

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Appeal No. 1049/2015

Date of Institution ... 16.09.2015

Date of Decision ... 10.07.2017

Muhammad Arif Ex-Constable No. 642 son of Naushad Khan,
R/O Khjushgi Payyan, District, Noshera. ... (Appellant)

VERSUS

1. The District Police Officer, Nowshera and others. ... (Respondents)

MR. MUHAMMAD ARIF JAN,
Advocate --- For appellant.

MR. KABIRULLAH KHATTAK,
Asstt. Advocate General ... For respondents.

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

JUDGMENT

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

FACTS

2. Brief facts giving rise to the present appeal are that the appellant was dismissed from service on 08.07.2015 against which he filed departmental appeal (the date of which is not known to the appellant or respondents). This departmental appeal was decided on 25.08.2015 maintaining the original order of dismissal from service, hence the appellant filed the present appeal on 16.09.2015. The reason for

dismissal of the appellant from service is his involvement in a criminal case which was the basis of the whole proceedings.

ARGUMENTS

3. The learned counsel for the appellant argued that the appellant was acquitted in the criminal case which was the basis of disciplinary proceedings. That the enquiry officer submitted his report prior to the acquittal of the appellant in which the enquiry officer opined that the complainant of the criminal case was pressurized by the accused in criminal case and that the compromise in the criminal case was not voluntary. The learned counsel for the appellant referred to final order of criminal case dated 13.01.2016 which according to learned counsel for the appellant speaks of acquittal of the accused on merit and is a proof that no undue pressure was applied by the accused. He further argued that after the acquittal in criminal case nothing is left with the department to dismiss the appellant from service as the whole story has been washed out. The learned counsel for the appellant further argued that the principle of fair trial has not been observed by the enquiry officer as his opinion is based on his personal knowledge and no statement of witnesses have been recorded nor any chance of cross-examination was afforded to the appellant. The learned counsel for the appellant relied upon 3 judgments entitled "*Director General Intelligence Bureau, Islamabad Vs. Muhammad Javed and others*" reported as 2012-SCMR-165, "*Malik Azharul Haq Vs. Director of Food, Punjab Lahore and another*" reported as 1991-SCMR-209 and "*Habibullah Bhutto Vs. Director*" reported as 2011-SCMR-1504.

4. On the other hand learned Assistant Advocate General argued that the appellant has failed to provide copy of departmental appeal which can result in presuming that the same was time barred. He further argued that the enquiry officer has duly recorded the statements of all the concerned witnesses by affording the

opportunity of cross-examination to the appellant. That acquittal in criminal case cannot be made ground for exoneration in disciplinary proceedings. In this respect he pressed into service judgments reported in 2006-SCMR-1653 2007-SCMR-563 and 2008-SCMR-1151.

CONCLUSION.

5. After hearing arguments of the learned counsel for both the parties and perusing the record this Tribunal reaches the conclusion that it is by now settled principle of law that departmental proceedings and criminal proceedings can run simultaneously and outcome of one proceeding has got no effect on the other. So much so that a departmental enquiry on the same set of facts in those of criminal proceedings and initiated after the acquittal in the criminal can result in penalty in disciplinary proceedings. This principle has been approved in a judgment by the august Supreme Court of Pakistan in case entitled "*Mian Ghulam Sarwar Vs. Division Superintendent, Multan*" reported as 2013-SCMR-714 and also in cases relied upon by Assistant Advocate General.

6. So far as the first judgment relied upon by the learned counsel for the appellant is concerned it relates to the payment of Diyat which was wrongly equated with conviction in crime which has got no relevancy with the present case. The second ruling is also distinguishable from the facts of the present case because in the reported case the dismissal was based on conviction which is not the present case. In the present case the dismissal was made prior to the order of the criminal court. So far as the third ruling submitted by the learned counsel for the appellant is concerned it pertains to the personal knowledge of the enquiry officer which is not relevant to the present case because the enquiry officer has based his opinion after recording of evidence of the witnesses and conducting the enquiry in disciplinary proceedings. The opinion of the Enquiry Officer regarding pressurizing of

complainant by accused was also the result of his own findings and has got no relevance to the order of the criminal court.

7. As a nutshell of the above discussion no case is made out by the appellant which is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.


(GUL ZEB KHAN)
MEMBER


(NIAZ MUHAMMAD KHAN)
CHAIRMAN

ANNOUNCED

10.07.2017

10.07.2017


Appellant alongwith his counsel and Assistant Advocate General alongwith ^{wisal Ahmad, Instructor} for the respondents present. Arguments heard and record perused.

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


Member



Chairman


ANNOUNCED
10.07.2017



02.08.2016


Counsel for the appellant present. and Addl. AG for respondents present. Rejoinder submitted copy handed to learned AG. Case to come up for arguments on 1.12.2016.


Member


Member

01.12.2016

Clerk to counsel for the appellant and Assistant AG for respondents present. Clerk to counsel for the appellant requested for adjournment. To come up for arguments on 21-03-2018 before D.B.

Member 


Chairman

21.03.2017

Appellant in person and Addl: AG for respondents present. Arguments could not be heard due to incomplete bench. Adjourned. To come up for arguments on 10.07.2017 before D.B.


(AHMAD HASSAN)
MEMBER

14.10.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Constable when dismissed from service vide impugned order dated 8.7.2015 on the allegations of involvement in a criminal case registered vide FIR No. 216 dated 21.5.2015, under section 381-A read with 411 PPC, at PS Nowshera Kalan. That the appellant preferred departmental appeal which was also rejected vide order dated 25.8.2015 and hence the instant service appeal on 16.9.2015.

That neither any opportunity of hearing was extended to the appellant nor the inquiry was conducted in the prescribed manners and, moreover, the allegations were not substantiated during the inquiry.

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 8.2.2016 before S.B.


Chairman

08.02.2016

Appellant in person and Mr. Fayaz, H.C alongwith Assistant AG for respondents present. Requested for adjournment. To come up for written reply/comments on 11.4.2016 before S.B.


Chairman

11.04.2016

None present for the appellant, Wisal Ahmad, Instructor alongwith Sr.GP for the respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 02.08.2016.


Chairman



Appellant Deposited
Sec. Process Fee



FORM-A
FORM OF ORDER SHEET

Court _____

Case No. 1049/2015

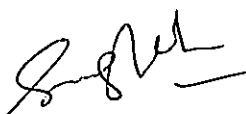
	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	29.09.2015 30-9-15	<p>The appeal of Mr. Muhammad Arif resubmitted to-day by Mr. Muhammad Arif Jan, Advocate, may be entered in the institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case, be put up before the S.B for preliminary hearing on <u>14-10-2015</u></p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Muhammad Arif Ex-Constable No. 642 son of Nushad Khan R/O Khuesghi Payan Nowshera received to-day i.e. on 16.09.2015 is incomplete on the following scores which is returned to his counsel for completion and resubmission within 15 days.

1. Copies of suspension order, charge sheet/ Statement of allegations, its reply by the appellant, enquiry report and show cause notice etc. have not been attached with the appeal, which may be placed on file.

No. 1442 /ST,

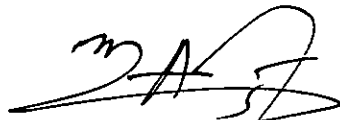
Dated 18/9 /2015


to REGISTRAR
KPK SERVICE TRIBUNAL,
PESHAWAR.

Muhammad Arif Jan, Advocate, Peshawar

ected six,

*submitted after removal of objection
necessary and provided documents
is attached as ANNEX - A/1
please before the Honble Bench.*


29/9/15

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Appeal No. 1049/2015
PESHAWAR


Muhammad Arif VERSUS District Police Officer Nowshera

I N D E X

S.No.	Description of Documents	Annex	Pages
1.	Memo of Petition		1-4
2.	Affidavit		5
3.	Addresses of Parties		6
4.	Copy of FIR <i>copies of suspension orders, finding of enquiry officers and other documents</i>	A & A/1	7-70
5.	Copy of letter dated 8-7-2015	B	8
6.	Copy of letter dated 25-8-2015	C	9
7.	Wakalat Nama		10

Appellant

Through



Muhammad Arif Jan

Advocate, Peshawar

Office: Office No.210 Al-Mumtaz Hotel
G.T. Road Peshawar.

Cell: 0333-2212213

Date: 11/09/2015

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No.....1049...../2015

A.W.P. Province
Service Tribunal
Duty till 10/9/15
dated 10-9-15

Muhammad Arif Ex-Constable No-642 S/o Nushad Khan r/o
Khuesghi Payyan District Nowshera.....Appellant

VERSUS

1. District Police Officer Nowshera District Nowshera
2. Deputy Inspector General of Police Mardan Region
Mardan.
3. The Provincial Police Officer Khyber Pakhtunkhwa at
Peshawar.....Respondents.

**APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER BEARING
NO-5042 DATED 25-08-2015 PASSED BY RESPONDENT NO-2
WHEREBY HE MAINTAINED THE ORDER BEARING NO-911 DATED
08-07-2015 OF RESPONDENT NO-1.**

PRAYER IN APPEAL:

**On acceptance of the instant appeal the impugned order bearing No-
5042 dated 25-08-2015 passed by respondent No-2 whereby he**

maintained the order bearing No-911 dated 08-07-2015 of respondent No-1 may graciously be set a side and the appellant may kindly be reinstated in service with all back benefits.

Respectfully Sheweth:

1. That the appellant was appointed as constable in the Police Department and was posted at Police Line District Nowshera.
2. That the appellant was falsely charged in case FIR No-216 dated 21-05-2015 U/s 381-A and 411 PPC PS, Nowshera. (Copy of FIR is attached as ANNEX-A).
3. That the appellant was suspended from his service on 25-5-2015 and was proceeded through improper inquiry.
4. That the inquiry officer recommended the appellant for major punishment without holding proper inquiry in proper manner. *(Copies of Suspension order, finding of I.O, Statements of allegation, charge sheet and its reply, final charge sheet & its reply annex-A/1)*
5. That the respondent No-1 dismissed the appellant by awarding major punishments vide order dated 8-7-2015. (Copy of order dated 8-7-2015 is attached as ANNEX-B).
6. That being aggrieved, the appellant preferred an appeal before respondent No-2 which was too dismissed vide order dated 25-8-2015. (Copy of order dated 25-8-2015 is attached as ANNEX-C).

7. That now the appellant approached to this Honble Court on the following amongst other grounds;

GROUND:

- A. That the office order dated 8-7-2015 and 25-8-2015 passed by respondents No-1 & 2 (hereinafter impugned) are patently illegal, unlawful, without lawful authority, of no legal effect hence be set aside and the appellant may kindly be reinstated in service with all back benefits.
- B. That no proper departmental enquiry what so ever been conducted in proper manner against the appellant, moreover the appellant was also kept un-heard and no opportunity of defence was given to prove his innocence.
- C. That the respondent No.1 & 2 are badly failed to follow the existing policies, rules and regulations.
- D. That the respondents No.1 & 2 only relied on the finding of the inquiry officer which was based on mala fide.
- E. That the respondents No.1 & 2 also ignored the volume of service of the appellant while awarding the major penalty.
- F. That no charge sheet, personal hearing and no explanation been conducted/served against appellant, which is against the laid down rules and regulations and thus this act of the respondents is amounts to abuse of law.
- G. That there is no livelihood of the appellant and he is the only bread winner of his whole family.
- H. That the impugned orders are very harsh and do not commensurate with the facts and law and other circumstances of the case.

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A. That any other grounds which have not been mention
may also be permitted to raise at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of the
instant appeal the impugned order bearing No-5042 dated 25-08-2015
passed by respondent No-2 whereby he maintained the order bearing
No-911 dated 08-07-2015 of respondent No-1 may graciously be set a
side and the appellatant may kindly be reinstated in service with all
back benefits.

That any other relief which has not been specifically asked for and is
fit in the circumstances may also be allowed in favour of appellatant
against respondents.

M. Arif

Appellant

Through

Dated: 11/09/2015

M. Arif Jan

Muhammad Arif Jan
Advocate, Peshawar.

*Note: The memo of appeal is misplaced that's why could
not annexed.*

M. Arif Jan
Advocate.

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Muhammad Arif.....Appellant

VERSUS

District Police Officer Nowshera and othersRespondents

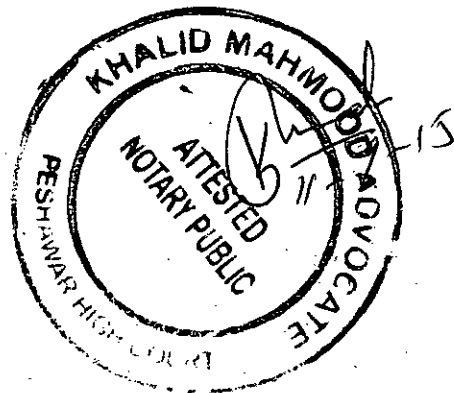
AFFIDAVIT

I, Muhammad Arif Ex-Constable No-642 S/o Nushad Khan r/o Khuesghi Payyan District Nowshera do hereby solemnly affirm and declare that the contents of the **appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

M. Arif

DEPONENT

CNIC No- 17201-3379194-3



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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Muhammad Arif.....Appellant.

VERSUS

District Police Officer Nowshera and othersRespondents

ADDRESSES OF PARTIES

APPELLANT:

Muhammad Arif Ex-Constable No-642 S/o Nushad Khan r/o
Khuesghi Payyan District Nowshera

RESPONDENTS

1. District Police Officer Nowshera District Nowshera
2. Deputy Inspector General of Police Mardan Region
Mardan.
3. The Provincial Police Officer Khyber Pakhtunkhwa at
Peshawar.

Appellant

Through



Muhammad Arif Jan
Advocate, Peshawar.

Date: 11/09/2015

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Annex-A/1

(Signature)

POLICE DEPARTMENT

NOWSHERA DISTRICT

SUSPENSION ORDER

Being involved in Case FIR No. 216 dated 21.05.2015 u/s 381-A/411 Police Station Nowshera Kalan, Constable Muhammad A. No. 642 of Police Lines, Nowshera d. hereby placed under suspension with immediate effect.

Charge Sheets and Statement of allegations will be issued against him separately.

CC No. 1712

Dated 28.05 /2015.

(Signature)
District Police Officer,
Nowshera

No. 2281-84/PA, dated Nowshera, the 25/5/2015

Copy for information and necessary action to the -

- 1. DSP Hqs. Nowshera.
- 2. EC/OHC/FMC.

AFFECTED

(Signature)



DEPUTY SUPERINTENDENT OF POLICE

AKORA CIRCLE, DISTRICT NOWSHERA

Phone:0923-561619

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- i. The defaulter was absent from duty vide DD No.24, dated 21.05.2015 daily dairy Police Lines Nowshera.
- ii. The defaulter handed over his SMG to FC Sajjad Sarwar No.474 and left his duty. **(Statement Attached)** without prior permission of his superiors. More-over he handed over his weapon to other FC instead of depositing it in kot.
- iii. The defaulter story to visit collage in order to assist his relative Sanauallah who is a generator operator in PAF is concocted as Sanauallah denied his relevance in the matter and he further stated that the defaulter is not his relative they both belongs from same vicinity.
- iv. The defaulter was caught on CCTV Camera installed in the collage and the evidence could not be denied so he returned back to solve the matter.
- v. The applicant in his initial report **(Murasla and FIR No.216, dated 21.05.2015 at SI-4/11)** informed Police that his Motorcycle condition **(Appearance)** has been changed by the defaulter and the complainant recognized his Motorcycle through Engine & Chassis number.
- vi. The defaulter made alteration in seat cover. Side mirror and the registration plate made like a heart was removed from Motorcycle.
- vii. The reporting officer IHC Sirtaj confirmed the contents of report as he seized the case property and arrested the defaulter.
- viii. The I.O SI Khedimien also proved the defaulter guilty of crime and submitted final report against the defaulter.
- ix. The August court granted bail to defaulter as the complainant has submitted no-objection on his bail.

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DEPUTY SUPERINTENDENT OF POLICE

AKORA CIRCLE, DISTRICT NOWSHERA

Phone:0923-561619

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x. The complainant was compelled to sign the compromised deed as an ugly tradition in our society and judicial system. The August court recorded in his judgment that the offence is non compoundable in nature but still the defaulter was released on bail.

The above facts have proved the guilt of defaulter beyond the shadow of doubt. It is as clear as day light that the defaulter committed the crime willfully with full intentions thanks to CCTV system he was caught red handed.

RECOMMENDATIONS:-

Keeping in view and circumstance the defaulter being a criminal should not be provided uniform status to commit crime in our society already surfaced from many other evils and terrorism.

Hence it is recommended that the defaulter may be dismissed from service immediately.

(TARIQ IQBAL)
Member Inquiry Committee,
SDPO Akora, District Nowshera.

Dated: 19/06/2015.

Sir,
May issue him Fines
Show Cause Notice, if agreed.

DP/NSR:

FCCN

MS
24/6/15

PA 24/6/15

ATTESTED

DISCIPLINARY ACTION

(7D) 33 (62)

I, RABNAWAZ KHAN, District Police Officer, Nowshera as competent authority am of the opinion that Constable Arif No. 642 has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning of Police Rules, 1975.

STATEMENT OF ALLEGATIONS

Whereas Constable Arif No. 642, while posted at Police Lines, Nowshera (now under suspension) has been involved in case FIR No. 216 dated 21.05.2015 u/s 381-A/411 PPC Police Station, Nowshera Kalan.

This amounts to grave misconduct on his part and rendered him liable for Minor/Major punishment under Police Rules, 1975.

For the purpose of scrutinizing the conduct of the said accused Constable with reference to the above allegations, Mr. Tariq Iqbal DSP Akora is nominated as Enquiry Officer.

The Enquiry Officer shall in accordance with the provision of Police Rules, 1975, provides reasonable opportunity of hearing to the defaulter official, record his findings and make immediate recommendations as to punish or other appropriate action against the defaulter official.

Constable Arif No. 642 is directed to appear before the Enquiry Officer on the date, time and place fixed by the Enquiry Officer.

1866-S

3/6/2015

No. 138 /PA,

Dated. 2/6 /2015.

(Rabnawaz Khan)
District Police Officer,
Nowshera.

ATTESTED

[Signature]

[Handwritten signature]

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CHARGE SHEET

I, RABNAWAZ KHAN, District Police Officer, Nowshera, as competent authority, hereby charge Constable Anif No. 642 per Statement of Allegations enclosed.

1. By reasons of above, you appear to be guilty of misconduct under Police Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in Police Rules, 1975.
2. You are, therefore, required to submit your written defense within 07 days of the receipt of this Charge Sheet to the Enquiry Officer, as the case may be.
3. 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 in that case ex-parte action shall follow against you.
4. Intimate whether you desire to be heard in persons.

(Signature)
(Rabnawaz Khan)
District Police Officer,
Nowshera.

ATTESTED
(Signature)

جائیے گیارہویں گیارہویں نیٹ نمبر 381/A اور 2/6/55

اور مال فحجم واجب مسزہ ذیل میں خدمت ہے۔

۱۔ میں حیدر علی صاحب اور بیوی سے میری اجازت منہی سے انکا مال اور حقدور
 2۔ 21.5.55 کو مجھے ایک ٹی کام کے سلسلہ میں قریب ^۴ کلک آف میٹرو پولیٹن ^۲ ڈیپارٹمنٹ ^۲ کے طور پر ملا دیا گیا تھا۔ وہاں مجھے ایک شہر دار ملا جس کے پاس ایسی فرسٹ اسٹیٹل تھا جو سید پریمر کی ^۲ کی
 تھی۔ اس اثنا میں مجھے اپنے ٹی کام کے سلسلہ میں شہر صدر طاعتا کو لینے شہر دار ملا کو کہا کہ وہ
 مجھے نوٹس اسٹیٹل دیں اس اشارہ سے نوٹس اسٹیٹل دیکر میں شہر دار ملا اور کھویر سید علی کو کہا کہ یہاں
 معلوم ہوا کہ حیدر علی صاحب اور بیوی کو کوئی دوسرا کام دیا گیا تھا اور وہیں کھڑی تھی نے نوٹس اسٹیٹل کے سرف
 کے الزام میں کارڈ لے گئے تھے بلکہ اس وقت نہ ہی مدعی سید اسلام علی صاحب نے کوئی جواب
 اور لیکن سہ ماہی تھی اس کے ساتھ ساتھ اس کے سلسلہ میں جو کوئی بھی جمع ہو وہاں سے کسی بھی
 کوئی قومی بندی۔ دراصل شہر دار ملا اور مدعا دہندہ کے نوٹس اسٹیٹل ایک ساتھ ہی کر کے گئے تھے
 اور شہر دار ملا اور مدعا دہندہ کے نوٹس اسٹیٹل دونوں بغیر طابی اسٹارٹ ہوئے تھے میں نے غلط فہمی
 کی بنا پر شہر دار ملا کے نوٹس اسٹیٹل کے جانے کے مدعی کا نوٹس اسٹیٹل لے گیا اور میں۔

2۔ تاہم میرے خلاف حقدور کا $\frac{21.5.55}{4}$ رقم 381-A سے 05 کا نوٹس یہاں
درج ہے کہ 05۔ اور یہ تقریباً ایک ہفتہ وار اسٹیل میل سے لیا گیا۔

3۔ نتیجہ کہ مجھے اس حکم میں عمل لگایا۔

4۔ دورانہ تفتیش مدعی مقدم نے سٹیٹ پیپر پر یا نام سے حلقہ پور
شہر تاکہ اسے غلط فہمی ہو جائے اور اسے اس کے خلاف عمل لگایا گیا (جس کا یہاں سے
اور مجھے ضمانت سیر کرنے کی بجائے اس کو کوئی اور فرسٹ اسٹیٹل نہیں ہے شہر دار ملا
خلاف کوئی مزید کارروائی کرنا نہیں چاہیے (جو ^۲ شہر دار ملا سے لیا گیا)

5۔ مدعی مقدم نے عدالت سے $\frac{21.5.55}{4}$ رقم کے خلاف نوٹس میں سید اسلام علی صاحب
قریب پور میں حقدور کے حکم کی کوئی کارروائی نہیں کرنا چاہیے کہ

اپنے دو شریائیکل پر بیٹا یاں دو شریائیکل تو میں نے فوجہ لکھی ہے
اس کے بیا کے تم نے کسی اور ماہ کو لکھا ہے۔ لہذا میں اس کو اور الگ

۱۔ تم نے اپنے رشتہ دار شہداء اللہ کے لیے سیدنی ناردر فتر میں فوجہ سے
کلا وقت والی لکھی ہے

ج۔ تقریباً ۱۲ء تا ۱۳ء تک میں رالط لایا تھا۔ حاصل کر کے ۱۲.۳۰ء تک
۱۔ تم دو شریائیکل کی حاجی کی دیا۔ اور یہ دو شریائیکل کو آنب لیا

ج۔ دو شریائیکل شیڈ میں تھا۔ اور اس کے رشتہ دار کے بیا کے بغیر حاجی کے سٹارٹ
ہوئے۔ میں شیڈ واقعہ کا حج اگر بغیر حاجی کے کیا گیا تو سٹارٹ ہوا

۱۔ دو شریائیکل کے لئے دیا گیا اسے کیا تھا ہے

ج۔ شہداء اللہ کے لئے ۸۷۶۱۴۵۲۰۸۳۰۱ - ۵۳۰۱ - ۲

۱۔ تم کو کونسا فوری کام یاد آیا۔ کہ حج سے روئے ہو

ج۔ جو کہ میرا لائن میں ۱۲ء سے ڈیوٹی تھی۔ میں نے تقریباً $\frac{30}{25}$ کو دو شریائیکل کا حج
سے روانہ کیا۔ اور رشتہ دار شہداء اللہ کو سب لایا تھا۔ جو سب ڈیوٹی کا دیرو ہوئے

اس کے بیا کے یہ دو شریائیکل پر چلی جاؤ۔ لہذا میں دو شریائیکل دیا کرونگے۔ تاکہ
دل میں بیا کے یہ سب کام آردوگا۔ جو ڈیوٹی کو جانے لگے۔ ہم دفتر سے

جب رشتہ دار کا رالط کیا۔ اور اس کے دو شریائیکل کی اور کچھ ڈیوٹی
کے بجائے حج کیا

۱۔ وہ کون سی فوجہ / سیدنی ناردر فتر میں لکھا ہے

ج۔ دفتر میں کاپی لکھی گئی تھی۔ اس کے بیا کے رشتہ دار صاحب کو لکھا

۱۔ کونسا غیر الیٹو ہوا تھا۔

ج۔ ۵۳۱۳ - ۹۰۹۵۵۶۱

۱۔ جب تم فوجہ دینے کو دو شریائیکل لایا تھا

ج۔ میں دو شریائیکل میں کوئی کام نہیں لایا

۱۔ جب والیہ حج گئے تو وہ کون سی لکھا ہے اور میں نے کونسا لکھا ہے

میں نے کوئی رقم لکھی ہے جس بلکہ سارا ماتہ لکھا ہے اس کا
 6 حاجی عبدالستار نے اپنی سرکاری گاڑی (فروری 2012ء)
 7 دفتر میں پیش کی گئی ہے۔

8 میں نے تقریباً 6 سال سے فیکٹری میں خدمات سر انجام دے رہا ہوں
 اور میری صرف کسٹم کی ایک شکایت ایک ایف ڈی آر نمبر
 کو جس پر لکھا ہے۔

9 میرا سرکاری کارڈ بالکل ماتہ رکھتا ہے۔
 10 معطلی کے علاوہ، ولادت اور عمل اور سروس کی صورتیں برائے کس
 یا کردہ گناہ کی سزا دی گئی ہے جو کہ بعد از القات ہے یا آئندہ ضمانت ہوگی اور عدالت
 میں کچھ بھی باقی نہ رہا جو کہ ٹریسٹ کے دوران جاری ہو گیا۔

ظاہر ہے قصی وابہ جو کہ مبینی برصفت ہے برحکم
 اور عہدہ داران خوردہ کی ہارنگ کے خلاف کارڈ شٹ آننگ کرنی قابل
 فرمائی گئی تاکہ میرا حاف سہارا کارڈ اور سروس کٹیر فرم سے
 نیز مجھے تاریخ معطلی سے حال فرماویں۔
 گزارش ہوگی۔

اللہ! کشمیر عارف فرم
 مال معطل لوگوں پر مشتمل ہے

المترجم 06
 12/2012
 Call No. 03119263510
 0342-9291596
 0311-9263510
 0334-8752598
 0308-9160435

ATTESTED
 [Signature]

71

8

FINAL SHOW CAUSE NOTICE

Whereas, you Constable Muhammad Arif No. 642, while posted in Police Lines Nowshera, now under suspension has been involved in case FIR No. 215 dated 21.05.2015 u/s 381-A/411 ppc Police Station, Nowshera Kalan.

In this connection, you were proceeded against departmentally through Enquiry Officer Mr. Tariq Iqbal the then DSP Akora, who held responsible you guilty of the misconduct & recommended for major punishment.

Therefore, it is proposed to impose Major/Minor penalty including dismissal as envisaged under Rules 4(b) of the Khyber Pakhtunkhwa Police Rules 1975.

Hence, I, Rabnawaz Khan, District Police Officer Nowshera, in exercise of the powers vested in me under Rules 5(3) (a) & (b) of the Khyber Pakhtunkhwa Police Rules 1975, call upon you to Show Cause Finally as to why the proposed punishment should not be awarded to you.

Your reply shall reach to this office within 07 days of receipt of this notice, failing which; it will be presumed that you have no explanation to offer.

You are liberty to appear for personal hearing before the undersigned.

(Rabnawaz Khan)
District Police Officer,
Nowshera.

No. 344 /PA,
Dated 26/6/2015.

Rabnawaz Khan

of Nowshera

M. Arif
30-6-15

ATTESTED

[Signature]

گزارش ہے کہ جے ایس شوکار فوٹس فرم 44/PA فرم 26.8.15 کی بولی میں
 حسین کالفضلی جواب مندرجہ ذیل تصدیق کے ساتھ پیش فرمیتے ہیں۔
 1. قبل از اس اس سلسلہ میں جے ایس شوکار فوٹس فرم نے اپنے پاس
 میں تصدیق اور ٹائلز وغیر جواب دیا تھا لیکن اس پر ظاہر خواہ غیر پیش آگیا
 (غور و نگاہی مہراہ لگے)

2. انکو بری آفسیر (J.D. - the officer) کو بھی میں نے زبانی تصدیق
 بتلائی لیکن باوجود دستاویزی ثبوت اور دیگر ضمانت کے احکامات
 وغیرہ میرے خلاف میجر نے آئی سی کے پاس لگائی گئی۔
 3. میں نے تصدیق آفسیر کو آئی سی میں دیا ہے۔

4. میں نے تصدیق آئی سی سے منحرف ہو کر عدالت میں کہا ہے۔
 5. ملزم کے حلفیہ باوجود اسے ایک میجر پر درج ہے اور میں نے

DIE 31-10-2009
 G.I.E. —
 B.E. 08

عدالت میں بھی دیا ہے کہ میں نے گواہیوں اور یہ کہ اس بنیاد پر
 مجھ عدالت سے ضمانت ملنی (جس دستاویزی ثبوت سے پہلے ہی میں
 کر کے ہوں) تو ایسی صورت میں انکو بری آفسیر کو اس بنیاد پر
 مجھے ملزم ٹھہرایا اور جب خلاف سخت ترین سزا دینے کی
 نگرانی کی۔
 6. میرے خلاف کھٹا کیے جانے سے یہ ثابت نہیں ہے۔

اندھا کہ میرے تصدیق و ایات اور دستاویزی ثبوت کے
 کو مدنظر رکھتے ہوئے میرے خلاف جے ایس شوکار فوٹس انکو بری
 ٹائلز فرم میں (J.D. - the officer) کی تصدیق کے بغیر
 میں نے تصدیق آئی سی سے منحرف ہو کر عدالت میں کہا ہے۔

Sir, مل جل کر جے ایس شوکار فوٹس فرم 44/PA
 Am orders, P.S. 10, smallest colony
 D.P.S. 10, smallest colony
 as recommended by S. Officer. P.H. 06/7/15

DISCIPLINARY ORDER

This order will dispose off a departmental enquiry under Police Rules-1975, initiated against Constable Muhammad Arif No. 642, under the allegations that while posted at Police Lines Nowshera, remained involved in case FIP No. 216 dated 21.05.2015 u/s 381-A/411 PPC PS, Nowshera Kalan.

In this connection he was placed under suspension vide OB No. 712 dated 25.05.2015 and proceeded against departmentally through Enquiry Officer Mr. Tariq Iqbal, the then DSP Akora vide this office No.138/PA, dated 02.06.2015, who after fulfilling necessary process, submitted his finding report to the undersigned vide his office Endorsement No. 1866/S dated 22.06.2015, holding responsible the delinquent Constable of the allegations leveled against him and straight-away recommended for major punishment of dismissal.

In the light of recommendations of Enquiry Officer, the delinquent Constable was served with Final Show Cause Notice, issued vide this office No. 344/PA dated 26.06.2015, to which, his reply was received & found unsatisfactory.

Service Record:

He was enlisted on 31.10.2009 and has earned (08) bad entries with no good entry, showing his disinterest in Police Service.

Being member of a discipline force, his involvement in such a case, besides bringing bad name for whole Police Force will also affect his colleagues therefore I am of the considered opinion that his further retention in the force will not be in favour of department, therefore Constable Muhammad Arif No. 642 of Police Lines, Nowshera is hereby awarded major punishment by dismissing from Police Force with immediate effect, in exercise of the power vested in me under Police Rules, 1975.

OB 911Dated 8/7/2015.

(RABNAWAZ KHAN)
District Police Officer,
Nowshera.

Copy for information and necessary action to the:-
1. DSP HQrs: Nowshera.
2. PO/EC/OHC.
3. FMC with its enclosure (39 sheets)

(9)

Annex - C (1)


ORDER.

This order will dispose-off the appeal preferred by Ex-Constable Muhammad Arif No. 642 of Nowshera District Police against the order of District Police Officer, Nowshera, wherein he was dismissed from service vide OB: No. 911 dated 08.07.2015.

Brief facts of the case are that, he while posted at Police Lines, Nowshera involved in case FIR No 216 dated 21.05.2015 u/s 381-A/411PPC Police Station, Nowshera Kalan, in this connection he was placed under suspension and proceeded against departmentally through enquiry Officer and the then Deputy Superintendent of Police, Akora was nominated as enquiry Officer, who after fulfilling necessary process, submitted his finding report to District Police Officer, Nowshera, holding responsible the delinquent Constable of the allegations leveled against him and straight away recommended for Major Punishment, in the light of recommendation of enquiry Officer the appellant was served with Final Show Cause Notice to which his reply was received & found unsatisfactory. Being member of a discipline force his involvement in such heinous case, besides brining a bad name for whole Police Force and his colleagues, therefore he was dismissed from service.

I have perused the record and also heard the appellant in Orderly Room held in this office on 19.08.2015. He failed to justify his innocence and could not advance any cogent reasons in his defence. Therefore, I, MUHAMMAD SAEED, Deputy Inspector General of Police, Mardan Region-I, Mardan in exercise of the powers conferred upon me reject the appeal, not interfere in the order passed by the competent authority, thus the appeal is filed.

ORDER ANNOUNCED.


(MUHAMMAD SAEED)PSP
Deputy Inspector General of Police,
Mardan Region-I, Mardan

No. 5042 /ES, Dated Mardan the 25/8 /2015.

Copy to District Police Officer, Nowshera for information and necessary action w/r to his office Memo: No. 3410/PA dated 11.08.2015. His service roll is returned herewith for record in your office.

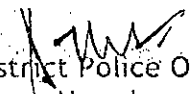
(*****)

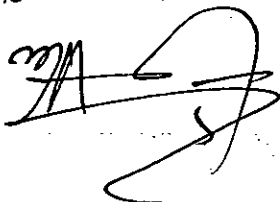
Enclos: 5 Roll

EC

Attested

For Collection


District Police Officer,
Nowshera



WAKALATNAMA

BEFORE THE HON'BLE Khyber Pakhtunkhwa Service Tribunal
Peshawar

Muhammad Arif

(Petitioner)
(Plaintiff)
(Applicant)
(Complainant)
(Decree Holder)

VERSUS

DPO NKR & others

(Respondent)
(Defendant)
(Accused)
(Judgment Debtor)

Case Sue - Appeal 2015

I / We Muhammad Arif do hereby appointed and constitute **Muhammad Arif Jan Advocate High Court Peshawar & Fazal Mabood Advocate Peshawar** to, appear, plead, act, compromise, withdraw, or refer to arbitration to me / us as my / our Counsel in the above noted matter, without any liability for their default and with the authority to engage/ appoint any other Advocate / Counsel at my / our matter.

Attested and Accepted

CLIENT/ S

M.A. Jan
MUHAMMAD ARIF JAN & FAZAL MABOOD

M. Arif

Advocates, Peshawar
Office No-210 Al-Mumtaz Hotel
Hashtnagri G.T road, Peshawar.
Mobile;0333 221 2213,03330547500

A. Arshad
Arshad Ali Nowsheri
Advocate

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

Service Appeal No. 1049/2015

Ex-Constable Muhammd Arif No. 642,
S/O Nushad Khan r/o Khesghi Payan,
District Nowshera.

.....Appellant

V E R S U S

1. District Police Officer, Nowshera.
2. Deputy Inspector General of Police, Mardan Region-I, Mardan.
3. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

.....Respondents

REPLY ON BEHALF OF RESPONDENTS No. 1,2&3

Respectfully Sheweth: -

PRELIMINARY OBJECTIONS

1. That the appellant has got no cause of action.
2. That the appeal is badly time-barred.
3. That the appellant has been estopped by his own conduct to file the appeal.
4. That the appeal is not maintainable in its present form.
5. That the appellant has not come to the Honourable Tribunal with clean hands.

On Facts

1. Para pertains to record hence, no comments.
2. Incorrect. The appellant while posted in Police Lines, Nowshera was caught red handed through CCTV photage because he committed theft of motorcycle from Government College of Technology Kandher from the parking area of the said college. Moreover, he was contacted, he came on the same with changed condition. Likewise, on the fateful day he was marked absent therefore, the circumstantial evidence as well as effective recovery prima facie connects the defaulter official with the commission of offence. (Copy of FIR and photocopy of daily diary report are annexed).
3. Correct to the extent that the appellant was suspended, being involved in a criminal case, while rest of the para is incorrect hence, denied. As explained earlier after effective recovery of

stolen motorcycle from the possession of appellant who changed the seat cover, mirror and a number plate having a symbol of heart within no time for the purpose of theft. Moreover, the appellant was proceeded against through proper departmental enquiry during the course of which all legal and codal formalities were fulfilled and the appellant was provided full fledged opportunity of defending himself but he failed to produce any cogent reason in his defense.

4. Para to the extent of recommendation by the enquiry officer is correct while rest of the para is incorrect hence, denied. During the course of departmental enquiry, the enquiry officer recorded the statements of all concerned persons who fully supported the prosecution version. The appellant was also provided full fledged opportunity of cross examination but he bitterly failed to un-shelter the version of prosecution.
5. Para correct because after fulfillment of all legal and codal formalities the appellant was served final show cause notice to which he submitted his reply but the same was found unsatisfactory hence, an appropriate punishment order was passed which does commensurate with the gravity of misconduct of appellant.
6. Para correct the appellate authority after thorough perusal of record heard the appellant personally in Orderly Room but he could not advance any cogent ground in his defense hence, the appeal was also dismissed.
7. That the appeal of the appellant is liable to be dismissed on the following grounds amongst the others.

Grounds

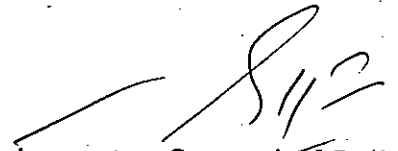
- A. Incorrect. The order passed by the competent as well as appellate authorities are legal, lawful, having lawful authority hence, liable to be maintained because the appellant was provided full fledged opportunity of cross examining the prosecution witnesses but the same remained unsheltered hence, after fulfillment of all legal formalities the punishment order was passed.
- B. Incorrect, the appellant being involved in criminal case was proceeded against through proper departmental enquiry during the course of which all legal and codal formalities were fulfilled and he was also served with Final Show Cause Notice to which he submitted his reply but the same was found unsatisfactory hence,


an appropriate punishment order of dismissal was passed. (Copy of Final Show Cause Notice is annexed).


- C. Para already explained needs no comments.
- D. Para incorrect. After completion of enquiry, the enquiry officer recommended the appellant for major punishment. On receipt of findings of enquiry officer the appellant was served with Final Show Cause Notice to which he submitted his reply but the same was found unsatisfactory hence, the competent authority awarded the appellant major penalty of dismissal from service. Likewise, the appellate authority after minute perusal of record heard the appellant personally through Orderly Room but he failed to produce any iota of evidence in his defense.
- E. Para incorrect. After thorough probe into the conduct of appellant he was awarded appropriate punishment. Moreover, length/volume of service is not a clean chit for a person to exonerate him from his ill deeds especially in offences of moral turpitude. The act of appellant has stigmatized the prestige of entire Police force and his retention in disciplined force will be highly detrimental because if the member of force is indulged in theft how he will secure/protect the property of other citizens.
- F. Para incorrect. It is very astonishing that the appellant himself has annexed the charge sheet and statement of allegations and even then alleged the non issuance of charge sheet. Moreover, after receipt of recommendation of Enquiry Officer the appellant was served with Final Show Cause Notice to which he submitted his reply but the same was found unsatisfactory hence, the punishment order was passed which is in consonance with the principles of natural justice. Therefore, plea of appellant is not tenable in eye of law.
- G. Para not related needs no comments.
- H. Para incorrect. As explained above after fulfillment of all legal and codal formalities the punishment order was passed which does commensurate with the gravity of misconduct of appellant because the retention of appellant in Police force will certainly stigmatize the prestige of Police force.

- I. That the respondents also seek permission of this Honourable Tribunal to adduce additional grounds at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of above submissions the appeal of the appellant may very kindly be dismissed with cost through out.


Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
Respondent No.3


Deputy Inspector General of Police,
Mardan Region-I, Mardan
Respondent No. 2


District Police Officer,
Nowshera.
Respondent No. 1

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

Service Appeal No. 1049/2015

Ex-Constable Muhammd Arif No. 642,
S/O Nushad Khan r/o Khesghi Payan,
District Nowshera.

.....Appellant

V E R S U S

1. District Police Officer, Nowshera.
2. Deputy Inspector General of Police, Mardan Region-I, Mardan.
3. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

.....Respondents

AFFIDAVIT

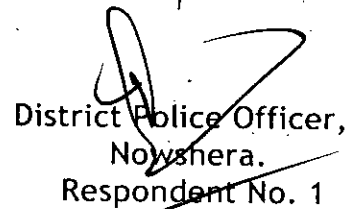
We the respondents No. 1,2 & 3 do hereby solemnly affirm and declare on Oath that the contents of reply to the appeal are true and correct to the best of our knowledge and belief and nothing has been concealed from the Honourable tribunal.



Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
Respondent No.3



Deputy Inspector General of Police,
Mardan Region-I, Mardan
Respondent No. 2



District Police Officer,
Nowshera.
Respondent No. 1

0312 9483232

تعمیرات

گورنمنٹ سروسز ٹرانسپورٹ ڈیپارٹمنٹ، لاہور، پاکستان

0392383-3
0341 3580352

Suspense X D A/c

ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ ریسرچ کے بعد

DDO NSR 2011

12/11/11

216

49

14.00 دن تک... 14.00 دن تک... 14.00 دن تک...

381-A/111

مکرمہ جرم (معدومہ) حال اگر کچھ لیا گیا ہو۔

642 0311 9263515

مکرمہ جرم (معدومہ) حال اگر کچھ لیا گیا ہو۔

مکرمہ جرم (معدومہ) حال اگر کچھ لیا گیا ہو۔

مکرمہ جرم (معدومہ) حال اگر کچھ لیا گیا ہو۔

مکرمہ جرم (معدومہ) حال اگر کچھ لیا گیا ہو۔

مکرمہ جرم (معدومہ) حال اگر کچھ لیا گیا ہو۔

مکرمہ جرم (معدومہ) حال اگر کچھ لیا گیا ہو۔

مکرمہ جرم (معدومہ) حال اگر کچھ لیا گیا ہو۔

مکرمہ جرم (معدومہ) حال اگر کچھ لیا گیا ہو۔

مکرمہ جرم (معدومہ) حال اگر کچھ لیا گیا ہو۔

مکرمہ جرم (معدومہ) حال اگر کچھ لیا گیا ہو۔

مکرمہ جرم (معدومہ) حال اگر کچھ لیا گیا ہو۔

مکرمہ جرم (معدومہ) حال اگر کچھ لیا گیا ہو۔

مکرمہ جرم (معدومہ) حال اگر کچھ لیا گیا ہو۔

مکرمہ جرم (معدومہ) حال اگر کچھ لیا گیا ہو۔

مکرمہ جرم (معدومہ) حال اگر کچھ لیا گیا ہو۔

مکرمہ جرم (معدومہ) حال اگر کچھ لیا گیا ہو۔

ASD P.S. 111

نقل و حرکت 24 روز ناچھ 21 5/15

24 رپورٹ حضرتے فان MHC وقت 14:00 بجے درج 21 5/15 درج معیار میں وقت
 ریٹے معاؤس پولیس لائن اسکرگارداتے چیک کرنے جو کہ ریٹے معاؤس
 درج میں تعیناتے کنٹیلان عارف 642 حبیب الرحمن 281 طفیل 491
 نے اپنے پوائنٹ کو خالی چھوڑا ہے جو کہ موجودہ حالات کے پیش نظر نہایت
 غیر ذمہ داروں سے کام لیا ہے جو کہ کسی بھی وقت کسی قسم کا ناخوشگوار
 واقعہ رونما ہو سکتا ہے اور پولیس کیلئے بڑے سے بڑے نقصان کا سبب
 بنا سکتا ہے کنٹیل عارف 642 نے رائفل سرکاروں کو ریٹے معاؤس
 گارڈ سے آنا ڈپوٹی کنٹیل سجاد سرور کو حوالہ کرتے چھوڑا ہے جس
 کنٹیل عارف 642 کے خلاف غیر ڈسپلن اور غیر ذمہ داروں کی حرکت کے
 رپورٹ درج روز ناچھ اور تینوں کنٹیلان کے خلاف رپورٹ غیر حاضر
 درج روز ناچھ کرتے نقل و حرکت مناسب کارروائی اشراں بالا کی خدمت میں
 ارسال کی جاتی ہے۔

جناب عالی!

نقل مطابق اہل چ

M. M. PL NSR

M. M. PL NSR

28-3-2016



POLICE DEPARTMENT

10
NOWSHERA DISTRICT

FINAL SHOW CAUSE NOTICE

Whereas, you Constable Muhammad Arif No. 642, while posted at Police Lines Nowshera, now under suspension has been involved in case FIR No. 216 dated 21.05.2015 u/s 381-A/411 ppc Police Station, Nowshera Kalan.

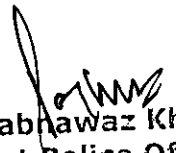
In this connection, you were proceeded against departmentally through Enquiry Officer Mr. Tariq Iqbal the then DSP Akora, who held responsible you guilty of the misconduct & recommended for major punishment.

Therefore, it is proposed to impose Major/Minor penalty including dismissal as envisaged under Rules 4(b) of the Khyber Pakhtunkhwa Police Rules 1975.

Hence, I, Rabnawaz Khan, District Police Officer Nowshera, in exercise of the powers vested in me under Rules 5(3) (a) & (b) of the Khyber Pakhtunkhwa Police Rules 1975, call upon you to Show Cause Finally as to why the proposed punishment should not be awarded to you.

Your reply shall reach to this office within 07 days of receipt of this notice, failing which; it will be presumed that you have no explanation to offer.

You are liberty to appear for personal hearing before the undersigned.


(Rabnawaz Khan)
District Police Officer,
Nowshera.

No. 344 /PA,
Dated 26/6/2015.

M. Arif
30-6-15

T.P.C. ARB
17/6/15

BEFORE THE HON'BLE SERVICE TRIBUNAL K.P PESHAWAR

Ex-Constable Muhammad Arif

V/S

DPO and others

**REJOINDER ON BEHALF OF APPELLANT TO THE COMMENTS FILED
BY THE RESPONDENTS.**

On Preliminary objections:

All the Objections raised by the respondents in their comments are totally incorrect and against the facts and circumstances.

Misconceived and Misleading objections have been raised for the sake of more objections only. The objections are nothing but callus attempt to side the main issue, whereby the appellant was charged in a baseless and for unreasonable grounds of theft of motorcycle which infact the appellant mistakenly took away and in this respect the complainant also recorded his statement whereas the appellant was honorably acquitted by the Learned Trial Court vide order dated 13-01-2016. The concealment, failure and un satisfactory reply by the respondents clearly speaks the innocence of the appellant and show the personal grudges of the respondents by depriving him from his valuable rights of service and service benefits moreover there is also nothing on the record to connect the appellant with the offence and the respondents has also no reason to justify their case

The unfair, discriminatory and malafide conduct is even established from improper inquiry into the matter by the respondents.

ON FACTS:

1. Para No-1 is correct and admitted hence needs no reply.


2. Para No-2 of the comments is totally incorrect, infact the only FIR could not sufficient for to establish a criminal case against the appellant where the appellant has proved his innocence before the Learned Trial Court and the complainant also recorded his statement regarding the innocence of the appellant which resultantly he was acquitted from the charges leveled against him by the competent court of Law. (Copies of order and statement are attached).
3. Para No-3 of the comments is incorrect as the answering respondents are not the investigating authority to describe the false details collected in the alleged criminal case however the appellant has falsely been suspended.
4. Para No-4 of the comments is incorrect, as no proper inquiry into proper manner has been conducted into the matter to reached to the ends of justice but the investigating authority involved the appellant in a hasty way intentionally for no any reason or reasons best known to them moreover no opportunity of defence has been given to appellant but despite all these the appellant proved himself innocent before the Learned Trial Court.
5. Para No-5 of the comments is also incorrect as the impugned order is against the facts and circumstances of the case of appellant hence needs to be set-aside.
6. Para No-6 of the comments is incorrect. The appellant was not provided any opportunity of personal hearing moreover with out perusal of the file the respondent No-2 also passed the impugned order which is against the norms of justice.
7. Para No-7 of the comments is incorrect while Para of the main appeal is correct.

GROUNDS;

Grounds are more bold un substantiated and baseless. Denial of the legal grounds has been raised in the comments would not absolve the respondents from their duties. Grounds A to I of the comments are totally incorrect while correct of the main appeal, the appellant was falsely implicated in a criminal case where after recording the statements of the complainant the Learned Trial Court rightly acquitted him from the charges leveled against him vide his order dated 13-01-2016 hence the appellant deserve to be reinstated into his service with all back benefits. The appellant has also not given/provided the opportunity of personal hearing of his defence etc and this act of the respondents crystal clear from the denial of the legal rights. The respondents brings little on surface and concealed more in pipe lines by involving the appellant in a baseless and planted criminal case and the material evidence collected against the appellant is without any justification and mere to punish the innocent appellant with their dishonest attitude.

It is, therefore, most humbly prayed that on acceptance of the re-joinder the comments filed by the respondents may kindly be rejected and the appeal of the appellant may kindly be allowed as prayed for.

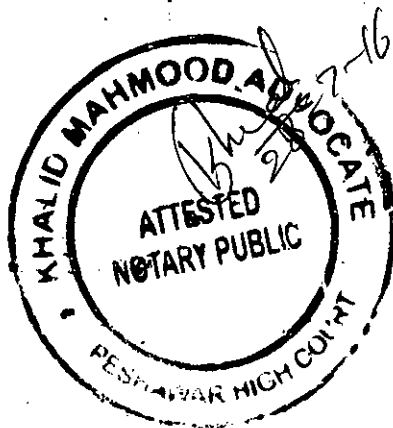
Through

Appellant

Muhammad Anif Jan
Advocate Peshawar

Affidavit

As per information of my client the contents of the re joinder is true and correct to the best of my knowledge.


ADVOCATE



Order—04
13/01/2016

State Vs Muhammad Arif

Present:


APP for the State, accused on bail with counsel.
Vide my this order I intend to dispose of an application under section 249-A Cr.PC submitted by the accused for his acquittal in the instant case.

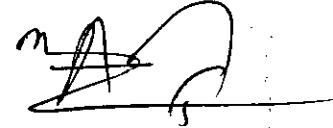
Arguments heard and record perused.

Perusal of the record reveals that the instant case has been put in Court on 16.09.2015. Charge has already been framed against the accused. Subsequently, PWs including the complainant were summoned, amongst whom complainant namely Said Alam appeared before the Court and stated that he has got no objection on the acquittal of the accused facing trial because the occurrence took place due to inadvertence as the motorcycle of the accused was parked near his motorcycle, therefore, under a mistake the accused facing trial took away his motorcycle but later when he came to know he brought the same back and apologized for the act. He also stated that he was not charging the accused facing trial by then but the local police forced him to charge the accused facing trial due to which he registered the instant FIR. His statement to this effect recorded and signature obtained. Since, the complainant does not want to charge the accused facing trial and is not interested in the prosecution of the accused facing trial, therefore, there appears no chance of conviction of the accused facing trial, hence, the instant application under section 249-A Cr.PC, moved by the accused facing trial is hereby accepted. Accused facing trial stands acquitted in the instant case. He is on bail. His sureties are discharged from the liability of bail bonds.

File be consigned to the record room after necessary completion and compilation.

Order Announced:
Dated: 13.01.2016


Sheraz Tariq,
Judicial Magistrate-I,
Nowshera

Attested


Statement of Said Islam son of Kherat Gul r/o Moh:
Paindo Kote, village Rustam District Mardan, on oath.

That I am complainant in case FIR No. 216 dated 21.05.2015 U/S 381-A/411PFC registered at Police Station Nowshera Kalan wherein I have charged the accused facing trial, for the commission of offence. In reality the occurrence took place due to inadvertence as the motorcycle of the accused was parked near my motor cycle, therefore, under a mistake the accused facing trial took away my motor cycle. Later, when he came to know he brought the same back and apologized for the same. Perhaps, there was some ill will of the police with the accused facing trial therefore they forced me to charge him in the instant FIR, accordingly at that time I did the same. Now and even then I was satisfied that the accused has not committed any offence rather it was an act of inadvertence, therefore I am not charging the accused facing trial for the commission of offence and I have got no objection if this Hon'ble court acquits the accused facing trial in the instant case. My CNIC photocopy is Ex.PA.

Dated: 13.01.2016

Complainant: Said Islam son of Kherat Gul
CNIC No. 16101-0392383-3

Attested
[Signature]

R.O. & A.C.

[Signature]
Sheraz Tariq,
Judicial Magistrate-I,
Nowshera

(22)
[Signature]
Sheraz Tariq,
Judicial Magistrate-I,
Nowshera

him. We are not in any doubt that for the reasons discussed above, the appellant Nasir Uddin Ghori was entitled to implementation of the judgment of the Service Tribunal dated 28-5-2004. This appeal (C.A. 241 of 2011) is, therefore, allowed. The judgment of the High Court in Constitution Petition No.827 of 2007 is set aside and the respondent PTCL is directed to implement the aforesaid judgment of the Service Tribunal dated 28-5-2004 within thirty days from today.

25. Civil Appeal No.239 of 2011, titled Masood Ahmed Bhatti v. Federation of Pakistan and others.

The appellant Masood Ahmed Bhatti had approached the High Court through Constitution Petition No.D-520 of 2009. It was, *inter alia*, alleged by him that termination of his services w.e.f. 10-3-2008 was invalid and also that PTCL had unilaterally and without his concurrence imposed a Voluntary Separation Scheme on him. Since this aspect of the appellant's case and the other merits of his Constitution Petition were not discussed or adjudicated upon by the High Court, the impugned judgment to the extent it relates to the appellant, is set aside. The said petition shall be deemed pending before the High Court and shall be decided afresh in the light of this judgment.

26. Civil Appeal No.240 of 2011, titled Syed Muhammad Dilavez v. Federation of Pakistan and others.

The appellant Syed Muhammad Dilavez had also sought relief from the High Court by filing Constitution Petition No.D-2414 of 2007 along with others. The contents of the Constitution Petition and the relief sought by Mr. Dilavez, *prima facie*, indicate that his grievance was against violation by PTCL of his legally protected terms and conditions of service. The appellant, who appeared before us in person, requested that his rights be determined by this Court because he had been in Court seeking redress since 2007. We are afraid this request cannot be acceded to because the merits of the appellant's Constitution Petition have, in the first instance, to be decided by the High Court after affording an opportunity of hearing to the appellant and to PTCL. Since the merits of the appellant's Constitution Petition were neither discussed nor adjudicated by the High Court, the impugned judgment to the extent it relates to the appellant, is set aside. The said petition shall be deemed pending before the High Court and shall be decided afresh in the light of this judgment.

M.H./M-93/SC

Order accordingly.

2012] Director-General, Intelligence Bureau v. Muhammad Javed
(Anwar Zaheer Jamali, J)

2012 S C M R 165

[Supreme Court of Pakistan]

Present: Anwar Zaheer Jamali and Amir Hani Muslim, JJ

DIRECTOR-GENERAL, INTELLIGENCE BUREAU,
ISLAMABAD---Appellant

versus

MUHAMMAD JAVED and others---Respondents

Civil Appeal No. 180-K of 2010, decided on 21st July, 2011.

(On appeal from judgment of Federal Service Tribunal, Karachi dated 30-3-2010 passed in Appeal No. 56(K) (CS) of 2008).

Removal from Service (Special Powers) Ordinance (XVII of 2000)---

---S. 5---Penal Code (XLV of 1860), Ss. 302 & 310---Criminal Procedure Code (V of 1898), S. 345---Constitution of Pakistan, Art.212(3)---Reinstatement in service---Civil servant was acquitted from murder charge, on the basis of compromise effected upon payment of Diyat---Civil servant was dismissed from service as he remained absent from duty during the period in detention but Service Tribunal allowed the appeal and reinstated him in service---Plea raised by authorities was that payment of Diyat was equated with conviction in crime---Validity---Period of absence of civil servant was treated by competent authority as extraordinary leave, therefore, ground of his illegal absence was no more available for awarding any punishment to him---Offence was lawfully compromised and disposed of whereby civil servant was acquitted---Such acquittal of civil servant could not be taken as his disqualification, coming in the way of his reinstatement in service---Supreme Court declined to interfere in the judgment passed by Service Tribunal---Appeal was dismissed. [p. 166] A

Ashiq Raza, Deputy Attorney-General and Abdul Saeed Khan Ghori, Advocate-on-Record for Appellant.

Abdul-Latif-Ansari, Advocate Supreme Court and Mazhar Ali B. Chohan, Advocate-on-Record for Respondent No.1.

Respondents Nos. 2 and 3, Pro forma Respondents.

Date of hearing: 21st July, 2011.

JUDGMENT

ANWAR ZAHEER JAMALI, J.---By leave of the court, this civil appeal, at the instance of Director General, Intelligence Bureau, Islamabad, is directed against the judgment dated 30-3-2010, in Appeal No.56(K)(CS) of 2008, passed by Federal Service Tribunal, Karachi (in short the Tribunal), whereby the said appeal, preferred by respondent Muhammad Javed against his dismissal from service under the Removal from Service (Special Powers) Ordinance 2000, vide order dated 12-3-2008, after, no response of his departmental appeal dated 27-3-2008, was allowed, consequently order dated 12-3-2008 was set aside and his reinstatement in service was ordered, treating the intervening period of his absence as leave of the kind due.

2. Mr. Ashiq Raza, learned Deputy Attorney-General for the appellant, after brief narration of relevant facts, contended that respondent was involved in a murder case arising out of F.I.R. No.76 of 2004, Police Station Gharibabad Cantt. Hyderabad, which was subsequently compromised upon payment of diyat amount to the opposite party, therefore, it shall be equated as his conviction in the said crime, but the Tribunal ignoring this material aspect of the case, has ordered his reinstatement in service. He, however, did not dispute that the period of his absence from duty with effect from 3-9-2004 to 6-3-2005, which basically formed basis of such departmental action, was treated by the competent authority as extraordinary leave.

3. In reply, Mr. Abdul Latif Ansari, learned Advocate Supreme Court for the respondent contended that the Tribunal, in its impugned judgment, has aptly discussed the fact of compromise in the criminal case between the respondent and the opposite party, and rightly held that such compromise and consequent acquittal of the respondent in the said criminal case cannot be labeled as his conviction so as to entail consequences of his disqualification from service.

4. We have carefully considered the submissions made before us by the parties' counsel and also perused the material placed on record, which reveals that the period of absence of the respondent was treated by the competent authority as extraordinary leave, therefore, the ground of his illegal absence was no more available for awarding any punishment to him. Moreover, admittedly the offence arising out of F.I.R. No. 74 of 2006, Police Station Gharibabad, Cantt. Hyderabad was lawfully compromised and disposed of, whereby the respondent was acquitted. This being the position, a rightly urged by Mr. Abdul Latif Ansari, learned Advocate Supreme Court for the respondent, such acquittal of respondent cannot be taken as his disqualification, coming in the way of his reinstatement in service.

5. In view of the above, the impugned judgment of the Tribunal calls for no interference: This appeal is, therefore, dismissed. A

M.H./D-11/SC

Appeal dismissed.

2012 S C M R 167

[Supreme Court of Pakistan]

Present: Iftikhar Muhammad Chaudhry, C.J.,
Tassaduq Hussain Jilani and Mian Saqib Nisar, JJ

THE STATE and another---Petitioners

versus

Rana NISAR AHMAD and another---Respondents

Cr.R.P. No. 11-L of 2009 in Cr. P. No. 337-L of 2008 and Cr. R.P. No. 16-L of 2009 in J.P. 226 of 2008, decided on 9th August, 2011.

(On review from the judgment of this court dated 6-5-2009 passed in Cr. P. No. 337-L of 2008 and J.P. No. 226 of 2008).

(a) Control of Narcotic Substances Act (XXV of 1997)---

---S. 39---Forfeiture of assets---Limitation---Though no time period has been prescribed under S.39 of Control of Narcotic Substances Act, 1997, still law always insists initiation of application for forfeiture of assets within a reasonable time---Supreme Court assessed reasonable time to be between 90 to 120 days. [p. 169] A

(b) Control of Narcotic Substances Act (XXV of 1997)---

---S. 39---Constitution of Pakistan, Art. 188---Review of Supreme Court judgment--- Assets purchased from drug money--- Determination---Forfeiture of assets---Application for forfeiture of assets of accused (since dead) was filed about three years after the judgment was announced by Trial Court and application was dismissed as the assets were not proved by prosecution to have been purchased by drug money---Supreme Court declined to interfere in the judgment passed by High Court---Validity---State was supposed to remain vigilant in respect of proceedings of the court and it should also know the law on the subject---If prosecution was of the opinion that properties had been acquired by the convict (since dead) out of drug money, same should have furnished at least prima facie evidence about it at the relevant time with promptitude but that had not been done and in the meanwhile matter had come before Supreme Court and judgment

JUDGMENT

MUHAMMAD AFZAL ZULLAH, C.J.--This appeal by leave of the Court by the plaintiffs (rival pre-emptors) is directed; against the dismissal by the High Court of their Regular Second Appeal on the examination of the question of deficiency of court-fee.

Leave to appeal was granted to consider the affect of the judgment of this Court in the case of Siddique Khan PLD 1984 SC 289 on the present case.

The suit of the appellant having been decreed, the respondents' appeal was allowed. The decree of the trial Court was set aside on examination of the merits of the case. The appellants filed an appeal before the High Court which was dismissed on short ground of deficiency in court-fee without examination of the merits of the case.

The learned Judge in the High Court observed that a court-fee in the sum of Rs.600 was actually paid on the memorandum of appeal filed before the learned First Appeal Court. However, the court-fee of Rs.15 only was paid on the memorandum of Second Appeal. "Subsequently on an objection raised by the office the appellant paid further court-fee of the value of Rs.165 thereby leaving a deficiency of Rs.420".

After the above stage when the appeal came up for final hearing before the High Court it was conceded by the counsel for the appellants that the court-fee was deficient and the remaining amount still required to be paid. It was noted by the learned Judge that the deficiency had not by then (the date of the impugned order; namely, 18-6-1984), been made up. The explanation of the learned counsel for the appellants was noted that the appellants had not contacted him for doing the needful. The deficiency in the court-fee having been admitted, the learned Judge proceeded to dismiss the appeal simply on account of this reason.

As held in the case of Siddique Khan, at the afore-stated stage, instead of dismissing the appeal on account of deficiency in the court-fee the appellants should have been afforded at least one opportunity before applying the punitive provisions contained in Order 7, Rule 11, C.P.C. by reference. No opportunity having thus been afforded in the said manner for the supply of the deficiency of the court-fee, the appeal could not be dismissed on the ground of the deficiency of court-fee.

Accordingly, this appeal is allowed. The impugned judgment is set aside and the case is remanded to the High Court for hearing of the appeal from the stage the defect in the proceedings took place. The Second Appeal thus shall be deemed to be pending. There shall be no order as to costs.

A.A./F-184/S

Case remanded.

1991]

Azharul Haq v. Director of Food, Punjab
(Abdul Qadeer Chaudhry, J)

209

1991 S C M R 209

Present: Shafiqur Rahman, Saad Saood Jan
and Abdul Qadeer Chaudhry, JJ

Malik AZHARUL HAQ--Appellant

versus

DIRECTOR OF FOOD, PUNJAB, LAHORE
and another--Respondents

Civil Appeal No.629 of 1988, decided on 2nd April, 1990.

(Against the judgment, dated 23-10-1982 of the Punjab Service Tribunal, Lahore in Case No.65/1649 of 1982).

(a) Constitution of Pakistan (1973)--

---Art.212(3)---Leave to appeal was granted to consider effect of dismissal of civil servant from service after he was acquitted of criminal charge. [p. 210] A

(b) Punjab Civil Servants (Efficiency and Discipline) Rules, 1975--

---R.9--O & M. Establishment Manual, Vol. 1 (revised), p.546--Civil servant dismissed from service on his conviction of criminal charge without resort to inquiry procedure under Punjab Civil Servants (Efficiency and Discipline) Rules, 1975---Civil servant's subsequent acquittal by giving him benefit of doubt---Effect of dismissal of civil servant after he was acquitted of criminal charge.

Judgment of a Criminal Court is not necessarily decisive as regards departmental or disciplinary action. A prosecution may fail for technical reasons; sometimes the Court notes the facts as suspicious, but gives the accused the benefit of the doubt; and sometimes a prosecution fails for the patent reason that witnesses have been bought over. In all such cases it may well be held that the circumstances are so suspicious that the Government servant can no longer be safely trusted; or it may be held that, though the official is acquitted on the main charge, facts brought to light in the course of the trial show defects of character or a disregard of proper procedure which would justify the taking of departmental action against the accused. But departmental action should not follow a prosecution which has failed for the sole reason that witnesses have been bought over unless the Court itself has noted that the witnesses have been influenced.

Frequently, however, the above elements are absent, e.g., when an official is tried on a definite charge and is acquitted either in the original Court or on appeal and there is no question of the acquittal being merely on technical ground of evidence having been suppressed. In such cases, and when no facts are established in the course of the trial that would justify action being taken for disregard of departmental rules, the decision of the Court on the facts should be accepted and no departmental action should be taken.

Similarly when the charge is dismissed without any suggestion by the Court that the conduct of the accused has been suspicious or any indication that it is merely giving the accused the benefit of a doubt, the acquittal should be treated as an honourable acquittal and no further departmental action should be taken.

The above principles have to be followed in taking departmental action against a Government servant who has been prosecuted criminally but is acquitted by the Court. A proper inquiry has to be conducted before a penalty is imposed upon a civil servant unless the inquiry procedure is dispensed with in accordance with Rules. Where appellant has not been awarded any fine or imprisonment, therefore, rule 9 Punjab Civil Servants (Efficiency and Discipline) Rules, 1975 is inapplicable. [p. 211] B

O&M Establishment Manual, Vol. 1 (Revised) (Chapter V at p.546) and Muhammad Sardar Khan v. Senior Member (Estab), Board of Revenue 1985 SCMR 1062 rel.

(c) Punjab Civil Servants (Efficiency and Discipline) Rules, 1975--

---R.9---Constitution of Pakistan (1973), Art.212(3)---Civil servant's dismissal from service based on his conviction of criminal charge--Civil servant having been acquitted of criminal charge, his dismissal was set aside and he was ordered to be reinstated in service with back benefits. [p. 213] C

M. Zafar Chaudhry, Advocate Supreme Court, instructed by Ch. Mehdi Khan Mehtab, Advocate-on-Record (absent) for Appellant.

M. Nawaz Abbasi, Assistant Advocate General, Punjab for Respondents.

Date of hearing: 2nd April, 1990.

JUDGMENT

ABDUL QADEER CHAUDHARY, J.--Leave to appeal was granted to consider the effect of the dismissal of the appellant from service after he was acquitted of a criminal charge.

2. The facts, in brief are that the appellant was posted as Senior Clerk in the Office of the District Food Controller, Sialkot. On 23-6-1973, a raid was conducted and he was arrested on the allegation that he had accepted a sum of Rs.20 as illegal gratification from the complainant. The appellant was convicted and sentenced to undergo R.I. for six months and fine of Rs.100 or in default to undergo further R.I. for one month, by the Special Judge, Anti-Corruption, Lahore, by means of judgment, dated 15-8-1975. The appellant filed an appeal in Lahore High Court against his conviction and his sentence was suspended. The respondent No.2 on 10-10-1975 suspended the appellant from the date of his conviction i.e. 15-8-1975. The respondent No.2 vide order, dated 22-1-1981 dismissed the appellant from service on the basis of his conviction recorded against him by the learned Special Judge. The appeal of the appellant filed

against his conviction was accepted by the Lahore High Court vide judgment, dated 10-1-1981. The concluding part of the judgment reads as hereunder:--

"For the foregoing reasons, I allow this appeal, set aside the conviction and sentence of the appellant and acquit him of the charge by giving him the benefit of doubt. He is on bail. He shall be discharged from his bail bonds."

3. The appellant made a representation to the respondent No.2 for reinstatement in service. A representation was also made before the departmental authority (respondent No.1) on 14-11-1981 but it was rejected on 19-1-1982 and the appellant was informed that "Your request cannot be acceded to as you have not been acquitted honourably". The appellant challenged this order before the Punjab Service Tribunal. His appeal was dismissed by the Tribunal on 23-10-1982 on the ground that the acquittal was not honourable therefore the appellant was not entitled to reinstatement in service.

4. The admitted position is that the appellant was dismissed from service as he was convicted by the Special Judge. The inquiry procedure under the Punjab (Efficiency and Discipline) Rules, was not adopted in this case. Rule 9, Punjab Civil Servants (Efficiency and Discipline) Rules, is as follows:--

"9. Rules not to apply in certain cases; Nothing in these rules shall apply to a case--

- (a) Where the accused is dismissed or removed from service or reduced in rank, on the ground of conduct which has led to a sentence of fine or imprisonment; or
- (b) Where the authority is satisfied that, for reasons to be recorded in writing, it is not reasonably practicable to give the accused an opportunity of showing cause."

5. Rule 9(a) of the rules would apply where a civil servant is dismissed from service on ground of his being convicted and sentenced to fine or imprisonment. The main thrust of the argument on behalf of the respondent is that the appellant was not honourably acquitted. But this fact is immaterial as no sentence of fine or imprisonment has been imposed upon the appellant. He was acquitted of the charge. Under O&M Establishment Manual, Vol. 1 (revised) (Chapter V at 546) the following principles have been laid down:--

"I am directed by the Governor of West Pakistan to address you on the subject noted above and to say that the Judgment of a Criminal Court is not necessarily decisive as regards departmental or disciplinary action. A prosecution may fail for technical reasons; sometimes the Court notes the facts as suspicious, but gives the accused the benefit of the doubt; and sometimes a prosecution fails for the patent reason that witnesses have been bought over. In all such cases it may well be held that the circumstances are so suspicious that the Government servant can no

longer be safely trusted; or it may be held that, though the official is acquitted on the main charge, facts brought to light in the course of the trial show defects of character or a disregard of proper procedure which would justify the taking of departmental action against the accused. But departmental action should not follow a prosecution which has failed for the sole reason that witnesses have been bought over unless the Court itself has noted that the witnesses have been influenced.

(2) Frequently, however, the above elements are absent, e.g., when an official is tried on a definite charge and is acquitted either in the original Court or on appeal and there is no question of the acquittal being merely on technical ground of evidence having been suppressed. In such cases, and when no facts are established in the course of the trial that would justify action being taken for disregard of departmental rules, the decision of the Court on the facts should be accepted and no departmental action should be taken.

(3) Similarly when the charge is dismissed without any suggestion by the Court that the conduct of the accused has been suspicious or any indication that it is merely giving the accused the benefit of a doubt, the acquittal should be treated as an honourable acquittal and no further departmental action should be taken."

6. The above principles have to be followed in taking departmental action against a Government servant who has been prosecuted criminally but is acquitted by the Court. A proper inquiry has to be conducted before a penalty is imposed upon a civil servant unless the inquiry procedure is dispensed with in accordance with Rules. As the appellant has not been awarded any fine or imprisonment, therefore, rule 9 is inapplicable. This Court in *Muhammad Sardar Khan v. Senior Member (Estab) Board of Revenue (1985 SCMR 1062)* has examined all the relevant rules.

7. Rule 7.3(a) of the Punjab Civil Service Rules was interpreted by this Court in para 7 of the judgment. The operative part reads as follows:--

"The powers of the relevant authority to inflict penalty on accused civil servant in disciplinary proceedings and the procedure, therefore are provided for in the Punjab Civil Servants' (Efficiency and Discipline) Rules 1975. Under rule 5 the competent authority could initiate proceedings against a civil servant if in his opinion sufficient ground exists for doing so. The authorised officer is then required to proceed against such civil servant. It is then within the discretion of the authorised officer to decide whether the case calls for a formal inquiry to be conducted or to proceed against him without such a formal inquiry by adopting the procedure laid down under rule 6(3). The procedure for an Inquiry Officer or inquiry committee is laid down in rule 7. Rule 9 then authorises the competent authority to dismiss or remove an accused civil

servant, without following the procedure laid down in the rules, in case the ground for his removal is the conduct 'which has led to a sentence of fine or of imprisonment'. Admittedly in the present case the order of removal, as the show-cause notice clearly reveals, proceeds upon the basis of rule 9 of the Efficiency and Discipline Rules. However, it does not require any elaborate argument to show that in case the sentence is set aside and the accused officer is acquitted, the very basis on which such order of removal from service stands, would disappear."

8. It was observed by this Court that:--

"A plain reading of this rule makes it abundantly clear that the rule deals with the question of the pay and allowances to which a civil servant would be entitled in case his suspension is subsequently held to have been unjustifiable or not wholly justifiable, or when a civil servant is reinstated after dismissal by the revising or appellate authority. It is with reference to the extent of the pay and allowances to which a civil servant would be entitled in such situation with which the rule clearly deals. It is not a rule dealing with the substantive ground on which a civil servant would be liable to be removed from service. Apparently, therefore, this rule could not be lifted out of context for the purpose of making it the basis of the penalty inflicted on a civil servant. The Tribunal was not dealing with the question of determination the pay and allowances to which the appellant was entitled but was considering the correctness of the order of removal from service."

The learned Assistant Advocate-General was referred to the decision of this Court in the case of *Mian Bashir Ahmad v. Board of Revenue (C.A. 22/1988)*, but the facts are distinguishable.

9. The dismissal of the appellant was based on the conviction recorded against him. Since the conviction has been set aside, the order of dismissal cannot be maintained and has to be set aside. The appeal is accepted and the respondents are directed to reinstate the appellant in service with back benefits with effect from 22-1-1980.

A/A-741/S

Appeal accepted.

1991 SCMR 213

Present: Muhammad Afzal Zullah, C.J.
and Ali Hussain Qazilbash, J

ABBAS KHAN and 8 others--Appellants
versus

Haji SAIFULLAH--Respondent

Appeal No.176 of 1988, decided on 3rd April, 1990.

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1699 /ST

Dated 14/7/2017

To


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

Subject: -

JUDGMENT IN APPEAL NO. 1049/2015, MR. MUHAMMAD ARIF

I am directed to forward herewith a certified copy of Judgement dated 10.07.2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.