

3

29.04.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Constable when vide impugned order dated 7.1.2015 dismissed from service for misconduct against which he preferred departmental representation on 18.1.2015 which was rejected on 2.3.2015 and hence the instant service appeal on 30.3.2015.

That the inquiry was not conducted in the prescribed manners and the punishment awarded to the appellant does not commensurate with the offence.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for 27.7.2015 before S.B.

Appellant Deposited
Security & Process Fee




Chairman

4

27.07.2015

Counsel for the appellant and Mr. Shafique Khan, Inspector (legal) alongwith Addl: A.G for respondents present. Representative submitted copy of office order 29.5.2015 vide which the punishment awarded to the appellant in the shape of dismissal from service has been converted into stoppage of three increments without cumulative effect and appellant reinstated in service with no back benefits.

In view of the afore-stated development, learned counsel for the appellant requested for withdrawal of appeal. Dismissed as withdrawn. File be consigned to the record.

ANNOUNCED
27.7.2015



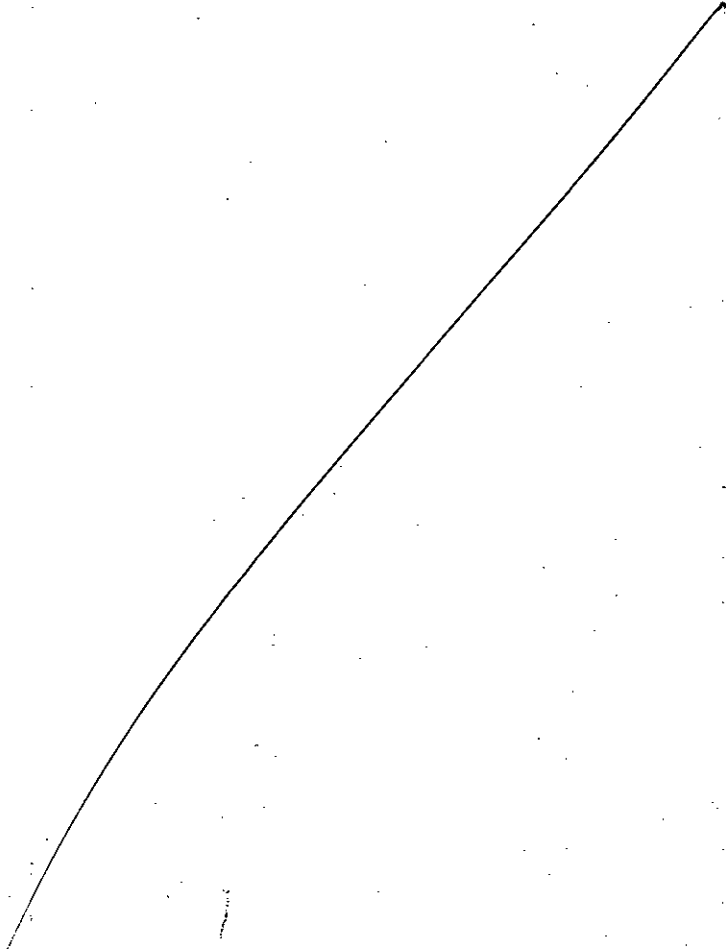

Chairman

27.07.15

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 354/2015

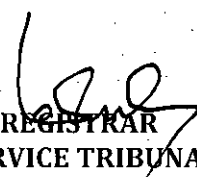
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	22.04.2015	<p>The appeal of Mr. Sher Shah resubmitted today by Mr. Saadullah Khan Marwat Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	27-4-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>29-4-15</u></p> <p style="text-align: right;"> CHAIRMAN</p> 

The appeal of Mr. Sher Shah son of Nadir Shah R/O Baba Koruna Ghari doulat Zai Mardan Ex-Police Constable received to-day i.e. on 30.03.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Copies of charge sheet, Show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 3- Copy of dismissal order is not attached with the appeal which may be placed on it.
- 4- Copies of departmental appeal and its rejection orders are not attached with the appeal which may be placed on it.
- 5- Copy of order dated 10.12.2014 is illegible which may be replaced by legible/better one.
- 6- Annexures of the appeal may be attested.
- 7- Wakalat nama in favour of appellant may be placed on file.
- 8- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 421 /S.T,

Dt. 30/3 /2015


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Saadullah Khan Marwat Adv. Pesh.

Sir,

objection No. 1, 5, 6, 7 + 8 are complied with. Rest of objection are still intact but for removal of the same, application dt 28.3.15 was submitted but in vain. The same be placed on board as + copies becomes available submitted by.

by

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

S.A No. 354 /2015

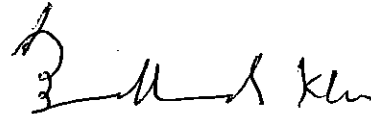
Sher Shah Versus D.I.G & others

I N D E X

S.#	Description of Documents	Annex	Page
1.	Memo of Appeal		1-3
2.	Charge Sheet, 10.12.2014	"A"	4-5
3.	Dismissal Order, 07.01.2015	"B"	6
4.	Representation, 18.01.2015	"C"	7
5.	Rejection Order, 02.03.2015	"D"	8
6.	Supply of Documents, 28.03.2015	"E"	9

Appellant

Through



Dated: 30.03.2015

(Saadullah Khan Marwat)
Advocate
21-A Nasir Mension,
Shoba Bazar, Peshawar.
Ph: 0300-5872676

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWARS.A No. 354 /2015

Sher Shah S/o Nadir Shah, R/o Baba Koruna,
 Ghari Doulat Zai, Mardan, Ex-C.No. 1609,
 Police Line, Mardan Appellant

Versus

A.W.F. Province
Service TribunalDiary No. 280
Dated 30-3-2015

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

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT,
 1974 AGAINST OFFICE ORDER NO. 1337/ES,
 DATED 02.03.2015 OF R. NO. 1 WHEREBY
 REPRESENTATION DATED 18.01.2015 AGAINST
 OFFICE ORDER NO. 228/E/DPO, DATED
 07.01.2015 DISMISSING APPELLANT FROM
 SERVICE WAS FILED.**

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth:

Short facts giving rise to the present appeal are as under:-

1. That appellant was appointed as Constable on 04.04.2011 after observing the due codal formalities. He also successfully completed the training course from PTC Hangu.
2. That on 08.12.2014, appellant felt serious pain in his stomach and to heat water for taking medicine, he left for point of duty of Yaseen Shah, Constable. On this he turned down and quarreled with appellant and made fire on him but luckily he escaped unhurt.

Filed to-
 Registrar
 30/3/15

re-submitted to-
 and filed.

Registrar
 27/4/15

3. That on 10.12.2014, appellant was served with charge sheet and statement of allegation which was replied by denying the same. (Copies as annex "A")
4. That enquiry in to the matter was initiated but the same was not conducted as per the mandate of law, yet on 07.01.2015, appellant was dismissed from service. (Copy as annex "B")
5. That on 18.01.2015, appellant submitted representation before the authority for reinstatement in service which was filed on 02.03.2015 for no legal reason. (Copy as annex "C" & "D")
6. That on 28.03.2015, appellant submitted application before R. No. 1 to supply the documents mentioned therein but in vain. (Copy as annex "E")

Hence this appeal, inter alia, on the following grounds:-

GROUND S:

- a. That appellant was felling serious pain in his stomach, so to release the same, he left for to heat some water but Constable Yaseen Shah turned down and then the incident took place.
- b. That appellant has no intention of quarreling with Yaseen Shah as he was empty hand but to heat the water, he left to the point of Constable Yaseen Shah as there was no arrangement on the point of appellant for the said purpose.
- c. That enquiry in to the matter was not conducted as per the mandate of law as neither any statement(s) was recorded in presence of appellant nor he was afforded opportunity of cross examination over witness(s).
- d. That appellant was not served with final show cause notice nor he was afforded opportunity of self defence and personal hearing.

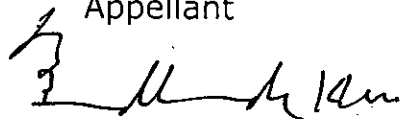
- e. That in the circumstances, the act of the respondents is based on malafide.

It is, therefore, most humbly prayed that on acceptance of the appeal, order dated 02.03.2015 or 07.01.2015 of the respondents be set aside and appellants be reinstated in service with all back benefits, with such other relief as may be deemed proper and just in circumstances of the case.

Through

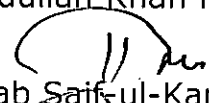


Appellant



Saadullah Khan Marwat

Dated: 30.03.2015



Arbab Saif-ul-Kamal

&



Miss Robina Naz,
Advocates,

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN.

No. 278/E/D.A.PA/1975

Dated 10.12.2014

DISCIPLINARY ACTION UNDER NWFP POLICE RULES 1975.

I, Gul Afzal Khan, District Police Officer, Mardan as competent authority am of the opinion that Constable Sher Shah NO. 1609, is liable to be proceeded against as he has committed the following acts/omissions with the meaning of section-02 (iii) of KPK Police Rules 1975.

STATEMENT OF ALLEGATIONS

That Constable Sher Shah No. 1609, while posted at Judicial Complex Police Station Takht Bahi, was deputed for duty from 02:00 to 06:00 hrs: on 08.12.2014. He left his duty point and came close to Constable Yaseen No. 1491 and started quarrel with each other. In the mean while he reached to his residential quarter at 03:00 hrs: and scuffle occurred between him and Constable Yaseen No. 1491 who fired one bullet on him (Constable Sher Shah No. 1609) who luckily escaped unhurt. For this negligence/indiscipline act, he has been recommended for departmental action by DSP Takht Bhai.

2. For the purpose of scrutinizing the conduct of the said official with reference to the above allegations, Mian Imtiaz Gul DSP/legal, Mardan is appointed as Enquiry Officer.

3. The enquiry officer shall complete proceedings in seven days 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 issue of this order, recommendations to punishment or other _____ the accused officer.

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

Sd/-
(Gul Afzal Khan)
District Police Officer,
Mardan.

OFFICE OF THE DISTRICT POLICE OFFICER MARDAN.

No. _____ R. Dated Mardan The _____ 2014.

Copy forwarded to _____,

1. DSP/Legal Mardan for initiating proceedings against the accused official/officer namely Constable Sher Shah No. 160, Police Rules, 1975.
2. Constable Sher Shah No. 1609, _____ the directions to appear before the Enquiry Officer on the date, time and place fixed by the inquiry officer for the purpose of enquiry proceedings.

Ahsan

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

No. 728 /D.O. No. 1975

Date 10/11/2014

DISCIPLINARY ACTION UNDER M.P. POLICE RULES - 1975

I, Gul Afza Khan District Police Officer, Mardan in compliance authority am of the opinion that Constable Sher Shah No. 1609, is liable to be proceeded against as he has committed the following acts/omission within the meaning of section-02 (iii) of KPK Police Rules 1975.

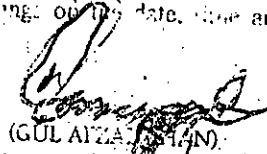
STATEMENT OF ALLEGATIONS

That Constable Sher Shah No. 1609, while posted at judicial complex Police Station Takht Bhai, was deputed for duty from 02:00 to 06:00 hrs on 08.12.2014. He left his duty point and came close to Constable Yaseen No. 1491 and started quarrel with each other. In the meanwhile he reached to his residential quarter at 03:00 hrs and scuffle occurred between him and Constable Yaseen No. 1491 who fired one bullet direction (Constable Sher Shah No. 1609) who luckily escaped unhurt. For this negligence/misconduct he has been recommended for departmental action by DSP Takht Bhai.

2. For the purpose of scrutinizing the conduct of the said official with reference to the above allegations Mian Lateef Gul DSP/ Legal 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 a report within (25) days of the receipt of this order, recommendation as to punishment or other departmental 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 AFZA KHAN)
District Police Officer,
Mardan.


OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

No. _____ /R, dated Mardan the _____ 2014.

Copy of above is forwarded to:-

1. DSP/Legal Mardan for initiating proceedings against the accused official / Officer namely Constable Sher Shah No. 1609, under Rules. 1975.
2. Constable Sher Shah No. 1609, 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

***** (1) *****


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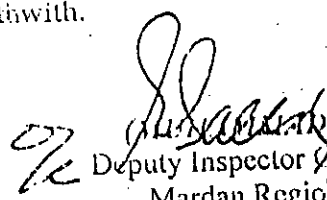
ORDER.

This order will dispose-off the appeal preferred by Ex-Constable Sher Shah No. 1609 of Mardan District Police against the order of District Police Officer, Mardan, wherein he was dismissed from service vide District Police Officer, Mardan O/B No. 29 dated 07.01.2015.

Brief facts of the case are that he while posted at Judicial Complex Police Station Takht Bhai was deputed for duty from 02:00 to 06:00 hrs on 08.12.2014, he left his duty point and came close to Constable Yaseen Shah No. 1491 and started quarrel with each other. In the meanwhile they reached to their residential quarter at 03:00 hrs and scuffle occurred between them and Constable Yaseen Shah No. 1491 who fired one bullet on him (Constable Sher Shah No. 1609) who luckily escaped unhurt. For this negligence/indiscipline act he was recommended for departmental action by DSP Takht Bhai. In this connection he was charge sheeted and proceeded against departmentally through Deputy Superintendent of Police Legal, Mardan, who after fulfilling necessary process, submitted his findings to District Police Officer, Mardan, as the allegation has been established against him. After going through inquiry file the 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 18.02.2015, but he failed to justify his innocence and could not produce any cogent reason about his innocence. Therefore, I MUHAMMAD SAIED Deputy Inspector General of Police, Mardan Region-I, Mardan in exercise of the powers conferred upon me reject the appeal and do not interfere in the order passed by the competent authority, thus the appeal is filed forthwith.

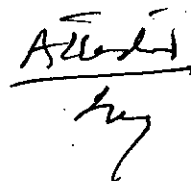
ORDER ANNOUNCE:


MUHAMMAD SAIED)PSP
Deputy Inspector General of Police,
Mardan Region-I, Mardan

No. 1337 /ES, Dated Mardan the 2-03- /2015.

Copy to District Police Officer, Mardan for information and necessary action w/r to his office Memo: No. 179/LB dated 09.02.2015. His service roll is returned herewith.

(*****)



کتابت صاحب DPه صاحب مردان

علائقہ نقول

صدا یا می

ذیل تراش ہے

ان کے ذیل انجالی کے زیر سایہ نورس میں
قدمات ہر ایمان کے ساتھ تاکہ وہ گناہ پر سائل
کو سرور سے ہمیشہ کھینچتا ہے،

ان کے علاوہ ذیل نقول علیہ السلام کا علی
صدا فرمادیں - مکتور رہیں گے
توفیق $\frac{3}{15}$ 28

۱. صبر و استقامت - جواب جارحیت

۳. عقل و تدبیر کا پروردگار پر ہر قدر متکی ہونا

۵. عقلمندانہ دلیل - ۶. دیگر دستاویزات

اللہ اعلم

پیشکش و دلائل و ثبوت - لیکن گویا درود بزرگ - مردان

سیدنا سیدنا محمد $\frac{1609}{1609}$ علیہ السلام مردان

التعمیر
۲۶

باعتبار جناب سرسٹریٹس ٹریبونل صوبہ سرحد پشاور

منجانب اسلام آباد

شیر شاہ بنام محمد نوکس وغیرہ

دعویٰ اسل

باعث تحریرہ اینکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام پشاور کیلئے سعد احمد خان سرور سے ایڈووکیٹ ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے رضی نامہ و تقررات و فیصلہ برحلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور عرضی دعویٰ اور درخواست پر قسم کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقریر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پر واختہ منظور قبول ہوگا و دوران مقدمہ میں جو خرچہ و ہرجانہ التواء مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب موصوف ہوں گے نیز بقایا و خرچہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔

لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم $\frac{3}{29}$ 15

العبد

العبد

العبد

11
ارباب سینہ سماں
Pabina
من روینہ ناز
ایڈووکیٹ

سعد اللہ خان سرور
ایڈووکیٹ

شیر شاہ



7

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-Constable Sher Shah No. 1609 of District Police Mardan against the Punishment order i.e dismissal from Service passed against the appellant by DPO/Mardan vide his order Book No. 29 dated 07.01.2015.

In the light of recommendations of Appeal Board meeting held on 14.05.2015, 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 person and record perused. His punishment i.e. dismissal from service is converted into stoppage of three increments without cumulative effect and is re-instated in service with no back benefits.

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

No. 7238-42 /E-IV dated Peshawar the 29/05/2015

Copy of above is forwarded to the:-

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

*OB 112/11/1/PO
for action*

*2835
2-6-15*

Syed Fida Hassan Shah
(SYED FIDA HASSAN SHAH)
AIG/Establishment
For Inspector General of Police
Khyber Pakhtunkhwa Peshawar.

*DPO Mardan
07/02/15*

*Received
[Signature]
Inspector*

*OB 974
2-6-15*