


07.03.2016

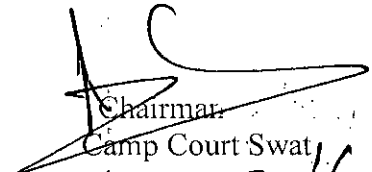
Appellant in person and Mr.Imranullah, Inspector (legal) alongwith Mr. Muhammad Zubair, Sr.G.P for respondents present. Due to non-availability of D.B arguments could not be heard. To come up for rejoinder and final hearing before D.B on 3.5.2016 at Camp Court Swat.


Chairman
Camp Court Swat

03.05.2016

Counsel for the appellant and Mr. Imranullah, Inspector (Legal) alongwith Mr. Muhammad Zubair, Senior Government Pleader for the respondents present. Arguments heard. Record perused. Vide our detailed judgment of today in connected appeal No. 874/2015, titled "Hussain Ali Versus the Provincial Police Officer, KPK Peshawar etc." this appeal is also accepted as per detailed judgment. Parties are left to bear their own cost. File be consigned to the record room.


Member


Chairman
Camp Court Swat
03-05-16.

ANNOUNCED
03.05.2016

3

12.08.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as a civil servant when subjected to inquiry on the allegations of preparation of fake Driving Licences and compulsorily retired from service vide impugned order dated 21.4.2015 regarding which he preferred departmental appeal on 28.4.2015 followed by service appeal on 4.8.2015.

That the inquiry officer has conducted no inquiry in the prescribed manners nor any opportunity of hearing was afforded to the appellant.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 2.11.2015 before S.B at Camp Court Swat as the matter pertains to the territorial limits of Malakand Division.

Appellant Deposited
Security & Process Fee




Chairman

4.

02.11.2015

Appellant in person and Mr. Khawas Khan, S.I (legal) alongwith Mr. Muhammad Zubair, Sr.G.P for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 7.3.2016 at Camp Court Swat.


Chairman
Camp Court Swat

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 889 /2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	06.08.2015	<p>The appeal of Mr. Khurshid Ahmad resubmitted today by Mr. Khushdil Khan Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2	10-8-12	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>12-8-15</u>.</p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>

The appeal of Mr. Khursheed Ahmad Ex-Senior Clerk Police Department received to-day i.e. on 04.08.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copies of charge sheet, statement of allegations and show cause notice mentioned in the memo of appeal in respect of appellant are not attached with the appeal which may be placed on it.

No. 1158 /S.T,

Dt. 04-8 /2015

Abdul
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Khushdil Khan Adv. Pesh.

The non attachment of an mentioned documents is that such documents have not passed by name to each one as evident from letter dt 03.05.2012 (A/7) + letter dt ^{26/9/2013} (C/10) which is a decenna in these cases which have been mentioned in the appeal.

Thus resubmitted this appeal with such submission for consideration of this honorable Tribunal

Abdul
6/8/2015

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 889 /2015

Khursheed Ahmad Appellant

VERSUS

The PPO/IGP & others Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal			1-6
2.	Copy of order of departmental inquiry against appellant :	03.05.2012	A	0-7
3.	Copy of Charge Sheet with Statement of Allegations	30.04.2012	B	8-9
4.	Copy of letter thereby communicated Show Cause Notice with copy of Inquiry Report	26.09.2013	C	10-13
5.	Copy of letter of Respondent No.2 therein made some queries and asked for specific punishment	05.12.2013	D	0-14
6.	Copy of impugned office order thereby major penalty of compulsory retirement was imposed upon the appellant with immediate effect	21.04.2015	E	15-16
7.	Copy of Review Petition filed before Respondent No.1	29.04.2015	F	0-17
8.	Wakalat Nama			

Through


Appellant

Khush Dil Khan
Advocate,

Supreme Court of Pakistan
9-B, Haroon Mansion,
Khyber Bazar, Peshawar.
Cell # 091-2213445

Dated: 01 / 08 / 2015

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____/2015

Khursheed Ahmad,
Ex-Senior Clerk,
Office of the District Police Officer, Buner/Swat.
R/o Mohallah Bar Kalay, Saidu Sharif, t.....Appellant

K.W.F. Provincial
Service Tribunal

Diary No. 989

Dated 04-8-2015

Versus

1. The Provincial Police Officer/
Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
2. The Additional Inspector General of Police,
Headquarters, Khyber Pakhtunkhwa,
Peshawar.
3. The Regional Police Officer,
Malakand Region, Swat.....Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 21.04.2015 (ANNEX:-E) THEREBY APPELLANT WAS AWARDED MAJOR PUNISHMENT OF COMPULSORY RETIREMENT FROM SERVICE WITH IMMEDIATE EFFECT AGAINST WHICH HE FILED A REVIEW PETITION DATED 28.04.2015 (ANNEX:-F) BEFORE THE RESPONDENT NO.1 WHICH WAS NOT DISPOSED OFF WITHIN THE STATUTORY PERIOD OF 90 DAYS.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That appellant initially appointed as Class-IV on 21.12.1980, then he was appointed to the post of Junior Clerk on 08.10.1989, thereafter he was promoted to the post of Senior Clerk in the year 2008 on the basis of seniority-cum-fitness and as such the appellant served the

49-submitted to-49
and filed.

Registered
6/8/15

Department for more than 34 years with splendid service record without any stigma or complaint.

2. That all of sudden, a letter dated 03.05.2012 (**Annex:-A**) was issued from the office of Respondent No.1 thereby ordered a departmental inquiry against the appellant and others and also appointed Mr. Muhammad Ayaz DSP/Legal, Swat as Inquiry Officer. In pursuance thereof a copy of Charge Sheet with Statement of Allegations duly signed by the Respondent No.2 on 30.04.2012 (**Annex:-B**) was served upon appellant. The allegations as contained in Charge Sheet are as under:-

That he while posted to Traffic/Licence Branch, Swat from the period from 08.03.2010 to 29.08.2012 was held responsible for issuance of bogus Driving Licences under the fake signature of DSP/Jehangir Khan, the then Motor Licencing Authority, Swat.

3. That appellant submitted reply to the Charge Sheet and Statement of Allegations therein he denied the charges being false and concocted.
4. That the Inquiry Officer Mr. Muhammad Ayaz DSP/Legal, Swat has not conducted an independent inquiry rather he relied on the inquiry which was carried out under Section-157(i) Cr.P.C. by the Mian Nasib Jan the then DSP Headquarters, Swat and in the light of this inquiry he furnished the findings vide Inquiry Report signed on 06.09.2013. The copy of which was communicated to appellant alongwith Final Show Cause Notice under letter No.24243/E-III dated 26.09.2013 (**Annex:-C**). The appellant submitted reply thereto and objected the inquiry proceedings.

5. That before passing the impugned order, Respondent No.2 has agitated some queries as evident from letter dated 05.12.2013 (**Annex:-D**) addressed to District Police Officer Swat therein he candidly stated that the inquiry findings are not complete, the officials involved in inquiry be personally heard, their statements be submitted to him, in addition, punishment as major/minor be also suggested. The Inquiry Officer suggested minor penalty in the case of appellant.

6. That Respondent No.2 passed an office order dated 21.04.2015 (**Annex:-E**) thereby imposed major penalty of compulsory retirement from service with immediate effect upon the appellant against which he filed Review Petition before the Respondent No.1 on 29.04.2015 (**Annex:-F**) but the same was not disposed of within the statutory period.

7. That it is pertinent to mention that appellant has time and again requested the Respondent No.2 for provision of copies of Inquiry Report conducted under Section-157(i) of Cr.P.C., FSL Examination result, Statements of witnesses, the recommendations of Inquiry Officer regarding the imposition of minor penalty etc. but no copy of any documents was provided to appellant and as such he was not provided a fair opportunity to defend his case properly.

Hence this appeal is submitted on the following amongst other grounds:-

Grounds:

- A. That the allegations as leveled against the appellant in the Statements of Allegations are false and concocted and not proved against the appellant through cogent evidence, therefore, the alleged charges are not sustainable.
- B. That no proper inquiry has been conducted by the Inquiry Officer Mr. Muhammad Ayaz DSP/Legal, Swat. Neither he recorded the statements of any witness in the presence of appellant nor he provided an opportunity of cross-examination to him rather he totally relied on the findings of the inquiry conducted under Section-157(i) Cr.P.C. Thus the findings of inquiry are defective and not operative on the rights of appellant and the impugned order based thereon has no legal effect and not sustainable under the law and liable to be set aside.
- C. That the alleged inquiry under Section-157(i) Cr.P.C. has also conducted at the back of appellant neither the Inquiry Officer has recorded the statements of any witness in the presence of appellant nor its copy or report of FSL was provided to appellant, therefore, this inquiry has no legal weight and devoid of legal sanctity while the Inquiry Officer Mr. Muhammad Ayaz has wrongly and unlawfully relied upon it without conducting an independent inquiry by him in the circumstances of the case.
- D. That in recommendations, the Inquiry Officer has not specified the punishment under the Rules, however, then the Respondent No.2 has asked for specification of punishment vide his letter dated 05.12.2013, then he

proposed a minor penalty but Respondent No.2 acted in deviation of the recommendations of Inquiry Officer and awarded major penalty of compulsory retirement to appellant without cogent reason which is not sustainable under the law being violative of principle of natural justice.

- E. That the matter in question is pertaining to factual controversies which could not be resolved without proper inquiry and recording of evidence which has not done in this case and thus appellant was condemned unheard, no fair opportunity of defence was provided to him, therefore, the impugned proceedings and subsequent the impugned orders are illegal, malafide, without lawful authority and not sustainable under the rules and liable to be set aside.
- F. That the entire proceedings of the inquiry has conducted by the Inquiry Officer in violation of Rules-10 & 11 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules-2011 and in such circumstances the impugned order of compulsory retirement is not sustainable and untenable.
- G. That inspite of repeated request of appellant for provision of necessary documents i.e. copies of Inquiry Reports, FSL Examination Report and the statements of witnesses, if any, but none of Respondent authorities have provided the requisite copies of the above documents while on the directions of the Commission it provided the copies of those documents which the appellant had not requested. Thus it shows the malafide of the Respondent authorities

who have not acted fairly and justly.

- H. That the punishment as awarded to appellant is harsh, unjustified, unfair and not commensurate with the alleged offence and thus not sustainable.
- I. That Respondent No.1 has not acted in accordance with law and malafidely kept pending the Review Petition of appellant without any action which is not warranted by law.

It is, therefore, humbly prayed that on acceptance of this service appeal, the impugned order dated 21.04.2015 may kindly be set aside and appellant may graciously be reinstated into service with all back benefits.

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

Through


Appellant

Khush Dil Khan,
Advocate,

Supreme Court of Pakistan

Dated: 01 /08/2015

Annex-A-P7

1569/E

10-05-013

From: The Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.

To: The Dy: Inspector General of Police,
Malakand Region Swat.

No. 10377 /E-III, dated Peshawar the 03/5 /2012

Subject: **DEPARTMENTAL ENQUIRY AGAINST SENIOR CLERKS
KHURSHID AHMAD, HUSSAIN ALI, MUSHTAQ AHMAD
AND JUNIOR CLERK MUHAMMAD NAWAB MAKAND
REGION SWAT.**

Memo: Please refer to your Memo No. 1124/E dated: 1.03.2013.
Mr. Muhammad Ayaz, DSP/Legal Swat is nominated as Enquiry
Officer in the subject case by the competent authority.

Please direct him to serve the attached charge sheet and
statement of allegation upon the defaulter officials and return its duplicate
copy as token of receipt to this office for record.

*Encls (8) charge sheet
det 20 of Muzoh*

[Signature]
(JAVED IQBAL)
Registrar
For Provincial Police Officer,
Khyber Pakhtunkhwa
Peshawar

*EC / Sc enquiry
For n/a action
[Signature]*

*No. 5261 / 1199
dt: 16-5-2013*

**Regional Police Officer,
Malakand, at Saidu Sharif Swat.**

9/5

*Copy of above along
its enclosure is sent to
Dsp/legal Swat for n/a action*

ATTESTED
[Signature]

[Signature]

[Signature]
**Regional Police Officer,
Malakand, at Saidu Sharif Swat.**

Annex. B 128

DISCIPLINARY ACTION

I, Khalid Masood, Addl: Inspector General of Police (HQrs), Khyber Pakhtunkhwa, Peshawar as Competent Authority, am of the opinion that Senior Clerk Hussain Ali of Traffic /Licence Branch, Swat has rendered himself liable to be proceeded against as he committed the following acts /omissions within the meaning of Khyber Pakhtunkhwa Civil Servants efficiency and discipline rules 2011 :-

STATEMENT OF ALLEGATIONS

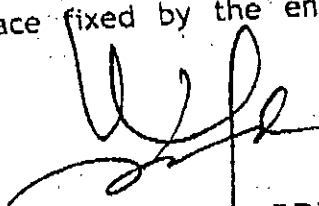
1. That he while posted to Traffic /Licence Branch, Swat from the period from 08.03.2010 to 29.08.2012 was held responsible for issuance of bogus Driving Licences under the fake signature of DSP/Jehangir Khan, the then MLA Swat.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an enquiry committee consisting of the following is constituted under the Rules.

DSP (L) Jangaz

3. The enquiry committee shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused, record its findings and make within 25 days of the receipt of this order, recommendations as to punishment or the appropriate action against the accused.

4. The accused and a well conversant representative of departmental shall join the proceedings on the date, time and place fixed by the enquiry committee.


(KHALID MASOOD)
Addl: Inspector General of Police
(HQrs) Khyber Pakhtunkhwa
Peshawar
35/4

ATTESTED


01/10/2013 11:55

129

CHARGE SHEET

I, Khalid Masood, Addl: Inspector General of Police (HQrs), Khyber Pakhtunkhwa, Peshawar as Competent Authority, hereby charge you, Senior Clerk Hussain Ali of Traffic /Licence Branch, Swat as follow:-

1. You while posted to Traffic/Licence Branch, Swat for the period from 08.03.2010 to 29.08.2012 was held responsible for issuance of bogus Driving Licences under the fake signature of DSP/ Jehangir Khan, the then MLA, Swat during the preliminary enquiry conducted by DSP/HQrs Swat, which is gross misconduct on your part as defined in Civil Servants efficiency and discipline rules 2011.

2. By reasons of the above, you appear to be guilty of misconduct under Civil Servants efficiency and discipline rules 2011, and have rendered yourself liable to all or any of the penalties specified in the rules ibid.

3. 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.

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

5. Intimate whether you desire to be heard in person.

6. Statement of allegation is enclosed.

ATTESTED

(KHALID MASOOD)
Addl: Inspector General of Police
(HQrs) Khyber Pakhtunkhwa
Peshawar 30/4

From: The Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.

Annex - C - P. 10

To: The Regional Police Officer,
Malakand Region, Swat.

No. 24243/E-III, dated Peshawar the 26/9/2013

Subject: DEPARTMENTAL ENQUIRY AGAINST SENIOR CLERKS
HUSSAIN ALI, KHURSHID AHMAD, MUSHTAQ AHMAD &
JUNIOR CLERK MUHAMMAD NAWAB

Memo: Please refer to DSP/Legal Swat memo No. 16-17/P,
dated: 11.09.2013.

Please direct DSP/Legal Swat to serve the enclosed final
show cause notices upon Senior Clerks Khurshid Ahmad, Hussain Ali,
Mushtaq Ahmao & Junior Clerk Muhammad Nawab of DPO Office
Swat and returned its duplicate copy as token of receipt to this office
for record.

Encls: n(4)

(JAVED IQBAL)

Registrar
For Provincial Police Officer,
Khyber Pakhtunkhwa
Peshawar

No. _____/E-III, dated Peshawar the ____/____/2013.

Copy to DSP/Legal Swat for necessary action w/r to his
Memo refer to above.

No 8990 / Ec
DT 30/9/013

(JAVED IQBAL)

Registrar
For Provincial Police Officer,
Khyber Pakhtunkhwa
Peshawar

ATTESTED

FINAL SHOW CAUSE NOTICE

P-11

1. WHEREAS, you Senior Clerk Hussain Ali while posted in Traffic/License Branch Swat, committed gross misconduct as defined of Khyber Pakhtunkhwa Civil Servant efficiency and discipline Rules 2011, resultantly you were Charge Sheeted and served with a statement of allegations and Mr. Muahmamd Ayaz DSP/Legal Swat was appointed to conduct enquiry.

2. WHEREAS, the Enquiry officer has finalized the Enquiry proceedings, giving you full opportunities of defence i.e personal hearing as well as cross examination of the witnesses and the statement of all PWS were recorded in your presence, besides audience to relevant record. Consequent upon the completion of Enquiry proceeding, the Enquiry Officer held you guilty of the charges leveled against you as per Charge Sheet. A copy of the findings of the Enquiry Officer is enclosed.


3. AND WHEREAS, on going through the finding and recommendation of Enquiry Officer, the material placed on record and other connected papers including your defence before the said Inquiry Officer; I am satisfied that you have committed the misconduct and are guilty of the charges leveled against you as per statement of allegations conveyed to you which stand proved and render you liable to be awarded punishment under the said rules.

4. NOW THEREFORE, I, Khalid Masood, Additional IGP/HQrs Khyber Pakhtunkhwa Peshawar as Competent Authority have tentatively decided to impose upon you, any one or more penalties including the penalty of "dismissal from Service" under Section 3 of the said Ordinance.

You are therefore, required to Show Cause within seven days of the receipt of this Notice, as to why the aforesaid penalty should not be imposed upon you, failing which it shall be presumed that you have no defence to offer and an exparte action shall be taken against you. Meanwhile also intimate whether you desire to be heard in person or otherwise.

(Enquiry finding is enclosed)

ATTESTED


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

24/9

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8944-880493
[Handwritten notes and scribbles]

#5140 P. 007

#5140 P. 008

P. 12

FINDING ENQUIRY

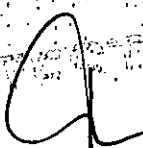
Kindly refer to your office memo No. 10373/E-III, dated 03-05-2013.

This is the departmental enquiry against Hussain Ali License Clerk of this District who remains as Traffic Clerk with effect from 01-10-2011 to 29-12-2011. According to the allegation, Hussain Ali Senior Clerk while posted as License Clerk, issued bogus driving license on the fraud signature of Jehangir Khan the then DSP/MLA. In this connection an enquiry was initiated and the undersigned was directed accordingly.

During the course of enquiry, Senior Clerk Hussain Ali was summoned and his statement was got recorded who showed his ignorance in this regard.

Prior to this, Mian Nasib Jan the then DSP Head Quarter Swat was started an enquiry u/s 157 (I) Cr.PC vide DD No. 41 dated 24-09-2012 Police Station Saidu Sharif and Regional Police Officer, Malakand Region, Saidu Sharif, Swat office No. 6144/E, dated 20-09-2012. During the enquiry he has recovered 171 suspicious, D.L wherein on he 123 D.L files from S.No. 1 Q to 288 Q having the suspect signature of Mr. Jehangir Khan retired DSP MLA. Similarly six D.L file of routine license with four specimen signature sheet of Jehangir Khan was also recovered from the MLA Office and sent to FSL Peshawar for analysis. Sign expert of FSL Peshawar opined that the D.L files bearing No. 1 Q to 31 Q, 35 Q to 206 Q, 210 Q to 223 Q, 225 Q to 228 Q, 230 Q to 244 Q, 244 Q to 251 Q, 251 Q to 265 Q, 266 Q to 269 Q, 269 Q to 272 Q, 272 Q to 277 Q, 281 Q to 288 Q are found bogus signatures of the MLA on file No. 32, 33, 34, 207, 208, 209, 224, 229, 245 to 267, 280, 220, 270, 271, 278, 279 and 280 were found correct. Beside this, deficiency in D.L was also found on 11 D.L files, 20 D.L files have been signed by the concerned LC Khurshid Ahmad and Muhammad Nawab on behalf of MLA Swat. Similarly no Bank receipt of Rs. 610/- each was found on 2 files. On 15 D.L files of out District as well as on other 15 files were found without the signature of R.T.A. No. Form C was available in 2 D.L files while the Medical Officer's Stamp on D.L No. 12636 on the name of Sher Muhammad s/o Yahya was also found bogus after due verification. Similarly, the Bank receipt as well as record of D.A.O office were also verified and placed on the enquiry file.

Statements of Mr. Jehangir Khan DSP (Retired) clerk Mushtaq Ahmad, Nawab Khan, Khurshid Ahmad, Adnan I/C Computer, Alamgir s/o Gujar Khan r/o Serserial vice president of Dewlai stand, Monshi Mohammad Ishaq alias Matal s/o Tota Khan r/o Matra Bandal as well as Sher Afzal s/o Abdur Rahim r/o Rahim Abad Monshi General Bus Stand Mingora were also got recorded. It is worth to mentioned here that maintaining of the record is the responsibility of the License Clerk and the above mentioned D. License were prepared in the period of these license clerks.

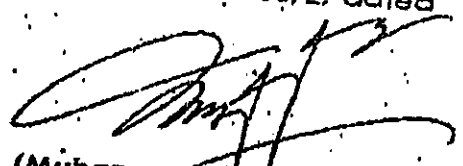
ATTESTED


P.13

From the enquiry proceedings, FSL report as well as enquiry u/s 157 (1) Cr.PC conducted by the local police of Police Station Saidu Sharif on the directions of Mian Nasib Jan the then DSP/Headquarter MLA. I reached to the conclusion that Senior Clerk Hussain Ali is held responsible for his tenure for committing such like fraud as well cognizable offence as stated by Mian Nasib Jan the then DSP/Headquarter His statement is also attached.

Therefore, I am agree with the finding report of Mian Nasib Jan DSP, Headquarter MLA. Enquiry officer and Senior Clerk Hussain Ali (License Clerk Swat) are held responsible for committing the above fraud and other irregularities in the License Branch. The allegation leveled against him is proved for the enquiry, therefore, he is recommended for suitable punishment please.

Copy to Regional Police Officer, Malakand Region, Saidu Sharif, Swat for information with reference vide his office Enst: No. 7455-66/E, dated 18-06-2013.


 (Muhammad Ayyaz Khan)
 DSP/Legal Swat
 6-9-13

ATTESTED

Annex D - 12-16

Ph: 9210345
Fax: 9210927

From: The Provincial Police Officer,
Khyber Pakhtunkhwa Peshawar.

To: The District Police Office,
Swat.

No: 29957 /U-III, dated Peshawar, the 05 /12/2013.

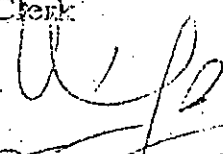
Subject: ENQUIRY AGAINST MINISTERIAL STAFF

Reference DSP/Legal Swat memo: No.16-17/P, dated
11.09.2013 on the subject cited above.

Enquiry findings sent by the Enquiry Officer are not complete.
The officials involved in the enquiry may be personally heard and their
statements be submitted to the undersigned. Moreover punishment against
them may also be suggested, please.

1. Mushtaq Ahmed
2. Khurshid Ahmed
3. Hussain Ali
4. Muhammad Nawab

Assistant Grade Clerk
Senior Clerk
Senior Clerk
Senior Clerk


Additional I.G.P/HQrs:
For Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.


ATTENDED

Annex: E³⁸
P. 15

1545/E
22-4-15



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE
PESHAWAR
Ph: 091-9210545 Fax: 091-9210927

No. 2539 IE-V,

Dated

Peshawar the

21-4

2015

ORDER

This order will dispose of departmental enquiry against the following officials: -

- | | | |
|--------------------------------------|-----------|--------------|
| 1. Mushtaq Ahmad, Asstt: Grade Clerk | DPO Swat. | 1000 ERP |
| 2. Khurshid Ahmad, Senior Clerk | DPO Swat. | 11 Binnu |
| 3. Hussain Ali, Senior Clerk | DPO Swat. | 11 HE-DPO-Dy |
| 4. Muhammad Nawab, Senior Clerk | DPO Swat. | 11 P.O Swat |

2. The above accused officials were Charge Sheeted on account of their posting to Driving License Branch Swat for the period from 08.03.2010 to 29.08.2012 whereas they were held responsible for issuance of bogus driving licenses under the fake signatures of Mr. Jehangir Khan, the then DSP MLA Swat. The allegations were confirmed in the preliminary enquiry conducted by DSP/HQrs: Swat. Hence they were proceeded under proper departmental proceedings and DSP Legal Swat was appointed as Enquiry Officer.

3. The Enquiry Officer submitted his finding report which is placed on the enquiry file in which the allegations were established and all the above officials were held responsible for committing fraud and other irregularities in the license branch.

4. The accused officials were served with Final Show Causes. They submitted their replies accordingly. Finally they were summoned in the office of the undersigned and heard at length.

5. The accused officials failed to rebut the charges nor could produced any cogent evidence in their defense.

6. I have gone through the entire material placed before me which depicts that besides departmental enquiry, the matter remained under enquiry with DSP/HQrs: Swat who conducted enquiry u/s 157(1) Cr.P.C vide Gally Dist. No.41 dated 24.09.2012. In the said enquiry, the Enquiry Officer established charges through FSL and independent evidence u/s 157(1) Cr.P.C. The charges stand proved against the delinquent officials beyond any shadow of doubt. The accused officials have committed gross misconduct in sheer violation of their official duty and have earned bad name for the entire Police Department.

P-16



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

Ph: 091-9210545 Fax: 091-9210927

7. Henceforth, I, MIAN MUHAMMAD ASIF, Addl: Inspector General of Police HQrs: Khyber Pakhtunkhwa, Peshawar being Competent Authority, under Khyber Pakhtunkhwa, E & D Rules-1973 (Amended in 2011), hereby award them Major Punishment of compulsory retirement from Service with immediate.

(Signature)
(MIAN MUHAMMAD ASIF) PSP
Addl: IGP/HQrs:
For Inspector General of Police
Khyber Pakhtunkhwa
Peshawar

No 2570-74 E-V dated Peshawar the, 21/4 /2015.

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

1. Regional Police Officer, Malakand Region Swat.
2. Deputy Inspector General of Police HQrs: Khyber Pakhtunkhwa, Peshawar.
3. Asstt: Inspector General of Police Establishment CPO, Peshawar.
4. Asstt: Inspector General of Police Legal CPO Peshawar.
5. District Police Officer, Swat.

No 3414-18 E-V date 22-4- /2015

*SE/DPO, Swat, Buner, Dir-U
and SP ERP, Swat & Asstt: Region
Officer*

For W/Action

(Signature)
Regional Police Officer,
Malakand, of Khyber Pakhtunkhwa

21/4

ATTACHED

To :

The Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

Annex E
P-17

Subject:

REVIEW PETITION AGAINST THE ORDER DATED 21-04-2015.

Memorandum:

It stated with due respect that I was compulsorily retired from service by your good self-vidé C.P.O Order No. 2569/E-V, dated 21-04-2015 on the charge of fraud and irregularities in the license branch, issuing bogus driving licenses under the fake signatures of Mr. Jehangir Khan, DSP, the then MLA Swat. Proper departmental proceedings were also initiated against the appellant wherein appellant were recommended for minor punishment by the enquiry officer.

2. I also collectively request that the whole episode was a self-made, concocted and there was no any fact with regards to my forgery or irregularities due to short period i.e. **2-Months and 8-days** in license dealing as it is the facts that no one in the whole service has complained against me regarding issuing any fake driving license.

3. Believe sir, I state on oath that I belong to a poor and destitute family of Swat District and have no any resource of income except this employment and cannot afford of lawyers expenses as the monthly salaries was the only income source of my family members and school / college going children, it is humbly requested that the order may very kindly be set-a-side and the appellant may kindly be re-instated in service with all back benefits. I will pray for your long life and prosperity for your this act of kindness and also assure you sir that I will perform my duties to the entire satisfaction of my immediate officers.

ATTESTED

Your's obediently

(Khurshid Ahmad)

Ex-Senior Clerk

0346-9403874

Dated 29-04-2015

WAKALAT NAMA

IN THE COURT OF

12.P. Service Tribunal Peshawar

Khushdil Ahmad

On Sr. Clerk Police Deptt Peshawar Appellant(s)/Petitioner(s)

VERSUS

Provincial Police Officer

12.P. Officer

Respondent(s)

I/We Khushdil Ahmad do hereby appoint
Mr. Khush Dil Khan, Advocate Supreme Court of Pakistan in the above
mentioned case, to do all or any of the following acts, deeds and things.

1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

AND hereby agree:-

- a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____

Attested & Accepted by



Khush Dil Khan,
Advocate,
Supreme Court of Pakistan

9-B, Haroon Mansion
Khyber Bazar, Peshawar
Off: Tel: 091-2213445


Signature of Executants

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No. 889/2015

Khursheed Ahmad Ex Senior Clerk

Appellant

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar & others

Respondents

WRITTEN REPLY ON BEHALF OF RESPONDENTS

1. PRELIMINARY OBJECTIONS

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

2. REPLY ON FACTS

1. Para No. 1 pertains to record, hence needs no comments.
2. Para No. 2 is correct to the extent that the appellant while posted at License Branch was proceeded departmentally on allegations of issuance of bogus driving license under the false signature of the then DSP MLA Swat Mr. Jehangir Khan. In this regard a preliminary enquiry was conducted against him by DSP HQrs Swat, wherein the charges leveled against him were stand proved. A proper departmental enquiry was conducted against him by DSP Legal Swat. After fulfilling all codal formalities, he was found guilty of the charges of committing fraud & other irregularities in the license branch. Hence, was recommended for a suitable punishment.
3. Para No. 3 is correct to the extent that the appellant denied the allegations leveled against him but he failed to produce any cogent reason in his defense.
4. Para No. 4 is totally incorrect and is based on surmise and conjectures. In fact a proper departmental enquiry was conducted against the delinquent official. He was issued a charge sheet and summary of allegations. His statement was also recorded and he was given full opportunity to defend himself but he failed to satisfy the E.O regarding the allegations leveled against him. Hence, after fulfilling all codal formalities, he was recommended for major penalty as against him were stand proved, hence, he was awarded major punishment of compulsory retirement from service vide OB No. 2569/E-V, dated 21-04-2015.
5. Para No. 5 is incorrect. In fact the appellant was proceeded departmentally as per law and rules. All codal formalities were fulfilled. He was personally heard and was given full opportunity to defend himself, but he failed to satisfy the E.O about the allegations leveled against him.
6. Para No. 6 is correct to the extent that the appellant filed a departmental appeal but as the charges leveled against him were stand proved. Hence his appeal was rejected/filed.


7. Para No. 7 is totally incorrect and denied. The appellant was awarded ample opportunity to defend himself. He was issued a charge sheet & summary of allegations. He was called & heard in person. He was issued final show cause notice. Hence, all the codal formalities were fulfilled.


GROUNDS:

- a) Incorrect. The allegations leveled against appellant were stand proved.
- b) Incorrect. A proper enquiry was conducted against him by DSP Legal Swat. He was given full opportunity to defend himself but he failed to produce any cogent reason for his defense. Furthermore, he was also called & heard in person. As all codal formalities were fulfilled, hence, the punishment order is in accordance with law/rules.
- c) Incorrect. The appellant was properly associated with the enquiry proceedings and was given full opportunity to defend himself but he failed to defend himself.
- d) Incorrect. The appellant was found guilty of fraud. Being a member of a disciplined force, he committed gross misconduct & does not deserve any leniency. Hence, he was rightly awarded major punishment of compulsory retirement from service.
- e) Incorrect. In fact a proper enquiry was conducted against him. The punishment order is in accordance with law/rules.
- f) Incorrect. No violation of law or rules has been committed by the replying respondents. The punishment order is lawful and liable to be upheld.
- g) Incorrect. Para already explained in detail.
- h) Incorrect. The appellant being a member of a disciplined force committed gross misconduct, hence, does not deserve any leniency.
- i) Incorrect. The appeal of appellant has been filed/rejected because the charges leveled against him were stand proved.

PRAYERS

It is therefore, most humbly prayed that in light of above facts and submissions, the appeal of appellant being devoid of merits and legal footing may be set aside/dismissed.


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar
Respondent No. 01 & 02


Regional Police Officer,
Malakand at Saidu Sharif, Swat.
Respondent No. 03
Regional Police Officer,
Malakand, at Saidu Sharif Swat.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No. 889/2015

Khursheed Ahmed Ex Senior Clerk

Appellant


VERSUS


1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar & others

Respondents

AFFIDAVIT

We, the above respondents do hereby solemnly affirm on oath and declare that the contents of the appeal are correct/true to the best of our knowledge/behalf and nothing has been kept secret from the honorable Service Tribunal Khyber Pakhtunkhwa, Peshawar.


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 01 & 02)


Regional Police Officer,
Malakand Region, Saidu Sharif Swat
(Respondent No. 03)
Regional Police Officer,
Malakand, at Saidu Sharif Swat.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No. 889/2015

Khursheed Ahmed Ex Senior Clerk

Appellant

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar & others

Respondents

POWER OF ATTORNEY

We, the undersigned No. 01 to 02 do hereby appoint Muhammad Ilyas Inspector Legal Swat as Special representative on our behalf in the above noted appeal. He is authorized to represent us before the Tribunal on each and every date fixed and to assist the Govt: Pleader attach to Tribunal.



Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 01 & 02)



Regional Police Officer,
Malakand Region, Saidu Sharif Swat
(Respondent No. 03)

Regional Police Officer,
Malakand, at Saidu Sharif Swat.

DISCIPLINARY ACTION

1, Khalid Masood, Addl: Inspector General of Police (HQrs), Khyber Pakhtunkhwa, Peshawar as Competent Authority, am of the opinion that Senior Clerk Khurshid Ahmad of Traffic /Licence Branch, Swat has rendered himself liable to be proceeded against as he committed the following acts /omissions within the meaning of Khyber Pakhtunkhwa Civil Servants efficiency and discipline rules 2011 :-

STATEMENT OF ALLEGATIONS

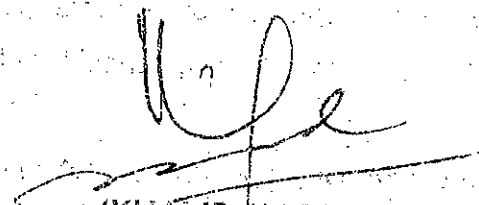
1. That he while posted to Traffic /Licence Branch, Swat from the period from 08.03.2010 to 29.08.2012 was held responsible for issuance of bogus Driving Licences under the fake signature of DSP/Jehangir Khan, the then MLA Swat.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an enquiry committee consisting of the following is constituted under the Rules.

Mohammad Ajaz DSP/L

3. The enquiry committee shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused, record its findings and make within 25 days of the receipt of this order, recommendations as to punishment or the appropriate action against the accused.

4. The accused and a well conversant representative of department shall join the proceedings on the date, time and place fixed by the enquiry committee.


(KHALID MASOOD)

Addl: Inspector General of Police
(HQrs) Khyber Pakhtunkhwa
Peshawar.

30/4

15:35

FINDING ENQUIRY

Kindly refer to your office memo No. 10373/E-III, dated 03-05-2013.

This is the departmental enquiry against Khurshid Ahmad License Clerk of this District who remained as Traffic Clerk with effect from 10-02-2012 to 18-04-2012. According to the allegation, Khurshid Ahmad Senior Clerk while posted as License Clerk, issued bogus driving license on the fraud signature of Jehangir Khan the then DSP/MLA Swat. In this connection an enquiry was initiated and the undersigned was directed accordingly.

During the course of enquiry, Senior Clerk Khurshid Ahmad was summoned and his statement was got recorded who showed his ignorance in this regard.

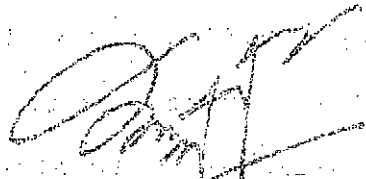
Prior to this, Mian Nasib Jan the then DSP Head Quarter MLA Swat was started an enquiry u/s 157 (i) Cr.PC vide DD No. 41 dated 24-09-2012 Police Station Saidu Sharif and Regional Police Officer, Malakand Region, Saidu Sharif, Swat office vide letter No. 6144/E, dated 20-09-2012. During the enquiry he has recovered 171 suspicious, Driving License wherein on the 123 D.L files from S.No. 1 Q to 288 Q having the suspect signature of Mr. Jehangir Khan retired DSP. Similarly six D.L file of routine license with four specimen signature sheet of Jehangir Khan was also recovered from the MLA Office and sent to FSL Peshawar for analysis Sign expert of FSL Peshawar opined that the D.L files bearing No. 1 Q to 81 Q, 85 Q to 206 Q, 210 Q to 223 Q, 225 Q to 228 Q, 230 Q to 244 Q, 244 Q to 251 Q, 251 Q to 268 Q, 266 Q to 269 Q, 249 Q to 272 Q, 272 Q to 277 Q, 281 Q to 288 Q are found bogus signatures of the MLA on file No. 32, 33, 34, 207, 208, 209, 224, 229, 245 to 267, 280, 220, 270, 271, 278, 279 and 280 were found correct. Beside this, deficiency in D.L was also found on 11 D.L files. 20 D.L files have been signed by the concerned LC Mushtaq Ahmad and Hussain Ali on behalf of MLA Swat. Similarly no Bank receipt of Rs. 610/- each was found on 2 files. On 15 D.L files of out District as well as on other 15 files were found without the signature of R.T.A. No. Form C was available in 2 D.L files while the Medical Officer's Stamp on D.L No. 12636 on the name of Sher Muhammad s/o Yahya was also found bogus after due verification. Similarly, the Bank receipt as well as record of D.A.O office were also verified and placed on the enquiry file.

Statements of Mr. Jehangir Khan DSP (Retired) clerk Mushtaq Ahmad, Hussain Ali, Muhammad Nawab, Adnan I/C Computer, Alamgir s/o Gujar Khan r/o Sersenal vice president of Dewlai stand, Monshi Mohammad Ishaq alias Metal s/o Tota Khan r/o Matra Bandal as well as Sher Afzal s/o Abdur Rahim r/o Rahim Abad Monshi General Bus Stand Mingora were also got recorded. It is worth to mentioned here that maintaining of the record is the responsibility of the License Clerk and the above mentioned D. License were prepared in the period of these license clerks.

From the enquiry proceedings, Tst report as well as enquiry U/S 157
 Cr.PC conducted by the local police of Police Station Sajou Sharif on the
 directions of Mian Nasib Jan the then DSP/Headquarter. I reached to the
 conclusion Senior Clerk Khurshid Ahmad is held responsible for his tenure for
 committing such like fraud as well cognizable offence as stated by Mian Nasib
 Jan the then DSP/Headquarter his statement is also attached.

Therefore, I am agree with the finding report of Mian Nasib Jan
 DSP/HQs/MLA, Enquiry officer and Senior Clerk Khurshid Ahmad (License Clerk
 Swat) are held responsible for committing the above fraud and other
 irregularities in the License Branch. The allegation leveled against him is proved
 for the enquiry, therefore, he is recommended for suitable punishment please.

Copy to Regional Police Officer, Malakand Region, Sajou Sharif,
 Swat for information with reference vide his office Enst: No: 7455-66/2, dated
 18-06-2013.



(Muhammad Ayaz Khan)
 DOP/ Legal Swat
 6.8.13