

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT SWAT

Service Appeal No 1040/2015

Date of Institution... 21.09.2015

Date of decision... 07.08.2017

Muhammad Usman, Ex-Constable No. 1480 son of Iqbal Hussain R/O Rustam,
Tehsil and District, Mardan. ... (Appellant)

Versus

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and two
others. (Respondents)

MR. ABDUL NASIR,
Advocate

...

For appellant.

MR. MUHAMMAD ZUBAIR,
District Attorney

...

For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. GUL ZEB KHAN,

...

...

CHAIRMAN
MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the learned
counsel for the parties heard and record perused.

FACTS

2. The appellant was proceeded under the Khyber Pakhtunkhwa Police Rules, 1975 on the basis of a report of Operator of the C.C.T.V at Landakai Check Post. The charge leveled against the appellant was that he stole money from the purse of a Driver (unknown). On the basis of this report charge sheet and statement of allegations were issued to the appellant on 23.06.2015 and an enquiry officer was appointed to probe into the matter under the rules. The enquiry officer submitted his report on 08.07.2015. On the basis of the said report, the DPO (authority)

passed the impugned order dated 13.07.2015 by removing the appellant from service. Against this original order, the appellant moved a departmental appeal on 28.07.2015 which was rejected on 25.08.2015 and there-after the present appeal before this Tribunal on 21.09.2015.

ARGUMENTS

3. The learned counsel for the appellant argued that there was no complaint filed by any person against the appellant. That the driver is unknown. That the proceedings were initiated merely on the basis of photage of CCTV and report of the Operator. That the said footage has not been produced before the enquiry officer. That only two witnesses were examined by the enquiry officer but no right of cross-examination was afforded to the appellant. That no personal hearing was afforded to the appellant. That the personal hearing as alleged by the D.P.O in the impugned order is dated 10.06.2015 which is prior to the date of initiating departmental proceedings and enquiry report which has got no value in the eyes of law. That no chance of defence was afforded to the appellant. That no recovery has been effected from the appellant.

4. On the other hand, the learned District Attorney argued that there was no ill-will proved or established by the appellant on the part of Operator. That footage of CCTV was produced before the enquiry officer. That all the legal formalities were fulfilled.

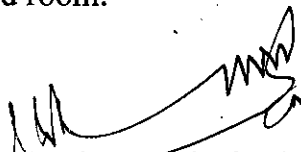
CONCLUSION

5. The record shows that no opportunity of cross-examination was afforded to the appellant which is now a fundamental right after introduction of Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973. Otherwise too whenever any witness is examined against any person (whether in civil, criminal or

administrative proceedings) the right of cross-examination is an inalienable right of the person against whom evidence is produced. There is also nothing on record to show that accused was given chance of defence. The personal hearing afforded to the appellant by the authority is back dated to the enquiry report, at least, which has got no legal value. The enquiry officer has not mentioned as to whether CCTV footage was placed before him and he identified the appellant in the alleged footage. The statement of Operator also does not revealed that whether it was displayed before the enquiry officer or not.

6. Keeping in view the above reasons and ~~the~~ discussion, the appeal is accepted, the impugned order is set aside and the appellant is reinstated in service. The intervening period shall be considered as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

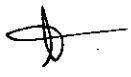

(Gul Zeb Khan)
Member



(Niaz Muhammad Khan)
Chairman
Camp Court, Swat

ANNOUNCED
07.08.2017

03.04.2017

Appellant in person present. Mr. Khawas Khan, S.I (Legal) alongwith Mr. Muhammad Zubair, Senior Government Pleader for respondents also present. Appellant requested for adjournment on the ground that his counsel is not available. Adjourned. To come up for arguments on 07.08.2017 before D.B at Camp Court Swat.


(AHMAD HASSAN)
MEMBER

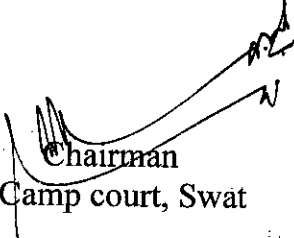

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER
Camp Court Swat.

07.08.2017

Appellant alongwith Mr. Abdul Nasir, Advocate present and Wakalatnama placed on file. Mr. Muhammad Zubair, District Attorney alongwith Mr. Khawas Khan, S.I (Legal) for the respondents present. Rejoinder submitted by the learned counsel for the appellant. Arguments heard and record perused.

Vide our detailed judgment of to-day, this appeal is accepted as ~~per detailed judgment~~. Parties are left to bear their own costs. File be consigned to the record room.


Member
ANNOUNCED
07.08.2017


Chairman
Camp court, Swat

1040/2015

06.04.2016

appellant in person and Mr. Imranullah, S.I (Legal) with Mr. Muhammad Zubair, Sr.G.P for the respondents present. Written statement submitted. The appeal is assigned to D.B for rejoinder and final hearing for 05.09.2016 at camp court, Swat.


05.09.2016

Agent of counsel for the appellant and Mr. Khawas Khan, SI (Legal) alongwith Mr. Muhammad Zubair, Sr.GP for the respondents present. Seeks adjournment. To come up for rejoinder and final hearing before D.B on 06.12.2016.


Chairman

Camp Court, Swat.


Member


Chairman

Camp Court, Swat

06.12.2016

Appellant in person and Mr. Khawas Khan, SI (Legal) alongwith Mr. Muhammad Zubair, Sr.GP for the respondents present. Appellant seeks adjournment to submit rejoinder. The bench is also incomplete. To come up for rejoinder and final hearing on 3.4.2017 before D.B at camp court, Swat.


Chairman

Camp court, Swat.

29.09.2015

Appellant with counsel present. Learned counsel for the appellant argued that the appellant was serving as Constable when subjected to inquiry on the allegations of taking of illegal gratification from a bus driver and removed from service vide impugned order dated 13.7.2015 regarding which he preferred departmental appeal on 27.7.2015 which was rejected on 25.8.2015 where-after the instant service appeal was preferred on 21.9.2015.

Appellant Deposited
Security & Process Fee



That neither inquiry was conducted in the prescribed manners nor appellant associated with same nor evidence collected nor opportunity of cross-examination extended 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 3.12.2015 before S.B.


Chairman

03.12.2015

Counsel for the appellant and Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 22.2.2016 before S.B.


Chairman

22.02.2016

Counsel for the appellant and Addl: A.G for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 6.4.2016 before S.B at Camp Court Swat as the appeal pertains to the territorial limits of Malakand Division.


Chairman

FORM-A

FORM OF ORDER SHEET

Court _____

Case No. 1040/2015

	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	21.09.2015	<p>The appeal of Mr. Muhammad Usman, presented to-day by Mr. Rizwanullah, Advocate may be entered in the institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2	22/9/15	<p>This case be put up before the S.B for preliminary hearing on <u>29-9-2015</u>.</p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. 1040 /2015

1. Muhammad Usman (Ex-constable No.1480), S/O Iqbal Hussain, R/O Post Office Rustam, Tehsil and District Mardan.

APPELLANT

VERSUS

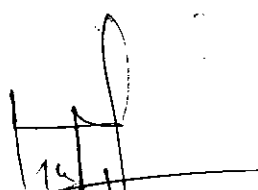
1. The Provincial Police Officer, Government of Khyber Pakhtunkhwa, Peshawar and others.

I N D E X

S.No	Particulars	Annexure	Pages #
1	Service Appeal	—	1-7
2	Affidavit	—	8
3	Copy of charge sheet & statement of allegation	“A & B”	9-10
4	Copy of impugned order dated 13-7-2015	“C”	11
5	Copy of departmental appeal dated 27-7-2015	“D”	12-13
6	Copy of rejection order dated 25-8-2015	“E”	14
7	Vakalatnama	—	—


Appellant

Through


Rizwanullah
M.A. LL.B
Advocate High Court,
Peshawar

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. 1040 /2015

G.W.P. Province
Service Tribunal
Diary No. 1098
Dated 21-8-15

1. Muhammad Usman (Ex-constable No.1480), S/O Iqbal Hussain, R/O Post Office Rustam, Tehsil and District Mardan.

APPELLANT

VERSUS

1. The Provincial Police Officer, Government of Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Malakand at Saidu Sharif, Swat.
3. The District Police Officer, Swat.

RESPONDENTS

APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 AGAINST THE
IMPUGNED ORDER NO. 118 DATED
13-7-2015 PASSED BY THE
DISTRICT POLICE OFFICER, SWAT
(RESPONDENT NO.3), WHEREBY THE
APPELLANT WAS AWARDED MAJOR
PENALTY OF REMOVAL FROM SERVICE.
THE APPELLANT PREFERRED
DEPARTMENTAL APPEAL ON 27-7-2015
BUT THE SAME WAS REJECTED ON
25-8-2015.

PRAYER IN APPEAL

By accepting this appeal, the impugned orders dated 13-7-2015 & 25-8-2015 passed by the District Police Officer, Swat (respondent No.3) and Regional Police Officer, Swat

(respondent No.2) respectively may very graciously be set aside and the appellant may kindly be reinstated in service with all back wages and consequential benefits.

Any other relief deemed proper and just in the circumstances of the case, may also be granted.

RESPECTFULLY SHEWETH

Short facts giving rise to the present appeal are as under:-

1. That the appellant joined the service of Police Department as Constable (B-5) on 19-2-2009. He had 6 years unblemished service record to his credit.
2. That the appellant was performing his duty with great zeal, zest and devotion. But strangely he was served with a charge sheet alongwith statement of allegations wherein the following allegation were leveled against the appellant:-

It has been reported that he while posted to Check Post Landaki committed the following acts, which is/are gross-misconduct on his part as defined in Rule 2 (iii) of Police Rules, 1975.

You Constable Usman Ali No.1480 while posted to Check Post Landaki it has been reported by I/C Check Post Landaki that on 4-2-2015, you were taken money from the purse of an unknown driver and the same has been recorded from the C.C.T.V Camera and defame the moral of Police Force which is gross-misconduct on your part.

By reasons of the above, you appear to be guilty of misconduct and rendered yourself liable to all or any of penalties specified in Rule 4 of the Disciplinary Rules 1975.

(Copy of charge sheet and statement of allegation are appended as Annex-A & B).

3. That the appellant submitted reply to the charge sheet and denied the allegations and termed the same as false and baseless. He also clarified that he had never taken a single penny from the purse of unknown driver during the course of searching.
4. That the aforesaid reply was not found satisfactory and as such inquiry was ordered to be conducted against him into the allegations leveled against him in the charge sheet.
5. That the inquiry was not conducted in accordance with law as neither any witness was examined in presence of appellant nor he was provided any opportunity of cross-examination. Similarly, he was also not given a chance to produce his defence. Moreover, the disputed C.C.T.V Camera was not produced before the enquiry officer in order to establish the guilt of the appellant.
6. That the appellant was neither served with a show cause notice nor he was provided any opportunity of personal hearing before awarding of major penalty being the mandatory requirements of law. Similarly, the appellant was also not given a copy of enquiry report before passing the impugned order.
7. That the appellant was awarded major penalty of removal from service by an order dated 13-7-2015 passed by the District Police Officer, Swat (respondent No.3).

(Copy of impugned order is appended as Annex-C).

8. That the appellant felt aggrieved by the said order, filed a departmental appeal with the Regional Police Officer/Deputy Inspector General of Police, Swat (respondent No.2) on 27-7-2015 but the same was rejected on 25-8-2015.

(Copies of departmental appeal and rejection order are appended as Annex- D & E).

9. That the appellant is jobless since his removal from service.
10. That the appellant now files this appeal before this Hon'ble Tribunal within the statutory period of law inter-alia on the following grounds:-

GROUND OF APPEAL

- A. That respondents have not treated appellant in accordance with law, rules and policy on the subject and acted in violation of **Article 4 of the Constitution of Islamic Republic of Pakistan, 1973**. Therefore, the impugned order is not sustainable in the eye of law.
- B. That no fair and impartial enquiry was constituted against the appellant in order to substantiate his guilt in respect of the allegations leveled against him in the charge sheet. The enquiry officer neither examined any witness in the presence of appellant nor he was provided any chance to cross-examine the prosecution witnesses appeared against him in the so-called enquiry. Similarly, the appellant was also not provided any opportunity to produce his defence in support of his version. Moreover, the disputed C.C.T.V Camera was not produced before the enquiry officer in order to establish the guilt of the appellant. Thus, the appellant has been condemned/penalized without being heard, contrary to the basic principle of natural justice known as "**Audi Alteram Partem**". Therefore, the impugned order is against the spirit of administration of justice.
- C. That the enquiry officer was under statutory obligation to highlight such evidence in the enquiry report on the basis of which he found the appellant guilty of the so-called misconduct. But he failed to do so. Moreover, there was no iota of evidence to connect the accused with the commission of misconduct. Hence, the impugned order passed by the respondent No.2 on the basis of such enquiry report is not tenable under the law.
- D. That it was incumbent upon the respondent No.2 to have served a show cause notice on the appellant before awarding major penalty but he failed to do so and blatantly violated the law laid down by august Supreme Court of Pakistan in cases reported in **1989-SCMR-1690 (citation-a) & 2009-SCMR-605 (citation-c)**. The relevant citations of the judgments are reproduced herein for facility of reference:-

Constitution of Pakistan (1973)

Art. 203-F--Repugnancy to Injunctions of Islam--Disclosure by a show-cause notice of grounds on which action under of the Act was proposed to be taken and of an opportunity of hearing to the person concerned against whom an action was required to be taken, held, was necessary and its absence from a statute was repugnant to the Injunctions of Islam.

(c) Civil Service

**----Misconduct, charge of--
Employee's right to show-cause
notice before passing of
termination order against him by
competent authority---**

Hence, the impugned order is liable to be set aside on this count alone.

- E.** That the appellant was also not provided any opportunity of personal hearing before imposition of major penalty of removal from service being the requirement of law as laid down by **august Supreme Court of Pakistan in case reported in 2006-SCMR-1641 (citation-c)**. The relevant citation is mentioned below:-

----Rr. 4(b), 5 & 6---Inquiry proceedings---Major penalty, imposition of---Personal hearing to civil servant, opportunity of---Scope---Such opportunity must be afforded by the authority competent to impose major penalty or his delegatee.

Therefore, the impugned order is required to be reversed on this count.

- F. That the Competent Authority (respondent No.3) was legally bound to have given a copy of enquiry report before passing the impugned order. But he failed to do so and again blatantly violated the law laid by august Supreme Court of Pakistan in judgments reported in 1984-SCMR-451 (citation-a) & 1990-SCMR-183 (citation-d). The relevant citations of the said judgments are as follows:-

Constitution of Pakistan (1973)----

----- Art. 212(3)--N: W. F. P. Civil Servants (Efficiency and Discipline) Rules, 1973, R. 5-Civil-----services-----
Departmental enquiry-Order of dismissal of civil servant passed without supplying copy of enquiry report and issue of second show-cause notice-Held, violation of Rules and hence set aside.-[Civil service].

d) Civil Service--

---Supply of copy of inquiry report to employee---In the absence of a statutory provision entitling civil servant facing a departmental enquiry to receive a copy of the enquiry report, the requirement of it can be only enforced on the ground of fairness and avoidance of prejudice to the civil servant concerned

Hence, the impugned order is liable to be set aside on this count alone.

- G. That the Competent Authority has passed the impugned order in mechanical manner and the same is perfunctory as well as non-speaking and also against the basic principle of administration of justice. Therefore, the impugned order has no sanctity under the law.
- H. That the impugned order is based on conjectures and surmises. Hence, the same is against the legal norms of justice.
- I. That the impugned order is suffering from legal infirmities and as such the same is not tenable under the law.

J. That the appellant would like to seek the permission of this Hon'ble Tribunal to advance some more grounds at the time of arguments.

In view of the above narrated facts and grounds, it is, therefore, humbly prayed that the impugned orders dated 13-7-2015 & 25-8-2015 passed by the District Police Officer, Swat (respondent No.3) and Regional Police Officer, Swat (respondent No.2) respectively may very graciously be set aside and the appellant may kindly be reinstated in service with all back wages and consequential benefits.

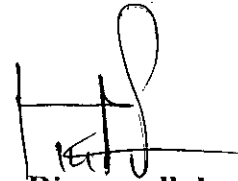
Any other relief deemed proper and just in the circumstances of the case, may also be granted.

Dated: 20-9-2015



Appellant

Through



Rizwanullah

M.A.L.L.B

Advocate High Court, Peshawar.

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. _____/2015

1. Muhammad Usman (Ex-constable No.1480), S/O Iqbal Hussain, R/O Post Office Rustam, Tehsil and District Mardan.

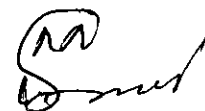
APPELLANT

VERSUS

1. The Provincial Police Officer, Government of Khyber Pakhtunkhwa, Peshawar and others.

AFFIDAVIT

I, Muhammad Usman (Ex-constable No.1480), S/O Iqbal Hussain, R/O Post Office Rustam, Tehsil and District Mardan, do hereby solemnly affirm and declare that the contents of the accompanied Service Appeal are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.



DEPONENT



CHARGE SHEET

I, Mr. Muhammad Saleem Marwat P.S.P District Police Officer, Swat as competent authority hereby charge you, Constable Usman Ali No.1480 while posted to Cheek Post Landaki as follows

It has been reported that you committed the following act/acts, which is/are gross misconduct on your part as defined in Rules 2 (iii) of Police Disciplinary Rules 1975.

You Constable Usman Ali No.1480 while posted to Cheek Post Landaki it has been reported by I/C Cheek Post Landaki that on 04-02-2015, you were taken money from the purse of an unknown driver and the same has been recorded from the C.C.T.V Camera and defame the moral of police force which is gross misconduct on your part.

2. By reasons of the above, you appear to be guilty of misconduct and rendered yourself liable to all or any of penalties specified in Rule-4 of the Disciplinary Rules 1975.

3. You are therefore, required to submit your written reply within seven (7) days of the receipt of this Charge Sheet to the Enquiry officer.

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

5. Intimate as to whether you desire to be heard in person or not.

6. A statement of allegations is enclosed.

District Police Officer, Swat

No. 139 JE

Dated: 23/2 /2015

[Handwritten Signature]
ATTESTED

1. Mr. Muhammad Saleem Mirza District Police Officer, Swat, as complainant
charges Constable Usman Ali No. 1480 while posted to Check Post Landaki as

It has been reported that you committed the following offence which is a gross
violation of your part as defined in Rules 2 (ii) of Police Disciplinary Rules 1972.

You Constable Usman Ali No. 1480 while posted to Check Post Landaki have been
reported by IJC Check Post Landaki that on 02-04-2015, you were taken away from the duty of
known driver and the same has been recorded from the CCTV Camera and before the front of police
station which is gross misconduct on your part.

2. By reason of the above, you appear to be guilty of misconduct and therefore yourself
liable to all or any of penalties specified in Rule-4 of the Police Disciplinary Rules 1972.

3. You are hereby required to submit your written reply within seven (7) days of the
receipt of this Charge Sheet to the Enquiry Officer.

A copy of your written reply, if any, should reach the Enquiry Officer within the specified period.
You will be presumed that you have no defence to put in and in that case explanation shall

be invited as to why you should be held in person if not.
A statement of reasons is enclosed.

District Police Officer

15/04/2015

Mr. Muhammad Saleem Marwat P.S.P District Police Officer, Swat as competent authority, is of the opinion that he Constable Usman Ali No.1480 while posted to Cheek Post Landaki have made himself liable to be proceeded against departmentally as he has committed the following omissions as defined in Rule 2 (iii) of Police Rules 1975, as per Provincial Assembly of Khyber Pakhtunkhwa Notification No. PA/Khyber Pakhtunkhwa/ Bills/ 2011/ 44905 dated 16/09/2011 and C.P.O, Peshawar Memo: No. 3037-62/Legal, dated 19/11/2011.

STATEMENT OF ALLEGATIONS

It has been reported that he while posted to Cheek Post Landaki committed the following acts, which is / are gross misconduct on his part as defined in Rules 2 (iii) of Police Rules 1975.

That he Constable Usman Ali No.1480 while posted to Cheek Post Landaki it has been reported by I/C Cheek Post Landaki that on 04-02-2015, you were taken money from the purse of an known driver and the same has been recorded from the C.C.T.V Camera and defame the moral of police force which is gross misconduct on his part.

2. For the purpose of scrutinizing the conduct of the said officer with reference to the above allegations, SDPO/Barikot, Swat is appointed as Enquiry Officer.

3. The enquiry officer shall conduct proceedings in accordance with provisions of Police Rules 1975 and shall provide reasonable opportunity of defense and hearing to the accused officer, record its findings and make within twenty five (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused officer.

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


District Police Officer, Swat

No. 139 /EB, Dated Gulkada the; 23/6 2015.

Copy of above is forwarded to the:-

1. SDPO/Barikot, Swat for initiating proceeding against the accused Officer/ Official namely Constable Usman Ali No.1480 under Police Rules, 1975.
2. Constable Usman Ali No.1480 Cheek Post Landaki.
With the direction to appear before the Enquiry Officer on the date, time and place fixed by the Enquiry Officer for the purpose of enquiry proceeding.


ATTESTED

ORDER

This order will dispose off the departmental enquiry against Constable Usman Ali No.1480 while posted to Cheek Post Landaki it has been reported by I/C Cheek Post Landaki that on 04-02-2015, he was taken money from the purse of an unknown driver and the same has been recorded from the C.C.T.V Camera and defame the moral of police force.

He was issued Charge Sheet alongwith statement of Allegations and SDPO/Barikot Circle was deputed as Enquiry Officer. The Enquiry Officer conducted proper departmental enquiry against the delinquent officer and recorded the statements of all concerned officers. He has provided ample opportunity to the delinquent officer to defense the Charges rendered by him. After conducting proper departmental enquiry, the Enquiry Officer submitted his findings wherein he recommended the delinquent Officer for Major punishment. Was called in Orderly Room On 10-06-2015, he could not present any plausible defense for the charges leveled against him.

Having perused his service record, it was patently evident that the delinquent of Constable Usman Ali No.1480 forgoing in view the undersigned is of considered opinion that there are no chances that Constable Usman Ali No.1480 become an efficient Police Officer. His further retention in service is bound to affect the discipline of the entire force. Therefore, in exercise of the powers vested in the undersigned under Rules 2 (iii) of Police Disciplinary Rules-1975, I, Muhammad Saleem Marwat, S.P., District Police Officer, Swat as a competent authority, am constrained to award him the punishment of Removal from service from with immediate effect.

Order announced.

District Police Officer, Swat

No. 118
d. 13/7/2015

OFFICE OF THE DISTRICT POLICE OFFICER, SWAT

No. 0480-21/E, dated Gulkada the 15/07/2015

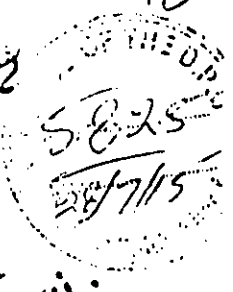
Copy to the:-

- 1. OASI Regular
- 2. Pay Officer

ATTESTED

6568
2877

ضابطہ ڈی. ایچ. ایف. ایف. کے لئے سوائے سوائے منجانب سے
مدرستہ اسلامیہ کتب خانہ (سائنس ہوسٹل) رستم ضلع لاہور
1480 اضلاع سوائے (سائنس ہوسٹل) رستم ضلع لاہور
F.C.:



رحمہ ایپل بریل خواتین سائیکل ایسوسی ایشن کی انٹرویو میں انصاف
نیسیا پوٹھالی اصل کے مطابق منظر عام سے باہر رکھی جائے اور تمام
انٹرویو میں قیام پر سائل کو درپور 9482 اور 2015 کے ملازم
سے بہ حاشیت کیا گیا ہے۔ نیز آج صبح ان کے مطابق گریجویٹ
پے قصور اور بے گناہ ثابت ہونے پر بحالی ملازمت فرمائی جاوے

غور

الحیات
Adm

ضابطہ عالی
1۔ سائیکل و سروس ضلع لاہور کی ایک ایس ایس کے لئے اور خواتین کے لئے سے تعلق رکھنے
2۔ سائیکل ایف اسالو آر جی سے ریٹائرڈ ہونے پر روزانہ 2/19 پر اپنی سائیکل اور سروس
حالات میں خطرناک ہوتے ہوئے تھے اور اپنی فرسٹ کلاس اور سائیکل اور سروس کے
اصول اور قواعد کے مطابق دیکھا جائے۔
3۔ سائیکل ایف اسالو آر جی سے ریٹائرڈ ہونے پر روزانہ 2/19 پر اپنی سائیکل اور سروس
کے لئے اجازت دی اور سائیکل اور سروس کے مطابق دیکھا جائے۔
4۔ سائیکل ایف اسالو آر جی سے ریٹائرڈ ہونے پر روزانہ 2/19 پر اپنی سائیکل اور سروس
کے لئے اجازت دی اور سائیکل اور سروس کے مطابق دیکھا جائے۔

5۔ سائیکل ایف اسالو آر جی سے ریٹائرڈ ہونے پر روزانہ 2/19 پر اپنی سائیکل اور سروس
کے لئے اجازت دی اور سائیکل اور سروس کے مطابق دیکھا جائے۔
6۔ سائیکل ایف اسالو آر جی سے ریٹائرڈ ہونے پر روزانہ 2/19 پر اپنی سائیکل اور سروس
کے لئے اجازت دی اور سائیکل اور سروس کے مطابق دیکھا جائے۔
7۔ سائیکل ایف اسالو آر جی سے ریٹائرڈ ہونے پر روزانہ 2/19 پر اپنی سائیکل اور سروس
کے لئے اجازت دی اور سائیکل اور سروس کے مطابق دیکھا جائے۔
8۔ سائیکل ایف اسالو آر جی سے ریٹائرڈ ہونے پر روزانہ 2/19 پر اپنی سائیکل اور سروس
کے لئے اجازت دی اور سائیکل اور سروس کے مطابق دیکھا جائے۔
9۔ سائیکل ایف اسالو آر جی سے ریٹائرڈ ہونے پر روزانہ 2/19 پر اپنی سائیکل اور سروس
کے لئے اجازت دی اور سائیکل اور سروس کے مطابق دیکھا جائے۔
10۔ سائیکل ایف اسالو آر جی سے ریٹائرڈ ہونے پر روزانہ 2/19 پر اپنی سائیکل اور سروس
کے لئے اجازت دی اور سائیکل اور سروس کے مطابق دیکھا جائے۔
11۔ سائیکل ایف اسالو آر جی سے ریٹائرڈ ہونے پر روزانہ 2/19 پر اپنی سائیکل اور سروس
کے لئے اجازت دی اور سائیکل اور سروس کے مطابق دیکھا جائے۔
12۔ سائیکل ایف اسالو آر جی سے ریٹائرڈ ہونے پر روزانہ 2/19 پر اپنی سائیکل اور سروس
کے لئے اجازت دی اور سائیکل اور سروس کے مطابق دیکھا جائے۔

140
Date 27-7-1015
JEDDP/15/1015
For Comments +
Services received.

Regional Police Officer,
Malakand, at Saidur Sharif Swat,
23/7...

EC/DSP/Usal.
For comments.

h.
DPO Swat:
27/07/15

h.
ALU

ATTESTED

660 Annex-E (14)

OFFICE OF THE REGIONAL POLICE OFFICER, MALAKAND REGION,
AT SAIDU SHARIF SWAT

ORDER:

This order will dispose off departmental appeal of Ex-Constable Usman Ali No. 1480 of Swat District for reinstatement in service.

Brief facts of the case are that Ex-Constable Usman Ali No. 1480 while posted to Check Post Landakai, it has been reported by I/C Check Post Landakai that on 04/02/2015 he was taken money from the purse of an unknown driver and the same has been recorded from the CCTV Camera which defame the moral of Police Force. Proper department enquiry was conducted against him and SDPO Barikot Circle was appointed as enquiry officer. The enquiry officer submitted his finding report wherein he recommended him for major punishment. Being found guilty of the charges the District Police Officer, Swat removed him from Service vide OB No. 118 dated 13/07/2015.

He was called in Orderly Room on 21/08/2015 and heard him in person. The appellatant did not produce any convincible proof in his defense. Therefore I uphold the order of District Police Officer, Swat, whereby the appellatant has been awarded punishment of removal from service. His appeal is rejected.

Order announced

(AZAD KHAN) TSt, PSP
Regional Police Officer,
Malakand, at Saidu Sharif Swat

No. 6633 /E,

Dated 25-8- /2015.

Copy to District Police Officer, Swat for information and necessary action, with reference to his office Memo: No. 10169/E, dated 04/08/2015.

ENCLOSURE - S-Roll + F-Missal

EC

for n/c action.

DPD Swat -
-- 25/08/15

ATTESTED

VAKALATNAMA

BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____/2015

MUHAMMAD USMAN, EX-CONSTABLE No. 1480
APPELLANT / PETITIONER

VERSUS

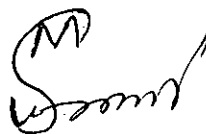
PROVINCIAL POLICE OFFICER & OTHERS.

RESPONDENTS

I Muhammad Usman, do hereby appoint **Rizwanullah, Advocate,** Peshawar to appear, plead, act, compromise, withdraw or refer to arbitration for me as my Counsel / Advocate in the above noted matter, without any liability for his default and with the authority to engage / appoint any other Advocate/Counsel on my costs.

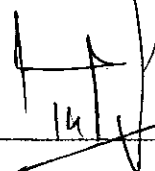
I authorize the said Advocate to deposit, withdraw and receive on my behalf all sums and amounts payable or deposited on my account in the above noted matter. The Advocate/Counsel is also at liberty to leave my case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me.

Dated: 20/9 /2015



CLIENT

Approved & Accepted



MR. RIZWANULLAH
Advocate High Court

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1040/2015

Muhammad Usman Ex Constable No. 1480

..... Appellant

VERSUS

District Police Officer, Swat and others

..... Respondents

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6	Statement of Camera Operator	"C"	07
7	Finding Report	"D"	08
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District Police Officer, Swat.

~~District Police Officer,
Swat~~

(1)

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. 1040/2015

Muhammad Usman (Ex Constable No. 1480)

.....Appellant

Versus

(1) Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar

(2) R.P.O Malakand Range at Saidu Sharif, Swat

(3) District Police Officer, Swat

.....Respondents

WRITTEN REPLY ON BEHALF OF RESPONDENTS:

Preliminary objection:

- a) That the appeal has not been based on facts.
- b) That the appeal of the appellant is not maintainable in the present form. That the orders of the competent authorities have got finality and can't be challenged.

FACTS:-

- 1) Para No. 01 pertains to record. Hence, needs no comments.
- 2) Para No. 02 is correct to the extent that the appellant was issued with charge sheet on allegations that he while posted to Check post Landakay bribes money from the purse of an unknown driver and the same has been disclosed by a CCTV Camera photage and thus he tarnished the image of Police Department.
- 3) Para No. 03 is correct to the extent that the appellant submitted his reply to the charge sheet but he failed to produce any plausible reason to defend himself.
- 4) Para No. 04 is correct.
- 5) Para No. 05 is incorrect. In fact proper departmental enquiry was conducted against the delinquent official. He was properly associated with enquiry proceedings and was given full opportunity to defend himself. The charges leveled against him were proved beyond any shadow of doubt vide charge sheet statement of allegations, statement of Operator, finding report and final order as Annexure "A", "B", "C", "D" and "E" respectively.
- 6) Para No. 06 is incorrect. The appellant was issued with show cause notice and was properly served upon him. He was also heard in person in OR on 10-06-2015, but he failed to defend himself.
- 7) Para No. 07 is correct.
- 8) Para No. 08 is correct to the extent that the appellant filed a departmental appeal but was reject/filed because the charges leveled against him were being proved.

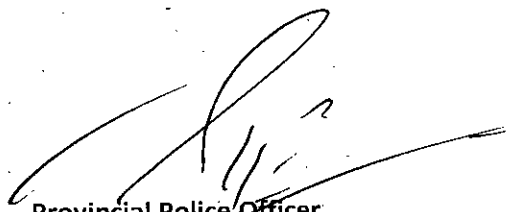
- 9) Para No. 09. Hence, needs no comments.
- 10) That appeal of appellant being devoid of merits may kindly be dismissed.

GROUNDS:


- A) Incorrect. The appellant was treated as per law and rules. The punishment orders is lawful hence, liable to be upheld.
- B) Incorrect. In fact proper departmental enquiry was conducted against appellant. He was given full opportunity to defend himself but he failed to defend himself.
- C) Incorrect. All the codal formalities were fulfilled by the E.O. The punishment order is in accordance with law/rules. Constable Ibrar No. 2406 posted as CCTV Camera Operator recorded statement against the appellant which proved him guilty.
- D) Incorrect. The appellant was issued show cause notice and was served upon him.
- E) Incorrect. The appellant was called and heard in person in OR on 10-06-2015.
- F) Incorrect. All codal formalities were fulfilled.
- G) Incorrect. The punishment order is in accordance with law/rules.
- H) Incorrect. The punishment order is legal sanctifying justifiable.
- I) Incorrect. The order of the competent authority is legal, justifiable and issued after all codal formalities.
- J) That respondents also seeks permission of this honorable Tribunal to raise additional grounds at the time of arguments.

It is therefore, requested, that the appeal of the applicant may kindly be dismissed with coast being devoid of merits and with out any legal substance.

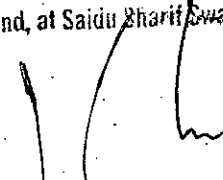
1)


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

2)


 Regional Police Officer,
 Malakand Saidu Sharif, Swat.
 (Respondent No. 02)
 Regional Police Officer,
 Malakand, at Saidu Sharif Swat

3)


 District Police Officer, Swat
 (Respondent No. 03)
 District Police Officer,
 Swat

4

BEFORE THE KHYBER PAKHUTNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 1040/2015

Muhammad Usman Ex Constble No. 1480

.....

Appellant

VERSUS


- 1) Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar
- 2) Regional Police Officer, Malakand Region at Saidu Sharif, Swat
- 3) District Police Officer, Swat


.....


Respondents

AUTHORITY LETTER

We the above respondents do hereby authorize Mr. Imranullah Inspector Legal Swat to represent us in the August Service Tribunal and do whatever is needed on our behalf.


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


Regional Police Officer,
Malakand Region, Saidu Sharif, Swat
(Respondent No.02)
Regional Police Officer,
Malakand, at Saidu Sharif Swat.


District Police Officer, Swat
(Respondent No.03)
District Police Officer,
Swat

3

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. 1040/2015

Muhammad Usman (Ex Constable No. 1480)

..... Appellant

Versus

- (1) Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar
- (2) R.P.O Malakand Range at Saidu Sharif, Swat
- (3) District Police Officer, Swat

..... 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/belief and nothing has been kept secret from the honorable Service Tribunal Khyber Pakhtunkhwa, Peshawar.



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



Regional Police Officer, Malakand
Region at Saidu Sharif, Swat
(Respondent No. 02)

Regional Police Officer,
Malakand, at Saidu Sharif Swat.



District Police Officer, Swat
(Respondent No. 03)

District Police Officer,
Swat

5

Annex-A

9

CHARGE SHEET

I Mr. Muhammad Saleem Marwat P.S.P District Police Officer, Swat, as competent authority, hereby charge you, Constable Usman Ali No.1480 while posted to Cheek Post Landaki as follows:-

It has been reported that you committed the following act/acts, which is/are gross misconduct on your part as defined in Rules 2 (iii) of Police Disciplinary Rules 1975.

You Constable Usman Ali No.1480 while posted to Cheek Post Landaki it has been reported by I/C Cheek Post Landaki that on 04-02-2015, you were taken money from the purse of an unknown driver and the same has been recorded from the C.C.T.V Camera and defame the moral of police force which is gross misconduct on your part.

2. By reasons of the above, you appear to be guilty of misconduct and rendered yourself liable to all or any of penalties specified in Rule-4 of the Disciplinary Rules 1975.

3. You are, therefore, required to submit your written reply within seven (7) days of the receipt of this Charge Sheet to the Enquiry officer.

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

5. Intimate as to whether you desire to be heard in person or not.

6. A statement of allegations is enclosed.

District Police Officer, Swat

No. 139 JE,

Dated: 23/6 /2015.

ATTESTED

[Signature]

Deputy Superintendent of Police Legal,
Swat.

[Signature]
[Signature]

DISCIPLINARY ACTION

Annex-B (10)

I Mr. Muhammad Saleem Marwat P.S.P District Police Officer, Swat as competent authority, is of the opinion that he Constable Usman Ali No.1480 while posted to Cheek Post Landaki have made himself liable to be proceeded against departmentally as he has committed the following commissions as defined in Rule 2 (iii) of Police Rules 1975, as per Provincial Assembly of Khyber Pakhtunkhwa Notification No. PA/Khyber Pakhtunkhwa/ Bills/ 2011/ 44905 dated 16/09/2011 and C.P.O, Peshawar Memo: No. 3037-62/Legal, dated 19/11/2011.

STATEMENT OF ALLEGATIONS

It has been reported that he while posted to Cheek Post Landaki committed the following acts, which is / are gross misconduct on his part as defined in Rules 2 (iii) of Police Rules 1975.

That he Constable Usman Ali No.1480 while posted to Cheek Post Landaki it has been reported by I/C Cheek Post Landaki that on 04-02-2015, you were taken money from the purse of an unknown driver and the same has been recorded from the C.C.T.V Camera and defame the moral of police force which is gross misconduct on his part.

2. For the purpose of scrutinizing the conduct of the said officer with reference to the above allegations, SDPO/Barikot, Swat is appointed as Enquiry Officer.

3. The enquiry officer shall conduct proceedings in accordance with provisions of Police Rules 1975 and shall provide reasonable opportunity of defense and hearing to the accused officer, record its findings and make within twenty five (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused officer.

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

District Police Officer, Swat

No. 139 /EB, Dated Gulkada the, 23/6 2015.

Copy of above is forwarded to the:-

1. SDPO/Barikot, Swat for initiating proceeding against the accused Officer/ Official namely Constable Usman Ali No.1480 under Police Rules, 1975.
2. Constable Usman Ali No.1480 Cheek Post Landaki.
With the direction to appear before the Enquiry Officer on the date, time and place fixed by the Enquiry Officer for the purpose of enquiry proceeding.

ATTESTED

Deputy Superintendent of Police Legal
Swat.

Handwritten signature and initials.

(8)

ENQUIRY PROCEEDING AGAINST CONSTABLE USMAN ALI NO.1480
CP/LANDAKAY, PS GHALIGAY.

FINDING REPORT.

The District Police Officer, Swat vide his office charge sheet No.139/E, dated: 23/06/2015, referred an enquiry to the undersigned against Constable Usman Ali No.1480 while posted CP Landakay, Police Station Ghaligay.

ALLEGATION:-

The said Constable has taken money from the purse of unknown driver and the same has recorded from the CCTV camera installed on the CP.

DETAIL OF ENQUIRY:-

During the course of enquiry recording of CCTV camera was taken into possession, statement of CCTV camera operator, the incharge of CP Landakay ASI Akbar Hussin were recorded which supports the allegations leveled against the above name constable. Statement of Constable Usman Ali No.1480 was also recorded who denied the charges, (all statements are placed on enquiry file).

CONCLUSION:

After conducting the enquiry, film of the CCTV camera, statement of the operator and incharge CP Landakay, I have reached to the conclusion that constable Usman Ali No.1480 has taken money from the wallet of an unknown driver, leaving a crime on main road which not only defaming and bringing bad name to the department but also effecting badly on the performance of other Police officials.

ATTESTED

[Signature]
Deputy Superintendent of Police Legal
Swat.

RECOMMENDATION:

If approved constable Usman Ali No.1480 is recommended for MAJOR PUNISHMENT.

Finding report is submitted please.

[Handwritten signature]

OR No. 118
13.7.15

[Signature]
(Darwesh Khan)
SDPO Circle, Barikot
July 8, 2015

2406 بر صبر

(7)

فتیہ، CCTV کیمرہ ایئر بیٹ چیک پوسٹ

۲۰۱۵ء میں بددیانتی کے واقعہ کے دوران ۲۳ روزہ مابین

میں تعینات ہوئے۔ اس دوران ایک نامعلوم مورڈ کار جانگ

بٹ خیل سے رانا ہوا کیل عثمان عمر 48 سالہ اشارہ دیکر

دکھوایا اور ڈرائیور کو گاڑی متذکرہ سے پیچھے اتار کر جا

تلاشی میں بددیانتی کے واقعہ کے دوران ایک نامعلوم مورڈ کار جانگ

کوئی سہ اور شے برآمد کر کے جیب میں ڈالا اور پھر

ڈرائیور کے جیب سے پرس نکال کر دو عدد نوٹ

پرس سے نکال کر جیب میں ڈالا۔ اس نے بروقت

CP ایچ آر جی کو مطلع کیا ہے

ATTESTED

۲۴۰۶ بر صبر

12/03/015 مورخ

حوالہ نمبر 0336-5123110

Deputy Superintendent of Police Legal Swat.

Attested.

Ganesh Sopo Baricet

بیان اذان کیل عثمان نمبر 1480

نے کوالم چارج شیڈ نمبری 139/E فروری 23/6/15ء
بیان کیا کہ میں نے عسکری بناء پر ڈرا سٹیور متذکرہ کا
ملاش لی ہے اور بدوران جام ٹلاش ڈرا سٹیور کے قیدی
سے نہ کوئی سٹہ اورٹے پر اعد کی ہے اور نہ یہا ڈرا سٹیور کے
پرسنل کوئی رقم لی ہے میرے خلاف نکایا گیا الزام
بھوٹ اور بے بنیاد ہے

یہا صحیح بیان ہے جو کہ درست ہے

ان
Summit

کیل عثمان نمبر 1480

تصنیف 15 جولائی 2015ء

ATTESTED

29/6/15

مورخ

[Signature]

0347-9065429

سویا نیل

Deputy Superintendent of Police Leg.
Swat.

Attested

[Signature]
Supt. Jinnat

(9)

(11)

Annex - C

ORDER

This order will dispose off the departmental enquiry against Constable Usman No.1480 while posted to Cheek Post Landaki it has been reported by I/C Cheek Post Landaki that on 04-02-2015, he was taken money from the purse of an unknown driver and the same has been recorded from the C.C.T.V Camera and defame the moral of police force.

He was issued Charge Sheet alongwith statement of Allegations and SDPO/Barikot, Circle was deputed as Enquiry Officer. The Enquiry Officer conducted proper departmental enquiry against the delinquent officer and recorded the statements of all concerned officers. He has provided ample opportunity to the delinquent officer to defense the Charges rendered by him. After conducting proper departmental enquiry, the Enquiry Officer submitted his findings wherein he recommended the delinquent Officer for Major punishment. Was called in Orderly Room On 10-06-2015, he could not present any plausible defense for the charges leveled against him.

Having perused his service record, it was patently evident that the delinquent of Constable Usman Ali No.1480. Forgoing in view the undersigned is of considered opinion that there are no chances that Constable Usman Ali No.1480 become an efficient Police Officer. His further retention in service is bound to affect the discipline of the entire force. Therefore, in exercise of the powers vested in the undersigned under Rules 2 (iii) of Police Disciplinary Rules-1975, I, Muhammad Saleem Marwat, S.P, District Police Officer, Swat as a competent authority, am constrained to award him the punishment of Removal from service from with immediate effect.

Order announced.

ATTESTED

[Handwritten Signature]

Deputy Superintendent of Police Legal Swat.

[Handwritten Signature]
District Police Officer, Swat

No. 118
dated 13/7/2015.

OFFICE OF THE DISTRICT POLICE OFFICER, SWAT

No. 9489-3/E, dated Gulkada the 15/07/2015.


Copy to the:-

1. OASI Regular
2. Pay Officer

[Handwritten Signature]
A. A. V

 <p>بار کونسل نمبر: 1909-1900 بار ایسوسی ایشن نمبر: DBA-855 رابطہ نمبر: 0308597778</p>	  <p>13823 سریل نمبر:</p> <h2 style="text-align: center;">ڈسٹرکٹ بار ایسوسی ایشن سوات</h2>
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بعدالت جناب: سروس سٹراٹھونل عیار ٹھکڑہ سپرو و سٹریٹ سوات

<p>منجانب: ایلانٹ</p>  <p>صحر عفا</p>	<p>دعویٰ اور خواست: سپرو و سٹریٹ سوات</p> <p>علت نمبر:</p> <p>مورخہ:</p> <p>جرم:</p> <p>تھانہ:</p>
---	--

باعتحریراکہ

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

آن مقام ٹھکڑہ کے نام اور خواست کے لئے کوڈیل مقرر

کوڈیل مقرر کے اقرار کیا جاتا ہے کہ صاحب بروصوف کو مقدمہ کی کل کاروائی کا کال اختیار ہوگا نیز کوڈیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے دعویٰ، جواب دعویٰ، اقبال دعویٰ، واپسی مقدمہ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخی، نیز وارڈ کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور ان کا ساختہ پر داخلہ منظور قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانب التوا کے مقدمہ کے سبب سے ہوگا وہ وکیل موصوف وصول کرنے کا حقدار ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، مقدمہ کی جکی عدالت میں بوجہ عدم پیروی داخل دفتر ہونے کی صورت میں وکیل بروصوف ذمہ دار نہیں ہوگا، لہذا عدالت نامہ لکھ دیا تاکہ سندر ہے۔

المرقوم: 2016-12-06

گواہ شد

_____ کے لئے منظور ہے۔

مقام

Accepted by

(Handwritten Signature)

ایڈوکیٹ دستخط:

ایڈوکیٹ صحر عفا

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1892 /ST

Dated 17 /8 / 2017


To

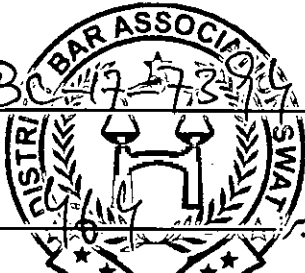
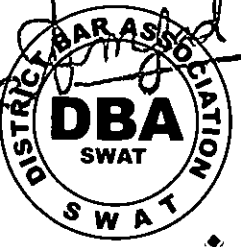

The District Police Officer,
Government of Khyber Pakhtunkhwa,
Swat.

Subject: - JUDGMENT IN APPEAL NO. 1040/2015, MR. MUHAMMAD USMAN.


I am directed to forward herewith a certified copy of Judgement dated 7.08.2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

 <p>بار کونسل نمبر: 1973 بار ایسوسی ایشن نمبر: 1973 رابطہ نمبر: 0344 4557383</p>	  <p>سرٹیفکٹ نمبر: 23197 ڈسٹرکٹ بار ایسوسی ایشن سوات</p>
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بعدالت جناب: خیر مکتوبخواہ سراسر ٹریبیونل کلب کورٹ سوات

<p>مخانب: ایسٹریٹس محمد عثمان</p> 	<p>دعویٰ اور درخواست: <u>کلیئر ایبل</u></p> <p>حالت نمبر: _____</p> <p>مورخہ: _____</p> <p>جرم: _____</p> <p>تھانہ: _____</p>
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بامشترکہ

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

آن مقام کل کورٹ کے صاحبزادے کو مقدمہ کی کل کاروائی کا کالن اختیار ہوگا نیز وہ کل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے دعویٰ و جواب دعویٰ، اقبال دعویٰ و اجس مقدمہ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری یا خطرہ یا ایبل کی برآمدگی اور منسوخی، نیز ڈگری کرنے ایبل گمرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور کل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور ان کا سامنے برداشت منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانب اتوا سے مقدمہ کے سبب سے ہوگا وہ وکیل موصوف وصول کرنے کا اختیار ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب یا پندرہ ہوں گے کہ پیروی مذکورہ کریں، مقدمہ کی بھی عدالت میں بوجہ عدم پیروی داخل دفتر ہونے کی صورت میں وکیل موصوف و پندرہ ہوں گے کہ پندرہ اوقات نامہ لکھ دیا تاکہ ضرور ہے

المقوم: 08/7/2017

گواہ شد

ایڈووکیٹ دستخط: Abdul Nisir Adv.

مقام کل کورٹ

محمد عثمان (ایسٹریٹس)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWR CAMP COURT AT SAIDU SHARIF

Rejoinder in Service Appeal No. 1040 of 2015.

Muhammad Usman (Ex-constable No. 1480) son of Iqbal Hussain resident
of Post Office Rustam, Tehsil & District Mardan.

(Petitioner)

VERSUS

The Provincial Police Officer, KPK at Peshawar & two others.

(Respondents)

REJOINDER TO THE COMMENTS

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:

That all the preliminary objections are incorrect, baseless, against the law, rules and facts and are based on mis-statements, hence the same are denied categorically.

ON FACTS:

1. Para No. 1 needs no comments
2. Para No. 2 as drafted is incorrect. The petitioner considers bribe as a heinous crime to the society and has never been indulged in it during his entire service. Moreover, there has been no such instance of corruption to the credit of the petitioner during his postings in different places and the same is also evident from the service record of the petitioner. So far as the allegation of taking bribe from an unknown driver is concerned, the same is baseless because no complaint or statement of the alleged driver is in field.
3. That the appellant has submitted written reply and has rightly denied the allegation because there exists no video recording on inquiry file and even then the respondents turned down reply of the appellant.
4. Need no comments.

5. That appellant has never been called on by the inquiry officer and the whole of proceedings have been conducted in absence of the appellant. Moreover, there is no alleged CCTV footage on record of inquiry file, mere Madd report by the CCTV operator have no validity of in absence of proper inquiry.
6. That the respondents have not annexed any solid proof of service of appellant with the reply and mere mention holds no value in law.
7. No comments.
8. No comments.
9. That the appellant is still jobless.
10. That the appeal in hand may kindly be allowed as prayed for.

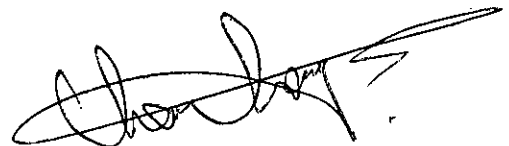
GROUND:

- A. That the appellant has not been treated as per law and has passed the order without jurisdiction.
- B. That the respondents have never given opportunity to the appellant for personal hearing and the appellant was deprived unlawfully from copies of the inquiry report and order was passed without adopting the proper procedure under the law.
- C. That the mere report of the constable / operator of CCTV camera is not the cogent ground/proof of awarding major penalty to the appellant, more so the CCTV camera operator is not the authority to cause to initiate inquiry. Moreover, the alleged driver and CCTV footage are still not on record.
- D. That the allegations leveled against the appellant are due to non-compliance of the immediate boss/superiors and in revenge these allegations are baseless and without solid evidence.
- E. That the respondents have not provided opportunity of personal appearance to the appellant and have done gross injustice with the appellant.

- F. That the respondents have failed to prove that the appellant has been served with copies of the inquiry report or show cause notice.
- G. Denied. The impugned order is against the law and procedure and the appellant has been punished in a revengeful manner.
- H. Denied. The respondents are not permitted under the law to award punishment to the appellant in absence of any lawful ground and proof and have no sanctity in the eye of law.
- I. Denied. The impugned herein order has no legality and suffers from irregularity.
- J. Further grounds would be advance before the august court during the course of arguments.

It is, therefore, humbly prayed that on acceptance of this rejoinder the appeal of the appellant may kindly be accepted as prayed for.

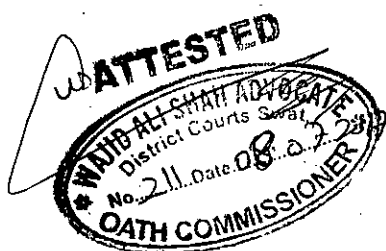
Appellant through counsel



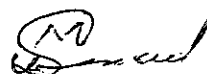
ABDUL NASIR
Advocate

AFFIDAVIT

It is stated on oath that the contents of the above cited application are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this august Court.



Deponent



MUHAMMAD USMAN