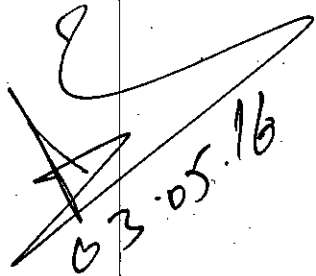


S.No. of proceedings	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	03.05.2016	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>CAMP COURT SWAT</u></p> <p>1. Appeal No. 874/2015, Hussain Ali, 2. Appeal No. 887/2015, Muhammad Nawab, 2. Appeal No. 889/2015, Khursheed Ahmad, Vs. The Provincial Police Officer/IGP, KPK, Peshawar and 2 others.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:</u> Counsel for the appellant and Mr. Imranullah, Inspector (Legal) alongwith Mr. Muhammad Zubair, Senior Government Pleader for respondents present.</p> <p>This judgment shall also dispose of instant appeal No. 874/2015 as well as identical appeals No. 887/2015 and 889/2015.</p> <p>Brief facts giving rise to the afore-stated service appeals are that the appellants were serving in License Branch of Traffic Police when subjected to enquiry on the charges of issuance of bogus driving licenses and vide impugned order dated 21.04.2015 appellants compulsorily retired from service where-against review petitions were preferred on 28.4.2015 by the appellants which were not disposed of within the statutory period and hence the instant service appeals on 04.08.2016.</p> <p>Learned counsel for the appellant has argued that the said driving licenses were not proved to have been issued during the tenures of</p>



 03.05.16

appellants. That the enquiry was not conducted in the prescribed manners as neither any witness was examined nor any evidence collected in the prescribed manners nor appellants afforded any opportunity of cross-examination of witnesses. That fair opportunity of hearing including treatment in accordance with law and right of fair trial were denied to the appellants resulting into mis-carriage of justice. That show cause notices issued to the appellants were defective and the same were prepared without application of mind by the relevant authority and as such the entire proceedings are nullity in the eyes of law.

Learned Senior Government Pleader argued that the charges of involvement of the appellants in corrupt practices including issuance of bogus licenses were established against the appellants and therefore keeping in view their long service penalty in the shape of compulsorily retirement was imposed against them which is quite appropriate and which therefore warrants no interference.

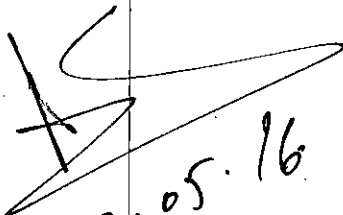
We have heard arguments of the learned counsel for the parties and perused the record.

Record would suggest that the enquiry officer has neither examined any witness during enquiry proceedings nor evidence was collected in the prescribed manners and has mainly relied on the proceedings conducted under Section-157(1) Cr.P.C by the local police. It is not ascertainable from the record that the alleged fake licenses were issued during the tenure of appellants. Perusal of final show cause notice dated 24.09.2013 would

~~C~~
03.05.16

suggest that the appellants were given final show cause notice wherein penalties including dismissal from service was suggested while there-after the said authority has written a letter to the District Police Officer Swat dated 05.12.2013 wherein he has pointed out short-comings in the enquiry report of the enquiry officer and wherein it was directed that the appellants be personally heard and that punishment against them may also be suggested. In response to the said letter the DPO Swat has recommended minor punishment vide letter dated 20.12.2013 meaning thereby that final show cause notice was issued by the authority without consulting and considering the findings of the enquiry officer wherein major punishment was not suggested and the minor punishment suggested was ignored and where-after no final show cause notice was served on the appellants.

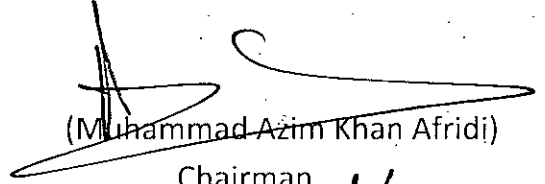
In view of the above we hold that the enquiry proceedings were not conducted in the prescribed manners as neither the enquiry officer has recorded any evidence during the enquiry proceedings and in the prescribed manners nor opportunity of cross-examination extended to the appellants and, moreover, no final show cause notice in the prescribed manners was ever served on the appellants and no opportunity of personal hearing afforded to them by the competent authority. We, in the circumstances highlighted above, accept the instant appeals, set aside the impugned orders dated 21.04.2015 to the extent of appellants and reinstate the appellants in service with the direction to the competent authority to conduct denovo proceedings against the appellants which shall be conducted in the prescribed manners and concluded within a period of two


03.05.16

months of the receipt of this judgment. The back benefits shall be subject to the outcome of denovo proceedings. Parties are left to bear their own costs. File be consigned to the record room.



(Abdul Latif)
Member



(Muhammad Azim Khan Afridi)

Chairman


03.05.16.

ANNOUNCED

03.05.2016

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

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.


Chairman

Appellant Deposited
Security & Process Fee

4. 02.11.2015

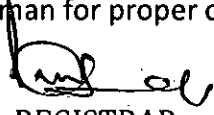

Appellant in person and Mr. Khawas Khan, S.I (legal) alongwith Mr. Muhammad Zubair, Sr. G.P for respondents present. Written reply submitted. The appeal is assigned to D.B for rejeinder and final hearing for 7.3.2016 at Camp Court Swat.


Chairman
Camp Court Swat

Form-A
FORM OF ORDER SHEET

Court of _____

Case No. 874/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	04.08.2015	<p>The appeal of Mr. Hussain Ali presented 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;"> REGISTRAR</p>
2	10-8-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>12-08-15</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 874 /2015

Hussain Ali Appellant

VERSUS

The PPO/IGP & others Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal			1-7
2.	Copy of order of departmental inquiry against appellant	03.05.2012	A	0-8
3.	Copy of Charge Sheet with Statement of Allegations	30.04.2012	B	9-10
4.	Copy of letter thereby communicated Show Cause Notice with copy of Inquiry Report	26.09.2013	C	11-14
5.	Copy of letter of Respondent No.2 therein made some queries and asked for specific punishment	05.12.2013	D	0-15
6.	Copy of impugned office order thereby major penalty of compulsory retirement was imposed upon the appellant with immediate effect	21.04.2015	E	16-17
7.	Copy of Review Petition filed before Respondent No.1	28.04.2015	F	0-18
8.	Copy of application of appellant for provision of necessary documents before Respondent No.1	04.05.2015	G	0-19
9.	Copy of application of appellant to Chief Information Commissioner under TCS for the requisite documents from Respondent authority	19.05.2015	H	20-21
10.	Copy of letter of Assistant Registrar RTI Commission to Respondent Department	22.05.2015	I	0-22
11.	Copy of second letter of Assistant Registrar RTI Commission to Respondent Department	11.06.2015	J	0-23
12.	Copy of third letter of Assistant Registrar RTI Commission to Respondent Department	25.06.2015	K	0-24
13.	Copy of letter to appellant from Commission for information about the provision of requisite documents	06.07.2015	L	0-25
14.	Copy of letter	01.07.2015	M	0-26

S.No.	Description of Documents	Date	Annexure	Pages
15.	Copy of letter of appellant to the Commission therein he requested for provision of complete documents	13.07.2015	N	0-27
16.	Copy of letter whereby application of appellant was forwarded to the respondent authorities	22.07.2015	O	0-28
17.	Wakalat Nama			

As - Ali

Through

Appellant

Khush Bil 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. 874 /2015

Hussain Ali,
Ex-Senior Clerk,
Office of the District Police Officer
Dir Upper.
R/o Mohallah Masjid Umar Bin Khitab,
Gumbat Mera, Mingora, District Swat.....Appellant

K.W.F. Province
Service Tribunal
Slary No. 930
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.

Handwritten signature and date:
4/8/15

Respectfully Sheweth,

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

1. That appellant initially appointed as Class-IV on 11.01.1986, then he was appointed as Junior Clerk in the year 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 Department for more than 29 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 28.04.2015 (**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. as evident from the application dated 04.05.2015 (**Annex:-G**) but the same were not provided to appellant. Then appellant approached to Chief Information Commissioner, Right to Information Commission, Government of Khyber Pakhtunkhwa, Peshawar (in short "Commission") vide application dated 19.05.2015 (**Annex:-H**) and the Assistant Registrar of the Commission communicated a

letter dated 22.05.2015 (**Annex:-I**) for the supply of requisite documents when the same were not supplied within stipulated time, then the Commission sent another letter on 11.06.2015 (**Annex:-J**) and when the same was also not honored then another letter dated 25.06.2015 (**Annex:-K**) was issued to Respondent Department for compliance, lastly the Commission sent through its letter dated 06.07.2015 (**Annex:-L**) the photocopies of the documents contained in letter dated 01.07.2015 (**Annex:-M**) furnished by the Respondent authority. Since the documents as provided by the respondent authorities were not the same for which he had applied so he again wrote a letter to the Commission dated 13.07.2015 (**Annex:-N**) which was forwarded to Respondent authority for compliance vide letter dated 22.07.2015 (**Annex:-O**) but in vain.

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

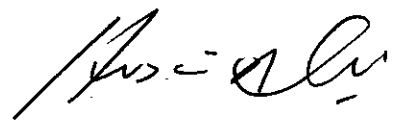
impugned orders are illegal, malafide, without lawful authority and not sustainable under the rules and liable to be set aside.

- 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

01/08/2015

ANNEX- A 128
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
dt 20/5/12*

[Signature]
(JAVED IQBAL)

Registrar
For Provincial Police Officer,
Khyber Pakhtunkhwa
Peshawar

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

*No. 5261 /inq.
dt: 16-5-12013*

Regional Police Officer,
Malakand, at Saidu Sharif Swat.

*Copy of above along
its enclosure is sent to
DSP/Legal Swat for n/a*

ATTESTED

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

ANNEX-B-29 (23)

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.

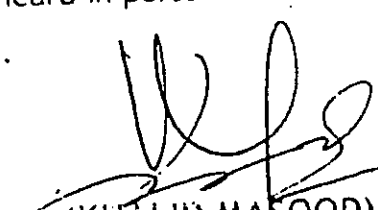
2. By reasons of the above, you appear to be guilty of misconduct under Civil Servants efficiency and discipline rules 2011, and have rendered yourself liable to all or any of the penalties specified in the rules ibid.

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 exparte action shall follow against you.

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

6. Statement of allegation is enclosed.


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

ATTESTED

DISCIPLINARY ACTION

P-10

38/EG

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 :-

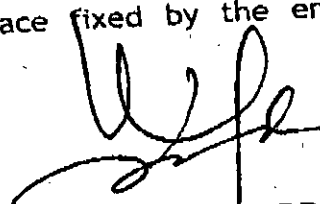
STATEMENT OF ALLEGATIONS

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) Jangir Khan

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

30/4


ATTACHED

ANNEX = C-P-11

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

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

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

Subject: DEPARTMENTAL ENQUIRY AGAINST SENIOR CLERKS
MUSSAIN 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 Ahmau & 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

P-12

FINAL SHOW CAUSE NOTICE.

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.

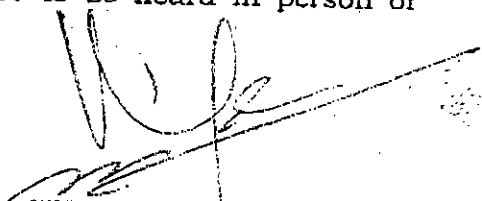
2. WHEREAS, the Enquiry officer has finalized the Enquiry proceedings, giving you full opportunities of defence i.e personal hearing as well as cross examination of the witnesses and the statement of all PWS were recorded in your presence, besides audience to relevant record. Consequent upon the completion 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)

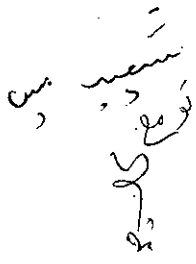

(KHALID MASOOD)
Add: IGP/Headquarters,
For Provincial Police Officer,
Khyber Pakhtunkhwa
Peshawar.


ATTESTED

24/9

03075193302

0944-880493



#5140 P. 007

#0140 P. 008

P-13

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 Sersenal 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

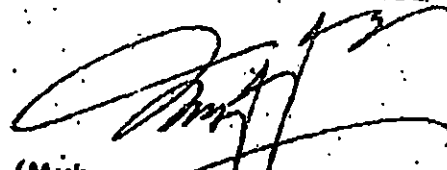
P-14

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 Endst: No. 7455-66/E, dated 18-06-2013.

ATTESTED


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



ANNEX- D-P-15

Ph: 9210345

Fax: 9210927

From: The Provincial Police Officer,
Khyber Pakhtunkhwa Peshawar.

To: The District Police Office,
Swat.

No. 29959 /E-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

major/minor
Assistant Grade Clerk
Senior Clerk
Senior Clerk
Senior Clerk

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

[Signature]
ATTACHED



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

No. 2569 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.
2. Khurshid Ahmad, Senior Clerk DPO Swat.
3. Hussain Ali, Senior Clerk DPO Swat.
4. Muhammad Nawab, Senior Clerk DPO 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.

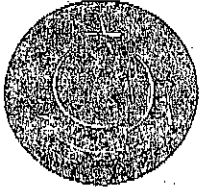
4. The accused officials were served with Final Show Causes. They submitted their replies accordingly. Finally they were summoned in the office of the undersigned and heard at length.

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 Daily Diary 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.

ATTESTED

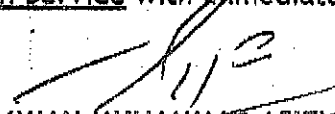
ANNEX-E-P-16



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

P-17
39


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.

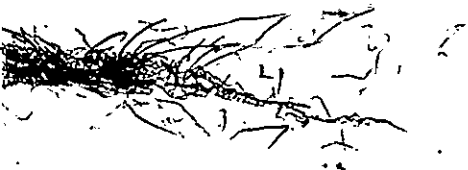

(MIAN MUHAMMAD ASIF)PSP
Addl: IGP/HQrs:
For Inspector General of Police
Khyber Pakhtunkhwa
Peshawar

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.


ATTESTED



ANNEX-F-12/18

BEFORE THE WORTHY PROVINCIAL POLICE OFFICER,
KHYBER PAKHTUNKHWA, PESHAWAR

Subject REVIEW PETITION AGAINST ORDER DATED 21/04/2015

Respected Sir,

It stated with due respect that the appellant was compulsorily retired from service by your good self-vidé CPO Peshawar Endst: No.2470-74/E-V, dated 21/07/2015 on the charges of fraud and irregularities in the license Branch, issuing bogus driving licenses under the rake signatures of Mr. Jehangir Khan, DSP, the then MLA Swat **during my short period as Traffic Clerk only for 2 months and 28 days (i.e 01/10/2011 to 29/12/2011)**. Proper departmental proceedings were also initiated against the appellant, wherein appellant were recommended for minor punishment by the Enquiry Officer.

Sir,

I also collectively request that the whole episode was a self-made, concocted and there was no any fact with regards to appellant forgery or irregularities in license dealing as it is the facts that no one in the whole service has complaint against the appellant regarding issuing any fake driving license, **but in one go punishment has awarded to the appellant.**

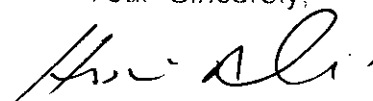
Sir,

Believe Sir, the appellant state on oath that the appellant belong to a poor and destitute family of Swat district and have no any resource of income except this employment and cannot afford lawyers expenses as the monthly salary was the only income source of family members and school going children. However the appellant name was also on promotion zone of Senior Clerk to Assistant Grade Clerk, **but due to lingering departmental enquiry, the appellant was suffered and ignored from promotion thrice.**

Keeping in view of above facts, 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. The appellant will pray for your long life and prosperity for your this act of kindness and also assure you sir that the appellant will perform duties to the entire satisfaction of immediate officers in future like previous service record please.

ATTESTED

Your Sincerely,



(HUSAIN ALI)

Ex-Senior Clerk,

KPK Police, resident of
Mohallah Masjid Umar Bin Khitab,
Gumbat Mera, Mingora, Distt Swat

C # 0333-9500430

0347-9600430

28-4-05

ANNEX = 67 P 19

BEFORE THE WORTHY PROVINCIAL POLICE OFFICER,
KHYBER PAKHTUNKHWA, PESHAWAR

Subject REQUEST FOR PROVISION OF ATTESTED PHOTO COPIES OF
PRELIMINARY AND DEPARTMENTAL ENQUIRIES

Respected Sir,

It stated with due respect that the appellant was compulsorily retired from service by your good self-vidé CPO Peshawar Endst: No.2470-74/E-V, dated 21/04/2015, therefore, the applicant is in need of attested photo copies of both departmental enquiries.

It is humbly requested that necessary permission may kindly be accorded for issuance of attested photo copies of both preliminary and departmental enquiries and obliged please.

Your Sincerely,



(HUSAIN ALI)

Ex-Senior Clerk,

KPK Police, resident of

Mohallah Masjid Umar Bin Khitab,

Gumbat Mera, Mingora, Distt Swat

C # 0333-9500430

0347-9600430

04.05.2015

ATTESTED

ANNEX = H-1220

BEFORE THE CHIEF INFORMATION COMMISSIONER,
RIGHT TO INFORMATION COMMISSION,
GOVERNMENT OF KHYBER PAKHTUNKHWA AT PESHAWAR

Hussain Ali
Ex-Senior Clerk,
Khyber Pakhtunkhwa Police
R/o Mohallah Masjid Umar Bin Khitab Gumbat Mera,
Mingora, District Swat. Applicant/Appellant

Versus

Provincial Police Officer/Focal Person
Khyber Pakhtunkhwa, Peshawar. Respondent

~~APPLICATION / APPEAL IN RESPECT OF THE REQUEST FOR
PROVISION OF ATTESTED PHOTOCOPIES OF DEPARTMENTAL
INQUIRY WITH ALL AND ANY DOCUMENTS AGAINST THE
APPLICANT. (WHICH HAS NOT BEEN RESPONDED SO FAR).~~

Respected Sir,

It is submitted as under:

- That the applicant was compulsorily retired from service by the Additional Inspector General of Police, Hqrs, KPK, Peshawar.
- That the applicant gave applications to the respondent for providing attested photocopies of the whole record of the said inquiry etc. (Copy of the said applications alongwith the TCS receipts dated 04/05/2015 and NTL Courier service dated 09/05/2015 are attached herewith).
- That the respondent has not yet provided the requisite attested documents so far, in accordance with Government of Khyber Pakhtunkhwa Right to Information Act, 2013.
- That the applicant is entitled for the whole record, mentioned in the applications, in accordance with the Act supra.
- That the respondent is denying the legal right of the applicant/ appellant, without any plausible reasons.

~~It is, therefore, submitted that on acceptance of this application/appeal, the respondent may be directed to handover the required documents to the applicant, immediately.~~ plan

ATTESTED

Applicant/Appellant

Hussain Ali
HUSSAIN ALI 19/5

Ex-Senior Clerk,
Khyber Pakhtunkhwa Police
Cell: 0333-9500430
0347-9600430

Dated: 19.05.2015



Shipper's Acc.No.
Reference / Job

History ID 0515SWTXT3401163

4761161433

Amir Hussain
GST No. 12-009808-002

COURIER	
Origin	Destination
SWT	PEW

From (Shipper)

MR.HUSSAIN ALI

MOH.MAJID UMAR BIN KHITAB
GUMBADMIRA SWAT

Phone#
SMS 03339500430
Email
MINGORA (SWAT)

Shipment Detail	Coupons	Discount
Declared Value		
0.00		

Pieces	Weight
1	0.50
Dimension of Shipment	
0 0 0	
Service Type	
OVER NIGHT	
Mode of Payment	
CASH	

To (Consignee)

ASTT REGISTRAR SAHIB

R.I.C. K.P.K.PESHAWAR CANTT

Phone#
PESHAWAR

Receiver's Signature

Shipment Booked After COT Date 19/05/2015
Time 1:55:37

Charges	Pak. Rupees
Service	130.00
	0.00
Out of Serv	0.00
Handling	0.00
Others	0.00
GST	0.00
Ins. Prem.	0.00
DD Alerts	0

Sender's Authorization

I warrant that I have read the terms and conditions on the reverse of this consignment note and that all details given herein are true and correct. I further declare that the contents of this consignment do not contain any letter. The execution of this consignment note is prima facie evidence of the conclusions of contract between shipper and TCS (PVT) LTD.

Shipper's Signature

Booking Details

Staff 3401 RIASAT ALI

Route X35107 Date 19/05/2015 Time 1:55:37 PM

Receiver's Signature Receiving Time

Total 130

Shipper Copy

ATTESTED

خطوط نقدی، زیورات اور قیمتی اشیاء قابل قبول نہیں ہیں۔



ANNEX-172 22
GOVERNMENT OF KHYBER PAKHTUNKHWA
RIGHT TO INFORMATION COMMISSION
7th Floor, Tasneem Plaza, Near Benevolent Fund Building,
6th Saddar Road, Peshawar
Email: complaints@kprti.gov.pk
Ph: 92-91-9212643
Fax: +92-91-9211163

No: RTIC/AR/1-632/15

Dated: 22nd May, 2015

To

The AIG (Legal)/PIO,
Inspector General of Police,
Peshawar.

Ref: Mr. Hussain Ali vs. IG Police, Peshawar.

Subject: **Supply of Information under RTI Act, 2013 (Complaint No: 00632)**

Memo:

Enclosed please find a copy of complaint filed by Mr. Hussain Ali complaining that his request for supply of information was not responded by your Organization within the time frame given in the RTI Act, 2013.

Please ensure that the information regarding attested photocopies of preliminary and Departmental enquiries are provided to the complainant within fifteen working days of the receipt of this letter under intimation to this Commission. In case you refuse to supply the information, you may convey the reason for such refusal.

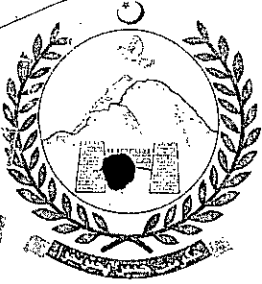
Failure to comply would compel the Commission to initiate action under the Right to Information Act, 2013.

ATTESTED

Assistant Registrar
Right to Information Commission,
KPK, Peshawar.

Copy to: /
Mr. Hussain Ali (Complainant)

Assistant Registrar
Right to Information Commission,
KPK, Peshawar.



GOVERNMENT OF KHYBER PAKHTUNKHWA
RIGHT TO INFORMATION COMMISSION
7th Floor, Tasneem Plaza, Near Benevolent Fund Building,
6th Saddar Road, Peshawar
Email: complaints@kprti.gov.pk
Ph: +92-91-9212643
Fax: +92-91-9211163

ANNEX-J-P-23

No: RTIC/AR/1-632/15
Dated: 11th June, 2015

To

The AIG (Legal)/PIO,
Inspector General of Police,
Peshawar.

Ref: Mr. Hussain Ali vs. IG Police, Peshawar.

Subject: Supply of Information under RTI Act, 2013 (Complaint No: 00632)

Memo:

Please refer to this office letter No. RTIC/AR/1-632/15, dated: 22nd May, 2015.

Please ensure that the Information regarding attested photocopies of documents is provided within **five** days of the receipt of this letter, under the law, under intimation to this Commission.

Failure to respond on your part will compel this Commission to make resort to the punitive provisions of the law.

Assistant Registrar
Right to Information Commission
KPK, Peshawar.

Copy to:-

Mr. Hussain Ali (Complainant)

ATTESTED

Assistant Registrar
Right to Information Commission
KPK, Peshawar.



GOVERNMENT OF KHYBER PAKHTUNKHWA
RIGHT TO INFORMATION COMMISSION
7th Floor, Tasneem Plaza, Near Benevolent Fund Building,
6th Saddar Road, Peshawar
Email: complaints@kprti.gov.pk
Ph: 92-91-9212643
Fax: +92-91-9211163

ANNEX = K - P-24

2ND REMINDER

No: RTIC/AR/1-632/15
Dated: 25th June, 2015

To

The AIG (Legal)/PIO,
Inspector General of Police,
Peshawar.

Ref:

Mr. Hussain Ali vs. IG Police, Peshawar.

Subject:

Supply of Information under RTI. Act, 2013 (Complaint No: 00632)

Memo:

Please refer to this office letter No. RTIC/AR/1-632/15, dated: 11th June, 2015.

Please ensure that the Information sought is provided within three days of the receipt of this letter, under the law, under intimation to this Commission.

Failure to respond on your part will compel this Commission to make resort to the punitive provisions of the law.

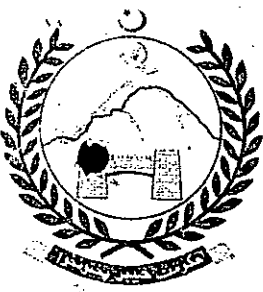
Assistant Registrar
Right to Information Commission,
KPK, Peshawar.

Copy to:-

Mr. Hussain Ali (Complainant)

ATTESTED

Assistant Registrar
Right to Information Commission,
KPK, Peshawar.



GOVERNMENT OF KHYBER PAKHTUNKHWA
RIGHT TO INFORMATION COMMISSION
7th Floor, Tasneem Plaza, Near Benevolent Fund Building,
6th Saddar Road, Peshawar
Email: complaints@kprti.gov.pk
Ph: +92-91-9212643
Fax: +92-91-9211163

ANNEX-1
P-25

No. RTIC/AR/1-632/15
Dated: 06th July, 2015

To

Mr. Hussain Ali,
Mohallah Masjid Umar Bin Khitab Gumbat Mera, Mingora,
District, Swat.

Ref:

Mr. Hussain Ali vs. IG Police, Peshawar.

Subject:

Supply of Information under RTI. Act, 2013 (Complaint No. 00632)

Memo,

Attached please find the requisite information received from Office of Inspector General of Police, KPK, Central Police Officer, Peshawar vide letter No. 3241/Legal, dated: 01st July, 2015, regarding your case.

You are advised to confirm in writing the receipt of complete and relevant information within seven days of the receipt of this letter.

In case we do not receive any response from you, we will close this case.

Assistant Registrar
Right to Information Commission,
KPK, Peshawar.

ATTESTED

- Received at [unclear]
- Reported [unclear]
1 [unclear]



OFFICE OF THE
INSPECTOR GENERAL OF POLICE, P-26
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar

ANNEX-M

No. 3241/Legal, Dated Peshawar 01/07/2015

To: - The Assistant Registrar,
RTI, Commission,
Khyber Pakhtunkhwa Peshawar.

Subject:- SUPPLY OF INFORMATION UNDER RTI ACT-2013 (COMPLAINT NO. 00632)

Memo:-

Please refer to your letter No. RTIC/AR/1-632/15 dated 25.06.2015.

The photocopies of the following documents are sent herewith as desired:

1. Charge sheet with statement of Allegations.
2. Enquiry Report.
3. Final Order of his compulsory retirement.

It is therefore, requested that the above mentioned documents may be handed over to complainant i.e. Hussain Ali.

AIG/LEGAL
P.I.O./RTI Commission
Central Police Office,
Peshawar.

No. 3242 / Legal, Dated Peshawar the: 01/07/2015.

Copy for information to the:-

1. Registrar, Central Police Office, Peshawar w/r to his letter No. 4388/E-V dated 25.06.2015.

ATTESTED

Right to Information Commission
Government of KPK.
Diary No: 5271
01-7-15

AIG/LEGAL
P.I.O./RTI Commission
Central Police Office,
Peshawar.

BEFORE THE CHIEF INFORMATION COMMISSIONER,
RIGHT TO INFORMATION COMMISSION,
GOVERNMENT OF KHYBER PAKHTUNKHWA AT PESHAWAR

ANNEX: N²
P-27

Hussain Ali
Ex-Senior Clerk,
Khyber Pakhtunkhwa Police
R/o Mohallah Masjid Umar Bin Khitab Gumbat Mera,
Mingora, District Swat. Applicant/Appellant

Versus

Provincial Police Officer/Focal Person
Khyber Pakhtunkhwa, Peshawar. Respondent

**APPLICATION / APPEAL IN CONNECTION WITH THE REQUEST FOR
PROVISION OF ATTESTED PHOTOCOPIES OF DEPARTMENTAL
INQUIRY WITH ALL AND ANY DOCUMENTS AGAINST THE
APPLICANT (WHICH HAS NOT BEEN RESPONDED SO FAR).**

Respected Sir,

Kindly refer to your office letter reminder No: RTIC/AR/1-632/15 Dated: 06th
July, 2015 received today on 13/07/2015 through UMS. *Photo copies of the documents
sent with the Refm are incomplete.*
Sir,

The appellant is in need of attested true copies of all and any documents,
FSL exam sample / results, statements, whisperings, misleading of the whole
enquiry papers, so the appellant could at least properly, legally defend himself in
the concerned court of law.

It is, therefore, humbly requested that the respondent may kindly be once
again directed to provide the required documents i.e FSL exam sample / results,
statements, whisperings, misleading of the whole enquiry papers to the applicant
through your good office, immediately, for the purpose explained above please.

Applicant/Appellant

Hussain Ali

(HUSSAIN ALI)

Ex-Senior Clerk,
Khyber Pakhtunkhwa Police
R/o Mohallah Masjid Umar
Bin Khitab Gumbat Mera, near
Govt Graveyard, Mingora,
District Swat.

Cell: 0333-9500430
0347-9600430

Dated: 13-07-2015

Hussain Ali
ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
RIGHT TO INFORMATION COMMISSION
7th Floor, Tasneem Plaza, Near Benevolent Fund Building,
6th Saddar Road, Peshawar
Email: complaints@kprti.gov.pk
Ph: 92-91-9212643
Fax: +92-91-9211163

ANNEX=0
P 28

No: RTIC/AR/1-632/15

Dated: 22nd July, 2015

To

The AIG (Legal)/PIO,
Inspector General of Police,
Peshawar.

Ref: Mr. Hussain Ali vs. IG Police, Peshawar.

Subject: **Supply of Information under RTI. Act, 2013 (Complaint No: 00632)**

Memo:

Please refer to your letter No. 3241/Legal, dated: 01st July, 2015.

We appreciate your cooperation for providing information to the complainant.

However, the complainant has now complained to this Commission that the information provided by your Department is incomplete and unattested. (Copy enclosed)

You are, therefore, directed to provide complete, relevant and attested information within five days of the receipt of this letter to the complainant to his satisfaction, under the law, under intimation to this Commission.

Assistant Registrar
Right to Information Commission,
KPK, Peshawar.

Copy to:-

Mr. Hussain Ali (Complainant)

ATTESTED

Assistant Registrar

WAKALAT NAMA

IN THE COURT OF

K.P. Service Tribunal, Peshawar

Hussain Ali, Ed. Service

Chief Police Dept Swat Appellant(s)/Petitioner(s)

VERSUS

Provincial Police Waziristan

K.P. Service

Respondent(s)

I/We Hussain Ali 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


Signature of Executants

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

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No. 874/2015

Hussain Ali 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.

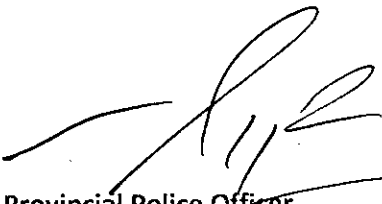
7. Para No. 7 is totally incorrect and denied. The appellant was awarded ample opportunity to defend himself. He was issued a charge sheet & summary of allegations. He was called & heard in person. He was issued final show cause notice. Hence, all the codal formalities were fulfilled.


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. 874/2015

Hussain Ali Ex Senior Clerk

.....

Appellant

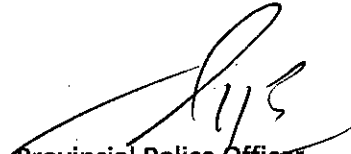
VERSUS


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 secrete 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. 874/2015

Hussain Ali 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.

ANNEX-15-29

CHARGE SHEET

I, Khalid Masood, Addl: Inspector General of Police (HQ's), 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 MIA, Swat during the preliminary enquiry conducted by DSP/HQ's Swat, which is gross misconduct on your part as defined in Civil Servants efficiency and discipline rules 2011.

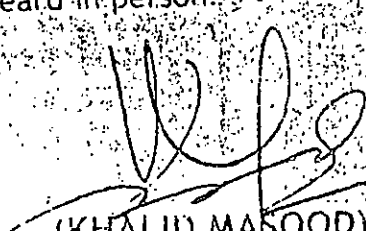
2. By reasons of the above, you appear to be guilty of misconduct under Civil Servants efficiency and discipline rules 2011, and have rendered yourself liable to all or any of the penalties specified in the rules ibid.

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 offer and in that case the action shall follow against you.

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

6. Statement of allegation is enclosed.


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

ATTACHED

P-10

38/12

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

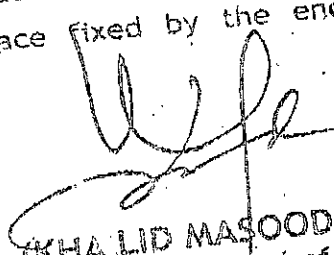
1. That he while posted to Traffic /Licence Branch, Swat from the period from 08.03.2010 to 29.08.2012 was held responsible for issuance of bogus Driving Licences under the fake signature of DSP/Jehangir Khan, the then MLA Swat.

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

P-14

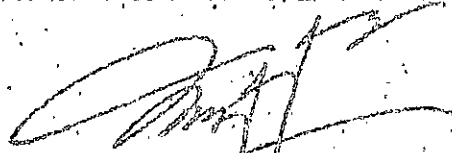
2

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.

ATTEST



(Muhammad Ayaz Khan)
DSP/Legal Swat

6-8-13

FINAL SHOW CAUSE NOTICE

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. Muahammad Ayaz DSP/Legal Swat was appointed to conduct enquiry.

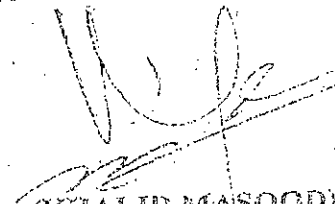
2. WHEREAS, the Enquiry officer has finalized the Enquiry proceedings, giving you full opportunities of defence i.e personal hearing as well as cross examination of the witnesses and the statement of all PWS were recorded in your presence, besides audience to relevant record. Consequent upon the completion 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/HQ's 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)


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

ATTESTED

5193301
44-880493
2.5

P-13

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.

Frior 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 tie 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 266 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, 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 Sersenal 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

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

No. 738 /ST,

Dated 10-5 /2016


To:

Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.

Subject:- Service Appeal No. 874/2015, Hussain Ali Versus PPO, KPK
Peshawar and others.

I am directed to forward herewith a certified copy of detailed judgment dated 03.05.2016 in the above mentioned appeal alongwith short orders dated 03.05.2016 in connected service appeals No, 887/2015 and 889/2015 passed by this Tribunal for strict compliance.

Encl. As above.


REGISTRAR
KPK SERVICE TRIBUNAL,
PESHAWAR.

*Right day etc
on 10.5.2016
Time 3-30 PM*

10/5/2016

Better Copy

From: The District Police Officer, Swat.
To: The Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.

No. 18909/P, dated Gulkada the 20-12-2013.

Subject: **ENQUIRY AGAINST MINISTERIAL STAFF.**

Memorandum:

Kindly refer to your office memo No. 29959/E-III, dated 05-12-2013 on the subject noted above.

It is submitted that the officials were personally heard and their statement recorded which are sent herewith for kind perusal.

It is recommended that minor punishment may please be awarded to them.

Sd/-

District Police Officer Swat.

From: The District Police Officer, Swat

To: The Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar

MS 18909 /V, dated Gulkeada the 20-12-2013

Subject: ENQUIRY AGAINST MINISTERIAL STAFF

Reference: ...

Kindly refer to your office memo No. 29959/E-III, dated 15-12-2013 on the subject noted above.

It is submitted that the officials were personally heard and their statements recorded which are sent herewith for kind perusal.

It is recommended that minor punishment may please be awarded to them.

District Police Officer, Swat