

29.03.2016

Counsel for the appellant and Mr. Khalid Mehmood, H.C alongwith Assistant A.G for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 18.7.2016.

  
Chairman

18.07.2016

Counsel for the appellant and Mr. Muhammad Ghani, SI alongwith Mr. Muhammad Jan, GP for respondents present. Counsel for the appellant requested for time to file rejoinder. To come up for rejoinder and final hearing on 18.11.2016.

  
Member

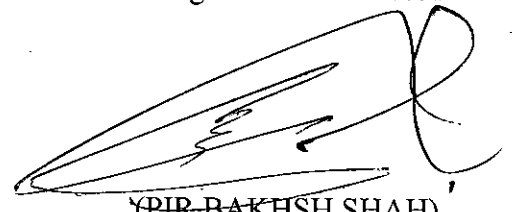
  
Member

18.11.2016

Counsel for the appellant and Mr. Muhammad Ghani, S.I alongwith Mr. Kabirullah Khan Khattak, Assistant Advocate General for respondents present. Learned counsel for the appellant submitted that grievance of the appellant has been redressed by the respondents and there is no more need to pursue this appeal. He requested that the same may be dismissed as withdrawn. His signature obtained on margin of the order sheet. The appeal stand dismissed as withdrawn. File be consigned to the record room.

ANNOUNCED  
18.11.2016

  
(ABDUL LATIF)  
MEMBER

  
(PIR BAKHSH SHAH)  
MEMBER

*As per wishes of my client  
I withdraw the case  
18.11.2016*

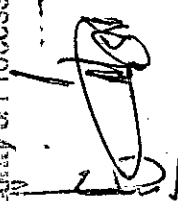
22.09.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving ASI PS Sher Garh when subjected to inquiry on the allegations of involvement in smuggling of non-custom paid vehicles and dismissed vide impugned order dated 28.4.2015 regarding which the preferred departmental appeal on 11.5.2015 which was partially allowed vide order dated 7.8.2015 converting the major punishment into stoppage of three increments with cumulative effect and treating the absence period of service as leave without pay and hence the instant service appeal on 4.9.2015.

That the allegations were not supported in the inquiry through an evidence. That no show cause notice was issued and the inquiry was not conducted in the prescribed manners.

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 1.12.2015 before S.B.

Appellant Deposited  
Security & Process Fee



21-9-15

  
Chairman

01.12.2015

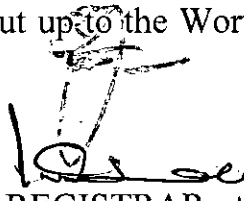

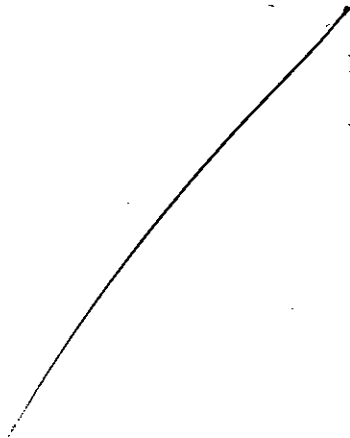
Appellant with counsel and Mr. Muhammad Ghani, S.I alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 29.3.2016 before S.B.

  
Chairman

FORM-A  
FORM OF ORDER SHEET

Court \_\_\_\_\_

Case No. 1004 / 2015

	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	09.09.2015	<p>The appeal of Mr. Javed Iqbal resubmitted to-day by Mr. Shahid Qayum Khattak, Advocate, may be entered in the institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case be put up before the S.Bench for preliminary hearing on <u>22-9-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> 

The appeal of Mr. Javed Iqbal received to-day i.e. on 4.09.2015, is incomplete on the following scores, which is returned to him for completion and resubmission within 15 days:-

1. Enquiry report annexed with the appeal is incomplete. Complete copy of enquiry report may be placed on file.

No. 1368 /ST,

Dated 4/9 /2015


  
REGISTRAR  
KPK SERVICE TRIBUNAL,  
PESHAWAR.

Mr. Shahid Qayum Khattak, Advocate

As per directions of this Hon'ble Tribunal appellant tried his best to procure the desired copies of documents but respondent no. 3 refused to hand over the same rather refused to receive even application, therefore appellant send the same application through registered post. (Copy of application and register receipts are attached).

It is therefore, requested that the case may be processed with the available documents as respondents are not delivering other copies of enquiry finding etc.

Case is re-submitted for further n/a and order please.

  
09/09/2015

جناب عالی!

گزارش ہے کہ سائل بحوالہ OB. 788 مورخہ 27/4/15 حکم سے

بخاست ہوا تھا۔ جو کہ بعد میں جناب DIG صاحبہ سران

نے بحوالہ آرڈر نمبر 4597 مورخہ 05/08/15 کو دوبارہ بحال کیا ہے

مگر تین (increments) سٹاف کیلئے لکھے ہیں جسکی

بحالی کیلئے سائل عدالت کو رجوع کرنا چاہتا ہے۔

استدعا ہے کہ سائل کو انکوائری آفر کی (Findings)

کو عنایت کرنے کا حکم صادر فرمائی جائے

العارض

جاوید اقبال ASI تھانہ خرنی

07/9/2015

No. 1102

For Insurance Notices see reverse.  
Stamps affixed except in case of  
uninsured letters of no more than  
the limit weight prescribed in the  
Post Office Guide of which no  
acknowledgement is due.

Rs. Ps.

30/-

Received a registered\*  
addressed to

Date Stamp

Initials of Receiving Officer

\*Write here "letter", "postcard", "packet" or "parcel"  
with the word "insured" before it when necessary

Insured for Rs. (in figures)

(in words)

Insurance for Rs.

Ps. (in words)

Weight

Kilo.

Grams

Name and  
address  
of sender

جاوید اقبال

8/9/15

BEFORE THE SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. *1004* /2015

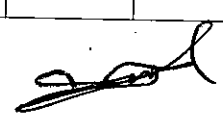
Javide Iqbal..... Appellant

Versus

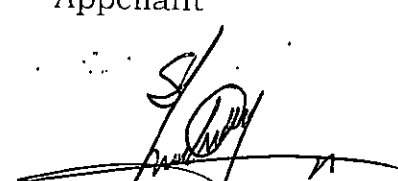
Provincial Police Officer and others..... Respondents

INDEX

S.No.	Description of Documents	Annex	Pages
1.	Memo of appeal		1-5
2.	Affidavit		6
3.	Address of the parties		7
4.	Charge Sheet	A	8-9
5.	Reply of appellant	B	10
6.	Enquiry Finding report	C	11
7.	Copy of impugned order of Respondent No. 3	D	12
8.	Copy of representation	E	13-14
9.	Copy of Impugned order of Respondent No. 2	F	15
10.	Wakalat Nama		

  
Appellant

Through

  
Shahid Qayum Khattak  
Advocate, High Court  
Peshawar  
Mob No. 0333-9195776

Dated: *04* /09/2015

①

BEFORE THE SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 1004 /2015

G.W.P. Province  
Service Tribunal  
Diary No. 1026  
Dated 4-9-15

Javid Iqbal S/o Niqab Shah R/o Katlang, Mardan ..... Appellant

Versus

1. Provincial Police Officer/ Inspector General of Police  
Khyber Pakhtunkhwa, Peshawar
  2. Deputy Inspector General of Police Mardan Division-I, Mardan.
  3. District Police Officer, Mardan.
  4. Government of Khyber Pakhtunkhwa through  
Chief Secretary, Peshawar
- ..... Respondents

APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT, 1974  
AGAINST THE ORDER DATED 07/08/2015 OF RESPONDENT NO.  
2 BY WHICH APPEAL FILED BY APPELLANT AGAINST ORDER  
DATED 27/04/2015 PASSED BY RESPONDENT NO. 3 HAS BEEN  
PARTIALLY ACCEPTED AND THE PUNISHMENT ORDER PASSED  
BY RESPONDENT No. 3 HAS BEEN MODIFIED TO PUNISHMENT  
OF STOPPAGE OF 03 ANNUAL INCREMENTS WITH CUMULATIVE  
EFFECT AND THE PERIOD HE REMAINED OUT OF SERVICE HAS  
BEEN TREATED AS LEAVE WITH OUT PAY.

PRAYER

By accepting this service appeal, the punishment awarded to the  
appellant through impugned orders may graciously be set aside by  
declaring it illegal, void, unlawful, without authority, based on  
mala fide, void abinitio and thus not sustainable and the appellant  
is entitled for all back benefits of pay and service.

Respectfully Sheweth;

1. That appellant joined police department in the year 1993 and has  
rendered satisfactory service in the Department for the past 21/22  
years and performed his duties with full zeal and enthusiasm and  
on the basis of his performance he has been promoted to the post  
of ASI in the year 2012.

2. That respondent No. 3 initiated disciplinary action against appellant and issue charge sheet to appellant on 30/03/2015. Allegation in charge sheet are as under;

*"You ASI, while posted as I/C PP Shago Naka at Police Station Sher Garh, is recommended for departmental proceeding for your inefficiency, Corrupt practices, and involvement with smugglers of NCP vehicles"*

( Copy of the Charge Sheet is attached as Annexure "A")

3. That proper reply has been submitted by the appellant to the charge sheets, wherein he has completely denied the allegation leveled in the Charge Sheets and also show his progress report and as well as other circumstance on 08/04/2015 ( Copy of the reply is attached as Annexure "B" the ground taken therein may please be consider as integral part of this appeal )
4. That enquiry was conducted vide which the enquiry officer held responsible the appellant for the charges leveled against him but without any substance and recommended for major punishment. ( Copy of the enquiry report is attached as Annexure "C")
5. That after the enquiry report respondent No. 3 awarded major punishment of Dismissal from service with immediate effect to the appellant vide impugned order bearing OB No. 788 dated 27/04/2015. ( Copy of the Impugned order is attached as Annexure "D")
6. That appellant filed representation against the impugned order on 11/05/2015 before respondent No. 2 who vide order dated 07/08/2015 converted the penalty of dismissal into stoppage of three increments with cumulative effect and the period he remained out of service has been treated as leave without pay. The ground taken in the representation may please be considered as an integral part of this appeal ( Copy of the Representation and order are attached as Annexure " E" , "F" respectively)
7. That the appellant feeling aggrieved from the above orders hence, filling this appeal on the following amongst other grounds inter alia



GROUNDS:

③

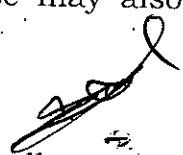
- a. That both the impugned orders of the respondents are illegal, unlawful, without authority, based on mala fide intention, against the nature justice, violative of the Constitution and Service Law and equally with out jurisdiction, hence the same are liable to be set aside in the best interest of justice.
- b. That both the impugned orders passed by respondent are very much harsh, without any evidence based on surmises & conjectures and is equally against the principle of natural justice.
- c. That respondent No. 3 has not taken into consideration the detail and plausible reply to the charge sheet but brushed aside it without any reason and grounds. Furthermore respondent No. 2 has not adopted proper procedure for disposal of departmental appeal/ representation thus the impugned orders are nullity in the eyes of law and are liable to be set aside.
- d. That the whole departmental file against appellant has been prepared in violation of law and rules as the enquiry officer has based his finding on assessment and speculations. The findings have not been based on sound reasons and any solid, material and cogent evidence.
- e. That the allegation leveled against the appellant are baseless, without any proof and cogent evidence and the allegation leveled against appellant is based on malafide intention and are concocted one. No proper opportunity of personal hearing has been provided to appellant. The enquiry officer has not adopted proper procedure nor any statement of any witness is recorded in presence of appellant nor he has been provided any opportunity of cross examination of any witness.
- f. That the impugned orders has been passed in violation of law and rules of disciplinary proceedings and principles of natural justice. The authority wrongly and malafidly based the impugned orders on assessments and speculations, therefore the impugned order is bad in law.

- g. That the enquiry proceedings against appellant suffered from gross infirmities, illegalities and irregularities as no evidence what so ever has been produce or cited in the enquiry report nor any witness has been examined before the appellant.
- h. That the learned respondent has not taken into consideration that the rules under which the appellant has been charged are not applicable on him which clearly shows that the act of respondent is totally based on discrimination undue victimization beside that the impugned order is suffered from gross infirmities, illegality , based on no evidence totally contradictory to the enquiry.
- i. That both the impugned orders are contrary to each other and with out the support and backing of any concrete evidence and admissible evidence.
- j. That respondent No. 2 has not decided the departmental appeal / representation in accordance to the rules and regulation which clearly shows mala fide intention thus, has no sanctity in the eyes of law thus the act of respondent No. 2 and 3 is totally based on male fide intention which clearly shows discrimination and undue victimization.
- k. That enquiry officer has wrongly assessed that appellant is involved with Non-custom paid vehicle smugglers. Actually appellant was posted incharge Sher Garh, Shago Naka for a period of about 20/21 months and during this period 66 non-custom paid vehicles or other vehicle has been taken into possession. The progress mentioned above clearly shows the commitment of appellant with his job but now his this good progress became a menace for him. Therefore, the appellant request for mercy of this court.
- l. That the bias of the enquiry officer is very much clear from this report which clearly shows that he travel beyond the charges leveled in the charge sheet. Thus the impugned orders based on such unfolded enquiry report are liable to be set aside in the best interest of justice.

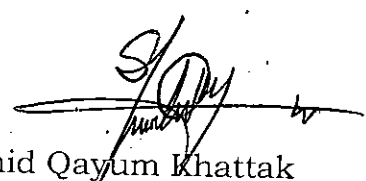
- m. That respondent No. 3 has not issue any show cause notice nor any proper opportunity of hearing has been provided to appellant but this aspect has not been taken by learned respondent No. 2 at all thus the impugned orders are nullity in the eyes of law and is liable to be set aside.
- n. That respondent have not taken into consideration the clear cut directions of the government that any proceeding on any anonymous, pseudonymous letters/ complaints has to be entertained in any government department but still appellant has been make escape goat on the basis of anonymous SMS.
- o. That the enquiry report and impugned orders are based on mala fide, political reveries an professional jealousy.

It is, therefore, most humbly prayed that on accepting this service appeal, the punishment awarded to the appellant through impugned orders may graciously be set aside by declaring it illegal, void, unlawful, without authority, based on mala fide, void abinitio and thus not sustainable and the appellant is entitled for all back benefits of pay and service.

Any other relief not specifically prayed for but deem appropriate in the circumstances of the case may also be granted.

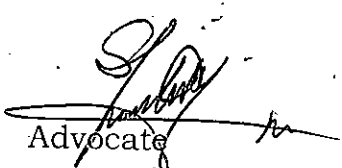
  
Appellant

Through

  
Shahid Qayum Khattak  
Advocate, High Court  
Peshawar

Dated: /09/2015

Certified that as per instruction of my client no such appeal has been filed before this Hon'ble Forum.

  
Advocate

6

BEFORE THE SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. /2015

Javid Iqbal ..... Appellant

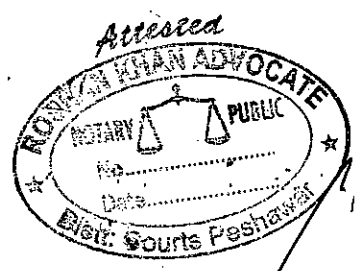
Versus

Provincial Police Officer and others..... Respondents

Affidavit

I, Javid Iqbal S/o Niqab Shah R/o Katlang, Mardan do hereby solemnly affirm and declare on Oath that the contents of the above appeal are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Hon'ble Tribunal.

Deponent



*Attested*  
Jm  
4-9-15

7

BEFORE THE SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. /2015

Javid Iqbal ..... Appellant

Versus

Provincial Police Officer and others..... Respondents

ADDRESSES OF THE PARTIES

APPELLANT

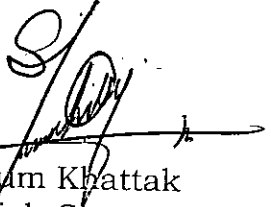
Javid Iqbal S/o Niqab Shah R/o Katlang, Mardan

RESPONDENTS

1. Provincial Police Officer/ Inspector General of Police  
Khyber Pakhtunkhwa, Peshawar
2. Deputy Inspector General of Police Mardan Division-I, Mardan.
3. District Police Officer, Mardan.
4. Government of Khyber Pakhtunkhwa through  
Chief Secretary, Peshawar

  
Appellant

Through

  
Shahid Qayum Khattak  
Advocate, High Court  
Peshawar

Dated: 04/09/2015

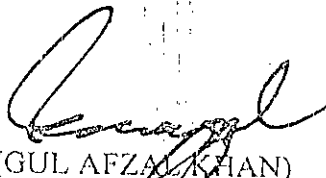
CHARGE SHEET UNDER KPK POLICE RULES 1975

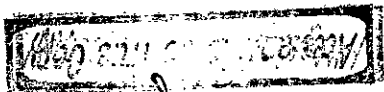
I, Gul Afzal Khan District Police Officer, Mardan as competent authority hereby charge you ASI Javid Iqbal No. 1177, as follows.


That you ASI, while posted as I/C PP Shago Naka at Police Station Sher Garh, is recommended for departmental proceeding for your inefficiency, corrupt practices, and involvement with smugglers of NCP vehicles

This amounts to grave misconduct on your part, warranting departmental action against you, as defined in section - 6 (1) (a) of the KPK Police Rules 1975.

1. By reason of the above, you appear to be guilty of misconduct under section - 02 (iii) of the KPK Police Rules 1975 and has rendered yourself liable to all or any of the penalties as specified in section - 04 (i) a & b of the said Rules.
2. You are therefore, directed to submit your written defense **within seven days** of the receipt of this charge sheet to the enquiry officer.
3. Your written defence if any, should reach to 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, an ex-parte action shall follow against you.
4. Intimate whether you desired to be heard in person.

  
(GUL AFZAL KHAN)  
District Police Officer,  
Mardan.





9

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

No. 855 /R/D.A-P.R-1975.

Dated 30-3- /2015

DISCIPLINARY ACTION UNDER KPK POLICE RULES - 1975

I, Gul Afzal Khan District Police Officer, Mardan as competent authority am of the opinion that ASI Javid Iqbal No. 1177, himself liable to be proceeded against as he committed the following acts/omission within the meaning of section-02 (iii) of KPK Police Rules 1975.

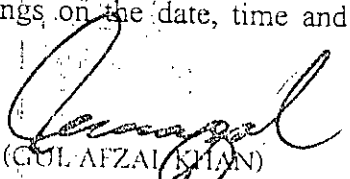
STATEMENT OF ALLEGATIONS

That ASI Javid Iqbal No. 1177, while posted as I/C PP Shago Naka at Police Station Sher Garh, is recommended for departmental proceeding for his inefficiency, corrupt practices, and involvement with smugglers of NCP vehicles.

2. For the purpose of scrutinizing the conduct of the said official with reference to the above allegations Mr: **Shamreez Khan DSP/City Mardan** 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 official, 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.

  
(GUL AFZAL KHAN)  
District Police Officer,  
Mardan.

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN.

No. 855 /R, dated Mardan the 30-3- /2015.

Copy of above is forwarded to the:

1. DSP/City Mardan for initiating proceedings against the accused official / Officer namely ASI Javid Iqbal No. 1177, Police Rules, 1975.
2. ASI Javid Iqbal No. 1177, with the directions to appear before the Enquiry Officer on the date, time and place fixed by the enquiry officer for the purpose of enquiry proceedings.

Steno/Redder

Summar him

\*\*\*\*\*  
This Copy



بیان آڈان جاوید اقبال فان Asi 1177/1177 قہقہہ ایجازہ شگو نامہ

حال سینڈ لپولیس لائن سڈان  
 نے بیان کیا کہ جو ال انکوائری حصہ وہاں خدمت ہوں۔ ٹر سائل سال 1993  
 کا فہرستی بشدہ ہے۔ چہ عدہ ۴۴ نوکری نشر یہ 21 سال میں اپنی کارکردگی  
 اور قہقہہ کورسز پاس کر کے سال 2002 میں لوئر کورس کے سٹڈنٹ ہوا۔  
 اور پھر سال 2009 میں انٹرمیڈیٹ کورس پاس کر کے انڈر ان مالا مہلکان  
 نے سال 2012 میں Asi کے عہدہ پر ترقیابی کا حکم ہمارے فرمایا۔ پھر  
 ڈیوٹی تمام فرم کی تبادا چو کر نشر یہ 15 سینے تمام فرم میں اپنے طور پر  
 سے ڈیوٹی انجام دی اور انڈر ان مالا مہلکان کو کسی قسم کی شکایت کا وقت نہیں دیا۔  
 پھر اس وقت کے وجودہ DPo صاحب طایر ایوب صاحب نے تمام نشر یہ، شگو نامہ  
 تمام کا حکم ہمارے فرمایا۔ اس عدہ ۴۴ 21/20 سینے میں جو رقم 25 کو اپنی  
 ڈیوٹی انہیائی، ایمانداری، اور فرم میں شناسی سے انجام دی ہیں۔ جس کا  
 ثبوت ہر سال ہر تہنائی کے دوران قہقہہ قسم کے 66 جیسٹو، NCP اور  
 دیگر شکار لوگوں کا قہقہہ لپولیس میں آ رہا۔ اور اس کے خلاف پورے وقت میں ہمارے  
 جانوں کا برائی کی ہے۔ جس کا فہرست ہمراہ لفافے۔

جناب عالی! تمام عدہ ۴۴ ملازمت، انہیائی ایمانداری سے اور دہرہ دہری سے  
 انجام دی ہیں۔ لپولیس انڈر ان کے ساتھ ساتھ تمام اناس میں سے ہی کسی  
 نے سائل کے خلاف کسی قسم کی فرم پر یا بارمانی شکایت نہیں کی ہے۔  
 اس عدہ سے سائل کا فہرست ملنے ہیں۔ اور سائل کا نام نامہ بطور نشر یہ  
 وجود ہے۔ سائل نے کسی قسم کا کوئی رشوت نہ لیا ہے۔ NCP والوں سے ویلا ہے۔ اور نہ ہی کوئی  
 اس عدہ ہائیکم جہا مالا فعالیت کو مد نظر رکھ کر سائل کی انکوائری لپولیس  
 کاروائی کے داخل دستریکے جانے کا حکم ہمارے فرمایا۔

المستقوم = 81/15

الم

سائل جاوید اقبال Asi 1177/1177، ایجازہ شگو نامہ حال سینڈ لپولیس

0341-9012477

Attached to be true Copy



(11)

Annexure 'C'

**ENQUIRY REPORT OF ASI JAVID IQBAL NO.1177.**

The Undersigned was deputed to conduct Enquiry of ASI Javid Khan NO.1177, by the Worthy District Police Officer Mardan through office Letter No.855 / R/D.A.P.R/1975, Dated 30/03/2015.

**BRIEF FACTS.**

That ASI Javid Khan NO.1177, while posted as I/C Shago Naka at Police Station Sher Garh, is recommended for departmental proceeding for his inefficiency, corrupt practices, and involvement with smugglers of NCP vehicles.

**PROCEEDINGS.**

The proceedings of the enquiry have been conducted strictly in accordance with the NWFP Police Rules 1975.

**STATEMENT OF ASI JAVID IQBAL NO.1177.**

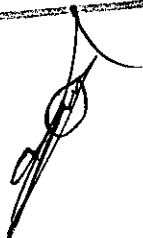
That while he was posted as incharge Sher garh, Shago Naka for a period about 20/21 months and he was performing his duty with honesty. During his period as in charge Shago Naka, he took 66 NCP Vehicles into possession and he produced a list as proof which in attached. He further added, that he has passed his period with honesty and neither he has demand for bribes nor he has relations with NCP dealers.

***Besides his statement the undersigned conducted secret investigation to get further facts if any and it is transpired that there are two more different routes except Shago Naka through which NCP vehicles are smuggling to tribal areas. There is no solid proof against the alleged official and no one wants to give written statement against him. However during secret investigation it has been noted that the alleged official is involved in such practice, which is made against him.***

**CONCLUSION.**

The undersigned has reached to the conclusion and recommend the alleged official for Major Punishment please.

Attested to be True Copy



**ORDER**

This order will dispose of departmental inquiry, which has been conducted against ASI Javid Iqbal No. 1177, on the allegation that he while posted as I/C PP Shago Naka at Police Station Sher garh, was recommended for departmental proceeding for his inefficiency, corrupt practices, and involvement with smugglers of NCP vehicles. His attitude adversely reflected on his performance which is an indiscipline act and gross misconduct on his part as defined in rule 2(iii) of Police Rules 1975.

In this connection ASI Javid Iqbal No. 1177, was charge sheeted vide this office No. 855/R, dated 30.03.2015 and also proceeded against departmentally through Mr: Shamreez Khan DSP/City Mardan, who after fulfilling necessary process, submitted his findings to the undersigned vide his office endorsement No. 642/S dated 23.04.2015, as the allegation have been established against him and recommended him for major Punishment.

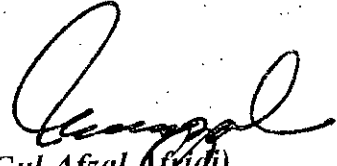
The undersigned agreed with the findings of enquiry officer and the alleged ASI Javid Iqbal No. 1177, is hereby dismissed from service with immediate effect, in exercise of the power vested in me under the above quoted rules.

Order announced

O.B No. 788

Dated 27/4/2015

No. 4235-40/R, dated Mardan the 28/04/2015

  
(Gul Afzal Asfidi)  
District Police Officer,  
Mardan.

Copy for information and necessary action to:-

1. The Deputy Inspector General of Police Mardan Region-1, Mardan.
2. The S.P Operations, Mardan.
3. The DSP/HQrs Mardan.
4. The Pay Officer (DPO) Mardan.
5. The E.C (DPO) Mardan.
6. The OASI (DPO) Mardan.

Attested to be True Copy

(13)

Annexure - E

To,

The D.I.G of Police,  
Mardan Range.

Through proper channel

Subject: - Representation against the order of the D.P.O Mardan contained in a letter No. 4235-40/R dated 28-04-2015, Order announced O.B No.788 Dated 27-04-2015. **(Copy of the order annex)**

Respected Sir,

My this representation is with reference to the above captioned letter of the District Police Officer Mardan, whereby I was awarded the major punishment of dismissal from service.

It is submitted with great reverence that the impugned order is illegal, void, untenable under the Law and against the principals of natural justice on the following amongst many other grounds inter alia,

- 1- That the allegations of my involvements of inefficiency, corrupt practices and involvement with smugglers of NCP vehicles are baseless, without any proof and cogent evidence against me. I was never been involved in the case.
- 2- That my alleged involvements with malafide intention and concocted one.
- 3- That there are glaring illegalities and irregularities committed since my involvement in the case till my dismissal from service.
- 4- That I was not afforded a fair opportunity of personal hearing. Thus I was condemned unheard. The inquiry was conducted in my absence, neither my statement was recorded nor I was inform about the inquiry.
- 5- That I was not supplied the copy of Inquiry report with the show cause Notice and was kept in dark about the findings of the inquiry.
- 6- That the allegation of misconduct against me is also wrong and ill-founded.

Attested to be True Copy

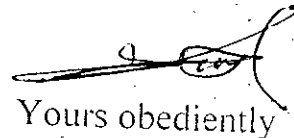


14

- 7- That since my appointment 1993 in the department, I perform my duty with dedication, to the entire satisfaction of my superiors; there is no complaint against me in the whole of my service.
- 8- That my service record has been clean and unblemished, rather commendable throughout my service.

It is requested that setting aside the impugned order of my dismissal from service, I may be exonerated from the charges and may be reinstated into service with all back service benefits.

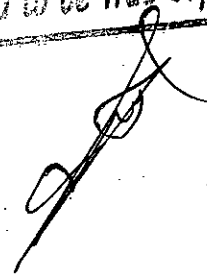
Dated - 11-05-2015



Yours obediently

JAVED IQBAL

Attested to be True Copy



A (15)

ANNOUNCE (F)

ORDER

This order will dispose-off the appeal preferred by Ex- ASI Javed Iqbal No. 1177 of Mardan District Police against the order of District Police Officer, Mardan, wherein he was dismissed from service vide District Police Officer, Mardan OB No. 1061 dated 19.06.2015.

Brief facts of the case are that he while posted as Incharge Police Post Shago Naka at Police Station Shergarh was recommended for departmental proceeding for his inefficiency, corrupt practices, and involvement with smugglers of NCP vehicles. His attitude adversely reflected on his performance which is indiscipline act and gross misconduct, in this connection he was charge sheeted and also proceeded against departmentally through Deputy Superintendent of Police City, Mardan who after fulfilling necessary process, submitted his findings to District Police Officer, Mardan as the allegation were established against him and recommended for punishment. District Police Officer, Mardan agreed with the findings of enquiry Officer and the alleged ASI was dismissed from service

I have perused the record and also heard the appellant in Orderly Room held in this office on 05.08.2015. Keeping in view his long service and poor family circumstances. The penalty "dismissal from service" is converted into "stoppage of three increments with cumulative effect". The period he remain out of service is treated as leave without pay.

ORDER ANNOUNCED.

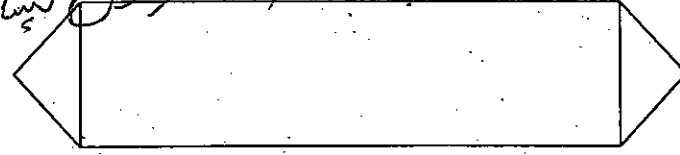
(MUHAMMAD SAIED) PSP  
Deputy Inspector General of Police,  
Mardan Region-I, Mardan. *Al*

No. 4554 /ES, Dated Mardan the 07/08 /2015.

Copy to District Police Officer, Mardan for information and necessary action w/r to his office Memo: No. 741/LB dated 06.07.2015. His service record is returned herewith for record in your office.

(\*\*\*\*\*)

*Assesed*  
DEPT Legal  
Mardan



2 مجازہ ایسٹ  
جاوید اقبال بنام درجہ 10

موزعہ  
مقدمہ  
دعویٰ  
جرم

### باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام لکھنؤ اور کیلئے شہزادہ نواز لکھنؤ مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داخہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سندر ہے۔

Accepted by

2015

ماہ ستمبر

04

المرقوم

جاوید اقبال ولد لکھنؤ شاہ سنہ 1403

العبد گواہ العبد

کے لئے منظور ہے۔

مقام لکھنؤ

C

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

**Service Appeal No. 1004/2015**

Javid Iqbal.....Appellant.

**VERSUS.**

District Police Officer, Mardan & others.....Respondents.

**Respectfully Sheweth:**

**PRELIMINARY OBJECTIONS:-**

1. That the appellant has not come to this Honourable Tribunal with clean hands.
2. That the appellant has got no cause of action.
3. That the appellant has concealed material facts from this Honourable Tribunal.
4. That the appellant is estopped by his own conduct, by law to bring the instant appeal.
5. That the present appeal is bad in its present form hence not maintainable and liable to be dismissed.
6. That the appeal is bad due to non-joinder of necessary parties and mis-joinder of unnecessary parties.
7. That the instant appeal is barred by law.

**REPLY ON FACTS:-**

1. Pertains to record, hence, no comments.
2. Correct, hence, no comments.
3. Incorrect. Mere denial to the allegations does not establish innocence, therefore, proper departmental enquiry was conducted & the allegations were established against the appellant.
4. Correct to the extent that the appellant was held responsible, but on solid grounds, & was therefore, recommended for major penalty.
5. Pertains to record, hence, no comments.
6. Correct to the extent of converting the dismissal from service into stoppage of 03 increments with cumulative effects & treating his period as leave without pay. Rest of the Para should not be considered.
7. The appellant is not aggrieved, rather, punished as he deserved.

**REPLY ON GROUNDS:-**

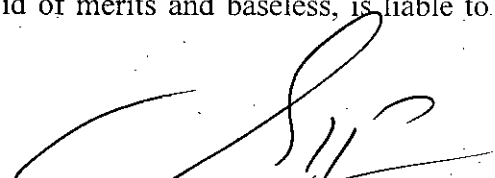
- a. Totally incorrect & baseless. Both the impugned orders are legal just & there is no malafide intention on the part of respondents. Besides, there is no violation of the constitution any other law/rules. The order is thus maintainable.
- b. Totally incorrect & baseless. The order passed is as per rules, based on facts & principles of natural justice.
- c. Incorrect. The respondent No. 03 has initiated enquiry into the matter & after enquiry findings the punishment was awarded to his entire satisfaction. Further, the respondent No. 02 has converted the punishment of dismissal into stoppage of increments on the sympathetic grounds.
- d. Incorrect. Proper departmental enquiry was conducted & the findings are based on reasons.
- e. Incorrect. The allegations leveled against appellant are factual & sound, proper enquiry. Further, opportunity of personal hearing was given, heard by respondents.

& was, therefore, considered to a lenient punishment. (Copy of Punishment order of DIG Mardan is attached as Annexure-A)

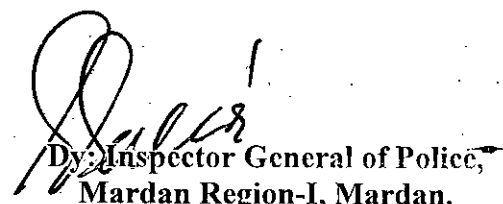
- f. Incorrect & baseless. As replied above.
- g. Incorrect. Proper departmental enquiry has been conducted under rules & there are no irregularities in the enquiry.
- h. Incorrect. The appellant is member of Police Force and has been proceeded against departmentally under Police Rules.
- i. Incorrect. Both the orders are just & in accordance with rules/law.
- j. Incorrect. The departmental appeal has been disposed off as per rules & holds on sympathetic considerations.
- k. Incorrect. There is no wrong assertion by the I.O, rather, gauged at all aspects of the appellant's period at PS Sher Garh. The I.O's recommendation for major penalty was after due & proper enquiry.
- l. Incorrect. The appellant has never been in the command of I.O, so, there arises no question of bias on his part. The I.O has done fair job in conducting the appellant's fault & misconduct.
- m. Incorrect. Proper procedure has been adopted in the departmental proceedings against the appellant & all codal formalities have been complied with as well.
- n. Correct, however, such anonymous complaints/letters also pertains to the satisfaction of the seniors/competent authority. The competent authority, therefore, initiated enquiry to digout the real facts.
- o. Incorrect. The enquiry is fair, just & there is no malafide or political reveries or professional jealousy against the appellant.

**PRAYER:-**

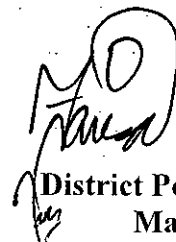
The appeal of the appellant, being devoid of merits and baseless, is liable to be dismissed with costs.



**Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.**  
(Respondent No. 1)



**Dy. Inspector General of Police,  
Mardan Region-I, Mardan.**  
(Respondent No. 2)



**District Police Officer,  
Mardan.**  
(Respondent No. 3)





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

Service Appeal No. 1004/2015.

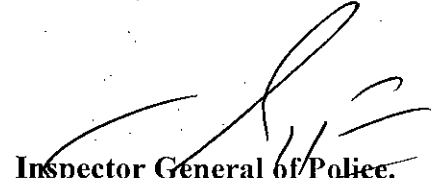
Javid Iqbal.....Appellant.


**VERSUS.**

District Police Officer, Mardan & others.....Respondents.

**COUNTER AFFIDAVIT.**

We, the respondents do hereby declare and solemnly affirm on oath that the contents of the Para-wise comments in the service appeal cited as subject are true and correct to the best of our knowledge and belief and nothing has been concealed from this Honourable Tribunal.

  
**Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.  
(Respondent No. 1)**

  
**Dy. Inspector General of Police,  
Mardan Region-I, Mardan.  
(Respondent No. 2)**

  
**District Police Officer,  
Mardan.  
(Respondent No. 3)**

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

Service Appeal No. 1004/2015.

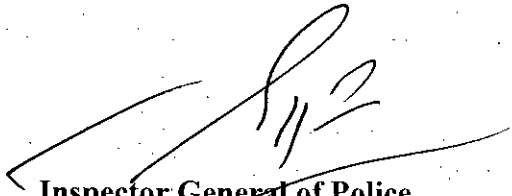
Javid Iqbal.....Appellant.


**VERSUS.**

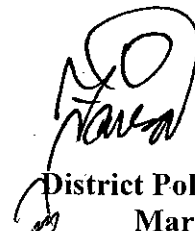
District Police Officer, Mardan & others.....Respondents.

**AUTHORITY LETTER.**

Mr. Muhammad Shafiq Inspector Legal, (Police) Mardan is hereby authorized to appear before the Honourable Service Tribunal, Khyber Pakhtunkhwa, Peshawar in the above captioned service appeal on behalf of the respondents. He is also authorized to submit all required documents and replies etc. as representative of the respondents through the Addl: Advocate General/Govt. Pleader, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

  
**Inspector General of Police,**  
**Khyber Pakhtunkhwa, Peshawar.**  
(Respondent No. 1)

  
**Dy. Inspector General of Police,**  
**Mardan Region-I, Mardan.**  
(Respondent No. 2)

  
**District Police Officer,**  
**Mardan.**  
(Respondent No. 3)