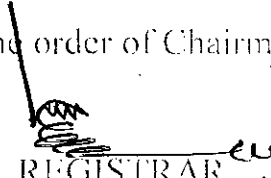


# FORM OF ORDER SHEET

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

Case No.- \_\_\_\_\_ 650/2023


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	24/03/2023	<p>The appeal of Mr. Nacem Badshah resubmitted today by Mr. Ashraf Ali Khattak, Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____. Parcha Peshi is given to appellant/counsel for the date fixed.</p> <p style="text-align: right;">By the order of Chairman  REGISTRAR</p>

The appeal of Mr. Naeem Badshah Ex- FC Constable no. 790 Police Force Kohat received today i.e. on 07.03.2023 is incomplete on the following score which is returned to the co Counsel for the appellant for completion and resubmission within 15 days.

- 1- Check list is not attached with the appeal. ✓
- 2- Appeal has not been flagged/marked with annexures marks. ✓
- 3- Annexures of the appeal are unattested. ✓
- 4- Affidavit be got signed by the Oath Commissioner. ✓
- 5- Certificate be furnished that whether any petition on the subject matter has earlier been filed in this court. ✓
- 6- Copy of rejection order of departmental appeal dated 06.10.2022 mentioned in the heading of the appeal is not attached with the appeal which may be placed on it.
- 7- The documents that are to be provided must be legible/readable.
- 8- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal. ✓

No. 903 /S.T,

Dt. 08-03 /2023

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Ashraf Ali Khattak Adv.  
High Court at Peshawar.

*Re-submitted after compliance.*

*Ashrif Ali*  
*22/03/2023*

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 650 /2023

Naeem Badshah,  
Ex-FC Constable No.790,  
Police Force Kohat.....Appellant.

Versus

The Inspector General of Police & others.....Respondents.

INDEX

S.No	Description of Documents	Date	Annexure	Pages
1.	Service Appeal with affidavit.			1-10
2.	Copy of FIR.		A	11 -
3.	Copy of Charge Sheet with statement of allegations.		B	12-13
4.	Copy of Reply of appellant.		C	14
5.	Copy of impugned order.	14-06-2021	D	15
6.	Copy of departmental appeal.	17-07-2021	E	16
7.	Copy of rejection order.	06-10-2021	F	17
8.	Copy of Review / Revision Petition.	27-10-2021	G	18-24
9.	Copy of final rejection order.	09-02-2023	H	25
10.	Wakalatnama			26

*Naeem*

Appellant

Through

*Asl Ali Khattak*  
Ashraf Ali Khattak  
Advocate,

Supreme Court of Pakistan

*Ali Bakht Mughal*

Ali Bakht Mughal  
Advocate, Peshawar

*Rahid Ullah*

Rahid Ullah  
Advocate, Peshawar

Dated: 7 / 3 /2023

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

Service Appeal No. 650 /2023

Khyber Pakhtunkhwa  
Service Tribunal

Relay No. 4150

07/13/2023

Naeem Badshah,  
Ex-FC Constable No.790,  
Police Force Kohat.....Appellant.

**Versus**

1. The Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General,  
Kohat Region, Kohat.
3. The District Police Officer,  
Kohat Region, Kohat.....Respondents.

**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED FINAL REJECTION ORDER OF RESPONDENT NO.1 DATED 09-02-2023 PASSED ON THE DEPARTMENTAL APPEAL/REVISION PETITION PREFERRED AGAINST THE IMPUGNED ORDER OF RESPONDENT NO.2 DATED 06-10-2021 VIDE WHICH THE DEPARTMENTAL APPEAL OF APPELLANT AGAINST DISMISSAL FROM SERVICE WAS REJECTED WITHOUT ANY LEGAL OR FACTUAL JUSTIFICATION.**

Respectfully Sheweth,

The facts given rise to the present service appeal are as under;

1. That appellant joined the Police Deptt; as Constable in the year 1999. He has more than 23 years service at his credit with unblemished and clean sheeted conduct record. Since his enrollment in Police Deptt;, the appellant performed his official duties with dedication, honesty and devotion.
2. That for his good performance, the appellant's services were acknowledged by his worthy senior officers and awarded a number of

commendation certificates beside cash rewards. He has never been awarded minor/major punishment during his service.

3. That while posted in the Police Station Jerma, unfortunately the appellant developed pain in his left eye and due to said reason eyesight of his left eye was affected. He accordingly went to the Doctor for treatment on 04-05-2021. The Medical Officer / Doctor besides prescribing the medicine also advised him to take rest for some days.
4. That on 04-05-2021, while the appellant was on his way to his domiciled District Karak in a flying coach, at Toll Plaza the flying coach was stopped by the Police Check Post Toll Plaza Karak.
5. That at the said Check Post Rehman Ullah Head Constable was appointed as Incharge of the Check Post. The said official was already having personal grudges, ill-will and enmity with the appellant.
6. That in order to satisfy his personal vendetta and to take revenge from appellant, the Incharge had falsely implicated him in a forged currency notes case.
7. That an illegal, fictitious, false and fabricated case vide FIR No.186 dated 04-05-2021 u/s 489 Cr.PC was registered against the appellant in Police Station Karak.
8. That a huge amount of the forged currency notes i.e. Rs.528500/- were shown in the FIR being allegedly transporting by the appellant to Karak. Copy of FIR is attached as Annexure-A.
9. That passengers in the flying coach also raised objection upon the illegal act of the Police Check Post Incharge but he was bent upon to teach a lesson to the appellant. The appellant was arrested however, the next day i.e. 05-05-2021, he was released on bail by the Court. The case is now under trial in Court and the evidence is yet to be recorded.

10. That beside registration of criminal case against the appellant, respondent No.3 also initiated departmental inquiry against him.
11. That charge sheet and statement of allegations were served upon the appellant. He denied alleged recovery of the forged notes from his possession and also pointed out the rivalry of the Incharge Police Check Post Toll Plaza Karak but no inquiry was conducted at this score. Copies of Charge Sheet with statement of allegations and Reply of the appellant are attached as Annexures-B & C.
12. That ultimately, respondent No.3 dismissed the appellant from service with immediate effect vide order dated 14-06-2021 and his absence period was directed to be treated as unauthorized leave without pay. Copy of Oder dated 14-06-2021 is attached as Annexure-D.
13. That the impugned order has aggrieved the appellant therefore, for redressal of his grievances, he has called in question the impugned order and submitted departmental appeal on 17-07-2021 to respondent No.2 which was rejected on 06-10-2021. Copies of departmental appeal dated 17-07-2021 and rejection order dated 06-10-2021 are attached as Annexures-E & F
14. That being aggrieved from rejection order of respondent No.2, appellant preferred Revision Petition under Rule 11-A of the Police Rules, 1975 before respondent No.1 which was also rejected on 09-02-2023. Copies of Revision Petition and final rejection order are attached as Annexures-G & H.

Hence appellant being aggrieved of the above mentioned impugned orders and finding no adequate and efficacious remedy is constrained to file this service appeal on the following amongst other grounds:

#### GROUND S

- A. That That the respondents has not treated the appellant in accordance with law, rules and policy on the subject and acted in violation of Article 4 of the Constitution of Pakistan, 1973.
- B. That appellant was illegally got involved in a criminal case. The authorities were under legal obligation to wait for the outcome of criminal trial, but the penal authority without waiting for the outcome of the criminal case; initiated inquiry against him and dismissed him from service, which is nullity in the eyes of law and therefore, this Hon'ble Tribunal has got the jurisdiction to interfere with and set aside the impugned orders.
- C. That slips shod inquiry has been conducted in the absence and at the back of the appellant. Appellant was not associated with inquiry proceedings, but even then, the enquiry officer failed to procure an iota of evidence against the appellant. The conduct of the inquiry officer was against the spirits of prescribed procedure provided in the statute and statutory rules therefore, the inquiry proceedings and its findings are nullity in the eyes of law and justice and liable to be reversed and set aside.
- D. That no worth credit evidence has been collected by the inquiry officers in support of alleged accusations. The impugned orders are based on conjunctures and surmises. Appellant has never been confronted with such type of evidence therefore, cannot be held to be legal evidence and conviction cannot be based upon such type of evidence in the light of law laid down by the Hon'ble Supreme Court of Pakistan.
- E. That appellant is entitled to be treated in accordance with law and also entitled to be treated fairly, justly and be provided with opportunity of hearing under the provision and spirit of Article 10A of the Constitution of Islamic Republic of Pakistan, 1973.

- F. That section 16 of the Civil Servant Act, 1973 provide that a civil servant is liable for prescribed disciplinary actions and penalties only through prescribed procedure. In instant case prescribed procedure has not been followed.
- G. That so called slipshod inquiry has been conducted in the absence and at the back of the appellant. Appellant active participation during inquiry proceeding has been willfully and deliberately ignored. Inquiry proceedings are of judicial in nature in which participation of accused civil servant as per law condition sine qua non. On this ground the impugned orders are coarm non judice and liable to be set back.
- H. That the well-known principle of law " Audi altram Partem" has been violated. This principle of law was always deemed to have embedded in every statute even though there was no express specific or express provision in this regard.

....An adverse order passed against a person without affording him an opportunity of personal hearing was to be treated as void order. Reliance is placed on 2006 PLC(CS) 1140. As no proper personal hearing has been afforded to the appellant before the issuing of the impugned order, therefore, on this ground as well the impugned order is liable to be set aside.

- I. That the non provision of the inquiry report amounts to deprive a civil servant from confronting and defending himself from the evidence that may go against him; which is against the provision of Article 10A of the Constitution of Pakistan, 1973. In the instant case copy inquiry report has been denied to the appellant.



- J.** That under the provision of Rule 14 of E & D Rule, 2011, the competent authority was under legal obligations to peruse the inquiry report and determine as to whether the inquiry has been conducted in accordance with prescribed procedure and whether the charge are proved or otherwise. The competent authority has made no such efforts and dismissed the appellant with a single stroke of pen, which is nullity in the eyes of law and liable to be interfered with by this Honorable Tribunal.
- K.** Accused is stated to be a favorite child of law and he is presumed to be innocent unless proved otherwise and the benefit of doubt always goes to the accused and not to the prosecution as it is for the prosecution to stand on its own legs by proving all allegations to the hilt against the accused. Mere conjectures and presumption, however strong, could not be made a ground for penalizing a civil servant [1999 PLC (CS) 1332 (FST)]..... Unless and until prosecution proves accused guilty beyond any shadow of doubt, he would be considered innocent [1983 PLC (CS) 152 (FST)].
- L.** That Re-instated employee would be entitled to back benefits as a matter of course unless employer is able to establish by cogent evidence that concerned employee had been gainfully employed elsewhere. In this respect, initial burden would lie upon the employer and not upon the employee to prove that such employee was gainfully employed during period of termination from his service. 2010 TD (Labour) 41.
- M.** That Civil servant who was dismissed from service through arbitrary and whimsical action of the government functionaries and re instated through judicial order of Service Tribunal would have every right to recover arrears of salaries by way of back benefits due to them during the period of their dismissal and re instatement. It would be very unjust and harsh to deprive them of back benefits for the period for which they remained out of job

without any fault on their part and were not gainfully employed during that period.....Supreme Court allowing their appeal and directing payment of back benefits to the appellant. 2006 T D (SERVICE) 551 (a).


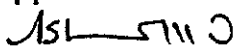
- N. That the penal orders are not speaking orders for the reason that no solid and legal grounds have been given by the authorities in support of their order. On this score the impugned orders are liable to be set aside.
- O. That appellant would like to seek the permission of this Hon;ble Tribunal to advance more grounds at the hearing.


**Prayer:**


In view of the above explained positions, it is humbly prayed that the impugned order dated 14-06-2021 of the respondent No.3, the impugned order of respondent No.2 dated 06-10-2021 and final impugned order of respondent No.1 dated 09-02-2023 may graciously be set aside and the appellant may kindly be reinstated into service with all back benefits.

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

Through

  
Appellant  
  
Ashraf Ali Khattak  
Advocate,  
Supreme Court of Pakistan

&  
  
Ali Bakht Mughal  
Advocate, Peshawar

&  
  
Rahid Ullah  
Advocate, Peshawar

Dated: \_\_\_\_/\_\_\_\_/2023

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

**Service Appeal No. \_\_\_\_\_/2023**

Naeem Badshah,  
Ex-FC Constable No.790,  
Police Force Kohat.....Appellant.

**Versus**

**The Inspector General of Police & others.....Respondents.**

**AFFIDAVIT**

I, Wahid Ullah Ex-Constable No.790, Police Force Kohat R/o Village Sarki Awaghan, Tehsil Takhti Nasrati, District Kohat do hereby solemnly affirm and declare on oath that the contents of this service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from the notice of this Hon'ble Tribunal.

*Naeem*

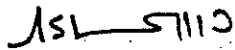
**DEPONENT**

CNIC: 14203-3921476-5  
0345-8094265

18

CERTIFICATE

Certified on instruction that Appellant has not previously moved this Hon'ble Tribunal under section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 regarding present matter.

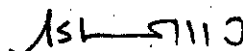
  
Ashraf Ali Khattak  
Advocate, Peshawar.

List of Books

1. The Constitution of the Islamic Republic of Pakistan, 1973.
2. Services Law.

NOTE

1. Five spare copies of the Service Appeal are enclosed in a separate file cover.
2. Memo of addresses is also attached.

  
Ashraf Ali Khattak  
Advocate, Peshawar

1a

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. \_\_\_\_\_/2023

Nacem Badshah,  
Ex-FC Constable No.790,  
Police Force Kohat.....Appellant.

Versus

The Inspector General of Police & others.....Respondents.


**ADDRESSES OF THE PARTIES**

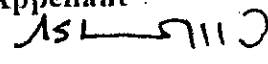
Wahid Ullah,  
Ex-IHC No.622  
Police Force Kohat .....Appellant.


Versus


- a. The Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.
- b. The Deputy Inspector General,  
Kohat Region, Kohat.
- c. The District Police Officer,  
Kohat Region, Kohat.....Respondents.

Through

  
Appellant

  
Ashraf Ali Khattak  
Advocate,  
Supreme Court of Pakistan

&  
  
Ali Bakht Mughal  
Advocate, Peshawar

&  
  
Rahid Ullah  
Advocate, Peshawar

Dated: 7 1 3 /2023

# پروفیشنل ایکٹ

پروفیشنل ایکٹ 1977ء کے تحت منظور شدہ اور راجہ ایجنسی کے تحت قائم کردہ

پروفیشنل ایکٹ

نمبر 489-1977ء

17300-1170591-1	14200-39216765	17300-1170591-1	14200-39216765
8336-655649	8336-655649	8336-655649	8336-655649
14200-39216765	14200-39216765	14200-39216765	14200-39216765
8336-655649	8336-655649	8336-655649	8336-655649
8336-655649	8336-655649	8336-655649	8336-655649
8336-655649	8336-655649	8336-655649	8336-655649
8336-655649	8336-655649	8336-655649	8336-655649
8336-655649	8336-655649	8336-655649	8336-655649
8336-655649	8336-655649	8336-655649	8336-655649
8336-655649	8336-655649	8336-655649	8336-655649

پروفیشنل ایکٹ کے تحت منظور شدہ اور راجہ ایجنسی کے تحت قائم کردہ

## پروفیشنل ایکٹ

پروفیشنل ایکٹ کے تحت منظور شدہ اور راجہ ایجنسی کے تحت قائم کردہ

ATTESTED



Anx-B

12  
/

Office of the  
District Police Officer,  
Kohat

No \_\_\_\_\_/PA

Dated \_\_\_\_\_/2021

**CHARGE SHEET**

I, **MR. SOHAIL KHALID, DISTRICT POLICE OFFICER, KOHAT**, as competent authority under Khyber Pakhtunkhwa Police Rules (amendments 2014) 1975, am of the opinion that you **Constable Naeem Badshah No. 790** rendered yourself liable to be proceeded against, as you have omitted the following act/omissions within the meaning of Rule 3 of the Police Rules 1975.

- i. ***You while posted at PS Jarma has involved / arrested in case vide FIR No. 186 dated 04.05.2021 u/s 489 PPC PS City district Karak.***
- ii. ***You were absented yourself from official duty vide DD No. 26 dated 03.05.2021 and arrival report vide DD No. 17 dated 05.05.2021, which is a professional gross misconduct on your part.***

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

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

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

4. A statement of allegation is enclosed.

**DISTRICT POLICE OFFICER,  
KOHAT**

  
**ATTESTED**



Office of the  
District Police Officer,  
Kohat

No \_\_\_\_\_/PA

Dated \_\_\_\_\_/2021

**DISCIPLINARY ACTION**

I, **MR. SOHAIL KHALID, DISTRICT POLICE OFFICER, KOHAT** as competent authority, am of the opinion that you **Constable Naeem Badshah No. 790** have rendered yourself liable to be proceeded against departmentally under Khyber Pakhtunkhwa Police Rule 1975 (Amendment 2014) as you have committed the following acts/omissions.

**STATEMENT OF ALLEGATIONS**

- i. ***You while posted at PS Jarma has involved / arrested in case vide FIR No. 186 dated 04.05.2021 u/s 489 PPC PS City district Karak.***
- ii. ***You were absented yourself from official duty vide DD No. 26 dated 03.05.2021 and arrival report vide DD No. 17 dated 05.05.2021, which is a professional gross misconduct on your part.***

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

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

**DISTRICT POLICE OFFICER,  
KOHAT**

No. \_\_\_\_\_/PA, dated \_\_\_\_\_/2021.

Copy of above to:-

1. \_\_\_\_\_ :- The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Rule-1975.
2. The **Accused official**:- with the directions to appear before the Enquiry Officer, on the date, time and place fixed by him, for the purpose of enquiry proceedings.

**ATTESTED**



حوالہ چارج شیٹ نمبری 2264.65/۲۵/۱۷۱۵/۲۱ مبارکہ جناب  
 ڈی لی او صاحب کو چارج عرض ہوں کہ میں تقاضا فرمایا  
 لغتات ہوں۔ کچھ عرصہ سے میرے بائیں آنکھ میں لکھت ہے  
 جسکی علاج معالجہ کیلئے قبل آڑ میں سائل نے رخصت کلاں کیلئے  
 درخواست بھی دی رکھی ہے۔ تکلیف کیوجہ سے میری بائیں آنکھ  
 کی دید بھی ثابت کمزور ہوئی۔ اسی روز میری آنکھ میں  
 شدید درد شروع ہوا۔ جسکی وجہ سے سائل نے عرض علاج  
 معالجہ کئے چلا گیا۔ بعد از علاج معالجہ ڈاکٹر نے چند آرام  
 کرنے کا فرمایا۔ جب میں خانہ خود روانہ ہوا تو مقام  
 ٹول بلازہ کمر پر پولیس کے لفٹیں چلناٹ فلائنگ کوچ  
 کوڑی کردی دوران تلاشی فلائنگ کوچ سے غیر خالونی  
 پالتائی کرنی برآمد ہوئی۔ انچارج تاکہ بندی جسکے ساتھ  
 میرا پرانا رخصت ہے ذاتی عناد کیوجہ سے کسب ایک پولیس  
 ہائٹس انچارج نے یہ رقم چھ ٹھوک دی کہ یہ تمھاری ہے حالانکہ  
 فلائنگ میں دیگر سواروں بھی موجود تھی میں نے ارا کھجایا کہ  
 کہ ایک پولیس کانسٹیبل تھے سوئے میں اس طرح کا عندیہ کام میں  
 کر سکتا۔ لیکن انچارج نے بعد تقاضا کیونکہ اس کا میرے ساتھ بیٹے  
 سے ذاتی عناد موجود ہے۔

میں حلفاً کہتا ہوں کہ بے گناہ ہوں۔ پر شہم کی جفاکی کیلئے  
 تیار ہوں۔ انچارج نے ذاتی عناد پر اوٹ کر میں سائل کج خلق  
 مقدمہ درج کیا۔ جن میں کوئی صداقت نہیں ہے۔  
 استدعا ہے کہ سائل کا چارج شیٹ داخل دفتر خالی جلاو  
 سائل صاحبات دعا گو رہتا۔

العارج

سائل لکھا شاہ 790 سکتہ لولہ رازہ

ATTESTED



Ank-D  
15  
Office of the  
District Police Officer,  
Kohat

Ph: #. 0922-9260116 Fax #. 0922-9260125

ORDER

This order will dispose departmental proceedings conducted against constable Naeem Badshah No. 790 of this district Police, under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014), for the below score of charges.

Brief facts of the proceedings are that he while posted at PS Jarma has involved / arrested in case vide FIR No. 186 dated 04.05.2021 u/s 489 - C PPC PS City district Karak.

He was absented himself from official duty vide DD No. 26 dated 03.05.2021 and arrival report vide DD No. 17 dated 05.05.2021, which is a professional gross misconduct on his part.

Charge sheet alongwith statement of allegations was issued to the accused official and SDPO City Kohat was appointed as enquiry officer. After holding proper proceedings, the enquiry officer established charge against the accused official and found him guilty.

Final Show Cause Notice alongwith copy of enquiry report was served upon the accused official. Reply received unsatisfactory, without any plausible explanation.

Therefore, the accused official was called in Orderly Room and heard in person, provided opportunity of defense, but failed to advance any plausible explanation.

Record, gone through which indicates that the accused official while posted at PS Jarma willfully absented himself from lawful duty vide DD No. 26 dated 03.05.2021 and subsequently, arrested by local Police of Police Station City Karak in the above cited case while in possession of Rs: 528500/- fake PKR of different denomination. The accused official not only committed a crime, but also caused damage to Police image in the general public and earned bad name to the disciplined department. Hence, the charges leveled against the defaulter official have been established. However, his retention in a disciplined department is not warranted. Therefore, in exercise of powers conferred upon me under the rules ibid I, Sohail Khalid, District Police Officer, Kohat impose a major punishment of dismissal from service on accused constable Naeem Badshah No. 790 with immediate effect and absence period is treated as un-authorized leave without pay. Kit etc be collected from the accused official.

Announced  
14.06.2021

OB No. 428

Date 21-6-2021

No. 2755-67 PA dated Kohat the 21-6-2021.

Copy of above to the:-

1. District Police Officer, Karak for information.
2. Reader/SRC/OHC/Pay officer for necessary action.

DISTRICT POLICE OFFICER,  
KOHAT

ATTESTED

DISTRICT POLICE OFFICER,  
KOHAT

HMX-5

بخدمت جناب ڈی۔ آئی۔ جی صاحب کوہاٹ ریجن کوہاٹ۔

کا درخواست بمراد ادرسی (اپیل)

جناب عالی!

گزارش ہے کہ سائل کو جناب ڈی پی او صاحب کوہاٹ نے بحوالہ آڈر نمبر 428 مورخہ 21/06/2021 کو

ناکردہ گناہ میں محکمہ ہذا سے درخواست کیا ہے۔

یہ کہ سائل تھانہ جرما سے ایمر جنسی کی صورت میں بذریعہ فلائنگ کوچ خانہ خود ضلع کرک جارہا تھا۔ نزد کرک ٹال پلازہ ضلع کرک پولیس ہیڈ کانسٹیبل امان اللہ جس کے ساتھ میری ذاتی عناد ہے نے فلائنگ کوچ کوروک کر مجھے نیچے اتارا۔ اور بعد میں کہی سے جعلی کرنسی نکال کر کہا کہ یہ آپ کی ہے۔ میرے انکار کے باوجود مزکورہ ہیڈ کانسٹیبل نے میرے خلاف FIR درج کیا۔

یہ کہ فلائنگ کوچ میں دیگر موجود سواریاں میں سے چند کسان جن کو میں جانتا ہوں بطور گواہان پیش کر سکتا ہوں۔ کہ میں بے گناہ ہوں۔ برخواستگی تک من سائل نے نہایت ایمان داری کے ساتھ اپنا ڈیوٹی سرانجام دیا ہے۔ اور اپنے افسران بالا کے ہر جائز حکم کا بروقت تعمیل کیا ہے۔ سائل آئندہ کیلئے اپنے فورس اور افسران بالا کے نام روشن کرنا چاہتا ہے۔ یہ کہ سائل کے چھوٹے چھوٹے بچے اور بیوی پر رحم کرتے ہوئے سائل کو اپنی نوکری پر بحال کرنے کے احکامات صادر فرمادیں۔ سائل اور سائل کے بال بچے آپ صاحبان کو تازیت دعا گورہیگا۔

عین نوازش ہوگی

فقط آداب 17/07/2021

الحاضر

ایکس کانسٹیبل نعیم بادشاہ نمبر 790 ساکن سرکی لوا غرخت نصرتی ضلع کرک۔

موبائل نمبر 0345-8094265

ATTESTED

F

17

POLICE DEPTT:

KOHAT REGION

ORDER.

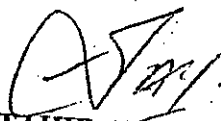
This order will dispose of a departmental appeal, moved by Ex-Constable Naeem Badshah No. 790 of Operation Staff Kohat against the punishment order, passed by DPO Kohat vide OB No. 428, dated 21.06.2021 whereby he was awarded major punishment of dismissal from service for the allegations of his alleged involvement / arrest in a criminal case vide FIR No. 186, dated 04.05.2021 u/s 489-C PPC PS City, district Karak as well as his absence from lawful duty without any leave or prior permission.

He preferred an appeal to the undersigned, upon which comments were obtained from DPO Kohat and his service record was perused. He was also heard in person in Orderly Room, held in this office on 05.10.2021. During hearing, the appellant failed to advance any plausible explanation in his defense to prove his innocence.

I have gone through the available record and came to the conclusion that being an official of disciplined department; he was not supposed to be involved in such like criminal activities which can earn tarnish the image of Police. Hence, the allegations leveled against the appellant are proved beyond any shadow of doubt and the same have also been established by the E.O in his findings. Therefore, his appeal being devoid of merits is hereby filed.

Order Announced  
05.10.2021

6993  
8/10/21

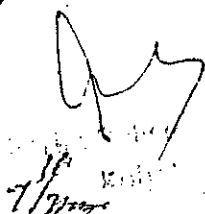
  
(TAHIR AYUB) PSP  
Region Police Officer,  
Kohat Region.


No. 16233 /EC, dated Kohat the 6/10/2019.

Kohat Copy for information and necessary action to the District Police Officer, Karak w/r to his office Memo: No. 9635/LB, dated 28.07.2021. His Service Roll / Fauji Missal is returned herewith.

DSP/L, CHC/S/RC

FIR 771 P.K. 1223

  
7/10/21

  
(TAHIR AYUB) PSP  
Region Police Officer,  
Kohat Region.

ATTESTED

7-9/10  
12

Anx-6

BEFORE THE HONORABLE INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA PESHAWAR

18  
—

Review / Revision Petitioner Under Rule 11-A of the Police Rules 1975 (Amended 2014) against order of the Worthy Deputy Inspector General of Police Kohat dt:06-10-2021 vide which order of Dismissal dt: 14-6-2021 issued regarding the petitioner by the worthy District Police Officer Kohat was upheld without any lawful justification.

Respected Sir,

The petitioner may kindly be allowed to submit the following for your kind and sympathetic consideration:

Facts of the Case:

1. That the petitioner joined Police Deptt: as constable in the year 2007.
2. That since his enrollment in the Police Deptt:, the petitioner performed his official duties with dedication, honesty and devotion.
3. That for his good performance the petitioner's services were acknowledged by his worthy senior officers and awarded a number of commendation certificates besides cash rewards.
4. That during service the petitioner has never been awarded minor or major punishment.
5. That while posted in the Police Station Jerma, unfortunately the petitioner developed pain in his left eye and due to the

**ATTESTED**

said reason eye sight of the left eye of the petitioner was effected.

19

6. That on 04-5-2021, severe pain started in the eye of the petitioner. He accordingly went to the doctor for treatment. The medical officer besides prescribing the medicines, also advised rest for some days.
7. That on 04-5-2021 while the petitioner was on his way to his domiciled District Karak in a flying coach, at Toll Plaza the flying coach was stopped by the Police Post Toll Plaza Karak.
8. At the said Check Post, Rehman Ullah HC was appointed as Incharge of the check post.
9. That the said official was already having personal grudges, ill will and enmity with the petitioner.
10. That the said Incharge in order to satisfy his personal vendetta and to take revenge from the petitioner, had falsely implicated in a forged currency note case.
11. That against the petitioner an illegal, fictitious, false and fabricated case vide FIR No.186 dt: 04-5-2021 U/S 489 C PPC was registered in the P.S. Karak.
12. That a huge amount of the forged currency notes i.e. 5,28,500 rupees were shown in the FIR being allegedly transporting by the petitioner to Karak. (Copy of FIR enclosed)
13. That passengers in the flying coach also raised objection upon the illegal act of the Police Post Incharge but he was bent upon to teach lesson to the petitioner.
14. That the petitioner was arrested however; the next day i.e. 05-5-2021, he was released by the Court on bail.

ATTESTED

15. That the case is under trial in a local court of the Distt: Karak and the evidence of prosecution is yet to be recorded. 20
16. That besides registration of criminal case against the petitioner the District Kohat also initiated departmental enquiry against the petitioner.
17. Upon the petitioner charge sheet and statement of allegations were served. The petitioner denied the alleged recovery of the – forged notes from his possession and also pointed out the rivalry of the Incharge Police Post Toll Plaza Karak but no enquiry at this score was conducted (Copy of the reply to the charge sheet in enclosed)
18. That ultimately, the competent authority vide order dt:14-6-2021, had dismissed the petitioner with immediate effect and absence period was directed to be treated as unauthorized leave without pay. (Copy of the order is enclosed)
19. That against the said order the petitioner filed an appeal before the Worthy Deputy Inspector General of Police Kohat Region Kohat but it was also filed vide order dt:06-10-2021. (Copy of the appeal and order are enclosed)
20. That against the orders the petitioner has strong legal and factual reservations which are detailed in the following lines:

Ground of Revision/ Review.

- A. That the petitioner respectfully does not agree with the original and appellate orders of the Police Authorities dt:14-6-2021 and 06-10-2021 respectively as both the orders are suffering from a number of legal and factual

ATTESTED

infirmities, contradictions and lacunas which have made the orders as legally defective and without any legal effect.

- B. That the order is not in accordance with law, justice and evidence on record hence it is liable to be set aside.
- C. That when the petitioner raised a genuine objection regarding the personal attitude / grudge of the Incharge Police Post Toll Plaza Karak, it became mandatory for the enquiry officer to have conducted enquiry at this angle<sup>too</sup> but the enquiry is silent at this aspect. Resultantly, the enquiry can be termed / treated as incomplete and inconclusive. Upon an incomplete and inconclusive enquiry no punishment can be legally awarded to the petitioner.
- D. That when a punishment is awarded and especially major punishment, it is the requirement of law that enquiry shall fulfill and cover all aspects. If enquiry fails to cover a single aspect, the enquiry and as well as the punishment becomes defective and it has no impact at the defaulter official.
- E. That the petitioner is a poor person, how he can arrange such a big amount i.e. 528500 rupees for transporting to the other district. Unfortunately this aspect was also not touched / deliberated by the enquiry officer nor by the competent authority. In addition it was also necessary to have disclosed that from whom the petitioner got the forged notes and to whom he was taking these notes but the inquiry is silent about this important factors.
- F. That malafide intention of the local police can be gauged from the fact that for such a huge forged currency amount bail able section of law has been applied upon the case of the petitioner. From such a fact, inference can be drawn that the

  
ATTESTED



local police was only concerned to register FIR no matter whether it is a bail able or non bail able section of law because such an act would be sufficient to damage rather ruin career of the petitioner.

G. That the entire enquiry was conducted at the back of the petitioner. The petitioner was given no opportunity to defend himself during the enquiry proceedings.

H. That right of the cross examination of the witnesses was denied to the petitioner. Thus the enquiry against the petitioner can be termed as unilateral and one sided which has got no value in the eyes of law.

I. That during the entire enquiry proceedings, fundamental right of the petitioner for independent, impartial and transparent enquiry / trial recognized by the Constitution of Pakistan vide Article 10 A was denied to the petitioner. Hence the enquiry in hand is of no legal effect upon the right of the petitioner and the petitioner under the law is still on service.

J. That mere registration of FIR cannot be treated that the defaulter is guilty. It is well established principle of law that FIR is not a substantive piece of evidence. Unless and until accused is not awarded punishment by the court of law after a proper trial such an accused is treated as innocent. In view of the said legal proposition the petitioner is treated to be innocent till decision of the criminal case against him and he deserves to continue his services in the Police Deptt.

K. That the Honorable Service Tribunal in a judgment set aside dismissal order of the defaulter Govt. servant where enquiry was conducted on the back of the defaulter Govt. official, no witness was examined on oath. In the case of the petitioner

**ATTESTED**

witnesses were not examined in presence of the petitioner and he was also denied the right of cross examination. Hence the department has conducted the instant inquiry against the petitioner in violation of the Police Rules 1975 (Amended 2014) Rule 5 Sub Rule 3 Clause C. Hence, for conducting enquiry against the petitioner due process of law has not been followed which has made the enquiry against the petitioner legally defective and no punishment on such a legally defective enquiry can be awarded. Hence at this score alone, the order of dismissal from service of the petitioner deserves to be set aside.

L. That vide judgment of Honorable Supreme Court in the year 2007 and the Honorable Peshawar High Court Peshawar vide judgment in the year 2019, have held that mere registration of FIR against a person would not make him ipso facto guilty rather he would be presumed to be innocent until convicted by a competent court while, the Honorable High Court has held that if a civil servant had been charged for a criminal offence, he was to be considered under suspension from the date of his arrest and could not be dismissed from service. (Copies of the judgment are enclosed)

M. That in view of the judgments referred above, dismissal of the petitioner from service was not legally warranted. Hence the impugned orders have lost legal conviction and the petitioner deserves reinstatement in service.

N. That the petitioner is a poor person and he has got no other source of income. If the order of dismissal remains intact, family i.e. children, wife and aged/ailing parents are likely to

  
**ATTESTED**

29

land in starvation and their health is likely to sustain irreparable loss due to the lack of medicines.

- O. That the unjustified punishment has lowered the position of the petitioner in the eyes of the general public and as well in the police circle.
- P. That the petitioner is absolutely innocent and he has been punished for no fault on his part. In addition petitioner being member of a Law Enforcing Agency cannot imagine to indulge himself in such like illegal and unethical activities.

Prayer:

It is therefore, humbly requested that the impugned orders being not in accordance with law, being against evidence on record and being due process of law not followed in letter and spirit, may graciously be set aside. The petitioner may kindly be reinstated in service with all back benefit. The petitioner and his entire family will pray for your long life and prosperity for this act of kindness.

Dated: 27-10-2021.

Yours Obediently,



NAEEM BADSHAH

Ex-Constable No.790.


R/o Village Sarki Lawaghan,

Tehsil Takhti Nasrati

Distt: Karak.

Presently Police Line Kohat.

Cell # 0345-8094265.



ATTESTED



MIA 711

25

OFFICE OF THE  
INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
PESHAWAR.

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Ex-FC Naeem Badshah No. 790. The petitioner was dismissed from service by District Police Officer, Kohat vide OB No. 428, dated 21.06.2021 on the allegations that he while posted at Police Station Jarma was involved/arrested in a criminal case vide FIR No. 186, dated 04.05.2021, u/s 489-C PPC Police Station City Karak and remained absent from duty w.e.f 03.05.2021 to 05.05.2021. His appeal was filed by Regional Police Officer, Kohat vide order Endst: No. 16233/EC, dated 06.10.2021.

Meeting of Appellate Board was held on 19.01.2023 wherein petitioner was heard in person. Petitioner denied the allegations leveled against him.

Perusal of enquiry papers reveals that the allegations leveled against the petitioner has been proved and the Enquiry Officer recommended him for major punishment. During the proceedings, he could not submit solid evidence of his innocence. Moreover, his case is also under trial in the court. The Board see no ground and reasons for acceptance of his petition, therefore, the Board decided that his petition is hereby rejected.

Sd/-

SABIR AHMED, PSP

Additional Inspector General of Police,  
HQrs: Khyber Pakhtunkhwa, Peshawar.

No. S/ 387-87 /23, dated Peshawar, the 9-2 /2023.

Copy of the above is forwarded to the:

1. Regional Police Officer, Kohat. One Service Roll and one Fauji Missal of the above named Ex-FC received vide your office Memo: No. 4081/EC, dated 08.03.2022 is returned here with for your office record.
2. District Police Officer, Kohat.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
5. PA to Adal: GP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt E-IV CPO Peshawar.

(DR. ZAFID-ULLAH) PSP  
AIG/Establishment,

For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.

**ATTESTED**

WAKALAT NAMA

IN THE HON'BLE TRIBUNAL KHYBER PAKHTUNKHWA,  
PESHAWAR

26  
—

Naeem Badshah

Appellant(s)/Petitioner(s)

VERSUS

The Inspector General  
of Police Sothers

Respondent(s)

I/We Naeem Badshah do hereby appoint  
Mr. Ashraf Ali Khattak, 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.

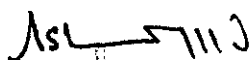
AND hereby agree:-

- 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

  
Signature of Executants

  
Ashraf Ali Khattak  
Advocate,  
Supreme Court of Pakistan