

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

SERVICE APPEALS NO. 694/2015

Date of institution ... 19.6.2015

Date of judgment ... 27.7.2016

Muhammad Saleem Jadoon
Ex: Deputy Superintendent of Police, R/O Village &
P/O Tannan/Qalandar Abad, Tehsil & District
Abbottabad.

... (Appellant)

VERSUS

1. The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar.
2. The Inspector General of Police Khyber Pakhtunkhwa, Peshawar.

... (Respondents)

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE IMPUGNED ORDER DATED 11.3.2015 WHEREBY MAJOR PENALTY OF COMPULSORY RETIREMENT WAS IMPOSED ON THE APPELLANT WITHOUT CONDUCTING REGULAR INQUIRY IN THE MATTER AND AGAINST NOT TAKING ACTION ON DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

Mr. Noor Muhammad Khattak, Advocate.

.. For appellant.

Mr. Ziaullah, Government Pleader

.. For respondents

MR. AHMAD HASSAN

.. MEMBER (EXECUTIVE)

MR. ABDUL LATIF

.. MEMBER (EXECUTIVE)

JUDGMENT

AHMAD HASSAN, MEMBER: The appellant has preferred instant appeal under section-4 of Khyber Pakhtunkhwa service tribunal act, 1974 against the impugned order dated 11.3.2015 whereby major penalty of compulsory retirement was imposed on the appellant without conducting regular inquiry in the matter and against not taking action on departmental appeal of the appellant within the statutory period of ninety days.

2. Brief facts of the case as narrated in the contents of appeal are that the appellant was appointed as Constable in the Police Department on 12.10.1976. He reached the rank of DSP

on 25.10.2013. While posted as DSP Besham, he was placed under suspension vide order dated 23.2.2015 due to bad reputation and involvement in corrupt practices. Show cause notice under sub Rule-3 of Rule-5 of Police Rules 1975 was served on him and major penalty of compulsory retirement was imposed on him vide order dated 11.3.2015. Departmental appeal was filed on 18.3.2015 which failed to evoke any response from the respondents hence, the instant service appeal.

3. Arguments heard and record perused.

4. Learned counsel for the appellant argued that disciplinary proceedings were initiated against him on the basis of anonymous/pseudonymous complaints in violation of available instructions not to take any action on anonymous complaints. No fact finding inquiry and no regular enquiry was conducted to prove the veracity of the charges leveled against the appellant. Charges mentioned in the show cause notice were without any documentary evidence. Instead of conducting regular inquiry, summary proceedings were initiated against the appellant in violation of numerous judgments of the Supreme Court. The appellant was not provided full opportunity of defense and opportunity of personal hearing before the issuance of impugned order dated 11.3.2015. Reliance was also placed on case law as reported in 2006 PLC (C.S) 291, 2004 PLC (C.S) 403, 2001 PLC (C.S) 1185, 2000 PLC (C.S) 200, PLJ 1999, TRC (S) 394, 1999 PLC (C.S) 581 2008 SCMR 609 2000 SCMR 1743. In the aforementioned judgments the issue of summary proceedings has not only been dilated at length but also held that regular enquiry providing full opportunity of defense was mandatory in case where it was proposed to impose major penalty. It is nullity in the eyes of law and amounts to mis-carriage of justice. The learned counsel for the appellant argued that the appellant had forty years spotless service at his credit. The learned counsel further contended that impugned order dated 11.3.2015 may be set-aside and appellant may be reinstated in service with all back benefits.

5. Learned counsel for the Government Pleader while opposing the case argued that the competent authority under sub Rule-3 of Rule-5 of Police Rule 1975 was competent to dispense with normal inquiry proceedings due to availability of sufficient material against the appellant, as such show cause notice was served on him. Video recording highlighting involvement of the appellant in immoral activities was a sufficient proof. Moreover, reports of concerned Regional Police Office regarding ill reputation and corruption were also available on record as sufficient proof. Appeal being devoid of merit may be dismissed with cost.

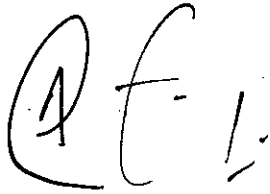
6. Having gone through the relevant record and arguments of both the parties, it transpired that the charges leveled against the appellant were not specific. These were without any substance and documentary evidence. Regular inquiry should have been conducted where statement of witnesses should have been recorded to substantiate the charge of corruption, greed and obtaining monetary benefits from subordinates and other charges leveled against him and appellant should have been given opportunity of cross-examination of such witnesses. Since grave and serious charges were leveled against the appellant, therefore in order to meet the ends of justice, proper inquiry should have been conducted. Despite request by the appellant in his written defense to the show cause notice opportunity of personal hearing was not provided. In view of various judgments of superior courts it is clear beyond doubt that proceedings conducted against the appellant were not in accordance with the law, rules, facts and principles of natural justice and tantamount to violation of article-4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

7. In view of the forgoing, the impugned order dated 11.3.2015 is set-aside and the appellant is reinstated in service. The case is remanded back to the respondent-department to conduct *de-novo* inquiry strictly in accordance with law and rules and to provide full opportunity of defense to the appellant. Inquiry proceedings be conducted and concluded within a period of two months of the receipt of this judgment. The intervening period will be

decided subject to outcome of the *de-novo* inquiry. Parties are left to bear their own cost.

File be consigned to the record room.

ANNOUNCED
27.7.2016



(ABDUL LATIF)
MEMBER



(AJMAD HASSAN)
MEMBER

14.04.2016

Counsel for the appellant and Mr. Falak Naz, DSP (Legal) alongwith Mr. Ziaullah, GP for respondents present. Counsel for the appellant requested for adjournment. To come up for arguments on 27.07.2016.


Member

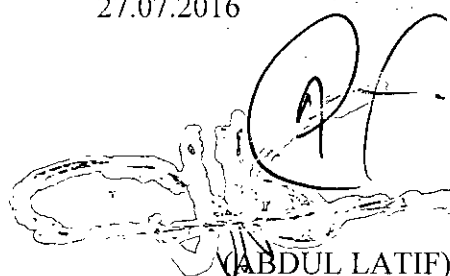

Member

27.07.2016

Counsel for the appellant and Ziaullah, GP for respondents present.

Vide our detailed judgment of today consists of three pages placed on file, The impugned order dated 11.3.2015 is set-aside and the appellant is reinstated in service. The case is remanded back to the respondent-department to conduct de-novo inquiry strictly in accordance with law and rules and ^{to} provide full opportunity of defense to the appellant. Inquiry proceedings be ^{and concluded} conducted within a period of two months of the receipt of this judgment. The intervening period will be decided subject to outcome of the de-novo inquiry. Parties are, however, left to bear their own costs. File be consigned to the record.

Announced
27.07.2016


(ABDUL LATIF)
MEMBER


(AHMAD HASSAIN)
MEMBER

30.07.2015

Appellant with counsel present. Learned counsel for the appellant argued that the appellant was serving as DSP in Police Department when subjected to inquiry on the allegations of corruption and compulsorily retired from service vide order dated 11.3.2015 regarding which he preferred departmental appeal on 18.3.2015 which was not responded and hence the instant service appeal on 19.6.2015.

That neither any fact finding inquiry nor any regular departmental inquiry was conducted and as such the impugned orders are against facts and law.

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 28.10.2015 before S.B.

Appellant Deposited
Security & Process Fee




Chairman

28.10.2015

Counsel for the appellant and Mr. Falak Nawaz, DSP (legal) alongwith Addl: A.G for respondents present. Written statement submitted. The appeal is assigned to D.B for rejoinder and final hearing for 23.02.2016.


Chairman

23.02.2016

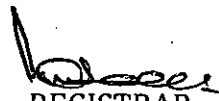


Counsel for the appellant and Mr. Falak Nawaz, DSP (Legal) alongwith Asst: AG for respondents present. Rejoinder submitted on behalf of the appellant which is placed on file. Arguments could not be heard due to non-availability of D.B. therefore, the case is adjourned to 14.4.2016 for arguments.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 694/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	19.06.2015	<p>The appeal of Mr. Muhammad Saleem Jadoon presented today by Mr. Noor Muhammad Khattak Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	22-6-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>26-6-15</u></p> <p style="text-align: right;"> CHAIRMAN</p>
3	26.06.2015	<p>Appellant in person present. Counsel for the appellant is not in attendance due to strike of the Bar. Adjourned to 30.7.2015 for preliminary hearing before S.B.</p> <p style="text-align: right;"> Chairman</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 694 /2015

SALIM JADOON

VS

GOVT: OF KPK

INDEX

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8.	Vakalat nama	15.

APPELLANT

THROUGH:


NOOR MUHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWR

Appeal No. 694 /2015

A.W.F. Province
Service Tribunal
Diary No. 728
Dated 19-6-2015

Mr. Muhammad Saleem Jadoon S/O Painsa Khan,
Ex: Deputy Superintendent of Police, R/O Village & P/O Tannan/
Qalandar Abad, Tehsil & District Abbottabad.

..... **Appellant**

VERSUS

1. The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar.
2. The Inspector General of Police Khyber Pakhtunkhwa, Peshawar.

..... **Respondents**

APPEAL UNDER SECTION 4 OF KHYBER
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AGAINST THE IMPUGNED ORDER DATED
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APPELLANT WITHOUT CONDUCTING REGULAR
INQUIRY IN THE MATTER AND AGAINST NOT
TAKING ACTION ON DEPARTMENTAL APPEAL OF THE
APPELLANT WITH IN THE STATUTORY PERIOD OF
NINETY DAYS

PRAYERS:

That on acceptance of this appeal the impugned order dated 11.3.2015 may very kindly be set aside and the respondents may be directed to re-instate the appellant with all back benefits. Any other remedy which this august Court deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

- 1- That the appellant was initially inducted in the respondent Department as Constable vide order dated 12/10/1976. That after appointment as constable the appellant started performing his duty quite efficiently and up to the entire satisfaction of his superiors.

Filed to-day
Palace
Registrar
19/6/15

- 2- That appellant being obedient and committed official of the respondent Department were allowed promotions to the ranks of Head Constable in the year 1982, Assistant Sub Inspector in the year 1997, Sub Inspector in the year 2000 and Inspector in the year 2006 respectively. That during service the appellant has received many commendation certificates from his high ups. Copy of the appreciation letter is attached as annexure **A.**
- 3- That due to excellent and spotless career the appellant was further promoted as Deputy Superintendent of Police on seniority cum fitness basis and on the recommendations of proper Departmental Promotion Committee vide order dated 25/3/2013.
- 4- That appellant while posted as Deputy Superintendent of Police Bisham Circle District Shangla an order dated 23/2/2015 was issued by the concerned authority due to which the appellant was suspended from service on the basis of anonymous/ pseudonymous complaint. Copy of the suspension order is attached as annexure **B.**
- 5- That the appellant was issued show cause notice on the basis of that anonymous/ pseudonymous complaint vide dated 25.2.2014. That appellant in response to the said show cause notice filed his detailed reply in which the appellant denied the allegations with proofs. Copies of the show cause notice and reply are attached as annexure **C and D.**
- 6- That on the basis of that anonymous/pseudonymous complaint the respondents without conducting fact finding and Departmental inquiries against the appellant straight away imposed major penalty of compulsory retirement from service on the appellant vide impugned order dated 11/3/2015. Copy of compulsory retirement order dated 11.3.2015 is attached as annexure **E.**
- 7- That appellant feeling aggrieved from the above mentioned impugned order dated 11/3/2015 filed Departmental appeal/ review before respondent No.2 but no reply has been received so far. Copy of the Departmental appeal is attached as annexure **F.**
- 8- That appellant having no other remedy filed the instant appeal on the following grounds amongst the others.

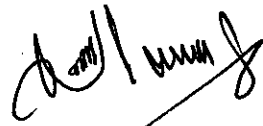
GROUND:

- A- That the impugned order dated 11/3/2015 issued by the respondent No.1 whereby the appellant was imposed major punishment of compulsory retirement from service is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That the respondents has not been treated the appellant in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That according to the instructions of the Establishment Code an anonymous complaint if received may straight away be thrown in to the dust bin and no action has to be taken on such complaints but in this case the respondent No.2 straight away imposed major punishment on the appellant on the basis of that anonymous compliant.
- D- That no fact finding inquiry has been conducted in the matter of appellant.
- E- That no charge sheet and statement of allegation has been served on the appellant by respondents before issuing the impugned order dated 11/3/2015.
- F- That no chance of personal hearing/defense has been given to the appellant before issuing the impugned order dated 11/3/2015.
- G- That no regular inquiry has been conducting against the appellant before issuing the impugned order dated 11.3.2015 which is as per Supreme Court judgments is necessary in punitive actions against the civil servants.
- H- That the action against the appellant has been taken by respondents under a wrong law i.e. under Police Rules 1975, therefore, the impugned order dated 11.3.2015 is void ab anitio.
- I- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated: 15.6.2015

APPELLANT



MUHAMMAD SALEEM JADOON



THROUGH:

**NOOR MOHAMMAD KHATTAK
ADVOCATE**

OF THE DISTRICT POLICE OFFICER, KOHISTAN

310 /SB,

Dated 18/2/ /2006

A-(S)

MR. ATTAULLAH WAZIR

By; Inspector General of Police,
Hazara Abbottabad.

Subject; APPRECIATION LETTER.

Sir,

It is brought into your kind notice that Sub;Inspector Muhammad Saleem Jadoon No.45/H Who is presently posted as S.H.O Police Station Battera has performed an Exemplary professional efficiencies which constrained to me for issuance of this D.O Letter to your goodself as the Officer succeeded to arrest 165 Proclaimed Offenders wanted in Murder and Attempted Murder cases and also succeeded to recover 3 Kaiashinkoves, 19 rifles, 5 Shot Guns, 3 Pistols and 308 rounds of different bores.

Needless to say that his performance remained top of list amongst all the SHOs of 11 Police Stations of District Kohistan.

Keeping in view the above the officer is hereby recommended for further Promotion to the Rank of Inspector because he has produced a better name of Police Department and I hope that no such like professional Performance of any SHOs of Hazara Region-II Abbottabad.

Submitted for favour of further consideration and suitable reward of a.c.c. class-II for the encouragements of the Office. please.

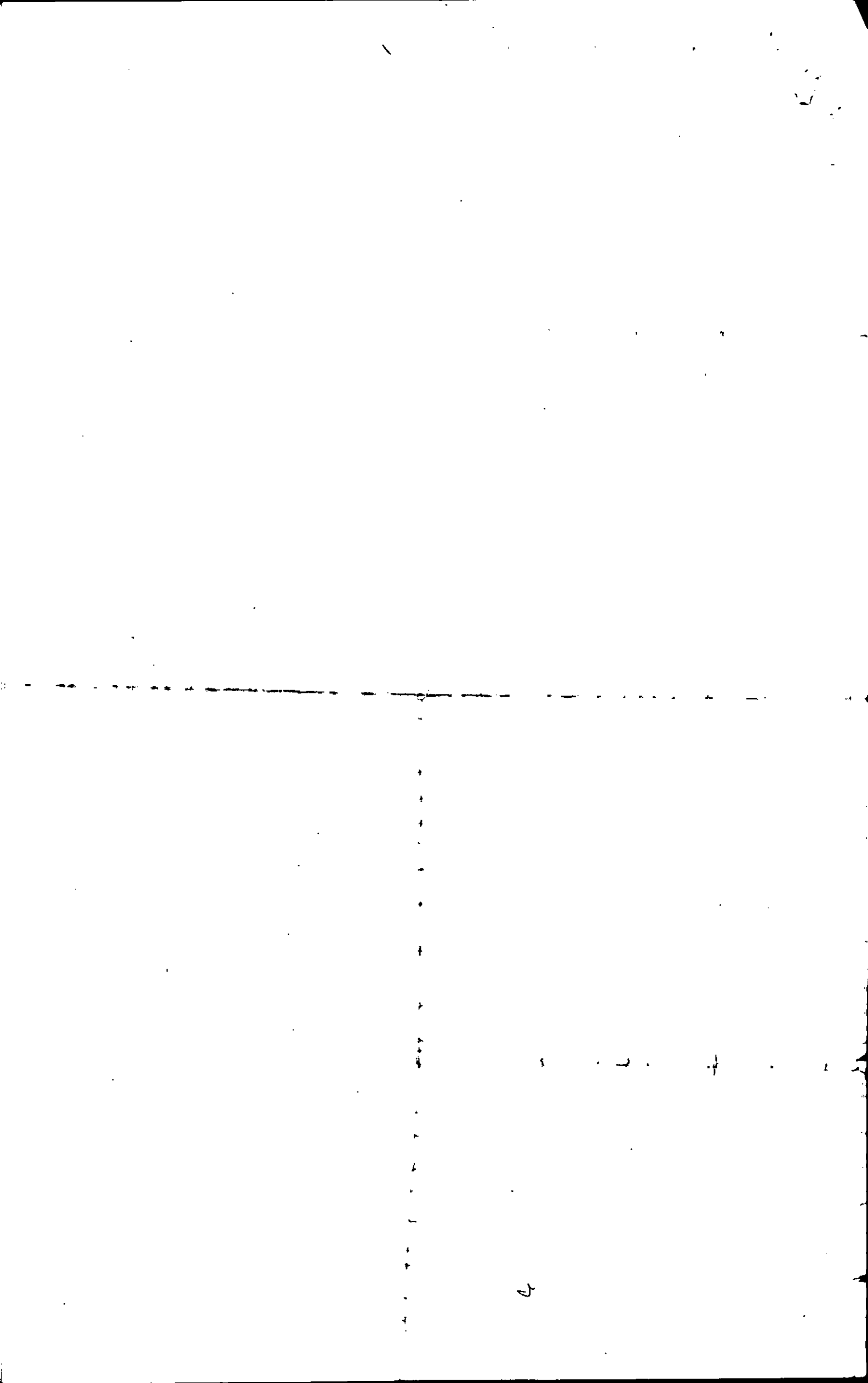
[Faint stamp]

[Signature]
(ISHFAQ AHMED)PSP,
District Police Officer,
Kohistan.

ATTACHED

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7-212 DSP

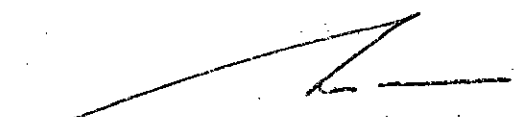
B-6



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar

ORDER

Mr. Saleem Jadoon, DSP presently posted as DSP Besham Circle District Shangla is hereby placed under suspension with immediate effect on account of having bad reputation, involvement in corrupt practices and having poor moral integrity. He is also closed to CPO till further orders.


(NASIR KHAN DURRANI)
Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar

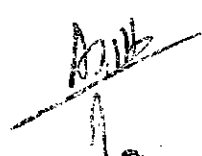
No. S/1248-54 /15, dated Peshawar, the 23-02 /2015.

Copy of above is forwarded for information and necessary action,
to the:-

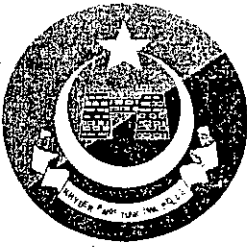
1. DIG/HQrs: CPO, Peshawar for necessary action.
2. Regional Police Officer, Malakand Region, Swat.
3. PSO to IGP, Khyber Pakhtunkhwa, Peshawar.
4. PA to Addl: IGP/HQrs: CPO, Peshawar.
5. District Police Officer, Shangla.
6. Supdt: E-I, CPO, Peshawar.
7. Officer concerned.

ATTESTED




24/2

D-No 137/SEI
23/02/15



C - (7)

**OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar**

No. S/1323 /14, Dated Peshawar the 25.02/2014.

SHOW CAUSE NOTICE

(Under Rule 5 (3) Khyber Pakhtunkhwa Police Rules, 1975)

1. That you Saleem Jadoon while posted as DSP/Besham District Shangla have rendered yourself liable to be proceeded under Rule 5(3) of the Khyber Pakhtunkhwa Police Rules 1975 for following misconduct:
 - i. That reportedly your moral integrity is questionable and you are involved in moral turpitude;
 - ii. That you are having a stinking reputation of being a corrupt officer; and
 - iii. That you are reportedly a greedy person and you get monetary benefits from your subordinates and keep touts.
2. That by reason of above, as sufficient material is placed before the undersigned; therefore it is decided to proceed against you in general Police proceeding without aid of enquiry officer.
3. That the misconduct on your part is prejudicial to good order of discipline in the Police force.
4. That your retention in the police force will amount to encourage in efficient and unbecoming of good Police officers;
5. That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action against you by awarding one or more of the kind punishments as provided in the rules.
6. You are, therefore, called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 for the misconduct referred to above.
7. You should submit reply to this show cause notice within 07 days of the receipt of the notice failing which an ex-parte action shall be taken against you.
8. You are further directed to inform the undersigned that you wish to be heard in person or not.
9. Grounds of action are also enclosed with this notice.

ATTESTED

Received by _____

Dated / /2014.

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

Dated: / /2014.



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar

No. S/ 1324 /14; Dated Peshawar the 25.02 /2014.

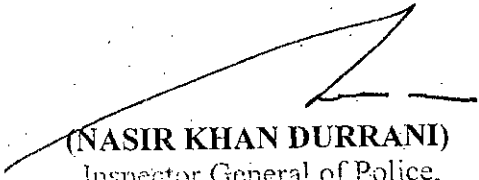
GROUNDS OF ACTION

That you Saleem Jadoon while posted as DSP/Besham at Shangla District committed following misconduct/s:-

- i. That reportedly your moral integrity is questionable and you are involved in moral turpitude;
- ii. That you are having a stinking reputation of being a corrupt officer; and
- iii. That you are reportedly a greedy person and you get monetary benefits from your subordinates and keep touts.

By reasons of above you have rendered your-self liable to be proceeded under Rules 5 (3) of the Khyber Pakhtunkhwa Police Rules, 1975, hence these ground of action.

ATTESTED


(NASIR KHAN DURRANI)
Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
Dated: / /2014.

Before the worthy Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

Subject: REPLY TO SHOW CAUSE NOTICE.

Respected Sir,

It is submitted that I am in receipt of Show Cause Notice vide No. S/1323/14, dated 25-02-2014.

Following allegations have been incorporated in the Show Cause Notice.

- I. That reportedly your moral integrity is questionable and you are involved in moral turpitude.
- II. That you are having a stinking reputation of being a corrupt officer; and
- III. That you are reportedly a greedy person and you get monetary benefits from your subordinates and keep touts.

My Para-wise reply is submitted as under please:-

- I. "That reportedly your moral integrity is questionable and you are involved in moral turpitude".

I have served Police Department for long 40 years and ascended from the rank of Constable to DSP. I have served almost in all the District of Khyber Pakhtunkhwa including and PTC Hangu. My performance at each place/station have always been acclaimed and in recognition of my satisfactory performance, I have always been rewarded and issued commendation certificates by acknowledging my meritorious performance. My service record is clear having no bad entry, whatsoever.

I belong to a respectable family and know the values of humanity. I have never underestimated any human being and thus had never been avaricious.

- II. "That you are having a stinking reputation of being a corrupt officer".

I always remained within the perimeter of my known resources which is evident from my unblemished service record. During my such a long service, I have never been accused of corruption of any kind. My ACRs/PERs can be perused to affirm the genuineness of my this submission.

ATTESTED



10

III. "That you are reportedly a greedy person and you get monetary benefits from your subordinates and keep touts".

I have never been of greedy intent relying and depending upon my subordinates for monetary gain. This fact can be confirmed through open as well as clandestine enquiry from the places/stations of my past service.

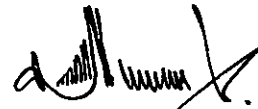
Sir,

I have taken over the charge of DSP Basham on 01-11-2014 and hardly 03 months are going to complete. During such a quite short span of time how my positive or negative integrity has been determined. During such a short time hardly one can be adjusted socially and departmentally.

Therefore, it is earnestly prayed, that the presumptive, arbitrary and malicious allegations imposed upon me, may kindly be withdrawn as this will inflict me irreparable and unsustainable harm and hazard.

I hope for your gracious and sympathetic considerations and ambitious to be heard in person please.

ATTESTED



(SALEEM JADOON)
Deputy Superintendent of Police,
CPO Peshawar.



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar

E - (11)

No. S/ 1586 /15, Dated Peshawar the 11/03/2015.

ORDER


This order is passed to dispose off departmental proceedings initiated against Mr. Saleem Jadoon DSP (now under suspension). Reports were received about Mr. Saleem Jadoon, DSP involvement in corruption, moral turpitude. A video recording of his involvement in immoral activities was also received in CPO from anonymous person showing his behavior unbecoming of an officer. On the basis of these reports the officer was issued Show Cause Notice on the following grounds, under Police Rules 5 (3) Khyber Pakhtunkhwa 1975:-

- i. "That reportedly your moral integrity is questionable and you are involved in moral turpitude;
- ii. That you are having a stinking reputation of being a corrupt officer; and
- iii. That you are reportedly a greedy person and you get monetary benefits from your subordinates and keep touts"

The officer submitted his reply to the Show Cause Notice which was perused and found un-satisfactory. In addition, reports about his general reputations, corruption and moral integrity were also received from Special Branch, Regional Police Officer Malakand & Regional Police Officer Hazara under whose commands the officer served from time to time. All these reports are placed on file have confirmed about the sticking reputation of the officer on account of integrity and morality. In view the above it is crystal clear that the officer is guilty of gross misconduct and his further retention in service will be highly detrimental to the image of the force.

In view of the above I, **Nasir Khan Durrani Inspector General of Police Khyber Pakhtunkhwa** hereby impose punishment of compulsory retirement on the Saleem Jadoon DSP with immediate effect.

Order announced.


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

No. S/ 1587-1601/15,

Copy of the above is forwarded to the:

1. All Additional Inspectors General of Police Khyber Pakhtunkhwa.
2. The Capital City Police Officer, Peshawar.
3. The Accountant General of Khyber Pakhtunkhwa Peshawar.
4. Regional Police Officer, Malakand, Swat.
5. Regional Police Officer, Hazara, Abbottabad.
6. The DIG/Headquarters Khyber Pakhtunkhwa.
7. AIG/Establishment CPO Peshawar.
8. PSO to IGP/Khyber Pakhtunkhwa, CPO.
9. PRO CPO Peshawar.
10. Office Supdt: E-I, CPO Peshawar.

ATTESTED



To

F - (12)

The Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

SUBJECT: DEPARTMENTAL APPEAL/REVIEW PETITION
AGAINST THE IMPUGNED ORDER DATED
11/3/2015 WHEREBY MAJOR PENALTY OF
COMPULSORY RETIREMENT WAS IMPOSED ON
THE APPELLANT WITHOUT CONDUCTING
REGULAR INQUIRY IN THE MATTER

R/SHEWETH:

ON FACTS:

- 1- That the appellant was initially inducted in the Police Department as Constable vide order dated 12/10/1976. That after appointment as constable the appellant started performing his duty quite efficiently and up to the entire satisfaction of his superiors.
- 2- That appellant being obedient and committed official of the Police Department were allowed promotions to the ranks of Head Constable in the year 1982, Assistant Sub Inspector in the year 1997, Sub Inspector in year 2000 and Inspector in the year 2006 respectively.
- 3- That due to excellent and spotless career the appellant was further promoted as Deputy Superintendent of Police on seniority cum fitness basis and on the recommendations of proper Departmental Promotion Committee vide order dated 25/3/2013.
- 4- That appellant while posted as DSP Bisham Circle District Shangla an order dated 23/2/2015 was issued by the concerned authority due to which the appellant was suspended from service on the basis of anonymous/pseudonymous complaint. That on the basis that anonymous/pseudonymous complaint your good self without conducting fact finding and Departmental inquiry against the appellant straight away imposed major penalty of compulsory retirement from service on the appellant vide impugned order dated 11/3/2015.

ATTESTED


- 5- That appellant feeling aggrieved from the above mentioned impugned order dated 11/3/2015 filed the instant Departmental appeal/Review Petition on the following grounds amongst the others.

GROUND:

13

- A- That the impugned order dated 11/3/2015 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That your good self has not been treated the appellant in accordance with law and rules on the subject noted above and as such the your good self violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That according to the instructions of the Establishment Code an anonymous complaint if received may straight away be thrown in to the dust bin and no action has to be taken on such complaints.
- D- That no fact finding inquiry has been conducted in the matter of appellant which is mandatory in cases of such like allegations which have been mentioned in the impugned order.
- E- That no charge sheet and statement of allegation has been served on the appellant by your good self before issuing the impugned order dated 11/3/2015.
- F- That no chance of personal hearing/defense has been given to the appellant before issuing the impugned order dated 11/3/2015.
- G- That no regular inquiry has been conducting against the appellant before issuing the impugned order dated 11.3.2015 which is as per Supreme Court judgments is necessary in punitive actions against the civil servants.
- H- That the action against the appellant has been taken by your good self under a wrong law i.e. under Police Rules 1975, therefore, the impugned order dated 11.3.2015 is void ab anitio under the law.

It is therefore, most humbly prayed that on acceptance of this Departmental appeal/Review Petition the impugned order dated 11.3.2015 may very kindly be set aside and the appellant may very kindly be re-instated into service with all back benefits.

ATTESTED

DATED: 18.3.2015

APPELLANT

14

Muhammad Saleem Jadoon

MUHAMMAD SALEEM JADOON
EX-DEPUTY SUPERINTENDENT OF POLICE
BISHAM CIRCLE DISTRICT SHANGLA

ATTESTED

[Signature]

VAKALATNAMA

IN THE COURT OF KPK Senior Tribunal Peshawar.
_____ OF 2015

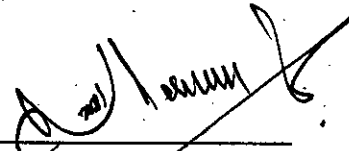
Muhammad Saleem Jadoon (APPELLANT)
(PLAINTIFF)
(PETITIONER)


VERSUS

Police Department (RESPONDENT)
(DEFENDANT)

I/We _____
Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2015



CLIENT


ACCEPTED
NOOR MOHAMMAD KHATTAK
(ADVOCATE)

OFFICE:
Room No.1, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.
Phone: 091-2211391
Mobile No.0345-9383141



BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.

Service Appeal No. 694/2015

Muhammad Saleem Jadoon.....(Appellant)

Versus

Govt of Khyber Pakhtunkhwa through Chief Secretary Khyber
Pakhtunkhwa Peshawar and one another.....(Respondents)

Subject:- COMMENTS ON BEHALF OF RESPONDENTS.

Respectfully Sheweth!

Preliminary Objections:-

- a) The appeal has not been based on facts.
- b) The appeal is not maintainable in the present form.
- c) The appeal is bad for mis-joinder and non-joinder of necessary parties.
- d) The appellant is estopped to file the appeal.
- e) The appeal is barred by law and limitation.
- f) The appellant has not come to the Honorable Tribunal with clean hands.

FACTS:-

1. Correct to the extent that appellant was enlisted in Police department as constable and earned promotion to the rank of DSP on his own turn. He was compulsorily retired from service vide impugned order on charges of involvement in moral and financial corruptions.
2. Correct to the extent that appellant earned promotion to the next ranks on his turn. The grant of recommendation certificates to the appellant further establishes that he was rewarded for the good work done and punished for commission of mis-conduct.
3. Correct to the extent that appellant earned promotion to the rank of DSP on his turn.
4. Incorrect, complaint against appellant based on charges of possessing bad reputation, involvement in corrupt practices and having poor moral integrity was received to Respondent No. 2, therefore, appellant was placed under suspension.

5. Correct to the extent that show cause notice based on charges of possessing bad reputation, involvement in corrupt practices and having poor moral integrity was issued to appellant and his reply in response to the show cause notice was found unsatisfactory. Regional Police Officer Malakand confirmed the truth of the charges leveled against appellant vide his office Memo No. 2014/E dated 02.03.2015. Copy enclosed as Annexure-A. Therefore, the impugned order was correctly passed.
6. Correct to the extent that major penalty of compulsory retirement from service was imposed on appellant. Secret agencies and Regional Police Officer Malakand, confirmed the truth of charges leveled against appellant. Therefore, penalty commensurate with the gravity of charges was imposed on appellant.
7. Correct to the extent the appellant filed review petition which is still under consideration and in the meanwhile notice of the instant service appeal was received.
8. Incorrect, the appeal of appellant on the ground advanced in the appeal is not tenable.

GROUND:-

- A. Incorrect, the impugned order is just, legal and have been passed in accordance with law and rules on the subject matter. Penalty commensurate with the gravity of charges was imposed on appellant.
- B. Incorrect, proper chance of defense was provided to appellant. Show cause notice was issued to appellant. The truth of the charges was confirmed by secret agencies and Regional Police Officer Malakand.
- C. Incorrect, the departmental action against appellant was taken on receipt of credible information and later on the secret agencies and Regional Police Officer Malakand confirmed the truth of the charges leveled against appellant.
- D. Incorrect, according to Rule 5(3) of Khyber Pakhtunkhwa Police Rules 1975 the authority can proceed against a delinquent Police officer by

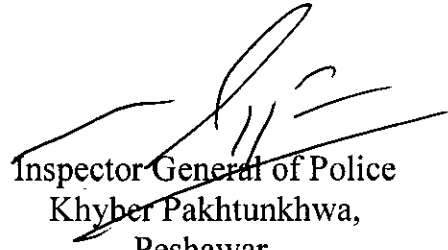
informing him about the proposed action by issuing him a show cause notice. Conduct of facts finding and regular enquiry is not mandatory.

- E. Incorrect, as explained in reply in response to Para-D of the ground of appeal that under Rule 5 of Khyber Pakhtunkhwa Police Rules 1975 if the authority decide that enquiry is not necessary than the authority will issue show cause notice to the accused officer.
- F. Incorrect, show cause notice was issued to appellant. His reply was found unsatisfactory. Several agencies confirmed the truth of the charges leveled against appellant. Therefore, the impugned order was passed.
- G. Incorrect, according to Rule 5 of Khyber Pakhtunkhwa Police Rules 1975 the authority is empowered to proceed against the accused officer without appointing an enquiry officer.
- H. Incorrect, according to Rule 1(ii) of Khyber Pakhtunkhwa Police Rules 1975 these rules shall come into force at once and shall apply to all Police officers of and below the rank of Deputy Superintendent of Police. Therefore, the departmental action taken against appellant was in accordance with law and rules.
- I. That the respondents may also be allowed to raise additional grounds at the time of the hearing of the case.

It is therefore, prayed that the appeal may be dismissed with costs.



Chief Secretary
Khyber Pakhtunkhwa
Peshawar
(Respondent No.1)



Inspector General of Police
Khyber Pakhtunkhwa,
Peshawar.
(Respondent No.2)

Annexure: 'A' 913

CONFIDENTIAL

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

To : The Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar,

No. 2014 /E, dated Saidu Sharif, the 02-03-2015.

Subject: GENERAL REPUTATION R/O DSP SALEEM JADOON

Memorandum:

Kindly refer to CPO Peshawar Memo: No. 1258/15, dated 23/02/2015
on the subject.

It is submitted that a discreet enquiry has been got conducted against DSP Saleem Jadoon. It has been found that he had remained involved in moral corruption. There were reports of his liking for young boys and involvement into activities which are unbecoming of a senior Police Officer. Furthermore he has also a general and persistent reputation of being involved in financial corruption. There were similar allegations while he was posted as DSP / HQ Shangla. He was posted as SDPO Madyan and again posted as SDPO Besham. But he did not mend his ways and again remained involved in undesirable activities.

Submitted please.


Regional Police Officer,
Malakand, at Saidu Sharif Swat

874/15
04-03-15

Approved
by DSP [Signature]
CPO Peshawar

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. 694/2015

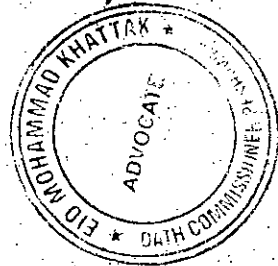
Muhammad Saleem Jadoon.....(Appellant)

Versus

Govt of Khyber Pakhtunkhwa through Chief Secretary Khyber
Pakhtunkhwa Peshawar and one another.....(Respondents)

AFFIDAVIT

I, Falak Nawaz DSP Legal CPO, Peshawar do here by
solemnly affirm on oath that the contents of accompanying comments on
behalf of respondents are correct to the best my knowledge and belief.
Nothing has been concealed from this Honorable Tribunal.



DEPONENT

Falak Nawaz
Falak Nawaz,
DSP/Legal
14203-2060203-5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 694/2015

MUHAMMAD SALEEM JADOON VS GOVT: OF KPK

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

R/ SHEWETH:

PRELIMINARY OBJECTIONS:

(a TO f):

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

ON FACTS:

- 1- Incorrect and not replied accordingly. That during service the appellant had served the respondent Department quite efficiently and up to the entire satisfaction of his superiors. That appellant has been punished on the basis of anonymous complaint. Moreover no fact finding inquiry has been conducted in the matter of appellant and the appellant has been punished on the basis of that anonymous complaint.
- 2- Incorrect and not replied accordingly. That appellant has not committed any kind of misconduct rather the respondents with out probe in to the matter straight away imposed major penalty of compulsory retirement from service on the appellant which is unjust and not tenable in the eye of law.
- 3- Admitted correct, hence need no comments.
- 4- Incorrect and not replied accordingly. That the appellant was suspended from service on the basis of anonymous/pseudonymous complaint vide order dated 23-02-2015. That respondents instead of probe into the matter of appellant straight imposed major penalty of compulsory retirement on the appellant without taking in to consideration his long and spotless service of more than 38 years.

- 5- Incorrect and not replied accordingly. That the appellant was issued show cause notice on the basis of that anonymous/pseudonymous complaint vide dated 25-02-2016. That in response to the said show cause notice the appellant replied in detailed and denied all the allegations with proof.
- 6- Incorrect and not replied accordingly. That on the basis of that anonymous/pseudonymous complaint the respondents with out conducting fact finding and Departmental inquiries against the appellant straight away imposed major penalty of compulsory retirement from service on the appellant vide impugned order dated 11-03-2015.
- 7- Incorrect and not replied accordingly hence denied.
- 8- Incorrect and not replied accordingly hence denied.

GROUND:

(A TO I):

All the grounds of main appeal are correct and in accordance with law and prevailing rules and that of the respondents are incorrect and baseless hence denied. That the action of the respondents is against the law, facts and norms of natural justice hence not tenable and liable to be set aside.

That according to the instructions of the Establishment Code an anonymous complaint if received may straight away be thrown in to the dust bin and no action has to be taken on such complaints.

That no fact finding inquiry has been conducted in the matter of appellant which is mandatory in cases of such like allegations which have been mentioned in the impugned order. That no charge sheet and statement of allegation has been served on the appellant by the respondents before issuing the impugned order dated 11-03-2015. That no chance of personal hearing/defense has been given to the appellant before issuing the impugned order dated 11-03-2015. That no regular inquiry has been conducting against the appellant before issuing the impugned order dated 11-03-2015 which is as per Supreme Court judgments is necessary in punitive actions against the civil servants. That the action against the appellant has been taken by respondents under a wrong law i.e. under Police Rules 1975, therefore, the impugned order dated 11-03-2015 is void ab initio under the law.

It is therefore most humbly prayed that on acceptance of this rejoinder the appeal of the appellant may be accepted as prayed for.

APPELLANT

Muhammad Saleem J

MUHAMMAD SALEEM JADOON

THROUGH:

N. Muhammad Khattak

**NOOR MUHAMMAD KHATTAK
ADVOCATE**

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 1216 /ST

Dated: 1 / 8 / 2016

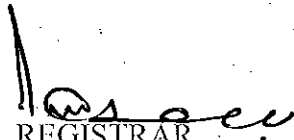
To

The I.G.P,
Peshawar.

Subject: - JUDGMENT

I am directed to forward herewith a certified copy of Judgement dated 27.7.2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.