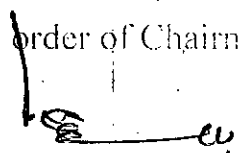


FORM OF ORDER SHEET

Court of _____

Case No.- _____

731/2023

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|---|
| 1. | 2 | 3 |
| 1. | 03/04/2023 | <p>The appeal of Mr. Inayat Shah resubmitted today by Mr. Ashraf Ali Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____ Parcha Peshi is given to appellant/counsel for the date fixed.</p> <p>By the order of Chairman</p>  <p>REGISTRAR</p> |

The appeal of Mr. Inayat Shah Ex-IHC No. 678 Police Force Kohat received today i.e. on 01.03.2023 is incomplete on the following score which is returned to the co Counsel for the appellant for completion and resubmission within 15 days.

- 1- Check list is not attached with the appeal.
- 2- Appeal has not been flagged/marked with annexures marks.
- 3- Annexures of the appeal are unattested.
- 4- Affidavit be got signed by the Oath Commissioner.
- 5- Certificate be furnished that whether any petition on the subject matter has earlier been filed in this court.
- 6- Copy of departmental appeal and its rejection order dated 14.2.2023 mentioned in the heading of the appeal is not attached with the appeal which may be placed on it.
- 7- Annexure-F of the appeal is missing.
- 8- The documents that are to be provided must be legible/readable.
- 9- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 895 /S.T.

Dt. 7/3 /2023

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

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

Required documents are still awaited
therefore, requested for extension of
time. During this period ^{my friend}
my brother Abdul Haq ^{22/03/23} Ashraf Ali
died at Saudi Arabia Advocate.
on 26.02-2023 and his dead body
was brought after 10 day and then was
buried. During this ~~the~~ period; I had no
contact with appellant and therefore,
the procurements of documents were
delayed.

1010

27/3/23

Ashraf Ali
Advocate

22/3/23

Note: Objection removed. May
kindly be fixed after
Ramzan / Eid

اشرف
Ashraf Ali
Advocate

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 731 /2023


Inayat Shah,
Ex-IHC No.678,
Police Force KohatAppellant.

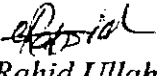
Versus

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

INDEX

| S.No. | Description of Documents | Date | Annexure | Pages |
|-------|--|------------|----------|-------|
| 1. | Service Appeal with affidavit. | | | 1-12 |
| 2. | Copy of Charge Sheet | | A | 13 |
| 3. | Copy of the reply to the charge sheet. | | B | 14 |
| 4. | Copy of impugned order. | 22-12-2022 | C | 15 |
| 5. | Copies of departmental appeal. | 12-01-2023 | D | 16-21 |
| 6. | Copy of final rejection order. | 20-02-2023 | E | 22-25 |
| 7. | Wakalatnama | | | 26 |

Through 
Appellant
Ashraf Ali Khattak
Advocate,
Supreme Court of Pakistan

&

Rahid Ullah
Advocate, Peshawar

Dated: ___ / ___ /2023

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

Service Appeal No. 731 /2023

Inayat Shah,
Ex-IHC No.678,
Police Force Kohat.....Appellant.

Versus

- | | |
|---|--|
| <p>1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.</p> <p>2. The Deputy Inspector General, Kohat Region, Kohat.</p> <p>3. The District Police Officer, Kohat Region, Kohat.....</p> | <p style="font-size: small;">Khyber Pakhtunkhwa Service Tribunal</p> <p>Diary No. <u>3985</u></p> <p>Dated <u>1/3/2023</u></p> |
| <p>.....Respondents.</p> | |

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED FINAL ORDER OF RESPONDENT NO.2 DATED 20-02-2023 PASSED ON THE DEPARTMENTAL APPEAL PREFERRED AGAINST THE IMPUGNED ORDER OF RESPONDENT NO.3 DATED 22-12-2022 VIDE WHICH THE APPELLANT WAS DISMISSED FROM SERVICE WITHOUT ANY LEGAL OR FACTUAL JUSTIFICATION.

Respectfully Sheweth,

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

1. That appellant joined the Police Deptt: as Constable in the year 1993. He has more than 29 years service at his credit with unblemished and clean sheeted conduct record. During the period of his service, he has worked with zeal, zest and devotion.

2. That unfortunately the appellant, while posted in Police Lines, Kohat, was charged sheeted on the ground that while deputed on challan duty and to produce hardened criminals including accused Najeeb Ullah S/o Taj Ali Khan R/o Civil Lines, District Tank involved in case FIR No.35 dt: 30-03-2022 u/s 302/324/353/120-B PPC,

~~Filed to day~~
20
01/03/2023

4/5/ESA/15AA/7ATA P.S CTD D.I Khan at ATC Kohat and during Police custody the said accused made good his escape from the Police party due to his negligence and carelessness as such proper case has been registered against the above official vide FIR No.729 dt: 23-11-2022 u/s 223-224 PPC P.S Cantt Kohat. Copy of Charge Sheet is attached as **Annexure-A**.

3. That the appellant replied the charges leveled against him and explained that he has no hand what so ever in the escape of the accused. The allegedly escaped accused coupled with other accused were not in immediate custody of the appellant. It was further explained that at the time of return of challan to District Jail Kohat, the appellant came to know about missing of one of the accused. The appellant further stated in reply that he is innocent and he has no hand in escape of the accused but unfortunately the detailed reply was ignored and the appellant was dismissed from service vide order dt: 22-12-2022. Copies of the reply to the charge sheet and impugned order are attached as **Annexures-B & C**.
4. That it is pertinent to mention that before imposing impugned penalty; the respondents have neither served the appellant with final show cause nor he knows that any inquiry has been conducted in his case. In case there may be any inquiry the same is absolutely in the absence and at the back of appellant. Appellant has not been associated with such inquiry proceedings.
5. That the impugned order has aggrieved the appellant therefore, for redressal of his grievances, he has called in question the impugned order and submitted departmental appeal on 12-01-2023 to respondent No.2 which was rejected on 20-02-2023. Copies of departmental appeal dated 12-01-2023 and rejection order dated 20-02-2023 are attached as **Annexures-D & E**.

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

GROUND S

- A. That the impugned order of dismissal is not in accordance with law; facts and evidence on record, hence it is liable to be set aside. Moreover, the charges leveled against the appellant were defective because it has not explained that on which date the appellant was deputed on challan duty.
- B. That charge sheet has also not explained the at the time of occurrence the appellant was deputed on which of the position on the challan in question and it is no ascertainable from the charge sheet that whether the escaped accused was in immediate custody of the appellant or otherwise.
- C. That on the day of occurrence, about 28 Police officials were deputed on the challan duty. They all associated with the accused being brought from the District Jail Kohat to the District Courts, Kohat. Out of the 28 Police Officials only 5 Police officials were awarded punishment of dismissal from service but it is not known that the competent authority used which of the criteria on the basis of which the appellant and others were held guilty of the charge. Such a conduct on the part of the inquiry officer coupled with the competent authority have made the entire inquiry proceedings highly doubtful, suspicious and of no legal consequences. Hence on such a flimsy, one sided and colorful inquiry / order, no punishment whatsoever, can be awarded to the appellant under the law and rules.
- D. That submission in reply to the charge sheet was not considered by the inquiry officer nor by the competent authority. The impugned order has not stated about status of reply of the appellant and thus a stereo type

order blindly following recommendations of the inquiry officer was issued which is obviously not sustainable in the eyes of law.

- E. That as submitted above, the escaped or any of the accused present in the challan in question were not in immediate custody of the appellant nor he was having control of the chain of the handcuffs hence he cannot be held guilty of the charge. The appellant still claims that he is absolutely innocent and he has been awarded punishment without any legal justification.
- F. That the appellant was not acquainted with any of the accused present in the challan and specially the accused who escaped from the custody of Police. Thus the appellant has no direct or indirect role in facilitating escape of the accused.
- G. That the inquiry officer conducted one sided and unilateral inquiry which has got no legal force in the eyes of law and more so no evidence was recorded in presence of the appellant nor was the appellant provided any opportunity to cross examine the witness during the inquiry. Hence the inquiry against the appellant is legally defective and of no legal consequences.
- H. That the appellant is absolutely innocent and he has nothing to do with escape of the accused. Neither negligence of the appellant nor any malafide on the part of the appellant is involved / established relating to the escape of the accused.
- I. That the competent authority did not applied his judicial mind and issued a stereo type order which has made the entire inquiry and the impugned order as legally defective. Before issuance of the impugned order the appellant was not heard in person which is yet another irregularity in the eyes of law.
- J. That fair play, transparent and impartial inquiry is fundamental right of the appellant as envisaged under Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973 but in the instant inquiry, the said

fundamental right has been badly violated which has made the impugned order not only irregular but also illegal ab-initio.

- K. That if dismissal order of the co-appellant are perused, it will indicate that all the three order are photocopies of each other while it is an established fact that each and every case has its own merits. From the impugned order one can gather that the authority concerned did not care about merits of the case of each of the appellant and with one yardstick he treated all in one and the same manner.
- L. That the appellant is a law abiding person and he cannot imagine to violate laws / rules for his personal gains or benefits and also no charge or allegations whatsoever has been proved / established against the appellant.
- M. That the appellant has also been nominated as an accused in case FIR No.729 dt: 23-11-2022 u/s 223/224 PPC P.S Cantt Kohat. The said criminal case is pending adjudication. Keeping in view decisions of the superior Courts in this regard, it was required that the inquiry should have been kept pending till the decision of the criminal case. By not doing so, injustice has been occasioned to the appellant. In such circumstances; dismissal of the appellant is unwarranted and required to be set aside.
- N. That while awarding the impugned major punishment, the inquiry report has not been given to the appellant which is very much necessary as per 1991 PLC (C.S) 706 & PLC 1991 584.
- O. That according to inquiry rules, proper inquiry should be conducted but only on the basis of charge sheet, the appellant was dismissed from service which is against the canon of service norms.
- P. That the penal authority has not treated the appellant in accordance with law, rules and policy on the subject and acted in violation of Article 4 of the Constitution of Pakistan, 1973. Moreover the act of the respondents amounts to exploitations, which is the violation of Article

3 of the Constitution, 1973. Mere allegation of commission of offence and registration of FIR against a person would not ipso facto make him guilty, rather he would be presumed to be innocent and would have right to enjoy the presumption of innocence until convicted by a court of competent jurisdiction after a proper trial with opportunity to defend himself on the allegation leveled against him. Reliance is placed on reported judgment of the Honorable Supreme Court of Pakistan cited as 2007 PLC (CS) 997. In the instant case; appellant has already been acquitted in one criminal case (Annexure-F) and whereas the 2nd one is pending adjudication before competent court of law therefore, the penal authority without waiting for the outcome of the criminal case imposed upon the appellant major punishment of dismissal, which is not tenable in the eyes of law and is liable to be set aside.

- Q. That the Honorable Peshawar High Court vide reported Judgment 2019 PLC (CS) 255 has held that a civil servant who had been charged for a criminal offence, he was to be considered under suspension from the date of his arrest and could not be dismissed from service..... In the instant case, decision on FIR/Trial is pending and appellant is on bail. Department was legally bound to suspend the appellant till decision of criminal case registered against him. The Honorable Peshawar High Court has held in such like circumstances..... Law had not been followed and penal order was set aside. Reliance is placed on 2019 PLC (CS) 255.
- R. That section 16 of the of the Civil Servant Act, 1973 provide that a civil servant is liable for prescribed disciplinary actions and penalties only through prescribed procedure. In instant case prescribed procedure has not been followed.
- S. 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 void non iudice and liable to be set back.

T. 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.

U. That the non provision of the inquiry report amounts to deprive a civil servant from confronting and defending himself from evidence that may go against him, which is against the provision of Article 10A of the Constitution of Pakistan, 1973.

V. That under the provision of Rule 14 of E & D Rule, 2011, the competent authority was under legal obligations to peruse the inquiry report and determine as to whether the inquiry has been conducted in accordance with prescribed procedure and whether the charge are proved or otherwise. The competent authority has made no such efforts and dismissed the appellant with a single stroke of pen, which is nullity in the eyes of law and liable to be interfered with by this Honorable Tribunal.

W. That appellant has been condemned unheard being deprived of the right personal hearing.

X. Accused is stated to be a favorite child of law and he is presumed to be innocent unless proved otherwise and the benefit of doubt always goes to the accused and not to the prosecution as it is for the prosecution to stand on its own legs by proving all allegations to the hilt against the accused. Mere conjectures and presumption, however strong, could not be made a ground for removal from service of civil servant [1999 PLC (CS) 1332 (FST)]..... Unless and until prosecution

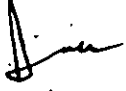
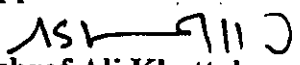
proves accused guilty beyond any shadow of doubt, he would be considered innocent [1983 PLC (CS) 152 (FST)].

- Y. That Re-instated employee would be entitled to back benefits as a matter of course unless employer is able to establish by cogent evidence that concerned employee had been gainfully employed elsewhere. In this respect, initial burden would lie upon the employer and not upon the employee to prove that such employee was gainfully employed during period of termination from his service. 2010 TD (Labour) 41.
- Z. That Civil servant who was dismissed from service through arbitrary and whimsical action of the government functionaries and re instated through judicial order of Service Tribunal would have every right to recover arrears of salaries by way of back benefits due to them during the period of their dismissal and re instatement. It would be very unjust and harsh to deprive them of back benefits for the period for which they remained out of job without any fault on their part and were not gainfully employed during that period.....Supreme Court allowing their appeal and directing payment of back benefits to the appellants. 2006 T D (SERVICE) 551 (a).
- AA. That the penal order is not a speaking order for the reason that no solid and legal grounds have been given by the penal authority in support of his penal order. On this score the impugned order is liable to be set aside.
- BB. That appellants would like to seek the permission of this Hon'ble Tribunal to advance more grounds at the time of hearing.

Prayer:

In view of the above explained positions, it is humbly prayed that the impugned order dated 22-12-2022 of the respondent No.3 and the impugned order of respondent No.2 dated 20-02-2023 may graciously be set aside and the appellants may kindly be reinstated into service with all back benefits.

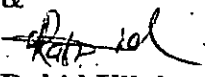
Any other relief as deemed appropriate in the circumstances of the case and not specifically asked for, may also be granted to the appellant.


Appellant
Through 
Ashraf Ali Khattak
Advocate,
Supreme Court of Pakistan

&

Ali Bakht Mughal
Advocate, Peshawar

&


Rahid Ullah
Advocate, Peshawar.

Dated: ____ / ____ / 2023

82

10

CERTIFICATE

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

ASL-5110
Ashraf Ali Khattak
Advocate, Peshawar.

List of Books

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

NOTE

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

ASL-5110
Ashraf Ali Khattak
Advocate, Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____/2023

11

Inayat Shah,
Ex-IHC No.678,
Police Force KohatAppellant.

Versus

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

AFFIDAVIT

I, Ex-IHC No.678, Police Force Kohat, do hereby solemnly affirm and declare on oath that the contents of this service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from the notice of this Hon'ble Tribunal.

Ina

DEPONENT

CNIC: 14101-4816499-3

[Signature]
Inspector General
Police Force Kohat
Post No. 3370-75
30-3-2023

0 3333293293

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____/2023

Inayat Shah,
Ex-IHC No.678,
Police Force KohatAppellant.

Versus

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

ADDRESSES OF THE PARTIES

Inayat Shah,
Ex-IHC No.678,
Police Force KohatAppellant.

Versus

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

Through

Appellant

Ashraf Ali Khattak
Advocate,
Supreme Court of Pakistan

&
Rahid Ullah
Advocate, Peshawar



No/10839-40/PA

Annex-A

13

Office of the
District Police Officer,
Kohat

Dated 24-11 /2022

CHARGE SHEET

1. **SHAFI ULLAH KHAN, DISTRICT POLICE OFFICER, KOHAT**, as competent authority under Khyber Pakhtunkhwa Police Rules (amendments 2014) 1975, am of the opinion that you **IHC Inayat Shah No. 678** rendered yourself liable to be proceeded against, as you have omitted the following act/omissions within the meaning of Rule 3 of the Police Rules 1975.

- i. *That you IHC Inayat Shah No. 678 was deputed for Challan duty and to produce hardened criminals including accused Najeeb Ullah s/o Taj Ali Khan r/o Civil Lines district Tank involved in case FIR No. 35 dated 30.03.2022 u/ss 302,324,353,120-B,4/5 ESA,15 AA, 7-ATA PS CTD D.I. Khan at ATC Kohat.*
- ii. *That during Police custody the said accused made good escape due to your negligence & irresponsibility as such proper case has been registered against you vide FIR No. 729 dated 23.11.2022 u/ss 223,224 PPC PS Cantt.*

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

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

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

4. A statement of allegation is enclosed.

Received by

DJ 30.11.2022

[Signature]
DISTRICT POLICE OFFICER,
KOHAT

ATTACHED

Anx - B

IHC
بیان آزاں میاں عنایت شاہ 678/LHC متعینہ پولیس لائن

14

مورخہ 23/11/2022 کو حسب معمول میری لائن سے چالان ڈیوٹی ڈسٹرکٹ جیل کو باٹ سے پچھری ملزمان لینے کے لیے لگائی گئی تھی۔ عرصہ تقریباً 2 ماہ سے میں پولیس لائن میں ہوں اور حسب معمول چالان ڈیوٹی کے دوران میں اپنی رہائش گھر سے سیدھا پچھری جا کر وہاں پر حوالات کی صفائی چابیاں اور پانی کی بند دست کرتا ہوں۔ جب انچارج صاحبان اور پولیس نفری ملزمان لا کر جوڈیشل حوالات میں بند کرتے ہیں۔ اور بعد میں جب ملزمان واپس جیل چلے جاتے ہیں تو میں حوالات کو چیک کرے بند کرتا ہوں۔ اور حوالات کی چابیاں دینے مقررہ کردہ جگہ پر رکھ کر واپس اپنے رہائش گہ جاتا ہوں۔

چونکہ بروز وقوع ملزمان پولیس نفری سے لا کر حوالات میں بند کی اور لے جاتے وقت کتنی کے دوران نفری نے ظاہر کیا کہ ایک ملزم فرار ہو چکا ہے۔

چونکہ میں نے اپنی ڈیوٹی خوش اسلوبی کے ساتھ کی ہے اور ہی مجھے یہ علم ہے کہ جیل سے کتنے ملزمان لائے ہیں۔ اور بعد میں معلوم ہوا کہ ایک ملزم فرار ہو چکا ہے۔

جس میں میری کوئی غفلت شامل نہیں ہے۔ کیونکہ مقررہ کردہ ڈیوٹی میں احسن طریقے سے ادا کی ہے۔ میں بے گناہ ہوں۔ بس میرا یہ بیان ہے۔

IHC
بیان عنایت شاہ 678/LHC متعینہ پولیس لائن

0333-3293297

تاریخ یوٹی - 1993-04-24

ATTESTED



OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT

Anx - C

15

ORDER

This order will dispose of departmental enquiry against IHC Inayat Shah No. 678 of this district Police under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014).

Brief facts of the case are that IHC Inayat Shah No. 678 was deputed for Challan duty and to produce hardened criminals including accused Najeeb Ullah s/o Taj Ali Khan r/o Civil Lines district Tank involved in case FIR No. 35 dated 30.03.222 u/ss 302,324,353,120-B, 4/5 ESA, 15 AA, 7-ATA PS CTD D.I. Khan at ATC Kohat.

That during Police custody the said accused made good escape from the Police party due to his negligence & carelessness as such proper case has been registered against the above official vide FIR No. 729 dated 23.11.2022 u/ss 223,224 PPC PS Cantt.

He was served with charge sheet & statement of allegations. SP Operations Kohat was appointed as enquiry officer to conducted proper departmental enquiry and to submit his finding within stipulated period. The accused official was associated with the proceedings and afforded ample opportunity of defense by E.O. The accused official was held guilty of the charges vide finding of the enquiry officer.

In view of the above and available record, I reached to the conclusion that the charged leveled against the accused official is established beyond any shadow of doubt and retention of such like element in a discipline force is not desirable and shall earned bad name to Police. Therefore, in exercise of powers conferred upon me under the rules Ibid I, Abdul Rauf Babar District Police Officer, Kohat impose a major punishment of dismissal from service on accused IHC Inayat Shah No. 678. Kit etc be collected and report.

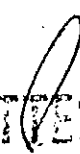

DISTRICT POLICE OFFICER,
KOHAT

OB No. 781

Date 22-12 /2022

No. 11640-41 IPA dated Kohat the 22-12 2022.

Copy of above to the R./Reader/SRC/OHC for necessary action.


ATTESTED

Anx-D 16

THE HONORABLE DEPUTY INSPECTOR GENERAL OF POLICE
KOHAT REGION KOHAT

DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER
OF WORTHY DISTRICT POLICE OFFICER KOHAT DATED
22-12-2022 VIDE WHICH THE APPELLANT WAS
DISMISSED FROM SERVICE WITHOUT ANY LAWFUL
JUSTIFICATION.

Respected Sir,

With due respect and veneration, the appellant may be allowed to submit the following for your kind and sympathetic consideration;

Facts of the Case:

1. That appellant joined the Police Deptt: as constable in the year 1993.
2. That the appellant has more or less 29 years service to his credit.
3. That the appellant during 29 years of his service, has worked with zeal and devotion.
4. That due to his hard work, the appellant successfully not only qualified the Basic Recruit Course but also qualified A1, B1 examination, Lower School Course and Intermediate Course
5. That the appellant due to his meritorious services was promoted upto the rank of IHC.
6. That senior officers always trusted the appellant and assigned him sensitive responsibilities which he fulfilled successfully and upto their satisfaction.

ATTACHED

7. That due to his good work, the appellant earned a number of commendation certificates, besides cash rewards.

8. That unfortunately, the appellant while posted in police Lines Kohat was charge sheeted on the ground that while deputed on challan duty and to produce hardened criminals including accused Najeeb Ullah S/o Taj Ali Khan R/o Civil Lines District Tank involved in case FIR No.35 dt:30-3-2022 U/Ss 302/324/353/120-B PPC, 4/5 ESA/15AA/7ATA P.S CTD D.I.Khan at ATC Kohat and during Police custody the said accused made good his escape from the police party due to his negligence and carelessness as such proper case has been registered against the above official vide FIR No.729 dt:23-11-2022 U/Ss 223-224 PPC P.S Cantt Kohat (Charge sheet is enclosed).

9. That the appellant replied to the charge sheet within the stipulated period wherein he denied the charge and explained that the appellant is innocent and he has no hand in escape of the accused, but unfortunately the detailed reply was ignored and the appellant was dismissed from service vide order dt: 22-12-2022. (Copies of the reply to the charge sheet and impugned order are enclosed)

10. That the impugned order has aggrieved the appellant therefore, for redressal of his grievances he has called in question the impugned order and filed the instant Appeal.

11. That following are some of the grounds of appeal which may please be considered in the great interest of law, rules, justice and fair play.

Grounds of Appeal:

A. That the impugned order of dismissal is not in accordance with law, facts and evidence on record, hence it is liable to be set aside.

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- B. That charge against the appellant was defective because it has not explained that on which date the appellant was deputed on challan duty.
- C. That charge sheet has not explained that at the time of occurrence the appellant was deputed on which of the position on the challan in question.
- D. That from the charge sheet it is no ascertainable that whether the escaped accused was in immediate custody of the appellant or otherwise.
- E. That on the day of occurrence, about 28 Police Officials were deputed on the challan duty. They all associated with the accused being brought from the District Jail Kohat to the Distt: Courts Kohat. Out of the 28 Police Officials only 5 Police Officials were awarded punishment of dismissal from service but it is not known that the competent authority used which of the criteria on the basis of which the appellant and others were held guilty of the charge. Such a conduct on the part of the inquiry officer coupled with the competent authority have made the entire inquiry proceedings highly doubtful, suspicious and of no legal consequence. Hence on such a flimsy, one sided and colorful inquiry/order, no punishment can be awarded under the law / rules.
- F. That submissions in reply to the charge sheet were not considered by the inquiry officer nor by the competent authority. The impugned order has not stated about the status of reply of the appellant and thus a stereo type order blindly following recommendations of the inquiry officer was issued which is obviously not sustainable in the eyes of law.
- G. That the appellant submitted in his reply to the charge sheet that he used to look after cleanliness of the judicial lockup and ensuring

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provision of potable water to the accused brought in challan and that he had nothing to do with custody of the accused but unfortunately such an important point was given no importance, thus in absence of such an important point the appellant became victim of the miscarriage of justice.

H. That the appellant was not acquainted with any of the accused present in challan and specially the accused who escaped from custody of the police. Thus the appellant has no direct or indirect role in facilitating escape of the accused.

I. That the inquiry officer conducted one sided and unilateral inquiry which has got no legal force in the eyes of law.

J. That during inquiry no evidence was recorded in presence of the appellant nor the appellant was provided any opportunity to cross examine the witnesses. Hence the inquiry against the appellant is legally defective and of no legal consequence.

K. That the appellant is absolutely innocent and he has nothing to do with escape of the accused.

L. That neither negligence of the appellant nor any malafide on part of the appellant in involved in escape of the accused.

M. That the competent authority did not apply his judicial mind and issued a stereo type of order which has made the entire inquiry and the impugned order as legally defective.

N. That before issuance of impugned order the appellant was not heard in person which is yet another irregularity in the eyes of law.

O. That fair play, transparent and impartial inquiry is fundamental right of the appellant as envisaged under Article 10-A of constitution of Pakistan but in the instant inquiry the said fundamental right has been badly violated which has made the impugned order not only irregular but also illegal ab-initio.

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- P. That if dismissal orders of the co-appellants are perused it will indicate that all the three orders are photocopies of each other while it is an established fact that each and every case has its own merits. From the impugned order one can gather that the authority concerned did not care about merits of the case of each of the appellant and with one yard stick he treated all in one and the same manner.
- Q. That the appellant is a law abiding person and he cannot imagine to violate laws/ rules for his personal gains or benefits.
- R. That no charge or allegations what so ever has been proved against the appellant.
- S. That the appellant has also been nominated as an accused in case FIR No.729 dt:23-11-2022 U/S 223/224 PPC P.S Cantt Kohat. The said criminal case is pending adjudication. Keeping in view decisions of the Higher Courts in this regard, it was required that the inquiry should have been kept pending till the decision of the case. By not doing so injustice has been occasioned to the appellant.
- T. That in view of the facts of the case dismissal of the appellant is unwarranted and required to be set aside.
- U. That the appellant has a large family while the impugned order is likely to land his family in starvation which is likely to end in irreparable loss to the appellant.
- V. That 29 years long service of the appellant in Police Deptt. was brought to an end with on stroke of pen which is legally not justified.
- W. That the order of the dismissal of the appellant is not sustainable in the eyes of law, hence it requires to be reviewed / revisited in the great interest of law, justice and fair play.

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Xi:-That while awarding the impugned major punishment the enquiry report has not been given to the appellant which is very much necessary as per 1991 PLC CS 706 & PLC 1991 584.

Xii:-That according to enquiry rules proper enquiry should be conducted but only on the basis of charge sheet the appellant services was dismissed which is against to the canon of service norms.

Prayer :-

In the light of above fact and circumstances the impugned order dated 22-12-22 may graciously be set a side and the appellant be re-instated in service with all back benefits .

Appellant

[Signature]

Ex-IHC (Inyat Shah)

District Police Kohat

Dated :- 12 -01-23

[Signature]
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POLICE DEPTT:

KOHAT REGION

ORDER.

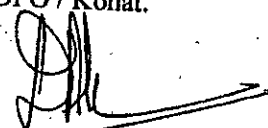
This order will dispose of a departmental appeal moved by Ex-IHC Inayat Shah No. 678 of Kohat district Police against the punishment order, passed by DPO Kohat vide OB No. 781, dated 22.12.2022 whereby he was awarded major punishment of dismissal from service on the following allegations:-

"The appellant alongwith others was deputed for Challan duty to produce hardened criminal including accused Najeeb Ullah s/o Taj Ali Khan r/o Civil Line district Tank involved in case FIR No. 35, dated 30.03.2022 u/s 302, 324, 353, 120-B, 4/5 ESA, 15-AA, 7-ATA PS CTD, D.I.Khan at ATC Kohat. During custody, the said accused made good his escape from Police custody due to negligence & carelessness of Police and a proper case vide FIR No. 23.11.2022 u/ss 223, 224 PPC PS Cantt, Kohat was registered".

Comments as well as relevant record of Ex-IHC Inayat Shah No. 678 were obtained from DPO Kohat. His service record, service profile and all relevant records were perused. He has 08 bad entries and no good entry to his credit. He was also heard in person in orderly room held in this office on 14.02.2023. The appellant was properly seated and was heard patiently.

It is crystal clear from the above facts that the delinquent Police officer miserably failed to perform his duty in a professional manner. Police Rules (1934) 16.37 recommends "Normal punishment of Dismissal from Service in case of escape from Police custody". Here it is the escape of a diehard / hardened under trial prisoner Najeeb Ullah s/o Taj Ali Khan r/o Civil Lines district Tank involved in case FIR No. 35, dated 30.03.2022 u/s 302, 324, 353, 120-B, 4/5 ESA, 15-AA, 7-ATA PS CTD, D.I.Khan which escape from Police custody became a headline and dented the reputation of Police amongst the general public. Escape of a prisoner / accused from Police custody either due to negligence or collusion is the most unjustifiable offence and must not be condoned. Any clemency / leniency granted to Police officers accused of committing such offence will further lower the image of Police department in the eyes of the general public. So, I, **Dar Ali Khan Khattak, PSP, Regional Police Officer, Kohat Region** hereby reject the instant appeal in exercise of powers conferred upon me under Police Rules 1975, amended 2014 Rules, Section- 11(2) and endorse the punishment of dismissal of service awarded to the appellant Inayat Shah No. 678 (Ex-IHC) by DPO / Kohat.

Order Announced
14.02.2023


(DAR ALI KHAN KHATTAK) PSP
Region Police Officer,
Kohat Region.

No. 2220 /EC, dated Kohat the 22/02 /2023.

Copy to District Police Officer, Kohat for information and necessary action w/r to his office Memo: No. 1027/LB, dated 03.02.2023. His Service Record is returned herewith.


(DAR ALI KHAN KHATTAK) PSP
Region Police Officer,
Kohat Region.

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کتابت شد، گویا در این روزها در این شهرها و روستاها
چندین بار بزرگان و اعیان و اشراف و بزرگان
شاه در این شهرها و روستاها و اعیان و اشراف و بزرگان
مردان و زنان و بزرگان و اعیان و اشراف و بزرگان
مردان و زنان و بزرگان و اعیان و اشراف و بزرگان

۱۹
Mansour Court
23-11-22

انچیز جرنل پولیس سوپر حدفام نمبر ۷۳ گورنمنٹ پولیس پشاور جاب نمبر 19/540 فارم سٹور۔ تعداد دو ہزار ستر ڈی۔ مورخہ 23 مارچ 2006ء (فارم سٹور جابز) ضمنی فارم (پولیس)

فارم نمبر ۲۳-۵ (۱)

ابتدائی اطلاعی رپورٹ

کاؤنٹر فائیل

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زبردفعہ 154 مجموعہ ضابطہ فوجداری

ضلع: کوہاٹ

تھانہ:۔۔ کینٹ

تاریخ وقت وقوعہ 22-11-23 وقت ... تا 14:30 بجے

علت نمبر:۔ 729

| | | |
|---|--|---|
| 1 | تاریخ وقت رپورٹ:۔ 23/11/22 وقت 15:00 بجے | چاکیدگی پرچہ 23/11/22 وقت 15:40 بجے |
| 2 | نام و سکونت اطلاع دہندہ مستغیث | شاہ دوزان SHO تھانہ کینٹ |
| 3 | مختصر کیفیت جرم (معہ دفعہ) حال اگر کچھ لیا گیا ہو۔ | PPC 223-224 |
| 4 | جائے وقوعہ فاصلہ تھانہ سے اور سمت:۔ | احاطہ کچھری کوہاٹ، فاصلہ 1-1/2 کلومیٹر جانب مشرق از تھانہ |
| 5 | نام و سکونت ملزم | |
| 6 | کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو | برسیدگی مراسلہ پر چر دیا جاتا ہے |
| 7 | تھانہ سے روانگی کی تاریخ وقت | پہ سبیل ڈاک |

ابتدائی اطلاع نیچے درج کرو۔

ایک تحریری مراسلہ منجانب شاہ دوران ایس ایچ او بدست علی مبارک 1212 موصول ہو کر ذیل ہے، محرر تھانہ کینٹ اطلاع ملنے پر فوراً بمعہ نفری احاطہ کچھری آیا معلوم ہوا کہ امر دز بوقت تقریباً 09:30 بجے ڈسٹرکٹ جیل کو ہاٹ کے 56 نفر ملزمان پولیس و ملازمان عمر بادشاہ، فیاض حسین، صداقت علی، عنایت شاہ، سجاول، از مرگل، ایاز خان، طاہر محمد، کنٹینیلان شہزاد، منصور شاہ، سرفراز، عامر 139، عاصم، ذیشان، حیدر 1372، زاہد حسین 1240، سبح اللہ 238، محمد تسلیم 852 شاہ فیصل 248، محمد اشرف اللہ 5496، امیر نواز 12، گلزاد 126، صداقت 106، بسواری سرکاری ملزمان ہیں میں (پڑھا نہیں جا رہا) ڈرائیور بغرض پیشی کیلئے کوہاٹ کچھری لا کر اس دوران ملزم نجیب اللہ ولد تاج علی خان سکنہ قوم مسعود (پڑھا نہیں جا رہا) ٹانک جو بحوالہ مقدمہ علت 135 مورخہ 22-3-30 جرم PPC 302-324-353-120-B/4/585A-15AA-7ATA تھانہ سی ٹی ڈی ضلع DIK، علت 34 مورخہ 22-5-19 جرم 515A-15AA-120-712 تھانہ سی ٹی ڈی کوہاٹ میں ATC عدالت پیشی کیلئے لے آیا تھا جو احاطہ کچھری سے پولیس ملازمین کو جھانسنہ دے کر اپنی جائز

گرفتاری سے فرار ہو چکا ہے جو پولیس ملازمین بالا کی غفلت، بے احتیاطی و لاپرواہی کی وجہ سے وقوعہ رقم ہوا چکا ہے لہذا جملہ ملازمین ملزم نجیب کو مرتکب جرائم بالا کے پاکر مراسلہ بغرض چا کیدگی پر چہ بدست کنسٹیبل علی مبارک 1212 ارسال تھانہ ہے حالات واقعات کے بابت افسران بالا صاحبان کے نوٹس میں لاکر اور کنٹرول روم کو بذریعہ فون اطلاع دے کر تمام چیک پوسٹ ہائے کو ملزم کی گرفتاری ک اطلاع دے کر الٹ کئے گئے میں معہ نفری کے ملزم کی تلاش و گرفتاری کیلئے روانہ ہوں بعد چا کیدگی مقدمہ کے تفتیش پولیٹیکل چوکی انچارج کو معصور تفتیش کیا جائے دستخط انگریزی شاہ دوران ایس ایچ او مورخہ 23/11/22 کارروائی تھانہ آمدہ مراسلہ حرف بحرف درج بالا ہو کر پر چہ بجرائم بالا کا چاک ہو کر نقل پر چہ مع مراسلہ بغرض تفتیش عقب انچارج پولیٹیکل بھجوائے جاتا ہے پر چہ گزارش ہے۔

دستخط انگریزی

23-11-22

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دستخط

مہندہ

اللاع کے نیچے اطلاع دہندہ کا دستخط ہوگا یا اس کی مہر یا نشان لگایا جائے گا۔ اور اس پر تحریر کنندہ ابتدائی اطلاع کا دستخط بطور تصدیق ہوگا۔ حرف الف یا ب سرخ روشنائی سے
 اقبال نام ایک ملزم مشہور علی الترتیب واسطے باشندگان علاقہ غیر یا وسط ایشیا و یا افغانستان جہاں موزوں ہوں، لکھنا چاہیے۔

26

بعدالت سرور نڈ بیوی کے پاس

05-1-46

0332 9931676

2023ء منجانب ریسل انڈیا

عنایت شاہ بہنام حلوت

موزخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دکن کاروائی متعلقہ
 آن مقام کے لیے اسٹیشن علی حثک اسٹنڈرڈ ایڈولہ ڈسٹرکٹ

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
 دکن صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دینے جواب دہی اور اقبال دعویٰ اور
 بصورت ڈگری کرنے اجراء اور وصولی چیک دروپیا عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
 ذرائع 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 لانا اپنے بجائے تقرر کا اختیار
 ہوگا۔ اور صاحب مقرر شدہ کو کبھی وہی جملہ مذکورہ بااختیارات حاصل ہوں گے اور اس کا ساختہ
 پرداختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائد 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 لکھ دیا کہ سند ہے۔

Accepted by [Signature]

المرقوم _____ 1 _____ ماہ _____ 2023

العبد _____ واہ العبد _____

بمقام _____ کے لئے منظور ہے۔ 11-9-156

منجانب ریسل انڈیا