

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	13.10.2016	<p><u>BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR</u></p> <p>Appeal No. 616/2015</p> <p>Pir Hamid Ullah Shah Versus Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and 2 others.</p> <p><u>JUDGMENT</u></p> <p><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-</u></p> <p>Appellant with counsel and Mr. Ziaullah, Government Pleader alongwith Umar Asghar, Head Constable for respondents present.</p> <p>2. Pir Hamid Ullah Shah, Head Constable hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against final order dated 17.4.2015 passed in departmental appeal wherein major penalty of compulsory retirement from service was modified and converted to that of stoppage of 2 annual increments without accumulative effect and the period he remained out of service was treated as leave without pay.</p> <p>3. Brief facts giving rise to the present appeal are that the appellant was serving as Head Constable when subjected to enquiry on the allegations of tainted reputation, involvement in ante-social activities and, after enquiry, compulsorily retired from service vide original order dated 31.12.2013 where-against departmental appeal preferred by the appellant was partially allowed vide impugned final order dated 17.4.2015 and major</p>

[Handwritten signature]
13.10.16.

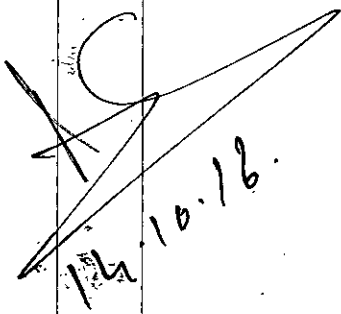
penalty of compulsory retirement from service was converted into minor penalty of with-holding of 2 annual increments without accumulative effect and period spent out of service was treated as leave without pay.

4. Learned counsel for the appellant has argued that the enquiry officer failed to collect any evidence worth reliance. That the punishment was based on alleged secret information. That had the appellant been found involved in any offending activities the appellate authority would have not reinstated him in service. That the appellant was innocent and that the impugned final order was therefore liable to be set aside.

5. Learned Government Pleader has argued that the impugned order was based on enquiry report which was conducted in the prescribed manners. That the original order of compulsory retirement of appellant from service was modified by the appellate authority but it would never mean that the appellant was not involved in activities culpable under disciplinary rules.

6. We have heard arguments of learned counsel for the parties and perused the record.

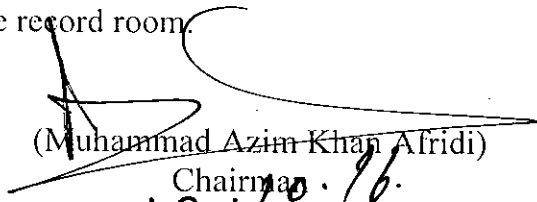
7. The original order dated 31.12.2013 regarding imposition of penalty in the shape of compulsory retirement was set aside by the appellate authority and converted into that of minor punishment in the shape of withholding of 2 annual increments without accumulative effect vide impugned order of appellate authority dated 17.04.2015. The charges against the appellant were of serious nature as the same were regarding involvement of the appellant in transportation of non-custom paid vehicles and

A handwritten signature, possibly 'A.C.', is written over the date '12.10.18'. The signature is written in black ink and is somewhat stylized. The date is also written in black ink and is positioned below the signature.

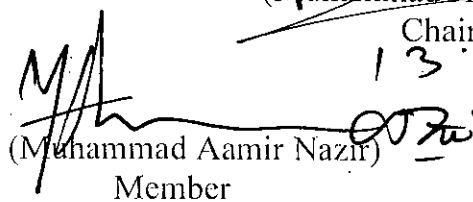
enjoying tainted reputation. The said charges were not proved during the enquiry against the appellant. It seems that the appellate authority taking note of the enquiry proceedings was convinced that the charges were not proved against the appellant and therefore converted the major penalty into that of minor penalty but without assigning any reason for modifying the said punishment. ^{to} If appellant was found involved in transportation of non-custom paid vehicles and having tainted reputation he would have not been allowed to serve as police personal but the appellant was reinstated in service as the said charges were not found forceful by the appellate authority.

8. In view of the above we hold that no evidence whatsoever was collected by the enquiry officer attracting or justifying any punishment. We are therefore constrained to accept the instant appeal and set aside the impugned final order dated 17.4.2015 by restoring the said annual increments to appellant while the period during which he remained out of service is converted into that of the leave of the kind due. Parties are left to bear their own costs.

File be consigned to the record room


(Muhammad Azim Khan Afridi)

Chairman
13.10.16


(Muhammad Aamir Nazir)

Member

ANNOUNCED

13.10.2016

26.11.2015

Appellant with counsel, Mr. Mir Faraz, Inspector (legal) alongwith Addl: A.G for respondents present. Written reply by respondents submitted. Wakalat Nama also submitted on behalf of the appellant. The appeal is assigned to D.B for rejoinder and final hearing for 18.4.2016 before S.B.


Chairman

18.04.2016

Counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Counsel for the appellant requested for time to file rejoinder. To come up for rejoinder as well as arguments on 20.07.2016.


Member


Member

20.07.2016

Counsel for the appellant and Mr. Asghar Khan, H.C alongwith Mr. Muhammad Jan, GP for the respondents present. Rejoinder submitted, copy whereof handed over to learned GP. To come up for arguments on 13-10-16 before D.B.


MEMBER


MEMBER

3

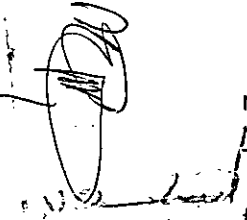
10.06.2015

Counsel for the appellant present. Learned counsel for the appellant argued that vide impugned order dated 29.4.2015 the appellate authority converted order of compulsory retirement of the appellant into penalty of stoppage of two annual increments with accumulative effect, leave without and that the period spent during departmental proceedings as leave of the kind due.

That neither the inquiry was conducted in the prescribed manners nor any opportunity of hearing was extended to appellant. That even final show cause notice was not issued to the appellant and, furthermore, no period has been specified for the stoppage of two annual increments.

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 for 21.9.2015 before S.B.

Appellant Deposited
Security & Process Fee



11 - 2 - 15


Chairman

21.09.2015



Appellant in person and Mr. Mir Faraz, Inspector (legal) alongwith Assistant AG for respondents present. Requested for adjournment. To come up for written reply/comments on 26.11.2015 before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 616/2015


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	08.06.2015	<p>The appeal of Mr. Pir Hameed Ullah Shah resubmitted today by Mr. Ashraf Ali Khattak Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	9-6-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>10-6-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Pir Hamidullah Shah resubmitted to-day i.e. on 27.05.2015 is incomplete on the following scores which is again returned to the counsel for the appellant for completion and resubmission within 15 days.

1- Annexures-C and D of the appeal are illegible which may be replaced by legible/better one.

No. 881 /S.T,

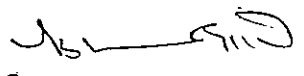
Dt. 28/5 /2015


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Ashraf Ali Khattak Adv. Pesh.

Re. Submitter

Better copies have been
replaced, may kindly be
put up before the Honourable
Tribunal,

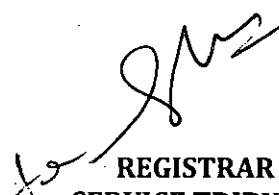

Ashraf Ali

The appeal of Mr. Pir Hamid Ullah Shah Head Constable received to-day i.e. on 18.05.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be annexed serial wise as mentioned in the memo of appeal.
- 2- Appeal may be page marked according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 3- Copies of charge, statement of allegations and replies thereto are not attached with the appeal which may be placed on it.
- 4- Index of the appeal may be prepared according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 5- Annexures of the appeal may be attested.
- 6- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 765 /S.T,


Dt. 21/5 /2015


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Ashraf Ali Khattak Adv. Pesh.

Re-submitted:

The objected has been completed with
the appeal may kindly be
place before the Tribunal


Ashraf Ali Khattak
Advocate.

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

Service Appeal No. 616 of 2015

Pir Hamid Ullah Shah Head Constable**Appellant**

VERSUS

The Provincial Police Officer & others**Respondents**

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4.	Copy of Charge Sheet & statement of allegation	C	13-14
5.	Copy of reply to charge sheet and statement of allegation	D	15-17
6.	Copy of inquiry report	E	18-20
7.	Copy of order dated 31.12.2013	F	21-
8.	Copy of Departmental Appeal	G	22-25
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Pir Hamid
Appellant

Through

Ashraf Ali Khattak
Ashraf Ali Khattak
Advocate,
High Court, Peshawar

Dated ___/___/2015

BEFORE THE KHYBER PAKHTUN KHWA SERVICE TRIBUNAL, PESHAWAR

K.W.P. Province
Service Tribunal
Diary No. 509
Dated 18-5-2015

Service Appeal No. ⁶¹⁶ /2015

Pir Hamid Ullah Shah Head Constable No,568 Police Force, Bannu
.....Appellant.

Versus

1. The Provincial Police Officer Govt: Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer Bannu Region Bannu.
3. The District Police Officer, Bannu..... Respondents.

Service Appeal under section 4 of the Service Tribunal Act, 1974 read with Rule 11 (a) of the Khyber Pakhtunkhwa Police Rules, 1975 and read with Rule 19 of the Kyber Pakhtunkhwa (Effecency & Conduct) Rules, 2011 against the impugned order of respondent No.1 dated 17-04-2015 (Annexure-I) passed on the departmental appeal of the appellant preferred against the impugned order dated 31-12-2013 wherein he modify/converted major penalty of compulsory retirement into that of stoppage of 02 annual increments with accumulative effect and the period appellant remained out of service has been treated as leave without pay.

Pray:-

On acceptance of the instant appeal this Honorable Tribunal may graciously be pleased to declare the impugned orders as illegal, unlawful, void abinito, without lawful authority and has no adverse effect upon the rights of the appellant and modify the final order dated 17-04-2015 by re-instating the appellant with all back benefits.

Filed to-day
Registrar

e-submitted to-day
ad filed.

Registrar
8/6/15

Respectfully Sheweth,

Facts giving rise to the appeal are as under:-

- 1 That appellant is the employee of Police Force, Bannu. He has longstanding service at his credit. Appellant has been awarded with commendation certificates and cash prizes on his excellent performance beyond the call of his duty (Annexure-A). Appellant has also been honored with Scheduler promotion to the post of ASI in recognition of his extra ordinary performance (Annexure-B)
- 2 That Appellant was suspended from his lawful service while performing his duty as I/C Guard KGN Hospital, Bannu and there and then was served with charge Sheet and Statement of allegation (Annexure-C). Appellant submitted reply to the charge sheet and statement of allegation (Annexure-D). Slip shod inquiry was conducted (Annexure-E).
- 3 That appellant has never been served with final show cause nor provided the inquiry report.
- 4 That on the basis of slip shod inquiry respondent No.3 imposed upon the appellant major penalty of compulsory retirement (Annexure-F).
- 5 That appellant being aggrieved from the order of respondent No.3 filed departmental appeal (Annexure-G) followed by Service Appeal No.411 of 2014.
- 6 That during the pendency of the above cited service appeal; appellant was assured by the respondent that he will be re-

instated on the score of his departmental appeal if he withdraws his appeal.

- 7 That appellant withdrew his appeal vide order dated 26-02-2015 (Annexure-H), but respondent took U-trun of their promise and re-instate the appellant through impugned order dated 17-04-2015 (Annexure-I), wherein respondent No.1 modify the order of compulsory retirement of respondent No.3 to that of stoppage of 02 annual increments with accumulative effect and treated the intervening period in between as leave without pay, however the period elapsed during the pendency of service appeal was treated as leave of the kind due.
- 8 That appellant now being aggrieved from the impugned penal order of respondent No.1 dated 17-04-2015 passed on the departmental appeal of the appellant prefers the instant service appeal inter alias on the following grounds:-

Grounds:-

- A. That the respondents have not treated the petitioner in accordance with law, rules and policy on the subject and acted in violation of Article 4 of the Constitution of Pakistan, 1973. Appellant has been subjected to illegal inquiry. The inquiry officer has adopted an alien procedure. Appellant has neither been served with final show cause nor copy of inquiry report has been provided, thus has been deprived of his legal defense. Inquiry officer has held the appellant guilty without any sort of supporting evidence. Appellant was/is regular employee of the force therefore, was entitled for prescribed disciplinary procedure in case of any mis conduct on his part. The authority in order to prosecute the appellant made a short cut way. In

absence of prescribed procedure as explained in the statute and statutory rules the prosecution of the appellant cannot be clothed with validity and action on the part of this Honourable Tribunal is required to nullify the action of the respondents.

- B.** That the impugned order has been passed in sheer violation of the rules and laws governing the subject. Inquiry has failed to procure an iota of evidence in respect of the charge leveled against the appellant. The finding of the inquiry officer is based on conjecture and summarize and speculations, which has evidently value and legal backing therefore, the verdict of the respondent No.1 and 3 is illegal, unlawful and without lawful authority and liable to set back and set aside.
- C.** Section 16 of the Civil Servant Act, 1973 provides that every civil servant is liable for prescribed disciplinary action and penalty only through prescribed procedure. In the instant case no prescribed procedure has been adopted by the respondents, hence the action taken by them is illegal, coarm non judice and liable to be set aside.
- D.** That major penalty has been imposed without giving reason for disregarding appellant's defense constitute violation of Section 24A of the General Clauses Act, 1897, therefore, the impugned orders are not sustainable in the eyes of law and liable to be struck down.
- E.** That the Honourable Supreme Court of Pakistan has in thousand of cases has held that no major punishment could be imposed without regular inquiry, the subject impugned order based on slipshod inquiry therefore, no base in the light of the

decision of the Apex Court, thus liable to be set aside.

- F.** That so called slipshod inquiry has been conducted in the absence and at the back of the appellant. Appellant active participation during inquiry proceeding has been willfully and deliberately ignored. Inquiry proceedings are of judicial in nature in which participation of accused civil servant as per law condition sine qua non. On this ground the impugned orders are coarm non judice and liable to be set back.
- G.** That the well-known principle of law “ Audi altram Partem” has been violated. This principle of law was always deemed to have embedded in every statute even though there was no express specific or express provision in this regard.An adverse order passed against a person without affording him an opportunity of personal hearing was to be treated as void order. Reliance is placed on 2006 PLC(CS) 1140. As no proper personal hearing has been afforded to the appellant before the issuing of the impugned order, therefore, on this ground as well the impugned order is liable to be set aside.
- H.** That no inquiry report has been provided nor final show cause notice. Failure to supply copy of inquiry report to a civil servant proceeded against would be sufficient circumstances to hold that either no inquiry was held at all or if inquiry was held, the inquiry report was held as a secret document. Delivery of copy of inquiry report to civil servant proceeded against being a mandatory requirement; disciplinary action taken against a civil servant would not be sustainable in the eyes of law. Reliance is placed on the reported judgment 2010 TD (Service)19.

- I. That departmental appeal of the appellant has not been disposed of with the meaning and spirit of Rule 5 of the Khyber Pakhtunkhwa Appeal Rules, 1986.
- J. That appellant has been willfully deprived and restrained from the performance of his lawful duty due to illegal order of compulsory retirement and has been remained jobless during the entire course of the intervening period i.e from the order of respondent No.3 till partial re-instatement, there fore entitled to be re instated with all back benefits.

For the aforesaid reasons, it is therefore, humbly prayed that the appeal may kindly be allowed as prayed for above.

Any other relief not specifically asked for, but deem fit in the cercomstance of the case may also be graciously be granted.

Through

D. Hattak
Appellant

Ashraf Ali Khattak
Ashraf Ali Khattak

Dated:15-05-2015

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PSHAWAR.

Service Appeal No. /2015

Pir Hamid Ullah Shah Head Constable No.568 Police Force, Bannu
.....Appellant.

Versus

The Provincial Police Officer Govt: Khyber Pakhtunkhwa, Peshawar.
and others.....Respondents.

Affidavit

I, Pir Hamid Ullah Shah Head Constable No.568 Police Force, Bannu , do hereby solemnly affirm and declare on oath that the contents of this Service Appeal are true and correct to the best of my knowledge, and nothing has been concealed from this Hon'ble Tribunal.



Pir Hamid
Deponent

Handwritten notes:
17. SP No. 1143
11/12/2002

ORDER.

The name of constable Hamidullah Shah No.892 is **brought** on promotion list C-II with immediate effect in recognition of his good performance in case FIR No.86/99 u/s 302/324/148/149/PFC PS, Basia Khel.

OB: NO. 1143

DT: 31-12-2002

Handwritten signature

Superintendent of Police,
Bannu.

Attested
Signature
True Copy

9

3-15/06

F

POLICE DEPTT.:

BANNU REGION.

O R D E R.

Awarded C.C Class-II with cash reward Rs.200/- (two hundred) to Head Constable Hamidullah Shah No. 392 for arresting P.O Niazatullah S/O Dilawar R/O Kala Khel Masti Khan wanted in Case F.I.R No. 164, dated 20.04.2005 U/S 302 PPC police Station Saddar Bannu.

[Signature]

(ABID ALI)
QPM, (Bar), PPM, PSP,
DY: Inspector General of Police,
Bannu Region, Bannu.

No. 5016 /854 Dated Bannu, the 30-10-2006.

Copy to Distt: Police Officer, Bannu for information and necessary action. The amount of reward Rs.200/- may be paid out of the funds placed at your disposal under the relevant head.

(ABID ALI)

QPM, (Bar), PPM, PSP,
DY: Inspector General of Police,
Bannu Region, Bannu.

[Handwritten signature]
1/11/06

Attested
[Signature]
True Copy

10

Handwritten signature and initials: *Handwritten signature* D.I.R. 73

POLICE DEPT:

BANNU REGION.

ORDER.

L.H.C. Mansedullah No. 892 of
Operation Staff, Bannu is hereby given shoulder promotion
as ASI/PC in recognition of his out-standing/good performance
for arresting P.O. Naimatullah s/o Dilawar Khan r/o Kala-Khel
Masti Khan in case FIR No. 164 dated 20.4.2005 U/S 302 PPC,
Police Station Saddar, Bannu.

(AMIR HANZA MAHSUD)
P.S.P.

Dy: Inspector General of Police,
Bannu Region, Bannu.

No. 50/6

/BC Dt: Bannu, the

05/09/07.

Copy to the Distt: Police Officer,
Bannu for information and necessary action.

(AMIR HANZA MAHSUD)
P.S.P.

Dy: Inspector General of Police,
Bannu Region, Bannu.

3078907

Attested

True Copy



Handwritten text, possibly a name or title.

1997 211

DEPUTY POLICE OFFICER IN CHARGE POLICE STATION RANGE

To Head Constable Muhammad Shah No. 892

From

Police Station

via your performance regarding single handed
arrest of P.O. Musatullah son of Dilawan wanted
in case FIR No. 169 dated 20.4.2005 u/s 302 IPC,
police station Sadaq Range.

Date: 30/10/2005

Signature
SADIK ALI
DEPUTY POLICE OFFICER IN CHARGE
POLICE STATION RANGE

Attested
To
Copy

12

2173

Anx: B

POLICE DEPTT:

BANNU REGION

ORDER

Constable Hameedullah Shah No. 892 appeared in person before the undersigned and also submitted an application duly signed by four witnesses of the DIG office, Bannu and claimed that he was given shoulder promotion as ASI by Mr. Abid Ali Shaheed the then DIG Bannu but written order is not available in this regard. However, he had produced four witnesses to the under signed. As a token of recognition of good performance regarding the arrest of PO Naimat Ullah s/o Dilawar Khan r/o of Kala Khel Masti Khan wanted in case FIR No. 164 dated. 20.4.2005 U/S 302/PPC, Police Station Saddar Bannu, Mr. Abid Ali Shaheed the then DIG, Bannu had given shoulder promotion as a ASI to the aforesaid constable.

As a regard to the then Shaheed Mr. Abid Ali DIG, Bannu and also keeping in view the good performance of Constable Hameedullah Shah No. 892, he is given shoulder promotion as a Head Constable.

(AMIR HAMZA MAHSUD)

PSP

Deputy Inspector General of Police
Bannu Region Bannu

No. 2784 /EC dated. Bannu the. 25/11 1207

Copy of above is submitted to District Police Officer Bannu for information and necessary action.

No 7655-56/11 3/12/07
O/ASI/SRC/PO
for information

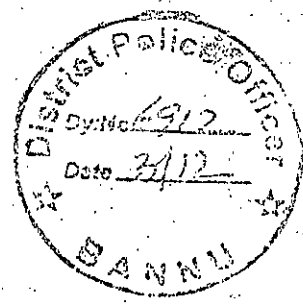
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3/12

(AMIR HAMZA MAHSUD)

PSP

Deputy Inspector General of Police
Bannu Region Bannu

Attested
Jal. - pd
True copy



Annexure - C

CHARGE SHEET

1. MUHAMMAD IQBAL District Police Officer, Transport and Competition authority, hereby charge you HC Pir Lajidullah Shah No.392, MC Ganga RC Hospital, Brage as you have been charged by the Regional Police Officer, Baramulla on the basis of your tainted reputation and an alleged involvement in the transportation of one and two paid vehicles, you are hereby advised the norms of a disciplined service, morality and impartialness which are badly required for the police force.

2. By reason of the above you appear to be guilty of misfeasance under the police rules amended vide NV/TP g. no. 10, (2) January 19.57 and have rendered yourself liable to all or any of the penalties specified in the said rule.

3. You are therefore, directed to submit your defence within 07 days of the receipt of this Charge Sheet to the enc. by office.

4. Your written defense, if any, should reach the Enc. by Office within the specified period, failing which, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

5. You are directed to intimate whether you desire to be heard in person.

6. A statement of allegations is enclosed.

MUHAMMAD IQBAL
District Police Officer
Baramulla

Attested
True Copy

CHARGE SHEET

I, MUHAMMAD IQBAL Police Officer as
competent authority, hereby charge you MC Hamidullah
Shah No.892 Gora KC Hospital, whereas you have been
by the Regional on the basis you trained reputation
and your alleged involvement in the investigation of the
of the said vehicle service moral by and impart
taintness vehicle badly injured for the

2- My reason of the above you appear to be duty

He point policy being prescribed vide NWFP January 1981
or if any of the penalties specified in the said rule-

3- You are therefore directed to submit your
certificate of this charge sheet to the capacity etc:

4- Your written reference of the if any should read:

failing which it shall be presumed that you put in and in this
case an ex-parte action shall be taken against you.

5- You are directed to intimate whether you desire
to be award in person.

6- A statements of allegation is closed.

Attested
M-13
Better Copy

Attested

(B)

STATEMENT OF ALLEGATIONS:

1. Muhammad Iqbal, District Police Officer, Bannu has competent authority, and of the opinion that HC Pir Hamidullah Shah No.892 I/C Guani KGN Hospital, Bannu has rendered himself liable to be proceeded against as he has committed the following misconduct within the meaning of Police Rules framed vide NWFP gazette-27th January 1976:

STATEMENT OF ALLEGATIONS:

1. He has been suspended by the Regional Police Officer, Bannu on the basis of his bad reputation and his alleged involvement in the transport of custom paid vehicles. His activities are against the norms of a disciplined police morality and impartiality which are badly required by the police force.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations Mr. Liaqat Shah, DSP Naurang, District Lakki Marwat, is appointed as Enquiry Officer.

3. The Enquiry Officer shall provide reasonable opportunity of defence to the accused, record statements etc and findings within (25 days) after the date of this order.

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

(MUHAMMAD IQBAL)
District Police Officer,
Bannu.

No. 668-74/RC dt- 05-12-73

Copies to (1) HC Pir Hamidullah Shah No.892 I/C Guani KGN Hospital, Bannu (2) Mr. Liaqat Shah, DSP Naurang, District Lakki Marwat (3) SRC Bannu.

Attested
True Copy

(MUHAMMAD IQBAL)
District Police Officer,
Bannu.

STATEMENT OF ALLEGATIONS

I, Muhammad Iqbal District Police Officer ~~Bara-Hyber-Agency~~ competent authority am of the opinion that as per Hamidullah Shah No.597 Hospital, Bannu has rendered himself liable to be proceeded against as the committed the following misconduct within the meaning of Police rules vide WFP gazete 27th January, 1976

STATEMENT OF ALLEGATIONS

Office of on the basis of prescribed reputation and and alleged involvement custom paid vehicles. His activities are against the norms of a morabry and importiatness which are bedly required by the police

- 2- For the purpose of screinizng the conduct of the and reference to the above allegation Mr. Liaqat Shah DSP Lukky District Marwat, is appointed as Enquiry Officer
- 3- The Enquiry Officer shall provide reasonable apportunity the accused record statements etc and findings within (25 days this order.
- 4- The accused shall join the proceedings as the Exed by Enquiry Officer.

(MUHAMMAD IQBAL)
DISTRICT POLICE OFFICER

No. 668/ dt. 06 - 013

Copy to HC PS Hamidullah Shah No. 592 I/C Guard
KGN Hospital Bannu (2) Liaqat Shah DSP Naurang District
Lukky Marwat.

ARRESTED
M-13
True Copy

(15)

Amendment "D"

To,

The District Police Officer,
Banna.

Subject: REPLY TO THE CHARGE SHEET BASED UPON
STATEMENT OF ALLEGATION.

Respected Sir,

With reference to your good self-number 668-70/SRC dated 06/12/13, the petitioner prayed as under:-

1. The petitioner recruited in police deptt. as constable on 26/12/1996 and after undergoing basic training in the training institution, reported back in the District for performance of duty. The petitioner has been assigned the duties in various police stations which was discharge efficiently.
2. That the petitioner was posted on various establishment in police deptt. and performed the duty with great zeal and zest and this is why that the officers under whom command, I have performed the duty has made no complaint what so ever against the petitioner and was happy for the performance of duty.
3. That throughout my service since 1996, the petitioner has not done any such thing/action which is against the spirit of police rules as well as disciplinary force. The service record of the petitioner is so much clear that during the entire period of service, no complaint has been received from the public to the officers and this is why that no departmental action has been initiated against the petitioner from any corner on the basis of Anti-Social activities.

Attested
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To

The District Police Officer
Bannu.

Subject: REPLY TO THE CHARGE SHEET PASSED FROM
STATEMENT OF ALLEGATION

Respected Sir,

With reference to your good self-number 668-70/
SRC dated 06/12/2013, the petitioner prayed as under :-

- 1- The petitioner recruited in police deptt: as constable on 26/12/1996 and after undergoing basic training in the training institution reported back in the District for performing of duty. The petitioner has been assigned the duties in various police stations which was discharged efficiency.
- 2- That the petitioner was posted on various establishment and performed the duty with great zeal and zest and this is why that the officer under whom sommand, I have performed the duty has made no complaint what so ever against the petitioner and was happy for the performance of duty.
- 3- That throughout my service since 1996, the petitioner has not done any such thing/action which is against the spirit of police rules as well as disciplinary force. The service record of the petitioner is so much clear that during the entire period of service, no complaint has been received from the public, to the officers and this is why that no department action has been initiated against the petitioner from any corner on the basis of Anti-Soci al activities.

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4. That the petitioner has performed front line duty in the raid proceeding of police. The petitioner has also performed the duty on so many sensitive places and the services of the petitioner in the performance of duty in such sensitive places has been recognized by the officers with good name. During the arrest of very wanted PO by the petitioner, the petitioner was recommended for the promotion of C-II and accordingly the C-II award was placed upon the petitioner. C-II promotion is given to the official when has got extra ordinary performance in the police Deptt. Furthermore on the arrest of another very wanted PO in the new vegetable market Bannu, the petitioner was promoted to the rank of honorary ASI.

5. The allegation leveled in the subject Charge Sheet is not based upon facts because the petitioner has not been counseled by the authority in light of the contents of the above allegations. According to service laws whenever no proof is available against any officer/official on the subject of corruption or any other anti-social activities then the official/officer is directed by the authority for reformation or removing the shon coming or the same is communicated to the officer/official in shape of adverse remarks in the ACR but in my case no such adverse remarks has been communicated to me in shape of ACR or advice, which suggest that the allegations mention in the above letter is not substantiated by cogent evidence.

6. Sir, the petitioner has never been indulged in any such activities beneficial to the person of petitioner except the performance of good duty wide which I am receiving monthly salary from police Deptt. The allegations in the above charge sheet is quite based upon hearsay evidence which has got no footing in the service laws, furthermore I do not know that under what source, the same has been communicated to your good self by worthy RHO Bannu because till date I have not even warned by the authority on any score of mis-conduct.

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4- That the petitioner has performed from the duty in the said proceeding of police. The petitioner has also performed the duty and so thing sensitive places and the services of the petitioner in the performance of duty in such sensitive places has been recognized by the officer with good name. During the arrest of very wanted PO by the petitioner the petitioner was recommended for the promotion of Call and accordingly Call award was placed upon the petitioners, and promotion is given to the official when has got extra ordinary performance in the police Deptt: Furthermore on the arrest of another very wanted PO in the new vegetable market Bannu, the petitioner was promoted to the rank of honorary ASI.

5- The allegation leveled in the subject Charge Sheet is not based upon facts because the petitioner has not been counseled by the authority by light of the contents of the above allegations. According to service laws whenever no proof is available against any officer/official on the subject of corruption or any other anti-social activities then the official/officer is directed by the authority for reformation or removing the short coming or the same is communicated to the officer/official in the shape of adverse remarks in the ACR but in my case no such adverse remarks has been communicate to me in shape of ACR or advice which suggest that the allegations mention in the above letter is not su startrated by cogent evidence.

6- Sir the petitioner has never indulged in any such activities beneficial to the person of petitioner except the performance of good duty vide which I am receiving monthly salary from police Deptt: The allegations in the above charge sheet is quite based upon herrasy evidence which has got no rooting in the service laws, furthermore I do not know that under what source, the same has been communicated to your good self by worthy REO Bannu because till date I have not even warned by the authority on any score of mis-conduct.

~~Attested~~
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7. According to the dicta of Supreme court of Pakistan as well as service tribunal and the constitution of Islamic republic of Pakistan 1973 no official/officer should be condemned without solid reasons / proof of any allegation and in the case of any allegation against the spirit of police rules/service laws, the official/officer will be suspended when there is some clue leading towards the allegations but in the case of petitioner no complaint what so ever has been made against the petitioner nor any kind of tinted allegation has been refereed in the charge sheet. The general allegations without proof is nothing but amounts the harassment of the official.

8. The petitioner is the only bread earner of the family and such like defamation will certainly discourage myself as well as other police officials in performance of duty specially in the situation facing by the police in now a days.

9. That the allegations in the charge sheet are not governed by any cogent/solid proof and no official/officer can be entangle with such like allegations without substantive proof.

10. That the allegations of transportation of non-custom paid vehicle is not governed by any solid proof and according to law no one can be condemned for any allegation not substantiated by any cogent reasons or proof. Atrial allegations against any officer/officials is against The Constitution of Islamic Republic of Pakistan, 1973 as well as other laws of the land.

In light of the above facts and circumstances, it is requested that the allegations mentioned in the charge sheet is Atrial in nature and the charge sheet may kindly be filed without further action.

Yours Obediently

Attested

Copy

PIR Hamid Ullah
 HC No. 392
 Police Line Bannu.

- 7- According to the dicta of Supreme court of Pakistan as well as service tribunal and the constitution of Islamic Republic of Pakistan, 1973 for official/officer should be condemned without solid reasons / proof of any allegation and in the case of any allegation against the splues of police rules/service laws, the official/officer will be suspended when there is some clue leading towards the allegation out in the case of petitioner no complaint what so ever has been made against the petitioner nor any kind of tinted allegation has been referred in the charge sheet. The general allegations without proof is nothing but amounts the harassment of the official.
- 8- The petitioner is the only bread carner of the family and such defirmation will certainly discourage myself as other police officials in performance of duty specially in the situation facing by the police in now a days.
- 9- That the allegations in the charge sheet are not governed by the cogent/solid proof and no official/officer can be entangle with such like allegations without sbbsentive proof.
- 10- That the allegation of transportation of non-custom paid vehicle is not governed by any solid proof and according to law so one can be condemned for any allegation not substantiated by any cogent reasons of proof. Arial allegation not substantiated by any cogent reason or proof. Arial allegations against any officer/officials is against The Constitution of Islamic Republic of Pakistan 1973 as well as other leaws of the land.

In light of the above facts and circumstances, it is requested that the allegations mentioned in the charge sheet is Arial in nature and the charge sheet may kindly be filled wktout further action.

Yours O bediently

Attested
True Copy

PIR HAMID ULLAH
HC 892
Police Line Bannu.

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ٹائٹلنگ حکیمانہ انکوائری

برخلاف: ہیڈ کانسٹیبل شہر محمد اللہ سہاں نمبر 892 ضلع بنوں

جناب عالی

معروضی جوں کہ H.C. سپر محمد اللہ سہاں نمبر 892 کے خلاف الزام حکیم مذکورہ سماج دشمن عناصر کے ساتھ ڈال پڑا دیکھ کر پولیس فورس کو بدنام کرنے کا جائزہ نہ تو خودی کرتا ہے۔ حکام داغدار کر دیا اور پولیس فورس میں کیلئے بدنامی اور خلاف ڈسپلن پایا گیا ہے۔

اسکی ایس داغدار کر دیا اور کمی رام سے جناب DPo ماہ یوں نے جاری کیا۔ سہری آف ایگیشن نمبری 668-70/CR 12/06 جاری کرنا، مذکورہ سپر محمد اللہ سہاں کے خلاف حکیمانہ انکوائری کرنے میں DPo ٹورنگ کو انکوائری آفسر مقرر کرنے اور ٹائٹلنگ (25) دن کے اندر مرتب کرنے کے احکامات صادر کئے۔

دوران انکوائری الزام علیہ H.C. سپر محمد اللہ سہاں نمبر 892 نے اپنا چارج شیڈ سہری آف ایگیشن وصول کر کے اپنا تحریری تفصیلی بیان ہزارہ میں کیا جس نے اسے بیان میں بدظاہری طور پر شہید اس وار گائے گئے الزامات کی تردید کر کے عائد شدہ الزامات کو غلط بن گھڑتے قرار دیکر خود کو بے گناہ اور بے قصور قرار دیا ہے۔

دوران انکوائری شہر محمد اللہ سہاں CR اور گیل سپر OASI گویاں طلبیہ صفر 7 کے حکمے بیانات موجودگی الزام علیہ قلمبند کر کے الزام علیہ کو گویاں پر صبر کرتے مایودا اور موقع فراہم کیا گیا۔

OASI کے دوران بیان سہرا با کہ مذکورہ دفعہ 12/6 کو بلور کانسٹیبل ایف ایچ آر ایڈریٹ کو ریس پاس کرنے کے بعد نئے پیمانے میں DAR پولیس میں

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میں تصنیفات رہا۔ جبکہ کئی مختلف ادوات میں مختلف سسٹمز یا لیفر
نمائندہ بیہ خیل، گنر ایم اے، اردلی ایم اے، نمانہ فنڈرائس
نمانہ کنٹریٹ، سرور پولیس لائن، نمانہ میٹرن، نمانہ کلیم، نمانہ غورلوا
اردو پولیس لائن میں تصنیفات رہ چکا ہے۔ اور مذکورہ تین بار
مبطل لائن جو چھوٹا ہے۔

RC رپورٹ کے مطابق الزام علیہ بائچ دفعہ سزا باج ہو چکا ہے
سبکی سزا بیاں ایک بارڈ RC پر موجود ہیں۔ جہلم ایک بارڈ
ڈاکوٹری لہو سے انٹری نہ پائی گئی۔

اسی طرح دوران انکو انٹری پوری حلقہ راستہ علی خان کما رپورٹ کے
مطابق تقریباً ساڑھے بارہ لاکھ مائیک ہے۔ جبکہ موضع تتر خیل
میں زرعی جائیداد کا مائیک ہے۔

اس طرح خیریت بنوں میں مذکورہ الزام علیہ بنوں ایسٹیک بہرا
بلگ گھٹ بنوں میں اکاؤنٹ نمبر 3812006 0103000000 کا اکاؤنٹ
ہولڈر ہے۔ جس کے نمبر 472.36 ہے جو رقم 17¹²/₀₁₃ تک بریکس ہے۔

مذکورہ ڈیپازٹس کے بارے میں ایک دفعہ سے رالپور کے
ضلعی عدالت کی گئی۔ تو معلوم ہوا کہ مذکورہ الزام علیہ ڈیپازٹس
یعنی کسٹم چور NCP اور سرفہ سترہ گارڈیوں کا لین دین اور کاروبار
کرنے میں کامیاب بنا ہے۔ اس کے علاوہ ایک دفعہ کسٹم چور کے بارے میں
پانچوں پڑاں۔ مذکورہ سترہ استعمال کر کے گرفت سے فرار ہو گیا
مذکورہ الزام علیہ کی رپورٹ میں کردار داغدار اور بننا ہے۔

کیس انکو انٹری سے گنہگار، قصور دار ٹیپ رہا جاتا ہے۔

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کجا باغی داغلا ہے جس سے متقبل میں بہتر ہو گیا

نہی کی تو تم نہیں

کسبزا کاغذات انکواری اجم جانان قلمبر تہہ دالین اسال قزوت

MAR 2014

میں مذکورہ پیر قلمبر تہہ ہاہ Hc طر 892 کو پیکر سزا

دینے کا سفاک کبجانی ہے

[Handwritten signature]

سرکاتت جاہ ڈوی ایلین کی کورنگ
ڈیپوٹر یا آفسر

20/12/2013

Attested
True Copy

Anx: F (21)

(13)



OFFICE OF THE
DISTRICT POLICE OFFICER,

BANNU.

Phone No: 0928-9270 038

Fax No: 0928-9270045

No. 1648 /EC

Dated 31.12.2013

To: Constable Hameedullah Shah No.892 of District Bannu Police.

ORDER

1. You, Constable Hameer-ullah Shah No.892 were charged for the misconduct communicated to you during departmental proceedings, the gist of which is that you had a tainted reputation and remained involved in the transportation of non custom paid vehicles. Accordingly proper departmental enquiry was conducted to find out facts.
2. Mr. Ilaqat Shah DSP Naurang District Lakkir was appointed as Enquiry Officer who has submitted his findings wherein the charges leveled against you have been proved.
3. You were called in the orderly room on 30.12.2013 and were heard in person. You had nothing substantial in your defense. I, Mohammad Iqbal, DPO Bannu, as competent authority under Police Rules (amended vide NWFP gazette, 27 January 1976) have come to the conclusion that charges leveled against you are proved beyond any doubt and that your retention in police service would be harmful for the force. I have, therefore, decided to impose major penalty upon you by retiring you compulsorily from service. This order will take effect immediately.

District Police Officer,
Bannu.

Attested
True Copy

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To,

The Regional Police Officer / D.I.G

Bannu Division, Bannu.

SUBJECT: DEPARTMENTAL APPEAL / REPRESENTATION AGAINST OFFICE ORDER BEARING NO. 1448/EC DATED 13/12/2013 ISSUED BY DISTRICT POLICE OFFICER BANNU VIDE WHICH MAJOR PENALTY OF COMPULSORILY RETIREMENT WAS IMPOSED UPON THE APPELLANT (UNDER POLICE RULES AMENDED VIDE N.W.F.P GAZETTE, 27 JANUARY 1976).

PRAYER: ON ACCEPTANCE OF INSTANT APPEAL / REPRESENTATION THE IMPUGNED ORDER DATED 31/12/2013 MAY VERY KINDLY BE SET-ASIDE BY RE-INSTATING THE APPELLANT IN SERVICE WITH ALL BACK BENEFITS AND TO ALLOW THE APPELLANT TO JOIN / CONTINUE HIS DUTY AS CONSTABLE.

Respected Sir,

The Appellant most submits as under:-

- 1) That the appellant was recruited in police department as constable on 26/12/1996, who after getting basic training, started his duty at district Bannu.
- 2) That during the course of duty, the Appellant was assigned different tasks who performed the same with great zeal and zeast, in reward of which the Appellant was promoted as C-II and then to the rank of honorary ASI.

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3) That while posted as I/C Guard KGN Hospital Bannu, the Appellant was suspended, charge sheet was issued to the Appellant for the so-called allegations and enquiry officer was deputed for conducting enquiry.

(Copy of charge sheet & suspension order is attached herewith as Annexure-"A")

4) That the Appellant submitted written reply to the concerned enquiry officer, verbally given complete details in respect of service career and completely denied from the so-called allegations.

(Copy of written reply is attached herewith as Annexure-"B")

5) That the learned enquiry officer submitted his final report / enquiry report to the Honourable D.P.O Bannu on 20/12/2013, wherein spy information's were based ground for imposing major penalty upon the Appellant.

(Copy of final (enquiry) report is attached as Annexure-C)

6) That the Honourable D.P.O Bannu issued the impugned order dated 13/12/2013, wherein major penalty of compulsory retirement was imposed upon the Appellant. (copy is attached as Annex. D)

7) That having no other efficacious remedy, the Appellant now knocks at the doors of this Honourable forum/chair, inter-alia, on the following grounds;

GROUND:-

A) That the Appellant was assigned different tasks during service career wherein, he performed his duty with great zeal and zest and no complaint whatsoever has been made by the general public against the Appellant in the whole career.

3) That during the whole career, the Appellant has never been involved in any such activity which is against the spirit of police

Attested

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- rules as well as disciplinary force, which is evident from the record of the Appellant.
- C) That the Appellant was initially recruited as constable in the police department, and due to his best performance promotions were sanctioned in his favour to C-II and then to honorary A/I respectively.
- D) That according to the available record only Rs. 472.36 as cash amount was found present in the Appellant's Bank account i.e. A/C No. 0103000003812006 Khyber Bank Bannu and except 12 marlas ancestral property no agricultural or builded property is registered in the name of Appellant nor any proof of Benami property was found in the name of Appellant, then how the learned enquiry officer as well as the Honourable D.P.O Bannu based the so called Atrial allegations for imposing major penalty upon the Appellant
- E)-That the alleged corrupt practices of NCP vehicles are based on surmises and conjectures because no FIR in respect of alleged allegations has been registered in any police station, of district Bannu.
- F) That the Appellant is law abiding citizen as well as police officer and cannot even think to commit such like activities; furthermore, the Appellant has brilliant service record and always participate in front line duty in the raid proceedings of police as well as on so many sensitive places and so many PO's have been arrested by the Appellant.
- G) That general allegations are leveled against the Appellant and no specific charge has been made by any specific complainant, furthermore, no solid and cogent evidence is available against the Appellant, and no chance of cross examination has been given to the Appellant.

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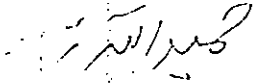
- H) That the learned enquiry officer has based his findings on the Anul information of spy resources and intelligence agencies which have no evidentiary value in the eyes of law.
- I) That the Appellant is the only and solely source of income for his younger kids having no property or business resources, therefore, the Appellant is also entitled for re-instatement on this score alone.

It is, therefore, most humbly prayed that on acceptance of instant departmental Representation/Appeal, the impugned order dated 13/12/2013 may very kindly be set aside by re-instating the Appellant in service as constable with all back benefits and to allow the Appellant to join/continue his duty as constable.

Note: The Appellant may kindly be heard in person or through pleader.

Appellant

Dated: /01/2014



Hameed Ullah Shah

Constable No. 892

District Police Bannu.

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True Copy

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BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR



APPEAL NO. 411 / 2014

Pir Hameed Ullah Shah, Ex- HC NO.892
District Police Bannu.

W. P. Prasad
447
24-3-14

VERSUS

(Appellant)

- 1. The Provincial Police Officer, KPK Peshawar.
- 2. The Regional Police Officer, Bannu Region, Bannu.
- 3. The District Police Officer, Bannu.

(Respondents)

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 31.12.2013 WHEREBY, THE APPELLANT HAS BEEN COMPULSORILY RETIRED FROM THE SERVICE AND AGAINST THE ORDER DATED 10.3.2014 WHEREBY, THE DEPARMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS.

26.02.2015

Appellant with counsel present. Application for withdrawal of the appeal submitted and on the basis of the said, appeal of the appellant fixed for 1.4.2015 requisitioned.

In the light of application and submission of the learned counsel for the appellant, the appeal is dismissed as withdrawn. File be consigned to the record.

Sd/-
Chairman

ANNOUNCED
26.02.2015.

Certified true copy
Khy. Pakhtunkhwa
Service Tribunal,
Peshawar

Date of the decision 27-2-2015

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Attested
True Copy

Date 27-2-2015
27-2-2015



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Anx: "I"

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OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE, PESHAWAR

ORDER

This order is hereby passed to dispose off departmental appeal under Rule 11-a of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-Constable Pir Hameedullah No. 892 of District Police Bannu against the Punishment order i.e compulsory retirement passed against the appellant by DPO/Bannu vide his order Book No. 1448 dated 31.12.2013

In the light of recommendations of Appeal Board meeting held on 05.03.2015, the board examined the enquiry in detail & other relevant documents. It revealed that the appellant was served with Charge Sheet/Statement of Allegations and punishment order was announced on the basis of reply to the Charge Sheet and Statement of Allegations.

The appellant was heard in person and record perused. His punishment of compulsory retirement is converted into stoppage of 02 annual increments without accumulative effect. The period he remained out of service is treated as leave without pay. However, the period i.e. from 08.01.2015 during pendency of appeal is treated as kind leave.

Order announced in the presence of appellant.

Sd/-

NASIR KHAN DURRANI
Inspector General of Police,
Khyber Pakhtunkhwa
Peshawar.

No. 4872-76 /E-IV dated Peshawar the 17/11 /2015

Copy of above is forwarded to the:-

1. Deputy Inspector General of Police, Bannu Region. The service Roll, Fauji Missal and Enquiry File of the above named official are returned herewith.
2. District Police Officer, Bannu.
3. PSO to IGP/Khyber Pakhtunkhwa Peshawar.
4. PA to Addl: IGP/HQrs Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs Khyber Pakhtunkhwa, Peshawar.

Attested
True Copy

(SYED FIDA HASSAN SHAH)
AIG/Establishment

For Inspector General of Police,
Khyber Pakhtunkhwa Peshawar.

ORDER

Consequent upon his Reinstatement into service vide Provincial Police Officer Khyber Pakhtunkhwa, Peshawar Order Endst: No. 4872-76/E-IV dated 17.04.2015 and RPO order Endst: No. 971/EC dated 22.04.2015. Ex-C-II Head Constable Pir Hamid Ullah Shah No. 892 is hereby allotted new Constabulary number 568 with immediate effect. His punishment of compulsory retirement is converted into stoppage of 02 annual increments without accumulative effect. The period he remained out of service is treated as leave without pay. However, the period i.e. 08.01.2015 during pendency of appeal be treated as kind leave.

OB No: 418
Dated: 27/04/2015.

Anaheed
District Police Officer,
Bannu.

No. 6471-75 Dated Bannu, the 29/4 /2015.

Copy to the: -

- 1. DSP/HQrs Bannu.
- 2. Pay Officer.
- 3. SRC
- 4. RI/LO

For necessary action.

Attested
[Signature]
True Copy

بعدالت جناب سرورس ڈیویونل سٹاؤر



2015ء جناب سائل

پیر محمد اللہ شاہ بنام ۲۲۵

موزخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی وجواب دہی وکل کاروائی متعلقہ آن مقام سپٹ اور کیلئے اشرف علی خٹکے اللہ وکٹ مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور صولی چیک دروپیدار عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائد التوائے مقدمہ کے سبب سے دہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا ادکالت نامہ لکھدیا کہ سندر ہے۔

المرقوم _____ ماہ _____ 2015

العاب _____ گواہ العاب

کے لئے منظور ہے۔

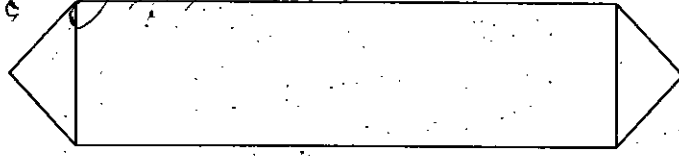
بمقام

Attested
True Copy

Attested & Accepted
MIL

پیر محمد اللہ شاہ
Raj

بعدالت مسروس ٹریڈنگ پشاور



2015ء منجانب مسروس

میر محمد شمس الدین بنام ۱۲۶۵

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکے

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

میر محمد شمس الدین

2015

ماہ نومبر

المرقوم 26

العبد العبد العبد

کے لئے منظور ہے۔

مقام

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUN KHWA PESHAWAR

Appeal No. 616/2015

Pir Hameed Ullah Shah, HC, No.568, District Police, Bannu.

(Appellant)

VERSUS

- 1) The Provincial Police Officer Khyber Pakhtunkhwa Peshawar.
- 2) The Regional Police Officer, Bannu Region, Bannu.
- 3) The District Police Officer, Bannu. (Respondents)

REPLY BY RESPONDENT NO.1,2 & 3

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:

- 1) That the appeal is not maintainable in its present form.
- 2) That the appellant has concealed the material facts from the Honorable Tribunal.
- 3) That the appeal of appellant is time barred.
- 4) That the appeal is not maintainable as the appellant has no cause of action.
- 5) That the appellant has no locus standi to file the appeal.
- 6) That the appellant has been estopped by his own conduct to file the appeal.
- 7) That the appeal of appellant is bad in law due to misjoinder and nonjoinder of necessary party.
- 8) That the appellant has not moved departmental appeal under the law/rules.
- 9) That the appeal is hit by R.23 of Service Tribunal Appeal Rules.

OBJECTIONS ON FACTS:

- 1) Incorrect. The appellant has been awarded punishment on six occasions and one good entry was available in his service record. (copy enclosed as annexure "A")
- 2) In wake of initiatives of Khyber Pakhtunkhwa government regarding checking and verification of record of tainted reputation and corrupt officer/official through intelligence sources, the appellant, and others were found involved in such bad practice. A proper inquiry followed by charge-sheet/statement of allegation was initiated in accordance with law/rules.
- 3) Incorrect. Final show-cause notice is not mandatory under the Khyber Pakhtunkhwa Police Rules 1975. all the legal formalities were observed during the course of inquiry.
- 4) Incorrect. After completion of regular inquiry and hearing the appellant in orderly room, a legal order based on justice and facts was passed.
- 5) Pertains to record.
- 6) Pertains to record. During pendency of departmental appeal under rule 11A of Khyber Pakhtunkhwa Police Rules 1975 before appeal board, the appellant has withdrawn service appeal No.411/2014 from the KPK Service Tribunal on his own consent.
- 7) incorrect. The appeal Board after examining the departmental appeal, inquiry file in detail with other documents and hearing of appellant in person, his punishment of compulsory retirement was converted into stoppage of two annual increments without accumulative effect and the period remained out of service was treated as leave without pay while period during pendency of appeal was treated as kind leave. Photo copy enclosed as annexure "B". Appellant with his own sweet will withdraw the appeal, now he cannot challenge the impugned order in a fresh appeal hence hit by Rule 23 of Service Tribunal Appeal Rules. Copy of withdrawal already annexed with appeal.


- 8) Incorrect. The appellant has wrongly challenged the legal order of the appellant through unsound reasons.


OBJECTIONS ON GROUNDS.

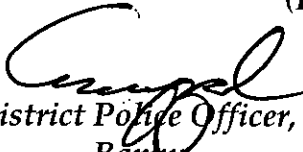
- (A) Incorrect. The appellant was treated in accordance with law, rules and never acted in violation article 4 of the constitution of Pakistan, 1973. A regular inquiry through independent Enquiry Officer (Syed Liaqat Shah DSP Naurang District Lakki Marwat) wherein all the opportunities of defense were provided to the appellant.
- (B) Incorrect. The order of the respondents are based on facts/justice and in accordance with law. During the inquiry the charges have been proved against the appellant and he was found guilty.
- (C) Incorrect. Proper departmental inquiry under Khyber Pakhtunkhwa Police Rules 1975 has been carried out against the appellant which is legal and justified under the law.
- (D) Incorrect. The major punishment of respondent No.3 has been converted into minor punishment i.e stoppage of two annual increments, which sustainable in the eye of law.
- (E) Incorrect. The facts and circumstances of the appellant case is different from the decision of Apex Court, as the appellant was punished on the basis of regular inquiry.
- (F) Incorrect. Regular inquiry was conducted, wherein all the opportunities of defense and hearing were provided to the appellant.
- (G) Incorrect. All the opportunities of defense and hearing were provided during the course of departmental probe.
- (H) Incorrect. All the public documents were provided to the appellant. Issuing of final show-cause notice is not mandatory under Khyber Pakhtunkhwa Police Rules 1975.
- (I) Incorrect. The departmental appeal of the appellant was rejected by the despondence No.2. there is no provision of second departmental appeal in the law. In fact the major punishment of compulsory retirement was converted into minor punishment by the respondent No.1 under Rules 11A Khyber Pakhtunkhwa Police Rules 1975, which is not appeal able.
- (J) Incorrect. Due to bed reputation and conducting of regular inquiry the appellant was awarded major punishment under the law and subsequently the same was converted into minor punishment which is justified under the law and may not be interfered by any forum further more.

Prayer:

In view of the above facts and circumstances, it is humbly prayed that appeal of appellant, being not maintainable, may kindly be dismissed with costs.


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar
(Respondent No.1)


Regional Police Officer
Bannu Region, Bannu
(Respondent No.2)


District Police Officer,
Bannu.
(Respondent No.3)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUN KHWA PESHAWAR

Appeal No. 616/2015

Pir Hameed Ullah Shah, HC, No.568, District Police, Bannu.

(Appellant)


VERSUS

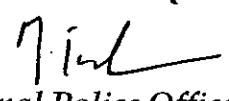
- 1) The Provincial Police Officer Khyber Pakhtunkhwa Peshawar.
- 2) The Regional Police Officer, Bannu Region, Bannu.
- 3) The District Police Officer, Bannu.


(Respondents)

COUNTER AFFIDAVIT

We the following respondents, do hereby solemnly affirm and declare that the contents of the attached para wise comments are true and correct to the best of our knowledge and belief and nothing has been withheld or concealed from this Honorable Tribunal.


Provincial Police Officer,,
Khyber Pakhtunkhwa, Peshawar
(Respondent No.1)


Regional Police Officer,
Bannu Region, Bannu
(Respondent No.2)


District Police Officer,
Bannu.
(Respondent No.3)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUN KHWA PESHAWAR

Appeal No. 616/2015

Pir Hameed Ullah Shah, HC, No.568, District Police, Bannu.

(Appellant)

VERSUS

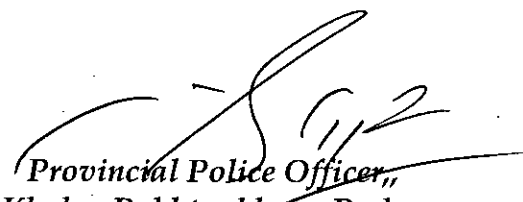
- 1) The Provincial Police Officer Khyber Pakhtunkhwa Peshawar.
- 2) The Regional Police Officer, Bannu Region, Bannu.
- 3) The District Police Officer, Bannu.


(Respondents)

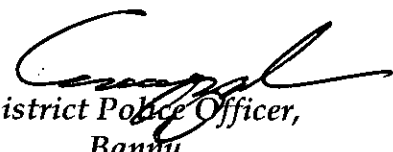
AUTHORITY LETTER.

Mr. Mir Faraz Khan Inspector Incharge legal cell Office of DPO Bannu, is hereby authorized to appear before the Khyber Pakhtunkhwa Service Tribunal, Peshawar on behalf of the undersigned in the above cited appeal.

He is also authorized to submit and sign all documents pertaining to the present appeal.


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar
(Respondent No.1)


Regional Police Officer,
Bannu Region, Bannu
(Respondent No.2)


District Police Officer,
Bannu.
(Respondent No.3)



(8)

Anx: B



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE, PESHAWAR

ORDER

This order is hereby passed to dispose off departmental appeal under Rule 11-a of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-Constable Pir Hameedullah No. 892 of District Police Bannu against the Punishment order i.e compulsory retirement passed against the appellant by DPO/Bannu vide his order Book No. 1448 dated 31.12.2013

In the light of recommendations of Appeal Board meeting held on 05.03.2015, the board examined the enquiry in detail & other relevant documents. It revealed that the appellant was served with Charge Sheet/Statement of Allegations and punishment order was announced on the basis of reply to the Charge Sheet and Statement of Allegations.

The appellant was heard in person and record perused. His punishment of compulsory retirement is converted into stoppage of 02 annual increments without accumulative effect. The period he remained out of service is treated as leave without pay. However, the period i.e. from 08.01.2015 during pendency of appeal is treated as kind leave.

Order announced in the presence of appellant.

Sd/-
NASIR KHAN DURRANI
Inspector General of Police,
Khyber Pakhtunkhwa
Peshawar.

No. 4872-76 /E-IV dated Peshawar the 17/4 2015

Copy of above is forwarded to the:-

1. Deputy Inspector General of Police, Bannu Region. The service Roll, Fauji Missal and Enquiry File of the above named official are returned herewith.
2. District Police Officer, Bannu.
3. PSO to IGP/Khyber Pakhtunkhwa Peshawar.
4. PA to Addl: IGP/HQrs Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs Khyber Pakhtunkhwa, Peshawar.


(SYED FIDA HASSAN SHAH)

AIG/Establishment
For Inspector General of Police,
Khyber Pakhtunkhwa Peshawar.

بعدالت

سروس ٹیبلٹ، پینادر

مورخہ

مقدمہ

دعویٰ

جرم

2 منجانب

بیتل حمید اللہ بنام

پولیس

باعث تحریر آنکے

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

آن مقام پینادر کیلئے عظمیٰ سید اینڈ فالوہ میں

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی

اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت

مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا محتفل کا نوٹی کو اپنے ہاں ایلائے بجائے

تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے

اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے

سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں

گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سندر ہے۔

المرقوم

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العبد

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کے لئے منظور ہے۔

مقام

BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR

Service Appeal No. 616/2015

Pir Hameed Ullah Shah.....**VERSUS**.....Police

REJOINDER ON BEHALF OF APPELLANT
IN RESPONSE TO THE REPLY SUBMITTED
BY THE RESPONDENTS.

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:-

1 to 9:

All the preliminary objections raised by the respondents are incorrect and baseless and not in accordance with law and rules rather the respondents are stopped due to their own conduct to raise any objection at this stage of the appeal.

ON FACTS:

1. Para 1 of the reply is incorrect while that or the appeal is correct.
2. That Para No.2 of the reply is incorrect. While that of the appeal is correct.
3. Para 3 of the reply is incorrect, while that of the appeal is correct.

4. Para No.4 of the reply is incorrect. While that of the appeal is correct.
5. Para No.5 of the appeal has already been admitted by the respondents, In his reply.
6. Para No.6 of the appeal has already been admitted by the respondent in his reply.
7. Para No.7 of the reply is incorrect, while that of the appeal is correct.
8. That Para No.8 of the reply is incorrect, while that of the appeal is correct.

GROUNDS:-

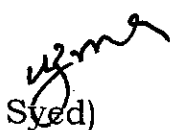
All grounds of main appeal are correct and is in accordance with the rules while the respondents are incorrect and baseless and estopped their won conduct, further similarly placed pay official was re misstated while appeal was discriminated as he was awarded punishment. (Copy of the ^{order} ~~RO~~ is "A")

It is, therefore, most humbly prayed that on acceptance of this rejoinder the impugned order dated 17-4-2015 may kindly be set aside.

Dated: July 20, 2016

APPELLANT

Through


(Uzma Syed)
Advocate, Peshawar.



A

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE, PESHAWAR

ORDER

This order is hereby passed to dispose off departmental appeal under Rule 1 of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-Head Constable Ghaffar A. 87/1539 of District Bannu against the Punishment order i.e compulsory retirement of the appellant by DPO/Bannu, vide his order Book No. 57 dated 10.01.2014.

In the light of recommendations of Appeal Board meeting held on 05.03.2014, the board examined the enquiry in detail & other relevant documents. It revealed that the appellant was served with Charge Sheet/Statement of Allegations and punishment order was announced on the basis of reply to the Charge Sheet and Statement of Allegations.

The appellant was also heard in person. The board re-instated in service the appellant as an official from the date of compulsory retirement i.e. 10.01.2014.

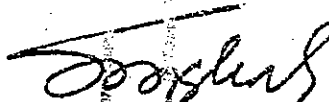
Order announced in the presence of appellant.

Sd/-
NASIR KHAN DURRANI
Inspector General of Police,
Khyber Pakhtunkhwa
Peshawar.

No. 4862-66 /E-IV dated Peshawar the 17/4 /2015

Copy of above is forwarded to the:-

1. Deputy Inspector General of Police, Bannu Region. The service Roll, Pension and Missal and Enquiry File of the above named official are returned herewith.
2. District Police Officer, Bannu.
3. PSO to IGP/Khyber Pakhtunkhwa Peshawar.
4. PA to Addl: IGP/HQs Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQs Khyber Pakhtunkhwa, Peshawar.


(SYED FIDA HASSAN SHAH)
AIG/Establishment
For Inspector General of Police
Khyber Pakhtunkhwa Peshawar



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE, PESHAWAR

ORDER

This order is hereby passed to dispose off departmental appeal under Rule 11-a of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-Constable Pir Hameedullah No. 892 of District Police Bannu against the Punishment order i.e compulsory retirement passed against the appellant by DPO/Bannu vide his order Book No. 1448 dated 31.12.2013.

In the light of recommendations of Appeal Board meeting held on 05.03.2015, the board examined the enquiry in detail & other relevant documents. It revealed that the appellant was served with Charge Sheet/Statement of Allegations and punishment order was announced on the basis of reply to the Charge Sheet and Statement of Allegations.

The appellant was heard in person and record perused. His punishment of compulsory retirement is converted into stoppage of 02 annual increments without accumulative effect. The period he remained out of service is treated as leave without pay. However, the period i.e. from 08.01.2015 during pendency of appeal is treated as kind leave.

Order announced in the presence of appellant.


Sd/-

NASIR KHAN DURRANI
Inspector General of Police,
Khyber Pakhtunkhwa
Peshawar.

No. 4872-76 /E-IV dated Peshawar the 17/4 /2015

Copy of above is forwarded to the:-

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2. District Police Officer, Bannu.
3. PSO to IGP/Khyber Pakhtunkhwa Peshawar.
4. PA to Addl: IGP/HQrs Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs Khyber Pakhtunkhwa, Peshawar.


(SYED FIDA HASSAN SHAH)

AIG/Establishment
For Inspector General of Police,
Khyber Pakhtunkhwa Peshawar.

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1720 /ST

Dated 18 / 10 / 2016


To

The P.P.O ,
Peshawar.

Subject: - JUDGMENT

I am directed to forward herewith a certified copy of Judgement dated 13.10.2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.