


## FORM OF ORDERSHEET

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

Case No. \_\_\_\_\_


662 / 2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	28.03.2023	<p>As per direction of the Worthy Chairman the present appeal is fixed for preliminary hearing and decision on office objections before Single Bench at Peshawar on _____. Counsel for the appellant be informed accordingly.</p> <p style="text-align: right;"> REGISTRAR</p>

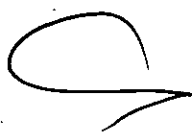
Respected Sir,

It is submitted that the present appeal was received on 14.03.2023, which was returned to the counsel for the appellant for removing objections (Flag-A). Today i.e. 27.03.2023 he re-filed the same without removing the objection no.1 fully.

The appeal is now submitted to your honor under rules 7 (c) of the Khyber Pakhtunkhwa Service Tribunal rules 1974 for appropriate order please

  
REGISTRAR  
27/3/2023

Worthy Chairman

~~PH + O/D~~  
Fruit  



28/3/23

The appeal of Mr. Arif ex-constable no.887 NET Mardan received today i.e. on 14.03.2023 is incomplete on the following score which is returned to the co Counsel for the appellant for completion and resubmission within 15 days.

- ① Annexures-E & L of the appeal are illegible which may be replaced by legible/better one.
- ② Certificate be furnished that whether any appeal on the subject matter has earlier been filed in this Tribunal.

No. 949 /S.T,

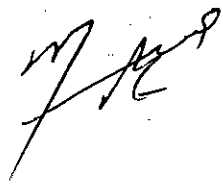
Dt. 15/3/2023

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. M. Asif Yousafzai Adv.  
High Court at Peshawar.

- ① Remitted
- ② Remitted

All objection clear 1 and 2  
Resubmitted.



**BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR.**

**SERVICE APPEAL No. 662/2023**

Mr. Arif Khan ----- **APPELLANT**

**VERSUS**

The Provincial Police Officer, KPK etc.

**RESPONDENTS**

**I N D E X**

S.No.	Documents	Annexure	Page No.
1.	Memo of service appeal	----	01-04
2.	Affidavit	----	05
3.	Copy of character service roll	---A--	06
4.	Copy of charge sheet	---B---	07
5.	Copy of statement of allegation	---C---	08
6.	Copy of reply	---D---	09
7.	Copies of inquiry report,	---E---	10-12
8.	Copy of FIR	---F---	13
9.	Copy of Naqalamad	---G---	14
10.	Copy of acquittal order	--H--	15-21
11.	Copy of show cause notice	---I---	22
12.	Copy of reply	---J---	23
13.	Copy of penalty order	---K---	24
14.	Copy of appeal	---L---	25-26
15.	Copy of rejection order	---M---	27
16.	Vakalat Nama	-----	28

*Arif Khan*  
**APPELLANT**

**THROUGH:-**

*Asif Yousafzai*  
**(M. ASIF YOUSAFZAI)**

**ADVOCATE SUPREME COURT  
OF PAKISTAN.**

**&**

**&**

*Noman Ali Bukhari*  
**(S. NOMAN ALI BUKHARI)**

**ADVOCATE HIGH COURT  
OF PESHAWAR.**

Room No.FR-08, 4<sup>th</sup> Floor,  
Bilour Plaza Peshawar Cantt:  
Cell # 0333-9390916

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR.

SERVICE APPEAL No. 682 /2023

Mr. Arif, Ex-Constable No. 887,  
NET, Mardan.

APPELLANT

VERSUS

1. The Provincial Police Officer, KP, Peshawar.
2. The Regional Police Officer, Mardan Region Mardan.
3. The District Police Officer, Mardan.

RESPONDENTS

.....  
APPEAL UNDER SECTION-4 OF THE KP  
SERVICE TRIBUNALS ACT, 1974 AGAINST THE  
ORDER DATED 05.01.2023 WHEREBY MAJOR  
PENALTY OF "DISMISSAL FROM SERVICE" WAS  
IMPOSED UPON THE APPELLANT AND  
AGAINST THE APPELLATE ORDER DATED  
21.02.2023 WHEREBY DEPARTMENTAL APPEAL  
OF THE APPELLANT WAS REJECTED FOR NO  
GOOD GROUNDS.

PRAYER:-

THAT ON ACCEPTANCE OF THIS APPEAL THE  
ORDER DATED 05.01.2023 AND 21.02.2023 MAY  
VERY GRACIOUSLY BE SET-ASIDE BEING  
ILLEGAL, PASSED IN VIOLATION OF  
PRINCIPLE OF JUSTICE, HARSH AND  
UNWARRANTED IN THE EYES OF LAW AND  
THE APPELLANT MAY PLEASE BE  
REINSTATED INTO SERVICE WITH ALL BACK  
AND CONSEQUENTIAL SERVICE BENEFITS.  
ANY OTHER REMEDY DEEMS APPROPRIATE  
AND NOT SPECIALLY PRAYED FOR MAY ALSO  
BE AWARDED IN FAVOUR OF APPELLANT.

**RESPECTFULLY SHEWETH:**

**FACTS:-**

1. That the appellant joined the Police Force as Constable in the Year 2018. The appellant has good service record throughout, except the present impugned incident. **Copy character service roll is attached as Annex-A.**
2. That the appellant, while performing his duties as Driver NET (Norcotics Eradication Team) Mardan, was charged for misconduct of arresting and keeping one Wahab in an unlawful custody and demanding Rs. 2 Crore the appellant submitted his reply to the charge sheet and denied all the allegation. **Copies of Charge sheet, statement of allegation and reply are attached as Annex-B, C & D.**
3. That thereafter one sided Inquiry was conducted, without allowing the appellant to the cross examination of witness. More-over, a FIR No. 303, dated 27.07.2022 was also lodged against the appellant, in which the apeplant was also acquitted under 265-K Cr.PC on 11.01.2023. **Copies of inquiry report, FIR, Naqalamad and acquittal order are attached as Annex-E, F, G & H.**
4. That on 23.12.2022, final show cause notice was served upon appellant and the appellant properly replied to the show cause and denied the entire allegations with proof. Thereafter straighaway dismissed him from service on 05.01.2023 without providing a chance of personal hearing. **Copies of show cause notice, reply and penaly order are attached as Annex-I, J & K.**
5. That the appellant filed appeal against the penalty order on 25.01.2023 but the same was also rejected for no good grounds on 21.02.2023 by the worthy RPO Mardan. **Copies of appeal and rejection order are attached as Annex-L & M.**
6. That now the appellant comes to this august Tribunal on the following grounds amongst the others.

**GROUNDS:-**

- A. That the impugned order dated 05.01.2023 and 21.02.2023 are against the law, facts, norms of justice, material on record, hence liable to be set-aside.
- B. That the appellant has been condemned unheard as no chance of personal hearing was provided while passing the impugned penalty order.
- C. That even the inquiry was not conducted in a fair manner because, neither any statement has recorded in presence of appellant nor the appellant was given a chance to cross-examine the witness. The miscarriage of justice was done by the respondents.
- D. That the appellant was acquitted from criminal charge under Section 265-K Cr.PC, which proves that the appellant is innocent and is punished for no fault on his part.
- E. That the appellant was acquitted from the charge due to which appellant was dismissed from the service and there is no more ground remained to punish the appellant, hence the appellant is eligible for the reinstatement.
- F. That all the actions taken against the appellant is before the finalization of the criminal case which is also the violation of CSR 194. The department is duty bound to keep departmental proceeding pending till the finalization of case.
- G. That the competent authority as well as appellate authority has not used their independent minds while exercising their authorities.
- H. That the penalty imposed upon is very harsh especially keeping in view the violation principle of justice and acquitted by the competent Court of Law.

- I. That the appellant has not been treated as per Spirit of Article-10A of the Constitution, and justice.
- J. That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is, therefore, most humbly prayed that the appeal in hand may be accepted as prayed for.

APPELLANT

*Arif Khan*  
Arif Khan

THROUGH:-

*Asif Yousofzai*  
(M. ASIF YOUSAFZAI)  
ADVOCATE SUPREME COURT  
OF PAKISTAN.

& *Noman Ali Bukhari*  
(S. NOMAN ALI BUKHARI)  
ADVOCATE HIGH COURT  
OF PESHAWAR.



**BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR.**

**SERVICE APPEAL No. /2023**

Mr. Arif Khan ----- **APPELLANT**

**VERSUS**

The Provincial Police Officer, KPK etc.

**RESPONDENTS**

**AFFIDAVIT**

I, Arif Khan S/o *Feroz Shah*, Ex-Constable No. 887, NET, Mardan. (Appellant). do hereby solemnly affirm and declare that the contents of this Appeal are true and correct to the best of my knowledge and belief.

DEPONENT

*Arif Khan*  
Arif Khan

**IDENTIFIED BY:**

*M. Asif Yousafzai*

**(M. ASIF YOUSAFZAI)  
ADVOCATE SUPREME COURT  
OF PAKISTAN.**

CHARACTER SERVICE ROLL OF

CONSTABULARY NO. ( ) In ( ) In ( ) In

DISTRICT  
DISTRICT  
DISTRICT

6

Name	Father's Name	Tribe or Caste	Village or Town	Post and Telegraph Office	Police Station	District	Province	Date of Birth	Height	Chest Measurement	Date of Enrolment	Age at Enrolment	Distinctive Marks
Asif Khan	Fazal Shah	Pukhtoon	Moh: Kachkol Banda	Kachi Gbari	Katlang	Mardan	KPK	15-04-1992	5-8	37x38 1/2	10-11-018		

2. Verification Roll No. Dated Received back and attached to the Fauji Misal.

3. Government Service prior to present employment, which is approved for pension service

Service or Department	Rank of Grade	Pay of last Appointment	From	To	Period		
					Years	Month	Days
	Asst. Constable						
Reason of and character of discharge from above service.	District Police Officer Mardan			Reference to orders approving above service for pension service in the Police Department			

I understand that I have been appointed under section 7 of the Police Act (V of 1861) and the purpose of that section and the provisions of act and of the Rules issued under it and now in force, by which my discipline and conduct are governed have been explained to me. I agree to serve faithfully under the provisions of the said Police Act and to obey all lawful orders issued to me by my Superior Officers and undertake not to resign my appointment within three years from the date of my enrolment. I have received a certificate of appointment issued under section 8 of the Police act (vol 1861)

Signature: Asif Khan

5. Rolled impression of fingers and thumb of left hand.

Left Little	Left Ring	Left Middle	Left Index	Left thumb



OFFICE OF THE  
DISTRICT POLICE OFFICER,  
MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111  
Email: dpomdn@gmail.com

2022

B

7

CHARGE SHEET

I, IRFAN ULLAH KHAN (PSP), District Police Officer Mardan, as competent authority, hereby charge Constable Arif No.887, while posted as driver at NET Mardan now under suspension Police Lines Mardan), as per attached Statement of Allegations.

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 desired to be heard in person.

(Irfan Ullah Khan) PSP  
District Police Officer  
Mardan



OFFICE OF THE  
DISTRICT POLICE OFFICER,  
MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111  
Email: dpomdn@gmail.com

2022

No. 208 /PA

Dated 03/03 2022

DISCIPLINARY ACTION

I, IRFAN ULLAH KHAN (PSP), District Police Officer Mardan, as competent authority am of the opinion that Constable/driver Arif, 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.887, while posted as driver at NET Mardan now under suspension Police Lines Mardan) has been found of misconduct by arresting and keeping one Wahab resident of Parachinar, presently Gulshan Town Sheikh Maltoon (Mardan) in unlawful custody and then demanded of Rs. two Crore as illegal gratification from his Wahab) family members for his release, bringing a bad name for entire Police Force in the eyes of general public.

To dig-out facts, a regular departmental enquiry is required to be conducted into the allegations through a competent officer:

For the purpose of scrutinizing the conduct of the said accused official with reference to the above allegations, Mr. Sana Ullah Bettani SP/Investigation Mardan 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 accused Police Official, record/submit his findings and take within (30) days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused Official.

Constable/driver Arif is directed to appear before the Enquiry Officer on the date + time and place fixed by the Enquiry Officer.

(Irfan Ullah Khan) PSP  
District Police Officer  
Mardan

Arif Khan

19/03/22

۴۹

بیان اذال عارفہ فان ۸۸۷ -

D

9

بیان کرتا ہوں کہ میں بطور ڈرائیور کنسٹیبل m-7 سٹا - پولیس  
 لائن میں باقاعدہ آرڈریجک بن گیا ہوں۔ اور NET ٹیم کیساتھ  
 ڈیوٹی کرتا تھا۔ وقوع کے دن 27/7/۰۷ میں شب باسی پر رہا۔ وقوع  
 کے اگلے دن 28/7/۰۷ پر میں امتحان NET ٹیم کیساتھ آن ڈیوٹی  
 تھا۔ دوران ڈیوٹی کسی قسم کا کوئی واقعہ پیش نہیں آیا۔  
 میں نے صرف سرکاروں ڈیوٹی کی ہے۔ اور نہ ہی کسی  
 کیساتھ ایسے امور نے حکم کا یا بند ہوں۔

بیان ہے -

0344-9605098 *Ref. Khan*

OFFICE OF THE DEPUTY SUPERINTENDENT OF POLICE  
HEADQUARTERS MARDAN

pending reports of departmental enquiry against Driver/constable Arif No 887 vide No. 37 PA, dated 03.08.2022.

BRIEF HISTORY:-

Whereas, you Constable driver Arif No.887, while posted as driver NET, Mardan (now under suspension in Police lines, Mardan) has been found of misconduct by arresting and keeping one namely, Wahab r/o of Para chinar, presently Gulshan Town Sheikh-Maltoon, Mardan in an awful custody and demanded Rs. Two Crore (20 million) as illegal-gratification from his family members i.e brother Haji Rafiq for his release and thereby bringing a bad name for the entire Police force in eyes of the general public.

PROCEEDINGS:-

Enquiry was conducted into the matter on account of above allegations leveled against the defaulter official named above. To probe into the matter statements of the defaulter officials, OIC SMT and I/C PP Behram Khan Kali were recorded. Relevant documents including audio video recordings were also obtained and placed on file. Names of the defaulter officials (S.No.1-4) and officers enquiry concerned are listed below:

1. Inspector Abdul Baseer
2. IIC Sabir Ali No.945
3. FC Waseem Abbass No.2629
4. FC Rajwali No.1166
5. Driver FC Arif No.887
6. FC Jalal No.3236 (Elite Force)
7. OI/SI Munir Khan PS Sheikh Maltoon
8. ASI Ali Afsar Khan I/C PP Behram Khan Kali
9. Recruit Zeeshan No.2620 deputed in police lines
10. Taxi driver Asif Ali s/o Azizullah r/o Jamat Gharai, Mardan
11. Farhad Ali s/o Raheem Dad r/o Toras as security guard BOK

a. Inspector Abdul Baseer Khan recorded in his statement that he performed duty as in-charge Narcotics Eradication Team (NET) since 27<sup>th</sup> July, 2022 where he carried routine raids against drug-dealers/peddlers throughout the district. He squarely negated the allegations of abduction and the amount demanded in lieu thereof. He declared the criminal case registered vide FIR No. 303 dated 04.08.2022 u/s 365A PPC PS Sheikh- Maltoon as baseless and a planted exercise against him and his team (NET). Further added that they were produced before the ATC Court on 22.08.2022 wherein the petitioner/abductee clearly denied the allegations leveled against them (officials) in a written statement before the court. Resultantly their bail was confirmed while the case is under trial therefore, the court decision will be honored.

b. IIC Sabir Ali No. 945 stated that he was deputed in NET team with Inspector Abdul Baseer in-charge NET. On the day of occurrence he left for official duty where he was asked for launching Naka-Bandi on the ring road. He added that they made the proposed Naka-Bandi where he neither noticed the alleged abduction nor demanded alleged amount for release of abductee in lieu thereof. He performed his duty and carried out the orders of his senior officers.

c. The defaulter Constables Waseem Abbas No. 2629, Raj Wali No. 1166, Jalal No 3236 (Elite) & Arif No. 88 were summoned, heard and cross-examined. They parroted unanimously the same story as recorded above by IIC Sabir Ali No.945 which is reproduced as follows, "on the day of occurrence they left for official duty where they were asked for launching Naka-Bandi on the ring road. They added that they made the proposed Naka-Bandi where they neither noticed the alleged abduction nor demanded any amount in lieu thereof from any one. They performed their duty and carried out the orders of their senior officers".

d. ASI ALI AFSAR in-charge police post Behram Khan Kali in his statement revealed that on 28-07-2022 at about 08:30 Hours he was approached near NADRA office Ring-Road, Gulshan Town by Haji Rafiq r/o Nisara Guli Bagh and Kamran r/o Shah Kali where the latter reported that he along with his brother namely, Wahab were on the way towards main bazaar in their private vehicle black color Rivo No. 99. Meanwhile a black car No. KGI-648 stopped them and deboarded Wahab. They were in official uniform and took him (wahab) away in their car. He added that the matter was reported vide DD No. 22 dated 28-07-2022 and

marked to him (ASI) for further probe. Enquiry into the matter was commenced where on the next day i.e 29-07-2022 the abductee was reported safely arrived home. Next day he approached the police station along with local-elders. Their statements u/s 161 Crpc was recorded wherein they charged in-charge NET Insp: Abdul Baseer, IHC Sabir Ali No 945 and Constables Waseem Abbas No.2629, Raj Wali No.1166, Jalal No.3236, Arif (driver) No.887 vide FIR No.303 dated:04-08-2022 u/s 365-A PPC PS Sheikh-Maltoon and marked to S/O/H Munir Khan for further investigation.

- 11
- c. S/O/H MUNIR KHAN PS SMT submitted his progress report and narrated version of FIR. Site-plan was prepared at the pointation of complainant and eye-witness Kamran and their statements were recorded u/s 161 Crpc. He added that one 9 MM pistol and two mobile-phones, belonging to abductee, were recovered from possession of the accused party and prepared a recovery-memo thereof. Accused were arrested accordingly and their statements were recorded u/s 161 Crpc. Statement of recruit constable Zeeshan No.2026 s/o Mohammad Islam r/o Gumbad was also recorded u/s 164 Crpc against the accused police party. Besides, audio call-record was also obtained wherein allegedly the accused inspector Abdul Baseer had demanded Rs.02 cror from the family of abductee in lieu of his release from illegal-custody. The Case file has been submitted before the Anti-Terrorism Court-Mardan, however, the accused are released on bail vide order No.02 dated: 22-08-2022.(Copy of bail order annexed as 'A')  
**STATEMENT OF RECRUIT ZEESHAN NO.2620** recorded in his statement that he was deputed as orderly to defaulter inspector Abdul Baseer and on the day of incident i.e 27-07-2022 he was present in his home. In the evening he was called on his mobile phone (0347-1194365) by the defaulter inspector and asked to manage dinner for 04/05 persons. After 30 minutes the defaulter inspector alongwith IHC Sabir Ali and constables Waseem Abbas, Mohammad Jalal, Arif and an unknown person (handcuffed)-arrived in his hujra. They were served with dinner where-after the defaulter inspector and IHC Sabir Ali left the Hujra while PC's Waseem Abbas, Mohammad Jalal, Arif and the unknown person (Handcuffed) stayed for night at Hujra. The next day i.e on 28-07-2022 at about 1300 hours a white Corolla Motor car arrived in his hujra and the unknown person (still hand-cuffed) was boarded in the car and they all left the hujra. Further added that he did not know the person handcuffed and had no information about their next destination.(Copy of statement annexed as 'B')  
**TAXI DRIVER ASIF ALI** recorded in his statement that on 28-07-2022 at 12:00 O'clock he was called on his mobile phone (0341-9062543) by accused/defaulters constable driver Arif and asked him to come in the locality of Gumbad to drop/shift their colleague to Rashakai. He arrived soon thereafter in the locality where accused/defaulters constable Arif and two other unknown persons in plain clothes boarded another person in his car who was blind-folded. He along-with defaulter constables left the hujra and dropped the blind-folded person in Rashakai bazaar. They returned there from and was paid car rent Rs.3000/-.
  - d. **FARHAD ALI SECURITY GUARD BOK, Rashakai** in his statement recorded that on 28-07-2022 at 15:22 hrs while on duty in front of the bank he was approached by a man in a state of fear and asked for a call on his mobile but he refused. Later on the person who demanded mobile phone from him was identified as the abductee, Wahab.
  - e. **THE COMPLAINANT & ABDUCTEE** in their joint statement u/s 164 Crpc stated that they compromised the matter with defaulter/accused officials and to that effect on 22-08-2022 a joint statement of both was recorded in the court of ATC-2 Matta, Swat at Mardan. They have shown satisfaction regarding innocence and non-involvement of the defaulter/accused officials in the ibid case. They also shown no objection on their being acquitted and pardoned them in the name of Almighty Allah. ( copy annexed as 'C')
  - f. That a compromise deed affected between the accused and complainant/abductee was produced before the competent court. Consequently they (accused), were released on bail vide order No. 02 dated: 22-08-2022 in the case.(Copies of compromise deed & bail order annexed as 'D' & 'E')
  - g. That Performa-B was issued by the prosecution branch, Mardan on the subject." **DECISION IN ANTI-TERRORISM CASES WHETHER TO PROSECUTE OR NOT TO PROSECUTE**" for seeking opinion of Investigation Head/IO in the ibid case which was properly commented upon and negated in to. The superintendent investigation, Mardan

recommended the case for put in court for proper trial by making strong supporting remarks on the subject case. (Copies of Performa-B & comments of SP invest: are annexed as 'F' & 'G')

12

**ENQUIRY OFFICER'S OBSERVATIONS:**

The undersigned as enquiry officer examined the relevant case file, cross-examined the defaulter officials and their statements were recorded. Other relevant persons/officials were also heard and recorded their statements. The audio-call/video footage/ATM recordings were produced which were heard/viewed properly. The undersigned, however, observed as follows:

1. That a criminal case vide FIR, cited above, was registered after proper enquiry where the complainant and abductee, after being satisfied, had charged the accused officials.
2. That one 9MM pistol and two mobile phones were recovered from possession of the defaulter/accused inspector Abdul Baseer Khan and placed on case file vide a recovery memo.
3. That the recorded audio-call, made by the defaulter Inspector via his mobile to abductee's brother, was heard which, though not sent for forensic analysis yet but, apparently much with voice of the defaulter inspector.
4. That taxi driver Asif Ali admitted the alleged mobile-call made by the accused/defaulted Constable Driver Arif and also confessed the alleged shifting of abductee from Gumbat to Rashakai.
5. That Farhad Ali, security guard BOK, in his statement affirmed presence of abductee in the premises of the alleged Bank on 28-07-2022 at 15:22 hrs where the later requested for making a call on his (SG) mobile which he refused.
6. That Recruit Constable Zeeshan No.2620 has admitted the fact that he was called by the defaulter/accused inspector on his mobile to manage dinner for them (accused officials) where they, alongwith a handcuffed person (abductee), stayed for night at his Hujra. He also admitted arrival of a taxi car in the Hujra on next day and taking away of abductee to an unknown place.
7. That a joint statement u/s 164 Crpe was recorded by the complainant & abductee where they showed satisfaction about innocence and non-involvement of the defaulter officer/accused in the matter. They also marked no objection on their bail release/acquittal in the ibid case.
8. That on the ground of compromise/joint statement, cited in the preceding Para, a performa-B was drafted by DPP office on the ground "to prosecute or not prosecute the case" which was properly responded with steady observations by the Head of Investigation, Mardan.
9. That the other defaulter officials worked as a team (NET) who remained under immediate command of the defaulter Inspector and contributed proportionally in commission of the alleged offence of abduction.
10. That defaulter official driver/constable Arif has contributed equally in the commission of offence of abduction by calling a taxi car and shifting the abductee from Gumbat to Rashakai. He has also been involved in drawing money from ATM account where he remained visible by side of the abductee in the video recorded.

**RECOMMENDATION:**

In light of the foregoing observations I, the undersigned as enquiry officer, am of the view that defaulter official Driver/Constable Arif No.887 has been actively engaged in the commission of alleged offence of abduction, by being accomplice and an active character in the whole episode of abduction is hereby held guilty of misconduct and, therefore, recommended for major penalty under the Police Rules-1973, if agreed.

(Muhammad Shafiq)  
Deputy Superintendent of Police,  
HQrs, Mardan.

385/HQrs.  
29/11/22

OR  
issue final DPB/MDW  
SUN  
divulged from  
venue



Handwritten notes and calculations, including the number 303. The text is partially obscured by noise and appears to be bleed-through or a very faint scan of a document.

303	303
303	303
303	303
303	303
303	303

13

0313-0818172

(1) 0.00000

Handwritten marks and signatures at the bottom left, including a circled number 13 and other illegible markings.



تمانہ شیخ ولدندہ  
 28 07 22  
 29

صلوہ روزان

تقلید سے روزانہ 28 07 22

14

در 29 اور ڈیٹ بمبر کے اندر راج اور ناہان سے غلٹناہ ASI بوقت مہدر سے مورخہ 28 07 22 ایک  
 محمد بن محمد کے اندر راج صحاب علی اسرحاں 851 سے درست کثیل شاہ ریب کی سے  
 برصوبہ سے گرجستان سے ایک راج اور ڈیٹ بمبر کے اندر راج روزانہ مورخہ وقت وقوع  
 ناردر وقت سرد ریگ راج ملک مالک ملک مہدر 28 07 22 وقت 08:30 بجے خانے وقت سے  
 حسب اطلاع بجائے وقوعہ بالا ہیرو آکر سہا جانی محمد رفیق ولد ملا ب خان قوم افغان  
 لعبر 38/39 سال سکنہ نلسنہ روڈ ملک باغ گلشن ٹاؤن نلسنہ سا کھیان اش کا مہ این  
 ولد محمد شاہ۔ سکنہ شاہ علی صیاد الرحمن ولد فقیر خان سکنہ نالہ مله ملائی پور کراچی محمد  
 رفیق بوقت راجو رٹ کرنا ہے کہ پلار 25/24 وہاں سے 24/25 سال جو کہ پیردی سے  
 برادر آدمی کا کارڈ کرنا تھا آج سے تقریباً 6/7 ماہ قبل پاکستان آیا تھا تا آج  
 سے پورے 3 ماہ Rivہ روٹ کالابری 99 میں بازار کی طرف آ رہے تھے کہ جب مقام  
 خانے وقوعہ بالا پر پہنچے تو ایک سوڑھ پکارت والا لوگ کالابری 648 کو روک کر جس میں  
 سے ایک شخص کو روک کر وہاں ڈرائی میں ملوث کیا گیا تھا اور لٹائی تین کسان جو اڑھا  
 میں بیٹھے ہوئے تھے پولیس کی ذمہ داری میں ملوث ہو کر ایک لٹائی ہوئے نواز راہب  
 مذکورہ بالا کو اپنے ساتھ لے کر چلا گیا اور وہاں سے روانہ ہوئے نواز راہب  
 کہ آپ کے ساتھ ماڑیاں ہیں یا ہتھیار کی چیزیں ہیں؟ اس پر جواب دیا کہ ہاں میں  
 ماڑیاں ہوں۔ Rivہ کو روک کر پکارت والا سے پوچھا کہ ماڑیاں کون سے کامران پر رکھ کر لے آیا  
 5770004 کی سس نہا اور وہیں سرگودھ کے پورٹ پر آکر ہٹا لیا گیا اور وہیں  
 بتلایا گیا کہ پورے ماڑیاں Rivہ کو روک کر لے جانے کے لیے تھے۔ کئی تین ماہوں سے پہلے  
 اس وقت گلشن ہاؤس کے حدود میں موجود کٹا میں نے تاحال برادر آدمی کی لستہ  
 معلومات و پتہ برادر آدمی کو مل سکا ہے۔ پتہ اس کے ساتھ کوئی دشمنی یا دلہدی ہو جو  
 میں ہے مجھے معلوم ہے کہ برادر آدمی وہاں کو کون کیس اور اس مقصد کے لئے اس پر  
 ریورٹ آیا ہے۔ میری راجو رٹ کوئی حارسہ دستخط اتھری سے کٹا میں کا مہراں ولد محمد شاہ  
 سکنہ شاہ علی راجو رٹ والا کو پکارت کرنا ہے۔ دستخط اتھری سے کٹا میں کا مہراں ولد محمد شاہ  
 سکنہ قاضی نے جس راجو رٹ والا کی پکارت کرنا ہے۔ دستخط اتھری سے کٹا میں کا مہراں ولد محمد شاہ  
 اور ڈیٹ دینج والا سے کٹا میں کا مہراں ولد محمد شاہ کے پاس سے کٹا میں کا مہراں ولد محمد شاہ  
 دستخط شدہ لئے جنکی سے لیکر کٹا میں کا مہراں ولد محمد شاہ کے پاس سے کٹا میں کا مہراں ولد محمد شاہ  
 حقیقت معلوم کرنا مطلوب ہے۔ ظلم حالات واقعات کٹا میں کا مہراں ولد محمد شاہ کے پاس سے کٹا میں کا مہراں ولد محمد شاہ  
 اور وہاں مذکورہ کی ایک معلومات کٹا میں کا مہراں ولد محمد شاہ کے پاس سے کٹا میں کا مہراں ولد محمد شاہ  
 اور ڈیٹ دینج والا سے کٹا میں کا مہراں ولد محمد شاہ کے پاس سے کٹا میں کا مہراں ولد محمد شاہ  
 دستخط شدہ لئے جنکی سے لیکر کٹا میں کا مہراں ولد محمد شاہ کے پاس سے کٹا میں کا مہراں ولد محمد شاہ  
 حقیقت معلوم کرنا مطلوب ہے۔ ظلم حالات واقعات کٹا میں کا مہراں ولد محمد شاہ کے پاس سے کٹا میں کا مہراں ولد محمد شاہ  
 اور وہاں مذکورہ کی ایک معلومات کٹا میں کا مہراں ولد محمد شاہ کے پاس سے کٹا میں کا مہراں ولد محمد شاہ  
 اور ڈیٹ دینج والا سے کٹا میں کا مہراں ولد محمد شاہ کے پاس سے کٹا میں کا مہراں ولد محمد شاہ

۸۱

ریورٹ تکمیل علیحدہ مرتب کر کے تقریباً انٹرویو کریں اور حاصل کردہ احاطہ  
کے ۱۵۶ حصوں (۱۳) کے لئے دیگر حوالہ میں ایشیا میں انٹرویو کرنا ۱۹۶۱ کے معیار یا  
ملاحظہ ہو۔

ضیاء الحق  
تقریباً مرتب کر کے  
۱۹۶۱/۱۵۶/۱۳  
۱۹۶۱/۱۵۶/۱۳

IN THE NAME OF ALLAH THE MOST MERCIFUL AND THE MOST BENEVOLENT

BEFORE JUDGE SYED OBaidULLAH SHAH, ANTI-TERRORISM COURT  
MARDAN DIVISION, MARDAN.

CASE NO.108/8 OF 2022

THE STATE

(through Muhammad Rafiq S/O Gulab Jan R/O Nisatta Road, Gulshan Town,  
Mardan)

Versus.....

1. Abdul Baseer S/O Abdul Maroof R/O Tordher, Swabi.
2. Sabir Ali S/O Muhammad Zaman R/O Kot Ismailzai, Garhi Kapoora.
3. Arif Khan S/O Fazal Shah R/O Katlang, District Mardan.
4. Raj Wali S/O Amrodi R/O Katlang, District Mardan.
5. Waseem Abbas S/O Nawab Khan R/O Mohabat Abad, Mardan.
6. Muhammad Jalal S/O Rasool Khan R/O Dosehra, Jan Abad, Mardan.

Date of Institution	01.11.2022
Date of Decision	11.01.2023

ATTESTED

Assistant Magistrate J.C.  
Mardan.

JUDGMENT:

The accused named above stood charged vide FIR No.303 Dated 04.08.2022 U/S 365-A PPC/15-AA, of Police Station Sheikh Maltoon Town, Mardan & faced their trial before this court.

Brief facts of the case leading to trial of the instant case are that on 28.07.2022, Muhammad Rafiq (*complainant*) reported the matter regarding missing of his brother namely Wahab, to the local police to the effect that his brother was working in Saudi Arabia as a Contractor and about 6/7 months prior to the occurrence he had come to Pakistan, that on the day of occurrence i.e. 27.07.2022, his brother Wahab along with one Kamran s/o Muhammad Shah, at about 18:00 hrs, were going towards main Bazaar from Gulshan Town in his vehicle RIVO of black color bearing registration number 99 and when they reached near the Nadra office, Ring Road, Gulshan Town, in the meanwhile a motorcar XLI of black color bearing registration number KGI-648 came there from which one person in a black uniform deboarded while three other persons were sitting inside the vehicle who were in police uniform having ranks, that the

13

was handed over to Kamran by stating him that one of the police officials will sit with him, on this, Kamran took away the vehicle of his brother. In the meanwhile, his brother Wahab made a call from his mobile number 0315-5770004 to one Zia-ur-Rehman on his mobile number 0349-5482187 and told him to take his vehicle RIVO as the said Zia-ur-Rehman was present in the vicinity of Gulshan Town. That he was inquiring about his brother Wahab, that they have got no enmity or ill-will with anyone and do not know as to why and for what purpose his brother has been abducted. His report was reduced into writing in the shape of Naqal Mad No.22 dated 28.07.2022, upon which an inquiry was initiated during the course of which the instant FIR (EX P-A) was registered against the accused facing trial.

After completion of investigation, complete challan against the accused on bail namely Abdul Baseer, Sabir Ali, Arif Khan, Raj Wali, Waseem Abbas and Muhammad Jalal was submitted before this court for trial. On receipt of the challan, all the accused on bail were summoned who turned up and provisions of S.265 (c) Cr.PC complied with against them. The accused facing trial were formally charge sheeted on 10.11.2022 to which they pleaded not guilty and claimed trial.

Trial commenced and the prosecution was allowed to produce their evidence, and they produced six (6) PW's when in the meantime, learned defence counsel moved an application u/s 265-K Cr.PC for acquittal of the accused, notice whereof given to the State/complainant.

Mr. Asad Ali Advocate, learned defence counsel contended that the accused facing trial have been falsely and maliciously involved in the instant occurrence, that the material available on the record is not sufficient to reasonably connect the accused facing trial with the alleged offence, that the PW's produced till date have made contradictory statements belying each other testimonies, that the accused facing trial have got no previous history of involvement in any such like activities, that the alleged abductee has not been recovered from the clutches of any of the accused facing trial rather he himself had come to the PS. Further argued that, the accused facing trial have not

FILED

ASSISTANT  
 11/11/23

ASSISTANT  
 11/11/23

11/11/23  
 COURT

statements of PW's and the material available on the record, the instant case has allegedly been concocted against the accused facing trial & recording of further evidence will be sheer wastage of precious time of this Hon'ble Court, therefore, at this stage, the accused facing trial may kindly be acquitted by invoking the provisions of S. 265-K Cr.PC.

On the other hand Mr. Alam Zeb learned Sr. PP for the State strongly opposed the stance of defence counsel and contended that the accused facing trial are involved in a heinous offence and are directly charged by name in the FIR for the abduction of one Wahab—brother of the complainant, that the 9mm pistol used in the commission of the offence has also been recovered, that the voice call recording through which the demand for ransom was made is also available on the record in the shape of USB, while the prosecution has not completed their evidence and it would be unjust to cut off the prosecution evidence at half way and prayed for the rejection of application at this stage of the case and requested for completion of evidence.

ATTESTED

*[Signature]*

Assistant

Date 20-01-20

Arguments already heard and case file perused.

In this scenario, the statements of the star witnesses would be thrashed out in order to find out the truth into the matter. The relevant portion of cross examination of the star PW's is reproduced hereunder:

(Cross examination of PW3 Muhammad Rafiq—complainant)

"XX.....I have not made any identification parade of the accused facing trial before any court. I have not given any supplementary statement to the police. I had not charged the accused facing trial in my report nor later on. I am not the eye witness of the occurrence. I cannot read the contents of my report as well as of the recovery memos as I am illiterate. .... Now the accused facing trial have satisfied us regarding their innocence, and we do not want to pursue the case against all the accused facing

*[Signature]*  
11/1/23  
11/1/23

18

(Cross examination of PW4 Wahab Khan—Abductee)

"XX..... It is correct that none of the accused facing trial came to the place where I was kept in illegal confinement. We had not paid any amount to the accused facing trial. I do not remember the registration number of the vehicle in which I was taken by the police. In my statement u/s 161 Cr.PC, I have not mentioned the type of vehicle in which I was taken by the police. In my statement u/s 161 Cr.PC, I have not mentioned the time, date and place wherefrom I made good my escape. I have not mentioned the source in my statement u/s 161 Cr.PC through which I came to know about the names of the accused facing trial. It is correct that no identification parade before any court was conducted from me. .... I cannot read the contents of my statement u/s 161 Cr.PC as well as of the recovery memos as I am illiterate. Now the accused facing trial have satisfied me regarding their innocence, and I do not want to pursue the case against all the accused facing trial anymore. ...."

(Cross examination of PW5 Ali Afsar ASI—Inquiry Officer)

"XX..... I have not obtained the CDR mobile data of the accused facing trial. It is correct that there is no connection of any of the accused facing trial with the complainant party in the CDR data available on file. I have not recorded the statement of the abductee u/s 161 Cr.PC. The abductee had himself come to the PS and had not stated anything about the accused at the time of his recovery. .... I have not obtained any permission of the court regarding the inquiry. After recovery of the abductee, I have not recorded his statement nor have I recorded the supplementary statement of the complainant regarding charging of the accused facing trial. It is correct that the abductee had come to the PS on 28.07.2022 while the FIR was registered on

REGISTERED  
ASSISTANT  
DATE: 28-07-22

Handwritten signature and date: 28/7/22



(Cross examination of PW6 Munir Khan SI—IO of the case)

"XX..... The accused facing trial have not confessed their guilt before any court. It is correct that no recovery has been effected from the possession of any of the accused facing trial. It is correct that no identification parade of the accused through the abductee was conducted before any court. According to the CDR mobile data available on file, there is no contact in between the complainant party and the accused party. .... I have not recorded the supplementary statement of the complainant in respect of charging the accused facing trial for the commission of the offence. I have not recorded the statement of abductee u/s 164 Cr.PC. It is correct that the abductee was recovered on 28.07.2022 while his statement u/s 161 Cr.PC was recorded by me on 04.08.2022. I have not obtained the Revenue Record in respect of the place where the abductee was confined by the accused. ...."

ATTENDED  
 ASSISTANT  
 Date: 28-08-22

Admittedly, the complainant (PW3) in his report has not charged anyone for the commission of the offence nor has he recorded supplementary statement regarding charging of the accused facing trial nor is he an eye witness of the occurrence as admitted by him in his cross examination. Furthermore, the abductee examined as PW4, stated in his cross that they have not paid any ransom amount to the accused facing trial, further stated that he has not mentioned any source through which he came to know about the names of the accused facing trial as well as no identification parade was conducted in his presence. The inquiry officer namely Ali Afsar ASI was examined as PW5, who in his cross stated that the occurrence took place of 27.07.2022 while the report was made on 28.07.2022 and the FIR was registered on 04.08.2022, further stated that he has not obtained the CDR mobile data of the accused facing trial and on the other hand admitted that there is no connection of any of the accused facing trial with the complainant party in the CDR mobile data available on the file, further stated that the abductee had himself come to the PS and had not stated

10-11-2023  
 Court  
 11/11/2023

anything about the accused at the time of his recovery. IO of the case namely Munir Khan SI examined as PW6, stated in his cross that no recovery has been effected from the possession of any of the accused facing trial, further stated that no identification parade of the accused facing trial was conducted through the abductee before any court, further admitted that according to the CLR mobile data available on file there is no contact in-between the complainant party and the accused party, further admitted that he has not recorded the supplementary statement of the complainant in respect of charging of the accused for commission of the offence.

So far as the voice call recording of the accused with the complainant, saved in the USB (EX P-1), is concerned, the same was not subjected to Forensic Analysis to ascertain its authenticity, hence the same cannot be relied upon. Furthermore, the 9mm pistol in the instant has also not been recovered from the possession or on the pointation of any of the accused facing trial as is evident from the record as well as the statement of the IO recorded as PW6.

Moreover, according to the statements of the complainant as well as the abductee, they have satisfied themselves regarding the innocence of the accused facing trial and have effected compromise with them and hence do not want to pursue the case against all the accused facing trial anymore.

Here I would like to take a glance at the provision of section 265-K Cr.PC, which is meant to prevent the rigours of a prolong trial when it is apparent from the available record that there is no probability of conviction of the accused, as in the case in hand, a plain reading of the provisions of S. 265-K Cr.PC shows that there is no embargo placed on the powers of the trial court to acquit the accused at any stage, which would be necessary intent of the Legislature, meaning even on the first date of hearing when the accused enters appearance, subject of course, to the condition that the trial judge was satisfied, on the basis of material placed before him, that the charge was groundless or that there was no possibility of ultimate conviction of the accused.

ASSISTANT  
DATE: 12/11/2019

ATTORNEY  
GENERAL

*[Handwritten signature]*  
in Court  
Muzaffargarh

21

The ingredients of S. 265-K Cr.PC are reproduced as under:

"S.265-K Cr.PC, empower the court to acquit accused at any stage, Nothing in this chapter shall be deemed to prevent a Court from acquitting an accused at any stage of the case, if, after hearing the prosecutor and the accused and for the reason to be recorded, it considers that there is no probability of the accused being convicted of any offence".

Resultantly, it is concluded that there is no probability/possibility of conviction of accused facing trial in this case, so in order to save the precious time of the court and to save the accused from unnecessary agony of trial even if the remaining evidence is recorded, and in light of the aforementioned discussion, I, while exercising my powers conferred U/S 265-K Cr.PC, hereby acquit all the accused facing trial named above of the charges levelled against them by extending them the benefit of doubt. They are on bail, their bail bonds stand cancelled and sureties are absolved of the liabilities of bonds.

Case property be kept intact till the expiry of the period of Appeal/Revision:

File be consigned to Hon'ble Peshawar High Court Peshawar U/S 25(2) AT-4 1997.



*Syed Obaidullah Shah*  
11/1/23  
SYED OBAIDULLAH SHAH  
Judge, Anti-Terrorism Court,  
Mardan Division, Mardan  
Judge, Court  
Mardan Division, Mardan

**CERTIFICATE**

Certified that this Judgment consist of ( 7 ) pages, every page has been signed and corrected wherever necessary.

ATTESTED

*[Signature]*  
Assistant Judge, A.T.C

Date: 20-01-23

*Syed Obaidullah Shah*  
11/01/23  
SYED OBAIDULLAH SHAH  
Judge, Anti-Terrorism Court,  
Mardan Division, Mardan

Judge, Court  
Mardan Division, Mardan



**OFFICE OF THE  
DISTRICT POLICE OFFICER,  
MARDAN**

Tel No. 0937-9230109 & Fax No. 0937-9230111  
Email: [dpomgn@gmail.com](mailto:dpomgn@gmail.com)

2022

I (22)  
(Signature)

No. 13056 /PA

Dated 23/11/2022

**FINAL SHOW CAUSE NOTICE**

Constable/driver Arif No.887, while posted at NET, Police Lines Mardan (now under suspension Police Lines Mardan), has been found of misconduct by arresting and keeping one Wahab resident of Parachinar, presently Gulshan Town Sheikh Maltoon (Mardan) in unlawful custody and then demanded of Rs. two Crore as illegal gratification from his (Wahab) family members for his release.

To ascertain facts, a proper departmental enquiry against you was conducted through Mr. Muhammad Shafiq DSP/HQrs. Mardan vide this office Statement of disciplinary Action/Charge Sheet No.208/PA dated 03-08-2022, who (EO) after doing the needful, submitted his findings to this office vide his office letter No.385/HQrs dated 04-11-2022, holding responsible you of gross misconduct & recommended for major punishment.

In this connection, you were heard in O.R. on 22-12-2022, during which, you had failed to highlight any plausible reasons in your defense.

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

Hence, I Haroon Rashid Khan (PSP) District Police Officer Mardan, in exercise of the power 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 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

Received by \_\_\_\_\_

Dated: \_\_\_\_\_/\_\_\_\_\_/2022

(Signature)  
(Haroon Rashid Khan) T.S/PSP  
District Police Officer, Mardan.

لا علیٰ ا

J

23

DPc

13054/PA  
23-12-2011

بجائے نیشنل سیکرٹریٹ ٹورسٹ کی لائسنس

یہاں پر سولہ سو روپے (16000) کی رقم جمع کروائی گئی ہے۔ کمر سائنس کے بارے میں  
 ڈسک صاحب ہیڈ کوارٹرز حیدرآباد میں باہر کے سائٹ لائسنس  
 صلح 13054/PA میں انکو لائسنس کرنے سے متعلقہ ٹورسٹ کی باقی  
 سائٹس اور رقومیں سب باسیا پر گزرتی ہو گی۔ اور ان سے صلح کی جائے گی۔  
 کوئٹہ باسیا سے دائیں لائی گئی ہے۔ ان کے بارے میں لائی گئی ہے۔  
 کے ساتھ ڈیوٹی پر رہنے پر کمر چھوڑ کر چلی گئی ہے۔ یہاں پر  
 پر ان کے ساتھ صلح کرنے سے متعلقہ ٹورسٹ میں سب ٹورسٹ کے  
 ڈیوٹی اور DPc اس کے لئے رہا ہے۔ تقریباً 10 گھنٹے  
 ان کے ساتھ صلح ہے جو باسیا پر کمر چھوڑ کر چلی گئی ہے۔  
 جس سے کمر چھوڑنے پر وہ یہاں سے چلا گیا۔ اس کو وہاں  
 اور رت کرنا ہے تاکہ وہاں پر چھوڑ دے۔ ٹورسٹ کی صلح  
 اور ان کے حکم کی نسیں لائسنس کے لئے۔ سب ٹورسٹ کے بارے میں  
 رکھا گیا ہے جو چھوڑ کر دینا چاہتا ہے۔ ان کے لئے  
 اس سے صلح میں کسی قسم کی بددعا ہی نہیں ہے۔  
 نہ ان کے ساتھ صلح کے ساتھ کسی قسم کی بددعا ہی نہیں ہے۔  
 اس میں صلح کے ساتھ سیکرٹریٹ ٹورسٹ کی باقی سائٹس  
 رسم کا صلح کیا جائے گا۔

13054/PA

یہ درخواست ہے کہ سائٹس کی انکو لائسنس اور ان کے  
 ٹورسٹس بلکہ کسی کارروائی کے بارے میں کمر چھوڑنے  
 کے احکامات صلح کے ساتھ سیکرٹریٹ ٹورسٹ کے

13054/PA



**OFFICE OF THE  
DISTRICT POLICE OFFICER,  
MARDAN**

Tel No. 0937-9230109 & Fax No. 0937-9230111  
Email: dpomdn@gmail.com

2023

No. 97-10/PA

Dated 5/1/2023

**ORDER ON ENQUIRY OF CONSTABLE ARIF KHAN NO.887**

This order will dispose-off a Departmental Enquiry under Police Rules 1975, initiated against Constable Arif Khan, under the allegations that while posted as driver at JET Mardan (now under suspension Police Lines Mardan), was placed under suspension vide his office OB No.1618 dated 02-08-2022, issued vide order/endorsement No. 4311-18/EC dated 13-08-2022 on account of illegal arrest and keeping one Wahab resident of Parachinar, presently Gulshan Town Sheikh Maltoon (Mardan) in unlawful custody and then demanded of Rs. two crore as illegal gratification from his (Wahab) family member i.e. brother namely Haji Rafiq for his release. Subsequently, a case vide FIR No.303 dated 04-08-2022 U/S 365-A-PPC/15-AA has also been registered against the delinquent officer at Police Station Sheikh Maltoon.

To ascertain facts, Constable/driver Arif Khan was proceeded against departmentally through Mr. Muhammad Shafiq DSP/HQrs Mardan, (nominated in place of Mr. Sana Ullah Bettani SP/Investigation Mardan/E.O vide his office letter No.497/PA/Inv. dated 12-08-2022 on the basis of already conducting preliminary enquiry into the allegations) vide this office Statement of Disciplinary Action/Charge Sheet No.208/PA dated 13-08-2022, who (E.O) after fulfillment necessary process, submitted his Finding Report to this office vide his office letter No.385/HQrs dated 29-11-2022, concluding that the allegations regarding keeping the abductee namely Wahab in unlawful custody and thereafter demanding of two Crore as illegal gratification from his (Wahab) brother on the part of Constable Arif Khan have been established on the basis of engaging in commission of abduction, therefore, recommended him for major penalty.

Constable/driver Arif Khan was heard in OR on 22-12-2022, during which, he couldn't provide any cogent/plausible defense against the allegations leveled against him, therefore, served him with a Final Show Cause Notice, under Khyber Pakhtunkhwa Police Rules-1975, issued vide this office No.13054/PA dated 23-12-2022, to which, his reply was received and found un-satisfactory.

**Final Order**

In the light of above discussion, I am of the considered opinion that Constable/driver Arif Khan, has been found of gross misconduct by involving in illegal activities of corruption, which brings a bad name to entire Police force in the eyes of general public, therefore, awarded him major punishment of dismissal from service with immediate effect, in exercise of the power vested in me under Police Rules-1975.

O.B No. 34 Dated 09/01/2023

  
(Haroon Rashid Khan) T.ST/ PSP  
District Police Officer, Mardan.

Copy forwarded for information & n/action to:-

- 1) The Regional Police Officer Mardan, please.
- 2) The DSP/HQrs Mardan.
- 3) The P.O & E.O (DPO Office) Mardan.
- 4) The In-charge Lab (HRMIS) DPO Office Mardan.
- 5) The OSI (DPO Office) Mardan with ( ) Sheets.

the Honourable Deputy Inspector General of Police  
Marwan Region - Bardar

25

134  
25/1/23

Subject: Application for re-instatement in Service  
against the order of worthy District Police  
Officer Bardar dated CP No. 34 dated 04.08.2022.

R/SIR

It is submitted as under:-

FACTS

The appellants were posted in service as Driver  
at Bardar was departmentally proceeded on the allegation of  
abduction of one woman and demanding two Crore rupees from  
his brother Rafique for his release vide Case No. 100/2022  
dated 04.08.2022 u/s 761, 410 Police Station Sheikh Maitoon. The  
departmental enquiry was conducted by Mr. S. M. Khan DSP/Police  
Marwan for the alleged misconduct. After departmental enquiry the  
appellant was dismissed from his Service by District Police  
Officer, Bardar vide CP No. 34 dated 04.08.2022. Hence, he filed  
this petition for re-instatement in Service.

POINTS FOR CONSIDERATION

1. That the order of District Police Officer, Marwan is perverse and without any evidence.
2. That there is no evidence against the appellants to establish the charges.
3. That the appellant was on Shetashi on the day of the charges.
4. That the senior officer was failed to bring any evidence against him.
5. That the opportunity of cross-examination was not given to the appellants in contrary of law.
6. That the contendants, as well as the evidence has not been established in any manner and without any evidence.
7. That the order of dismissal is illegal, void and liable to be set aside.

(26)

- b. That the appellant has got 4 years service in British without any postment.
- c. That the appellant has falsely charged for an act which has never done by the appellant.
- d. That the appellant is ready to clear his position on only Suran as well as other evidence.

In view of the above it is humbly requested that the appellant being innocent may kindly be acquitted from the false charges levelled against him for ulterior motive to meet the end of justice.

Dated: 23.04.2023

Yours obediently

*A.P. Khan*

Mobile No. 887,

Ex. Postable No. 101

6/201, Station.

NO. 136/E1  
 25-01-23

*S.L.P. No. 101*  
 For selection in  
 Commission

*[Signature]*  
 23/04/2023



27

ORDER

This order will dispose-off the departmental appeal preferred by Ex-Constable Arif Khan No. 887 of Mardan District Police against the order of District Police Officer, Mardan, whereby he was awarded major punishment of dismissal from service vide OB: No. 34 dated 04.01.2023. The appellant was proceeded against departmentally on the allegations he while posted as Driver at Narcotics & Radiation Team, Mardan was placed under suspension on account of illegal arrest and keeping one Wahab resident of Parachinar, presently Gulshan Town Sheikh Maltoon (Mardan) in unlawful custody and then demanded Rs. two Crore as illegal gratification from his (Wahab) brother namely Hajj Rafiq for his release. Subsequently, a case vide FIR No. 303 dated 04.08.2022 U/S 365-A PPC/15-AA has also been registered against the delinquent officer at Police Station Sheikh Maltoon.

To ascertain the real facts, Proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and the then Acting Deputy Superintendent of Police, Headquarters, Mardan was nominated as Enquiry Officer. The Enquiry Officer after fulfilling procedural formalities submitted his findings report to District Police Officer, Mardan, concluded therein that the allegations regarding keeping the abductee namely Wahab in unlawful custody and thereafter demanding Rs. two Crore as illegal gratification from his (Wahab) brother on the part of delinquent officer have been established, therefore, recommended him for major punishment.

The delinquent Officer was heard in Orderly Room on 22.12.2022 by the District Police Officer, Mardan during which he couldn't provide any logical reason in his defense, therefore, issued him a Final Show Cause Notice to which his reply was received and found unsatisfactory.

In the light of above, the District Police Officer, Mardan awarded him major punishment of dismissal from service as he also remained involved in illegal activities of corruption, which brought a bad name to entire Police force in the eyes of general public.

Feeling aggrieved from the order of the District Police Officer, Mardan, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 01.02.2023.

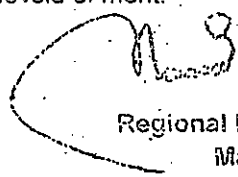
From the perusal of the enquiry file and service record of the appellant, it has been found that allegations levelled against the appellant have been proved beyond any shadow of doubt. Moreover, the involvement of appellant in these heinous

(27) F

criminal case is clearly a stigma on his conduct. Hence, the retention of appellant in Police Department will stigmatize the prestige of entire Police Force as instead of fighting crime, he has himself indulged in criminal activities. Moreover, he could not present any cogent justification to warrant interference in the order passed by the competent authority.

Keeping in view the above, I, Muhammad Ali Khan, PS Regional Police Officer, Mardan, being the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being devoid of merit.

Order Announced.



Regional Police Officer,  
Mardan

No. 1007 /ES. Dated Mardan the 21/02/2023.

Copy forwarded to District Police Officer, Mardan for information and necessary w/r to his office Memo: No. 25/LB dated 08.02.2023. His service record is returned herewith.

**VAKALAT NAMA**

NO. \_\_\_\_\_/20

IN THE COURT OF Khyber Pakhtunkhwa Service Tribunal, Peshawar

Muhammad Anif Khan (Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Police Department (Respondent)  
(Defendant)

I/We, Muhammad Anif Khan

Do hereby appoint and constitute **Mr. M. Asif Yousafzai, ASC** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

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

Dated 14/03/2023

Abif Khan  
(CLIENT).

ACCEPTED

M. ASIF YOUSAFZAI  
M. ASIF YOUSAFZAI, ASC,

Syed Noman Ali Bukhari  
SYED NOMAN ALI BUKHARI  
Advocate High Court Peshawar