

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

SERVICE APPEAL NO. 1261/15

Date of institution ... 10.11.2015

Date of judgment ... 08.11.2016

Shamsher Alam,
Ex-Constable No.273, District Police Mardan.

... (Appellant)

VERSUS

1. Deputy Inspector General of Police Mardan Region-1 Mardan.
2. District Police Officer Mardan.
3. Provincial Police Officer Khyber Pakhtunkhwa Peshawar.

... (Respondents)

APPEAL UNDER SECTION-4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE ORDER DATED 28.10.2015 PASSED BY RESPONDENT NO.1 WHERE BY DEPARTMENTAL APPEAL OF THE APPELLANT FILED AGAINST THE ORDER DATED 28.08.2015 OF RESPONDENT NO.2 HAS BEEN REJECTED/FILED.

Mr. Fazal Shah Mohmand, Advocate.
Mr. Muhammad Jan, Government Pleader

.. For appellant.
.. For respondents.

MR. MUHAMAMD AAMIR NAZIR
MR. PIR BAKHSH SHAH

MEMBER (JUDICIAL)
MEMBER(JUDICIAL)

JUDGMENT

MUHAMMAD AAMIR NAZIR, MEMBER: Shamsher Alam, ex-constable No.273,

District Police Mardan, hereinafter referred to as appellant, through instant appeal under section-4 of Khyber Pakhtunkhwa service Tribunal Act 1974 has impugned order dated 28.08.2015 vide which the appellant was dismissed from service. Against the impugned order referred above, appellant filed departmental appeal on 01.09.2015 but the same was also rejected by the appellate authority vide order dated 28.10.2015.

2. Brief facts of the case giving rise to the instant appeal are that the appellant was appointed as constable in the police department in the year 1997 and there-after remained posted at various police stations and performing duties full devotion. That the appellant while posted at Guard Bangla of respondent No.1 was suspended on the allegation of illegal activities


08.11.2016

and inefficiency vide order dated 06.08.2015 and there-after he was issued charge sheet alongwith statement of allegations. That the appellant replied to the charge sheet and statement of allegation by denying his involvement in illegal activities yet, an enquiry was conducted and the appellant was recommended for major punishment. That the competent authority vide impugned order dated 28.08.2015 awarded major punishment of dismissal from service to the appellant. The departmental appeal filed by the appellant against the impugned order was also rejected by the appellate authority vide order dated 28.10.2015, hence the instant appeal.

3. Learned counsel for the appellant argued before the court that a one sided enquiry was conducted against the appellant and the appellant was not provided any opportunity to rebut the allegations leveled against him. That the enquiry officer based his findings on the basis of secret information which was never disclosed to the appellant and thus recommended major punishment for the appellant. That the competent authority while relying on the defective enquiry report, awarded major penalty of dismissal from service vide impugned order dated 28.08.2015. That the appellant contention was not considered and the appellate authority also overlooks the claim of the appellant and relied upon the defective enquiry report and rejected departmental appeal of the appellant. That since the allegations were never proved against the appellant, therefore, by acceptance of the instant appeal the appellant be reinstated into service with all back benefits.

4. The learned Government Pleader, while rebutting the arguments advanced by the learned counsel for the appellant, argued before the Tribunal that since the appellant remained involved in illegal and immoral activities, therefore, the enquiry officer has rightly recommended major punishment for appellant. That the competent authority while considering the facts and circumstances of the case, has rightly awarded major punishment of dismissal from service to the appellant. That the instant appeal being devoid of merits may be dismissed.

5. We have heard arguments of learned counsel for the appellant and learned Government Pleader for the respondents and have gone through the record available on file.


08.11.2016

6. Perusal of the case file reveals that the appellant while serving as constable was suspended on the allegations of his involvement in illegal activities and inefficiency vide order dated 06.08.2015. There-after, the appellant was issued charge sheet alongwith statements of allegations but no detail of illegal activities and inefficiency was mentioned therein. Though the appellant submitted reply to the charge sheet and statement of allegations, yet enquiry officer was appointed who enquired into the allegations leveled upon the appellant and recommended major punishment. Perusal of enquiry report available on file reveals that only a statement of the appellant was recorded and no other evidence was brought on record to substantiate involvement of the appellant in illegal activities and inefficiency. Enquiry officer based his findings on secret investigation/information but it was mandatory upon the enquiry officer that he should have brought a confidence inspiring evidence regarding involvement of the appellant in illegal activities and should have provide opportunity to the appellant to cross examine the evidence so brought on record. Since, the enquiry report is based on personal opinion of the investigating officer having no material evidence, therefore impugned dismissal order dated 28.8.2015 based on defective enquiry report is of no legal effect. Hence in this circumstances, we are constrained to set aside the impugned dismissal order dated 28.08.2015 and reinstate the appellant into service. The respondents are at liberty to conduct *de-novo* enquiry if they so desire within a period of sixty days(60) from the date of receipt of this judgment failing which appellant shall be deemed to have been reinstated into service with all back benefits. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED
07.11.2016


(PIR BAKHSH SHAH)
MEMBER

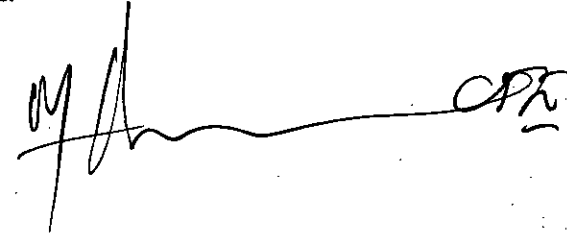

(MUHAMMAD AAMIR NAZIR)
MEMBER

08.11.2016

Counsels for the appellant and Mr. Muhammad Jan, GP
alongwith Mr. Muhammad Ghani, S.I for respondents present.

Vide our detailed judgment of today consists of three pages placed on file, in this circumstances, we are constrained to set aside the impugned dismissal order dated 28.08.2015 and reinstate the appellant into service. The respondents are at liberty to conduct de-novo enquiry if they so desire within a period of sixty days(60) from the date of receipt of this judgment failing which appellant shall be deemed to have been reinstated into service with all back benefits. Parties are, however, left to bear their own costs. File be consigned to the record.

Announced
08.11.2016



(MUHAMMAD AAMIR NAZIR)
MEMBER

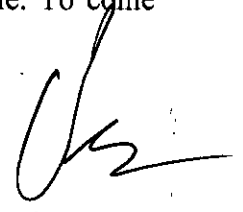


(PIR BAKHSH SHAH)
MEMBER

01.07.2016

Appellant with his counsel and Mr. Muhammad Ghani, SI alongwith Assistant AG for respondents present. Learned counsel for the appellant submitted rejoinder which is placed on file. To come up for arguments on 13-7-16.


Member


Member

15/7/16
13.7.2016

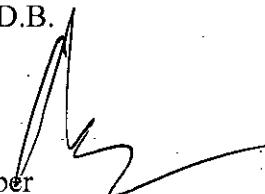
Appellant in person and Mr. Muhammad Ghani, SI alongwith Mr. Muhammad Jan, GP for respondents present. Appellant requested for adjournment. Request accepted. To come up for arguments on 8.9.16.


Member


Member

08.09.2016

Counsel for the appellant and Mr. Muhammad Ghani, S.I alongwith Additional AG for respondents present. Learned counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on 8-11-16 before D.B.


Member


Member

23.11.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Constable when subjected to inquiry on the allegations of involvement in illegal activities and due to inefficiency and dismissed from service vide impugned order dated 28.8.2015 where against he preferred departmental appeal on 1.9.2015 which was rejected on 28.10.2015 and hence the instant service appeal on 10.11.2015.

That no show cause notice was issued to the appellant and the inquiry was not conducted in the prescribed manners.

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 11.2.2016 before S.B.

Appellant Deposited
Security & Process Fee




Chairman

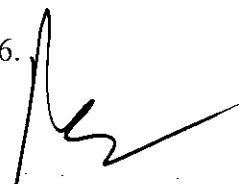
11.02.2016

Appellant with counsel and Mr. Muhammad Ghani, SI alongwith Addl: A.G for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 9.5.2016.


Chairman

09.05.2016

Appellant in person Mr. Muhammad Ghani, S.I alongwith Mr. Muhammad Jan, GP for respondents present. Arguments could not be heard due to general strike of the Bar. To come up for rejoinder and arguments on 01.07.2016.

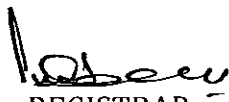




Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1261/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	10.11.2015	<p>The appeal of Mr. Shamsheer Alam presented today by Mr. Fazal Shah Mohmand 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>23-11-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> 

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 1261 /2015

Shamsher Alam Ex Constable No 273, District Police Mardan.
.....Appellant

V E R S U S

Deputy Inspector General of Police Mardan & others... Respondents

I N D E X

S.No	Description of Documents	Annexure	Pages
1.	Service appeal with affidavit		1-4
2.	Copy of Order, Charge Sheet & reply	A, B & C	5-89
3.	Copy of Order dated 28-08-2015	D	9/10
4.	Copy of Departmental appeal & Order dated 28-10-2015.	E & F	11-13
5.	Copy of FIR	G	14
6.	Wakalat Nama		15

Dated:-06-11-2015

Shamsher Alam
Appellant
Through
Fazal Shah Mohmand
Fazal Shah Mohmand
Advocate Peshawar

OFFICE:- Cantonment Plaza Flat 3/B Khyber Bazar Peshawar
Cell# 0301 8804841

①

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 1961 /2015

N.W.F. Province
Service Tribunal
Diary No 1332
Dated 10-11-2015

Shamsher Alam Ex Constable No 273, District Police Mardan.

.....Appellant

V E R S U S

1. Deputy Inspector General of Police Mardan Region-1 Mardan.
2. District Police Officer Mardan.
3. Provincial Police Officer KPK Peshawar..Respondents

APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER DATED 28-10-2015 PASSED BY RESPONDENT NO 1 WHERE BY DEPARTMENTAL APPEAL OF THE APPELLANT FILED AGAINST THE ORDER DATED 28-08-2015 OF RESPONDENT NO 2 HAS BEEN REJECTED/FILED

PRAYER:-

On acceptance of this appeal the impugned Order dated 28-10-2015 of respondent No 1 and Order dated 28-08-2015 of respondent No 2 may kindly be set aside and the appellant may kindly be ordered to be reinstated in service with all back benefits.

*Filed to-day
10/11/15*

Respectfully Submitted:-

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No. 1341 of 2015

Shamsir Alam Ex Constable No 273, District Police Mardan
Appellant.....

V E R S U S

1. Deputy Inspector General of Police Mardan Region - Mardan
2. District Police Officer Mardan
3. Provincial Police Officer KPK Peshawar..... Respondents

APPEAL US 4 OF THE KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER DATED 28-10-2015 PASSED BY RESPONDENT NO 1 WHERE BY DEPARTMENTAL APPEAL OF THE APPELLANT FILED AGAINST THE ORDER DATED 28-08-2015 OF RESPONDENT NO 2 HAS BEEN REJECTED/FILED

PRAYER:-

On acceptance of this appeal the impugned Order dated 28-10-2015 of respondent No 1 and Order dated 28-08-2015 of respondent No 2 may kindly be set aside and the appellant may kindly be ordered to be reinstated in service with all back benefits.

Respectfully Submitted:-

1. That the appellant joined the respondent Department as Constable on 28-12-1996, remained posted to various Police Stations and since then he performed his duties with honesty and full devotion.
2. That the appellant while lastly posted to at Guard Bangla of respondent No 1 was suspended on the allegations of illegal activities and inefficiency vide Order dated 06-08-2015 and was issued charge sheet with statement of allegations, which was replied in detail refuting the allegations and explaining the true position. **(Copy of Suspension Order, Charge Sheet and reply are enclosed as Annexure A, B & C).**
3. That thereafter an illegal inquiry was conducted wherein no one was examined in the presence of the appellant and the appellant was also not provided copy of the same.
4. That there after the appellant was awarded the penalty of dismissal from service under Police Rules 1975, by respondent No 2 vide order dated 28-08-2015. **(Copy of the order is enclosed as Annexure D).**
5. That the appellant filed Departmental appeal before respondent No 1 on 01-09-2015, which was rejected/filed vide order dated 28-11-2015. **(Copy of departmental appeal and order dated 11-03-2015 are enclosed as Annexure E & F).**
6. That the impugned order dated 28-10-2015 of respondent No 1 and order dated 28-08-2015 of respondent No 2 are against the law, facts and principles of justice on grounds inter alia as follows:-

G R O U N D S :-

- A. That the impugned orders are illegal and void abinitio.

1. That the appellant joined the respondent Department as Constable on 28-12-1988, remained posted to various Police Stations and since then he performed his duties with honesty and full devotion

2. That the appellant while posted to at Guard Barracks of respondent No 1 was suspended on the allegations of illegal absence and inefficiency vide Order dated 08-08-2015 and was issued a charge sheet with statement of allegations, which was replied in detail stating the allegations and explaining the facts. (Copy of Suspension Order, Charge Sheet and reply are enclosed as Annexure A, B & C)

3. That thereafter an illegal inquiry was conducted wherein no one was examined in the presence of the appellant and the appellant was also not provided copy of the same

4. That thereafter the appellant was awarded the penalty of dismissal from service under Police Rules 1975 by respondent No 2 vide order dated 28-08-2015 (Copy of the order is enclosed as Annexure D).

5. That the appellant filed Departmental appeal before respondent No 1 on 01-09-2015 which was rejected vide order dated 28-11-2015 (Copy of departmental appeal and order dated 11-03-2015 are enclosed as Annexure E & F).

6. That the impugned order dated 28-10-2015 of respondent No 1 and order dated 28-08-2015 of respondent No 2 are against the law, facts and principles of justice on grounds inter alia as follows -

GROUND 1:-

A. That the impugned orders are illegal and void ab initio

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- B. That mandatory provisions of law and rules have badly been violated by the respondents and the appellant has not been treated according to law and rules.
- C. That the appellant did nothing that would amount to misconduct and inefficiency.
- D. That no proper inquiry was conducted to find out the true facts and circumstances.
- E. That no show cause notice was communicated to the appellant nor copy of the inquiry report was provided to the appellant and as such the impugned order is not maintainable in the eyes of law.
- F. That the impugned orders are not speaking orders and thus not tenable in the eyes of law.
- G. That there is misapplication of law as the law mentioned in the order of respondent No 1 is not applicable in case of the appellant.
- H. That the appellant has been punished without any omission or commission on his part.
- I. That even the appellant is involved in enmity and living alone in quarter is not an offence. **(Copy of FIR is enclosed as Annexure G).**
- J. That even the charges are not clear and no evidence was collected in support of the allegations.
- K. That the appellant has about 19 years of service with unblemished service record and is jobless since his illegal dismissal from service.

B. That mandatory provisions of law and rules have badly been violated by the respondents and the appellant has not been treated according to law and rules.

C. That the appellant did nothing that would amount to misconduct and inefficiency.

D. That no proper inquiry was conducted to find out the true facts and circumstances

E. That no show cause notice was communicated to the appellant nor copy of the inquiry report was provided to the appellant and as such the impugned order is not maintainable in the eyes of law.

F. That the impugned orders are not speaking orders and thus not tenable in the eyes of law

G. That there is misapplication of law as the law mentioned in the order of respondent No 1 is not applicable in case of the appellant

H. That the appellant has been punished without any omission or commission on his part.

I. That even the appellant is involved in enmity and living alone in quarter is not an offence (Copy of FIR is enclosed as Annexure G).

J. That even the charges are not clear and no evidence was collected in support of the allegations.

K. That the appellant has about 19 years of service with undiminished service record and is jobless since his illegal dismissal from service

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L. That the appellant seeks the permission of this honorable tribunal for further/additional grounds at the time of arguments.

It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.

Dated:-06-11-2015

Through

Shamsher Alam
Appellant

Fazal Shah Mohmand

Fazal Shah Mohmand
Advocate, Peshawar.

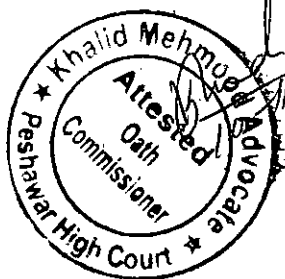
AFFIDAVIT

I, Shamsheer Alam Ex Constable No 273, District Police Mardan, do hereby solemnly affirm and declare on oath that the contents of this Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

Identified by

Shamsher Alam
DEPONENT

Fazal Shah Mohmand
Fazal Shah Mohmand
Advocate Peshawar



... That the appellant seeks the permission of this honorable
Tribunal for further additional grounds at the time of
arguments.

It is therefore prayed that appeal of the appellant
may kindly be accepted as prayed for in the heading
of the appeal.

[Signature]
Appellant
[Signature]
Fazal Shah Mohmand
Advocate, Peshawar.

Through

Dated: 06-11-2015

AFFIDAVIT

I, Shamsheer Alam Ex Constable No 273 District Police Mardan
do hereby solemnly affirm and declare on oath that the contents of
this Appeal are true and correct to the best of my knowledge and
belief and nothing has been concealed from this honorable Tribunal

[Signature]
DEPONENT

Identified by

[Signature]
Fazal Shah Mohmand
Advocate Peshawar

ORDER.

Constable Shamsheer Alam No. 273 posted at Guard Bangla DIG Mardan is hereby placed under suspension and closed to Police Lines with immediate effect due to his illegal activities and in-efficiency.

OB No. 1315
Dated 6/8 2015.


District Police Officer,
Mardan

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN.

No. 3278-52/EC, dated Mardan the 7-8 2015.
Copy to the:

1. Deputy Inspector General of Police, Mardan Region-I, Mardan.
2. Superintendent of Police Operation & HQrs: Mardan.
3. DSP HQrs: Mardan.
4. Reader to DPO Mardan with the direction to issue charge sheet/summery of allegation to the defaulter official.
5. OHC

ATTESTED

to be true copy
Advocate

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

No. 1030/R/D.A-P.R-1975.

Dated 10-8- /2015

DISCIPLINARY ACTION UNDER KPK POLICE RULES - 1975

I, Gul Afzal Khan District Police Officer, Mardan as competent authority am of the opinion that Constable Shamsher Alam No. 273, rendered himself liable to be proceeded against as he committed the following acts/omission within the meaning of section-02 (iii) of KPK Police Rules 1975.

STATEMENT OF ALLEGATIONS

That Constable Shamsher Alam No. 273, while posted at Guard Bangla DIG Mardan, is hereby placed under suspension and closed to Police Lines with immediate effect due to his illegal activities and in-efficiency.

2. For the purpose of scrutinizing the conduct of the said official with reference to the above allegations Shamraiz 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

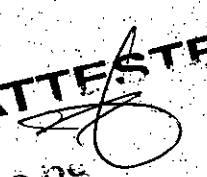
OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

No. 1030 /R, dated Mardan the 10-8- /2015.

Copy of above is forwarded to the:

1. DSP/City Mardan for initiating proceedings against the accused official / Officer namely Constable Shamsher Alam No. 273, under Police Rules, 1975.
2. Constable Shamsher Alam No. 273, 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.

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

ATTESTED

10 Dec
AM

CHARGE SHEET UNDER KPK POLICE RULES 1975

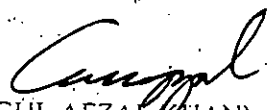
7

I, Gul Afzal Khan District Police Officer, Mardan as competent authority hereby charge you Constable Shamsher Alam No. 273, as follows.

That you constable, while posted at Guard Bangla DIG Mardan, is hereby placed under suspension and closed to Police Lines with immediate effect due to your illegal activities and in-efficiency

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

1. By reason of the above, you appear to be guilty of misconduct under section - 02 (iii) of the KPK 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 person.


(GUL AFZAL KHAN)
District Police Officer,
Mardan.

ATTESTED

to be true copy
Advocate

8

جناب عالی!

بحوالہ مشمولہ چارج شیٹ نمبر 1030/R مورخہ 10.08.2015 مجاریہ جناب DPO صاحب مردان معروض خدمت ہوں کہ ساکن سال 1996 میں محکمہ پولیس میں بحیثیت کنسٹیبل بھرتی ہو کر اختتام ٹریننگ مختلف تھانہ جات ضلع مردان میں ڈیوٹی سرانجام دے چکا ہوں۔ اپنی ڈیوٹی نہایت ایمانداری فرض شناسی کیساتھ کر کے اپنے سنئیر افسران کو کبھی بھی شکایت کا موقع نہیں دیا ہے۔ دوران تعیناتی تھانہ جات ہمراہ SHO صاحبان کافی مجرمان اشہتاری، منشیات فروشان، قماربازان، کارلفٹران اور ڈکیت گروپ گرفتار کیے ہیں۔ جسمیں جناب PPO صاحب صوبہ خیبر پختونخواہ نے بحوالہ مقدمہ علت 716 مورخہ 26.08.2003 جرم 457/380/411/14-ISL تھانہ تخت بھائی میں ملزمان گرفتار کر کے اور مال مسروقہ رقم مبلغ 55 لاکھ روپے برآمد ہونے پر مبلغ 1000/- روپے نقد انعام اور نکلا اس دن سرٹیفکیٹ جبکہ جناب DPO صاحب مردان اور جناب SP صاحب انوسٹیگیشن مردان نے اچھی ڈیوٹی کرنے پر CC-III سرٹیفکیٹ بحوالہ OB نمبر 166 مورخہ 26.01.2009 اور OB نمبر 110 مورخہ 03.06.2009 اور نقد انعامات سے نوازا گیا ہوں۔

جناب PPO صاحب صوبہ خیبر پختونخواہ کی عطا کردہ سرٹیفکیٹ کی فوٹو کاپی لف ہمراہ بیان ہذا ہے۔ اسکے علاوہ عرصہ قریب دو سال سے بنگلہ جناب DIG صاحب مردان میں بحیثیت گارڈ کمانڈر ڈیوٹی کر رہا ہوں۔ لیکن ابھی تک اپنی ڈیوٹی میں کوئی غفلت و کوتاہی نہیں کی ہے۔ اور نہ اب تک کسی غیر قانونی عوامل میں ملوث رہا ہوں۔ اسکے علاوہ میرے پوری سروس میں کارکردگی قابل ستائش رہی ہے۔ اس سلسلہ میں میرا عمل نامہ اور سروس ریکارڈ گواہ ہے۔

استدعاء ہے کہ مندرجہ بالا حقائق کو مد نظر رکھتے ہوئے میری چارج شیٹ بلا کاروائی داخل دفتر فرمائی جاوے۔

العارض

کنسٹیبل شمشیر عالم نمبر 273 متعینہ پولیس لائن مردان

ATTESTED

to be true copy
Advocate



INQUIRY REPORT OF LHC SHAMSHIR ALAM NO. 237.

The Undersigned was deputed to conduct Enquiry of Constable Shamsher Alam No.273, by the Worthy District Police Officer Mardan through office Letter No.1030/R/D.A.P.R/1975, Dated 10/08/2015.

BRIEF FACTS.

That Constable Shamsher Alam No.273, while posted at Guard Bangla DIG Mardan, is hereby placed under suspension and closed to Police Line with immediate effect due to his illegal activities and in-efficiency.

PROCEEDINGS.

The proceedings of the enquiry have been conducted strictly in accordance with the NWFP Police Rules 1975.

STATEMENT OF LHC SHAMSHIR ALAM NO. 237.

The alleged LHC was summoned to appear before the undersigned and record his statement thus he appeared and heard in person wherein his statement was recorded, which is attached herewith for your kind perusal please.

SECRET INVESTIGATION/ INFORMATION.

Besides this the undersigned conducted secret investigation, to get actual facts, where it was transpired that the alleged LHC has blood enmity, and it is out of sense that despite having enmity he is living alone in a quarter where families are residing in nearby quarters. It is also came into the notice that other women are visiting in his quarter which create doubt. This quarter is far only ten yards from PS city, but why the alleged LHC is not keeping residency in PS City where all facilities are available. The alleged LHC is Guard Commander in the office of Worthy Region Police Chief where also all facility available and safe place for him. Therefore he was found guilty.

CONCLUSION.

The undersigned has reached to the conclusion, that if agreed, the alleged LHC may be given major punishment please.

— SD, SDPO city

ATTESTED

to be true copy
Advocate

ORDER

My this order will dispose of the departmental inquiry, which is conducted against **Constable Shamsher Alam No. 237²⁷³** while posted at Guard Bangla DIG Mardan, is hereby placed under suspension and closed to Police Lines with immediate effect due to his illegal activities and in-efficiency. His this attitude adversely reflected on his performance, while discharge his official duty which is an indiscipline act and grass misconduct on his part as defined in rule 2(iii) of Police Rules 1975.


In this connection, **Constable Shamsher Alam No. 237²⁷³**, were issued charge sheets vide this office Nos. 1030/R, dated 10.08.2015 and also proceeded against departmentally through the **Shamzraiz Khan DSP/City Mardan**, who after fulfilling necessary process, submitted his findings to the undersigned vide his office endorsements Nos. 1323/S dated 24.08.2015 as the allegations have been established against him and recommended him for major punishment.

The undersigned agreed with the findings of enquiry officer and the alleged **Constable Shamsher Alam No. 237²⁷³**, is hereby **dismissed** from service, in exercise of the power vested in me under the above quoted rules.

Order announced

O.B No. 1493

Dated 28/8 /2015


(Gul Afzal Afidi)
District Police Officer,
Mardan.

No. 7669 R dated Mardan the 28/8 /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.

ATTESTED

to be by
Advoc

①

Before the D.C. Mandan / Region - Mandan.

Appeal against the order of DPO Mandan issued vide O.B. No 1493 dated 28.8.2015 where the appellant was awarded punishment of dismissal from service.

E
①

Respected Sir,

The DPO Mandan issued the charge sheet and summary of allegations no 1030-R dated 10.8.2015 with the following allegations:

" That Constable Shamsar Alam no 273, while posted at Guard Bangla D.C. Mandan, is hereby placed under suspension and closed to police lines with immediate effect, due to his illegal activities and in. efficiency " (copy enclosed)

1. In the light of the above charge sheet a departmental enquiry was initiated against the appellant. The appellant submitted a comprehensive reply to the charge sheet before the EO, but the same was not considered. The appellant was dismissed from service by DPO Mandan vide O.B. No 1493 dated 28.8.2015. (Copy of O.B. No 1493 dated 28.8.2015 is enclosed).
2. The appellant has been charged for illegal activities and in. efficiency, which the appellant has not shown throughout his entire service.
3. The appellant has been enlisted as constable in Police department on 28.12.1946 and has performed his duty efficiently and honestly.
4. The appellant was not dealt departmentally prior to this and also not punished throughout his service, which is evident from the appeal service record.

ATTESTED

to be true copy
Advocate

Prayers:

1. The appellant is innocent and has never been involved in such like practices.
2. The EO has not brought any evidence in support of the allegations against the appellant during the proceedings of enquiry.
3. Certain irregularities have been made by the EO during the enquiry.
4. The appellant was not given the opportunity of "personal hearing" and the order of dismissal was passed in absence which is against the justice.
5. No Final Show Cause notice was issued to the appellant and an illegal order was passed.
6. That the enquiry is based on doubt, suspicion, hearsay.
7. The appellant is married with 07 kids, whose livelihood is totally depends upon the appellant service.

Keeping in view the above facts and Circumstances it is humbly requested that the impugned order of DPO / Mandan issued vide OPM 1193 dated 28.8.015 may be set aside and the appellant may be re-instated in service from the date of dismissal please.

Yours obediently.

Dated: 1.9.2015

Sham
Sham Sham Alam. No 273
Ex. Constable. District-
Mandalan

ATTESTED
to be true copy
Advocate

13

1

IF

ORDER.

This order will dispose-off the appeal preferred by Ex- Constable Shamsheer Alam No. 273 of Mardan District Police against the order of District Police Officer, Mardan, wherein he was dismissed from service vide District Police Officer, Mardan OB No. 1493 dated 28.08.2015.

Brief facts of the case are that he while posted at Guard Bangla Worthy DIG/Mardan placed under suspension and closed to Police Lines due to his illegal activities and inefficiency. His this attitude adversely reflected on his performance, while discharging his official duty which is an indiscipline act and gross misconduct on his part, therefore he was recommended for departmental action. In this connection he was charge sheeted and also proceeded against departmentally through Deputy Superintendent of Police City, Mardan who after fulfilling necessary process submitted his findings to District Police Officer, Mardan as the allegation have been established against him and recommended for Major punishment. After perusal of service record District Police Officer, Mardan agreed with the findings of enquiry Officer and the alleged Constable was dismissed from service.

I have perused the record and also heard the appellant in Orderly Room held in this office on 16.09.2015. He failed to justify his innocence and could not advance any cogent reasons in his defence. Therefore, I, **MUHAMMAD SAEED**, Deputy Inspector General of Police, Mardan Region-I, Mardan in exercise of the powers conferred upon me reject the appeal, not interfere in the order passed by the competent authority, thus the appeal is filed.

ORDER ANNOUNCED.

(Signature)
(MUHAMMAD SAEED)PSP
Deputy Inspector General of Police,
Mardan Region-I, Mardan

No. 6397 /ES, Dated Mardan the 28-10- /2015.

Copy to District Police Officer, Mardan for information and necessary action w/r to his office Memo: No. 997/LB dated 04.09.2015. His service record is returned herewith for record in your office.

(*****)

ATTESTED
to be true copy
Advocate

ابتدائی اطلاعی رپورٹ

(قابل) ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ 154 مجموعہ ضابطہ نو جداری

تھانہ پیراننگ ع. طع چارسدہ

تاریخ وقت وقوع 14/11/09 وقت 11:20 بجے

تاریخ وقت رپورٹ 14/11/09 وقت 11:45 بجے	چالیدگی پیر 14/11/09 وقت 12:15 بجے
نام و سکونت اطلاع دہندہ مستغیث	حومین خان ولد شیر عالم بھمبر 35 سال مسکنہ لسنہ
مختصر کیفیت جرم (معدومہ) حال اگر کوئی لیا گیا ہو	PPC 302/324/34-427
جائے وقوعہ فاصلہ تھانہ سے اور سمت	چارسدہ نو شہر پورہ نزد پتو کٹر ملہ مسیڈ
نام و سکونت ملزم	خور شیر عالم - شمشیر عالم - راشد عالم پیران گل عالم ساکنان لسنہ
کلا دہائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہو تو وجہ بیان کرو۔	پرسیدگی تو بری مہر اسلہ مقدمہ درج رجسٹر کیا جاتا ہے
تھانہ سے روانگی کی تاریخ و وقت	بطور سینٹیل رپورٹ

ابتدائی اطلاع پیراننگ کو بوقت صبح 4 بجے ایک تحریری مہر اسلہ نصیر اللہ خان Asi بدست نسل کبر خان 1347 حوصل پورکے طعنوں ذیل ہے۔ خبریں PP 35/150 تھانہ پیراننگ، جروج حومین خان ولد شیر عالم بھمبر 35 سال اور مقتول سعید خان ولد شیر عالم 40 سال ساکنان لسنہ کو رشتہ داران اس کے بیچوں بیچ ہسپتال چارسدہ لہ کر حومین خان در دست جوش و خواص میں ہے۔ حومین خان رپورٹ کرتا ہے کہ میں نے برادر آج سعید خان اس سے رہائی یا رجم والد آج شیر عالم، کما چ آج ایدر ولد شمشیر سوار کی عمر 5892 بھٹی ڈرائیونگ لیسنس محمد ولد مکریم ساکن دیہہ آج کر رہا تھا۔ دیہہ چارسدہ ہے۔ جب جائے وقوعہ اپنی ٹوفوٹر کار VXR بدست آسمانی نمبر 8753 میں سوار خورشید عالم - راشد عالم - شمشیر عالم - گل عالم ساکنان دیہہ آج نے ہم پیراننگ سے برادرہ قتل فائرنگ کے چند ماہیروں سے میں تک زخمی ہوا۔ جب برادر جرم سعید خان تک کہ موقع پیراننگ حق ہوا۔ وجہ عداوت بہا ہے ماہین قتل مقالہ کی دستاویز آرہی ہے۔ واقعہ پیرا والد آج شیر عالم ولد مہربان ایدر ولد شمشیر کھاڈ آج اور قتل محمد ولد مکریم ساکنان دیہہ آج نے مجھ خود دیکھا ہے۔ میں برادر آج سعید خان کی قتل اپنی محبت اور والد آج شیر عالم - ایدر کھاڈ آج - اور سعید محمد ڈرائیونگ پیرا برادرہ قتل ماہیروں کرنے کا برخلاف خورشید عالم، شمشیر عالم، راشد عالم پیران گل عالم ساکنان دیہہ آج، دعویٰ لایہ ہیں۔ ایدر انگوٹھا شیر عالم ولد مہربان بارسکہ لسنہ نے رپورٹ بالا کی تائید کی۔ اس وقت انگوٹھا کاروائی پولیس حسب لفظہ سائل رپورٹ درج بالا پورکے ڈھکے سنایا و سمجھا یا گیا۔ درست تسلیم کر کے زیر بیان خود انگوٹھا ثابت کرایا گیا۔ اسی طرح تائید کنندہ سے انگوٹھا ثابت کر کے جروج کھاڈ شمشیر عالم کے کاغذات فرسگ بمطابق رجعت قدیمہ کے زیر حفاظت معذ اللہ 1377 ہجری میں علاج اور ہسپتال سے خدمت میں بھیجے گئے۔ مہجون رپورٹ سے صورت جرم بالا پائی جا کر عدالت لسنہ ہجری ماہ

ATTESTED
to be true copy
Advocate

نہ

بشا ط علامہ 2105 قمانہ پیرانگ ارسال ہے۔ دستخط نصر اللہ خان 2105 قمانہ چارسدہ
کا ابتدائی قمانہ آئندہ قمری مبراہلہ حرف و حرف درج بالا ہو کر بندہ جو م بالا جاں کیا
یہ حیات مع مبراہلہ برفن تعشق جو الما بچارح شقیہ تعقیب شفاف کیا جاتا ہے۔ 2105 قمانہ
علامہ شمس پیر ہے۔ اس کو اور اندران بالا کو بطور سیشیل رپورٹ اطلاع دی جاتی ہے۔ یہ ج
سیشیل رپورٹ گزارش ہے

[Handwritten Signature]
Dr. P. S. P. P.
14-11-09

نہ
نہ

دستخط

عہدہ

نوٹ: اطلاع کے نیچے دہندہ کا دستخط ہوگا۔ یا اس کی مہر نشان لگایا جائے گا اور اس پر تحریر کنندہ ابتدائی اطلاع کا دستخط بطور تصدیق ہوگا۔
حروف الف یاب روشنائی سے بالمقابل نام ہر ایک ملزم یا مشہور علی الترتیب واسطے باشندگان علاقہ یا وسط ایسواء یا افغانستان جہاں
ممازوں ہو لکھنا چاہیے۔

POWER OF ATTORNEY

157

IN THE COURT OF Service Tribunal K.P.P. Peshawar

Shamsher Alam

For
Plaintiff
Appellant
Petitioner
Complainant

VERSUS

D. I. '9 madam etc.

Defendant
Respondent
Accused

Appeal/Revision/Suit/Application/Petition/Case No. SA. of 12015
Fixed for-----

I/We the undersigned do hereby nominate and appoint

FAZAL SHAH MOHMAND, ADVOCATE HIGH COURT, PESHAWAR

My/our true and lawful attorney, for me/our in my/our name and on my/our behalf to appear at..... to appear, plead, act and answer in the above Court or any appellate Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions, an appeal statements, accounts, exhibits, compromise or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc and to apply for and issue summons and other writs or sub-poena and to apply for and get issued and arrest, attachment or other execution, warrants or order and to conduct any proceedings that may arise there out, and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other legal practitioner authorizing him to exercise the powers and authorities here by conferred on the Advocate whenever he may think fit to do so, any other lawyer may be appointed by my said Counsel to conduct the case who shall have the same powers.

AND to do all acts legally necessary to manage and conduct the said case in all respects whether herein specified or not, as may be proper and expedient.

AND I/we here by agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we under take at time of calling of the case by the Court my/our authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte, the said Counsel shall not be held responsible for the same. All costs awarded in favor shall be the right of the Counsel or his nominee, and if awarded against shall be payable by me/us.

IN WITNESS, where of I/We have signed at.....
This... 10.....day of..... November.....in the year. 2015

Executant/Executants.....
Accepted subject to the terms regarding fee.....

Attested and Accepted by:

Fazal Shah Mohmand
Advocate High Court

OFFICE:- Cantonment Plaza, Flat, 3/B Khyber Bazar Peshawar. Cell # 0301 8804841

Fazal Shah Mohmand
Advocate
Supreme Court of Pakistan

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

Service Appeal No. 1261/2015.

Ex-Constable Shamsheer Alam No. 273, District Police, Mardan

.....Appellant.

VERSUS.

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

Parawise Comments on behalf of respondents No. 01, 02 & 03 are submitted as under:-

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 party and mis-joinder of unnecessary parties.
7. That the instant appeal is barred by law.

REPLY ON FACTS:-

1. Pertains to record, hence, no comments.
2. Correct to the extent of suspension and issuance of charge sheet, however, the reply submitted was not satisfactory.
3. Incorrect. Proper departmental enquiry was conducted and all codal formalities were complied with. Besides, enquiry is a secret proceeding and is kept secret till its conclusion, so, the copy thereof cannot be provided to the appellant before its completion.
4. Correct, hence, no comments.
5. Correct, hence, no comments.
6. Incorrect. Both the impugned orders are in accordance with law, facts and principles of justice.

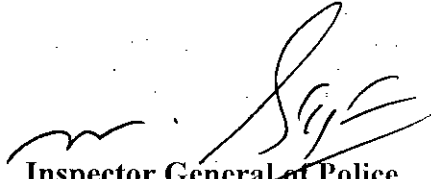
REPLY ON GROUNDS:-


- A. Incorrect. Both orders are legal & in accordance with law.
- B. Incorrect. There is no violation of any rules/law.
- C. Incorrect. The appellant was found inefficient & guilty of misconduct as described by the Inquiry Officer.
- D. Incorrect. Proper Departmental Enquiry was conducted & the appellant was found guilty there upon.
- E. Incorrect. All codal formalities have been complied with.
- F. Incorrect. The impugned orders are speaking one and are passed after Proper Departmental Enquiry.
- G. Incorrect. There is no mis-application of any law & the appellant was treated under relevant Rules/Law.
- H. Incorrect. The appellant was awarded punishment as he deserved.


- I. Incorrect. The appellant, being constable, was not supposed to leave alone in the quarter. Besides, the Inquiry Officer also reported his reputation of no good remarks.
- J. Incorrect. The Inquiry Officer has fairly and justly inquired into the matter.
- K. Para-1 pertains to appellant's service record, however, rest of the Para need no reply.
- L. The respondents also seek permission of presenting further documents etc, if any, at the time of arguments.

PRAYER:-

It is, therefore, prayed that the appeal of the appellant, being devoid of merits, is liable to be dismissed with costs.


**Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.**
(Respondent No. 03)


**Dy. Inspector General of Police,
Mardan Region-I, Mardan.**
(Respondent No. 01)


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

حیف ناک

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

No. 1030/R/D.A-P.R-1975.

Dated 10-8- /2015

DISCIPLINARY ACTION UNDER KPK POLICE RULES - 1975

1, **Gul Afzal Khan** District Police Officer, Mardan as competent authority am of the opinion that Constable **Shamsher Alam No. 273**, rendered himself liable to be proceeded against as he committed the following acts/omission within the meaning of section-02:(iii) of KPK Police Rules 1975.

STATEMENT OF ALLEGATIONS

That **Constable Shamsher Alam No. 273**, while posted at Guard Bangla DIG Mardan, is hereby placed under suspension and closed to Police Lines with immediate effect due to his illegal activities and in-efficiency.

2. For the purpose of scrutinizing the conduct of the said official with reference to the above allegations **Shamraiz 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. 1030 /R, dated Mardan the 10-8- /2015.

Copy of above is forwarded to the:

1. DSP/City Mardan for initiating proceedings against the accused official / Officer namely Constable Shamsher Alam No. 273, under Police Rules, 1975.
2. Constable **Shamsher Alam No. 273**, 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.

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

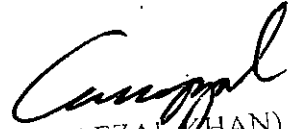
CHARGE SHEET UNDER KPK POLICE RULES 1975

I, **Gul Afzal Khan** District Police Officer, Mardan as competent authority hereby charge you Constable **Shamsher Alam No. 273**, as follows.

That you constable, while posted at Guard Bangla DIG Mardan, is hereby placed under suspension and closed to Police Lines with immediate effect due to your illegal activities and in-efficiency

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

1. By reason of the above, you appear to be guilty of misconduct under section - 02 (iii) of the KPK 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 person.


(GUL AFZAL KHAN)
District Police Officer,
Mardan.

جناب عالی!

بحوالہ مشمولہ چارج شیٹ نمبر 1030/R مورخہ 10.08.2015 مجاریہ جناب DPO صاحب مردان معروض خدمت ہوں کہ سائل سال 1996 میں محکمہ پولیس میں بحیثیت کنسٹیبل بھرتی ہو کر اختتام ٹریننگ مختلف تھانہ جات ضلع مردان میں ڈیوٹی سرانجام دے چکا ہوں۔ اپنی ڈیوٹی نہایت ایمان داری فرض شناسی کیساتھ کر کے اپنے سنئیر انسپران کو کبھی بھی شکایت کا موقع نہیں دیا ہے۔ دوران تعیناتی تھانہ جات ہمراہ SHO صاحبان کانی مجرمان اشہتاری، منشیات فروشان، قمار بازان، کار لفظران اور ڈکیت گروپ گرفتار کیے ہیں۔ جسمیں جناب PPO صاحب صوبہ خیبر پختونخواہ نے بحوالہ مقدمہ علت 716 مورخہ 26.08.2003 جرم 457/380/411/14-ISL تھانہ تخت ہائی میں ملزمان گرفتار کر کے اور مال مسروقہ رقم مبلغ 55 لاکھ روپے برآمد ہونے پر مبلغ 1000/- روپے نقد انعام اور کلاس ون سرٹیفکیٹ جبکہ جناب DPO صاحب مردان اور جناب SP صاحب انوسٹیگیشن مردان نے اچھی ڈیوٹی کرنے پر CC-III سرٹیفکیٹ بحوالہ OB نمبر 166 مورخہ 26.01.2009 اور OB نمبر 110 مورخہ 03.06.2009 اور نقد انعامات سے نوازا گیا ہوں۔

جناب PPO صاحب صوبہ خیبر پختونخواہ کی عطا کردہ سرٹیفکیٹ کی فوٹو کاپی لف ہمراہ بیان ہذا ہے۔ اسکے علاوہ عرصہ قریب دو سال سے بنگلہ جناب DIG صاحب مردان میں بحیثیت گارڈ کمانڈر ڈیوٹی کر رہا ہوں۔ لیکن ابھی تک اپنی ڈیوٹی میں کوئی غفلت و کوتاہی نہیں کی ہے۔ اور نہ اب تک کسی غیر قانونی عوامل میں ملوث رہا ہوں۔ اسکے علاوہ میرے پوری سروس میں کارکردگی قابل ستائش رہی ہے۔ اس سلسلہ میں میرا عمل نامہ اور سروس ریکارڈ گواہ ہے۔

استدعاء ہے کہ مندرجہ بالا حقائق کو مد نظر رکھتے ہوئے میری چارج شیٹ بلا کاروائی داخل دفتر فرمائی جاوے۔

العارض



کنسٹیبل شمشیر عالم نمبر 273 متعینہ پولیس لائن مردان

ENQUIRY REPORT OF LHC SHAMSHIR ALAM NO. 237.

The Undersigned was deputed to conduct Enquiry of Constable Shamsheer Alam No.273, by the Worthy District Police Officer Mardan through office Letter No.1030/R/D.A.P.R/1975, Dated 10/08/2015.

BRIEF FACTS.

That Constable Shamsheer Alam No.273, while posted at Guard Bangla DIG Mardan, is hereby placed under suspension and closed to Police Line with immediate effect due to his illegal activities and in-efficiency.

PROCEEDINGS.

The proceedings of the enquiry have been conducted strictly in accordance with the NWFP Police Rules 1975.

STATEMENT OF LHC SHAMSHIR ALAM NO. 237.

The alleged LHC was summoned to appear before the undersigned and record his statement thus he appeared and heard in person wherein his statement was recorded, which is attached herewith for your kind perusal please.

SECRET INVESTIGATION/ INFORMATION.

Besides this the undersigned conducted secret investigation, to get actual facts, where it was transpired that the alleged LHC has blood enmity, and it is out of sense that despite having enmity he is living alone in a quarter where families are residing in nearby quarters. It is also came into the notice that other women are visiting in his quarter which create doubt. This quarter is far only ten yards from PS city, but why the alleged LHC is not keeping residency in PS City where all facilities are available. The alleged LHC is Guard Commander in the office of Worthy Region Police Chief where also all facility available and safe place for him. Therefore he was found guilty.

CONCLUSION.

The undersigned has reached to the conclusion, that if agreed, the alleged LHC may be given major punishment please.

No: 1323 /S
Dt: 24-08-2015

Encl=(7)

Dismissed from

Service
Ry
24.8.05

[Signature]
Deputy Superintendent of Police,
City Circle, Mardan

ORDER


My this order will dispose of the departmental inquiry, which is conducted against Constable Shamsher Alam No. ~~237~~²⁷³ while posted at Guard Bangla DIG Mardan, is hereby placed under suspension and closed to Police Lines with immediate effect due to his illegal activities and in-efficiency. His this attitude adversely reflected on his performance, while discharge his official duty which is an indiscipline act and gross misconduct on his part as defined in rule 2(iii) of Police Rules 1975.

In this connection, Constable Shamsher Alam No. ~~237~~²⁷³, were issued charge sheets vide this office Nos. 1030/R, dated 10.08.2015 and also proceeded against departmentally through the Shamzraiz Khan DSP/City Mardan, who after fulfilling necessary process, submitted his findings to the undersigned vide his office endorsements Nos. 1323/S dated 24.08.2015 as the allegations have been established against him and recommended him for major punishment.

The undersigned agreed with the findings of enquiry officer and the alleged Constable Shamsher Alam No. ~~237~~²⁷³, is hereby dismissed from service, in exercise of the power vested in me under the above quoted rules.

Order announced

O.B No. 1493
Dated 28/8 /2015


(Gul Afzal Ghidi)
District Police Officer,
Mardan.

No. 7669 R dated Mardan the 28/8 /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.

ORDER.

This order will dispose off the appeal preferred by Ex- Constable Shamsher Alam No. 273 of Mardan District Police against the order of District Police Officer, Mardan, wherein he was dismissed from service vide District Police Officer, Mardan OB No. 1493 dated 28.08.2015.

Brief facts of the case are that he while posted at Guard Bangla Worthy DIG/Mardan placed under suspension and closed to Police Lines due to his illegal activities and inefficiency. His this attitude adversely reflected on his performance, while discharging his official duty which is an indiscipline act and gross misconduct on his part, therefore he was recommended for departmental action. In this connection he was charge sheeted and also proceeded against departmentally through Deputy Superintendent of Police City, Mardan who after fulfilling necessary process submitted his findings to District Police Officer, Mardan as the allegation have been established against him and recommended for Major punishment. After perusal of service record District Police Officer, Mardan agreed with the findings of enquiry Officer and the alleged Constable was dismissed from service.

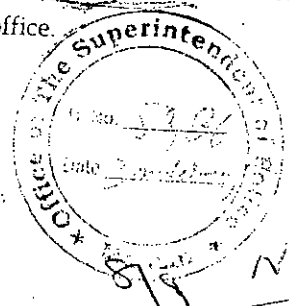
I have perused the record and also heard the appellant in Orderly room held in this office on 16.09.2015. He failed to justify his innocence and could not advance any cogent reasons in his defence. Therefore, I, MUHAMMAD SAEED, Deputy Inspector General of Police, Mardan Region- Mardan, in exercise of the powers conferred upon me reject the appeal, not interfere in the order passed by the competent authority, thus the appeal is filed.

ORDER ANNOUNCED.

(Signature)
(MUHAMMAD SAEED) PSP
Deputy Inspector General of Police,
Mardan Region-I, Mardan

No. 397 /ES, Dated Mardan the 8-10-2015.

Copy to District Police Officer, Mardan for information and necessary action w/r to his office Memo: No. 997/LB dated 04.09.2015. His service record is returned herewith for record in your office.



Inspection Legal
Practical action

819
No 1073-LB
30/10/15

DPO Mardan
dt 28/10/15

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

Service Appeal No. 1261/2015.

Ex-Constable Shamsheer Alam No. 273, District Police, Mardan

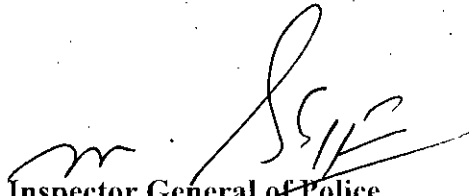
.....Appellant.

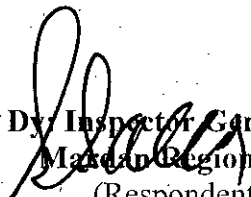
VERSUS.


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.


Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 03)


Dy. Inspector General of Police,
Mardan Region-I, Mardan.
(Respondent No. 01)


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

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

Service Appeal No. 1261/2015.

Ex-Constable Shamsher Alam No. 273, District Police, Mardan

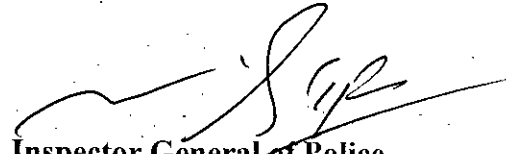
.....Appellant.


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.


**Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.**
(Respondent No. 03)


**Dy. Inspector General of Police,
Mardan Region-I, Mardan.**
(Respondent No. 01)


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

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR.

Service Appeal No 1261/2015.

Shamsher Alam.....Appellant.

VERSUS

DPO & Others.....Respondents

REPLICATION ON BEHALF OF THE APPELLANT.

REPLY TO PRELIMINARY OBJECTIONS.

All the preliminary objections raised by the respondents are incorrect and as such denied. Instant appeal is not bad in law and its present form, appellant has come to this honorable Tribunal with clean hands, he has got a valid cause of action and he has concealed nothing from this honorable Tribunal. Instant appeal is not barred by law, in which all necessary parties have been imp leaded, and the appellant is not stopped by his conduct to bring instant appeal.

REPLY TO FACTS/GROUNDS.

Comments of the respondents are full of contradictions and are based on malafide. Respondents have failed to show that the appellant did anything that would amount to misconduct. The comments amount to admissions on part of the respondents, as they have failed to deny the plea of the appellant. Respondents have failed to prove that proper inquiry/procedure has been conducted and that show cause notice was communicated to the appellant. The appellant is involved in blood enmity as has not denied by the respondents. The action against the appellant has been taken on the basis of secret information having no source to be proved. Even during entire service career of nineteen years, no complaint of involvement in immoral and illegal activities was ever alleged, as such the action is unfounded and unsubstantiated. The punishment awarded to the appellant is thus maintainable in the eyes of law and liable to be set aside on this score alone. Respondents have also admitted that the appellant

was not provided the opportunity of personal hearing and the orders are as such void and unfounded.


In the circumstances the appellant has been punished without any omission or commission on his part and he has not committed any misconduct. Even living alone in the quarter is not an offence/misconduct and thus the appellant has been punished for no fault. Respondents have failed to substantiate their version and bring anything on record in support of their version; as such the impugned orders are not maintainable in the eyes of law and liable to be set aside.

It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.

Dated:- -07-2016


Appellant

Through


Fazal Shah Mohmand
Advocate Peshawar

A F F I D A V I T

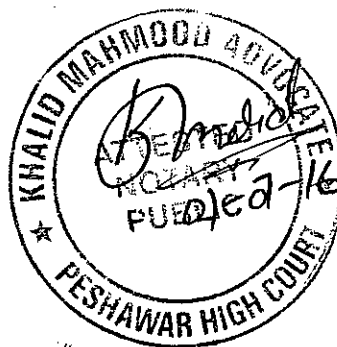
I, Shamsheer Alam Ex Constable No 273 District Police Mardan (The Appellant), do hereby solemnly affirm and declare on oath that the contents of this Replication are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.


DEPONENT

Identified by


Fazal Shah Mohmand

Advocate Peshawar.



BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR.

Service Appeal No 1261/2015.

Shamsher Alam.....Appellant.

V E R S U S

DPO & Others.....Respondents

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Dated:- -07-2016

Appellant

Through

Fazal Shah Mohmand

Advocate Peshawar

A F F I D A V I T

I, Shamsheer Alam Ex Constable No 273 District Police Mardan (The Appellant), do hereby solemnly affirm and declare on oath that the contents of this **Replication** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

Identified by

DEPONENT

Fazal Shah Mohmand

Advocate Peshawar.

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1895 /ST

Dated 14 / 11 / 2016

To

The D.P.O,
Mardan.

Subject: -

JUDGMENT

I am directed to forward herewith a certified copy of Judgement dated 7.11.2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above



REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.