

Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	13.09.2018	<p align="center"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> Service Appeal No. 1210/2015</p> <p>Date of Institution ... 28.10.2015 Date of Decision ... 13.09.2018</p> <p>Nasir Khan Constable No.1630 Mardan Police under the Regional Police Officer, Malakand Region at Saidu Sharif, Swat) resident of village Madey-Baba Tehsil Takht Bhai, Mardan.</p> <p align="right">Appellant</p> <p align="center">Versus</p> <p>1. The Inspector General of Police/the Provincial Police Officer, Khyber Pakhtunkhwa Peshawar. 2. The District Police Officer, Mardan. 3. The Deputy Inspector General of Police Mardan Region-I, Mardan.</p> <p align="right">Respondents</p> <p>Mr. Muhammad Hamid Mughal-----Member Mr. Hussain Shah-----Member</p> <p align="center"><u>JUDGMENT</u></p> <p><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> -.Appellant with counsel present and Mr. Riaz Khan Paindakheil learned Assistant Advocate General alongwith Mr. Atta Ur Rehman S.I legal for the respondents present.</p> <p>2. The appellant has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 and partially made impugned the order dated 18.09.2015 of the respondent No.1 whereby the departmental appeal under Rule 11-A of the Khyber Pakhtunkhwa Police Rules 1975 of, the appellant against the order dated 31.03.2015 of his dismissal from service was disposed off in</p>

13.09.2018

terms that the Review Board reinstated the appellant in service on humanitarian grounds with no back benefits. Prayer of the appellant is for the grant of back benefits including monthly salaries for the period he remained out of job.

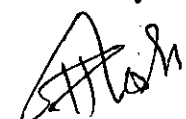
3. Learned counsel for the appellant argued that FIR No.745 of the year 2014 Police Station Takht Bhai District Mardan was falsely lodged against the appellant and his family members as counter blast to FIR No.531 of the year 2014 Police Station Takht Bhai District Mardan, due to which the appellant was suspended and after departmental inquiry dismissed from service. However the Review Board reinstated the appellant but without back benefits. Learned counsel for the appellant argued that the appellant is aggrieved against the order dated 18.09.2015 to the extent of depriving the appellant his back benefits.

4. As against that learned Assistant Advocate General argued that the appellant was charged in FIR No.745 of the year 2014 Police Station Takht Bhai District Mardan and upon completion of departmental inquiry the competent authority awarded the punishment of dismissal from service to the appellant however the appellant was reinstated the Review Board just on humanitarian grounds. Further argued that the inquiry officer has given its findings against the appellant, moreover the appellant has not performed duties during period under suspension, hence he is not entitled to any monetary benefits on the principle of no work no pay.

5. Arguments heard. File perused.

6. Perusal of file would show that the competent authority awarded punishment of dismissal from service while agreeing with inquiry officer. Findings of inquiry officer are also available on file and perusal of the same reflects that he recommended major punishment for the appellant. However the Review Board while entertaining the appeal of the appellant under Rule 11-A of the Khyber Pakhtunkhwa Police Rules 1975 reinstated the appellant on humanitarian grounds but with no back benefits, for the reason that there was a proper dispute of the appellant with his opponents and DIG/E&I Khyber Pakhtunkhwa Peshawar had also conducted inquiry and reported that the punishment of dismissal awarded to the appellant was deemed to be too harsh.

7. In the light of above the appellant could not make out his case for the grant of back benefits during the period he remained out of service i.e w.e.f the date of dismissal till reinstatement. However the appellant found entitled to the subsistence allowance, as provided in FR-53, during the period he remained under suspension w.e.f 17.11.2014 till 31.03.2015 on which date he was dismissed from service and as such the impugned order dated 18.09.2015 is modified accordingly. The present service appeal is partially accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record room after its completion.



(Hussain Shah)
Member



(Muhammad Hamid Mughal)
Member

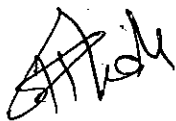
ANNOUNCED

13.09.2018

13.09.2018

Appellant with counsel present. Mr. Riaz Khan Paindakheil learned Assistant Advocate General alongwith Mr. Attaur Rehman S.I legal for respondents present.

Vide separate judgment of today of this Tribunal placed on file, the appellant found entitled to the subsistence allowance, as provided in FR-53, during the period he remained under suspension w.e.f 17.11.2014 till 31.03.2015 on, which date he was dismissed from service and as such the impugned order dated 18.09.2015 is modified accordingly. The present service appeal is partially accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record room. Parties are left to bear their own costs. File be consigned to the record room.



(Hussain Shah)
Member




(Muhammad Hamid Mughal)
Member

ANNOUNCED
13.09.2018


23.04.2018

Counsel for the appellant and Addl:AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 25.05.2018 before D.B.


(Ahmad Hassan)
Member



(M. Hamid Mughal)
Member

25.05.2018 Appellant in person and Addl: AG for the respondents present. Arguments could not be heard due to incomplete bench. Adjourned. To come up for arguments on 20.07.2018 before D.B.


(Muhammad Amin Khan Kundi)
Member

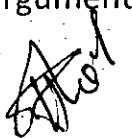
20.07.2018


Due to engagement of the undersigned in judicial proceeding before S.B further proceeding in the case in hand could not be conducted. To come on 10.09.2018 ^{before} D.B.


Member (J)

10.09.2018

Appellant in person present. Mr. Riaz Khan Pinda khel Assistant AG alongwith Mr. Atta ur Rehman SI for the respondent present. Appellant seeks adjournment as his counsel is not in attendance. Adjourned. To come for arguments on 13.09.2018 before D.B.


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

18.07.2017


Appellant in person present. Mr. Atta-ur-Rehman, S.I (legal) alongwith Mr. Kabirullah Khattak, Assistant AG for the respondents also present. Appellant requested for adjournment as his counsel is not in attendance. Adjourned. To come up for arguments on 13.11.2017 before D.B.



(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kundi)
Member

13.11.2017


Counsel for the appellant and Mr. Usman, Ghani, District Attorney alongwith Mr. Atta-ur-Rehman, S.I (legal) for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 09.01.2018 before D.B.



Member


Chairman

09.01.2018

Appellant in person and Asst: AG alongwith Mr. Atta Ur Rehman, SI for respondents present. Appellant seeks adjournment as his counsel is not in attendance. Adjourned. To come up for arguments on 02.03.2018 before D.B.



(Ahmad Hassan)
Member(E)


(M. Hamid Mughal)
Member (J)

02.03.2018

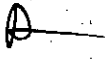
Appellant in person present. Mr. Muhammad Jan, DDA alongwith Atta-ur-Rahman, SI for the respondent present. Appellant seeks adjournment as his senior counsel is not available today. Adjourned. To come up for arguments on 23.04.2018 before D.B.


(Gul Zeb Khan)
Member


(M. Hamid Mughal)
Member

02.08.2016

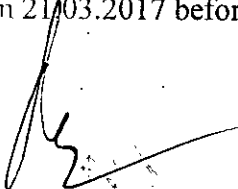
Counsel for the appellant and Addl. AG for respondents present. Requested for time to file rejoinder. Request accepted. To come up for rejoinder and arguments on 01.12.2016.


Member


Member

01.12.2016

Clerk to counsel for the appellant Mr. Muhammad Ghani, SI alongwith Assistant AG for respondents present. Clerk to counsel for the appellant requested for adjournment. To come up for arguments on 21/03.2017 before D.B.

Member 


Chairman

21.03.2017

Counsel for the appellant and Mr. Ziaullah, GP alongwith Mr. Khalid Mehmood, Constable for respondents present. Rejoinder submitted. To come up for arguments on 18.07.2017 before D.B.


(AHMAD HASSAN)
MEMBER

10.11.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Constable when dismissed from service on the allegations of involvement in a criminal case but reinstated and departmental appeal vide impugned order dated 18.9.2015 but without any back benefits to which the appellant is entitled and hence the instant service appeal on 28.10.2015.

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 27.1.2016 before S.B.

Amount Deposited
Security & Process Fee A


Chairman

27.1.2016

Agent of counsel for the appellant and Mr. Muhammad Ghani, S.I. alongwith Assistant AG for respondents present. Requested for adjournment. To come up for written reply/comments on 11.4.2016 before S.B.


Chairman

11.04.2016



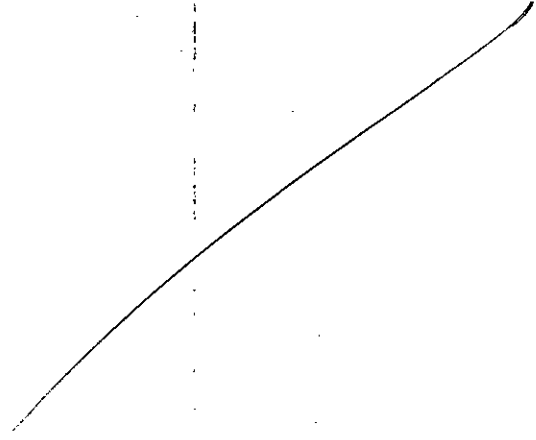
Counsel for the appellant and Mr. Muhammad Ghani, SI (Legal) alongwith Sr.GP for the respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 02.08.2016.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1210 /2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	28.10.2015	<p>The appeal of Mr. Nasir Khan presented today by Mr. Muhammad Adam 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		<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>10-11-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> 

Before The Service Tribunal, Peshawar.

Appeal No. 1210 /2015

Nasir khan v/s The Police Deptt etc;

INDEX

S.NO	DESCRIPTION OF DOCUMENTS	ANNEXURE NO.	PAGE NO.S
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3	F.I.R No. 745.	B	6
4	Charge Sheet and Statement of allegations.	C & D	7 - 8
5	Reply to charge Sheet.	E	9 - 10
6	Dismissal order.	F	11
7	Departmental Appeal.s	G + 9/1	12 - 14 (c)
8	Appellate order.	H	15
9	F.I.R No. 531.	I	16
10	Letter dated 04.09.2014 & minutes.	J & J/I	17 - 18
11	Vakalat Nama.	—	19
		Total:	19

Dated: 26.10.2015

Appellant

(Nasir khan)

Through:-



Muhammad Adam Khan
Advocate Mardan

Before The Service Tribunal, Peshawar.

Appeal No. 1210 /2015

W.W.F. Province
Service Tribunal
Diary No. 1299
dated 28-10-2015

Nasir khan (Constable No. 1630 Mardan Police now under the Regional Police Officer, Malakand Region at Saidusharif, Swat) resident of village Madey-Baba Tehsil Takht Bhai, Mardan.

Appellant

v/s

1. The Inspector General of Police/ The Provincial Police officer, KPK, Peshawar.
2. The District Police Officer, Mardan.
3. The Deputy Inspector General, of Police, Mardan Region-I, Mardan.

Respondents

Appeal under Section-4 of The Service Tribunal Act, 1974 to the effect that the order of The I.G.P/ Respondent No.2, contained in Letter No.11572-76/E-IV Dated 18/09/2015 to the extant of depriving the Appellant from the grant of back service benefits, while re-instating him into service.

Filed to-day
12/10/15
Registrar
28/10/15

1. That the Appellant, while posted as Constable in the Police station Rustam District Mardan was placed under suspension by The District Police Officer, Mardan/Respondent No.2 vide OB No.2296 dated 17.11.2014 on the grounds of having been charged vide FIR No. 745 dated 14.11.2014 under

2

Section-324/452/354/427/34 PPC of Police Station Takht Bhai.

Copies Annexure - "A to B".

2. That the Appellant was served with Charge-Sheet and statement of allegations by the D.P.O/ Respondent No.2 vide Letter No.761 dated 24.11.2014. The Reply there-to was submitted by Appellant on 13.12.2014.

Copies Annexure-"C to E".

3. That the D.P.O/ Respondent No.2 vide Letter No.3055-60 dated 30.03.2015, awarded the Appellant with the punishment of dismissal of service.

Copy Annexure-"F".

- a. That being grieved therefrom, the Appellant preferred Appeal to the D.I.G/ Mardan / Respondent No3. But, the Appellant smelled partiality on the part of the D.I.G Mardan/Respondent No.3 and others, he approached the I.G.P/Respondent No.1 for the transfer of the Appeal. Resultant, on the direction of the I.G.P, the Appellant submitted the Appeal to the I.G.P/ Respondent No.1.

Copy Annexure-"G" 9/1

4. That the I.G.P / Respondent No.1 vide Letter No.11572-76/E-IV dated 18.09.2015, revising the punishment of dismissal from service, ordered the re- instatement of Appellant into service, but without back service benefits, besides his transfer to F.R.P, KPK, Peshawar.

Copy Annexure-"H".

Grounds:-

- (I) That the F.I.R No.745 was falsely lodged against the Appellant and his family members as a counter-blast to the F.I.R No.531 dated 11.06.2014 and in collusion with the police officers including the S.H.O of the Police

Station Takht Bhai namely, kamran khan / S.H.O, and others, in-order to compel the Appellant's family for compromise in the case FIR No.531.


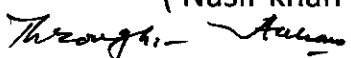
Copy Annexure-" 1 ".

- (II) That the complainant in case FIR NO. 745 and his family members were charged by the Appellant in case F.I.R No.531, for the brutal murder of Mst Iqra, the 3 ½ years old daughter of Appellant.
- (III) That the collusion and favour of Mr Kamran S.H.O with the opponants of the Appellant is evident from the minutes of Board of investigation.
- Copies Annexure-"J to J/ I".
- (IV) That further legal and factual point is not tekan into consideration that the Appellant remained out of job during the whole of the crucial period and he could not earn his livelihood for his family members.
- (V) That the Appellant seeks leave of this Honourable Tribunal to claim further grounds.

It is prayed that this Honourable Tribunal may graciously be pleased to revise the impugned order and to direct that the Appellant be granted back service benefits including the monthly salaries for the crucial period.

The costs of this Appeal may also be awarded to Appellant against the Respondents.

Dated: 26.10.2015

Appellant

(Nasir Khan)
Through: 
MUHAMMAD ADAM KHAN
B.A LLB Advocate
High Court Mardan

4

AFFIDAVIT

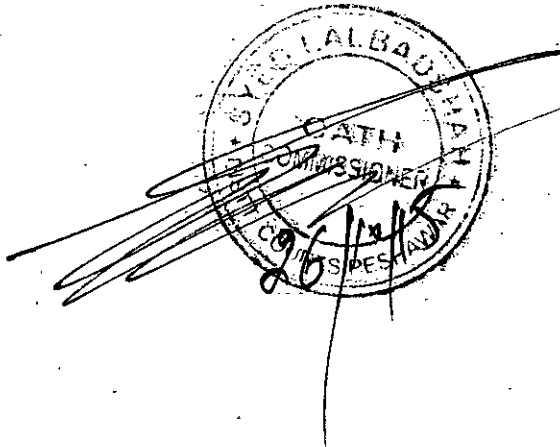
I Muhammad Adam Khan Advocate on behalf of Petitioner, do hereby state on solemn information that as per the Petitioner, the contents of this Petition are true and correct to the best of my knowledge and belief and that nothing is concealed from this Honourable Tribunal in this respect.

Deponent

ATTESTED

Attestation
Muhammad Adam Khan
Advocate Mardan

MUHAMMAD ADAM KHAN,
B.A LLB Advocate
High Court Mardan



ORDER



P/S

"A"
Attended
Aman

Constable Nasir Khan No. 1630 posted at Police Station Rustam Mardan is being charged in case FIR No. 745 dated 14.11.2014 u/s 324/452/354/427/34 PPC PS Takht Bhai, is hereby **suspended** and close to Police Lines with immediate effect.

OB No 2296

Dated 17-11-2014


District Police Officer,
Mardan

OFFICE OF THE DISTRICT POLICE OFFICER MARDAN

No. _____ /EC dated Mardan the _____ /2014:

Copies for information to the:-

1. SP Operation Mardan
2. Pay Officer Mardan with the direction to stop his pay.
3. Reader issue Charge Sheet & summary allegation.
4. OASI
5. E/C.

A

P/7

"C"
Attested
Aulian

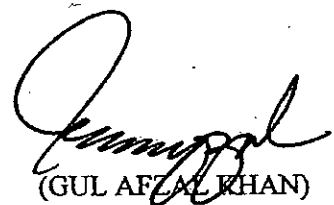
CHARGE SHEET UNDER NWFP POLICE RULES 1975

I, Gul Afzal Khan District Police Officer, Mardan as competent authority hereby charge you Constable Nasir No. 1630, as follows.

That you Constable, while posted at Police Station Rustam, Mardan is being charged in case FIR No. 745 dated 14.11.2014 u/s 324/452/354/427/34 PPC PS Takht Bhai.

This amounts to grave misconduct on your part, warranting departmental action against you, as defined in section - 6 (1) (a) of the NWFP Police Rules 1975.

1. By reason of the above, you appear to be guilty of misconduct under section - 02 (iii) of the NWFP Police Rules 1975 and has rendered yourself liable to all or any of the penalties as specified in section - 04 (i) a & b of the said Rules.
2. You are therefore, directed to submit your written defense **within seven days** of the receipt of this charge sheet to the enquiry officer.
3. Your written defence if any, should reach to the enquiry officer within the specified period, failing which, it shall be presumed that you have no defense to put-in and in that case, an ex-parte action shall follow against you.
4. Intimate whether you desired to be heard in persons.


(GUL AFZAL KHAN)
District Police Officer,
Mardan

C
B

79

P/S

D

Attested
Aulian

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

No. 761 /R/D.A-P.R-1975.

Dated 24-11- /2014

DISCIPLINARY ACTION UNDER NWFP POLICE RULES - 1975

I, **Gul Afzal Khan** District Police Officer, Mardan as competent authority am of the opinion that Constable **Nasir No. 1630**, rendered himself liable to be proceeded against as he committed the following acts/omission within the meaning of section-02 (iii) of NWFP Police Rules 1975.

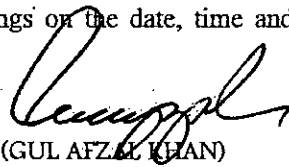
STATEMENT OF ALLEGATIONS

That Constable **Nasir No. 1630**, posted at Police Station **Rustam**, Mardan is being charged in case FIR No. **745** dated **14.11.2014** u/s **324/452/354/427/34** PPC PS Takht Bhai.

2. For the purpose of scrutinizing the conduct of the said official with reference to the above allegations **Mr: Shamreez Khan DSP/City, Mardan** is appointed as Enquiry Officer.

3. The enquiry officer shall conduct proceedings in accordance with provisions of Police Rules 1975 and shall provide reasonable opportunity of defense and hearing to the accused official, record its findings and make within twenty five (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused officer.

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


(GUL AFZAL KHAN)
District Police Officer,
Mardan

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

No. 761 /R dated Mardan the 24-11- /2014.

Copy of above is forwarded to the:

1. DSP/City Mardan for initiating proceedings against the accused official / Officer namely Constable **Nasir No. 1630**, under Police Rules, 1975.
2. Constable **Nasir No. 1630**, with the directions to appear before the Enquiry Officer on the date, time and place fixed by the enquiry officer for the purpose of enquiry proceedings.

***** !!! *****

P/D

8/9

BEFORE THE DISTRICT POLICE OFFICER, MARDAN

Subject: **REPLY TO THE CHARGE SHEET+STATEMENT OF ALLEGATION NO.761/R DATED 24-11-2014**

"E"
Arrested
Afsar

1. Your Honour had issued the subject charge sheet/ statement of allegation against the petitioner with the following allegations, which was handed over to the petitioner on 12-12-2014:-

"That you constable Nasir No. 1630, posted at Police Station Rustam, Mardan is being charged in case FIR No. 745 dated 14-11-2014 u/s 324/452/354/427/34 PPC PS Takht Bhai" (Copy of charge sheet is annexed as Annexure "A").

2. That the petitioner was enlisted as constable in police department on 25-09-1991. The petitioner has performed his duty honestly, with zeal and efficiency. The subject charge sheet relates to the following facts:

- a) That the petitioner had charged accused Nazir s/o Zor Talab , Haroon s/o Mumtaz R/o Zor Talab Kalay for the murder of his daughter namely Iqra, who was 03 years old. The occurrence took place on 11-06-2014. The child baby was murdered by intoxicating, subjecting her to torches and causing her death through suffocation. Both the accused committed the occurrence with the abetment of accused Alamzaib s/o Zor Talab. Motive behind the occurrence was dispute over the land. On the report of the petitioner, the local police of police station Takht Bhai registered a case vide FIR No. 531 dated 24-06-2014 u/s 302/34/109 PPC against the above three mentioned accused. The investigation of the case was entrusted to S.I Afsar said.(Copy of FIR is annexed as Annexure "B").
 - b) After 15 days of the registration of the case all the three accused were arrested, two days police custody were obtained but neither weapon of offence was recovered nor confessional statement was recorded and hence poor investigation was conducted . on 07-07-2014, the Bail application was rejected by the learned ASJ Takht Bhai. After then, the accused succeeded in getting Bail from the High Court Peshawar.
 - c) That by having no satisfaction from the investigation of local police, the petitioner approached to the court of ASJ Takht Bhai by submitting an application u/s 22 A with the request that the investigation of the present case be transferred to crime branch Peshawar. (copy of application u/s 22 A is annexed as Annexure "C").
 - d) During hearing the Arguments of application u/s 22 A, the learned Additional Session Judge Takht Bhai observed that neither the statement of Mumtaz watch man of GPS Zor talab kalay was recorded by the I.O, neither the owner of the land was got examined through an application for the CDR is placed on file, however sincere efforts have not been made by the I.O to obtain it. Even motive behind the occurrence has not been established. Beside this the learned court raised so many objections over defective and incomplete investigation and ordered S.P investigation Mardan for transfer of investigation to Crime Branch Peshawar.(copy of court order dated 10-07-2014 is annexed as Annexure "D").
 - e) That the investigation of the present case was handed over to crime Branch Peshawar and in the light of the board meeting held on dated 29-08-2014 under the approval of additional I.G.P investigation C PO Peshawar. The board has recommended departmental action against SHO Takht Bhai and E.O/I.O of the case for conducting poor investigation. Though this murder case is still pending investigation with crime branch Peshawar but unfortunately no departmental action were initiated against the responsible till date . The petitioner brother Afsar Khan also made press conference in this regard but of no use.(Copy of Approval is annexed as Annexure "E" +copy of press conference is annexed as Annexure "F")
3. That SHO Takht Bhai (Inspector Kamran) is continuously supporting the petitioner opponents. On the advice and consultation of the said SHO, a new drama was staged in the shape that:
- a) Accused Nazir Khan s/o Zor Talab succeeded to got registered a false and baseless case against the petitioner, his brothers Qaisar Khan and Afsar Khan vide FIR No.745 dated 14-11-2014 u/s 324/452/354/427/34 PPC . The accused of murder case are trying to compel the petitioner for compromise by involving him in false criminal cases. (Copy of F.I.R is annexed as Annexure "G")

E

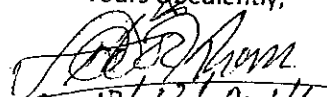
- 8/10
- b) On 14-11-2014, the petitioner was arrested in the above mentioned case. The same day SHO Kamran Khan raided the house of the petitioner and disgraced the modesty of all women folks present in the house. The ladies were beaten and there house hold Articles were badly damaged. On 15-11-2014, Mst Nusrat w/o the petitioner reported the matter before ASJ Takht Bhai in the shape of application u/s 22 A Crpc. (Copy o f application u/s 22 -A is annexed as Annexure " H " .)
- c) The ASJ Takht Bhai vide court order 19-11-2014 issued directive to DPO Mardan in the light of application of Mst Nusrat for taking legal action against the responsible police officials but unfortunately no action was taken so for. (Copy of ASJ Order dated 29-11-2014 is annexed as Annexure " I ")
- d) The petitioner remained in police custody for three days. On 17-11-2014, the petitioner was unconscious due to sever physical torture and was sent to Jail. Later on, the petitioner was released on Bail by the court of ASJ Takht Bhai dated 04-12-2014(Copy of Emergency Report is annexed as Annexure " J ")
4. On 24-11-2014, Afsar Khan (brother of the petitioner) submitted an application before I.G.P kpk for his involvement in false case registered vide FIR No.745 dated 14-11-2014 u/s 324/452/354/427/34 PPC PS Takht Bhai. The petitioner also mentioned the illegal raid dated 14-11-2014 on the house of the petitioner by SHO Takht Bhai . The worthy I.G.P kpk marked the said application to S.P investigation Mardan for report by 27-11-2014 but unfortunately no report was sent to I.G.P. KPK (copy of application of Afsar Khan is annexed as Annexure " K ")
5. On 20-11-2014, the SHO Takht Bhai (Kamran Khan) took into possession the petitioner Motor car No. LXG-8666 along with documents by illegal way and parked at the police station by registering no report . The petitioner approached to the court of Judicial Magistrate Takht Bhai in this regard and vide court order date 29-11-2014; the said motor car was handed over to the petition. The court also issued a show cause notice to issue for the illegal detention of the motor car.(Copy of application with court order dated 29-11-2014 is annexed as Annexure " L ")
6. After false involvement in criminal case registered vide FIR No.745 dated 14-11-2014 u/s 324/452/354/427/34 PPC PS Takht Bhai , the petitioner was suspended and closed to police line vide O.B No. 2296 dated 17-11-2014. The case is still pending investigation . (Copy of O.B No.2296 is annexed as Annexure " M ").

REPLY TO THE SUBJECT CHARGE SHEET:

- A) That the petitioner is innocent and has been falsely implicated in case FIR No.745 dated 14-11-2014 u/s 324/452/354/427/34 PPC PS Takht Bhai.
- B) That the petitioner has been charged by the advise and consultation of SHO Takht Bhai in the present case and the opponents of the petitioner (already accused on Bail in murder case) are trying to compel the petitioner for effecting compromise with them.
- C) That the case still pending investigation and the accused ship of the petitioner has not yet been confirmed.
- D) The petitioner has been badly victimized by the hand of SHO Takht Bhai and fully support was given by the said SHO to the accused involved in murder case.
- E) That from the perusal of the above detailed facts, it is crystal clear that the petitioner and his family has been badly damaged.

Keeping in view of the facts and circumstances mentioned above, it is humbly requested that the charge sheet + summary of allegation may kindly be filed on humanitarian bases. and the petitioner be re-instated in service from the date of his suspension please.

Yours Obediently,


13/12/2014
Constable (NASIR No. 1630)

Police lines Mardan

POLICE DEPARTMENT

MARDAN DISTRICT

ORDER

This order will dispose of departmental inquiry, which has been conducted against Constable Nasar No. 1630 on the allegation that the Constable Nasar No. 1630 while posted at Police Station Rustam, is being charged in case FIR No. 745 dated 14.11.2014 u/s 324/452/354/427/34 PPC PS Takht Bhai. His attitude adversely reflected on his performance which is an indiscipline act and gross misconduct on his part as defined in rule 2(iii) of Police Rules 1975. Therefore he was recommended for departmental action.


In this connection, Constable Nasar No. 1630, was charge sheeted vide this office No. 761/R, dated 24.11.2014 and also proceeded him against departmentally through Mr; Shamreen Khan DSP/City Mardan, who after fulfilling necessary process, submitted his findings to the undersigned vide his office endorsement No. 420/S dated 24.03.2015, as the allegation have been established against him.

The undersigned agreed with the findings of enquiry officer and the alleged Constable Nasar No. 1630, is hereby dismissed from service, in exercise of the power vested in me under the above quoted rules.

Order announced

O.B No. 572

Dated 31 / 03 / 2015


(Gul Afzal Afridi)
District Police Officer,
Mardan.

No. 3055-69 dated Mardan the 31/3-2015

Copy for information and necessary action to:-

1. The Deputy Inspector General of Police Mardan Region-1, Mardan.
2. The S.P Operations, Mardan.
3. The DSP/HQrs Mardan.
4. The Pay Officer (DPO) Mardan.
5. The E.C (DPO) Mardan.
6. The OASI (DPO) Mardan.

Subject: APPEAL AGAINST THE ORDER O.B NO. 572 DATED 31-03-015 OF DISTRICT POLICE OFFICER MARDAN, WHERE BY THE APPELLANT WAS AWARDED THE PUNISHMENT "DISMISSAL FROM SERVICE".

R/Sir,

It is submitted that :

1. That the DPO Mardan had issued the subject charge sheet/ statement of allegation against the Appellant with the following allegations:

"That you constable Nasir No. 1630, posted at Police Station Rustam, Mardan is being charged in case FIR No. 745 dated 14-11-2014 u/s 324/452/354/427/34 PPC PS Takht Bhai" (Copy of charge sheet is annexed as Annexure "A").

2. That in the light of the subject charge sheet, a departmental inquiry was initiated against the appellant. Mr. Shamreen Khan DSP City Mardan was appointed as inquiry officer. The appellant produced a comprehensive reply to the charge sheet before the inquiry officer which is reproduced below:

- a) That the Appellant had charged accused Nazir s/o Zor Talab, Haroon s/o Mumtaz R/o Zor Talab Kalay for the murder of his daughter namely Iqra, who was 03 years old. The occurrence took place on 11-06-2014. The child baby was murdered by intoxicating, subjecting her to torches and causing her death through suffocation. Both the accused committed the occurrence with the abetment of accused Alamzaib s/o Zor Talab. Motive behind the occurrence was dispute over the land. On the report of the petitioner, the local police of police station Takht Bhai registered a case vide FIR No. 531 dated 24-06-2014 u/s 302/34/109 PPC against the above three mentioned accused. The investigation of the case was entrusted to S.I Afsar said. (Copy of FIR is annexed as Annexure "B").
- b) After 15 days of the registration of the case all the three accused were arrested, two days police custody were obtained but neither weapon of offence was recovered nor confessional statement was recorded and hence poor investigation was conducted. on 07-07-2014, the Bail application was rejected by the learned ASJ Takht Bhai. After then, the accused succeeded in getting Bail from the High Court Peshawar.
- c) That by having no satisfaction from the investigation of local police, the Appellant approached to the court of ASJ Takht Bhai by submitting an application u/s 22 A with the request that the investigation of the present case be transferred to crime branch Peshawar. (copy of application u/s 22 A is annexed as Annexure "C").
- d) During hearing the Arguments of application u/s 22 A, the learned Additional Session Judge Takht Bhai observed that neither the statement of Mumtaz watch man of GPS Zor talab kalay was recorded by the I.O, neither the owner of the land was got examined through an application for the CDR is placed on file, however sincere efforts have not been made by the I.O to obtain it. Even motive behind the occurrence has not been established. Beside this the learned court raised so many objections over defective and incomplete investigation and ordered S.P investigation Mardan for transfer of investigation to Crime Branch Peshawar. (copy of court order dated 10-07-2014 is annexed as Annexure "D").
- e) That the investigation of the present case was handed over to crime Branch Peshawar and in the light of the board meeting held on dated 29-08-2014 under the approval of additional I.G.P investigation C PO Peshawar. The board has recommended departmental action against SHO Takht Bhai and E.O/I.O of the case for conducting poor investigation. Though this murder case is still pending investigation with crime branch Peshawar but unfortunately no departmental action were initiated against the responsible till date. The Appellant brother Afsar Khan also made press conference in this regard but of no use. (Copy of Approval is annexed as Annexure" +copy of press conference is annexed as Annexure "F")

3. That SHO Takht Bhai (Inspector Kamran) is continuously supporting the Appellant opponents. On the advice and consultation of the said SHO, a new drama was staged in the shape that:

- a) Accused Nazir Khan s/o Zor Talab succeeded to get registered a false and baseless case against the petitioner, his brothers Qaisar Khan and Afsar Khan vide FIR No.745 dated 14-11-2014 u/s 324/452/354/427/34 PPC . The accused of murder case are trying to compel the Appellant for compromise by involving him in false criminal cases. (Copy of F.I.R is annexed as Annexure "G")
- b) On 14-11-2014, the Appellant was arrested in the above mentioned case. The same day SHO Kamran Khan raided the house of the Appellant and disgraced the modesty of all women folks present in the house. The ladies were beaten and there house hold Articles were badly damaged. On 15-11-2014, Mst Nusrat w/o the Appellant reported the matter before ASJ Takht Bhai in the shape of application u/s 22 A Crpc. (Copy o f application u/s 22 -A is annexed as Annexure " H ")
- c) The ASJ Takht Bhai vide court order 19-11-2014 issued directive to DPO Mardan in the light of application of Mst Nusrat for taking legal action against the responsible police officials but unfortunately no action was taken so for. (Copy of ASJ Order dated 29-11-2014 is annexed as Annexure "I")

The Appellant remained in police custody for three days. On 17-11-2014, the Appellant was unconscious due to sever physical torture and was sent to Jail. Later on, the Appellant was released on Bail by the court of ASJ Takht Bhai dated 04-12-2014(Copy of Emergency Report is annexed as Annexure " J ")

- 4. On 24-11-2014,Afsar Khan (brother of the petitioner)submitted an application before I.G.P Kpk for his involvement in false case registered vide FIR No.745 dated 14-11-2014 u/s 324/452/354/427/34 PPC-PS Takht Bhai. The Appellant also mentioned the illegal raid dated 14-11-2014 on the house of the Appellant by SHO Takht Bhai. The worthy I.G.P kpk marked the said application to S.P investigation Mardan for report by 27-11-2014 but unfortunately no report was sent to I.G.P. KPK (copy of application of Afsar Khan is annexed as Annexure " K")
- 5. On 20-11-2014, the SHO Takht Bhai (Kamran Khan) took into possession the Appellant Motor car No. LXG-8666 along with documents by illegal way and parked at the police station by registering no report . The Appellant approached to the court of Judicial Magistrate Takht Bhai in this regard and vide court order date 29-11-2014, the said motor car was handed over to the petitioner. The court also issued a show cause notice to issue for the illegal detention of the motor car.(Copy of application with court order dated 29-11-2014 is annexed as Annexure " L ")
- 6. After false involvement in criminal case registered vide FIR No.745 dated 14-11-2014 u/s 324/452/354/427/34 PPC PS Takht Bhai , the Appellant was suspended and closed to police line vide O.B No. 2296 dated 17-11-2014. The case is still pending investigation . (Copy of O.B No.2296 is annexed as Annexure "M").
- 7. That as a result of departmental inquiry for the alleged involvement of the appellant in case FIR No.745 dated 14-11-2014 u/s 324/452/354/427/34 PPC PS Takht Bhai, the DPO Mardan dismissed the appellant from service vide O.B No. 572 dated 31-03-2015 . (Copy of O.B No. 572 dated 31-03-2015 is annexed as annexure "N").
- 8. That the appellant had filed an appeal against the subject order to DIG Mardan Region-1 Mardan which has been received by his office vide endorsement No.2132 / E.S dated 06-04-2015. Though filing of appeal is routine proceeding but I am not satisfied from the D.I.G Mardan to grant me the justice. In such circumstances , the appellant was compelled to send SMS your Honour, in response which the appellant was directed for sending an appeal before IGP KPK Peshawar. Hence the present appeal.

PRAYER IN APPEAL :

- A) That the Appellant is innocent and has been falsely implicated in case FIR No.745 dated 14-11-2014 u/s 324/452/354/427/34 PPC PS Takht Bhai.

- 8/14
- B) That the Appellant has been charged by the advise and consultation of SHO Takht Bhai in the present case and the opponents of the Appellant (already accused on Bail in murder case) are trying to compel the Appellant for effecting compromise with them.
- C) That the alleged false case FIR No.745 dated 14-11-2014 u/s 324/452/354/427/34 PPC PS Takht Bhai is still pending investigation and the accused ship of the Appellant has not yet been confirmed.
- D) That on the direction of ASJ Takht Bhai and the appellant approached to the IGP KPK Peshawar for the transfer of investigation of appellant daughter murder case of FIR No.531 dated 24-06-2014 u/s 302-34 PPC PS Takht Bhai, the case was transferred to investigation unit CPO Peshawar. The worthy IGP KPK also directed RPO Mardan to take departmental action against the SHO Inspector Kamran and I.O Sub Inspector Afsar Said for faulty investigation vide Additional IGP Investigation KPK Peshawar office letter No. 354 / CPO / Inv: dated 04-09-2014 (Copy of letter No. 354 / CPO / Inv: dated 04-09-2014 is annexed as annexure "O")
- E) The Appellant has been badly victimized by the hand of SHO Takht Bhai and fully support was given by the said SHO to the accused involved in murder case of appellant daughter.
- F) The Appellant was not given any opportunity of "PERSONAL HEARING" by the competent authority at the time of passing of impugned punishment Order, which is contrary to the Police rules 1975, hence great injustice was extended.
- G) The Appellant was not given "FINAL SHOW CAUSE NOTICE" by the competent authority, which was the necessary requirement as per relevant rules and thus the illegal Order was passed.
- H) In addition to the above facts, the E.O has also made certain irregularities and has dashed the rules and regulations to the ground. The present inquiry, so far conducted is just an eye wash and amounts to fill in the blanks.
- I) That from the perusal of the above detailed facts, it is crystal clear that the Appellant and his family has been badly damaged.

Keeping in view of the facts and circumstances mentioned above, it is humbly requested that the Appeal of the Appellant may kindly be accepted and the impugned Order passed by DPO Mardan may kindly be set aside.

Yours Obediently,

Sd/-

Constable Nasir Khan No.1630

District Police Mardan

(Now Dismissed from service)

P/14(a) "G"
Attended
Acham

BEFORE THE DEPUTY INSPECTOR GENERAL OF POLICE MARDAN REGION -1
MARDAN

Subject: APPEAL AGAINST THE ORDER O.B NO. 572 DATED 31-03-015 OF DISTRICT POLICE OFFICER MARDAN, WHERE BY THE APPELLANT WAS AWARDED THE PUNISHMENT "DISMISSEL FROM SERVICE".

R/Sir,

It is submitted that :

1. That the DPO Mardan had issued the subject charge sheet/ statement of allegation against the Appellant with the following allegations:

"That you constable Nasir No. 1630, posted at Police Station Rustam, Mardan is being charged in case FIR No. 745 dated 14-11-2014 u/s 324/452/354/427/34 PPC PS Takht Bhai" (Copy of charge sheet is annexed as Annexure "A").

2. That in the light of the subject charge sheet, a departmental inquiry was initiated against the appellant. Mr.. Shamreen Khan DSP City Mardan was appointed as inquiry officer. The appellant produced a comprehensive reply to the charge sheet before the inquiry officer which is reproduced below:

- a) That the Appellant had charged accused Nazir s/o Zor Talab , Haroon s/o Mumtaz R/o Zor Talab Kalay for the murder of his daughter namely **!qra**, who was 03 years old. The occurrence took place on 11-06-2014. The child baby was murdered by intoxicating, subjecting her to torches and causing her death through suffocation. Both the accused committed the occurrence with the abetment of accused Alamzaib s/o Zor Talab. Motive behind the occurrence was dispute over the land. On the report of the petitioner, the local police of police station Takht Bhai registered a case vide FIR No. 531 dated 24-06-2014 u/s 302/34/109 PPC against the above three mentioned accused. The investigation of the case was entrusted to S.I Afsar said.(Copy of FIR is annexed as Annexure "B").
- b) After 15 days of the registration of the case all the three accused were arrested, two days police custody were obtained but neither weapon of offence was recovered nor confessional statement was recorded and hence poor investigation was conducted . on 07-07-2014, the Bail application was rejected by the learned ASJ Takht Bhai. After then, the accused succeeded in getting Bail from the High Court Peshawar.
- c) That by having no satisfaction from the investigation of local police, the Appellant approached to the court of ASJ Takht Bhai by submitting an application **u/s 22 A** with the request that the investigation of the present case be transferred to crime branch Peshawar. (copy of application u/s 22 A is annexed as Annexure "C").
- d) During hearing the Arguments of application u/s 22 A, the **learned Additional Session Judge Takht Bhai** observed that neither the statement of Mumtaz watch man of GPS Zor talab kalay was recorded by the I.O, neither the owner of the land was got examined through an application for the CDR is placed on file, however sincere efforts have not been made by the I.O to obtain it. Even motive behind the occurrence has not been established. Beside this the learned court raised so many objections over defective and incomplete investigation and ordered S.P investigation Mardan for transfer of investigation to Crime Branch Peshawar.(copy of court order dated 10-07-2014 is annexed as Annexure "D").
- e) That the investigation of the present case was handed over to crime Branch Peshawar and in the light of the board meeting held on dated 29-08-2014 under the approval of additional I.G.P investigation C PO Peshawar. The board has recommended departmental action against SHO Takht Bhai and E.O/I.O of the case for conducting poor investigation. Though this murder case is still pending investigation with crime branch Peshawar but unfortunately no departmental action were initiated against the responsible till date . The Appellant

P/14(B)

brother Afsar Khan also made press conference in this regard but of no use. (Copy of Approval is annexed as Annexure "F" +copy of press conference is annexed as Annexure "F")

3. That SHO Takht Bhai (Inspector Kamran) is continuously supporting the Appellant opponents. On the advice and consultation of the said SHO, a new drama was staged in the shape that:
 - a) Accused Nazir Khan s/o Zor Talab succeeded to get registered a false and baseless case against the petitioner, his brothers Qaisar Khan and Afsar Khan vide FIR No.745 dated 14-11-2014 u/s 324/452/354/427/34 PPC . The accused of murder case are trying to compel the Appellant for compromise by involving him in false criminal cases. (Copy of F.I.R is annexed as Annexure "G")
 - b) On 14-11-2014, the Appellant was arrested in the above mentioned case. The same day SHO Kamran Khan raided the house of the Appellant and disgraced the modesty of all women folks present in the house. The ladies were beaten and there house hold Articles were badly damaged. On 15-11-2014, Mst Nusrat w/o the Appellant reported the matter before ASJ Takht Bhai in the shape of application u/s 22 A Crpc. (Copy of application u/s 22 -A is annexed as Annexure "H")
 - c) The ASJ Takht Bhai vide court order 19-11-2014 issued directive to DPO Mardan in the light of application of Mst Nusrat for taking legal action against the responsible police officials but unfortunately no action was taken so far. (Copy of ASJ Order dated 29-11-2014 is annexed as Annexure "I")
The Appellant remained in police custody for three days. On 17-11-2014, the Appellant was unconscious due to sever physical torture and was sent to Jail. Later on, the Appellant was released on Bail by the court of ASJ Takht Bhai dated 04-12-2014(Copy of Emergency Report is annexed as Annexure "J")
4. On 24-11-2014, Afsar Khan (brother of the petitioner) submitted an application before I.G.P kpk for his involvement in false case registered vide FIR No.745 dated 14-11-2014 u/s 324/452/354/427/34 PPC PS Takht Bhai. The Appellant also mentioned the illegal raid dated 14-11-2014 on the house of the Appellant by SHO Takht Bhai . The worthy I.G.P kpk marked the said application to S.P investigation Mardan for report by 27-11-2014 but unfortunately no report was sent to I.G.P. KPK (copy of application of Afsar Khan is annexed as Annexure "K")
5. On 20-11-2014, the SHO Takht Bhai (Kamran Khan) took into possession the Appellant Motor car No. LXG-8666 along with documents by illegal way and parked at the police station by registering no report . The Appellant approached to the court of Judicial Magistrate Takht Bhai in this regard and vide court order date 29-11-2014, the said motor car was handed over to the petition. The court also issued a **show cause** notice to issue for the illegal detention of the motor car.(Copy of application with court order dated 29-11-2014 is annexed as Annexure "L")
6. After false involvement in criminal case registered vide FIR No.745 dated 14-11-2014 u/s 324/452/354/427/34 PPC PS Takht Bhai , the Appellant was suspended and closed to police line vide O.B No. 2296 dated 17-11-2014. The case is still pending investigation . (Copy of O.B No.2296 is annexed as Annexure "M").
7. That as a result of departmental inquiry for the alleged involvement of the appellant in case FIR No.745 dated 14-11-2014 u/s 324/452/354/427/34 PPC PS Takht Bhai, the DPO Mardan dismissed the appellant from service vide O.B No. 572 dated 31-03-2015 . (Copy of O.B No. 572 dated 31-03-2015 is annexed as annexure "N").

PRAYER IN APPEAL :

- A) That the Appellant is innocent and has been falsely implicated in case FIR No.745 dated 14-11-2014 u/s 324/452/354/427/34 PPC PS Takht Bhai.
- B) That the Appellant has been charged by the advise and consultation of SHO Takht Bhai in the present case and the opponents of the Appellant (already accused on Bail in murder case) are trying to compel the Appellant for effecting compromise with them.

P/14cc)



- C) That the alleged false case FIR No.745 dated 14-11-2014 u/s 324/452/354/427/34 PPC PS Takht Bhai is still pending investigation and the accused ship of the Appellant has not yet been confirmed.
- D) That on the direction of ASI Takht Bhai and the appellant approached to the IGP KPK Peshawar, for the transfer of investigation of appellant daughter murder case of FIR No.531 dated 24-06-2014 u/s 302-34 PPC PS Takht Bhai, the case was transferred to investigation unit CPO Peshawar. The worthy IGP KPK also directed RPO Mardan, to take departmental action against the SHO Inspector Kamran and I.O Sub Inspector Afsar Said for faulty investigation vide Additional IGP Investigation KPK Peshawar office letter No. 354 / CPO / Inv: dated 04-09-2014. (Copy of letter No. 354 / CPO / Inv: dated 04-09-2014 is annexed as annexure "O")
- E) The Appellant has been badly victimized by the hand of SHO Takht Bhai and fully support was given by the said SHO to the accused involved in murder case of appellant daughter.
- F) The Appellant was not given any opportunity of "PERSONAL HEARING" by the competent authority at the time of passing of impugned punishment Order, which is contrary to the Police rules 1975, hence great injustice was extended.
- G) The Appellant was not given "FINAL SHOW CAUSE NOTICE" by the competent authority, which was the necessary requirement as per relevant rules and thus the illegal Order was passed.
- H) In addition to the above facts, the E.O has also made certain irregularities and has dashed the rules and regulations to the ground. The present inquiry, so far conducted is just an eye wash and amounts to fill in the blanks.
- I) That from the perusal of the above detailed facts, it is crystal clear that the Appellant and his family has been badly damaged.

Keeping in view of the facts and circumstances mentioned above, it is humbly requested that the Appeal of the Appellant may kindly be accepted and the impugned Order^{of 24-7-15} passed by DPO Mardan may kindly be set aside.

DPO / Mardan.

For Comments please.

[Signature]
DPO / Mardan
6/2/15

Yours Obediently,

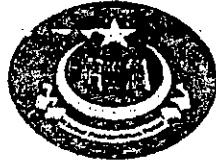
[Signature]

031041015
Constable Nasir Khan No.1630

District Police Mardan

(Now Dismissed from service)

No. 2132/ES.
dt: 06/4/15



(7) P/15

✓
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A.H.
A.H.

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

ORDER

This order is hereby passed to dispose off departmental appeal under Rule 11-a of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-FC Nasir Khan No. 1630 of District Police Mardan against the Punishment Order i.e dismissed from service passed against the appellant by DPO/Mardan vide OB No. 572 dated 31.03.2015.

In the light of recommendations of Appeal Board meeting held on 10.09.2015, the board examined the enquiry in detail & other relevant documents. It revealed that the appellant was served with Charge Sheet/Statement of Allegations and punishment order was announced on the basis of reply to the Charge Sheet and Statement of Allegations.

The appellant was heard in detail. Record perused. There are property dispute of the above Ex-official with his opponents. DIG/E&I KPK Peshawar has also conducted enquiry and reported that the punishment of dismissal awarded to above Ex-official is deemed to be too harsh. The board re-instated the above official in service on humanitarian grounds with no back benefits. The board also decided that he will be posted in FRP KPK, Peshawar.


Order announced in the presence of appellant.

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

No. 11572-76 /E-IV dated Peshawar the 18/9 /2015

Copy of above is forwarded to the:-

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


(ASIF IQBAL MOHMAND)
AIG/Establishment
For Inspector General of Police
Khyber Pakhtunkhwa Peshawar.

17/9/15

H

The Additional Inspector General of Police,
Investigation, Khyber Pakhtunkhwa,
Peshawar.

8/17

J
Attch
Ameer

The Regional Police Officer,
Mardan Region, Mardan.

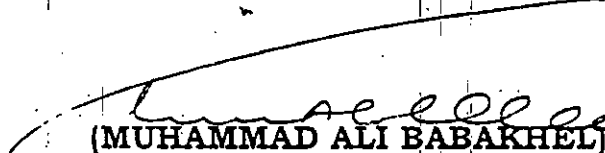
No. 354/CR/11/14

Dated: Peshawar, the 04/09/2014

Subject: **DEPARTMENTAL ACTION AGAINST SHO, E.O AND I.O
OF POLICE STATION TAKHT BHAI, MARDAN.**

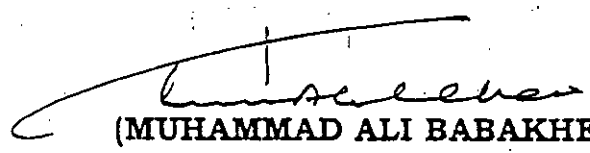
With reference to FIR No.531, dated 24.06.2014 u/s
302/109/34 PPC, Police Station Takht Bhai, district Mardan.

As directed by the worthy Inspector General of Police Khyber
Pakhtunkhwa, departmental action should be initiated against the SHO,
E.O and I.O of Police Station Takht Bhai in the above cited case for
defective investigation and extending support to the accused.


(MUHAMMAD ALI BABAKHEL) PSP
o/c Additional Inspector General of Police,
Investigation, Khyber Pakhtunkhwa,
Peshawar.

No. 355/CR

Copy of above is forwarded to the worthy Inspector General of
Police, Khyber Pakhtunkhwa for kind information, please.


(MUHAMMAD ALI BABAKHEL) PSP
o/c Additional Inspector General of Police,
Investigation, Khyber Pakhtunkhwa,
Peshawar.

J

8/18

J/I
Attended
Mullam

**BOARD MINUTES IN CASE VIDE FIR NO. 531 DATED 24.06.2014
U/S 302/109/34 PPC, PS TAKHT BHAI DISTRICT MARDAN.**

Board constituted under Article 18(6) of Police Order 2002, SSP/Investigation, CPO Khyber Pakhtunkhwa, Peshawar, Head of Investigation, District Mardan, I.O/SI Afsar Said and the applicant Nasir Khan attended the meeting and were heard at length. Record perused.

The complainant Nasir Khan filed petition U/S 22A/22B CrPc before Ex: officio justice of Peace Takht Bhai Mardan for transfer and re-investigation of the instant case.

Facts of the case are that on 11/06/14 the complainant Nasir Khan found the dead body of her daughter Iqra in the fields of Abdul Waris and lodged a report to this effect which was reduced in DD No.35. After referring the dead body for post mortem, an enquiry U/S 174 Cr.PC was initiated by ASI Noor Muhammad. On the receipt of the post mortem report, the instant case was registered wherein the complainant charged accused Nazir, Haroon and Alamzeb for the murder of her minor daughter, motive for the occurrence is described as dispute over landed property. Subsequently the statement of complainant and his wife were got recorded U/S 164 Cr.PC by the I.O SI Afsar Said. After fifteen days all the accused were got arrested, their two days Police custody were obtained and they were interrogated got statement of PWS were recorded on 28/03/14. After hearing the arguments the learned Additional Session Judge observed that neither the statement of GPS Zor Tallab killa watchman Mumtaz was got recorded by the I.O where from the bedstead containing blood stains were recovered nor the owner of the land was got examined through an application for the CDR is placed on file however sincere efforts have not been made to obtain it. Even motive behind the occurrence has not been established beside this, the learned Court raised so many objection's over defective and incomplete investigation and ordered SP Investigation Mardan for transfer of Investigation to CB.

After going through the record and detail discussion over all the aspect of the case and keeping in view the verdict of learned Court, the board unanimously agreed that the case needs immediate interference thus recommends that it may be transferred to Investigation Unit CPO, Peshawar for skilled investigation while the RPO Mardan Region may be approached to initiate departmental proceedings against the SHO and E.O of the case who processed the case poorly so far the I.O of the case is concerned he may be booked under law by the concerned Head of Investigation, District Mardan departmentally.

Submitted for your kind perusal and approval please.

MEMBER

(JAVED ZAMEER-UD-DIN FAROOQI)
SSP (Investigation), CPO, Peshawar

CHAIRMAN

MEMBER

Head of Investigation,
District Mardan

APPROVED

29/8/14

VAKALAT NAMAIn the Court of The Provincial Service Tribunal, PeshawarAppeal

No.

of 2015

Nasir Khan

(Petitioner)

(Plaintiff)

(Appellant)

VERSUSThe Police Deptt etc.

(Respondent)

(Defendant)

I/We Nasir Khan the
 above noted Appellant do
 hereby appoint and constitute **Muhammad Adam Khan, Advocate Mardan** as
 Counsel in subject proceedings and authorize him to appear, plead etc., compromise, withdraw or
 refer to arbitration for me/us, as my/our Advocate in the above noted matter, without any liability
 for his default and with the authority to engage/appoint any other Advocate/Counsel at my/our
 behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated: 26.10.2015

Nasir Khan
 (Signature of Client)

MUHAMMAD ADAM KHAN,
 Advocate,
 District Courts, Mardan.

Adam Khan
 Accepted

2

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

Service Appeal No. 1210/2015

Nasar Khan Ex-Constable No. 1630.....Appellant.

VERSUS.

District Police Officer, Mardan
& others.....Respondents.

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:-

1. That the appellant has not come to this Honourable Tribunal with clean hands.
2. That the appellant has got no cause of action.
3. That the appellant has concealed material facts from this Honourable Tribunal.
4. That the appellant is estopped by his own conduct, by law to bring the instant appeal.
5. That the present appeal is bad in its present form hence not maintainable and liable to be dismissed.
6. That the appeal is bad due to non-joinder of necessary parties and mis-joinder of unnecessary parties.
7. That the instant appeal is barred by law & limitation.

REPLY ON FACTS.

1. Correct. Infact the appellant was charged directly at the complaint of one namely: Mohammad Nazir and the respondents were bound u/s 154 CrPC to lodge FIR against the appellant. Hence, his plea stands **worthless**.
2. Pertains to record, hence, no comments.
3. Correct, as the appellant had committed cognizable offence which, he being Police official, lead to misconduct on his part. Hence, punished as he deserved.
 - a. Incorrect. The respondent No. 03, being Deputy Inspector General of Police, could never keep personal grudges or partiality against a Police Constable. Hence, the allegation of partiality is baseless.
4. Correct to the instant of re-instatement but the appellant was re-instated on humanitarian grounds. However, the plea of back benefits holds no grounds and he does not deserve on the ground of general principle **"No work no pay"**.

REPLY ON GROUNDS:-


- I. Allegations carried in this para are totally incorrect and baseless. There is no collusion on the part of Police, rather, Police proceeded under the provision of Section 154 CrPC.
- II. Pertains to record, hence, no comments.
- III. Incorrect. Infact, the worthy Inspector General of Police Khyber Pakhtunkhwa Peshawar had taken immediate action at the application of the appellant and the matter was, later on, referred to investigation unit C.P.O for re-investigation through skilled investigation officers, whereof, the Regional Police Officer, Mardan was also directed for departmental action against SHO and Enquiry Officer of the case. However, later on, nothing as such was proved against the Police officials and the appellant was also re-instated in service on humanitarian grounds.
- IV. Incorrect as the appellant was charged vide FIR No. 745 dated 14.11.2014 u/s 324/452/354/427/34 PPC 15AA PS Takth Bhai, whereafter, he was suspended and then dismissed from service, so, he did not perform his duty.
- V. The respondents also seek permission of this Honourable Tribunal to present further/additional, if any, grounds etc. at the time of arguments.

PRAYER:-


It is therefore, prayed that the appellant's plea holds no legal grounds and he does not deserve back benefits as prayed for. His appeal may please be dismissed with costs.



**Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 01)**



**Dy. Inspector General of Police,
Mardan Region-I, Mardan.
(Respondent No. 03)**



**District Police Officer,
Mardan.
(Respondent No. 02)**

(58)

16/06/2014
 12-3-15
 12-3-15
 12-3-15

کار نمبر 15-135

ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی کی رپورٹ شدہ زبردفعہ 153 مجموعہ ضابطہ جہادری

محت صحافی

ضلع صدرال

بد 745

تاریخ وقت شروع 14/11/14 وقت 19:05 بجے

1	تاریخ و وقت رپورٹ 14/11/14 وقت 19:45 بجے	تاریخ وقت شروع 14/11/14 وقت 19:05 بجے
2	نام و سکونت اطلاع دہندہ مستفیث محمد نذر خان ولد زور طلب خان	حاکم دہلی برج 14/11/14 وقت 20:30 بجے
3	مختصر کیفیت جرم (مبذوفہ) حال اگر کچھ لیا گیا ہو 354/427/34	47 سالہ ساکن 48 سالہ ساکن
4	جائے وقوعہ فاصلہ تھانہ سے اور دست ISAN	324/452/354
5	نام و سکونت ملزم خانہ سدھی محمد نذر خان	خانہ زور طلب کے
6	کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف یا تاخیر بیان کرے	سرال محمد خان ساکنان زور طلب کے
7	تھانہ سے روانگی کی تاریخ و وقت	بہر سردگی حراسلم محدود طریقہ کیا جائے

ابتدائی اطلاع کے بارے میں - نوٹ: صدرال محمد نذر خان حراسلم صحافی تھانہ وقت صحافی حراسلم صدرال محمد نذر خان کے خلاف 2126 خصوصاً نوٹ کر رکھنا ہے کہ یہ خبر 47 سالہ ساکن 48 سالہ ساکن کے خلاف روزانہ اخبار میں شائع کی گئی ہے۔

47 سالہ ساکن نے یہ خبر شائع کرنے سے پہلے ہی صدرال محمد نذر خان کو اطلاع دے کر فرار ہو گیا تھا۔ 48 سالہ ساکن نے یہ خبر شائع کرنے سے پہلے ہی صدرال محمد نذر خان کو اطلاع دے کر فرار ہو گیا تھا۔

صدرال محمد نذر خان نے یہ خبر شائع کرنے سے پہلے ہی صدرال محمد نذر خان کو اطلاع دے کر فرار ہو گیا تھا۔ صدرال محمد نذر خان نے یہ خبر شائع کرنے سے پہلے ہی صدرال محمد نذر خان کو اطلاع دے کر فرار ہو گیا تھا۔

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11 Asi-PS-TBI 14/11

Certified to be True
 M-P-09-7
 EXAMINER
 CAPTAIN (P)
 PUNJAB POLICE
 JALANDHAR COURT HOUSE

1/8

D

Attested
Auliam

(A)

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

No. 761 /R/D.A-P.R-1975.

Dated 24-11- /2014

DISCIPLINARY ACTION UNDER NWFP POLICE RULES - 1975

I, Gul Afzal Khan District Police Officer, Mardan as competent authority am of the opinion that Constable Nasir No. 1630, rendered himself liable to be proceeded against as he committed the following acts/omission within the meaning of section-02 (iii) of NWFP Police Rules 1975.

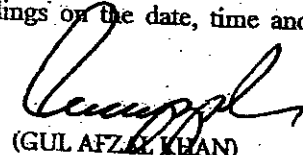
STATEMENT OF ALLEGATIONS

That Constable Nasir No. 1630, posted at Police Station Rustam, Mardan is being charged in case FIR No. 745 dated 14.11.2014 u/s 324/452/354/427/34 PPC PS Takht Bhai.

2. For the purpose of scrutinizing the conduct of the said official with reference to the above allegations Mr. Shamreez Khan DSP/City, Mardan is appointed as Enquiry Officer.

3. The enquiry officer shall conduct proceedings in accordance with provisions of Police Rules 1975 and shall provide reasonable opportunity of defense and hearing to the accused official, record its findings and make within twenty five (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused officer.

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


(GUL AFZAL KHAN)
District Police Officer,
Mardan

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

No. 761 /R dated Mardan the 24-11- /2014.

Copy of above is forwarded to the:

1. DSP/City Mardan for initiating proceedings against the accused official / Officer namely Constable Nasir No. 1630, under Police Rules, 1975.
2. Constable Nasir No. 1630, with the directions to appear before the Enquiry Officer on the date, time and place fixed by the enquiry officer for the purpose of enquiry proceedings.

***** !!! *****

R D

P/7

C
Attest
A Khan


CHARGE SHEET UNDER NWFP POLICE RULES 1975

I, Gul Afzal Khan District Police Officer, Mardan as competent authority hereby charge you Constable Nasir No. 1630, as follows.

That you Constable, while posted at Police Station Rustam, Mardan is being charged in case FIR No: 745 dated 14.11.2014 p/s 324/452/354/427/34 PPC PS Takht Bhai.

This amounts to grave misconduct on your part, warranting departmental action against you, as defined in section - 6 (1) (a) of the NWFP Police Rules 1975.

1. By reason of the above, you appear to be guilty of misconduct under section - 02 (iii) of the NWFP Police Rules 1975 and has rendered yourself liable to all or any of the penalties as specified in section - 04 (i) a & b of the said Rules.
2. You are therefore, directed to submit your written defense within seven days of the receipt of this charge sheet to the enquiry officer.
3. Your written defence if any, should reach to the enquiry officer within the specified period, failing which, it shall be presumed that you have no defense to put-in and in that case, an ex-parte action shall follow against you.
4. Intimate whether you desired to be heard in persons.


(GUL AFZAL KHAN)
District Police Officer,
Mardan

C
B

8/9

"2"

Attestal
Afsar

BEFORE THE DISTRICT POLICE OFFICER, MARDAN

Subject: REPLY TO THE CHARGE SHEET+STATEMENT OF ALLEGATION NO.761/R DATED
24-11-2014

1. Your Honour had issued the subject charge sheet/ statement of allegation against the petitioner with the following allegations, which was handed over to the petitioner on 12-12-2014:-

"That you constable Nasir No. 1630, posted at Police Station Rustam, Mardan is being charged in case FIR No. 745 dated 14-11-2014 u/s 324/452/354/427/34 PPC PS Takht Bhai" (Copy of charge sheet is annexed as Annexure "A").

2. That the petitioner was enlisted as constable in police department on 25-09-1991. The petitioner has performed his duty honestly, with zeal and efficiency. The subject charge sheet relates to the following facts:

- a) That the petitioner had charged accused Nazir s/o Zor Talab , Haroon s/o Mumtaz R/o Zor Talab Kalay for the murder of his daughter namely Iqra, who was 03 years old. The occurrence took place on 11-06-2014. The child baby was murdered by intoxicating, subjecting her to torches and causing her death through suffocation. Both the accused committed the occurrence with the abetment of accused Alamzaib s/o Zor Talab. Motive behind the occurrence was dispute over the land. On the report of the petitioner, the local police of police station Takht Bhai registered a case vide FIR No. 531 dated 24-06-2014 u/s 302/34/109 PPC against the above three mentioned accused. The investigation of the case was entrusted to S.I Afsar said.(Copy of FIR is annexed as Annexure "B").
 - b) After 15 days of the registration of the case all the three accused were arrested, two days police custody were obtained but neither weapon of offence was recovered nor confessional statement was recorded and hence poor investigation was conducted . on 07-07-2014, the Bail application was rejected by the learned ASJ Takht Bhai. After then, the accused succeeded in getting Bail from the High Court Peshawar.
 - c) That by having no satisfaction from the investigation of local police, the petitioner approached to the court of ASJ Takht Bhai by submitting an application u/s 22 A with the request that the investigation of the present case be transferred to crime branch Peshawar. (copy of application u/s 22 A is annexed as Annexure "C").
 - d) During hearing the Arguments of application u/s 22 A, the learned Additional Session Judge Takht Bhai observed that neither the statement of Mumtaz watch man of GPS Zor talab kalay was recorded by the I.O neither the owner of the land was got examined through an application for the CDR is placed on file, however sincere efforts have not been made by the I.O to obtain it. Even motive behind the occurrence has not been established. Beside this the learned court raised so many objections over defective and incomplete investigation and ordered S.P investigation Mardan for transfer of investigation to Crime Branch Peshawar.(copy of court order dated 10-07-2014 is annexed as Annexure "D").
 - e) That the investigation of the present case was handed over to crime Branch Peshawar and in the light of the board meeting held on dated 29-08-2014 under the approval of additional I.G.P investigation C PO Peshawar. The board has recommended departmental action against SHO Takht Bhai and E.O/I.O of the case for conducting poor investigation. Though this murder case is still pending investigation with crime branch Peshawar but unfortunately no departmental action were initiated against the responsible till date . The petitioner brother Afsar Khan also made press conference in this regard but of no use.(Copy of Approval is annexed as Annexure "E" copy of press conference is annexed as Annexure "F")
3. That SHO Takht Bhai (Inspector Kanoo) is continuously supporting the petitioner opponents. On the advice and consultation of the said SHO, a new drama was staged in the shape that:
- a) Accused Nazir Khan s/o Zor Talab succeeded to got registered a false and baseless case against the petitioner, his brothers Qaisar Khan and Afsar Khan vide FIR No.745 dated 14-11-2014 u/s 324/452/354/427/34 PPC. The accused of murder case are trying to compel the petitioner for compromise by involving him in false criminal cases. (Copy of F.I.R is annexed as Annexure "G")

8/10

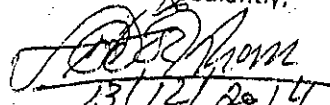
- b) On 14-11-2014, the petitioner was arrested in the above mentioned case. The same day SHO Kamran Khan raided the house of the petitioner and disgraced the modesty of all women folks present in the house. The ladies were beaten and their household articles were badly damaged. On 15-11-2014, Mst Nusrat w/o the petitioner reported the matter before ASJ Takht Bhai in the shape of application u/s 22 A Crpc. (Copy of application u/s 22 -A is annexed as Annexure " H ")
- c) The ASJ Takht Bhai vide court order 19-11-2014 issued directive to DPO Mardan in the light of application of Mst Nusrat for taking legal action against the responsible police officials but unfortunately no action was taken so far. (Copy of ASJ Order dated 29-11-2014 is annexed as Annexure " I ")
- d) The petitioner remained in police custody for three days. On 17-11-2014, the petitioner was unconscious due to severe physical torture and was sent to Jail. Later on, the petitioner was released on Bail by the court of ASJ Takht Bhai dated 04-12-2014 (Copy of Emergency Report is annexed as Annexure " J ")
4. On 24-11-2014, Afsar Khan (brother of the petitioner) submitted an application before I.G.P kpk for his involvement in false case registered vide FIR No.745 dated 14-11-2014 u/s 324/452/354/427/34 PPC PS Takht Bhai. The petitioner also mentioned the illegal raid dated 14-11-2014 on the house of the petitioner by SHO Takht Bhai. The worthy I.G.P kpk marked the said application to S.P investigation Mardan for report by 27-11-2014 but unfortunately no report was sent to I.G.P. KPK (copy of application of Afsar Khan is annexed as Annexure " K ")
5. On 20-11-2014, the SHO Takht Bhai (Kamran Khan) took into possession the petitioner Motor car No. LXG-8666 along with documents by illegal way and parked at the police station by registering no report. The petitioner approached to the court of Judicial Magistrate Takht Bhai in this regard and vide court order date 29-11-2014, the said motor car was handed over to the petitioner. The court also issued a show cause notice to issue for the illegal detention of the motor car. (Copy of application with court order dated 29-11-2014 is annexed as Annexure " L ")
6. After false involvement in criminal case registered vide FIR No.745 dated 14-11-2014 u/s 324/452/354/427/34 PPC PS Takht Bhai, the petitioner was suspended and closed to police line vide O.B No. 2296 dated 17-11-2014. The case is still pending investigation. (Copy of O.B No.2296 is annexed as Annexure " M ")

REPLY TO THE SUBJECT CHARGE SHEET:

- A) That the petitioner is innocent and has been falsely implicated in case FIR No.745 dated 14-11-2014 u/s 324/452/354/427/34 PPC PS Takht Bhai.
- B) That the petitioner has been charged by the advise and consultation of SHO Takht Bhai in the present case and the opponents of the petitioner (already accused on Bail in murder case) are trying to compel the petitioner for effecting compromise with them.
- C) That the case still pending investigation and the accused ship of the petitioner has not yet been confirmed.
- D) The petitioner has been badly victimized by the hand of SHO Takht Bhai and fully support was given by the said SHO to the accused involved in murder case.
- E) That from the perusal of the above detailed facts, it is crystal clear that the petitioner and his family has been badly damaged.

Keeping in view of the facts and circumstances mentioned above, it is humbly requested that the charge sheet + summary of allegation may kindly be filed on humanitarian bases and the petitioner be re-instated in service from the date of his suspension please.

Yours Obediently,


31/12/2014
Constable (NASIR No. 1630)

Police lines Mardan

② 1630

FINDING.

This departmental inquiry has been conducted against constable Nasir Khan of Police Station Rustam presently Police Lines in accordance with provisions of Khyber Pakhtunkhwa, Police Disciplinary Rules 1975 on the below mentioned charges:-

“That Constable Nasir Khan No. 1630, while posted at Police Station Rustam Mardan, is being charged in case FIR No. 745 dated 14.11.2014 u/s 324/452/354/427/34PPC PS Takht Bai”.

2. On the basis of said charges he was issued charge sheet with summary of allegations and vide office endorsement No. 761/R, dated 24.11.2014, I was appointed as Inquiry Officer.
3. On receipt of inquiry papers, the defaulter official was summoned and on his attendance charge sheet with statement of allegations was handed over to him who submitted his reply to it which was placed on file.
4. During course of inquiry I recorded statements of complainant Muhammad Nazeer, Haroon, ASI Atta Muhammad, MASI Noor Muhammad ASI /IO Iqbal and defaulter official / constable Nasir Khan. Their statements were placed on record.
5. This case was registered vide FIR No. 745 dated 14.11.2014 u/s 324/452/353/34PPC in PS Takht Bai on the report of complainant Muhammad Nazeer against constable Nasir Khan / the present defaulter official and his other two brothers. The complainant in his statement stated that on the night of occurrence at about of 19:05hrs he alongwith other family members was present in his house that in the meantime Qasir Khan, Afsar Khan and constable Nasir Khan duly armed came in their house and made firing upon them but they escaped. However as a result of firing of accused doors/windows of his house were damaged. The accused also disgraced the women folk of the house of complainant. Haroon Supported the version of complainant in his statement before the inquiry officer. ASI Atta Muhammad stated that on receiving information from PS during gusht, he proceeded to the spot where complainant Muhammad Nazeer lodged report to him which he recorded in shape of Murasila and sent the same to PS for registration of case. MASI Noor Muhammad in his statement that he had received information from operator to contact Nazeer Khan on his Cell No. 0332-9411609 as an occurrence has taken place. The said information was recorded vide DD No. 7 dated 14.11.2014 and thereafter he informed Beat Officer / ASI Atta Muhammad, SHO, Niaz Muhammad incharge Police post Tordher and Shoaib Khan Inspector Investigation. On receipt of Murasila from ASI Atta Muhammad he registered the said case. ASI Iqbal stated in his statement that he conducted investigation of the case and has given statement to that extent. The defaulter official in his statement denied all the allegations leveled against him.
6. During course of inquiry it came to know that there is dispute over landed property between the parties.

(4)


7. From the available it has been established that defaulter official by using his official position has committed a criminal offence which, being a Police official he is not supposed to commit such an offence. A weapon of offence (30bore pistol with 02 live rounds and empties) was recovered from his possession which was examined through Arms Expert at FSL and report has been received in positive. He has been charged directly in FIR for commission of offence by complainant Muhammad Nazeer. Defaulter official was appointed as constable on 15.09.1991. There is no good entry in his credit while there are 09 bad entries against him as per service book. It is worth mentioning here that previously he was compulsory retired from service vide OB No. 1307 dated 09.11.2004 on the charges of committing an offence of snatching one CD, TV and cash amount from one Muhammad Arif and he was arrested red handed vide FIR No. 105 dated 24.02.2003 u/s 379PPC/14 Islamic law PS Hayat Abad but later on he was re-instated in service by appellate authority on 16.04.2005 and the punishment of compulsory retirement was converted into stoppage of increments for three years. The allegations leveled against him has been established. It is pertinent to mention herein that defaulter official was suspended and closed to police lines. During his suspension he absented himself vide DD No. 33 dated 12.12.2014 and made arrival vide DD No. 37 dated 16.12.2014. It indicates his attitude towards discipline and official duty. Moreover during the days of occurrence he was posted in PS Rustam but on that very date, i.e day of occurrence, he was absent from PS Rustam.

There are various judgment of superior courts with regard to criminal and departmental proceedings. In these judgment it has been held that both the proceedings are different from each other. Each is to be decided on its own facts / merits. As stated above allegation has been established against him. From the available record it has been become clear that he has indulged himself in criminal cases and is not taking interest in his official duty. Retention of such type official in department will adversely affect performance of other members. Hence he is recommended for Major Punishment please.

No = 420-5

dt = 24-3-15

EMCL = (108)


(SHAMREEZ KHAN)
Dy: Superintendent of Police,
City Circle, Mardan.

In light of the above
enquiry he is dismissed
from service

By
31.3.015

ORDER

This order will dispose of departmental inquiry, which has been conducted against **Constable Nasar No. 1630** on the allegation that the **Constable Nasar No. 1630** while posted at Police Station Rustam, is being charged in case FIR No. 745 dated 14.11.2014 u/s 324/452/354/427/34 PPC PS Takht Bhai. His attitude adversely reflected on his performance which is an indiscipline act and gross misconduct on his part as defined in rule 2(iii) of Police Rules 1975. Therefore he was recommended for departmental action.

In this connection, **Constable Nasar No. 1630**, was charge sheeted vide this office No. 761/R, dated 24.11.2014 and also proceeded him against departmentally through **Mr; Shamreen Khan DSP/City Mardan**, who after fulfilling necessary process, submitted his findings to the undersigned vide his office endorsement No. 420/S dated 24.03.2015, as the allegation have been established against him.

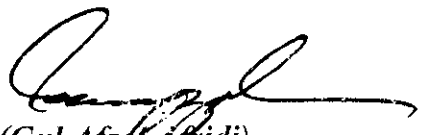
The undersigned agreed with the findings of enquiry officer and the alleged **Constable Nasar No. 1630**, is hereby dismissed from service, in exercise of the power vested in me under the above quoted rules.

Order announced

O.B No. 572

Dated 31 / 03 / 2015

No. 3055-69 dated Mardan the 31 / 3 - / 2015


(Gul Afzal Afridi)
District Police Officer,
Mardan.

Copy for information and necessary action to:-

1. The Deputy Inspector General of Police Mardan Region-1, Mardan.
2. The S.P Operations, Mardan.
3. The DSP/HQrs Mardan.
4. The Pay Officer (DPO) Mardan.
5. The E.C (DPO) Mardan.
6. The OASI (DPO) Mardan.

آپنا کوئی فائل کو دی ہے



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

ORDER

This order is hereby passed to dispose off departmental appeal under Rule 11-a of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-FC Nasir Khan No. 1630 of District Police Mardan against the Punishment Order i.e dismissed from service passed against the appellant by DPO/Mardan vide OB No. 572 dated 31.03.2015.

In the light of recommendations of Appeal Board meeting held on 10.09.2015, the board examined the enquiry in detail & other relevant documents. It revealed that the appellant was served with Charge Sheet/Statement of Allegations and punishment order was announced on the basis of reply to the Charge Sheet and Statement of Allegations.

The appellant was heard in detail. Record perused. There are property dispute of the above Ex-official with his opponents. DIG/E&I KPK Peshawar has also conducted enquiry and reported that the punishment of dismissal awarded to above Ex-official is deemed to be too harsh. The board re-instated the above official in service on humanitarian grounds with no back benefits. The board also decided that he will be posted in FRP KPK, Peshawar.

Order announced in the presence of appellant.

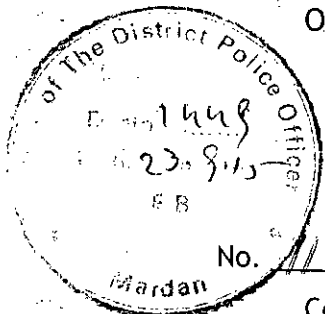
Sd/-
NASIR KHAN DURRANI
Inspector General of Police,
Khyber Pakhtunkhwa Peshawar.

No. 1572-76 /E-IV dated Peshawar the 18/9 /2015

Copy of above is forwarded to the:-

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

(ASIF JOBAL MOHMAND)
AIG/Establishment
For Inspector General of Police
Khyber Pakhtunkhwa Peshawar.



SB/EC/ok
For notification

DPO/MRD
22/9/15

161702
22/9/15

17/9/15

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

Service Appeal No. 1210/2015

Basar Khan Ex-Constable No. 1630.....Appellant.

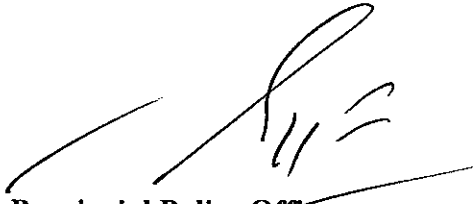
VERSUS.


District Police Officer, Mardan

& others.....Respondents.

COUNTER AFFIDAVIT.

We, the respondents do hereby declare and solemnly affirm on oath that the contents of the Para-wise comments in the service appeal cited as subject are true and correct to the best of our knowledge and belief and nothing has been concealed from this Honourable Tribunal.


**Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.**
(Respondent No. 01)


**By: Inspector General of Police,
Mardan Region-I, Mardan.**
(Respondent No. 03)


**District Police Officer,
Mardan.**
(Respondent No. 02)

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

Service Appeal No. 1210/2015

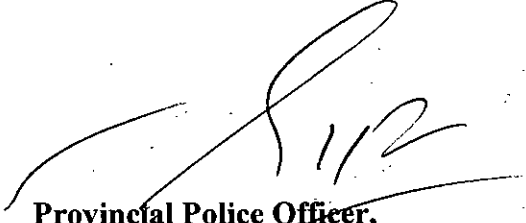
Nasar Khan Ex-Constable No. 1630.....Appellant.


VERSUS.

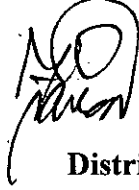
District Police Officer, Mardan
& others.....Respondents.

AUTHORITY LETTER.

Mr. Muhammad Shafiq Inspector Legal, (Police) Mardan is hereby authorized to appear before the Honourable Service Tribunal, Khyber Pakhtunkhwa, Peshawar in the above captioned service appeal on behalf of the respondents. He is also authorized to submit all required documents and replies etc. as representative of the respondents through the Addl: Advocate General/Govt. Pleader, Khyber Pakhtunkhwa Service Tribunal, Peshawar.


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 01)


Dy. Inspector General of Police,
Mardan Region-I, Mardan.
(Respondent No. 03)


District Police Officer,
Mardan.
(Respondent No. 02)

Original

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, PESHAWAR

Appeal No. 1210/2015.

Nasir Khan V/S The I.G.P etc;

Rejoinder on behalf of Appellant:-

Pry; Objections:-

All the preliminary objections are incorrect and based on malice on behalf of Respondents. Denied.

On facts:-

1. The F.I.R inquisition was based on malice, collusion and based on retaliation, in order to pressurize the Appellant.
2. Para-2 of Appeal is correct.
3. Incorrect & false. Denied.
 - a). Sub-para- (a) of Appeal is correct.
The denial on part of Respondent is based on malice. Denied.
4. Para-4 of Comment is incorrect, malafide and illegal. Denied. The Appellant remained Jobless, at the hands of Respondents, throughout.

Grounds:-

- i) Para-1 of Appeal is correct. The denial on the part of Respondent is false, incorrect and based on malice.
- ii) Para-II of Appeal is correct.
- iii) Para-iii of Appeal is Correct. While the plea on behalf of Respondents is incorrect & false. Denied.
- iv). The reply is false & misleading. Denied. The Appellant was kept out of job, illegally and without justification.
- v). No repley.

It is prayed that this Honourable Tribunal may graciously be pleased to revise the impugned order and direct that the Appellant be granted back service benefits including the monthly salaries for the crucial period.

The costs of this Appeal may be awarded to Appellant against the respondents.

Dated:11.3.2017

Appellant

(Nasir Khan)

Through

Adam

Muhammad Adam Khan
Advocate Mardan

Nasir Khan

Affidavit

I Nasir Khan / The Appellant do hereby state on Solmn affirmation that the contents of this-Rejoinder, as well as, the memo, of Appeal are true and correct to the best of my knowledge and belief and further that the objection raised by respondent are incorrect, misleading and based on malice.

Identified by me
Adam

MUHAMMAD ADAM KHAN
B.A LLB Advocate
High Court Mardan

Deponent

(Nasir Khan)

Nasir Khan

Adam
ATTESTED
MUSLIM KHAN
Advocate
Rajiv Public Mardan
15 Date 03

2017