

S. No.	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	08.11.2016	<p align="center"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, CAMP COURT SWAT</u></p> <p align="center">Appeal No. 751/2015.</p> <p align="center">Khairullah Versus Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and 2 others.</p> <p align="center"><u>JUDGMENT</u></p> <p align="center"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:</u></p> <p>Appellant with counsel and Mr. Muhammad Zubair, Senior Government Pleader alongwith Khawas Khan, S.I for respondents present.</p> <p>2. Mr. Khairullah son of Abdul Majeed hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against order of denial of promotion to him vide orders dated 09.10.2009, 05.08.2011 and 24.09.2014 constraining him to prefer departmental appeal on 26.08.2014 which was rejected on 02.06.2015, communicated to the appellant on 08.06.2015 and hence the instant service appeal on 07.07.2015.</p> <p>3. Brief facts of the case of the appellant are that appellant is serving as Police Constable since 1994. He was dismissed from service on 03.03.2010 where-against he preferred service appeal which was accepted and appellant reinstated in service on 10.07.2012. Appeal of the respondent-department before the august Supreme Court of Pakistan</p>

08.11.16

against the judgment of this Tribunal was dismissed on 07.06.2013 and, consequently, the appellant was reinstated in service with all back benefits vide order dated 12.03.2014. Meanwhile colleagues of the appellant including juniors to him were promoted as Head Constables (BPS-7) but the appellant was not considered due to the afore-stated inquiry and litigations.

4. Learned counsel for the appellant has argued that the appellant was interrogated by different agencies on the charges of his involvement with militants and was found innocent. That he was reinstated by this Tribunal with all back benefits. That the appellant was not considered for promotion despite his entitlement and with no fault attributable to the appellant so far as his consideration for promotion was concerned.

5. Learned Senior Government Pleader has argued that the appellant was not considered for promotion as he was under inquiry with different agencies and as a result thereof he was dismissed from service.

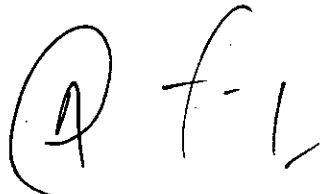
6. We have heard arguments of learned counsel for the parties and perused the record.

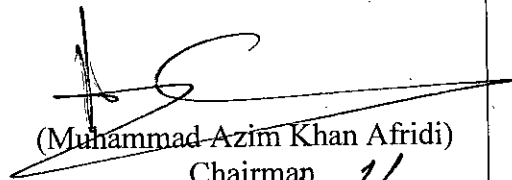
7. Material placed before us would suggest that the appellant was subjected to enquiry for different reasons by different agencies but was found innocent at the end of the day as such reinstated in service with all back benefits. Since the appellant was not found guilty during different probes as such we are of the humble view that depriving the appellant from promotion despite his innocence is an act contrary to law.

8. In the light of the above we are constrained to accept the present appeal and direct that the appellant be considered for promotion from the date of his eligibility and when official juniors to him were promoted.

08.11.16

The appeal is accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record room.


(Abdul Latif)
Member


(Muhammad Azim Khan Afridi)
Chairman
08.11.16
Canton Court, Swat.

ANNOUNCED
08.11.2016


3.2.2016

Appellant in person and Mr. Khawas Khan, SI (Legal) alongwith Mr. Ameer Qadir, GP for respondents present. Written reply submitted. The appeal is assigned to DB for rejoinder and final hearing for 1.8.2016 at Camp Court Swat.


Chairman
Camp Court Swat

01.08.2016

Appellant with Mr. Ijaz Ahmad, Advocate present. Fresh Wakaltnama submitted. Mr. Khawas Khan, S.I (Legal) alongwith Mr. Muhammad Zubair Sr.GP for the respondents present. Rejoinder submitted. Due to non-availability of D.B arguments could not be heard. To come up for final hearing on 08.11.2016 before D.B at camp court, Swat.


Chairman
Camp court, Swat.

29.07.2015

Appellant Deposited
Security & Process Fee

Appellant with counsel present. Learned counsel for the appellant argued that the appellant was appointed as Constable on 10.7.1994 and was entitled to be considered for promotion but junior officials to appellant promoted and appellant ignored regarding which he preferred departmental appeal which was rejected on 2.6.2015 but communicated to the appellant on 8.6.2015 and hence the instant service appeal on 7.7.2015.

That the appellant is entitled to be considered for promotion in preference to officials already promoted.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 5.10.2015 at Camp Court Swat as the appeal pertains to the territorial limits of Malakand Division.


Chairman

5.10.2015

Appellant in person and Mr. Khawas Khan, S.I (legal) alongwith Mr. Muhammad Zubair, Sr. GP for respondents present. Requested for adjournment. To come up for written reply/comments on 7.12.2015 before S.B at Camp Court Swat.


Chairman
Camp Court Swat

7.12.2015




Appellant in person and Mr. Khawas Khan, S.I (legal) alongwith Assistant A.G for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 3.2.2016 before S.B at Camp Court Swat.


Chairman
Camp Court Swat

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 751/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	07.07.2015	<p>The appeal of Mr. Khairullah presented today by Mr. Ghulam Nabi Khan 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	10-7-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>13-7-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3	13.7.2015	<p>None present for appellant. The appeal be relisted for preliminary hearing for 29.7.2015 before S.B.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No. 751 /2015

Khairullah Appellant

Versus

The Provincial Police Officer others Respondents


I N D E X

S.No.	Description of documents.	Annexure	Pages.
1.	Grounds of appeal with affidavit.		1-4
2.	Copy of the letter of dismissal along with the order/ judgment of his hon'ble court Tribunal dated 10.07.2012.	A A-1	5-8
3.	Copy of the order/ judgment of Supreme Court of Pakistan.	B	9
4.	Copy of the reinstatement order	C	10
5.	Copy of the promotion letter dated 9.10.2009.	D	11-12
6.	Copy of the promotion letter dated 5.8.2011.	E	13
7.	Copy of the departmental appeal and rejection order dated 2/6/15	F F-1	14-16
8.	Wakalatnama.		


Appellant

Dated: 07.07.2015

Through


Ghulam Nabi Khan
Advocate Supreme Court

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,PESHAWAR.Service Appeal No. 751 /2015A.W.F. Province
Service TribunalDiary No. 776Dated 07-7-2015

Khairullah son of Abdul Majeed,
Constable No.2490, PP Matalan, P.S. Kalam District Swat..... Appellant
Versus

- 1) The Provincial Police Officer, KPK, Govt. of Khyber Pakhtunkhwa, Peshawar.
- 2) Regional Police Officer/ D.I.G Malakand Region Saidu Sharif, Swat.
- 3) District Police Officer, Swat.....Respondents

SERVICE APPEAL U/S 4 OF SERVICE
TRIBUNAL ACT, 1974 FOR DIRECTION
TO THE RESPONDENTS TO PROMOTE
THE APPELLANT TO THE POST OF
HEAD CONSTABLE IN BPS-7.

Prayer:

On acceptance of this appeal, this hon'ble
Tribunal kind enough to direct the respondents
to promote the appellant to the post of head
Constable BPS-7.

[Handwritten signature]
7/7/15

Respectfully Sheweth;

- 1) That the appellant is serving as Police Constable in District Swat at the above mentioned address, whereby he was appointed as Police Constable on 10.07.1994.

- 2) That appellant has been serving on the above said post, whereby he was dismissed from the service on 03.03.2010 for some vague and baseless allegations, however, the appellant filed a service appeal which was succeeded and the appellant was reinstated back in service on 10.07.2012. (Copy of the letter of dismissal along with the order/ judgment of his hon'ble court Tribunal dated 10.07.2012 are attached herewith as Annexure "A"~~A-D~~)
- 3) That the Govt./ respondents filed an appeal before the supreme Court of Pakistan, however the said appeal was also dismissed on 07.06.2013. (Copy of the order/ judgment of Supreme Court of Pakistan is attached herewith as Annexure "B").
- 4) That the reinstatement order of the appellant with all the back benefit was issued by District Police Office, Swat on 12.03.2014 and the appellant was given charge of his duty on the above mentioned address. (Copy of the reinstatement order is attached herewith Annexure "C").
- 5) That in the meantime the colleagues of the appellant, whom were even juniors to the appellant were promoted to the post of Head Constable BPS-7, whereas the appellant was dropped from the said promotion process for some reasons best known to the respondents. (Copy of the promotion letter dated 9.10.2009 is attached herewith as Annexure "D").
- 6) That in this connection some other colleagues of the appellant whom were again juniors to the appellant 24 in No. were also promoted to the post of Head Constable BPS-7, whereas appellant's name was again dropped from the process / procedure of promotion. (Copy of the promotion letter dated 5.8.2011 is attached herewith as Annexure "E").
- 7) That another order book No.161 dated 24.09.2014 was also issued whereby some 43 constables were promoted to the post of Head constable BPS-7 and the name of the appellant was again dropped.

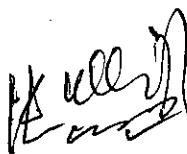
- 8) That the appellant when reinstated back in service then filed an appeal with regard to his promotion to the Deputy Inspector General Saidu Sharif, Swat on 26.08.2014, however the said appeal was dismissed by the appellate authority in 02.06.2015, however the copy of the rejection of appeal was served upon the appellant on 8.6.2015. (Copy of the departmental appeal and rejection order are attached herewith as Annexure "F" **F-1**)
- 9) That the appellant approaches this hon'ble Tribunal on following grounds amongst the others:

GROUND FOR APPEAL:

- A. That not considering the appellant's name for promotion, whereas so many juniors to the appellant have been promoted to the post of Head constable BPS-7 is an act illegal, unlawful, without authority/ jurisdiction and being based on malafide intention of the respondents.
- B. That the appellant has been reinstated with all his back benefits, however, the respondents have not enlisted his name in the promotion list inspite of the fact that appellant has passed all the connected exams necessary for the promotion to the post of Head Constable.
- C. That the appellant has been treated discriminately, whereas so many other constables on junior footings to the appellant have been promoted and the appellant's name has not been enlisted in the promotion list to the post of Head Constable in BPS-7.
- D. That it was the duty of appellate authority to mention the cogent and obvious reasons for dropping the name of appellant from the list of promotion, however, the appellate authority had dismissed the appeal of the appellant in a single line without mentioning any reason or base for not considering the appellant to the promotion of head constable.

- E. That the appellant is eligible/ competent by all means for the promotion to the post of head constable and there is no legal or procedural drawback in the service of the appellant for dropping his name in the list of promotion to the head constable.

It is, therefore, prayed that on acceptance of this appeal, this hon'ble Tribunal kind enough to direct the respondents to promote the appellant to the post of head Constable BPS-7.



Appellant

Dated: 07.07.2015

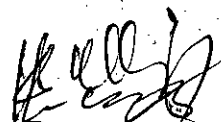
Through



Ghulam Nabi Khan
Advocate Supreme Court

AFFIDAVIT

I, do hereby affirm and declare on oath that the contents of the appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



Deponent

ATTESTED



ORDER

"A" (5)

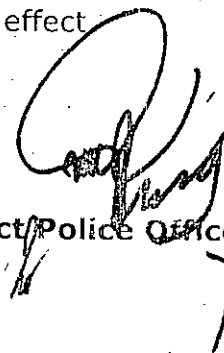
365

This order will dispose off the enquiry initiated against Constable, Khairullah No. 360 who while posted to JIS Police Line was reportedly involved in Anti State activities by developing link with terrorists.

Consequently he was served with charge sheet and Statement of Allegations. DSP Hqr: was appointed to conduct proper Departmental Enquiry against the delinquent official and submit his finding. The Enquiry Officer in his finding, reported his character as doubtful, and recommended for severe punishment. He was served with final Show Cause Notice vide No. 01/E, dated 13/02/2010 but his reply was found not satisfactory.

Being a member of Police Force, the evil role played by the delinquent official is not tolerable and he is liable for removal from service therefore I, Qazi Ghulam Farooq DPO Swat in exercise of the power vested in me under Removal from Service (Special Power) Ordinance 2000 (amendment ordinance 2001) dismiss him from service with immediate effect

Order announced.

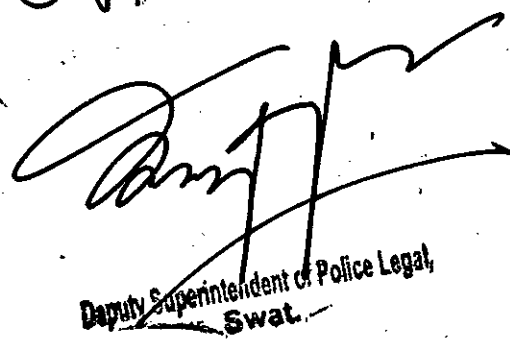


District Police Officer, Swat
*A.Haq/-

O.B. No. 41

Dated. 3.3. /2010.

Attested.

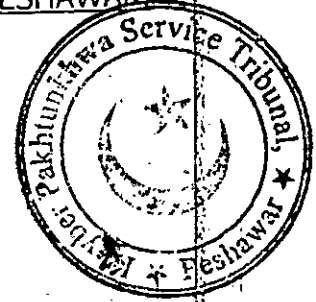


Deputy Superintendent of Police Legal,
Swat.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 1333/2011

Date of Institution. ... 13.7.2011
Date of Decision ... 10.7.2012



Khairullah Ex-Constable No. 360, Javed Iqbal Shaheed
Police Lines Swat. ...

(Appellant)

VERSUS

1. The Provincial Police Officer, Government of Khyber Pakhtunkhwa, Peshawar.
 2. The Regional Police Officer/DIG Malakand Region, Saidu Sharif Swat.
 3. The District Police Officer, Swat. ...
- (Respondents)

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTESTED

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 READ WITH SECTION 10 OF THE KHYBER PAKHTUNKHWA REMOVAL FROM SERVICE (SPECIAL POWERS) ORDINANCE 2000 AGAINST THE ORDER DATED 3.3.2010, WHEREBY THE APPELLANT HAS BEEN DISMISSED FROM SERVICE FOR ALLEGED CHARGES OF INVOLVEMENT IN ANTI-STATE ACTIVITIES AND AGAINST THE FINAL REJECTION ORDER DATED 18.6.2011 CONVEYED TO APPELLANT ON 21.6.2011 WHEREBY THE APPELLANT'S DEPARTMENTAL APPEAL HAS BEEN REJECTED.

MR. MUHAMMAD ASIF YOUSAFZAI,
Advocate ...

For appellant.

MR. ARSHAD ALAM,
Addl. Government Pleader ...

For respondents.

SYED MANZOOR ALI SHAH,
MR. NOOR ALI KHAN, ...

MEMBER
MEMBER

JUDGMENT

SYED MANZOOR ALI SHAH, MEMBER. - This appeal has been filed by Khairullah, the appellant under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 read with Section 10 of the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance 2000, against the order dated 3.3.2010, whereby he has been dismissed from service and against the order dated 18.6.2011, whereby his departmental appeal has been rejected. It has been prayed that on acceptance of the appeal, the impugned orders may be set aside and the appellant may be reinstated into service with all back benefits.

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2. Brief fact of the case are that the appellant joined the Police Department in the year 1994 and has more than 16 years service at his credit. He was issued charge sheet with statement of allegations on 2.1.2010 for involvement in anti-state activities. The appellant filed his reply and denied the allegations levelled against him. The department conducted ex-parte proceedings against the appellant and on 13.2.2010, final show cause notice was issued to him to which he also filed reply and clarified his position. On 3.3.2010, the appellant was dismissed from service. Feeling aggrieved, he filed departmental appeal on 20.3.2010, which was not decided within the stipulated time, hence he filed Writ Petition No. 3667/2010, in the Hon'ble Peshawar High Court. The petition was disposed of on 11.1.2011 with the direction to the respondents to decide departmental appeal of the appellant within one month positively. Finally vide impugned order dated 18.6.2011, the departmental appeal of the appellant has been rejected, hence the present appeal.

3. The appeal has been admitted to regular hearing on 15.8.2011 and notices were issued to the respondents. The respondents have filed their joint written reply and contested the appeal. The appellant also filed rejoinder in rebuttal.

4. Arguments heard and record perused.

5. The learned counsel for the appellant argued that in case of major penalty conduction of regular enquiry against a civil servant was mandatory but no such enquiry has been conducted. The appellant had more than 16 years service and harsh view has been taken against him. The respondents have reinstated a number of officials/officers in similar circumstances while the appellant has been discriminated. He further argued that cases of similar nature have been accepted by this Tribunal, vide consolidated judgment dated 16.3.2011 in Service Appeal No. 803/2010, and the appellant is also entitled to the same treatment as per judgment of the august Supreme Court of Pakistan as reported in 1996-SCMR-1185. He requested that the appeal may be accepted.

6. The learned AGP argued that charge sheet/statement of allegations was issued to the appellant, proper enquiry conducted. He was given ample opportunity of defence, but he failed to prove his innocence and has rightly

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTESTED

8

been punished due to his involvement in ante-state activities. He requested that the appeal may be dismissed.

7. The Tribunal observes that the appellant has been dismissed from service on the allegation that he was involved in ante-state activities but no regular enquiry has been conducted against him, which was mandatory under the law. This Tribunal also accepted the appeals of 72 similarly placed person vide judgment dated 16.3.2011, in Service appeal No. 803/2010. The appellant is also entitled to the same treatment.

8. In view of the above, the appeal is accepted, the impugned orders are set aside and the appellant is reinstated into service with all back benefits. However, if deemed appropriate in view of facts and circumstances of the case, the department may initiate denovo departmental proceedings against the appellant, but strictly in accordance with the law. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED
10.7.2012.

(NOOR ALI KHAN)
MEMBER

(SYED MANZOOR ALI SHAH)
MEMBER

Certified to be true copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 12.07.2012
Number of Words 800
Copying Fee 2300
Urgent 2300
Total 4600
Name of Copyist 2300
Date of Completion of Copy 23.7.2012
Date of Delivery of Copy 23.7.2012

① 11B 24

97

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE NASIR-UL-MULK
MR. JUSTICE IQBAL HAMEEDUR RAHMAN

CIVIL PETITION NO. 632-P OF 2012

(on appeal from the judgment of the KPK Service Tribunal, Peshawar dated 10.07.2012 passed in Appeal No. 1333 of 2011)

The Provincial Police Officer Government of
KPK, Peshawar & others **...Petitioners.**

VERSUS

Khairullah **...Respondent.**

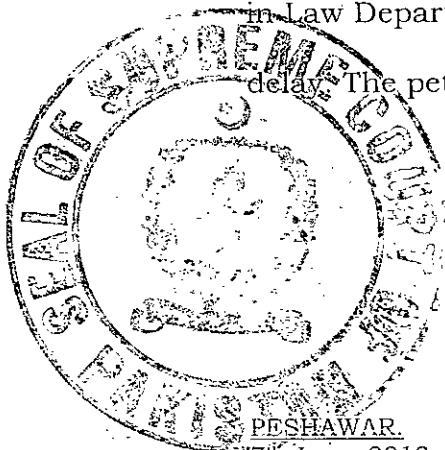
For the Petitioners: Ms. Neelam Khan, Addl. AG. KPK.

For the Respondent: N.R.

Date of Hearing: 07.06.2013

ORDER

NASIR-UL-MULK, J.— This petition is barred by 100 days and the reason mentioned in the application for condonation of delay is the time consumed for getting approval from the Committee constituted in Law Department. This is not a good ground for seeking condonation of delay. The petition is, therefore, dismissed as barred by time. /



PESHAWAR
7th June, 2013.
Mudassar

07/06/2013

"Not approved for reporting."

Sd/- Nasir-ul-Mulk J.
Sd/- Iqbal Hameedur Rahman J.

Certified to be true copy
12-06-2013
Deputy Registrar,
Supreme Court of Pakistan,
Peshawar.

"C"

10

ORDER

This order will dispose off the Denovo Enquiry proceedings against Constable Khairullah No.360/2490 that he while posted to Javed Iqbal Shaheed Police Lines was reportedly involved in anti state activities by developing links with terrorists.

He was issued Charge Sheet alongwith Statement of Allegations and DSP/City Circle: Swat was deputed as Enquiry Officer. The Enquiry Officer conducted proper departmental enquiry against the delinquent officer and recorded the statements of all concerned officers. After conducting proper departmental enquiry, the Enquiry Officer submitted his findings wherein he intimated that the allegations leveled against the above named Constable could not proved during enquiry. He was heard in Orderly Room.

Therefore, in exercise of the powers vested in the undersigned under Rules 2 (iii) of Police Disciplinary Rules-1975, I, Sher Akbar, S.St, P.S.P, District Police Officer, Swat as a competent authority, am constrained to exonerate him from the charges and he may be allowed all back benefits in the light of Service Tribunal judgment dated 10-07-2012. However, the above named Constable will not be posted on any sensitive /key points for duty/security of Police Officers/political leaders-persons in future.

Order announced.

O.B. No. 43
Dated 12/3/2014.


District Police Officer, Swat

Copy to this:

- 1) Pay officer,
- 2) OASI Regular.
- 3) Establishment Circle.

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ORDER

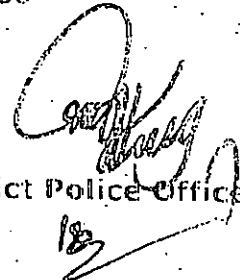
11D 11

As per recommendation of the Departmental Promotion Committee constituted vide this office Endst: No. 6909-03/EB dated 26-9-2009, the following C-I and C-II, constables are hereby promoted as officiating Head Constable BPS-7 with immediate effect:-

<u>SNO</u>	<u>NAME</u>
1	Shakirullah No. 644
2	Said Rehman No. 717
3	Muhammad Khaliq No. 437
4	Jan Muhammad No. 1269
5	Bakht Azeem No. 732
6	Shamshad Ali No. 12
7	Murad Ali No. 866
8	Yahya Khan No. 289
9	Abdul Ahad No. 442
10	Nawar Saadat No. 1060
11	Muhammad Ayub No. 1029
12	Nisar Ahmad No. 212
13	Ijaz Ahmad No. 418
14	Asghar Khan No. 580
15	Jehan Zeb No. 489
16	Farmanullah No. 739
17	Umar Rahman No. 676
18	Attaullah No. 1169
19	Muhammad Iftikhar No. 1016
20	Muhammad Ishaq No. 604
21	Sher Alam No. 1392
22	Sabz Ali No. 535
23	Rahat Khan No. 530
24	Sardar Muhammad No. 769
25	Naik Zada No. 281
26	Amin Said No. 300
27	Khaisla Muhammad No. 620
28	Gulam Sheh No. 1349
29	Nasir Khan No. 01
30	Muhammad Nawab No. 1530
31	Gohuar Ali No. 867
32	Nizam-ud-Din No. 1073

12

33	Bacha Zada No. 328
34	Muhammad Sherin No. 1222
35	Fahim Khan No. 199
36	Javed Khan No. 467
37	Shah Jehan No. 1292
38	Aziz-ur-Rehman No. 1180
39	Umar Ali No. 660
40	Muhammad Alam No. 1420
41	Amir Zarin Khan No. 414
42	Rahmanullah No. 291
43	Muhammad Diyar No. 316
44	Bashir-ul-Ullah No. 1080



District Police Officer, Swat

OB No. 144

Dated 01/10/2009

13 "E"

OFFICE OF THE DISTRICT POLICE OFFICER, SWAT**ORDER/ PROMOTION**

On the recommendation of the D.P.C the following C-I Constables are hereby promoted to the rank of Offg: HCs in BPS-7 with immediate effect until further order:-

S.No.	Name & Belt No.
1	Mohib Ullah No: 161
2	Aziz Ahmad No. 213/RR
3	Gohar No. 66
4	Akhtar Ali No. 1474
5	Habib ur Rahman No, 550
6	Tasleem Mian No. 430
7	Amir Zeb No. 963
8	Amjad Iqbal No. 259
9	Nazeer Ahmad No. 2596
10	Mushtaq Ahmad No. 1372
11	Mohammad Ishaq No. 1354
12	Niaz Ali No. 1437
13	Aman Ullah Khan No. 842
14	Umar Hayat No. 468
15	Hussain Ali No. 1152
16	Farman Ali No. 500
17	Gohar Rahman No. 1532
18	Afzal Hussain No. 1485
19	Waheed Ullah No. 973
20	Jehan Alam No. 121
21	Alam Khan No. 1429
22	Sahib Shah No. 615
23	Wahid Zada No. 425
24	Sajjad Ullah No. 637

160
30/7 /2011


District Police Officer, Swat

523 /E, Dated: 05/08/2011

Copy of above for information & necessary action to the:-
Deputy Inspector General of Police, Malakand Region, Saidu Sharif, Swat for
favour of information please.

بھنور جناب ڈپٹی انسپکٹر جنرل صاحب محکمہ پولیس ملاکنڈ ڈویژن بمقام سید و شریف سوات

14

عنوان: درخواست بمراد ترقیابی بچدہ ہیڈ کنسٹیبل و سلیکشن برائے انٹرمیڈیٹ کورس

F=

جناب عالی!

سائل حسب ذیل عرض رساں ہے۔

۱۔ یہ کہ سائل 1994ء سے محکمہ پولیس میں بحیثیت کنسٹیبل اپنی فرائض منصبی نہایت ایمانداری کے ساتھ سرانجام دے رہا ہے جبکہ ترقی کی راہ پر گامزن ہونے کے لئے سائل نے سال 2007 میں پولیس ٹریننگ کالج ہنگو سے لوئر سکول کورس پاس کر کے بحوالہ آرڈر بک نمبر 144 بمورخہ 09/10/2009 سائل کے دیگر لوئر کورس کو ایفائیڈ ساتھیوں کو بچدہ ہیڈ کنسٹیبل ترقیاب کئے گئے۔ جبکہ سائل کا نام DPC کے ممبران نے نظر انداز کر کے صرف اس وجہ سے فہرست سے خارج کیا کہ سائل سیکورٹی فورسز کے زیر حراست رہا (نقل کاپی آرڈر بک نمبر 144/09/10/2009 لف ہے۔)

۲۔ یہ کہ مورخہ 20/09/2007 کو سائل نے ایک سال ایکس پاکستان لیو منظور شدہ پر روانگی کر کے مورخہ 05/12/2007 کو کشیدہ صورتحال میں سرچ اپریشن کے دوران سیکورٹی فورسز کو سائل کے ایک سال ایکس پاکستان لیو پر شک پڑا اور اس وجہ سے سائل کو زیر حراست رکھ کر مورخہ 13/04/2008 کو بعد از انکوائری سائل کو (White) ڈیکلیر کر کے باعزت طور پر چھوڑ دیا گیا۔ (نقل کاپی White ڈیکلرڈ رپورٹ لف ہے۔)

۳۔ یہ کہ DPC کے ممبران نے بغیر کسی تحقیق کے سائل کو پروموشن لسٹ سے خارج کر دیا اور بعدہ محکمہ نے سائل کے خلاف دہشت گردی کے الزامات لگا کر بحوالہ آرڈر بک نمبر 41 مورخہ 03/03/2010 سائل کو اپنی ملازمت سے برطرف کر دیا گیا۔ (نقل کاپی آرڈر بک نمبر 41 مورخہ 03/03/2010 لف کیا گیا ہے)

۴۔ یہ کہ سائل نے ملازمت پر دوبارہ بحال ہونے کے لئے عدالت سے رجوع کیا اور آخر کار سائل کو عدالت اسروس ٹریبونل نے دوبارہ اپنی ملازمت پر جملہ مراعات کے ساتھ بحال ہونے کی احکامات صادر فرمائے۔ (نقل کاپی حکم اسروس ٹریبونل لف ہے)

۵۔ یہ کہ بحوالہ آرڈر بک نمبر 43 مورخہ 12/03/2014 جناب DPO صاحب سوات نے سائل کے خلاف شروع کردہ ڈینوائٹوائزری کو فائل کرنے اور سائل کو جملہ مراعات کے ساتھ بحال کرنے کی احکامات صادر فرمائے ہیں۔ مگر تاحال سائل کو بچہ ہائیڈ کنسٹیبل ترقیاب نہیں کیا گیا ہے۔ (نقل کاپی آرڈر بک نمبر 43 مورخہ 12/03/2014 لف ہے۔)

۶۔ یہ کہ سائل نے پروموشن کے سلسلے میں مورخہ 17/03/2014 کو ایک درخواست گزاری ہے جس پر جناب DPO صاحب نے آئندہ DPC میں پروموشن دینے کا حکم صادر فرمایا ہے۔ (نقل کاپی درخواست محررہ 17/03/2014 لف ہے۔)

۷۔ یہ کہ سائل کا پروموشن آئندہ DPC سے پہلے نہ کرنا سائل کے ساتھ سراسر ظلم، نا انصافی اور سائل کے مستقبل کو داؤ پر لگانا ہے کیونکہ سائل کے لوئر کورس کے دیگر ساتھی جو بحوالہ آرڈر بک نمبر 144 مورخہ 09/10/2009 بچہ ہائیڈ کنسٹیبل ترقیاب ہو چکے ہیں۔ انٹرمیڈیٹ کورس کے آئندہ ٹرم جو 01/10/14 سے شروع ہونے والا ہے میں سلیکٹ ہونے والا ہے۔

۸۔ یہ کہ اگر سائل کو انٹرمیڈیٹ کورس کے سلیکشن سے پہلے بچہ ہائیڈ کنسٹیبل ترقیاب نہیں کیا گیا تو سائل کو انٹرمیڈیٹ کے سلیکشن سے بھی خارج کیا جائے گا اور اسی طرح سائل انٹرمیڈیٹ کے آئندہ ٹرم میں اپنے دیگر ساتھیوں سے رہ جائیگا اور سائل کے سینیاریٹی ختم ہو جائیگی۔ جو کہ نہ صرف سائل کے ساتھ ظلم، نا انصافی ہوگی بلکہ اس کے ساتھ ساتھ حکم سرورس ٹریبونل اعدالت کی توہین بھی ہوگی۔

لہذا بذریعہ درخواست ہذا استدعا کی جاتی ہے کہ سائل کو انٹرمیڈیٹ کے سلیکشن سے پہلے پہلے بچہ ہائیڈ کنسٹیبل ترقیاب کرنے اور سائل کو انٹرمیڈیٹ کے آئندہ ٹرم میں شامل کرنے کی احکامات صادر فرما کر سائل کی دادرسی اور سائل کے ساتھ انصاف فرمایا جائے تو سائل تا روز حیات دعا گو رہے گا۔

العارض

تابع فرمان LHC خیر اللہ نمبر 2490

متعینہ پولیس چوکی مٹلتان تھانہ کالام سوات

مورخہ: 26/08/2014

(16) F-1

4680
02/06/15

From : The Regional Police Officer,
Malakand, at Saidu Sharif, Swat.

To : The District Police Officer, Swat.

No. 4680 /E, dated Saidu Sharif, the 02-06 /2015.

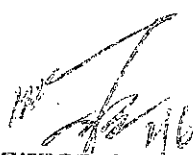
Subject: APPLICATION FOR PROMOTION AS HEAD CONSTABLE
AND SELECTION FOR INTERMEDIATE COLLEGE COURSE.

Memorandum:

Please refer to your office memo: No. 6229/E, dated
07/05/2015.


Application of Constable Khair Ullah No.2490 of Swat District
has been examined and filed by worthy Regional Police Officer, Malakand Swat.

EC
for action.


(OFFICE SUPDT)
For Regional Police Officer,
Malakand, at Saidu Sharif Swat

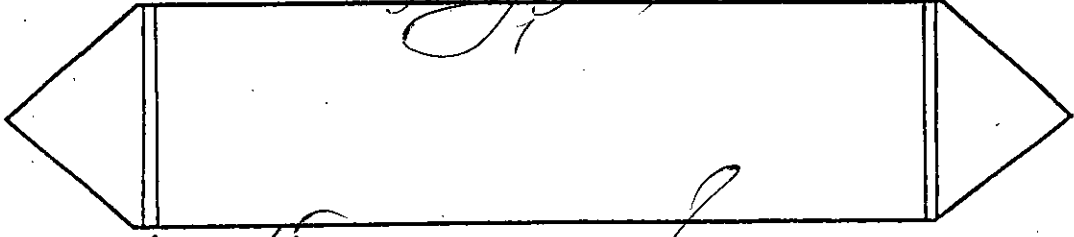
W/Asst:
03/06/15

Allesed


Deputy Superintendent of Police Legal
Swat.

8/6

بعدالت سرپرستی



موزخہ دوسری
 مقدمہ
 دعویٰ S. Appel
 جرم

کے نام 2018ء مجازب
 بنام عدالت

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دکن کاروائی متعلقہ کیلئے آن مقام 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 بسورت ڈگری کرنے اجراء اور صولی چیک دروپیہ ار عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرفہ 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 لیا 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 جاندا 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 اوکالت نامہ لکھد یا کہ سند ہے۔

المرقوم 7 - ماہ 2018ء

وہ الع

Accepted

کے لئے منظور ہے۔

بمقام

Sulman

BEFORE THE CHAIRMAN, SERVICES TRIBUNAL, KPK, PESHAWAR

In re: Service appeal No.751/2015.

Title:

Khairullah son of Abdul Majeed,

Constable No.2490, PP Matiltan, PS KALAM.....APPELLANT.

VERSUS:

1.The Provincial Police Officer, KPK, ETC.....RESPONDENTS.

REJOINDER ON BEHALF OF THE APPELLANT.

Regarding preliminary objection:

a)- This para of objection is baseless and misleading one because the appeal is fully based on facts, cogent reasons with solid proof and materials on the record.

b to f)- These paras of objections are incorrect and not based on facts or cogent reasons, hence denied. The appeal is not bad for non-joinder or mis-joinder of necessary party. The appellant is not estopped by his own conduct to file the present appeal. The appeal is well in time because though the application/appeal made to the department was illegally filed/rejected on 2.6.2015, but such order of filing the application was not communicated to the appellant till 8.6.2016, on which the copy regarding order of filing (rejecting)the application was attested and issued to the appellant as a result of his application dated 8.6.2015, against which appeal was made on 7/7/2015 well within time(copy of order dated 2.6.15, duly attested on 8.6.15 and delivered to the appellant on the same date i.e 8.6.15 is Annexure-A) which clearly shows that the appeal was well within time. The appellant has come to court with clean hands and has got good prima facie case and cause of action while on the other hand, the respondents have come without clean hands and are out to malafidely ruin the service carrier of the appellant at any cost for no fault on his part.

FACTS:

1 to 3)- These paras of the appeal, being not denied by respondents due to offering no comments, meaning thereby that such paras have been admitted by them. Similarly, in para-2 of our appeal, we claimed that the dismissal of appellant was vague and based on baseless allegation, which fact has also been admitted by the Respondents in a similar manner. These facts clearly show that the dismissal and non-promotion of the appellant were unlawful and based on malafide intention.

4)- The reinstatement order dated 12.3.2014 has been admitted in this para by the respondents. Nevertheless, as per judgement of Service Tribunal regarding reinstatement of the appellant and facts/solid materials available on record, the directions of Respondent No.3 regarding non-posting of the appellant on sensitive post, are uncalled for, unjust, against law, natural justice and the material available record; hence, liable to be expunged.

5)- Reply of this para by the respondents to the effect, that the appellant had links with the militants and was sympathizer of terrorists, has been unproved in every forum, is therefore, baseless and the result of malafide intention. Moreover, their assertion that during promotion process, appeal of the appellant was pending before the Service tribunal, is also incorrect and baseless because appeal of the appellant was filed on 13.7.2011 before the Service Tribunal and decided on 10.7.2012(Annexure-B) while the promotion order of other constables was issued on 9.10.2009 (already attached with the present appeal). This state of affairs clearly shows that during the promotion process, appeal of the appellant was not pending before the Chairman, Service Tribunal in the year of 2009. As regards the detention of the appellant with the Security forces during the days of promotion is concerned, it was the story of 2007-2008 and he was declared white by the Army on 13.4.2008 after screening by the joint interrogation team, consisting of the representatives of police, FC, 206-Svy sector as well as the representative of HQ-17 division, held on various angle and aspects, but nothing during the course of joint interrogation was extracted, and thus after recording their findings, the appellant was declared as white and set free. Such finding of the said high profile joint investigation team was duly conveyed to the Police department, Swat on the same day. (Copy of

the findings after interrogation and white declaration of the appellant is annexure-C). Moreover, during promotion process, the appellant was on duty at P.S Madyan, Swat.(Naqal-mad No.17 Roznamcha dated 14.7.2009 in this respect, is Annexure-D). The above position clearly shows false allegation and malafide intention and misuse of power on the part of the department as, after such high level investigation on every angle, the appellant was declared white and set free.

6)- As the major penalty of dismissal, made on the basis of "Cheemegoyas" (rumors /doubts mentioned in the enquiry report Annexure-E and order thereon is Annexure-F) was unlawful , against which the appellant filed appeal before Services Tribunal, whom reinstated him with all back benefits by exonerating him of all the false charges made against him by the Respondents. This state of affairs clearly shows that his dismissal by the DPO Swat was against law and natural justice and was the result of malafide intention and misuse of powers and inefficiency. Therefore, in the circumstances, the appellant is entitled to promotion as he was reinstated with all back benefits.

7)- Pendency of appeal in Service tribunal Peshawar and detention with security forces at the time of promotions in the year 2009(copy Annexure-G), is incorrect because as explained in para-5 above, at that time neither he was in detention with security forces nor his case was pending before Service Tribunal during the that period as the appellant was already declared WHITE by joint investigation team of the security forces on 13/04/2008, resultantly the DPO, Swat was constrained to reinstate him vide order dt. 28/08/2013, while further promotions of his colleagues(juniors/ seniors) were made on 26/09/2014, during which period, the appellant was on duty. This state of affairs clearly shows that the assertions made by the respondents in Para-5 and this Para-7, are incorrect and are contradictory to the facts and material on record, therefore based on malafide intention, misuse of powers etc.

8. Reply of the respondents to this para that the application/appeal of the appellant to the departmental authority for promotion was devoid of merits, is incorrect because the said application/appeal was fully justified and based on merit because he was already declared white from all the frivolous charges by the high

profile joint investigation team of Security forces and was also exonerated of all the said charges by the Service Tribunal, the Enquiry Officer and the DPO, Swat . But despite these facts, the said appeal/application was illegally and malafidely filed by the departmental authority on baseless grounds, causing serious irregularity, injustice, misuse of powers and illegality, which act is actionable under the law and services rules. Thus, the filing of his application/appeal and his non-promotion was quite illegal.

9. Reply of the respondents to this para is incorrect because appeal of the appellant for promotion was based on merits as explained above, and the appeal needs to be accepted with heavy cost against the respondents.

GROUNDS:

A)- The denial of the contention of the appellant mentioned in this para, is illegal and based on malafide intention because as per record, the appellant was honourably exonerated of all the hearsay baseless charges by all the concerned quarters, including the Armed Forces etc, resulting into his reinstatement by Service Tribunal with all back benefits. But despite these solid facts, he has illegally been dropped constantly from his due promotion on the hearsay flimsy and unproved grounds of doubts, despite the fact that the enquiry officer and DPO Swat have also exonerated him.

B & C)- As per record, these paras of the appeal are quite correct, the denial of which by the respondents, is incorrect and based on malafide intention as the appellant has been reinstated with all back benefits, but despite the fact that the appellant has passed all the exams necessary for the post of H.C(copy Annexure-H). Also, the appellant has been treated discriminately as so many other constables on junior footings from the appellant, were promoted while the appellant's name was malafidely not enlisted in the promotion list for the post of H.Cs (BP-7) by misuse of powers, etc.

D & E). Reply of these paras by the respondents, are the result of discrimination and malafide intention as the appellant was very much fit for promotion on the basis of seniority-cum-fitness and other grounds necessary for promotion, but his name was illegally dropped without giving him the chance of hearing or showing any

reason there for. Therefore, his promotion needs to be made from due date as there is nothing adverse against him on record.

In view of the above facts and materials on record, It is, therefore, prayed that the appellant may kindly be ordered to be promoted to the post of C-1/ H.C from due date with back benefits, with cost for causing every kind of losses and inconvenience to the appellant in addition to ordering legal proceedings against the concerned officers for misuse of posers etc.


KHAIRULLAH APPELLANT,


1. (IJAZ AHMAD) ADV.

2. MAJID ALI ADVOCATE.

DT.1.7.2016.

~~Annexure A~~

(16)

11/5/1

Annexure "A"

4632
02/06/15

From : The Regional Police Officer,
Malakand, at Saidu Sharif, Swat.

To, The District Police Officer, Swat.

No. 4680 /E, dated Saidu Sharif, the 02-06 /2015.

Subject: **APPLICATION FOR PROMOTION AS HEAD CONSTABLE
AND SELECTION FOR INTERMEDIATE COLLEGE COURSE.**

Memorandum:

Please refer to your office memo: No. 6229/E, dated
07/05/2015.

Application of Constable Khair Ullah No.2490 of Swat District
has been examined and filed by worthy Regional Police Officer, Malakand Swat.

RE
for action.

(OFFICE SUPDT)
For Regional Police Officer,
Malakand, at Saidu Sharif Swat

Warrant:
03/06/15

Attested

Deputy Superintendent of Police Legai
Swat.

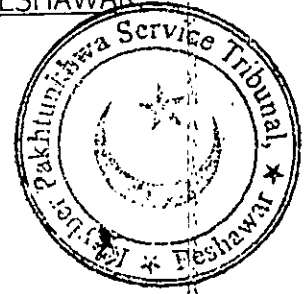
SJB

Annexure - "B"

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 1333/2011

Date of Institution. ... 13.7.2011
Date of Decision ... 10.7.2012



Khairullah Ex-Constable No. 360, Javed Iqbal Shaheed
Police Lines Swat. ...

(Appellant)

VERSUS

1. The Provincial Police Officer, Government of Khyber Pakhtunkhwa, Peshawar.
 2. The Regional Police Officer/DIG Malakand Region, Saidu Sharif Swat.
 3. The District Police Officer, Swat. ...
- (Respondents)

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTESTED
APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 READ WITH SECTION 10 OF THE KHYBER PAKHTUNKHWA REMOVAL FROM SERVICE (SPECIAL POWERS) ORDINANCE 2000 AGAINST THE ORDER DATED 3.3.2010, WHEREBY THE APPELLANT HAS BEEN DISMISSED FROM SERVICE FOR ALLEGED CHARGES OF INVOLVEMENT IN ANTI-STATE ACTIVITIES AND AGAINST THE FINAL REJECTION ORDER DATED 18.6.2011 CONVEYED TO APPELLANT ON 21.6.2011 WHEREBY THE APPELLANT'S DEPARTMENTAL APPEAL HAS BEEN REJECTED.

MR. MUHAMMAD ASIF YOUSAFZAI,
Advocate ...

For appellant.

MR. ARSHAD ALAM,
Addl. Government Pleader ...

For respondents.

SYED MANZOOR ALI SHAH,
MR. NOOR ALI KHAN, ...

MEMBER
MEMBER

JUDGMENT

SYED MANZOOR ALI SHAH, MEMBER. - This appeal has been filed by Khairullah, the appellant under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 read with Section 10 of the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance 2000, against the order dated 3.3.2010, whereby he has been dismissed from service and against the order dated 18.6.2011, whereby his departmental appeal has been rejected. It has been prayed that on acceptance of the appeal, the impugned orders may be set aside and the appellant may be reinstated into service with all back benefits.

2. Brief fact of the case are that the appellant joined the Police Department in the year 1994 and has more than 16 years service at his credit. He was issued charge sheet with statement of allegations on 2.1.2010 for involvement in anti-state activities. The appellant filed his reply and denied the allegations levelled against him. The department conducted ex-parte proceedings against the appellant and on 13.2.2010, final show cause notice was issued to him to which he also filed reply and clarified his position. On 3.3.2010, the appellant was dismissed from service. Feeling aggrieved, he filed departmental appeal on 20.3.2010, which was not decided within the stipulated time, hence he filed Writ Petition No. 3667/2010, in the Hon'ble Peshawar High Court. The petition was disposed of on 11.1.2011 with the direction to the respondents to decide departmental appeal of the appellant within one month positively. Finally vide impugned order dated 18.6.2011, the departmental appeal of the appellant has been rejected, hence the present appeal.

3. The appeal has been admitted to regular hearing on 15.8.2011 and notices were issued to the respondents. The respondents have filed their joint written reply and contested the appeal. The appellant also filed rejoinder in rebuttal.

4. Arguments heard and record perused.

5. The learned counsel for the appellant argued that in case of major penalty conduction of regular enquiry against a civil servant was mandatory but no such enquiry has been conducted. The appellant had more than 16 years service and harsh view has been taken against him. The respondents have reinstated a number of officials/officers in similar circumstances while the appellant has been discriminated. He further argued that cases of similar nature have been accepted by this Tribunal, vide consolidated judgment dated 16.3.2011 in Service Appeal No. 803/2010, and the appellant is also entitled to the same treatment as per judgment of the august Supreme Court of Pakistan as reported in 1996-SCMR-1185. He requested that the appeal may be accepted.

6. The learned AGP argued that charge sheet/statement of allegations was issued to the appellant, proper enquiry conducted. He was given ample opportunity of defence, but he failed to prove his innocence and has rightly


ATTESTED
EX/ASSTANT
Khyber Pakhtunkhwa
Service Tribunal
Peshawar


been punished due to his involvement in ante-state activities. He requested that the appeal may be dismissed.

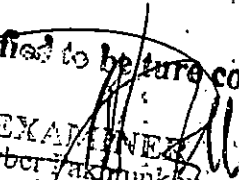
7. The Tribunal observes that the appellant has been dismissed from service on the allegation that he was involved in ante-state activities but no regular enquiry has been conducted against him, which was mandatory under the law. This Tribunal also accepted the appeals of 72 similarly placed person vide judgment dated 16.3.2011, in Service appeal No. 803/2010. The appellant is also entitled to the same treatment.

8. In view of the above, the appeal is accepted, the impugned orders are set aside and the appellant is reinstated into service with all back benefits. However, if deemed appropriate in view of facts and circumstances of the case, the department may initiate denovo departmental proceedings against the appellant, but strictly in accordance with the law. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED
10.7.2012.


(NOOR ALI KHAN)
MEMBER


(SYED MANZOOR ALI SHAH)
MEMBER

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 16.3.12
Number of Words 8
Copying Fee 2300
Urgent 23
Total 2300
Name of Copyist 23
Date of Completion of Copy 17.7.12
Date of Delivery of Copy 23

INTERROGATION AND ITS FINDINGS

Annexure "C"

The following suspected person were arrested by the local Police on various dated, who were screened by joint interrogation team of rep of Police, rep of FC, rep of 206 Svy Sec & rep of HQ 17 Div on various angles/aspects nothing during the course of interrogation was extracted. Therefore they were released on personal bond/under taking of oath that they will remain peaceful and will never indulge in Anti Government/Subversive activities. They will cooperate with Government and its functionaries.

Name of suspects who were declared "WHITE" during interrogation

Ser	Name of Suspect
1. ✓	Azad Wali s/o Shahi Malook r/o Kalam, Swat
2. ✓	Sireen Zeb s/o Yaseen r/o Khawaza Khela
3. ✓	Khair Ullah s/o Abdul Majeed r/o Wapda colony, Saidu Sharif
4. ✓	Khaista Muhammad s/o Fazal Rehman r/o Shirngal Upper Dir
5. ✓	Hidayat Ur Rehman s/o Mehboob Ur Rehman r/o Shalpin Khawaza Khela
6. ✓	Inayat ur Rehman s/o Mehboob Ur Rehman r/o Shalpin Khawaza Khela
7. ✓	Noor Ul Huda s/o Abdul Hassan r/o Gogan Dist Bunair
8. ✓	Rehmat Ali s/o Fazal-e-Rabbi r/o Bara Bandai Kabbal
9. ✓	Umer Rehman s/o Habib Ur Rehman r/o Sambat Cham
10. ✓	Rahim Khan s/o Perwanat khan r/o Kuza Bandai Kabbal
11. ✓	Liaqat Ali s/o Abdul Raziq, Jan Abad Charbagh

Signatures of Interrogation Team Members

Rep of HQ 17 Div

Rep of FC NWFP

Rep of 206 Svy Sec

SI/ASI Police Station Mingora

SI/ASI Police Station Kabbal

SI/ASI Police Station Saidu Sharif

✓ SI/ASI Police Station Khawaza Khela

Fadilat

[Signature]

[Signature]

Sub Gramyaish

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

Dated: 13 Apr 2008

صبراً

کاپی

لکھنؤ 17 اگست 2009
09/09/09

17 اگست 2009 کو تقریباً 14:05 بجے 09/09/09 سے
دیوبند پولیس سٹیشن پر ایک ایف آئی آر نمبر 2086
تحتویہ ہے جس میں ایک شخص کی شناخت کی جا رہی ہے۔

تعمیراتی؟

پولیس سٹیشن



AMAC P. Madyar

31-07-016

ہائپرنگ رپورٹ

— * —

جناب عالی

کیونکہ مشورہ چھان بینی 01/E مورخ 21/10/2010
دفتر جناب ڈی پی او ملک سوات انکوائری بحلاف تیسرا ستمبر 365
جاوید اسیاں ٹھیکہ کن کیا جاتا ہے۔

مذکورہ کسٹم انکوائری طلب کیا جا کر بیانی چیک میں
سب سے پاکستانی ہوں ہیں اور میرا خاندان اس ملک پاکستان کا
مطاع چاہتے ہیں میرا اور میرے خاندان کا دھت گروں سے کوئی
کسی طرح کا تعلق نہیں ہے۔ اور نہ ایسے سرگرمیوں میں ملوث رہا

ہوں۔
مذکورہ سے بارے میں پوچھ گچھ کر کے معلوم ہوا ہے کہ وہ
کے دوران صرف مورخ 20/9 تا 9/20 تک ایک سال زحمت کران میں تھا
مذکورہ کے خلاف دستاویزی ثبوت ملنے کا کوئی شکی نہیں مگر کوئی پکار
تجزیاتی نزل میں مگر مذکورہ دوران تصاتی نظام قریب سے PS مگر
ان کے بارے میں 14/10/2010 میں مگر وہ نامعلوم وجوہات کے بنا کر
مذکورہ کیس کا تیار نہیں کیا جاتا ہے افسر اعلیٰ
قبول کرنے سے انکار کر دیا تھا۔ تحریری یا زبانی طور پر کوئی ثبوت نہ
مل سکا۔ ایسے تمام چر مگر بنیاں ہو رہے ہیں۔ مذکورہ کے دھت گروں

کے ساتھ کوئی ثبوت نہیں رہا ہے۔ ایسے مذکورہ کا ثبوت و برائت مشکوک
ہیں۔ مذکورہ امور سنگین حکم ہائپرنگ رپورٹ گزاری ہے۔

ڈی پی او ملک سوات
10.02.2010

15/02/2010
Principal S.W.P. & ...
[Signature]

2 Annexure "F"

ORDER.

In compliance of the Honorable Service Tribunal of Khyber Pakhtunkhwa, Peshawar Judgment dated 10-07-2012 in a civil appeal No.1333 of 2011 wherein the Service Tribunal accepted the petition of Ex-Constable Khair Ullah No.360 of Swat Police for Re-Instatement in service with all back benefits. Subsequently the department moved an appeal against the judgment of Service Tribunal but the Supreme court of Pakistan vide his Judgment dated 07-06-2013 maintained the decision of Service Tribunal as the appeal was time barred.

As per Court decision, Constable Khair Ullah No.360 is hereby Re-Instated in service from the date of dismissal vide this office O.B.No.41, dated 03-03-2010 and allotted constabulary No.2490 with immediate effect.

However, on re-instatement Denovo enquiry will be conducted as directed by the Tribunal Khyber Pakhtunkhwa, Peshawar.


District Police Officer, Swat.

O.B.No. 142

Dated. 28/8 /2013.

No. 12187 /E,

Copy to Mr. Aslam Nawaz D.S.P/City, Swat with the direction to conduct denovo proceedings against Constable KhairUlah No.2490 and submit finding report for taking further necessary action.


District Police Officer, Swat.

Amir G

(Signature)

(Signature)

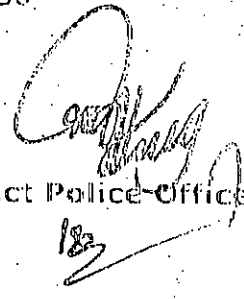
ORDER

As per recommendation of the Departmental Promotion Committee constituted vide this office Endst: No. 6901-03/EB dated 26-9-2009, the following C-I and C-II constables are hereby promoted as officiating Head Constable BPS-7 with immediate effect:-

<u>SNO</u>	<u>NAME</u>
1	Shakirullah No. 644
2	Said Rehman No. 717
3	Muhammad Khaliq No. 487
4	Jan Muhammad No. 1269
5	Bakht Azeem No. 732
6	Shamshad Ali No. 12
7	Murad Ali No. 866
8	Yahya Khan No. 289
9	Abdul Ahad No. 442
10	Nawar Saadat No. 1060
11	Muhammad Ayub No. 1029
12	Nisar Ahmad No. 212
13	Ijaz Ahmad No. 418
14	Asghar Khan No. 580
15	Jehan Zeb No. 439
16	Farmanullah No. 739
17	Umar Rahman No. 676
18	Attaullah No. 1169
19	Muhammad Iftikhar No. 1016
20	Muhammad Ishaq No. 604
21	Sher Alam No. 1392
22	Sabz Ali No. 535
23	Rahat Khan No. 530
24	Sardar Muhammad No. 769
25	Naik Zada No. 281
26	Amin Said No. 300
27	Khaisla Muhammad No. 620
28	Gulam Shah No. 1349
29	Nasir Khan No. 01
30	Muhammad Nawab No. 1530
31	Gohar Ali No. 867
32	Nizam-ud-Din No. 1073

12

33	Bacha Zada No. 328
34	Muhammad Sherin No. 1222
35	Fahim Khan No. 199
36	Javed Khan No. 467
37	Shah Jehan No. 1292
38	Aziz-ur-Rehman No. 1180
39	Umar Ali No. 660
40	Muhammad Alam No. 1420
41	Amir Zarin Khan No. 414
42	Rahmanullah No. 291
43	Muhammad Diyar No. 316
44	Bashir-ul-Ullah No. 1080



District Police Officer, Swat

OB No. 1214

Dated 9 / 10 / 2009

Course
No. 12/1341
2005

Swat

H

Police Training College Hangu



Estb 1935

History Sheet/Detail Marks Certificate

Swat

College Course	: Lower	Name	: Khairullah
Rank	: Constable	Belt No.	: 960
Comp#	: A1777	District	: Swat
Starting Date	: 01-04-2007	Ending Date	: 25-07-2007
Merit	: 52/263	Education	: Matric

29/3/07

LAW			DRILL			REMARKS Test/Board /200
PPC	67	/100	SD	24	/40	
CrPC	73	/100	RF	60	/80	
MJ/FP	59	/100	SF	23	/30	
LSL	64	/100	MD	10	/15	
PR	64	/100	TFC	18	/30	
IST	68	/100	PT	13	/20	
GK/QS/AC	66	/100	UC	7	/10	
PPW	59	/100	GD	14	/20	
			AC	84	/150	
			RE	12	/20	

Swat

Total:- 520.00/800 265.00/415
 G-Total: 785.00/1415
 Overall Percentage is : 64.61

Declared as PASSED

Leave Obtained: 12 days Medical Rest : Nil days Absence : Nil days
 Punishment : Nil

(Signature)
 Commandant,
 Police Training College Hangu.

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 751/2015

Khair Ullah LHC Swat (Appellant)

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and
others Respondents

Subject:- **COMMENTS OF BEHALF OF RESPONDENTS**

Respectfully Shewith:

Preliminary Objections:-

- a) That the appeal has not been based on facts.
- b) That the appeal is bad for non-joinder and mis-joinder of necessary parties.
- c) That the appellant is estopped by his own conduct to file the appeal.
- d) That the appeal is barred by law and limitation.
- e) That the appellant has not come to the Honorable Tribunal with clean hands.
- f) That the appellant has got no cause of action and local standi.


FACTS:


1. Pertain to record, hence needs no comments.
2. Pertain to record, hence needs no comments.
3. Pertain to record, hence needs no comments.
4. Para No. 4 is correct to the extent that in light of Honorable Tribunal order, the appellant was re-instated vide order OB No. 43 dated 12-03-2014 with the direction that he will not be posted on any sensitive/key points for duty/security of Police Officers/Political leaders- persons in future.
5. Para No. 5 is correct to the extent that the appellant had links with the militants and was also the sympathizer of terrorist as a result. Therefore, he was not considered by DPC because the appellant remained under the detention of security forces and his case was pending before Service Tribunal Peshawar.
6. Para No. 6 is correct to the extent of promotion of some official to the the rank of Head Constable, however at that time appellant was not in service as he was dismissed from Service vide Order OB No. 41 dated 03-03-2010 by D.P.O Swat.
7. Para No. 7 is correct as explained in Para No. 5.
8. Para No. 8 is correct to the extent that the appellant filed an appeal for promotion before the appellate authority but was rejected/filed being devoid of merits.

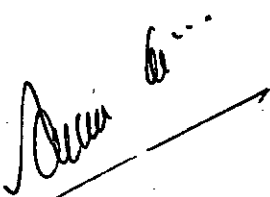
9. That appeal of appellant being devoid of merits may kindly be dismissed with cost on the following ground:-

GROUND:

- A. Incorrect, the act of respondent is lawful, legal and based on facts.
- B. Incorrect, reply already given vide Para above.
- C. Incorrect, no discrimination has been done to the appellant.
- D. Incorrect, the appellate authority after proper examination rejects the appeal being meritless.
- E. Incorrect, the criteria for promotion of the next rank/ grade is govern by The principal efficiency and honesty, while appellant prove their self an inefficient official.
- It is therefore, prayed that the appeal may be dismissed with costs.


Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 01)


Deputy Inspector General of Police,
Malakand Division, Saidu Sharif Swat
(Respondent No. 02)
Regional Police Officer,
Malakand, at Saidu Sharif Swat.


District Police Officer, Swat
(Respondent No. 03)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No. 751/2015

Khair Ullah LHC SwatAppellant

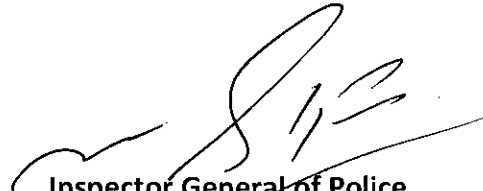
VERSUS

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and
others

Respondents

POWER OF ATTORNEY

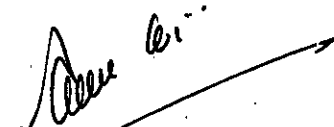
We, the undersigned No. 01 to 03 do hereby appoint Khawas Khan SI Legal Swat as Special representative on our behalf in the above noted appeal. He is authorized to represent us before the Tribunal on each and every date fixed and to assist the Govt: Pleader attach to Tribunal.



Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 01)



Deputy Inspector General of Police,
Malakand Division, Saidu Sharif Swat
(Respondent No. 02)
Malakand, at Saidu Sharif Swat.



District Police Officer, Swat
(Respondent No. 03)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No. 751/2015

Khair Ullah LHC Swat

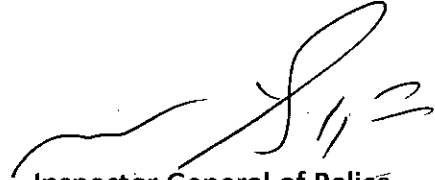
Appellant

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar & others Respondents

AFFIDAVIT

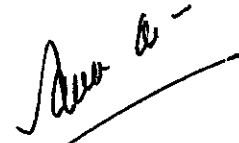
We, the above respondents do hereby solemnly affirm on oath and declare that the contents of the appeal are correct/true to the best of our knowledge/belief and nothing has been kept secret from the honorable Service Tribunal Khyber Pakhtunkhwa, Peshawar.



**Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 01)**



**Deputy Inspector General of Police,
Malakand Division, Saidu Sharif Swat
Regional Police Officer,
Malakand, at Saidu Sharif Swat**



**District Police Officer, Swat
(Respondent No. 03)**

BEFORE THE CHAIRMAN, SERVICES TRIBUNAL, KPK, PESHAWAR

In re: Service appeal No.751/2015.

Title:

Khairullah son of Abdul Majeed,

Constable No.2490, PP Matiltan, PS KALAM.....APPELLANT.

VERSUS:

1.The Provincial Police Officer, KPK, ETC.....RESPONDENTS.

REJOINDER ON BEHALF OF THE APPELLANT.

Regarding preliminary objection:

a)- This para of objection is baseless and misleading one because the appeal is fully based on facts, cogent reasons with solid proof and materials on the record.

b to f)- These paras of objections are incorrect and not based on facts or cogent reasons, hence denied. The appeal is not bad for non-joinder or mis-joinder of necessary party. The appellant is not estopped by his own conduct to file the present appeal. The appeal is well in time because though the application/appeal made to the department was illegally filed/rejected on 2.6.2015, but such order of filing the application was not communicated to the appellant till 8.6.2016, on which the copy regarding order of filing (rejecting)the application was attested and issued to the appellant as a result of his application dated 8.6.2015, against which appeal was made on 7/7/2015 well within time(copy of order dated 2.6.15, duly attested on 8.6.15 and delivered to the appellant on the same date i.e 8.6.15 is Annexure-A) which clearly shows that the appeal was well within time. The appellant has come to court with clean hands and has got good prima facie case and cause of action while on the other hand, the respondents have come without clean hands and are out to malafidely ruin the service carrier of the appellant at any cost for no fault on his part.

FACTS:

1 to 3)- These paras of the appeal, being not denied by respondents due to offering no comments, meaning thereby that such paras have been admitted by them. Similarly, in para-2 of our appeal, we claimed that the dismissal of appellant was vague and based on baseless allegation, which fact has also been admitted by the Respondents in a similar manner. These facts clearly show that the dismissal and non-promotion of the appellant were unlawful and based on malafide intention.

4)- The reinstatement order dated 12.3.2014 has been admitted in this para by the respondents. Nevertheless, as per judgement of Service Tribunal regarding reinstatement of the appellant and facts/solid materials available on record, the directions of Respondent No.3 regarding non-posting of the appellant on sensitive post, are uncalled for, unjust, against law, natural justice and the material available record; hence, liable to be expunged.

5)- Reply of this para by the respondents to the effect, that the appellant had links with the militants and was sympathizer of terrorists, has been unproved in every forum, is therefore, baseless and the result of malafide intention. Moreover, their assertion that during promotion process, appeal of the appellant was pending before the Service tribunal, is also incorrect and baseless because appeal of the appellant was filed on 13.7.2011 before the Service Tribunal and decided on 10.7.2012(Annexure-B) while the promotion order of other constables was issued on 9.10.2009 (already attached with the present appeal). This state of affairs clearly shows that during the promotion process, appeal of the appellant was not pending before the Chairman, Service Tribunal in the year of 2009. As regards the detention of the appellant with the Security forces during the days of promotion is concerned, it was the story of 2007-2008 and he was declared white by the Army on 13.4.2008 after screening by the joint interrogation team, consisting of the representatives of police, FC, 206-Svy sector as well as the representative of HQ-17 division, held on various angle and aspects, but nothing during the course of joint interrogation was extracted, and thus after recording their findings, the appellant was declared as white and set free. Such finding of the said high profile joint investigation team was duly conveyed to the Police department, Swat on the same day. (Copy of

the findings after interrogation and white declaration of the appellant is annexure-C). Moreover, during promotion process, the appellant was on duty at P.S Madyan, Swat.(Naqal-mad No.17 Roznamcha dated 14.7.2009 in this respect, is Annexure-D). The above position clearly shows false allegation and malafide intention and misuse of power on the part of the department as, after such high level investigation on every angle, the appellant was declared white and set free.

6)- As the major penalty of dismissal, made on the basis of "Cheemegoyas" (rumors /doubts mentioned in the enquiry report Annexure-E and order thereon is Annexure-F) was unlawful , against which the appellant filed appeal before Services Tribunal, whom reinstated him with all back benefits by exonerating him of all the false charges made against him by the Respondents. This state of affairs clearly shows that his dismissal by the DPO Swat was against law and natural justice and was the result of malafide intention and misuse of powers and inefficiency. Therefore, in the circumstances, the appellant is entitled to promotion as he was reinstated with all back benefits.

7)- Pendency of appeal in Service tribunal Peshawar and detention with security forces at the time of promotions in the year 2009(copy Annexure-G), is incorrect because as explained in para-5 above, at that time neither he was in detention with security forces nor his case was pending before Service Tribunal during the that period as the appellant was already declared WHITE by joint investigation team of the security forces on 13/04/2008, resultantly the DPO, Swat was constrained to reinstate him vide order dt. 28/08/2013, while further promotions of his colleagues(juniors/ seniors) were made on 26/09/2014, during which period, the appellant was on duty. This state of affairs clearly shows that the assertions made by the respondents in Para-5 and this Para-7, are incorrect and are contradictory to the facts and material on record, therefore based on malafide intention, misuse of powers etc.

8. Reply of the respondents to this para that the application/appeal of the appellant to the departmental authority for promotion was devoid of merits, is incorrect because the said application/appeal was fully justified and based on merit because he was already declared white from all the frivolous charges by the high

profile joint investigation team of Security forces and was also exonerated of all the said charges by the Service Tribunal, the Enquiry Officer and the DPO, Swat. But despite these facts, the said appeal/application was illegally and malafidely filed by the departmental authority on baseless grounds, causing serious irregularity, injustice, misuse of powers and illegality, which act is actionable under the law and services rules. Thus, the filing of his application/appeal and his non-promotion was quite illegal.

9. Reply of the respondents to this para is incorrect because appeal of the appellant for promotion was based on merits as explained above, and the appeal needs to be accepted with heavy cost against the respondents.

GROUND:

A)- The denial of the contention of the appellant mentioned in this para, is illegal and based on malafide intention because as per record, the appellant was honourably exonerated of all the hearsay baseless charges by all the concerned quarters, including the Armed Forces etc, resulting into his reinstatement by Service Tribunal with all back benefits. But despite these solid facts, he has illegally been dropped constantly from his due promotion on the hearsay flimsy and unproved grounds of doubts, despite the fact that the enquiry officer and DPO Swat have also exonerated him.

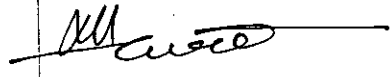
B & C)- As per record, these paras of the appeal are quite correct, the denial of which by the respondents, is incorrect and based on malafide intention as the appellant has been reinstated with all back benefits, but despite the fact that the appellant has passed all the exams necessary for the post of H.C(copy Annexure-H). Also, the appellant has been treated discriminately as so many other constables on junior footings from the appellant, were promoted while the appellant's name was malafidely not enlisted in the promotion list for the post of H.Cs (BP-7) by misuse of powers, etc.

D & E). Reply of these paras by the respondents, are the result of discrimination and malafide intention as the appellant was very much fit for promotion on the basis of seniority-cum-fitness and other grounds necessary for promotion, but his name was illegally dropped without giving him the chance of hearing or showing any

reason there for. Therefore, his promotion needs to be made from due date as there is nothing adverse against him on record.

In view of the above facts and materials on record, It is, therefore, prayed that the appellant may kindly be ordered to be promoted to the post of C-1/ H.C from due date with back benefits, with cost for causing every kind of losses and inconvenience to the appellant in addition to ordering legal proceedings against the concerned officers for misuse of posers etc.


KHAIRULLAH APPELLANT,

- 
1. (IJAZ AHMAD) ADV.
2. MAJID ALI ADVOCATE.

DT.1.7.2016.

~~Annexure A~~

(16)

Annexure "A"

From :

The Regional Police Officer,
Malakand, at Saidu Sharif, Swat.

To

The District Police Officer, Swat.

No.

4680

/E, dated Saidu Sharif, the 02-06 /2015.

Subject:

**APPLICATION FOR PROMOTION AS HEAD CONSTABLE
AND SELECTION FOR INTERMEDIATE COLLEGE COURSE.**

Memorandum:

07/05/2015.

Please refer to your office memo: No. 6229/E, date

Application of Constable Khair Ullah No.2490 of Swat District
has been examined and filed by worthy Regional Police Officer, Malakand Swat.

P.

For action.

Approved:
03/06/15

(OFFICE SUPDT)
For Regional Police Officer,
Malakand, at Saidu Sharif Swat

Approved

Deputy Superintendent of Police Legal
Swat.

S. B.

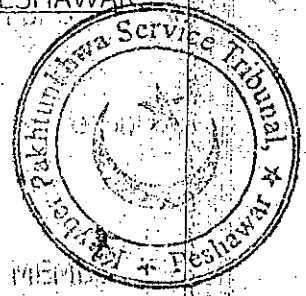
Annexure "A"

STATE ACTIVITIES AND
DATED 18.6.2011
BY THE
Annexure "B"

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 1333/2011

Date of Institution ... 13.7.2011
Date of Decision ... 10.7.2012



Khairullah Ex-Constable No. 360, Javed Iqbal Shaheed
Police Lines Swat.

(Appellant)

VERSUS

1. The Provincial Police Officer, Government of Khyber Pakhtunkhwa, Peshawar.
 2. The Regional Police Officer/DIG Malakand Region, Saidu Sharif Swat.
 3. The District Police Officer, Swat.
- (Respondents)

against the order

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar
ATTESTED

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 READ WITH SECTION 10 OF THE KHYBER PAKHTUNKHWA REMOVAL FROM SERVICE (SPECIAL POWERS) ORDINANCE 2000 AGAINST THE ORDER DATED 3.3.2010, WHEREBY THE APPELLANT HAS BEEN DISMISSED FROM SERVICE FOR ALLEGED CHARGES OF INVOLVEMENT IN ANTI-STATE ACTIVITIES AND AGAINST THE FINAL REJECTION ORDER DATED 18.6.2011 CONVEYED TO APPELLANT ON 21.6.2011 WHEREBY THE APPELLANT'S DEPARTMENTAL APPEAL HAS BEEN REJECTED.

MR. MUHAMMAD ASIF YOUSAFZAI,
Advocate

For appellant.

MR. ARSHAD ALAM,
Addl. Government Pleader

For respondents.

SYED MANZOOR ALI SHAH,
MR. NOOR ALI KHAN,

MEMBER
MEMBER

JUDGMENT

SYED MANZOOR ALI SHAH, MEMBER.- This appeal has been filed by Khairullah, the appellant under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 read with Section 10 of the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance 2000, against the order dated 3.3.2010, whereby he has been dismissed from service and against the order dated 18.6.2011, whereby his departmental appeal has been rejected. It has been prayed that on acceptance of the appeal, the impugned orders may be set aside and the appellant may be reinstated into service with all back benefits.

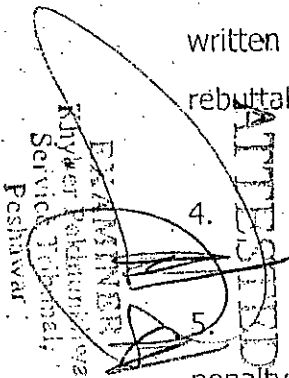
2. Brief fact of the case are that the appellant joined the Police Department in the year 1994 and has more than 16 years service at his credit. He was issued charge sheet with statement of allegations on 2.1.2010 for involvement in anti-state activities. The appellant filed his reply and denied the allegations levelled against him. The department conducted ex-parte proceedings against the appellant and on 13.2.2010, final show cause notice was issued to him to which he also filed reply and clarified his position. On 3.3.2010, the appellant was dismissed from service. Feeling aggrieved, he filed departmental appeal on 20.3.2010, which was not decided within the stipulated time, hence he filed Writ Petition No. 3667/2010, in the Hon'ble Peshawar High Court. The petition was disposed of on 11.1.2011 with the direction to the respondents to decide departmental appeal of the appellant within one month positively. Finally vide impugned order dated 18.6.2011, the departmental appeal of the appellant has been rejected, hence the present appeal.

3. The appeal has been admitted to regular hearing on 15.8.2011 and notices were issued to the respondents. The respondents have filed their joint written reply and contested the appeal. The appellant also filed rejoinder in rebuttal.

4. Arguments heard and record perused.

5. The learned counsel for the appellant argued that in case of major penalty conduction of regular enquiry against a civil servant was mandatory but no such enquiry has been conducted. The appellant had more than 16 years service and harsh view has been taken against him. The respondents have reinstated a number of officials/officers in similar circumstances while the appellant has been discriminated. He further argued that cases of similar nature have been accepted by this Tribunal, vide consolidated judgment dated 16.3.2011 in Service Appeal No. 803/2010, and the appellant is also entitled to the same treatment as per judgment of the august Supreme Court of Pakistan as reported in 1996-SCMR-1185. He requested that the appeal may be accepted.

6. The learned AGP argued that charge sheet/statement of allegations was issued to the appellant, proper enquiry conducted. He was given ample opportunity of defence, but he failed to prove his innocence and has rightly



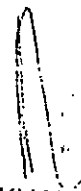
been punished due to his involvement in ante-state activities. He requested that the appeal may be dismissed.

APPELLANT
Khyber Pakhtunkhwa
Tribunal,
Peshawar

7. The Tribunal observes that the appellant has been dismissed from service on the allegation that he was involved in ante-state activities but no regular enquiry has been conducted against him, which was mandatory under the law. This Tribunal also accepted the appeals of 72 similarly placed person vide judgment dated 16.3.2011, in Service appeal No. 803/2010. The appellant is also entitled to the same treatment.

8. In view of the above, the appeal is accepted, the impugned orders are set aside and the appellant is reinstated into service with all back benefits. However, if deemed appropriate in view of facts and circumstances of the case, the department may initiate denovo departmental proceedings against the appellant, but strictly in accordance with the law. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED
10.7.2012.


(NOOR ALI KHAN)
MEMBER


(SYED MANZOOR ALI SHAH)
MEMBER

Certified to be true copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 10/3/12
Number of Words 23
Copying Fee 23
Urgent 23
Total 23
Name of Copyist Mr. M. A. Khan
Date of Completion of Copy 17/7/12
Date of Delivery of Copy 17/7/12

INTERROGATION AND ITS FINDINGS

Annexure 'C'

The following suspected persons were arrested by the local Police on various dates, who were screened by joint interrogation team of rep of Police, rep of FC, rep of 206 Svy Sec & rep of HQ 17 Div on various angles/aspects nothing during the course of interrogation was extracted. Therefore they were released on personal bond/under taking of oath that they will remain peaceful and will never indulge in Anti Government/Subversive activities. They will cooperate with Government and its functionaries.

Name of suspects who were declared "WHITE" during interrogation

Ser	Name of Suspect
1.	Azad Wali s/o Shahi Malook r/o Kalam, Swat
2.	Sireen Zeb s/o Yaseen r/o Khawaza Khela
3.	Khair Ullah s/o Abdul Majeed r/o Wapda colony, Saidu Sharif
4.	Khaista Muhammad s/o Fazal Rehman r/o Shirngal Upper Dir
5.	Hidayat Ur Rehman s/o Mehboob Ur Rehman r/o Shalpin Khawaza Khela
6.	Inayat ur Rehman s/o Mehboob Ur Rehman r/o Shalpin Khawaza Khela
7.	Noor Ul Huda s/o Abdul Hassan r/o Gogan Dist Bunair
8.	Rehmat Ali s/o Fazal-e-Rabbi r/o Bara Bandai Kabbal
9.	Umer Rehman s/o Habib Ur Rehman r/o Sambat Cham
10.	Rahim Khan s/o Perwanat Khan r/o Kuza Bandai Kabbal
11.	Liaqat Ali s/o Abdul Raziq, Jan Abad Charbagh

Signatures of Interrogation Team Members

Rep of HQ 17 Div

Faiyat

Rep of FC NWFP

S/O

S/O

Rep of 206 Svy Sec

Sub Amanyaish

AS

SI/ASI Police Station Mingora

7HC

[Signature]

SI/ASI Police Station Kabbal

[Signature]

SI/ASI Police Station Saidu Sharif

[Signature]

SI/ASI Police Station Khawaza Khela

Dated: 13 Apr 2008

Annexure D

کمیٹی 17 جولائی 2009ء

17 جولائی 2009ء کو 14:05 بجے 360 LAC
کی طرف سے ایک درخواست دی گئی ہے جس میں
دیکھا گیا ہے کہ اس کی طرف سے 2086 (تین ہزار
و آٹھ سو) روپے کی رقم جمع کی گئی ہے۔

AMAC P. Madyar

31-07-016

فائزرنگ رپورٹ

*

خبرنامہ

کیو آر مشورہ چھ ماہ کی رپورٹ 2011ء مورخہ 21/12/11ء
ذمہ داران کی اوپر کی بات انکو اپنی برخلاف تیسرا رپورٹ 365
جاوید اسحاق صاحب نے لکھا جاتا ہے۔

مذکورہ مسلم انکو اپنی طرف کیا جا کر بیانی حکم میں
سوا پاکستانی ہوں میں اور میرا خاندان اس ملک پاکستان کا
رہنے والے ہیں میرا اور میرے خاندان کا دھت گروں سے کوئی
کس طرح کا تعلق نہیں ہے۔ اور نہ ایسے سرگرمیوں میں ملوث رہا

ہوں۔
مذکورہ کے بارے میں پوچھ گچھ کر کے معلوم ہوا ہے کہ وہ
کے دوران مذکورہ مورخہ 20/12/11ء تا 20/12/11ء تک ایک سال رخصت کران پر تھا۔
مذکورہ کے خلاف دستاویزی ثبوت ملنے کی کوشش کی گئی مگر کوئی رپورٹ
تعمیری نہ مل سکا۔ مذکورہ دوران تصانیف خاصہ فرقہ سے PS مذکورہ
ان کے بارے میں 11/12/11ء کو معلوم ہوا ہے کہ نامعلوم وجوہات کے بنا پر ان کو
مذکورہ رپورٹ کا تبادلہ بھی کیا جاتا ہے افسر اعلیٰ
قبولی کرنے سے انکار کر دیا تھا۔ تحریری یا تالیفی طور پر کوئی ثبوت نہ
مل سکا۔ ایسے ہی دیگر رپورٹیں بھی ہیں۔ مذکورہ کے دھت گروں

کے ساتھ گروں کو رہا ہے۔ اب مذکورہ کاشت و نباتت مشورہ
ہیں۔ میرا ضرور سنگین حکم فائزرنگ رپورٹ گزارنی ہے

ذمہ داران کی رپورٹ
10. 02. 2010.

15/12/11
15/12/11

D.S.P/City, Swat with the direction

Annexure F

ORDER.

In compliance of the Honorable Service Tribunal of Khyber Pakhtunkhwa, Peshawar Judgment dated 10-07-2012 in a civil appeal No.1333 of 2011 wherein the Service Tribunal accepted the petition of Ex-Constable Khair Ullah No.360 of Swat Police for Re-Instatement in service with all back benefits. Subsequently the department moved an appeal against the judgment of Service Tribunal but the Supreme court of Pakistan vide his Judgment dated 07-06-2013 maintained the decision of Service Tribunal as the appeal was time barred.


As per Court decision, Constable Khair Ullah No.360 is hereby Re-Instated in service from the date of dismissal vide this office O.B.No.41, dated 03-03-2010 and allotted constabulary No.2490 with immediate effect.

However, on re-instatement Denovo enquiry will be conducted as directed by the Tribunal Khyber Pakhtunkhwa, Peshawar.


District Police Officer, Swat.

O.B.No. 142
Dated. 28/8 /2013.
No. 12187 /E.

Copy to Mr. Aslam Nawaz D.S.P/City, Swat with the direction to conduct denovo proceedings against Constable KhairUlah No.2490 and submit finding report for taking further necessary action.


District Police Officer, Swat.

Annexure F

Amare G

ORDER

(Signature)

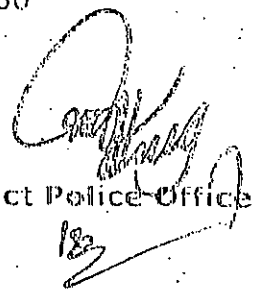
(Signature)

As per recommendation of the Departmental Promotion Committee constituted vide this office Endst: No. 6901-03/EB dated 26-9-2009, the following C-I and C-II, constables are hereby promoted as officiating Head Constable SPS-7 with immediate effect:-

<u>SNO</u>	<u>NAME</u>
1	Shakirullah No. 644
2	Said Rehman No. 717
3	Muhammad Khaliq No. 437
4	Jan Muhammad No. 1269
5	Bakht Azeem No. 732
6	Shamshad Ali No. 12
7	Murad Ali No. 866
8	Yahya Khan No. 289
9	Abdul Ahad No. 442
10	Nawar Saadat No. 1060
11	Muhammad Ayub No. 1029
12	Nisar Ahraad No. 212
13	Ijaz Ahmad No. 418
14	Asehar Khan No. 580
15	Jehan Zeb No. 499
16	Farmanullah No. 739
17	Umar Rahman No. 676
18	Attaullah No. 1159
19	Muhammad Iftikhar No. 1016
20	Muhammad Ishaq No. 674
21	Sher Alam No. 1392
22	Sabz Ali No. 535
23	Rahat Khan No. 530
24	Sardar Muhammad No. 769
25	Naik Zada No. 281
26	Amin Said No. 300
27	Khaista Muhammad No. 620
28	Gulam Shah No. 1349
29	Nasir Khan No. 01
30	Muhammad Nawab No. 1530
31	Gohuar Ali No. 867
32	Nizam-ud-Din No. 1073

12

33	Bacha Zada No. 328
34	Muhammad Sherin No. 222
35	Fahim Khan No. 199
36	Javed Khan No. 467
37	Shah Jehan No. 1292
38	Aziz-ur-Rehman No. 1180
39	Umar Ali No. 660
40	Muhammad Alam No. 1420
41	Amir Zarin Khan No. 414
42	Rahmanullah No. 291
43	Muhammad Diyar No. 316
44	Bashir-ul-Ullah No. 1080



District Police Officer, Swat

OB No. 1214

Dated 9 / 1 / 2009

12

Rs: 10/-

ایڈوکیٹ ادخطا: *محمد علی*

بار کونسل نمبر: bc-16-6914

بار ایسوسی ایشن نمبر: bc-11-2248

رابطہ نمبر: 03339473386



9707

ڈسٹرکٹ بار ایسوسی ایشن سوات

بعدالت جناب: جسٹس سید سید سید فیروز خان

منجانب: ضیاء اللہ LHC

دعویٰ اور خواہش: *سید سید*

عالت نمبر:

موضوع:

جزم:

تھانہ:

بنام *حصولی پورس گمنس و سکر*

بامتحریر آگہ

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

آن مقام کیسے *کوڈل سید* کیلئے *مس (ع) زائلہ احمد صاحبہ علی* کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کال اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے دعویٰ، جواب دعویٰ، اقبال دعویٰ، واپسی مقدمہ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت 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 اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی 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 اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختر منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا وہ وکیل موصوف وصول کرنے کا حقدار ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، مقدمہ کسی بھی عدالت میں بوجہ عدم پیروی داخل دفتر ہونے کی صورت میں وکیل موصوف ذمہ دار نہیں ہوگا، لہذا نکات نامہ لکھ دیا تاکہ سندر ہے۔

المرقوم: *25/7/16*

گواہ شد

مقام کے لئے منظور ہے

Attested & Accepted by *[Signature]*

Accepted *[Signature]*

25/7/16 AHMAD *[Signature]*

[Signature]

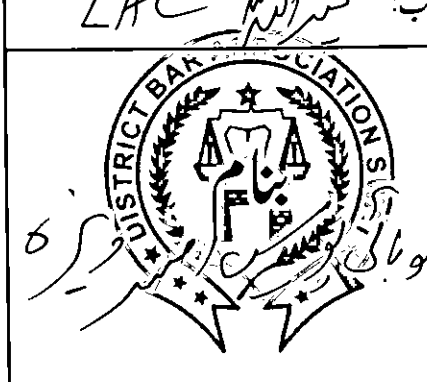
Khawarullah

25/7/2016

 <p>ایڈووکیٹ ادھیظہ</p>	  <p>9737</p>
<p>بار کونسل نمبر: 6914-16</p> <p>بار ایسوسی ایشن نمبر: 25498</p>	<p>ڈسٹرکٹ بار ایسوسی ایشن سوات</p>
<p>رابطہ نمبر: 033394793386</p>	

مستور علی - مستور علی

بعدالت جناب: جسٹس صاحب سروس ٹریبونل خیبر پختونخواہ سوات

<p>منجانب: ضیاء اللہ LHC</p>  <p>حضور عالی</p>	<p>دعویٰ اور خواست: مستور علی</p> <p>عالت نمبر:</p> <p>مورخہ:</p> <p>مقام:</p> <p>تھانہ:</p>
<p>بابت تحریر آگہ</p>	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی وجواب دہی کاروائی متعلقہ

آن مقام کیسے کوڈسٹ سیدور علی کیسے (مستور علی) کے نام پر مستور علی کو کوڈسٹ مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کال اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر حالت فیصلہ بر حلف دینے دعویٰ، جواب دعویٰ، اقبال دعویٰ، واپسی مقدمہ اور درخواست ازہرہم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرف سے یا ایڈیل کی برآمدگی اور منسوخی، نیز دائر کرنے ایڈیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ 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 اختیارات حاصل ہوں گے اور اس کا ساختہ پرواخذہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانب التوا سے مقدمہ کے سبب سے ہوگا وہ وکیل موصوف وصول کرنے کا حقدار ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، مقدمہ کسی بھی عدالت میں بوجہ عدم پیروی داخل دفتر ہونے کی صورت میں وکیل موصوف ذمہ دار نہیں ہوگا، لہذا وکالت نامہ لکھ دیا تاکہ سندور ہے۔

المترقوم: 25/7/16

گواہ شد

مقام کے لئے منظور ہے۔

Accepted by [Signature]

Accepted by [Signature]

25/7/16 AHMAD

Khawarullah
25/7/16

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1886 /ST

Dated 11 / 11 / 2016


To

The D.P.O,
Swat.

Subject: - JUDGMENT

I am directed to forward herewith a certified copy of Judgement dated 8.11.2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.