقت ایک تحریری فرانسہ بطور ایسٹبل رپورٹ

مستغیث وقار احمد S.H.O درہ آدم خیل تھانہ میں ہو کر درج ذیل پر تحریر فرمائے درہ آدم خیل امروز صبح 5/2020 کو اللہ علی ملی کہ ذیل سرکردہ شہریہ کسان خانہ انتظام کے خلاف بمقام ایگل فورٹ باسٹل جمع ہو گئے جسکی سیکورٹی کھیلے میں S.H.O مجھ دیگر نفری ایگل فورٹ جا کر سیکورٹی انتظامات کھیلے گئے کہ اس دوران 1) ملک اکبر خان 2) ملک نور زحان 3) جان شیر 4) نسل سید 5) اقبال 6) صادق 7) ولایت 8) ستار 9) اویس نواز 10) جعفر 11) راحت 12) ملک ناسرخان 13) یوسف 14) طرز خیل 15) صاحب شوکت حسین 16) ظاہر 17) روٹیا د 18) اسرار 19) احتیاز 20) فاروق سائمن درہ آدم خیل میں تقریباً 50 کسان مختلف گاڑیوں میں آ کر بمقام ایگل فورٹ جمع ہوئے اور مذکورہ گاڑیوں کو سیکورٹ کرنا انتظام اور حکومت پاکستان کے قوانین کے خلاف استعمال انگیزہ تعمیر اور نذر بازی کرنے کی ریلی کے شرکاء میں سرکردہ شہریہ کسان گاڑیوں اور موٹر سائیکلوں میں ریلی کی شکل میں ایگل فورٹ سے روانہ ہو کر جیلے ساتھ سیکورٹی کی خاطر پولیس نفری کو پھرانے کے لئے درہ آدم خیل سے ریلی درہ فارم سے ہوتے ہوئے فریڈا برچہ کی بیچ کر روڑ کے اوپر جمع ہو کر دوبارہ پاکستان کے قوانین کے خلاف استعمال انگیزہ تعمیر میں شرکت سے ریلی کے شرکاء اور سرکردہ کسان تفتیش میں آ کر ہم پولیس پارٹی پر ڈنڈوں اور پھروں کے گزارشات اور ساتھ ہی مذکورہ کسان نے ہم پولیس پارٹی پر بااثرانہ قتل کا الزام بھی شروع کی اور ساتھ ہی ہماری جوڑ کار کو آگ لگانے جس سے جوڑ کار کھل چکی بااثرانہ قتل کا الزام بھی شروع کی اور ساتھ ہی ہماری جوڑ کار کو آگ لگانے جس سے جوڑ کار کھل چکی ہم پولیس پارٹی نے تقریباً 50 کسان بااثرانہ قتل کا الزام بھی شروع کی اور ساتھ ہی ہماری جوڑ کار کو آگ لگانے جس سے جوڑ کار کھل چکی ریلی شرکاء گاڑیوں میں اور دیگر فریڈا برچہ کی طرف فرار کرنے کی ریلی کے شرکاء کے گزارشات اور ہم سے من S.H.O، محمد زحان ایگل فورٹ کا طرف الزام 256256 کے بدلے کے مختلف جگہ پر زخمی ہونے والے واقعات اور شرکاء ریلی کے آگ اور بااثرانہ قتل کا الزام بھی شروع کرنے کا طرف مذکورہ بالا نافذ کسان اور ہمیں پھلانے اور حکومت کے خلاف سازشیں پھلانے کرنے کے خلاف مذکورہ بالا نافذ کسان کے دیگر 40/5 کسان ہماری معلومات پر مذکورہ جرائم بالائے پائل فرانسہ بطور ایسٹبل رپورٹ ارسال فرمائے گا بعد اندراج مقدمہ کے ذریعہ تفتیش کیلئے ایسٹبل فرانسہ کو حوالہ کیا جاوے گا جبکہ میں ہم دیگر خبریں پولیس

لغرض علاج معالجہ KDA ہسپتال روانہ ہوں دستخط انگریزی وقار احمد SHO درہ آدم میں  
 صورت 5/2020 کا روٹی قاتل آدہ حراسہ حروف حرف درج ماہ ہرگز ہرگز بحرام بالاطور  
 ہسپتال اورش فاک ہرگز نسل ہرگز حراسہ لغرض تفتیش حوالہ KBI سٹاف کیا جاتا ہے  
 ہرگز ہرگز ہسپتال اورش گزارش ہے

Signature

MHA Darah

5-1-2020

A Hett  
 Signature

دستخط

اطلاع کے نیچے اطلاع دہندہ کا دستخط ہو گا یا اس کی مہر یا نشان لگا جائے گا اور اس پر تحریر کنندہ ابتدائی اطلاع کا دستخط یا بطور تصدیق ہو گا۔ حروف الف باء سرخ روشنائی  
 ایک ملزم یا مشتبه علی الترتیب واسطے باشندگان علاقہ غیر یا وسط البیضاء یا افغانستان جہاں موزوں ہوں لکھنا چاہئے۔

Annexure C

THE DEPUTY INSPECTOR GENERAL OF POLICE  
KOHAT REGION KOHAT

P- (14)

APPEAL UNDER RULE 11 OF THE POLICE  
RULES 1975 (AMENDED 2014) AGAINST THE  
IMPUGNED ORDER OF THE DISTRICT  
POLICE OFFICER KOHAT DATED 10-02-2020  
WHEREBY THE APPELLANT WAS AWARDED  
PUNISHMENT OF DISMISSAL FROM  
SERVICE WITHOUT ANY JUSTIFICATION.

Attested  
[Signature]

Respected Sir,

With great respect, the appellant may kindly be allowed to submit the following for your kind and sympathetic consideration.

FACTS OF THE CASE:

- 1) That the appellant joined the Khasa Dar Force in the year 1995.
- 2) That the appellant since his enrolment in the Khasa Dar Force discharged his official functions with keenness and devotion.
- 3) That on account of the hard work, officers have always reposed confidence in the appellant.
- 4) That the appellant has always served on merits and never indulged himself in any illegal or unethical activities.
- 5) That to the utter surprise of the appellant, following charges were framed by the competent authority.
  - i. On 05-01-2020 an incident of assault on police had taken place in the jurisdiction of Sub Division Dara and he along with other 10/20 officials duly armed was present at the scene of 150/200 meters from place of incident but he deliberately did not respond / rescue the police.
  - ii. That in-consultation with other stake holders, police has made nakabandis out-lests of Dara i.e. Matani highway and gulshanabad check posts in order to vehicles, particularly coal trucks.

- (15)
- iii. That he has facilitated about 70/75 vehicles to proceed Rs. 3000/- per vehicle as illegal gratification from them.
  - iv. That reportedly he is getting illegal gratification from officials deployed at the Eagle Fort and grant them illegal leave.
  - v. That he is ill reputed, caused embarrassment for the entire department and reportedly involved in anti merger activities.

6) That on the basis of the above charges the appellant was proceeded against departmentally which resulted in dismissal of the appellant vide order dated 10-02-2020.

7) That the impugned punishment order has aggrieved the appellant, therefore following are some of the grounds of appeal among the other.

#### GROUND OF APPEAL:

- a) That the punishment order is not in accordance with law, rules and principles of justice therefore, it is not sustainable in the eyes of law and liable to be set aside.
- b) That the enquiry was conducted at the back of the appellant and the appellant was not provided opportunity to defend himself.
- c) That no witness was examined in presence of the appellant and thus the right of cross examination was denied to the appellant which is against law, rules and all norms of justice.
- d) That not a single allegation against the appellant was brought to home.
- e) That during enquiry not a single allegation was established.
- f) That regarding the allegation No.1, the appellant cannot be held responsible because at the time of procession, the appellant was associated by a number of other officials including police officers i.e. the SHO P.S Dara Adam Khel. However, due to some misunderstanding the entire burden has been put upon the appellant.
- g) That the other allegations of charging 3000/- rupees per vehicle allowing them to proceed on unfrequented routs, illegal gratification from the officials of the Eagle Fort for granting them leave and the allegation of involvement of the appellant in anti merger activities are baseless, unfounded and incorrect. During enquiry no allegation

Attest  
[Signature]

whatsoever was proved against the appellant. Hence awarding punishment on such grounds is unwarranted and without any legal justification. (16)

- h) That the allegations leveled against the appellant seems to be result of some misunderstanding and malafide.
- i) That fair, transparent and independent enquiry / trial is the inherent fundamental right of the appellant which has been denied by the concerned authority.
- j) That the appellant in the year 2019 has earned commendation certificates for his good work from the DPO Kohat. (copies are enclosed)
- k) That the appellant cannot imagine to indulge himself in such illegal and unethical activities.
- l) That the appellant belongs to a respectable but poor family and he looks after his large family. The order of dismissal for no fault on part of the appellant will force family of the appellant to starvation.
- m) That the appellant absolutely innocent. The punishment awarded to the appellant is not attracted.
- n) That if deemed proper, the appellant may be heard in person.

PRAYER:

It is therefore, humbly requested that the order of dismissal of the appellant being not in accordance with law, facts and evidence on record may kindly be set aside and the appellant may please be reinstated in service from the date of dismissal with all perks and privileges. The appellant will pray for your long life and prosperity.

Dated: 17-02-2020

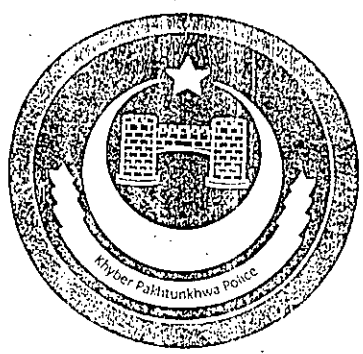
Yours Obediently

*[Signature]*  
Ex. Sub. Major Khasadar  
Fayyaz Badshah  
Mobile No. 0332-9521357

Boat No - 1963

*[Signature]*  
Attested  
*[Signature]*

# DISTRICT KHOAT POLICE



Commendation Certificate III  
is awarded to

Subedar Major Fayaz Bad Shah

In recognition of

His good performance vide case

FIR NO. 13 dated 3/19 u/s 15AA P.S

Darra Adam Khel. recovered 3 Kalashnikov  
Kove 2 110 Round, 3 accused arrested  
on the spot. 500/-

O.B. No. 1236

Dated 8.10.2019

*[Signature]*  
District Police Officer  
Kohat

*[Signature]*

# DISTRICT KHOAT POLICE



Commendation Certificate III  
is awarded to

Subedar Major Fayaz Bad Shah.

In recognition of

His good performance arresting POS.

- ① Naib Bad Shah HS-432/APD P.S. Darrani
  - ② Mir Hassan - HS-401/APD P.S. Darrani
- Reward Rs. 500/-

O.B. No. 1237

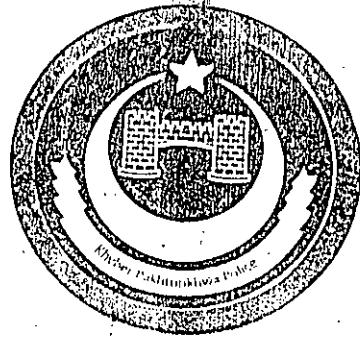
Dated 08-10-2019

District Police Officer  
Kohat

*(Signature)*



DISTRICT KHOAT POLICE 19



Commendation Certificate III  
is awarded to

Inspector Fayaz Bad Shah P. S. Dara.

In recognition of

His good performance vide case FIR No. 39

dated 21/2019 4/365 P.C P. S. Dara Adam Khel.

Cash reward Rs 500/-

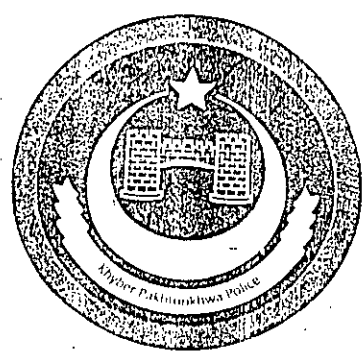
O.B. No. 1234

Dated 6/10/2019

District Police Officer  
Kohat

*[Handwritten signature]*

# DISTRICT KHOAT POLICE



Commendation Certificate III  
is awarded to

Inspect: Fayaz Bad Shah.


In recognition of Daya Adoni Khan.

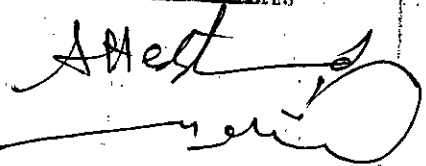
His good performance during duty.

Cash reward Rs = 1000/-

O.B. No. 1510

Dated 26-11-2019.

  
District Police Officer  
Kohat



ایڈووکیٹ دستخط: 

بار کونسل ابار ایسوسی ایشن نمبر: DC-09-1969

رابطہ نمبر: 0345-9645854

کوہاٹ بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: اس ڈیوٹی لے لیا

مہجانب: مناضی نے بادشاہ

بنا  
بنام  
161P  
د

دعویٰ: اس اس اہل

علت نمبر: د

مورخہ: د

تھانہ: د

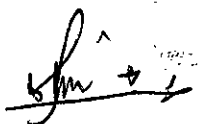
## باعت تحریر آنکہ

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

Syed Mudásir Pirzada  
Advocate High Court  
District Courts Kohat

آن مقام قلم کیلئے سند د

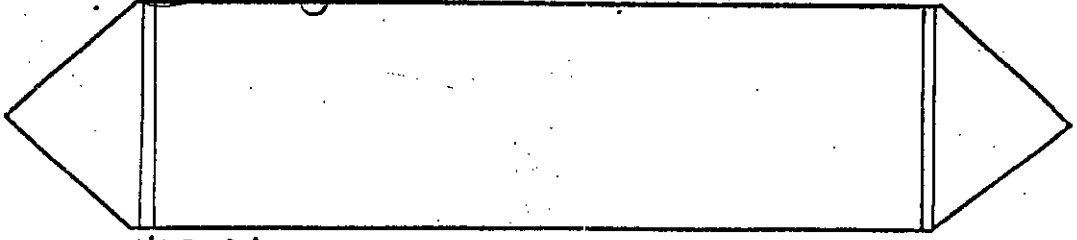
کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز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



المقوم

المقوم گواہ شد د

# بعدالت جناب سروس ٹریبونل بنام



Appellans 2022ء پنجاب

میاضی بادشاہ بنام یو بی سی

Service

Appeal

موزخہ

مقدمہ

دعویٰ

جرم

## باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
آن مقام بشار کیلئے عتیق الرحمن اور ولایت بانگی وکٹ

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور صولی چیک دروپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخ

نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور

کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار

ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ

پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانشین التوائے مقدمہ کے سبب سے وہ ہوگا۔

کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی

مذکور کریں۔ لہذا ادکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم \_\_\_\_\_ 06 \_\_\_\_\_ اکتوبر 2022ء

بمقام بشار

کے لئے منظور ہے۔

Attested

Accepted

میاضی بادشاہ

Attested  
عتیق الرحمن  
ولایت بانگی وکٹ  
BC-12-3560  
0334912434

POLICE DEPTT:

KOHAT REGION

ORDER.

This order will dispose of a departmental appeal, moved by Ex-Khasadar Constable Fayaz Badshah of Sub-Division Dara Adam Khel, Kohat against the punishment order, passed by DPO Kohat vide OB No. 90, dated 10.02.2020 whereby he was awarded major punishment of dismissal from service on the allegations cowardice, misusing his official authority, getting illegal gratification and involvement in anti-merger activities.

He preferred an appeal to the undersigned upon which comments were obtained from DPO Kohat and his service documents were perused. He was also heard in person in Orderly Room, held on 25.06.2020. During hearing, he did not advance any plausible explanation in his defense to prove his innocence.


I have gone through the available record and came to the conclusion that the allegations leveled against the appellant are proved beyond any shadow of doubt and the same has also been established by the E.O in his findings. Therefore, his appeal being devoid of merits is hereby rejected.

Order Announced  
25.06.2020

  
(TAYYAB HAFEEZ) PSP  
Region Police Officer,  
Kohat Region.

No. 6876 /EC, dated Kohat the 06/07 /2020.

Copy to DPO/Kohat for information w/r to his office Letter No. 3402/LB, dated 03.03.2020. His Service Book & Fauji Missal is returned herewith

  
(TAYYAB HAFEEZ) PSP  
Region Police Officer,  
Kohat Region.

# KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

## PROFORMA FOR EARLY HEARING

Form "A"

To be filled by the Counsel/Applicant

<b>Case No.</b>	Service Appeal No.5365/2020			
<b>Case Title</b>	Fayaz Badshah Vs. IGP, KP & others			
<b>Date of Institution</b>	2020			
<b>Bench</b>	<b>SB</b>		<b>DB</b>	✓
<b>Case Status</b>	<b>Fresh</b>		<b>Pending</b>	✓
<b>Stage</b>	<b>Notice</b>	<b>Reply</b>	<b>Argument</b>	✓
<b>Urgency to be clearly stated</b>	<p>The matter pertains to the service of the appellant as he has been imposed with a major penalty "Compulsory retirement from service". The appellant being the sole bread and butter earner for his family is suffering at the hands of respondents for no reason. The appellant right of livelihood is at stake, therefore, the early fixation is in the interest of justice.</p> <p>If the titled appeal is not fixed earlier then the appellant may suffer irreparable loss as valuable rights of the appellant are involved in the matter.</p>			
<b>Nature of the relief sought</b>	As per prayer in main appeal			
<b>Next date of hearing</b>	21.07.2022			
<b>Alleged Target Date</b>	Preferably in first week of June, 2022			
<b>Counsel for</b>	<b>Petitioner</b>	✓	<b>Respondent</b>	<b>In Person</b>

Regretted.  
25/5/22

  
Signature of Counsel/Party

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

**PROFORMA FOR EARLY HEARING**

**Form "B"**

Inst#

Early Hearing \_\_\_\_\_-P/2022

In Case No. 5365-P/2020

**Fayaz Badshah Vs. IGP, KP & others**

Presented by **Attig ur Rehman Advocate** on behalf of **Appellant**. Entered in the relevant register.

Put up alongwith main case \_\_\_\_\_

REGISTRAR

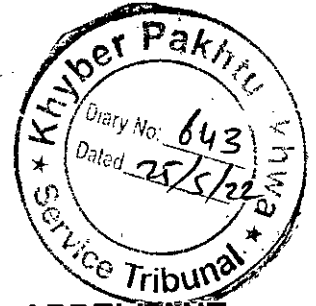
Last date fixed	
Reason(s) for last adjournment, if any by the Branch Incharge.	
Date(s) fixed in the similar matter by the Branch Incharge	
Available dates Reader/ Assistant Registrar Branch	

ASSISTANT REGISTRAR

REGISTRAR

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

C.M No:  
Service Appeal No: 5365 /2020



Fayaz Badshah Ex-Constable, Darra

**APPELLANT**

**VERSUS**

Inspector General of Police, Khyber Pakhtunkhwa & Others

**RESPONDENTS**

**APPLICATION FOR EARLY HEARING IN ABOVE TITLED CASE**

Respectfully Submitted:

1. That the above mentioned service appeal is pending for adjudication before this tribunal which is fixed for 21/07/2022.
2. That the matter pertains to the service of the appellant as he has been imposed with a major penalty "Compulsory retirement from Service". The appellant being the sole bread and butter earner for his family is suffering at the hands of respondent for no reason. The appellant right of livelihood is at stake therefore the early fixation is in the interest of justice.
3. That if the above appeal is not fixed early then the appellant may suffer irreparable loss.
4. That as the valuable right of the appellant has been involved in the matter. Therefore early Fixation, is in the interest of justice.

It is, therefore respectfully prayed that on acceptance of this application, the above titled service appeal may kindly be accelerated by fixing it on an earlier dates.

  
Applicant / appellant

Through

Dated: 24.05.2022

  
Attiq Ur Rehman  
Advocate High Court



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

Fayaz Badshah Ex-Constable, Darra

**APPELLANT**

**VERSUS**

Inspector General of Police, Khyber Pakhtunkhwa & Others

**RESPONDENTS**

**AFFIDAVIT**

I, Fayaz Badshah Ex-Constable, Darra do hereby affirmed and declared that the content of the above application are true and correct and noting has been concealed from this Hon'ble Court.



*[Signature]*  
Deponent

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

In Re: \_\_\_\_\_ /2022  
Service Appeal No: 5365 /2020

Fayaz Badshah Ex-Constable, Darra

\_\_\_\_\_ **APPELLANT**

**VERSUS**

Inspector General of Police, Khyber Pakhtunkhwa & Others

\_\_\_\_\_ **RESPONDENTS**

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S.No	Description of Documents	Annexure	Pages
01	Rejoinder		01-04
02	Affidavit		05

Through

  
Appellant

  
**Attiq Ur Rehman**  
Advocate High Court

**A, K & Y Law Associates**  
C-15, Rehman Plaza, Khyber  
Bazaar Peshawar  
E-Mail rattiq86@gmail.com

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

In Re: \_\_\_\_\_ /2022  
 Service Appeal No: 5365 /2020

Fayaz Badshah Ex-Constable, Darra

\_\_\_\_\_ **APPELLANT**

**VERSUS**

Inspector General of Police, Khyber Pakhtunkhwa & Others

\_\_\_\_\_ **RESPONDENTS**

**REJOINDER ON BEHALF OF APPELLANT**

**Respectfully Sheweth:**

***Preliminary Objections:***

The objections raised by Respondents are false, unfounded, hence are not tenable. Appellant has a legal grievance and as such, a legal footing to file the instant appeal. No question of estoppel is pinpointed nor is there any to stop appellant from instituting the present appeal. Similarly, the explanation and clarification given by the respondents are based on is a matter of records, hence no comments.

**Para wise:**

1. Para No. 01 is admitted correct to the extent that the unfortunate incident took place on 05-01-2019 in the jurisdiction of Sub-Division Darra and appellant along with 10/20 officials duly armed was present at the distance of 150/200 meters from place of incident, and the appellant fully supported personals at duty.
2. Para No. 02 is admitted correct that in consultation with other stakeholders police has made nakabandies outlets of Darra i-e mattani highway and Gulshan Abad check posts in order to apprehend the suspects/culprits and their vehicles, particularly coal trucks.
3. Para No. 03 is incorrect hence denied. The allegation level in the instant para are false having not evidence at all. Neither the so called gratification amount has been recovered nor proved against the appellant.
4. Para No. 04 of the comments is incorrect hence denied. The allegation level in the instant para are false having not evidence at all.
5. Para No. 05 is incorrect, hence denied. The allegation level in the instant para are false having not evidence at all.

6. Para No. 06 is correct, to the extent of serving charge sheet along with statement of allegation upon the appellant. Remaining para is incorrect hence denied. The reply submitted by the appellant was deliberately not consider nor discussed in impugned order and an ex-parte proceeding were conducted against the appellant. The appellant was not given an opportunity for cross examining the witness. No independent witness was examined by the inquiry officer.
7. Para No. 07 is incorrect, hence denied. There is nothing on the record which connect the appellant with the commission of allegations/ misconduct as leveled by the Respondents.
8. Incorrect hence denied. Inquiry had not been done in accordance with the law and rules and is clear violation of the fundamental rights of the appellant.
9. Incorrect hence denied. The appellant extended full support to help his fellow personals in disbursing the mob and showed no coward ness during the said incident.
10. Incorrect hence denied. There are numerous good entries in the service record
11. Incorrect hence denied. **The appellant was neither provided an opportunity to cross examine the witnesses nor to produce defense evidence and the enquiry proceedings accordingly defective. The statements of witness as recorded were not sworn on affidavits.** Furthermore the requirements of rules regarding enquiry have not been observed while awarding the impugned punishment.
12. Incorrect hence denied. After filing of the instant Appeal the Departmental Appeal was decided by the Respondents and the same Appeal was rejected vide impugned order dated 25-06-2020. Furthermore the impugned order dated 25-06-2020 was duly challenged by the appellant in Revision Petition to the IGP KPK, which too was dismissed by the IGP vide impugned order dated 04-03-2021
13. Incorrect hence denied. That enquiry report was not given to the appellant which is very much necessary as per 1991 PLC CS 706 & PLC 1991 584.

**GROUND:**

- a. Incorrect and wrong, hence denied. No enquiry has been conducted none from the general public was examined in support of the charges leveled against the appellant. No allegation as mentioned in comments are practiced by the appellant nor proved against the appellant with cogent reasons.

- b. Incorrect and wrong, hence denied. The appellant was neither intimated nor informed by any source of medium regarding enquiry proceedings for any disciplinary action which shows bias on the part of respondents
- c. Incorrect and wrong, hence denied. **The appellant was not heard in person nor called in orderly room and the same fact has not mentioned in the impugned order that the appellant was heard in person which is also against the service rules.**
- d. Incorrect and wrong, hence denied. The contents of allegation in the charge sheet and the impugned order are different from each other's.
- e. Incorrect and wrong, hence denied. There was no evidence against the appellant on which the competent authority awarded major punishment for dismissal from service.
- f. Incorrect and wrong, hence denied. Fundamental right of appellant for fair trial had been denied.
- g. Incorrect and wrong, hence denied. The punishment is harsh and is not in consonance with the allegation leveled against the appellant.
- h. Incorrect and wrong, hence denied. The appellant is honest and dedicated one and leave no stone unturned to discharge his duties.
- i. Incorrect and wrong, hence denied. As per universal declaration of human rights 1948 prohibits the arbitral /discretion.
- j. Incorrect and wrong, hence denied. Respondent No. 03 has acted whimsically and arbitrary, which is apparent from the impugned order.
- k. Incorrect and wrong, hence denied. The appellant fully supported his fellow / colleagues at the time of assault by the mob.
- l. Incorrect and wrong, hence denied. The impugned order is not based on sound reasons and same is not sustainable in the eyes of laws. The same is based on wrong assumption of facts.
- m. Incorrect and wrong, hence denied. The departmental enquiry was not conducted according to the rules.
- n. Incorrect and wrong, hence denied. The impugned order is outcome of surmises and conjecture.
- o. Incorrect and wrong, hence denied. Detail reply given in preceding paras.
- p. Incorrect and wrong, hence denied. Detail reply given in preceding paras.
- q. Incorrect and wrong, hence denied. Detail reply given in preceding paras.
- r. Incorrect and wrong, hence denied. Detail reply given in preceding paras.

- s. Incorrect and wrong, hence denied. Detail reply given in preceding paras.
- t. Incorrect and wrong, hence denied. Detail reply given in preceding paras.
- u. Incorrect and wrong, hence denied. Detail reply given in preceding paras.

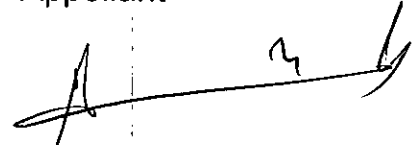
Therefore, the august tribunal may be pleased to accept the appeal preferred by the appellant and the impugned orders dated 10-02-2020, 25-06-2021, and 04-03-2021 may kindly be set aside and the appellant may graciously be reinstated into his service with all back benefits in the best interest of justice.

Any other remedy which this Hon'ble court deems appropriate in law, equity and justice may also be granted.



Appellant

Through:



**Attiq Ur Rehman**  
Advocate High Court

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

In Re: \_\_\_\_\_/2022  
Service Appeal No: 5365 /2020

Fayaz Badshah Ex-Constable, Darra

\_\_\_\_\_ **APPELLANT**

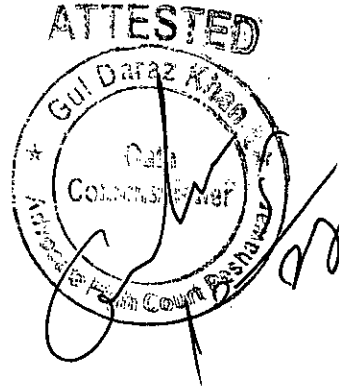
**VERSUS**

Inspector General of Police, Khyber Pakhtunkhwa & Others

\_\_\_\_\_ **RESPONDENTS**

**AFFIDAVIT**

I, Fayaz Badshah Ex-Constable, Darra do hereby solemnly affirm and declare on oath that the content of this Rejoinder are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Tribunal.



*[Signature]*

Deponent